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## INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

Ms. Rebecca Vigil-Giron  
Secretary of State  
State of New Mexico  
Santa Fe, New Mexico

We have performed the procedures enumerated below, which were agreed to by the State of New Mexico, Secretary of State, solely to assist you in evaluating the following assertions related to the Secretary of State canvass summary of results of the 2006 State of New Mexico general election conducted on November 7, 2006.

The State of New Mexico, Secretary of State assertions relating to the state canvass summary of the results of the general election in 2006 are as follows:

1. The number of votes for each candidate on each county precinct canvass sheet agrees to the number of votes per the voting machine tapes and hand counted ballot tally sheets provided by the county.
2. The total number of voters listed on each county precinct canvass sheet agrees to the voting machine tapes and hand counted ballot tally sheets and the county clerk's certificate.
3. The total votes per candidate and total voters on each county precinct canvass sheet agrees to the totals per the county summary canvass sheet.
4. The number of votes for each contest and the total number of voters on each county precinct canvass sheet and county summary canvass sheet is added correctly to insure the total number of votes for all candidates by contest does not exceed total votes cast for each contest.
5. The total number of voters by county on the state summary canvass sheet agrees to the total number of voters on each county summary canvass sheet.
6. The total number of votes by county for each candidate on the state summary canvass sheet agrees to the total number of votes for each candidate on the county summary canvass sheet.
7. The number of votes for each candidate on the state summary canvass sheet is added correctly.

This agreed-upon procedures engagement was performed in accordance with standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

Our procedures and findings were as follows:

We performed the procedures enumerated below to the Secretary of State canvass summary for the contests contained in the attached executive office proclamation. We randomly selected for testing, 10% of the precincts in all counties. In addition, we performed the procedures enumerated below to either the absentee or early-vote precincts that corresponded to the randomly selected precincts.

For the named contests defined above, we have performed the following procedures for 1) each county precinct selected, 2) each county summary canvass sheet, and 3) the state summary canvass sheet.

1. We have agreed the number of votes, for each candidate on each county precinct canvass sheet, to the number of votes per the voting machine tapes and hand counted ballot tally sheets provided by the county. We noted forty-five (45) discrepancies.
2. We have agreed the total number of voters listed on each county precinct canvass sheet to voting machine tapes and hand

counted ballot tally sheets and the county clerk's certificate. We noted eighteen (18) discrepancies.

3. We have agreed the total votes, per candidate, and total voters on each county precinct canvass sheet, to the totals per the county summary canvass sheet. There were no discrepancies noted.
4. We have agreed the number of votes, for each contest, and the total number of voters on each county precinct canvass sheet and county summary canvass sheet to insure that the total number of votes for all candidates, by contest, does not exceed total votes for each contest. We noted no discrepancies.
5. We have agreed the total number of voters, by county, on the state summary canvass sheet to the total number of voters on each county summary canvass sheet. We noted no discrepancies.
6. We have agreed the total number of votes, by county, for each candidate on the state summary canvass sheet to the total number of votes for each candidate on the county summary canvass sheet. We noted no discrepancies.
7. We have added the number of votes for each candidate on the state summary canvass sheet and agreed to the total listed. We noted no discrepancies.

The above discrepancies were corrected county clerks and State Bureau of Elections personnel during the course of our agreed-upon procedures examination.

Other matters noted:

1. The county clerk of Los Alamos County did not report to the secretary of state, the total votes in each precinct for each candidate by absentee voters who voted early in person, or by absentee voters who voted by absentee ballots by mail. Instead, only total votes for each candidate for the county (absentee early-in person and absentee ballots by mail) were reported to the secretary of state.

In accordance with Section 1-6-10.2, NMSA 1978 Compilation, the county clerk shall report to the secretary of state the total votes in each precinct for each candidate and ballot question as follows:

- a. Vote totals by voters who vote in person on election day;
- b. Vote totals by absentee voters who vote early in person; and
- c. Vote totals by absentee voters who vote by absentee ballots by mail.

In accordance with Section 1-6-20, NMSA 1978 Compilation:

- a. the board of county commissioners shall adopt a resolution creating, for absent voting purposes only, as absentee voter precinct for each county.
- b. Absent voter precincts shall be identified by the name of the county.

There appears to be a conflict in statutory requirements between Section 1-6-10.2 and Section 1-6-20 relating to the reporting requirements for both absentee (early in person) and absentee (ballots by mail) imposed upon county clerks. Section 1-6-10.2 requires vote counts by precinct for each candidate, while Section 1-6-20 only requires vote counts by county for each candidate.

2. We recommend that more pre-election testing be performed on the systems utilized to generate the statewide canvass reports. This will insure that reports are accurate and will be timely generated after correction of any errors noted during the canvass and subsequent review made by the outside certified public accountants. Some problems were noted in re-generating accurate canvass reports after corrections of errors were made causing delays in completing the statewide canvass and accountants review.

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We were not engaged to, and did not perform an examination, the objective of which would be the expression of an opinion on the accompanying assertions defined above. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

The report is intended solely for the use of the State of New Mexico, Secretary of State, and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes.



Robert J. Rivera, CPA, PC  
Santa Fe, New Mexico  
November 28, 2006