

Questions and Answers

1. What caused Secretary Shelley to decertify DESI?

A. First, he did not decertify DESI. He decertified a particular DESI system as well as all DRE systems from every manufacturer until they can meet certain new conditions. As for why, the Secretary's reasons and opinions are set forth in his materials. In the meantime, we are working toward getting our systems recertified.

2. What laws does the Secretary of State claim you have broken?

A. He has not specified any and has apparently asked the Attorney General to take a look to see whether there is a problem.

3. Has DESI broken any criminal laws?

A. We do not believe that there have been any criminal violations, and we welcome the Attorney General's review, which we hope will reach the same conclusion.

4. Has DESI broken any civil laws?

A. We have strived to conform to all applicable laws and have made every effort to meet the needs of our customer counties in California. Again, the Attorney General's Office is apparently looking into this and we will cooperate with his Office.

5. Why did you run uncertified software in California?

A. The Secretary of State's office conducted an audit that indicated that certain DESI software had been used without the Secretary of State's approval. In most instances, this software was federally qualified. DESI has previously acknowledged and apologized to the Secretary of State for this situation and any embarrassment it may have caused. We have explained to the Secretary that a number of different factors led to this situation, many of which were not unique to DESI. If the Attorney General's Office explores this matter, we will work with his Office to put this issue in the proper context.

6. Have you run uncertified software in other states?

A. We have strived to conform to all applicable laws and have made every effort to meet the needs of our customer counties in every jurisdiction. The voting system certification process is complex, but we are committed to full compliance.

7. Did DESI's equipment fail in the last election in California?

A. **There were instances in which a voter card encoding device—not DESI's TSx units—did not perform properly in some precincts in San Diego and Alameda Counties. It was primarily a power source problem that had nothing to do with the integrity or security of the actual TSx units.**

8. Which equipment failed?

A. **A voter card encoding device—not DESI's TSx units—experienced problems on election day in San Diego and Alameda Counties. It is important to note that the TSx performed very well in the March 2nd election. The Secretary of State's own parallel monitoring report for the election found that the TSx system counted votes with 100% accuracy.**

9. If the voting machine didn't malfunction, why did the Secretary decertify them?

A. **I'll let the communications from the Secretary's Office explain his reasoning, but we believe that our systems are reliable and secure. We learned a difficult lesson with the voter card encoder, but that lesson will help us avoid similar problems in future elections.**

10. How will you support the 4 counties that can't use the same equipment?

A. **We are currently working with our 4 TSx customer counties to ensure that they will have certified voting systems for use in the November election.**

11. Did you breach your contracts with the counties that can no longer operate with the same equipment?

A. **I'm not going to characterize whether something is a breach or not. We are continuing to work with our customers to fulfill our contracts and satisfy their expectations, just as we always have.**

12. Did DESI disenfranchise voters in California?

A. **We understand that there were certain voters in San Diego County who were inconvenienced because the encoding device was not functioning when the battery problem surfaced on the morning of the primary. We do not have the information to determine whether anyone ultimately was unable to vote, but I understand that the county studied the issue and has released a report that you should probably review.**

13. Has DESI been barred from continuing business in California?

A. No.

14. Do you plan to sue the Secretary of State individually or join the other lawsuit?

A. At the moment our focus is on working with our customer counties in California to prepare for the November election and in assuring our customers throughout the country that our systems are accurate, accessible and secure. Our counsel can assess any litigation options that we have, but I am hopeful that we can obtain our customers' confidence through our hard work and interaction with them, rather than through the courts.

15. What do you anticipate will be the outcome of Secretary of State's decision?

A. It is difficult to say, but we believe that the Secretary of State, the counties, Diebold and voters everywhere have the same goal which is to take advantage of current technology that will result in reliable, efficient and secure voting systems that provide good access and ease of use to all voters, particularly those with special needs. We believe, Congress believes and most citizens believe that electronic, touch screen systems are the way to do that.

16. How does this ruling affect other states?

A. It doesn't. I think that other states will take notice, but we will work with them to assure them that we can fully address the issues raised in California so that the entire country can be confident in these systems.

17. Has this hampered sales of equipment in other areas?

A. The national debate concerning touchscreen voting systems and voter verified receipts has slowed the decision-making process for counties and states. We have and will continue to work with potential customers to assure them that we can fully address the issues raised in California so they can be confident in their purchase of DESI systems.

18. When will the TSx be certified?

A. DESI received confirmation on April 20 that the TSx system passed federal testing. Upon completion of the federal qualification process, DESI will submit the TSx for state certification.

19. Did DESI misrepresent the status of certification to the Secretary of State?

A. No.

20. Why is the Secretary of State claiming DESI lied to his office?

A. Again, I'll refer you to his materials to explain his reasoning. We believe that DESI responded appropriately to questions and requests from the Secretary's office and we will work with the Attorney General's Office to help him understand these issues.

[Any questions about specific allegations by the Secretary should get the response: I'm not prepared at this time to address specific allegations, but I direct you to the many materials we submitted as part of the California hearings if you want to learn more about the company's position.]

[If asked anything relating to the Jones Day memos or advice from its lawyers: All communication between the company and its counsel are subject to legal protection under the attorney client privilege, and I will not discuss anything related to those communications. The fact that certain documents were stolen and may have been published does not change that important legal privilege.]

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