

Exhibit C

Exhibit C

## Colgan, Beth A.-SEA

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**From:** Jdurkan [jdurkan@durkan.us]  
**Sent:** Friday, December 03, 2004 12:27 PM  
**To:** Colgan, Beth A.-SEA  
**Subject:** Fw: Recount Guidelines



Governor Recount Guidelines.do...  
King Co Recount Obsv Guide.pdf...

> -----Original Message-----

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> Date: 11/19/04 11:10 am  
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> 'ruth@bennettforgovernor.com', Even, Jeff  
> Subj: Recount Guidelines

>  
> Dear Counties:

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>  
> In anticipation of the upcoming recount, a conference call was made to  
> discuss the guidelines to be used. Those participating in the call from  
> the Office of the Secretary of State were Sheryl Moss and John Pearson.  
> County Auditors were Bob Terwilliger, Snohomish County Auditor; Corky  
> Mattingly, Yakima County Auditor and President of the Washington State  
> Association of County Auditors; and Greg Kimsey, Clark County Auditor.  
> Barbara Sandahl, Thurston County Chief Deputy Auditor, and Jeff Even,  
> Assistant Attorney General assigned to the Office of the Secretary of  
> State also participated.

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>  
> The attached guidelines are a result of that conversation. A draft of  
> the guidelines was sent yesterday to all counties for feedback. Only  
> one county responded with no suggested changes.

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> There are a few additions to the final version of the guidelines, so I  
> encourage you all to read them carefully.

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> Additionally, we've included a copy of King County's Observer Guide as  
> an example of materials that can be prepared for your observers.

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>  
> I will continue to be your Secretary of State contact for the recount.  
> Please feel free to call me with any questions you may have.

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>  
> Sincerely,

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>  
> Sheryl Moss, Manager

> Certification and Training Program

> Office of the Secretary of State

> PO Box 40232

> Olympia WA 98504

> Phone: (360) 902-4146

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> NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

## Governor Recount 2004

The Secretary of State has ordered a machine recount for the race of Governor.

Chapter 29A.64 is the chapter on Recounts. There are no WACs addressing recounts specifically.

### Ballot Programming

Ballot programming must be changed to allow only the Governor's race and any other races that are being recounted to appear on the printed reports. RCW 29A.64.011 (fifth paragraph). Depending upon your ballot counting system, you may need new programming or you may be able to change your report format.

An L&A Test should be performed before recounting any ballots. RCW 29A.64.011 (fifth paragraph).

If you prepare ballots or conduct your L&A test before the official time and date of the recount, you should notify the candidates of the time and date those activities will be performed. RCW 29A.64.030; RCW 29A.64.041.

For those of you using provisionally certified software, it is certified through the General Election and that includes the recount.

### Observers

Notice of the recount must be made to all candidates by mail, phone, fax, and email. RCW 29A.64.030.

Each candidate is allowed to have at least two observers present during the recount. The county can limit the number of additional observers over the two allowed for each candidate if, in his or her judgment additional observers would cause undue delay or disruption of the recount process. RCW 29A.64.041(3). Legal counsel may accompany the observers. RCW 29A.64.030.

Observers may not handle the ballots or make a record of the names, addresses, or other information on the ballots, poll books, or applications for absentee ballots. RCW 29A.64.041(3).

Observers are allowed to witness all phases of the ballot tabulation process but may not handle any ballot. RCW 29A.64.041(1)

Providing written instructions and rules for observers is strongly encouraged.

### Canvassing Board

The canvassing board does not need to be present during the entire recount if they have delegated that responsibility to the County Auditor in writing. RCW 29A.60.140.

The canvassing board must meet to certify the results of the recount. RCW 29A.64.061.

Canvassing board meeting notices can be posted as an emergency meeting, requiring only 24 hours notification of the media. RCW 42.30.080.

### Counting the Ballots

Ballot counters should be cleaned and prepared for counting.

The area for counting should be set up to ensure that only previously counted ballots are recounted.

Before the recounting of ballots begins, a zero report shall be printed.

All valid write-in votes for Governor must be individually tallied. Optical scan counties may need to out-stack overvotes, undervotes, and write-ins to find all the valid write-ins to tally. RCW 29A.60.021(3).

In optical scan counties, if the ballot counter cannot out stack undervotes for the office of Governor, then a manual check for undervotes must be performed.

Any write-in votes for Christine Gregoire, Dino Rossi, or Ruth Bennett must be added to your final results for those candidates. Please remember how the following situations are counted:

- A write-in vote is valid if the voter included the candidate's name, office, and party. For optical scan counties, the voter indicates the office by writing in the name in the spot for write-ins under listing of Governor candidates. RCW 29A.60.021
- As Christine Gregoire, Dino Rossi, and Ruth Bennett were declared candidates, exact spelling of the candidate's name and including the office and party would not be required for the write-in to be valid. RCW 29A.60.021
- In an optical scan county, the oval or arrow does not need to be marked for the write-in to be valid.
- If a voter marks a candidate for a race and writes-in the same candidate, it is not an overvote. It is a valid vote for that candidate. WAC 434-261-075

Write-ins may be tallied before, during, or after the machine count of all other ballots.

Ballots where the canvassing board has already made a decision are counted exactly as the canvassing board directed.

Questions on ballots not previously determined by the canvassing board may be reconsidered by the canvassing board or by those so delegated. Ballots may be enhanced or duplicated to allow the intended vote to count. WAC 434-261-080; WAC 434-261-085; WAC 434-261-090.

If a recount takes more than one day to complete, the county shall print a report at the end of each day. At the beginning of the next day, before any ballots are counted, another report shall be printed. If the report matches the report printed the previous night, the recount may continue. If they do not match, then any discrepancy shall be resolved prior to continuing the recount.

Do not enter any interim results into the Secretary of State website—only final results.

### Certifying the Results

The canvassing board must meet to certify the results. RCW 29A.64.061.

Once the ballot counting is finished, be sure to enter the results on the Secretary of State's website. Only votes for Christine Gregoire, Dino Rossi, and Ruth Bennett (including any that the voter wrote in) are placed on the website. Vote tallies for other write-in candidates are submitted with your hard copy report.

Send by overnight mail (FedEx or other) the hard copy results to the Office of the Secretary of State, 1007 Washington St. SE, Olympia WA 98501, immediately after your canvassing board certifies the results.

## APPENDIX G

### KING COUNTY CANVASSING BOARD GUIDELINES FOR ELECTION RECOUNT FOR OBSERVERS, MEDIA AND PUBLIC

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- A. **General:** The recount is not an adversary proceeding. It is only another step in the statutory process for counting and canvassing the ballots for an election.

The proceedings will be conducted as expeditiously and impartially as possible. Towards that end, all activities will be conducted as open and visible as possible to all concerned.

Due to space restrictions, it may be necessary to prioritize the spaces allocated for viewing. Priority shall be given in the following order: to the candidates of the effected race or their designated representative or to the designated representative for the proponents and opponents of any measure, to their counsel if any, to the observers from the two major political parties, and then to any additional observers for the candidates or ballot measure proponents/opponents as may be provided by these guidelines.

The next priority shall be to the general public and the media. Special arrangements will be made for visual media.

If at any time the conduct or activities of the observers, media, or public becomes an unreasonable distraction or otherwise impedes the progress of the recount, the process will be stopped until the situation has been corrected or the room has been cleared.

Conversations are to be kept to a minimum and at a level that will not disturb the counting process or the canvassing authority.

If anyone has a message, comment or question for, to or about the proceedings in progress, it should be directed to one of the supervisory personnel or a member of the canvassing board.

- B. **Observers:** For each recount, observers from the two major political parties will be requested, and if provided, will be considered the official observers of the proceedings. Each candidate or the proponents or opponents to any measure also will be permitted one observer for each counting board.

The media and the public shall be allowed to observe as space permits to the point that it does not in any way interfere with the proceedings, as determined by the canvassing authority.

- C. **Observers' Guidelines:** Official observers have the right of witnessing the proceedings only for the purpose of ascertaining if the statutes and rules pertaining to recounts are properly carried out. Violations of, or exceptions to, procedures will be immediately reported to the supervisory personnel. If correction or satisfaction is not received there, other proceedings at law are available to the aggrieved party.

## APPENDIX G

State law does not make a provision for the challenge of ballots or voters during a recount. The recount procedure provided for by statute is a mechanical function of retallying the ballots cast and accepted as valid by the precinct election officials or the canvassing board during the canvass of the election. The decision of these officials with respect to the inclusion or exclusion of a particular ballot during the canvass is NOT in question during the recount.

- D. **Type of Recount:** The statutes provide that the person requesting a recount may specify whether the recount shall be conducted using the vote tallying system or shall be counted by hand. Where neither is specified, the vote tallying system shall be used, unless the canvassing board determines otherwise. Mandatory recounts shall be by the same method as the original counting process, unless otherwise required by law.

When the vote tallying system is used, there shall be only one counting board, those associated with feeding the ballots to the card readers and controlling the central processing unit.

When a manual count is required, there will be one counting board for approximately every 1,000 to 1,500 ballots to be counted.

- E. **Recount by Electronic Vote Tallying System:** The recount of ballots using the electronic vote tallying system shall be conducted in essentially the same manner in which those ballots were counted during the canvassing of the vote. A distinct computer program will be prepared for the tallying of the votes which will suppress all votes on the ballots except for the contest being recounted. Immediately prior to the recounting of the ballots, a separate logic and accuracy test of the system shall be conducted for the benefit of the observers.
- F. **Interruption and Continuation of the Recount:** If the process is stopped temporarily, the individual boards will cease counting at the completion of the precinct in progress. All materials and supplies shall be carefully protected during temporary stoppage.

In the event the process is not completed on the same day that it commences, at a reasonable stopping time, and upon completion of the precincts being counted, all containers shall be resealed and turned over to the Election staff members for safe keeping. The process shall be continued the following day.

- G. **Completion:** On completion of the recount, the results will be formally reviewed and approved by the Canvassing Board. If a different count results from the original canvass, the Board will then complete a new abstract showing the results in each precinct of the office which has been recounted. The certified canvass results will then be amended as appropriate.

The amended certified canvass report will normally be available to the candidates and all others concerned within twenty-four hours of the completion of the recount, unless completed on a Friday, in which case the report may not be available until at least the following Monday. The Canvassing Board does not intend to publish interim reports of the recount.