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## Memorandum

**To:** Matt Mackowiak, Chair, Travis County Republican Party (TCRP)  
Travis County Republican Party County Executive Committee (CEC)

**From:** Dyana Limon-Mercado, Travis County Clerk

**Date:** November 30, 2023

**Subject:** Follow-up to TCRP Primary Questions

### Background

On November 17, 2023, the County Clerk's Office, and the Travis County Republican Party (TCRP) held an initial meeting regarding contracting for election services for the 2024 Primary Election. TCRP presented several items for discussion requisite to signing a contract with the Clerk's Office. Items included precinct level voting, results report by Vote Center, hand counting ballots, hand marked ballots, paper voter rosters at voter check-in, ballot style reports, and other contract considerations. Several items were tabled for further discussion pending follow-up by the County Clerk's Office. Below is a response to the items discussed.

**The items and Clerk's response are as follows:**

### Precinct Level Voting:

TCRP would like to explore the possibility of moving to precinct level voting on Election Day, rather than countywide voting. The Clerk's Office indicated there was not enough inventory of election equipment to service precinct level voting on Election Day. TCRP requested the Clerk's Office to confirm the number of ballot marking devices (BMDs), vote tabulators (DS200s) and epollbooks on hand.

### Clerk's response:

After reviewing inventory levels, the Clerk's Office reiterates that precinct level voting on Election Day is not viable as there is not enough equipment to service all polling locations. The Clerk's Office has sufficient equipment to service countywide polling locations, which has been the norm in Travis County for the last decade.

The table below outlines the quantity of election equipment in the Clerk's inventory, against the number of items required to service two separate primary elections on a precinct-by-precinct basis.

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**Minimum Number of sites on Election Day for precinct-based voting: 270 X two party primaries (540 sites)\***

**Early Voting: 40 sites**

\*Individual primaries, even if hosted in the same physical location, requires duplication of equipment for compliance and programming.

Equipment Type	Qty on Hand	Allocation per EV site	Allocation per ED site	Amount Required (EV Allocation x EV sites) + (ED Allocation x ED sites)	(Deficit)
Epollbooks	630	5	2	1280	(-650)
DS200s	350	1	1	580	(-230)
BMDs	2100	9	5	3060	(-960)

**Results by Voter Center:**

TCRP requested reporting by vote center so that results may be matched to the results tapes printed from each Vote Center and judge reconciliation form. TCRP requested the Clerk's Office to determine the viability of this request.

**Clerk's response:**

The Clerk's Office has determined that providing the Cast Vote Record (CVR) would be the most appropriate solution to this request. The CVR is an electronic record of each vote cast and can be sorted by Vote Center. This report is accessible from the central tabulator in the Elections Office. The Clerk's Office can provide this report by electronic means to TCRP after votes have been tabulated on Election Day.

**Hand counting:**

TCRP would like to consider hand counting for the Primary Election and asked the County Clerk's opinion on feasibility. TCRP presented four hand counting options for discussion:

- Early Vote Period (In Person and Ballot by Mail) and Election Day ballots,
- Election Day ballots only,
- Early Vote (In Person and Ballot by Mail) ballots only, or
- Ballot by Mail only

After discussing each option, the Clerk's Office indicated that hand-counting Ballots by Mail is the only feasible option from a logistical and operational perspective. However, this option is pending legal review from the Texas Secretary of State, and the Travis County Attorney's Office with respect to contracting language governing joint Early Voting and Election Day and a bifurcated Ballot by Mail process as outlined in the Texas Election Code.

If this option is deemed legally feasible, the Clerk's Office would require that Ballots by Mail be transferred to a separate TCRP Early Voting Ballot Board for processing and tabulation. This process would occur off-site from the Elections Office and would require manual review for ID and Signature Verification. The Clerk's Office would provide required documents on hand to complete ballot signature

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and ID comparison, all other supplemental documents required for review must be requested from Travis County Voter Registration.

Should a bifurcated process not be legally allowable, hand-counting Ballots by Mail would be logistically and legally feasible if agreed to by both parties.

**Hand marked ballots:**

TCRP inquired about providing voters with hand marked ballots which would then be counted by tabulator instead of hand counted. TCRP requested the Clerk's office to check the feasibility of this option.

**Clerk's response:**

As the Clerk's Office has never conducted in-person voting with hand-marked paper ballots using the current voting system, there is no inventory of equipment to satisfy this request, since separate ballot printers would be required for each polling location.

**Paper voter rosters:**

TCRP requested paper voter rosters in addition to epollbooks for voter check-in. The proposed form would collect the name and precinct number of each voter. Alternatively, TCRP proposed the epollbook system print a label with the requested information to be affixed to a paper voter roster.

**Clerk's response:**

The Texas Secretary of State's Office indicated they would like to see a mockup of the proposed form before it is deployed. However, SOS form 7-59 or "Combination Form", is prescribed to capture the signature of the voter at check-in. Nevertheless, both options would duplicate the signature process at check-in and would require SOS approval if it is utilized along with an epollbook signature capture. Legal concerns notwithstanding, this option could be deployed if the parties agree.

Currently, our office does not have the inventory of label printers to satisfy the alternative request, and the printers deployed to voter centers are already allocated for other election specific processes.

**Voter ballot style reports:**

TCRP requested a report of ballot style per registered voter as a check on voters receiving the correct ballot style.

**Clerk's Response:**

The Clerk's Office is confident in our processes for providing voters with the correct ballot style at check-in. However, this report can be provided to TCRP and is available from Travis County Voter Registration.

**General Contract Considerations:**

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TCRP requested clarification if all elements of a joint election contract must apply to both parties, as some operational differences between TCRP and TCDP primaries might be required for contractual agreement.

**Clerk's response:**

The county indicated some permissibility of minor provisional differences may be within the law. However, our office has reached out to the Texas Secretary of State and Travis County Attorney's Office and will continue to do so to ensure any contract between the Clerk's Office and TCRP is legally sound.

**Conclusion:**

The Travis County Clerk's Office is committed to our partnership with both parties to ensure that all Travis County voters continue to have access to legal, safe, effective, and efficient elections. The Clerk's Office is open to implementing reasonable solutions to move forward with a contract to conduct a Joint Primary Election in March 2024. With respect to the requests made on behalf of TCRP, our office has determined viable solutions regarding providing Vote Center level reporting and a Ballot Style by Registered Voter report. Additionally, the Clerk's Office has reached out to the Texas Secretary of State and Travis County Attorney's Office to establish the legal implications of hand-counting Ballots by Mail, and duplicating voter check-in process with an additional paper voter roster. Finally, our office has determined that we do not have the resources or capability to provide support for precinct level voting, hand marking of Early Voting or Election Day ballots.

Cc: Andy Brown, Travis County Judge  
Delia Garza, Travis County Attorney  
Leslie Dippel, Executive County Attorney, Travis County Attorney's Office  
Dana Hess, Chief Deputy, Travis County Clerk's Office  
Bridgette Escobedo, Elections Division Director, Travis County Clerk's Office  
Katie Naranjo, Travis County Democratic Party Chair