

1 Secretary of State

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3 Adopted Permanent Rules Relating to Bonding of Vendors

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5 Rules as Adopted

6 8220.0650 APPROVAL OF MACHINES OR SYSTEMS.

7 Subpart 1. Certification. If, from the reports of the
8 demonstration and testing, the secretary of state determines
9 that the machine or system complies with Minnesota statutes and
10 parts 8220.0050 to 8230.4250 and can be used safely at
11 elections, the secretary of state shall issue to the vendor a
12 certification of the machine or system for use in Minnesota.
13 The certification must be limited to specific hardware and
14 software configurations and may not extend to models or
15 configurations not examined. The certification may include
16 stipulations or special procedures for use of the machine or
17 system. No certification may be issued until the vendor has:

18 A. and B. [Unchanged.]

19 C. certified that the vendor will immediately notify
20 the secretary of state of any modifications to the machine or
21 system and will not offer for sale or provide for use in
22 Minnesota any modified machine or system if the secretary of
23 state advises the vendor that, in the opinion of the secretary,
24 the modifications constitute a significant change requiring that
25 the machine or system be reexamined;

26 D. deposited with the secretary of state a copy of
27 all programs, documentation, and source code. If the vendor
28 considers this data proprietary, the secretary of state shall
29 maintain the integrity and security of the data; and

30 E. deposited with the secretary of state a bond in
31 the amount of \$5,000 conditioned on the vendor offering the
32 machine or system for sale in the manner required by parts
33 8220.0050 to 8230.4450 and any conditions under which the
34 machine or system is certified for use in Minnesota. The form
35 and execution of the bond must be acceptable to the secretary of

1 state. Bonds must be issued by corporations authorized to
2 contract as a surety in Minnesota. This bond is not in lieu of
3 any right of action by the purchaser or the state of Minnesota
4 against the vendor or the surety. The bond is required until
5 the adoption, use, or purchase of the machine, system, or
6 program is discontinued in Minnesota.

7 Subp. 2. [Unchanged.]

8 Subp. 3. Forfeiture of bond. If the secretary of state
9 determines that a vendor has offered for sale or use at an
10 election a voting machine or system in a manner other than that
11 required by parts 8220.0050 to 8230.4450 or any conditions under
12 which the machine or system was certified, the bond required by
13 subpart 1, item E, must be forfeited. The secretary of state
14 shall notify the vendor of the intent to forfeit the bond in
15 writing and provide the vendor an opportunity to furnish a
16 written explanation to the secretary of state prior to
17 forfeiture. No machine or system may be subsequently offered
18 for sale or use at an election by the vendor who has received a
19 notice of intent to forfeit the bond or whose bond has been
20 forfeited, until the vendor has submitted an additional bond in
21 the amount of \$5,000. The secretary of state shall notify each
22 official on the user list of a receipt, forfeiture, or
23 restoration of these bonds.

24 8220.0800 PROGRAM PREPARATION BONDS.

25 Subpart 1. Amount of bonds. Each vendor preparing
26 programs for use with an electronic voting system shall deposit
27 a bond with the secretary of state in the amount of \$5,000. The
28 form of the bond must be acceptable to the secretary of state.
29 Bonds must be issued by corporations authorized to contract as a
30 surety in Minnesota. This bond is not in lieu of any right of
31 action by the purchaser or the state of Minnesota against the
32 vendor or the surety. The bond is required until the adoption,
33 use, or purchase of the machine, system, or program is
34 discontinued in Minnesota.

35 Subp. 2. Forfeiture of bonds. If the secretary of state

1 determines that a program used with an electronic voting system
2 was not prepared in the manner required by parts 8220.0050 to
3 8230.4450 and the written instructions of the official
4 responsible for preparation of the ballots, the bond must be
5 forfeited to the extent necessary to cover actual expenses
6 resulting from the failure of the program. The secretary of
7 state shall determine within 45 days after receiving
8 notification of the failure of a program and a request for
9 reimbursement of expenses resulting from the failure of the
10 program from the appropriate election officials, what actual
11 costs were incurred as a result of the program failure. The
12 secretary of state shall notify the vendor of the intent to
13 forfeit the bond in writing and provide the vendor an
14 opportunity to furnish a written explanation to the secretary of
15 state prior to forfeiture. If required to meet actual expenses
16 in excess of the amount of the bond posted under subpart 1, the
17 secretary of state shall use, to the extent necessary, any bond
18 posted by the vendor under part 8220.0650 as compensation to the
19 election jurisdiction. The secretary of state shall notify each
20 official on the user list of any receipt, forfeiture, or
21 restoration of these bonds.