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DIRECTIVE OF THE SECRETARY OF STATE	SUBJECT: POST-ELECTION AUDITS	DIRECTIVE ISSUED AT THE REQUEST OF: SECRETARY OF STATE	DATE: September 22, 2021	NO.: 2021-2
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As Oregon's chief elections officer, the Secretary of State is responsible for maintaining uniformity in elections procedures statewide. (ORS 246.110 and ORS 246.120.) Pursuant to that authority and given laws governing Oregon's current robust and transparent post-election audit process, the Elections Division is issuing this directive prohibiting alternative post-election audit procedures. County clerks must comply with this directive. (ORS 246.120 and ORS 246.410.)

In the wake of the 2020 election, county clerks throughout Oregon have received numerous inquiries concerning alternative post-election audit procedures.

Oregon law already requires post-election audit procedures, transparency in vote counting, and robust security measures. ORS 254.529 (1) provides county clerks with a choice of post-election audit procedures: either a hand count of ballots which is compared to vote tally system results, or a risk-limiting audit. Procedures for a hand count are described in ORS 254.529 (2)-(9). Procedures for a risk-limiting audit are described in ORS 254.532. ORS 258.150-.300 also describe additional procedures for automatic or demand recounts, such as for races that come within a specific margin or can be requested by a campaign.

Existing statutes also include safeguards to protect ballots from loss or damage (ORS 192.355 (32) and ORS 254.074), recognize that critical security information must remain secure (ORS 192.345 (22) and (23)), require numerous tests of voting machines (ORS 254.235), and provide multiple avenues for public observation of ballot counting (ORS 254.482 and ORS 258.211). Oregon law vests county clerks with a special responsibility for the safekeeping, disposition, and security of ballots. (ORS 254.483).

These statutes direct the way in which clerks count and verify results. The statutes carefully consider the need for accurate and fair elections and the need for finality in determining the results of election contests.

Alternative post-election audit procedures are prohibited.

Alternative post-election audit procedures would circumvent the Legislature's requirements concerning election verification, transparency, and security, including vital chain of custody safeguards. Procedures that remove ballots or tabulation machines from the care and custody of county clerks are especially egregious, as they may damage ballots or compromise critical elections infrastructure.

For these reasons, alternative post-election audit procedures are inconsistent with Oregon law. Neither the Secretary of State nor county clerks may authorize any post-election audit procedures other than those that already exist in statute.

County clerks should consult me directly with any questions about this directive.

Deborah Scroggin
Director of Elections