



# San Bernardino County

## Legislation Text

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**File #: 10481, Agenda Item #: 52**

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**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS  
OF SAN BERNARDINO COUNTY  
AND RECORD OF ACTION**

**July 9, 2024**

**FROM**

**STEPHENIE SHEA, Registrar of Voters**

**SUBJECT**

Contract with OPEX Corporation for Mail Ballot Extracting Equipment

**RECOMMENDATION(S)**

Approve a contract with OPEX Corporation, including non-standard terms, for the purchase of four mail ballot extracting machines, including hardware components and maintenance service, in an amount not to exceed \$251,000, for a five-year period of July 9, 2024 through July 8, 2029.

(Presenter: Stephenie Shea, Registrar of Voters, 387-2100)

**COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES**

**Improve County Government Operations.**

**Operate in a Fiscally-Responsible and Business-Like Manner.**

**FINANCIAL IMPACT**

Approval of this item does not require the use of additional Discretionary General Funding (Net County Cost). Adequate appropriation and revenue have been included in the Registrar of Voters' (ROV) 2024-25 budget and will be included in future recommended budgets, as needed.

**BACKGROUND INFORMATION**

The recommended contract with OPEX Corporation (OPEX) will enable ROV to increase the speed of mail ballot processing by automating the mail ballot extraction process. The County has more than 1,171,662 registered voters and is experiencing increases in the overall number of registered voters. On September 27, 2021, Governor Gavin Newsom signed Assembly Bill 37, which permanently requires a vote-by-mail ballot to be mailed to every active registered voter in the state.

Over the past six major elections that have taken place from 2020 through 2024, over 60% of the County's voters returned their ballots by mail. ROV's current method for the extraction of ballots is a manual process that requires the hiring of many temporary employees to extract the ballots from envelopes. The purchase of mail ballot extracting machines will allow for a cost-effective method to maximize the volume of mail ballots that can be extracted per hour while decreasing the labor required to do so.

Per County Policy 11-05, the Board of Supervisors must approve non-standard contract terms. OPEX has requested changes to the contract which contains terms that differ from the standard County contract. The non-standard terms include the following:

1. The contract does not require OPEX to defend, indemnify, and hold the County harmless from any claims, including indemnification for claims arising from OPEX's negligent or intentional acts.
  - The County standard contract provision for intellectual property indemnity requires the contractor to indemnify, defend, and hold harmless County and its officers, employees, agents and volunteers, from any and all third-party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement of any United States patent, copyright, trademark or trade secret (Intellectual Property Rights) by any goods or services.
  - Potential Impact: If the County is sued for any claim, the County may be solely liable for the costs of defense and damages, which could exceed the total contract amount.
  
2. The contract has payment terms of Net 45 after the approval of the invoice.
  - The County standard contract provisions state standard payment terms of Net 60 days.
  - Potential Impact: OPEX's non-standard payment terms of Net 45 after approval of the invoice will decrease the payment processing time for the County.

ROV recommends approval of this contract, including non-standard terms, as it will improve County government operations by automating the ballot extraction process and increasing the overall efficiency of mail ballot processing.

#### **PROCUREMENT**

On May 6, 2024, Request for Proposals (RFP) No. ROV124-ROV-5422 was released to solicit proposals for Mail Ballot Extracting Equipment for a five-year contract period. ROV only received a proposal from OPEX. A review of the proposal was completed, and it was determined that OPEX's proposal met the requirements of the RFP, and it was agreed by both ROV and the Purchasing Department to award OPEX the contract.

#### **REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Jolena Grider, Deputy County Counsel, 387-5455) on July 2, 2024; Purchasing (Ariel Gill, Supervising Buyer, 387-2070) on July 2, 2024; Risk Management (Victor Tordesillas, Deputy Executive Officer, 386-9008) on July 3, 2024; Finance (Elias Duenas, Administrative Analyst, 387-4378) on July 2, 2024; and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on July 2, 2024.