

Procedures Manual for Post-Election Certification Voting System Audits



DS-DE XX (eff XX-XX)

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Section 1. General Applicability

(a) This rule provides the procedures for a county canvassing board or the local board responsible for certifying the election to conduct either a manual audit or an automated independent audit of a voting system to be conducted after certification of an election including a municipal election. The purpose of the audit is to ensure that the voting system deployed in the election tabulated all votes properly. An audit is not required in any election in which only paper ballots are used and are not tabulated by a voting system. If a manual recount was conducted pursuant to section 102.166, F.S., in one or more contests in an election, a canvassing board is not required to conduct an audit in that election.

(b) An automated independent audit may not be conducted unless the independent audit system has been approved for use. The requirements for approval and use are contained in subsection (2) of the rule.

Section 2. Definitions

As used in this rule, the term:

(a) "Audit team" means:

1. For the purposes of a manual audit, a two-person team that manually sorts and tallies the votes; and,
2. For the purposes of an automated independent audit, one or more persons, all of whom have been trained on the automated independent audit equipment.
3. The audit, scanning, and duplicating teams may consist of members of the canvassing board, employees of the supervisor of elections, poll workers or other temporary personnel acting under the direction of the county or other local canvassing board.

(b) "Automated independent audit" means the use of hardware and software technology to independently tally the votes cast across every race that appears on all ballots in at least twenty percent of the precincts chosen at random by the county canvassing board or the local board responsible for certifying the election.

(c) "Ballot card" means the single physical piece of paper or electronic representation of the front and back of that piece of paper.

(d) "Ballot page" means either the front or back side of a physical ballot card or the electronic representation thereof.

(e) "Ballot type" means an early voting, Election Day, or vote-by-mail ballot. Provisional ballots cast in the election may be grouped with early voting, Election Day, or vote-by-mail ballots, as applicable. Overseas vote-by-mail ballots are to be grouped with other vote-by-mail ballots.

(f) "Board" means the county canvassing board or other local board responsible for certifying the election. The Board shall be governed by the provisions of section 102.141, F.S.

(g) "Election definition" means the voting system tabulator's code programmed for a unique election.

(h) "Independent" means that the audit system must not share any proprietary election-related hardware or software in common with any voting system certified for use in the State of Florida. Any commercially available software or hardware shared between the two systems must not be modified. However, information used to decode the ballot artwork and any barcoding schemes on ballots may be shared from the primary vote tabulation system to the independent audit system.

(i) "Indeterminate vote" means a marginal mark on a ballot where the Board believes the voting system may not have tabulated a choice in a race.

(j) "Manual audit" means a public manual tally of the votes cast in one randomly selected race that appears on a ballot in one or more randomly selected precincts.

(k) "Marginal mark" means a mark other than a prescribed mark (*e.g.*, a solid dark filled oval), which the tabulator or automated independent audit system may or may not interpret as the voter's choice in a race.

(l) "Marksense ballot" has the meaning ascribed in section 97.021, F.S.

(m) “No vote” means that there is no mark and the voter did not make a selection for any candidate or issue in a race.

(n) “Outstack” refers to the act of segregating, sorting or setting aside ballots either manually, digitally, by a high-speed tabulator, or by other means.

(o) “Overvote” means that the elector marks or designates more names than there are persons to be elected to an office or designates more than one answer to a ballot question and the tabulator records no vote for the office or question.

(p) “Overvote ballot” means a ballot card with a race that has an overvote.

(q) “Paper ballot image” means an electronic record of the content of a marksense ballot cast by a voter and recorded by the automated independent audit system. The paper ballot image shall contain the image of the front and back of a ballot card either in a single file or multiple associated files. Each paper ballot image file name must have a unique identifier.

(r) “Race” means any contest for office, judicial retention, or issue (e.g., constitutional amendment, initiative, referendum, ballot question, or other public measure) on the ballot.

(s) “Technical data package” means the automated independent audit system’s description, software source code, executables, software configuration management system, description for creating the election definition and its required input and output, and description of the scanning devices.

(t) “Undervote” means that the elector does not designate any choice for an office or ballot question, and the tabulator records no vote for the office or ballot question or that the elector designated fewer than the number of choices allowed for the office and the tabulator records those choices.

(u) “Undervote ballot” means a ballot card with a race that has one or more undervotes.

(v) “Valid vote” means it could be determined from the mark that the voter has made a definite choice in a race.

Section 3. Forms

The following provisions apply to both machine and manual audits:

(a) The following forms are used in this rule and are incorporated by reference:

1. Form DS-DE 105-B, entitled “Manual Audit Team Worksheet for Marksense Ballots” (eff. 01/2014), <http://www.flrules.org/Gateway/reference.asp?No=Ref-03893>.

2. Form DS-DE 106, entitled “Precinct Summary for Manual Audit” (eff. 01/2014), <http://www.flrules.org/Gateway/reference.asp?No=Ref-03894>.

3. Form DS-DE 106A, entitled “Discrepancy Report for Automated Independent Audit” (eff. 01/2014), <http://www.flrules.org/Gateway/reference.asp?No=Ref-03895>.

4. Form DS-DE 107 entitled “Voting System Post-Election Audit Report” (eff. 01/2014), <http://www.flrules.org/Gateway/reference.asp?No=Ref-03896>.

(b) Copies of the forms may be obtained from the Division of Elections website at: <https://dos.myflorida.com/elections> or by contacting the Division of Elections, at (850)245-6200, located at Room 316, R. A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250.

Section 4. General Procedures Applicable to Audits

The following procedures apply to both a manual audit and an automated audit except to the extent that the context states otherwise:

(a) Notice

1. The Board shall publish at least a 24-hour advance notice of the meeting to conduct the audit including the random selection of the race(s) and precincts respective to the applicable audit. The notice may be published before the official certification of the election results but neither the random selection nor the manual audit or the review of the audit result in an automated independent audit can occur until after the certification. The notice shall include the date, time and place for each meeting. Notice shall be posted in four conspicuous places in the county and on the home page of the county supervisor of elections' website. A link to the notice on the county supervisor of election's homepage will satisfy the website notice requirement. A single public notice is acceptable if ballots will be processed through the automated independent audit equipment on a recurring basis before the audit.

2. If the Canvassing Board plans to conduct the audit using digital images of ballots, then at least a 48-hour notice must be provided to candidates, political parties, or persons interested in observing the scanning of ballots into the independent audit system prior to any ballots being scanned into the system.

(b) Audit results report

The Board shall conduct, complete and make available the results of the audit of a voting system no later than 11:59 p.m. (local time where the audit occurs) of the 7th day following the official certification of election results.

(c) Initial selection procedures

As applicable, the Board shall follow the selection process for manual audits set forth in Section 5 or the selection process for automated independent audit in Section 6.

(d) Members present

1. A majority of the Board shall be present at all times until the manual audit is completed or a review of the automated independent audit results occurs, whichever is applicable to the audit method being used. If an automated independent audit is being conducted, at least one Board member must be present during the processing of ballots into the automated independent audit system.

2. The Canvassing Board may not interpret questionable voter intent on any ballots unable to be processed by the automated independent audit system until after the time in which a recount would be ordered. Ballots which cannot be interpreted by the system due to problems with the physical integrity of the ballot such as folds, tears, or other imperfections may not be interpreted until after the time in which a recount would be ordered.

(e) Rule review

Prior to the beginning of the audit, the Board shall jointly review the rules and statutes governing audit procedures. The Board shall also review the security procedures for audits established by the Supervisor of Elections pursuant to Section 7.

(f) Record

The Board shall ensure that, at a minimum, the minutes of the audit proceedings are taken and promptly recorded and maintained.

(g) Location

The Board shall conduct the audit in a room large enough to accommodate the following, at a minimum: the Board, the audit teams and, if present, a maximum of two public observers per audit team. If a large public turnout is anticipated, the Board should take reasonable steps to select the largest available public meeting room to accommodate the turnout. In the event that the room is not large enough to accommodate all public observers present, the Board shall provide for the random selection of the observers from among those present just prior to the beginning of the audit. The observers shall be allowed to witness the audit team's activities but may not interfere with the proceedings. The public observers are allowed to witness all audit proceedings, including the scanning of ballots prior to beginning an automated independent audit. The Board shall announce procedures that will allow any departing public observers to be replaced by other observers.

(h) Rules and policies

The Board may adopt reasonable rules and policies to ensure the public does not interfere or otherwise disturb the audit, including taking whatever reasonable action is necessary to have disruptive and unruly persons removed.

(i) Audit teams

The Board shall appoint as many audit teams as necessary to assist in the manual audit or as many audit teams to use the automated audit equipment to meet the deadline in paragraph (b) of this section. The Board shall resolve any disagreement on the handling or processing of a ballot by an audit team in accordance with the rule.

(j) Ballot handling

No person except the Board, an employee of the Supervisor of Elections, or a member of an audit team shall handle any ballot or ballot container. No person shall interfere with or obstruct the orderly audit.

(k) Ballot count

Before beginning an audit, the Board shall verify an accurate ballot count exists between the number of ballots cast in the applicable precincts and races and the number of ballots to be audited. In the event that the ballot count does not match, the Board shall determine if the difference in the ballot count is 1/2 of 1% or more of the total ballots, as indicated by the voting system or the audit, whichever is less. If the difference is 1/2 of 1% or more, the Board must investigate to determine if it can resolve the discrepancy. If the discrepancy cannot be resolved, the Board shall provide an explanation on the "Voting System Post-Election Audit Report" (DS-DE 107). If a manual audit is to be performed proceed to Section 5. If an automated independent audit is to be performed, proceed to Section 6.

Section 5. Manual Audit Procedures

The following procedures apply to a manual audit:

(a) Initial selection procedure for manual audit

1. The Board shall determine the method of selection of the race and precincts to be audited. The selection method must be done on a random basis using a uniform distribution in which all races have an equal chance of being selected and all precincts in which the selected race appears have an equal chance of being selected. Examples of such selection may include selection by drawing lots or by using a ten-sided die, or using a computerized random selection. However, the selection method should be done in a way that the public is assured that all races, as defined in rule, that appear on the ballot are included in the random selection of the race, and that all precincts containing the selected race are included in the random selection of the precinct or precincts.

2. The Board shall first randomly select a race from all available races on the ballots. In the event that multiple municipal or other local elections are held on the same day in a county and the county canvassing board certifies the elections, one manual audit will cover all elections held on that day and all races involved in the elections shall be available for selection of the race and precincts.

3. The Board shall next randomly select at least one percent but no more than two percent of the precincts in which the selected race appears. If two percent or less of the precincts equals less than a whole number, the number of precincts to be audited shall be rounded up to the next whole number.

(b) Tally

The manual audit shall include a tally of the selected race for the selected precinct or precincts of ballots cast on Election Day and during the early voting period, vote-by-mail ballots (to include vote-by-mail ballots cast by uniformed and overseas citizens), and provisional ballots (if tabulated separately). To the extent possible, the certified result from the selected race and precinct(s) to be audited shall not be disclosed in advance to the audit teams.

1. The tally shall be of the marksense ballots that were tabulated by the voting system.

2. Ballots cast at the precinct on Election Day, early voted ballots, vote-by-mail ballots, and provisional ballots (if grouped separately), for each precinct shall be audited separately.

3. In order to distinguish between errors attributable to improper marking of the ballot versus voting system tabulation error, each audit team shall examine a ballot and if in agreement, shall place a ballot into one of the following stacks:

a. Ballots on which the voter overvoted in the selected race.

b. Ballots on which the voter undervoted in the selected race.

c. Ballots on which the voter marked the race in a manner that shows a clear indication of a choice for a candidate or issue.

d. Ballots on which the voter marked the race in a manner that shows no clear indication of a choice for a candidate or issue.

4. The audit team shall sort the ballots that were stacked in sub-subparagraph (b)3.c. of this section according to the voter's choice in the selected race. For example, all ballots with votes for Candidate A should be placed in one stack and all ballots with votes for Candidate B should be placed in another stack. The audit team members shall then tally the number of ballots in each of those stacks and write the number of votes for each candidate or issue choice in the specific race on the Manual Audit Team Worksheet for Marksense Ballots (DS-DE 105B).

5. For a race with "Vote for no more than (enter # to be elected)," the audit team shall sort out the undervoted ballots with no selection made and record the count. For the remaining undervoted ballots, the team shall sort the ballots into two stacks with the first stack having candidate A and the second stack with the remaining candidates, then record votes for Candidate A on the Manual Audit Team Worksheet for Marksense Ballots (DS-DE 105B). Then, the team shall re-sort the ballots again with two stacks with the first stack having candidate B and the second stack with the remaining candidates and then record the count for Candidate B on the Manual Audit Team Worksheet for Marksense Ballots (DS-DE 105B). This process shall be repeated for each subsequent candidate until complete.

6. The audit team members shall also tally the number of ballots for each stack as separated in sub-subparagraphs (3)a., b., and d. of this section and write the number of ballots in each stack on the Manual Audit Team Worksheet for Marksense Ballots (DS-DE 105B).

7. The manual audit shall continue until completed. A recess may be called but procedures, established by the Supervisor of Elections, for securing the tally results and ballots shall be followed during the recess.

(c) Results compilation

The Board shall direct the supervisor to print a report from the voting system for the precincts selected which provides the group detail of the number of ballots for Election Day, early voting, vote-by-mail, and provisional. The provisional number may be included in one of the other numbers. This report will be what the Board shall compare to the audit teams' manual count. As much as is practicable, the report shall not be provided to the audit team members. Additional specific procedures apply:

1. After the audit team has finalized its tally, the Board shall compile the results and compare the manual tally to the official vote totals for the selected race in the selected precinct(s).

a. If the manual tally and official vote totals match for that precinct, this result is to be listed on the Precinct Summary for Manual Audit form (DS-DE 106).

b. If the manual tally and official vote totals show a discrepancy in any contest of 1/2 of 1% or more of the votes being audited, the Board must investigate the discrepancy. This shall be done by the Board determining if the difference can be reconciled by reviewing the official totals and the stack set out pursuant to sub-subparagraphs (5)(b)3.a., b., and d. If the re-tally and totals are still 1/2 of 1% or more of the votes being audited, the Board shall direct a different audit team, if available, to conduct a manual re-tally.

(d) Audit report

No later than December 15 of each general election year, the Board shall submit to the Department of State a report of the audit results for the general election at the same time as the overvote and undervote report data (DS-DE 40). The Board shall submit its report using the "Voting System Post-Election Audit Report" (DS-DE 107).

1. For a manual audit, each audit report shall be accompanied by a completed Precinct Summary for Manual Audit form (DS-DE 106) for each precinct audited.

2. The audit report shall also include a description of:

a. The overall accuracy of the audit.

b. Problems or discrepancies encountered, if any.

c. The likely cause of any problems or discrepancies encountered, if any.

d. Recommended corrective or remedial actions for any problems or discrepancies encountered, for purposes of avoiding or

mitigating such problems or discrepancies in future elections.

Section 6. Automated Independent Audit Procedures

The following procedures apply to an automated independent audit:

(a) Pre-conduct activity

1. Before performing a publicly noticed logic and accuracy test, the Board shall test the automated independent audit system to ascertain that the system will correctly count the votes cast.

2. Before scanning ballots in any election, the supervisor of elections shall test the tabulation accuracy of the automated independent audit software by performing a publicly noticed logic and accuracy test on all of the scanners that are used for the scanning of the ballots. This testing shall take place at the same time as the testing of the tabulating equipment pursuant to section 101.5612, F.S.

(b) Initial selection procedure

1. The Board shall determine the method of selection of the precincts to be audited in an automated independent audit. The selection method must be done on a random basis using a uniform distribution in which all precincts have an equal chance of being selected in an automated independent audit. Examples of such selection may include selection by drawing lots, by using a ten-sided die, or using a computerized random selection. However, the selection method should be done in a way that the public is assured that all precincts are included in the random selection of precincts in an automated independent audit.

2. In the event that multiple municipal or other local elections are held on the same day in a county and the county canvassing board certifies the elections, one automated independent audit will cover all elections held on that day and all precincts involved in the elections shall be available for selection of precincts.

3. The Board shall randomly select a minimum of 20% of the precincts. If twenty percent of the precincts equals less than a whole number, the number of precincts to be audited shall be rounded up to the next whole number. The audit shall consist of a tally of the votes cast across every race that appears on the ballot in those selected precincts. Rather than randomly selecting a portion of the precincts, the canvassing board may choose to audit all precincts involved in the election.

4. To the extent possible, the certified result from the selected race and precinct(s) to be audited shall not be disclosed in advance to the audit teams.

(c) Specific procedures

The Board and the audit teams shall follow these specific audit procedures for votes cast on an automated independent audit system:

1. The tally shall be of the marksense ballots that were tabulated by the voting system.

2. Ballots cast at the precinct on Election Day, early voted ballots, vote-by-mail ballots, and provisional ballots (if grouped separately), for each precinct shall be audited separately.

3. The automated independent audit shall continue until completed. A recess may be called but procedures, established by the Supervisor of Elections, for securing the tally results and ballots shall be followed during the recess.

4. The automated independent audit system shall produce and print the tally for all races from the selected precincts of ballots cast by ballot type.

a. The system must be able to physically/digitally outstack ballots on which the voter overvoted in the selected race.

b. The system must be able to physically/digitally outstack ballots on which the voter undervoted in the selected race.

c. The system must be able to physically/digitally outstack ballots on which the voter marked the race in a manner that shows a clear indication of a choice for a candidate or issue.

d. The system must be able to physically/digitally outstack ballots on which the voter marked the race in a manner that shows no clear indication of a choice for a candidate or issue.

(d) Results Compilation

The Board shall direct the supervisor to print a report from the voting system for the precincts selected which provides the group detail of the number of ballots for Election Day, early voting, vote-by-mail, and provisional. The provisional number may be included in one of the other ballot group numbers. This report will be what the Board shall compare to the automated independent audit count. After the automated independent audit system has finalized its tally, the Board or the automated independent audit system shall compile and compare the results to the official vote totals for all races in the selected precincts.

1. The results of the automated independent audit shall be produced as a summary report listing the number of ballot and vote discrepancies computed at the lowest level of aggregation reported in the election.

a. The automated independent audit system is able to import results data from the voting system. The automated independent audit system produces a report that displays results from the automated independent audit system, the voting system, and any discrepancies between them.

b. The results reports from the automated independent audit system and the voting system are manually compared and any discrepancies documented.

2. If the automated tally and official vote totals show no discrepancies or a discrepancy in every contest of less than 1/2 of 1%, the Board shall list this result on the "Voting System Post-Election Audit Report" (DS-DE 107).

3. If the automated tally and official totals show a discrepancy in any contest of 1/2 of 1% or more of the votes being audited:

a. The Board must investigate the discrepancy. This shall be done by reviewing the paper ballots, paper ballot images or extracts therefrom to ascertain if any voter marked a race in a manner that likely was not read by the voting system tabulator or by the automated independent audit system.

b. The Board shall prepare a completed "Discrepancy Report for Automated Independent Audit" form (DS-DE 106A) or, alternatively, the automated independent audit system may print a report providing the same information required by the DS-DE 106A.

c. The Board shall explain the discrepancy on the "Voting System Post-Election Certification Audit Report" (DS-DE 107).

(e) Audit Report

No later than December 15 of each general election year, the Board shall submit to the Department of State a report of the audit results for the general election at the same time as the overvote and undervote data (DS-DE 40). The Board shall submit its report using the "Voting System Post-Election Audit Report" (DS-DE 107).

1. For an automated independent audit, each audit report shall be accompanied by the summary report as specified in subparagraph (d)1. of this section, or a completed Discrepancy Report for Automated Independent Audit form (DS-DE 106A), as applicable, for each precinct audited.

1. The audit report shall also include a description of:

a. The overall accuracy of the audit.

b. Problems or discrepancies encountered, if any.

c. The likely cause of any problems or discrepancies encountered, if any.

d. Recommended corrective or remedial actions for any problems or discrepancies encountered, for purposes of avoiding or mitigating such problems or discrepancies in future elections.

Section 7. Security Procedures

Each county supervisor of elections pursuant to its responsibility under section 101.015, F.S., shall ensure that its security procedures include procedures relating to ballot accountability, the security of ballots, chain of custody controls, protocols for

authorized access and secure storage of ballots that may be used in an audit.