

ACTION AND BUDGET ESTIMATES: TWO MONTH PLAN

DESI'S NEW CALIFORNIA ISSUES

1. VSPP Information Response and Certification Audit

A. Collect, Review, Analyze and Produce Documents/Information

1. Attorney time associated with collection, review and production of documents (3 attorneys and paralegal for 4-6 weeks): **\$180,000 - \$270,000**
2. Attorney time associated with witness interviews: **\$20,000 - \$40,000**
3. Forensic computer consultant to assist with selected electronic information collection and recovery (e.g., computers of California personnel): **\$25,000 - \$60,000**
4. Legal research regarding certification issues and other issues relating to VSPP (e.g., regulatory authority, enforceability of SOS procedures, penalties for uncertified systems, windows CE issued [commercial off-the- shelf issue], HA V A and California funding issues, etc.): **\$30,000 - \$50,000¹**
5. Testing of source code and other DESI products (including negotiation of License and Confidentiality Agreement) and follow-up matters: **\$20,000 - \$40,000**

B. Review, analysis, strategy and coordination of related certification issues (e.g., responses to threatening letters from Secretary of State, status of certification of system for March 2,2004 primary, etc.): **\$20,000- \$40,000**

C. Other

1. Monitor selected Web sites to gain key intelligence.
2. Collect recent filings in selected election challenge cases in California.
(Note: This will be useful in the event Jim March or others file an action to enjoin use of DESI products in the March primary and may provide statements by the AG or SOS that are inconsistent with their current positions.): **\$5,000**

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¹ Much of this research is underway.

² If the seal is lifted and the complaint served, this will need to be actively defended.

³ Significant developments could occur at any time. For example, the Secretary of State could decide to decertify all DESI products and/or bar DESI from doing business in the state of California.

2. Qui Tam Action Under the California False Claims Act

A. Factual Development During Seal Period²

- I. Alternate A: Low level development of facts relevant to potential defenses (e.g., public disclosure, government knowledge defense, and prior governmental audit) limited to facts developed during effort associated with item I: **\$10,000/month**
2. Alternate B: Proactive development of potential defenses, explanations, mitigating circumstances and strategies: **\$30,000/month**

B. Legal Analysis: Preliminary memoranda of public disclosure bar, prior government audit, and government knowledge issues based on currently known facts to guide overall strategy: **\$25,000 - \$40,000**

3. Criminal Exposure

- A. Preliminary legal analysis of potential criminal violations and theories (commenced): **\$25,000 - \$40,000**
- B. White collar criminal law attorney pre-grand jury investigative advice: **\$5,000 - \$10,000/month**
- C. Comprehensive Position Paper (see Item 4 below.)

4. Comprehensive Position Paper: This would be a synthesis of the above analysis plus additional factual and legal development. This would be the basis for white papers, responding to subsequent developments, persuading prosecuting authorities not to bring criminal charges, defending the False Claim Case, reports to board, press releases, governmental and media inquiries and filings. This is recommended given the exposure but is a decision for the client. (Note: This could be deferred to the second or third month depending on ongoing developments.³): **\$150,000 - \$250,000**

5. Coordination of all DESI matters to minimize inconsistent positions and maximize efficiency: **\$5,000 - \$10,000/month**

Summary for Two Month Estimate: \$535,000 - \$925,000