



ELECTION TECHNOLOGY COUNCIL

Working Together for Secure and Accurate Elections

Remarks of David Beirne, Executive Director of the Election Technology Council, to the Joint Election Official Liaison Committee

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It is my pleasure to be here with all of you and provide the industry perspective on the current certification program and its current impact on industry viability. It is the continuing pursuit of the Election Technology Council to have an effective federal certification program. Although we often voice criticisms, it is done so with the express intent of facilitating an exchange of ideas and encouraging reform in an effort to ensure the program's survivability.

The description of the EAC certification program as voluntary is primarily aimed at the states that choose to participate within the voluntary program. The industry reality is different. The fact is that varying state requirements for EAC certification, or testing to federal system standards, means that the program is effectively required, or at least a common denominator, for industry providers to target for state compliance.

While there are a few long term efforts that the EAC is working on to improve the certification process, we have outstanding concerns for the short-term health of the industry and would like to offer six policies that should be examined, by the EAC and policy makers, to possibly sustain the EAC program's viability and avoid the potential departure of providers from the marketplace, either through market consolidation or failure.

Proposal #1:

Place industry representation on the Technical Guidelines Development Committee. Given the voluntary structure of the certification program, a consensus approach should be incorporated in the development of voting system standards. This move will send a signal that the industry is a valued stakeholder and not an adversary in the standards-setting process. In addition, this will bring the voting system standards closer to other standards setting procedures outlined by the American National Standards Institute. There is a growing consensus on this issue as expressed in a resolution passed in a resolution from the EAC Board of Advisors.

Proposal #2:

Review viability of current certification financing. The current model for certification financing is that each manufacturer enters into a contract directly with the Voting System Test Laboratory for testing. This is the old model associated with the NASED certification process and has been carried forward. Like any potential homeowner building their own home, the person financing the construction has a vested property interest to see that their interests are being maintained and the services provided are adequate. Unfortunately, voting system manufacturers are being asked to finance a certification

process without an ability to observe the actual testing. If the desire is for perception to rule the day and for VSTL to remain truly independent, then another model must be incorporated which removes the need for individual manufacturers to be the sole financiers of the certification effort.

Proposal #3

Establish clear performance timelines for all parties. Although manufacturers enter into contracts with the VSTL, the EAC plays a critical role in the approval of test plans used by the laboratory. There are no performance timelines required within the certification program. Everyone's interests would be better served if clear performance benchmarks were provided for each key milestone association with the certification process.

Proposal #4

Clarify accountability mechanisms for Voting System Test Laboratories. In recent months, the quality of at least one VSTL's performance has been called into question. Many of the concerns raised were from the direct observation of a participating manufacturer. During this same time, the EAC adopted a new policy that prevents manufacturers from observing the testing process. This calls into question the role of the EAC, NVLAP, and the manufacturers to monitor VSTL performance. Who should be the responsible party to review VSTL performance? Recent history has shown that having more eyes on the process leads to greater accountability for all concerned. It is our feeling that no one is better positioned to monitor the performance of a test laboratory than the manufacturers themselves.

Proposal #5

Embrace the principle of testable performance requirements, not design specifications, for voting system standards. In many ways, the industry is at a crossroads. Many of the systems currently in the EAC certification program are being tested to the VSS 2002. Any new systems submitted or changes to EAC certified systems will have to meet the 2005 VVSG. In addition, there is an entirely new draft standard waiting in the wings. Within these standards are design specifications and ambiguous requirements. Design specifications can hold back innovative technologies that would otherwise be encouraged through performance based standards. Ambiguous requirements can create delays and increase costs while they're being interpreted, which could be mitigated if test scripts are established in anticipation of testing. No further standard should be adopted unless it has testable requirements and clear test scripts are established prior to using a particular standard for certification.

Proposal #6

Support the establishment of transition funding for industry participants engaged in the current certification process. While we all recognize the work-in-progress nature of the certification program, those manufacturers who willfully participated in this initial rollout of the program should not be penalized. The manufacturers currently participating will likely have to raise their unit prices and annual support agreement rates to recoup certification costs. Others who have adopted a "wait and see" approach may stand to benefit in the long-term from any cost efficiencies established once the

certification program has run its initial course. This has the potential of creating competitive disadvantages within the voting industry as there may be two groups of providers who incorporate differing levels of overhead into pricing. The use of transition costs for all participants will remove the certification costs overhead, potentially eliminating the need for substantial price increases while the EAC continues to develop uniform test scripts and establish additional cost efficiencies.

Conclusion

These proposals reflect the industry's initial assessments on how best to move forward. Without immediate and substantial reform, the current certification program will likely lead to increased prices for annual support agreements and unit prices associated with voting equipment for those manufacturers who can finance the current certification costs. For those companies who do not have the ability to secure sufficient capital, the rise in certification costs will likely lead to market consolidation or failure. The challenge for the EAC and policy makers is to exert leadership in this area and send signals to the states that the current EAC certification program is worth saving, or inform the states that their ability to remain innovative and responsive may require them to develop their own certification efforts.

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