



ELECTION TECHNOLOGY COUNCIL

Working Together for Secure and Accurate Elections

September 1, 2009

Honorable Gineen Beach
Chairwoman, United States Election Assistance Commission
1225 New York Avenue, N.W.
Suite 1100
Washington, D.C. 20005

Sent Via Electronic Transmission

Dear Commissioner Beach:

Recently I had the pleasure of joining Brian Hancock for a panel discussion before the attendees at the annual conference of the International Association of Clerks, Recorders, Election Officials and Treasurers (IACREOT) in Spokane, Washington on the impact of the EAC certification program. As a follow-up to my remarks, I would like to take this time to formalize the Election Technology Council's suggestions for ensuring the long-term sustainability of the Voting System Certification Program.

The leading voting system manufacturers recognize the value in having an effective, but sustainable, EAC certification program. It is our contention that the real value in the federal efforts to certify voting equipment comes from the value attributed to it by the states and the potential for a single standard for voting systems. If we do not commit ourselves towards working together for continual improvement, the industry is fearful that the potential benefits of an effective national certification program will be lost as negative effects force states to consider alternatives.

Below are our suggestions for improving the current implementation of the EAC Certification program:

Incorporate Consensus Modeling in Standards Development

Voting system standards should be adopted that are effective, but are not divergent from market realities. No one is served if the standards created are unreachable or result in product pricing that is not affordable. Although it is too early to clearly document the impact of current certification efforts on unit pricing, our customers are already experiencing some price increases due to the high cost of certification. The lack of funding from Congress for transitioning the voting industry to the EAC certification program means that all of the cost overhead will be passed along to the consumers (i.e., taxpayers).

As we look to the issue of compliance with future standards, we would be remiss not to underscore the importance of having industry representation directly involved in the crafting of voting system standards to address the potential for new requirements and impact on cost. We would like to reiterate our continuing request for the incorporation of direct industry representation on the Technical Guidelines Development Committee (TGDC). This sentiment was echoed by the Board of Advisors in an adopted resolution.

This remedy would not require new legislative authority. As we have documented in the past, the EAC has the discretion to appoint four individuals with technical expertise on voting systems. We would be pleased to have an opportunity to submit the name of a technical representative from the ETC that would satisfy this requirement. I understand that EAC counsel has suggested that these representatives are intended to serve the interests of the EAC; however, we feel that the interests of the EAC would be well-

served by having representation on a federal advisory committee from a critical stakeholder familiar with the downstream effects of voting system requirements. Although we recognize the EAC's current efforts to advertise for the selection of technical representatives, we are fearful that the opportunity to appoint a current industry participant may be lost unless the EAC recognizes the importance of having the one stakeholder, responsible for actual product development, formally involved in the policy process.

Establish Performance Benchmarks for All Parties in EAC Certification Program

The industry would like to voice its recommendation for clear project management benchmarks associated with product certification. These benchmarks would create a clearly defined path of accountability and transparency, and help educate our customers on the reasonable expectations associated with its completion. At a minimum, we suggest that benchmarks be examined for each stage of the certification process with each responsible party held to a particular level of performance in order to provide an additional layer of accountability. For example, by identifying each major milestone (i.e., drafting of a VSTL test plan, approval of the VSTL test plan, actual testing, etc.) and developing a reasonable timeframe for completion of each milestone (assuming no problems), then the public and our customers will benefit from this increased transparency and accountability. It is understood that allowances would need to be accommodated as anomalies arise.

Since the current certification process is contracted out between the Manufacturer and Voting System Test Laboratories, and the EAC is directly involved in the approval of testing procedures (but is not bound by the contract), it seems only prudent to institute these performance benchmarks for the benefit of the public, election officials and those involved with the execution of the process. Although contracting requirements between Voting System Test Laboratories and manufacturers may potentially address some issues of performance, the role of the EAC in the approval of test plans must be considered.

Stagger Implementation of New Voting System Standards

Voting system standards should be staggered for implementation over a minimum of five years. Since the creation of the EAC, the industry has been asked to consistently provide input on voting system standards, which can best be characterized as a moving target. Beginning with the 2002 version, 2005 VVSG, 2005 VVSG revised, and the Next Iteration of standards, it is difficult for a manufacturer to begin in earnest on product development and achieve compliance on a moving target. The voting system standards represent the best way for industry to anticipate and develop the next generation of voting products, but time must be given to allow for this development to occur. As the ETC has documented, our original estimates for a new product life cycle (from development to implementation) is 54 months. A minimum of five years is a reasonable estimation for addressing the need for adequate transition time,

Our customers look to the EAC certification process as a barometer for the next generation of products. Consistently creating new standards is causing market confusion for customers examining the viability of purchasing a new voting system. In an effort to create greater stability and expectations for all parties, we feel one way to achieve this is through a staggered implementation of voting system standards. Our customers expect to maximize their voting system investments by having the equipment sustain itself over a period of 15-20 years. Constantly changing voting system standards cause additional strain on our customers as they lack the ability to secure new financing for such a large capital purchase on a regular basis.

Implement Standards for Certification After Uniform Test Scripts Are Established

As recent history has shown, the lack of uniform test scripts at the start of the EAC certification process can best be identified as one of the contributors to certification delays. Therefore, it is our

recommendation that the implementation of new voting system standards only be done after test scripts and standardized test procedures are established. This would create uniformity in testing, potentially reducing costs in the long-run, and avoiding some of the problems we've witnessed to date. In addition, this measure may avoid the potential for the EAC to continually respond to Requests for Interpretation.

Recognize State Driven Testing by Accredited VSTLs

While there have been tremendous improvements with the EAC certification program, the industry is currently experiencing additional costs in the form of redundant testing done at the state level for compliance with state certification requirements. In an effort to control costs and build an efficient level of testing moving forward, we would like to encourage the EAC to work with the VSTLs to recognize their previous work performed for state compliance and potential incorporation into the federal certification program provided sufficient documentation is provided by the VSTL in question. Incorporating some level of reciprocity for state level testing, conducted by an accredited VSTL would eliminate duplicate testing and time consuming work for all parties.

Examine Risks Associated with Sunset of Previous Standards

Lastly, the EAC should examine the potential consequences of its actions when deciding to sunset older voting system standards to make sure these decisions do not inadvertently affect the states. As is known, the Help America Vote Act significantly restricted the rulemaking capacity of the EAC. HAVA specifically prevents the EAC from making any decision that "imposes any requirements" on the states except in its capacity of administering the National Voter Registration Act.

A case in point would be where a state that requires federal certification has all of its voting system equipment compliant to the VSS 2002 standard and the EAC makes a decision to sunset the VSS 2002 standard. Effectively, the state would be forced to either choose to adopt the current standard in use by the EAC certification program and incur the costs of hardware and software changes to its current voting systems, or remove any requirement for federal certification from its statutes or administrative rules. Since HAVA specifies that no decision made by the EAC may impact the states, if the EAC sunsets a voting system standards currently in use by a state, there is a potential for such an impact to occur. For this reason, we feel that the EAC should allow voting systems to be certified to those versions of the standards that states choose to use. As the EAC has already done with the VSS 2002, they can still evolve the test cases and scripts used for qualifying voting systems against that standard and others. As the EAC certification program is voluntary for the states to adopt, it only seems prudent that the states choose the standards to which their voting systems are certified.

All of these suggestions are offered with the best intentions as the EAC recognizes the tremendous improvements we have seen in the management of the EAC certification program and we remain hopeful that the initial turmoil associated the program's launch will lead to a more effective program. We look forward to future opportunities to discuss our suggestions in greater detail.

Respectfully,



David Beirne
Executive Director

Cc: EAC Commissioners
Tom Wilkey, Executive Director
Brian Hancock, Director, EAC Certification