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The New Process of Establishing E-Voting System Standards in the United States

The Help America Vote Act of 2002, which created the US Election Assistance Commission, was a major step by the US government to provide direction, assistance and funds to state and local election officials. Just in the past two years, the US government has provided \$3.1 billion dollars to the states to improve the election process. Much of those funds are being used to replace election equipment.

In addition to providing funds to the states, Congress and the President have also given the Election Assistance Commission, also known as EAC, millions of dollars to improve the process of setting standards for voting equipment and certifying election equipment. All of this represents the first time in American history that this kind of funding and assistance from the federal government is being provided. Its scope is unprecedented.

The American System of Elections

It should be noted that unlike most countries, the United States has a very decentralized system of conducting elections. Each of the 50 US states and the District of Columbia has an election authority which oversees the 6800 local election jurisdictions that conduct elections for the 170 million Americans eligible to vote. Each state also adopts its own voting systems standards and also certifies what equipment and voting devices can be used in their state. At the present time, the National Association of State Election Directors, also known as NASED, certifies voting systems and issues voting system standards. Approximately 75 percent of state and local election officials adopt all or some of these national standards. The Help America Vote Act mandates that the Election Assistance Commission assume this responsibility, and we are in the process of transferring this function to our agency. The voting system guidelines we issue will be

voluntary – it will be up to the states to decide whether to adopt them. For instance, some states may adopt even stricter standards.

The History of Voting System Standards in the United States

Electronic systems have been used to count ballots and compile voter registration lists since the 1960s. Today, most paper-based voting systems in the US use electronic optical scanning technology for counting purposes. Direct electronic voting devices, such as touch screen systems, are increasingly popular and used by about 25 percent of American voters. In the 2004 election, about 80 percent of American voters used some type of system that relied on electronic means to cast or count their ballots. Therefore, setting standards for such systems is very important to insure accuracy, reliability, security and trust. In addition to setting standards, equally important is the process to certify that voting systems meet the standards.

Federal standards for voting systems and a national certification process for voting systems is relatively new in the United States. While electronic technology has been used to count votes and register voters since the 1960s, it wasn't until 1990 that the first federal standards for performance and testing procedures was issued by the US Federal Election Commission. Most of the first work on voting standards was conducted by volunteers who had very little federal funding and support.

In 2002, the Federal Election Commission updated the 1990 voting system standards to reflect technological changes introduced into electronic voting systems during the previous decade

The Help America Vote Act of 2002 authorized the EAC to assume the responsibility of developing voluntary federal voting standards and provided significant funding to establish a new process to do so. This process involved the formation of a Technical Guidelines Development Committee, known as the TGDC, of 15 experts to work on setting new standards for voting equipment. This committee works at the direction of the EAC. Its work is supported by the National Institute of Standards and Technology, a federal agency commonly known as NIST. NIST is very involved in every aspect of technology used in American life and sets standards for all kinds of electronic devices and technology. Federal funds now pay for the important standards work that NIST is conducting on voting systems.

My colleague, Tony Reissig, will go into a greater explanation of the support of NIST in the standards-setting process in electronic voting, and also explain how NIST is working to develop improved methods to improve the security of voting systems.

Under HAVA, what used to be called voting system standards are now called voluntary voting system guidelines. By law, TGDC had just 9 months to develop the first set of guidelines. The EAC appointed the committee with the mandate to work to improve security, develop better human factor guidelines for the voting systems, provide greater access for people with disabilities and to respond to new technology being used in voting systems, especially e-voting systems. The TGDC also worked on issues such as the use of wireless technology, software distribution and validation, and conformance testing of voting systems.

One growing controversy with electronic voting systems in the United States is the fact that many voters and organizations are now urging the use of a voter-verified paper audit trail for all electronic systems. In fact, 17 states have mandated this standard, which would require a simultaneous paper record of each vote that is cast on an electronic voting system. Therefore, EAC asked the TGDC to establish guidelines for systems that use this voter-verified paper trail.

The guidelines development committee held hearings, obtained comments and worked with NIST to develop the guidelines on time, delivering them to the EAC in May 2005. Earlier this summer, EAC embarked on a vigorous 90-day process to obtain input from election officials, vendors, voter advocacy groups, academics, scientists and the public. We held public hearings in New York, Los Angeles and Denver. We put the guidelines on our website at www.eac.gov where interested citizens can read the guidelines, post comments and view all comments that we have received. So far, hundreds of comments and suggestions have been received by e-mail, fax and regular mail. At the end of the public comment period, EAC commissioners will review and consider the comments, then vote to adopt the guidelines.

New Rights for Disabled Voters

It should be noted that after January 1, 2006, US law will require that each polling place must have a voting device that will allow voters with a disability to vote in private—as other voters do. For thousands of voters, particularly blind voters, this will represent the first time in their lives that

they will vote on a system that gives them the opportunity to cast a truly secret ballot. The e-voting system that will be used for this will allow the voters to hear the ballot and then touch a screen or press buttons to cast their ballot in private. Many states have already implemented these systems.

Certification of Election Systems

I want to take a moment to explain how voting systems are certified for use in the US. Setting standards and guidelines is just one half of the equation. We must also insure that voting systems actually meet such standards.

Prior to 1990, there was no national process of certifying election equipment. Up until then, each state worked with testing laboratories or their own committees to test and verify election equipment and voting devices. As I mentioned earlier, NASED currently oversees this process, which brings experts together who work with Independent Testing Authorities to certify that election equipment meet national standards. All of this has been conducted on a voluntary basis with little assistance from the federal government. It should be noted that the Independent Testing Authorities are private laboratories that are in the business of testing all kinds of electronic equipment, such as toasters, microwaves and other devices commonly used in every day life. It is the manufacturers of election equipment that must pay to have their equipment tested.

EAC looks forward to assuming this important responsibility. Later this year, we will take over the process of certifying and decertifying voting equipment, and oversee the laboratories that test such equipment. The EAC must accredit such laboratories to insure that they meet the highest standards of testing.

Statewide Voter Registration Database

In addition to the other mandates I mentioned previously that will take effect on January 1, 2006, there is one that also involves electronic technology that will have a significant effect. As of January 1, the 44 states that require some kind of voter registration must have a single, uniform statewide list of registered voters in that state. Prior to this, local election officials were allowed to have their own lists, without sharing it with the state or other election jurisdictions. This electronic sharing of voter information on a statewide basis will eliminate duplications and provide for more accurate

voter lists on Election Day. The EAC has provided guidance to the states as they implement this important mandate.

Conclusion

In conclusion, the US Election Assistance Commission is hopeful that our efforts to develop voting system guidelines for e-voting, to improve the certification processes for e-voting systems and devices, and to provide guidance for electronic voter registration systems will help our colleagues in other countries who are working on similar issues. All of our work products related to these guidelines, guidance, certifications and other election issues can be found at our web site, which is www.eac.gov . I urge you to share this information with others who can benefit from the expertise and input that has gone into this effort, along with the millions of dollars that have been spent to make them among the best in the world.