**United States**

# Election Assistance Commission

*Technical Guidelines Development Committee Meeting*

## Post-HAVA Voting System Requirements – Federal Perspective

February 8, 2016

# This Presentation

High Level Post-HAVA Federal Landscape.

- HAVA Section 301
- Programmatic Requirements
- Questions for Next Iteration VVSG

# HAVA Requirements

## Section 301: Voting System Requirements

REQUIREMENTS.—Each voting system used in an election for Federal office **shall** meet the following requirements:

(1) IN GENERAL.—

(i)    permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted;

(ii)    (ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error);

(iii)    and if the voter selects votes for more than one candidate for a single office—

(I)    notify the voter that the voter has selected more than one candidate for a single office on the ballot;

(II)    notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and

(III)    provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.

# HAVA Requirements

(2) AUDIT CAPACITY.— (A) IN GENERAL.—The voting system shall produce a record with an audit capacity for such system. (B) MANUAL AUDIT CAPACITY.— (i) The voting system shall produce a permanent paper record with a manual audit capacity for such system. (ii) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced. (iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used.

(3) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES.— The voting system shall— (A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, *in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters*; (B) satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and (C) if purchased with funds made available under title II on or after January 1, 2007, meet the voting system standards for disability access (as outlined in this paragraph).

# HAVA Requirements

(4) ALTERNATIVE LANGUAGE ACCESSIBILITY.—The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa–1a).

A jurisdiction is covered under Section 203 where the number of United States citizens of voting age is a single language group within the jurisdiction:

- Is more than 10,000, or
- Is more than five percent of all voting age citizens, or
- On an Indian reservation, exceeds five percent of all reservation residents; and
- The illiteracy rate of the group is higher than the national illiteracy rate

(5) ERROR RATES.—The error rate of the voting system in counting ballots shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act.

"The system shall achieve a target error rate of no more than one in 10,000,000 ballot positions, with a maximum acceptable error rate in the test process of one in 500,000 ballot positions."

# Programmatic Requirements

## VVSG Extensions Clause and the program.

Section 1.6.3.3: Extensions are additional functions, features, and/or capabilities included in a voting system that are not required by the Guidelines. To accommodate the needs of states that may impose additional requirements and **to accommodate changes in technology, these guidelines allow extensions.** For example, the requirements for a voter verifiable paper audit trail feature will only be applied to those systems designated by the vendor as providing this feature. The use of extensions shall not contradict nor cause the nonconformance of functionality require by the Guidelines.

# Programmatic Requirements

From EAC Request for Interpretation (RFI)2013-01:

*Traditionally, a voting system has been defined by the mechanism the system uses to cast votes and is further categorized by the location where the system tabulates ballots. However, the Guidelines recognize that as industry develops new solutions and technology continues to evolve, the distinctions between traditional voting system categories may become blurred. The fact that the VVSG refers to specific system types is not intended to stifle innovations that may be based on a more fluid understanding of system types.*

# Programmatic Requirements

- The VVSG extensions clause, coupled with requirements from the FCA, are the vehicles by which these systems can become federally certified and begin to move into the marketplace.

- The extensions clause allows for additional functionality and/or features not required by the VVSG, including new and innovative solutions.

- The Functional Configuration Audit requires that these new and innovative solutions (that are described in the system documentation) must perform according to the documentation.

# Questions for Next Iteration VVSG

- ## Definition of a Voting System?
  - HAVA (and current VVSG) define as:

(1) the ***total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment***) that is used—

  (A) to define ballots;

  (B) to cast and count votes;

  (C) to report or display election results; and

  (D) to maintain and produce any audit trail information; ***and***

(2) ***the practices and associated documentation*** used—

  (A) to identify system components and versions of such components;

  (B) to test the system during its development and maintenance;

  (C) to maintain records of system errors and defects;

  (D) to determine specific system changes to be made to a system after the initial qualification of the system; and

  (E) to make available any materials to the voter (such as notices, instructions, forms, or paper ballots).

# Questions for Next Iteration
# VVSG

- Can we work within, or reinterpret the HAVA Section 301 requirements to make the next iteration of the VVSG more flexible and more responsive to changing technological solutions?

- Can we (should we) continue to impose artificial boundaries between systems that do not exist in the real world? *One current arbitrary boundary is between epollbooks and the voting system.*

- Finally - the elephant in the room….

# Questions for Next Iteration VVSG

- Electronic ballot return... (AKA - Internet voting)

Many States are already doing or contemplating electronic ballot delivery **and/or** return.

How is our process is relevant unless we tackle this issue head-on?

How do we claim that the process is meeting the needs of election administration if we do not tackle this issue head-on?

How do we say we are meeting the 12 goals for this work product if we are not relevant and not addressing the needs of election officials?

At the very *least*, your task is to determine how to combine the HAVA requirements, the programmatic accommodations already in place, and the realities of rapidly changing technology (while also being cognizant of diminishing resources) to develop a VVSG that works better for everyone.

Easy, right??

# Discussion – PM (Post Merle)

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