

# **United States Election Assistance Commission**

## **Minutes of the Public Meeting**

1225 New York Avenue, NW  
Suite 150  
Washington, DC 20005

The following are the Minutes of the Public Meeting of the United States Election Assistance Commission (“EAC”) held on Friday, February 19, 2010. The meeting convened at 10:04 a.m., EDT. The meeting was adjourned at 12:27 p.m., EDT.

### **PUBLIC MEETING**

#### **Call to Order:**

Chair Donetta Davidson called the meeting to order at 10:04 a.m.

#### **Pledge of Allegiance:**

Chair Davidson led all present in the recitation of the Pledge of Allegiance.

#### **Roll Call:**

##### **EAC Commissioners:**

Associate General Counsel Tamar Nedzar called roll of the members of the Commission and found present: Chair Davidson, Commissioner Gracia Hillman and Commissioner Gineen Bresso Beach. Three members were present for a quorum.

##### **Senior Staff:**

Executive Director Thomas Wilkey, Associate General Counsel Tamar Nedzar and Dr. Mark Abbott, EAC Director of Grants

#### **Adoption of the Agenda**

Commissioner Hillman moved to adopt the agenda as printed, which was seconded by Commissioner Beach. The motion carried unanimously.

#### **Welcoming remarks**

Chair Davidson welcomed those joining the meeting, both in person and via Webcast, and also extended her sincere appreciation to EAC staff for working and maintaining the momentum of the office from their individual homes during the recent snowstorms that left Washington snowbound for several days.

### **Old Business:**

#### **Approval of the minutes from the previous meeting**

Commissioner Hillman moved to approve the minutes from the January 25, 2010, public meeting, which was seconded by Commissioner Beach. The motion carried unanimously.

#### **Report from the Executive Director**

Mr. Wilkey extended a welcome to all in attendance and also conveyed his thanks to staff for the work they produced from their homes during the recent snowstorms that left Washington snowbound.

Mr. Wilkey provided the following update on activities that have taken place since the January 25, 2010, public meeting in the areas of grants, requirements payments, testing and certification, research, policy and programs, tally votes and other news.

With regard to grants, Mr. Wilkey pointed out that applications are in the process of being accepted for both the Mock Election and College Poll Worker grant programs, for which a technical assistance call will be held on February 23 for the Mock Election grant and one on March 10 for the College Poll Worker grant. Information on HAVA Title III and minimum payment amount certifications have been posted to EAC's Web site.

With respect to requirements payments, Mr. Wilkey reported that the annual report to Congress on state spending of HAVA funds has been released and the full report is available for viewing on EAC's Web site. Since the January 25<sup>th</sup> meeting, six requirements payments were disbursed as follows: \$500,000 to Idaho (FY '09), \$705,983 to New Mexico (FY '08) and \$613,898 (FY '09), \$2.1 million to Wisconsin (FY '08) and \$1.8 million (FY '09) and \$4.2 million to Pennsylvania (FY '09). To date, \$78.2 million in '08 and \$50.9 million in '09 payments have been disbursed.

Pertaining to testing and certification, Mr. Wilkey pointed out that both EAC's Standards Board and Board of Advisors are in the process of commenting on Phase II of the Election Operations Assessment, which is posted on the Web site.

With regard to research, policy and programs, Mr. Wilkey stated that it is anticipated that the National Mail Voter Registration form, which has been translated into five Asian languages, will be issued very shortly. Election officials will be notified through a press release and a letter. The designed versions of previously released Election Management Guideline chapters on Building Community Partnerships, Canvassing and Certifying an Election, Communicating with the Public, Conducting a Recount and Provisional Balloting will be issued the following week.

Six tally votes were certified since the January 25<sup>th</sup> meeting pertaining to: EAC's FY 2011 Budget Request, the 2010 Mock Election Program, the Submission of Maintenance of Expenditures Proposed Policy "A" by Chair Davidson for Public Comment, the Submission of Maintenance of Expenditure (MOE) Proposed Policy "B" by Commissioner Beach for Public Comment, and the 2010 College Poll Worker Program.

With respect to Other News, Mr. Wilkey reported that EAC staff attended the winter conference of NASS and NASED, where they provided an update regarding implementation of the MOVE Act, HAVA grants and payments and voting system testing and certification. He also noted that Commissioner Beach's summary from her attendance at the Ohio Association of Election Officials' winter conference, along with EAC's 2009 Annual Report, and FY 2011 Budget Request is available for viewing on the Web site.

### **Questions and Answers:**

In response to Commissioner Beach's inquiry concerning when the time for commenting on Phase II of the Election Operations Assessment by the Board of Advisors and Standards Board concludes, Mr. Wilkey noted that he would verify this and announce it at the conclusion of the meeting

### **New Business:**

#### **Discussion of draft Maintenance of Expenditure/Effort (MOE) Policy: Consideration of posting draft MOE Policy for public comment**

Chair Davidson provided an overview of both the purpose and goals behind EAC's setting a policy pertaining to Maintenance of Expenditure/Effort (MOE), in addition to pointing out how failing to adopt a policy on MOE could negatively impact States.

Commissioner Beach outlined the differences between her proposed MOE Policy "B" in comparison to Chair Davidson's proposed MOE Policy "A" as follows: Under Policy "B" local government expenditures derived from

local funds are not required by Federal law to be calculated in baseline MOE; under Policy "B" MOE applies only when a State uses and spends requirements payments; under Policy "B" with respect to baseline calculations, improvements to the administration of Federal elections are not necessarily covered under Title III; under Policy "B" an annual certification of State or local jurisdictions' MOE plans are not required; under Policy "B" the Executive Director does not have authority under HAVA to make any determination or concurrence with respect to State plans or any matters pertaining to HAVA, but should be done by the Commission; and, Policy "B" does not set forth the names of vendors/contractors who would deal with matters pertaining to MOE.

Dr. Mark Abbott, EAC Director of Grants, provided a brief overview of the process that States must take in order to establish a baseline MOE. He described the changes that were made to questions eight and 20 of the draft policy on MOE that was presented to the Commission at its January 25, 2010, meeting, based upon his discussions with the Commissioners and in informal conversations he had with various States. Dr. Abbott pointed out two areas of the policy that will require the most critical input during the public comment phase- capital expenditures in the base year and using actual appropriations or budgets instead of expenditure documentation. He responded to various questions/concerns posed by the Commissioners for the purpose of clarifying several of the responses contained in the proposed policy where additional amendments were addressed.

The Commission thereafter reviewed/discussed amendments to the responses to question number three, number seven, number eight, number 11, number 12, number 15, and number 25 of Chair Davidson's proposed Policy "A," in addition the Policy Overview Statement. In the Policy Overview Statement, Dr. Abbott recommended removing language and the Commissioners agreed. For the response to question number three Commissioner Hillman recommended removing and modifying the language for clarification and the other Commissioners agreed. Commissioner Beach mentioned Dr. Abbott's suggestion to change the response to question number seven. After further discussion and comments from Mr. Wilkey and Ms. Nedzar, the Commissioners agreed to the removal and replacement of language to the response for question number seven. Chair Davidson mentioned that changes needed to be made to the response to question number eight. Commissioner Beach recommended striking some of the language and Dr. Abbott suggested alternative language. Dr. Abbott suggested some changes to the language of the response to question number 11. After input from Commissioners Hillman and Beach, changes to the language were approved. Ms. Nedzar recommended clarification of the language in the response to question number 12 which was accepted by the

Commissioners. The Commissioners agreed to the corrections of the language of the response to question number 15. After further discussion, the Commissioners approved the amendments to the language of the response to question number 25.

The Commission also discussed inserting language from Commissioner Beach's proposed Policy "B" into Chair Davidson's proposed Policy "A" pertaining to the following areas: Aggregate MOE calculation into response number seven, baseline calculation of MOE into response number 17 and assistance to states into response number 19.

Commissioner Hillman made a motion to approve amended Policy "A" for publication for a 30-day public comment period. Brief discussion was held on the motion. Commissioner Beach seconded the motion. The motion carried unanimously.

### **Old Business: (Cont'd)**

Mr. Wilkey reminded members of the Standards Board and Board of Advisors that the deadline for submitting any comments with respect to Phase II of the Election Operations Assessment was by the end of the day at 9 p.m.

### **Adjournment**

Commissioner Beach moved to adjourn the meeting, which was seconded by Commissioner Hillman.

**The public meeting was adjourned at 12:27 p.m.**