



U.S. ELECTION ASSISTANCE COMMISSION
1335 East West Highway - Suite 4300
Silver Spring, MD 20910

BEFORE THE ELECTION ASSISTANCE COMMISSION

In the Matter of)
Retraction of Funding Advisory Opinion)
FAO 08-007)

CERTIFICATION

I, Matthew Masterson, Chairman of the Election Assistance Commission, do hereby certify that on the 27th day of June, 2017, the Commission decided by a vote of 3-0, the following action:

1.

Retraction of Funding Advisory Opinion FAO 08-007, which currently requires components of voting and voter registration systems to be valued collectively as 'systems' rather than by individual components.

Commissioners Hicks, Masterson and McCormick approved the recommendation.

Attest:

6/27/17
Date

Matthew V. Masterson
Matthew V. Masterson
Chairman



U.S. ELECTION ASSISTANCE COMMISSION
1335 East West Highway - Suite 4300
Silver Spring, MD 20910

TALLY VOTE MATTER

DATE & TIME OF TRANSMITTAL: June 26, 2017, 3:00pm

BALLOT DEADLINE: June 28, 2017, 3:00pm

COMMISSIONERS: MASTERSON, HICKS AND MCCORMICK

SUBJECT: Retraction of Funding Advisory Opinion FAO 08-007, which currently requires components of voting and voter registration systems to be valued collectively as 'systems' rather than by individual components.

(X)

I approve the recommendation.

()

I disapprove the recommendation.

()

I object to the recommendation.

()

I am recused from voting.

COMMENTS: It is my hope that states will use the funding generated by the sale of equipment to continually improve the elections process, no matter how much or little money is raised from the sale of the obsolete machines or components.

DATE: 6/27/2017 SIGNATURE: [Signature]

A definite vote is required. All ballots must be signed and dated. Please return ONLY THE BALLOT to the EAC Chair. Please return the ballot no later than date and time shown above.

FROM BRIAN D. NEWBY EXECUTIVE DIRECTOR



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☒ ()

I approve the recommendation.

()

I disapprove the recommendation.

()

I object to the recommendation.

()

I am recused from voting.

COMMENTS: _____

DATE: 6/27/17 SIGNATURE: Matthew V. Math

A definite vote is required. All ballots must be signed and dated. Please return ONLY THE BALLOT to the EAC Chair. Please return the ballot no later than date and time shown above.

FROM BRIAN D. NEWBY EXECUTIVE DIRECTOR



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- (X) I approve the recommendation.
() I disapprove the recommendation.
() I object to the recommendation.
() I am recused from voting.

COMMENTS: _____

DATE: 6/27/17

SIGNATURE: _____

Christy A. McCormick

Signature applied by CDZ General Counsel

A definite vote is required. All ballots must be signed and dated. Please return ONLY THE BALLOT to the EAC Chair. Please return the ballot no later than date and time shown above.

FROM BRIAN D. NEWBY EXECUTIVE DIRECTOR

 Reply all |   Delete Junk |  ...

Re: Tally Vote on Retracting of Funding Advisory Opinion FAO 08-007

CM

Christy McCormick

Today, 11:09 AM

Cliff Tatum; Matthew Masterson; Tom Hicks <thomas.hicks@mail.house.gov>; Brian

  Reply all | 

Inbox

Cliff,

I approve the recommendation. You are authorized to date my ballot today, 6/27/17 and to use my electronic signature for the purposes of this tally vote as well.

Thanks very much,
Christy

On Jun 26, 2017, at 11:49 AM, Cliff Tatum <CTatum@eac.gov> wrote:

Commissioners,

Please find attached a tally vote for the retraction of Funding Advisory FAO 08-007 and supporting memo for the basis of the retraction. Please let me know if you have any questions.

Cliff

<FAO 08-007 Retraction.pdf>

MEMORANDUM

TO: Brian Newby, Director, EAC and EAC Commissioners

FROM: Mark Abbott, EAC Grants Office

SUBJECT: Retraction of Funding Advisory Opinion FAO-08-007

RECOMMENDATION: (1) Approve, via tally vote, the retraction of Funding Advisory Opinion FAO 08-007, which currently requires that components of voting and voter registration systems to be valued collectively as 'systems' rather than by individual components.

Background

EAC issued FAO 08-007 in 2008 requiring States and local jurisdictions to treat equipment used for voting and voter registration as 'systems' for purposes of both acquisition and disposition. The purpose for this Advisory Opinion was to keep jurisdictions from selling portions of their systems and using the proceeds from the sale for other purposes not related to HAVA or elections.

The original language in FAO 08-007 reads in part:

For purposes of applying the disposition of equipment standards to voting equipment and equipment purchased to support a computerized statewide voter registration list, EAC has determined that:

- (a) Individual voting machines and supporting equipment should be valued collectively as a voting system and not on the basis of the value of each item of equipment. For example, if a state bought 5,000 voting machines at a cost of \$4,000 per unit, the acquisition costs of \$20 million would be used to determine market value for purposes of disposition. Similarly, if a county purchased 25 voting machines at a cost of \$5,000 per unit, the acquisition cost of \$125,000 would be used to determine market value.
- (b) Components (such as laptops, printers, and servers) that support a voter registration list should also be valued collectively as a computer system and not on the basis of the value of each component.

In summary, individual items of equipment which are part of a voting system, such as a ballot reader or a voting machine, or part of the system that supports a statewide voter registration list, such as a printer or computer, may not be sold off as individual items of equipment with a market value of under \$5,000 "with no further obligation to the awarding agency" because the items must be viewed as part of a system.

The practical effect of the advisory is that voting jurisdictions cannot dispose of pieces of equipment or inexpensive components that have reached the end of their useful life. For example, several states are currently auctioning off old equipment, but prospective buyers only want to purchase a small number of voting machines to be used for spare parts, which is not possible under FAO-08-007.

Retraction of this Advisory Opinion will allow EAC's Grants Office to issue new, guidance that gives voting jurisdictions greater autonomy and flexibility in disposing of old equipment that comports with OMB Circular A-87 on the issue of equipment disposition.

Tally Vote

Retract FAO 08-007 and advise all voting jurisdictions currently using equipment purchased with HAVA funds to review new guidance on this topic issued by EAC's Grants Office (attached).