United States Election Assistance Commission

Meeting Minutes – March 22, 2005

Minutes of the meeting of the United States Election Assistance Commission (EAC) held on Tuesday, March 22, 2005 at 10:00 a.m. at the EAC offices located at 1225 New York Avenue, N.W., Washington, DC 20005.

Call to Order: Chair Hillman called the meeting to order at 10:00 a.m.

Pledge of Allegiance: Chair Hillman led all present in the Pledge of Allegiance.

Roll Call: Chair Hillman recognized Brian Hancock of the EAC staff who took roll call for the Election Assistance Commission and in addition to the Chair, found present Vice-Chair Paul DeGregorio, Commissioner Ray Martinez, and Commissioner DeForest Soaries.

Adoption of Agenda: Chair Hillman recognized Commissioner Soaries, who moved to adopt the agenda for the meeting of March 22, 2005. The motion was seconded by Commissioner Martinez and the motion carried unanimously.

Adoption of Minutes: Chair Hillman recognized Commissioner Martinez who moved that EAC adopt the Minutes of the Commission Meeting held February 23, 2005. The motion was seconded by Vice-Chair DeGregorio, and the motion carried unanimously.

Reports: Chair Hillman first recognized Peggy Sims of the EAC staff to provide an update on Title II Requirements Payments to the states. Ms. Sims noted that as of March 10, 2005, the EAC had asked GSA to disburse requirements payments to fifty-one of the fifty-five States and Territories. Ms. Sims stated that all fifty-one had received requirements payments for fiscal year 2003 totaling almost $766 million. Forty-One of the States and Territories also received payments for fiscal year 2004 totaling over $952 million. Ms. Sims went on to say that over $1.7 billion had been disbursed of the more than $2.3 billion appropriated for requirements payments in fiscal years 2003 and 2004. Ms. Sims concluded by noting that approximately $601 million remains available to be paid to the states and that these funds will be disbursed promptly once the affected states certify that they are eligible to receive these payments under Section 253 of the Help America Vote Act (HAVA).

Chair Hillman next recognized Mr. Mark Skall, Division Chief, Software Diagnostic and Conformance Testing Division, National Institute of Standards and Technology (NIST), to report on the progress of the NIST work with the Technical Guidelines Development Committee (TGDC) to develop update voting system standards. Mr. Skall began his presentation by noting that HAVA assigned NIST responsibilities including Chairing the TGDC and providing technical support to the TDGC in the development of voluntary voting system guidelines. Mr. Skall remarked that at the July, 2004 TDGC meeting, three subcommittees were established to gather and analyze information. These committees cover the areas of Security and Transparency, Human Factors and Privacy, and Core Requirements and Testing. Mr. Skall note that the committees meet at least every two weeks by teleconference with the NIST voting team, and that occasional face-to-face meetings are also held. TDGC plenary meetings are held to discuss issues, review work products and achieve consensus from TDGC members.

Mr. Skall stated that thirty-one resolutions passed at the TGDC January plenary needed to be prioritized to ensure that NIST's initial work products would focus on the most crucial areas. The first goal in prioritization is to develop the best long-term guideline possible, building on the strengths of the 2002 VSS, but changing areas that need improvement and developing a new organization and structure for this standard. Some examples of resolutions focusing on changing requirements in the 2002 VSS include resolutions asking NIST to conduct research and draft standards on coding standards and COTS exemptions. The second goal is to provide guidance to the states for the 2006 election cycle. To accomplish this goal, the TDGC must minimize the changes to the 2002 VSS, to ensure that qualified systems do not need dramatic change, while at the same time, filling in gaps from the 2002 VSS. To reconcile these two potentially conflicting goals, Mr. Skall noted that NIST recommended a unique strategy to the TGDC. This strategy is to develop two separate guidelines: 1) an augmented 2002 VSS that improves the VSS by filling in the gaps, correcting errors in the VSS and responding to issues currently facing the states and would become the TGDC initial set of recommendations to the EAC in April, and 2) a new redesigned voting system guideline, which would be in draft status in April, and be competed later in the year. Mr. Skall stated that this strategy was approved by the TGDC at its March 9 plenary session.

Mr. Skall went on to state that, to proceed with this strategy, NIST would prioritize the resolutions from the January plenary into three separate groups. The first group targets the highest priority resolutions, which address producing the augmented 2002 VSS, and specifically address the development of:

- Requirements for voter verified paper audit trails;
- Accessibility and usability requirements based on current technology;
- Software distribution and setup validation requirements, including use of the NIST National Software Reference Library;
- Requirements for the use of wireless technology;
- An interim conformance clause;
- A revised glossary.

Mr. Skall concluded his report by noting that NIST continues to be on course to produce the initial set of recommendations for submission to the TGDC for its April 2005 meeting. This initial set of recommendations will consist of the completed augmented 2002 VSS.

Chair Hillman next recognized Mr. Kimball Brace, President of Election Data Services, Inc., (EDS) to present an update on EDS work to analyze the results of the EAC's Election Day Data Survey and the HAVA Section 703 Uniformed and Overseas Citizen Absentee Ballot Survey. Mr. Brace began his presentation by noting that two of the surveys (Election Day and UOCAVA) are brand new and contain questions that have never been asked before. Mr. Brace noted that, while the surveys were sent to the 50 states as well as the 5 territories covered by the Help America Vote Act (HAVA), these are not just 55 surveys, because in nearly every instance the states must gather information from their counties and towns. This means that EAC and EDS hope to have information from 8,014 counties and townships that have a role in administering elections in this nation. Mr. Brace also noted that some of the data that has been asked for was not collected, tallied or generated before and as a result, many election administrators had to attempt to retrieve and compile the data, sometimes after the election took place.

Mr. Brace reported that we are missing surveys from three states and territories and have received only statewide information for another for the Election Day Data Survey. The rates of completeness of the survey responses received so far vary widely, from 91.5 percent to less than 20 percent. In some instances

individual counties had individual data items missing, in others all responses from a county were missing. Mr. Brace reported that despite the problem of missing data, EDS has assembled a list of subjects and column calculations for the Election Day Survey Report. These subjects are as follows:

- Percent registered of Voting Age Population and of Citizenship Voting age Population.
- Percent total turn-out of Registered voters, of Voting Age Population, and of Citizenship Voting Age Population.
- Registration (This cannot be a uniform combination of Active and Inactive registration in all instances. It will be different for each state.)
    - For States where Inactive is included in Total Registration
    - What Percent of Total Registration is Inactive?
    - For States without Inactive in their total registration:
    - What percent increase will Inactives add to the total size of a voter file
- The Total Ballots Counted, and what percent came from polling places, vs. what percent from Absentees, from early voting, and from Provisional Ballots.
- The percent of requested ballots returned, compared to what percent of returned ballots were counted and not counted.
- The percent of Cast Provisional ballots counted and what percent of overall ballots were Provisional.
- Rates of undervotes and overvotes for Presidential, US Senate, and US Congressional to see how many people fall off down the ballot and we'll compare this information by type of voting equipment used.
- The overall number of poll workers, and the average number of poll workers per precinct and per polling place.
- The total number of Precincts and of Polling Places and what percent of polling places are accessible.

Mr. Brace concluded his report by giving a short description of the EDS work to date related to the Section 703 survey. Mr. Brace noted that for this survey, the EAC again requested county and township level information for the November 2, 2004, general election from 50 states, four territories and the District of Columbia related to the number of absentee ballots requested and returned by individuals covered under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). Mr. Brace reported that to date, Responses to the UOCAVA survey have been received from 44 states. In about 15 states, the responses to all questions are complete or nearly complete for all local jurisdictions. Mr. Brace noted, however, that many states did not respond to certain questions. He felt that one reason for the low response rate might be that many states do not regularly track this data and are unable to retrieve this information after an election. Mr. Brace suggested that a better response might be expected in

the future when systems can be set up in advance to identify items for this survey.

Presentations: Chair Hillman next recognized a panel of speakers to present comments on the role of the U.S. Election Assistance Commission as a Clearinghouse. The panel comprised The Honorable Pedro Cortes, Secretary of the Commonwealth of Pennsylvania, Mr. Tony Sirvello, III, Executive Director of the International Association of Clerks, Recorders, Election Officials, and Treasurers (IACREOT), and Mr. Edward Hailes Jr., Senior Attorney for the Advancement Project.

Secretary Cortes stated that Pennsylvania looks forward to receiving further guidance from the EAC on how to properly and realistically implement the mandates of HAVA. Secretary Cortes asked for additional information specifically related to several areas:

- Voting System Standards/Guidelines- The EAC could develop a suggested timeline for how states can meet the January 1, 2006 mandate. The timeline would consider the period vendors may need to incorporate new standards/guidelines into their equipment, federal and state testing and certification requirements, and the procurement and deployment of new equipment.
- Statewide Voter Registration Lists- In addition to forthcoming EAC guidance on this topic, the EAC should develop a comprehensive assessment of the different systems states have implemented or plan to implement and identify best practices and challenges in implementing these systems.
- Cost to Implement HAVA- The EAC should research how much money states and local governments will need to contribute to implement all the provisions of HAVA.
- Frequently Asked Questions- Add to the Frequently Asked Questions portion of the EAC web site to include relevant information provided at the recent EAC training sessions held at the most recent National Association of Secretaries of State (NASS) Winter Conference.

Secretary Cortes concluded his presentation by thanking the EAC for its commitment to help Pennsylvania and other states implement the provisions of the Help America Vote Act.

Tony Sirvello stated that as a precursor to his presentation, he had solicited opinions from the many election officials in IACREOT and received several excellent responses. One item that appeared

on most of the responses was the suggestion that the EAC collect information on contracts and requests for proposals for new voting equipment, thereby creating a library of RFP and contracts for voting equipment procurement and publicizing the availability of same to election jurisdictions. In keeping within that same focus, Mr. Sirvello noted that other respondents suggested that it would be helpful for the EAC to gather information on the deployment and administration of the equipment after purchase, i.e. how many pieces of equipment are needed per registered voter and turnout history?; what type and how much training is recommended for the implementation of the new equipment?; what approach should be taken to reach out to the voting community? Mr. Sirvello reported that others in IACREOT would like to see the EAC act as a clearinghouse of information for the Federal Voting Assistance Program, do research into the possibility of moving toward national standardization of voter ID requirements, and do research into the relatively new concept of local election officials using the super site polling idea. Mr. Sirvello summarized his presentation by stating that the role of the EAC as a clearinghouse of information is one of extreme import. The EAC, now recognized as THE federal agency for election administration and implementation, would offer a base of knowledge – facts and suggestions – that election officials throughout the nation could look to for guidance and assistance.

Edward Hailes stated that the Advancement Project believes it is important for the clearinghouse function to be sufficiently funded, credible and responsive to the needs of voters and election officials to move our nation closer to a just democracy. In addition Mr. Hailes stated that his organization believes that the role of the EAC in gathering, disseminating and emphasizing best practices and providing guidance in specific areas of election administration will greatly enhance the capacity of racial justice and voter registration groups to understand, follow and, where necessary, challenge current election policies and procedures in order to maximize participation in our democracy. Mr. Hailes further stated that during the 2004 election cycle, while his organization was collaborating with other advocacy groups to provide basic voting information to voters, they observed a yawning dearth of community-friendly and culturally-competent materials that would help community groups in tackling widespread structural disenfranchisement, particularly among poor communities of color. Mr. Hailes went on to state that it is imperative that an entity with the authority and credibility to examine barriers to voting take on the responsibility to compile and carefully analyze reliable data, aggregated by race, in a manner that provides useful guidance on

eliminating these barriers to the franchise. This responsibility appears to fit squarely within the purview of the clearinghouse function of the Election Assistance Commission. Mr. Hailes also recommended that the EAC should increase its direct outreach to communities of color to make it clear that it was established to help more Americans to vote. The Commission should continue to hold field hearings and listen to firsthand accounts of people who face barriers to voting and to get a sense of what information is useful to them and in what format. Mr. Hailes concluded his comments by stating that the Commission's clearinghouse function can certainly be used to foster a better understanding of the need for racial diversity among election officials, and that his organization welcomes the opportunity to continue this discussion with the Election Assistance Commission on finding innovative approaches for reaching the greatest number of people with user-friendly information that may help more eligible voters to cast votes that count.

Closing Remarks: In closing, Chair Hillman reminded all present that the April 26th meeting of the EAC would take place in Boston, Massachusetts. On this date the EAC public meeting will be held in the morning, followed by a public hearing in the afternoon at which the EAC will hear testimony relating to the development of statewide centralized voter registration databases.

Adjournment: Chair Hillman asked for a motion to adjourn the meeting. Commissioner Sories moved to adjourn the meeting; the motion was seconded by Commissioner Martinez, and   the motion passed unanimously. The meeting adjourned at 12:10pm