



**Prepared Remarks to Election Assistance Commission
Hearing on Draft Voluntary Voting System Guidelines**

June 30, 2005

Good afternoon Madam Chair and Commissioners.

I'm Alfie Charles, Vice President of Business Development and Government Affairs for Sequoia Voting Systems.

Our company has a 100 year history of providing election equipment, supplies and support for state and local officials. We print ballots, manufacture optical scan ballot readers and provide two different types of direct recording electronic voting systems.

During the 2004 presidential election, Sequoia was the largest provider of electronic voting machines in the nation and we were the first national company to provide voter verifiable paper records on electronic voting equipment in a major election.

We appreciate the opportunity to participate in this hearing today and commend the EAC, the TGDC and NIST on moving quickly under tight timetables to assemble the latest draft of the amended voluntary voting system guidelines.

Our comments today will focus on the following key areas:

- 1) The content of the guidelines, generally;
- 2) The timeline required for compliance with the guidelines and the expectations of the marketplace;
- 3) The effective date of the regulations;
- 4) The federal testing and certification process;
- 5) The state testing and certification process; and
- 6) The need to evaluate and revise the regulations over time

Content

While we will reserve detailed comment on the specific components of the guidelines for our written submission, we believe that by-and-large the draft addresses the types of issues that needed refinement from the 2002 standards – particularly in the development of the optional requirements for voter verifiable paper records and the inclusion of human factors and security criteria.

We will, however, provide the Commission with a lengthy set of written comments that address areas that we believe warrant correction, clarification or revision.

Our primary concern regarding this draft of the guidelines is the inclusion of requirements that are not necessarily testable by the voting system testing laboratories because they are either ambiguously worded or because they rely on the manner in which the system is implemented by local administrators rather than the design of the system itself.

These standards and the systems that result from them are but one piece of the successful conduct of elections. The policies, procedures and people that conduct elections are of equal importance, but to the extent possible, this document should address technology requirements and leave the proper implementation of the system to state and local statutes, procedures and best practices.

Our written remarks will attempt to point out those areas which we believe are better suited for best practices guides and local procedure than inclusion in these technology guidelines.

Timelines and Expectations

Through no fault of the Commission, many observers and officials operated under the false assumption that the adoption of these voluntary guidelines at the national level was somehow required before they could comply with the statutory mandates of HAVA.

With the 2006 deadline for compliance rapidly approaching, it is important now more than ever for the Commission to help election officials recognize that these standards will not be in place and operational prior to the date that equipment purchases will have to be made for compliance with HAVA.

Once the guidelines are finalized and ready to be approved later this year, technology providers will develop and implement any required revisions to hardware and software; the testing authorities will need to be certified to test against the new criteria and the EAC will need to finalize its process for managing certification requests and interpreting the guidelines as testing gets underway. Once federal and state testing is completed and the products are available, local officials will need to acquire the updated systems, companies will need to manufacture and deliver equipment, software upgrades will need to be deployed, poll worker training manuals and courses will need to be modified, and voters will need to be educated about the changes.

There simply isn't enough time for that to happen prior to the 2006 primary elections.

The last time standards were modified, it was a full three years before equipment tested to the new standards was available in the marketplace.

While many of the new features and requirements in this draft are already incorporated into many systems, testing against these standards will not be possible for quite some time.

Fortunately for election administrators, the time required to meet these new standards should not be confused as an impediment to state or county compliance with HAVA mandates for 2006.

There are a large number of voting systems available in the market today both with and without voter verifiable paper records that have been tested under both the 1990 and 2002 standards and will allow election officials to meet the demands of Section 301 of HAVA.

Effective Date of the Regulations

One of the most important decisions facing the Commission will be selecting the appropriate timelines and details associated with implementing the new guidelines.

The draft discusses a 24-month period after adoption before the guidelines will be in full effect, but it is unclear if that will result in the decertification of all non-compliant systems that have been successfully tested to earlier standards or if the implementation date will simply prevent future certification of non-compliant systems.

The ramifications of the way the effective date is implemented warrant considerable review and discussion with state and local officials.

Continued ongoing changes to standards may be important and useful, but they also will require continued funding to modernize equipment.

The EAC should consider the reasonable likelihood of recurring federal funding before determining the manner in which this and future standards will be implemented.

Federal Testing and Certification

Voting systems are comprised of a series of components that can be tested against existing standards. Components can include: voting machines, software, printers, ballot activators, etc.

When qualified components are combined to create a system, the entire end-to-end system is tested before a federal qualification number is assigned. When any aspect of a component is revised, that component and the entire system must be tested.

If components have been tested to different sets of standards, the system is only qualified to a particular version of standards when every component has been tested to that same standard.

For example, a complete system is only certified to the 2002 standard after all components are qualified to the 2002 standards. If even one out of ten components is qualified to the 1990 standard, then the “system” carries a 1990 qualification number.

If, in setting the effective date of these new guidelines, the EAC no longer allows modifications to the older systems without bringing all pieces of hardware and software up to new standards, local officials who have a 1990 or 2002 system could be significantly affected when state laws changes occur.

If a county needs to modify one component of their system to comply with a new state law, it could be faced with the possible replacement of an entire voting system that would otherwise be perfectly functional and compliant with prior standards, state needs and HAVA mandates.

However if revisions to individual components can be tested to the latest standards while the complete system retains a certification number reflecting the standards against it was originally qualified, there shouldn't be any significant fiscal burden imposed on local officials and state law changes will be able to be accommodated more readily.

State Testing and Certification

Some states accept federal guidelines for certification, other states conduct their own testing process and still others combine federal testing with state reviews.

The multiple layers of often duplicative review are costly, time consuming and delay the latest innovations from getting into the market.

In developing test policies, we encourage the EAC to invite states to provide federal testing authorities with a checklist of local requirements so that duplicative examinations can be streamlined and state resources can be saved through concurrent state and federal testing.

Evaluating the Adequacy of the VVSG Over Time

Once the guidelines and testing procedures are in place, the EAC will need to evaluate them over time to identify and correct potential weaknesses.

We suggest this review should not begin until after the newly qualified systems are deployed and in use for at least two elections.

One of the greatest mistakes this Commission could make would be to revise standards too frequently, without providing ample time for a particular version of the standards to be put in place and studied.

Many election officials will tell you that it takes at least two elections to work through all of the logistical and procedural issues that come with the transition to a new voting system.

The guidelines before you today are the result of work that started before even one major election was conducted under the 2002 standards.

We recognize that with the passage of HAVA, Congress charged you with a duty to provide for the certification and decertification of voting systems and that state policy decisions created a need for vvpaf guidance, but we strongly suggest that once these standards are adopted, they are given time to be tested in the field before a new batch of requirements is developed.

The rapidly changing standards process has required companies in our industry to spend an inordinate amount of time revising technology to meet changing guidelines, when that time could

have been well spent adding the features and benefits like voter verifiable paper audit trails that have been demanded by the market in many places.

Recommendations

Sequoia Voting Systems believes that when completed, the voluntary voting system guidelines will continue ensure that voting technology is reliable, secure, and accurate. To assist the EAC in making the most of this project, we respectfully offer the following recommendations:

- 1) As you are doing today, solicit comprehensive verbal and written comments and suggestions from all stakeholders
- 2) Provide a detailed public timeline to help local officials understand how we get from the draft regulation phase of this process to the eventual use of VVSG-compliant equipment at the polls
- 3) Rather than waiting 24 months to implement the proposal, allow the regulations to take effect immediately upon adoption or as soon as testing authorities are able to review the systems, provided, however, that individual components and systems may still be qualified against prior versions of standards as long as they are appropriately noted as such on testing reports and on published lists of certified equipment. .
- 4) Facilitate concurrent federal and state testing through the development of a checklist of state-specific criteria which can be tested by the federally approved laboratories as necessary.
- 5) Allow equipment tested under these regulations to be deployed and monitored for at least two elections before initiating another new set of federal criteria.

We appreciate the invitation to provide our thoughts to this hearing and welcome the opportunity to continue to work with the Commission on this project. Thank you.