



"The Way Democracy Will Be"

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Written Testimony Submitted to EAC
Re: 2007 Voluntary Voting System Guidelines
April 21st, 2008

As Executive Director of FairVote, a non-partisan, not for profit organization, I thank you for the opportunity to submit written testimony on the August 2007 Technical Guidelines Development Committee's (TGDC) Recommendations for the Voluntary Voting System Guidelines (VVSG). Serving as a catalyst for reform, FairVote has been proactive in transforming our elections to reflect the will of the people by translating votes into fair representation. In particular, we believe ranked choice voting systems such as choice voting for multi-seat districts used in Cambridge [MA] and instant runoff voting (IRV) for single seat elections, used or will soon be implemented in Minneapolis [MN], Oakland [CA], Pierce County [WA] and San Francisco [CA], create election results that most closely embody the democratic principles of majority rule and equal representation.

In regards to the discussion questions advanced by the EAC in anticipation of the April 24th Voting Advocates Roundtable Discussion, this testimony will directly address question two on innovative systems and question six regarding potential changes to the VVSG. While FairVote strongly supports election security and integrity of the vote (as outlined in question one), I will defer to other advocates and experts on the many particulars about how best to achieve it. I have attached FairVote's position statement on this matter in the appendix for your reference. We believe the EAC plays a vital role in ensuring municipalities can effectively administer elections including those with ranked voting systems and the VVSG should provide sufficient guidance to election system manufacturers to develop equipment to accommodate such systems that are also secure, reliable, easy to use and accessible to all voters.

As the EAC develops the VVSG, please consider the following comments to the roundtable discussion questions and supplements in the appendix.

Systems Innovation

The current lengthy and costly VVSG certification process does not foster innovation and stymies creativity in developing new voting systems. Additionally, certification of advancements and minor technical adjustments often require a lengthy re-certified process, prompting manufacturers to attempt to hide rather than correct minor glitches and also prevent manufacturers from providing additional features to current systems requested by election officials. FairVote urges the creation of two new categories of expedited certification in addition to the innovation systems envisioned in

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the proposal. These two new categories should have evaluation and certification that is even simpler and quicker than regular innovation systems to be included in the VVSG.

These two new categories subject to a super-streamlined process may be named "highly transparent innovation systems" and "minor modifications to certified systems."

A system would be considered "highly transparent" if the system meets these criteria:

1. The system has a clear and non-controversial audit method that allows for re-tallying elections using the original voter inputs (such as hand-counting from marks on paper ballots);
2. The system uses exclusively COTS electronic hardware and either COTS or open-source software that can be widely, if informally, "tested" by "outsiders."

For example, among private associations, some elections are conducted using cheaply-printed paper ballots with COTS scanners, COTS mark-sense software and COTS spreadsheets for tallying. Perhaps such a method could be used for all mail elections or in conjunction with a certified ballot marking system like the AutoMark for disability voting. The existence of both scanned images and paper ballots allow for easy and even redundant auditing. Such an innovative approach could arguably be described as not even a "voting system" subject to certification under VVSG at all, but any lack of clarity on that point could prevent its utilization in a state piggybacking on the VVSG.

Changes to existing systems that do not substantially alter the already certified voting equipment, may be deemed "minor modifications to certified systems," and subject to the super-streamlined and low cost certification process. Currently, voting system guidelines are not comprehensive and do not accommodate nor reflect election system reforms currently being implemented by states. For example, modifications of voting systems to include ranked choice voting should be considered in this classification since such technical adjustments do not necessarily interfere with the integrity of existing voting systems.

In the past, the failure of leadership by election administrators and voting equipment manufacturers to prepare for ranked choice voting has caused severe strains and costs on communities. For example, San Francisco was forced to violate its charter because the city failed to use instant runoff voting in its 2003 mayoral elections. San Francisco was able to avoid a lawsuit simply because the judge admitted he could not force the jurisdiction to run elections it was not prepared to do, largely in part due to the vendor being ill-equipped for handling ranked voting elections. Similarly, cities such as Ferndale [MI], Berkeley [CA], Sarasota [FL] and Oakland [CA] faced non-compliance with local legislation mandating IRV due to the lack of certified voting technology capable of running such elections. Other jurisdictions, Takoma Park [MD] and Cary [NC], have had to work around current technology to implement IRV with the first employing paper ballots and the later developing an innovative method of counting first choice votes on voting machines in polling sites with subsequent IRV rounds tallied by hand at the precinct level. The "Instant Runoff Voting Procedures" for Cary [NC] are included in the appendix for your reference.

Amendments to VVSG

As illustrated, current VVSG are not comprehensive and does not provide sufficient guidance for jurisdictions to adjust to changes in election systems. Instead, what is included as standards are often piecemeal in nature and reactionary in practice. As other jurisdictions like Burlington [VT] consider alternative voting systems such as ranked choice voting, FairVote urges the EAC to develop and include clear guidelines in the VVSG to assist local election administrators and voting system manufacturers. As an example, the Minnesota Secretary of State, Mark Ritchie, has created an advisory committee to establish standards for how to run ranked voting elections. The recommendations have been adopted and introduced as state legislation (HF 3006 and SF 3247), see appendix. Additionally, we have included in the appendix *Ranked Voting Guidelines*, a draft voting system standard that could serve as an example for what guidelines could look like (FairVote and the ranked choice voting community have not endorsed any/all parts of the document). We look forward to working with the EAC to create a working group or taskforce to develop much-needed standards for ranked choice voting technology.

Other changes we recommend to the VVSG are more technical in nature, and we have included these amendments in the appendix. Thank you for the opportunity to submit this testimony, which was written with the assistance of Terrill Bouricius, David Moon and Amy Ngai. I look forward to further exploring some of these issues introduced here in the roundtable discussion on Thursday.

Appendix I: FairVote Position on Voting Equipment, Election Integrity & Auditability

Appendix II: Instant Runoff Voting Procedures, Town of Cary

Appendix III: Minnesota Legislation HF 3006 & SF 3247

Appendix IV: *Ranked Voting Guidelines*

Appendix V: FairVote Comments on TGDC's VVSG