# Minutes of the Public Meeting
# United States Election Assistance Commission

Westin Crown Center
Kansas City, MO
April 18, 2007


The following are the Minutes of the Public Meeting of the United States Election Assistance Commission ("EAC") held on April 18, 2007, in the Washington Park 3 Conference Room of the Westin Crown Center, at 1 East Pershing Road, Kansas City, MO 64108.  The meeting convened at 1:00 p.m. CST and adjourned at 3:10 p.m. CST.

## <u>PUBLIC MEETING</u>

**Call to Order:**

Chairwoman Donetta Davidson called the meeting to order at 1:00 p.m.

**Pledge of Allegiance:**

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

**Roll Call**

<u>EAC Commissioners</u>

EAC General Counsel Juliet Hodgkins called roll of the members of the Commission and found present:  Chairwoman Donetta Davidson, Commissioner Rosemary Rodriguez, and Commissioner Caroline Hunter.  Three members were present for a quorum.

<u>Senior Staff</u>

Executive Director Thomas Wilkey and General Counsel Juliet Hodgkins

**Welcome and Statement by the Chair regarding Voter Fraud**

**Adoption of minutes from February 2007 meetings**

Correction and Approval of the Minutes for 2/8/07.  Commissioner Rodriguez presented motion to adopt minutes as submitted.  Commissioner Hunter seconded the motion.  Motion passed with a quorum of three votes with Commissioner Hillman's absence.  Commissioner Hillman was engaged in testimony before the Information Policy, Census, and National Archives subcommittee of the House Oversight and Government Reform Committee in Washington, D.C.

Correction and Approval of the Minutes for 2/8/07.  Commissioner Hunter presented motion to adopt.  Commissioner Rodriguez seconded the motion.  Commissioner Rodriguez asked for motion to be adopted by unanimous vote.  The motion passed with a quorum of three votes.

**EAC Activities Report by the Executive Director**

EAC has just completed audit resolutions in the following states:  California, Florida, Illinois, Minnesota, New Jersey, South Carolina, Texas and Virginia.  HAVA requires that the EAC audit those funds which have been distributed.  States have 30 days to appeal the decision or to request action.

With regards to the certification program, nine companies have registered for certification by EAC.  Registration is first step.  The EAC is also still waiting for the final report from consultants for interim certification of CIBER.

Next subject was HAVA funds management.  Regarding the use of Title 1 and 2 requirements  payments the EAC sent a letter to state election officials reminding them of due dates.  There was a successful training program at the National Association of Secretaries of State meeting.  Additional materials are available on the EAC website.

The executive director offered a warm welcome on behalf of the staff to new Commissioners Rodriguez and Hunter.

The director also welcomed back the Chair after her surgery.  The staff is very happy to have her back and is glad the procedure went so well.

The Monthly News Bulletin and Newsletter are now available on our website at www.eac.gov.

**Statement from the new commissioners:**

The Chair welcomed to the new commissioners.  She noted that the commissioners come to the EAC with a wealth of experience and diverse backgrounds.  Commissioner Rodriguez is from the Chair's home state of Colorado where they worked together on several occasions.

Before coming on board at the EAC, Commissioner Hunter served as the deputy director of the White House Office of Public Liaison.  She also had the opportunity to provide guidance on election law and the implementation of the Help America Vote Act while working at the Republican National Committee.

Statement by Commissioner Rodriguez:

I am honored to have been appointed to the United States Election Assistance Commission. Over the past month, as I have gotten to know my new colleagues and have learned about their

diverse backgrounds and experiences, I have grown to respect their abilities, and appreciate their efforts, in establishing the Commission from scratch. And I would like to take this opportunity to thank them personally for welcoming me as a new member of the EAC.

For most of you, I am a stranger, so with the Chair's permission, I will give a very brief summary of my qualifications to serve on the EAC. I am a native of Denver, Colorado. I previously served as the Clerk and Recorder for the City and County of Denver, where I oversaw elections that were held in Denver. I also ran for elective office, and was elected to the Denver City Council. But long before I, myself, served in government, and for a span of more than three decades, I have performed volunteer work, much of which was for the purpose of increasing voter registration and voter empowerment. As a volunteer, I came to learn that most of the people with whom I worked desperately wanted to participate in our democracy. But they did not have access to information – information that all of us here enjoy – that allowed them to enter the gateway to civic participation. And among the most gratifying experiences of my life is that of helping people grasp the knowledge and tools that allow them to become fully participating citizens.

I am one of four Commissioners. Like my colleagues, I hope to make a mark on the election process in this Country. And the mark I hope to make is a simple one: I want to continue to increase voter registration and voter empowerment. Like many people, I have strong convictions about some things. And I will be honest with you, when it comes to elections, my foremost conviction is for the voter. I want eligible voters to have unfettered, uncomplicated and unimpeded access to the voting booth.

That is not to say that I am naïve about the voting process. My experience as an election official has tempered my conviction with a real understanding of the challenges that election officials experience in day-to-day election operations. So I will not be looking to impose new and burdensome expectations on election officials. I will, however, be looking for realistic, manageable ways to provide voters with the access that I hold so dear.

A second conviction that I hold – and I hold it fiercely – is that, in general, decisions made by the government, and decisions made by the EAC in particular, should be done in the full light of day, and in as open and as transparent a process as possible. For the most part, the processes of the EAC are done in sunshine, and I applaud the EAC's openness. The EAC, however, does have one process that is not open. It is the practice of the "tally vote." The tally vote is one that is circulated, generally agreed upon by consensus, and then made public. But while the outcome is made public, the process by which that outcome is reached is not. I hope that the EAC's staff briefings and deliberations can be done on the record, and I believe there is interest among Commissioners to discuss this issue.

My final conviction – perhaps in fairness it should be called a bias – has to do with the value of being an open-minded learner. I appreciate those who are willing to discuss, and truly to consider, different points of view. I also appreciate those who, when presented with a better option, are able to recognize its value. And I appreciate those who, when presented with an opportunity to improve the way in which things are done, take the opportunity. I will work hard to be such a person.

Thank you, Madam Chair, for the opportunity to share some of my thoughts with you, with my other colleagues, and with the audience here today.

## Statement by Commissioner Hunter:

Thank you to the staff, Commissioners, and outgoing Commissioner Paul DeGregorio for helping with the transition. It is an honor to serve on this commission. I have worked with many election officials in different processes.

We need to thank election officials for all the work they put into this and we will work together to increase civic activity and ensure that every eligible voter can cast a ballot.  The work of election administrators is nonpartisan by nature and I look forward to working with my fellow commissioners to improve the conduct of elections for all Americans.


The Chair then opened the floor for the nomination of the EAC Vice Chair. Commissioner Hunter nominated Commissioner Rodriguez.  The Chair seconded the motion.  With a 3-0 quorum vote, the motion carried for the election of Commissioner Rosemary Rodriguez as the EAC Vice Chair.

Executive Director then read Commissioner Hillman's statement into the record.

It is with great regret that I am unable to be present at today's meeting of the U.S. Election Assistance Commission.  On the one hand, I am pleased to represent the commission at today's Congressional hearing on issues relating to accuracy and fairness in elections involving electronic voting systems.

On the other hand, this is the first time, since the commission was appointed in December 2003, that I will not be present at a meeting and not voting, and I regret that deeply.

It is ironic that the conflict that prevents me from being present at EAC's meeting in Kansas City is an invitation from Missouri's own congressman, Mr. William Lacy Clay, who chairs the subcommittee that is holding today's hearings.

Nonetheless, I am there in commitment and spirit.  If I were there, I would re-iterate my appreciation to Rosemary Rodriguez and Caroline Hunter for their willingness to serve on the commission and offer them a warm public welcome.

I would have enthusiastically insisted that I be able to place Commissioner Rodriguez's name in nomination to serve as EAC vice chair for 2007.  And, of course, I would have voted a resounding "yes" on the motion to elect.

I would also express my profound thanks to Edgardo Cortes, Laiza Otero, the members of EAC's Spanish Language Working Group and all EAC staff who helped produce the 2007 Glossary of Key Election Terminology in Spanish, with appropriate English to Spanish and Spanish to English translations.  Their commitment to accuracy and detail has produced a very fine product. Assuming that no unexpected developments on this glossary were to occur at today's meeting, I would have voted to adopt the glossary as a key reference for election officials throughout the country.

Additionally, I would express continued appreciation to Connie Schmidt, Brit Williams and the EAC staff for their tireless work to produce the first ever comprehensive Management Guidelines to bring the people side of election administration in line with the proper and accurate functioning of voting systems.

And in closing, I would offer my views on the criticism that EAC is currently receiving for its handling of research data that has been developed by consultants.  Congress, the public and the EAC commissioners have a right to know the facts.  Therefore, I support the request for EAC's Inspector General to investigate the issues of this matter and the processes used by EAC to procure, review and report contracted research.

I ask the Inspector General to please report his findings at the earliest possible date. I also urge EAC to help end the criticisms of us by releasing all of the information we received from consultants on our election crimes research project. My further thoughts and views on this matter are contained in statements that I issued this week and in December 2006, and are posted on my webpage at www.eac.gov.

To all of my colleagues attending the Election Center's meeting, I extend profound appreciation and respect for the work you continue to do, day in and day out. I also appreciate the invitation to appear at your meeting and regret that I am not able to be there.

My very best wishes to all,

Commissioner Gracia Hillman


## BRIEFING OF WORKING LANGUAGE GROUPS AND PRESENTATION OF SPANISH GLOSSARY

Presenters: Edgardo Cortes, EAC; Laiza Otero, EAC

Mr. Cortes:

The Chair briefly introduced EAC staffers, Edgardo Cortes and Laiza Otero. The Chair commended Mr. Cortes and Ms. Otero on their fine work and said that she looks forward to their presenting what will be a very valuable tool to election officials. Pursuant to HAVA sections 241 (b)(5) and 241 (b)(14), the EAC is charged with studying the promotion of methods to ensure access to voting and registration.


Aside from HAVA, Executive order 13166 charges federal agencies that provide financial assistance to issue guidance on how recipients of that assistance can take reasonable steps to provide meaningful access to people with limited English proficiency. That includes providing resources in multiple languages for accessibility. Mr. Cortes showed census data of those over the age of 5 who speak less than "Very Well" in English. There is also a large percentage of people who speak another language at home. The importance of this program is far reaching.

The EAC has created a language assistance program consisting of working groups comprised of local election officials, congressional staff members, and research and public policy organizations. Those working groups give the EAC feedback and ideas on how to meet our language accessibility mandates. Because of the EAC's limited resources, this is limited to languages covered under sections 203 and 404 of the Voting Rights Act. These languages include Spanish, Chinese, Vietnamese, Tagalog, and several Native American and Alaskan languages.

The EAC convened the first working group for Spanish Language in August of 2005.  There was a wide range of subjects covered and the groups represented were very diverse.  As Spanish is the second most spoken language in the United States, it is practical that the government provide election materials to that constituency.

The second language working group was convened in May of 2006.  This group's focus was to begin research on the issues concerning the Asian and Pacific Islander community.  The group included election officials and advocacy groups.  Some of the topics discussed included the implementation of statewide voter registrations lists and the NVRA--specifically the availability of voter registration forms in the covered Asian languages.

Ms. Otero:

In 1979 the Federal Election Commission published a series of reports under the National Clearinghouse on Election Administration to assist election officials in their efforts to provide election services to groups identified by section 203 of the Voting Rights Act.  The goal was to standardize some of the Spanish language in terms of usage for election terminology.   When the group first met, they decided to update the lists and terms.  EAC had a team of translators go out and find out what kind of information was on websites.  They also started looking for materials that were not currently available.

The new guide goes from Spanish to English, then English to Spanish.  That was an important step so that interested parties may cross check the terms and ensure that they are accurate and culturally correct.  Culturally and linguistically appropriate terms were translated by a team of translators.  The team was comprised of members from Mexico, Puerto Rico, Cuba and Central America.  EAC staff reviewed the document while it was also vetted by the working group.  Terms included parts of speech, gender, relationships, definitions and examples.  Terms from the 2005 VVSG were also included.

The process of printing and distribution will begin after adoption.  However, if the glossary is adopted there will be CDs available and there is a sign up sheet to receive a hard copy.  The EAC is making links available to other relevant websites.  The interagency page, www.webcontent.gov, will cross reference our content.  The EAC is also looking into creating a search capability for the translations.  There are also plans for future iterations and additions to this project.

HAVA "frequently asked questions" will also be translated into Spanish and will be available in the next couple of months.  Puerto Rico has also translated HAVA and will be reviewed by staff.

Commissioner Rodriguez presented motion to adopt as submitted. Commissioner Hunter seconded the motion. The Chair then opened the floor for question. Commissioner Rodriguez included by reference a statement she had posted on her section of the EAC website regarding the adoption of the glossary. After the question section the Chair asked for the motion to be put to a vote. **The Motion was passed with a 3-0 quorum vote and the document will be adopted as submitted and released immediately.**

The Chair requested a short recess at 2:20 pm and the meeting was brought back to order at 2:30 pm.

## U.S. ELECTION ASSISTANCE COMMISSION MANAGEMENT GUIDELINES

Presenters: Brian Hancock, EAC; Laiza Otero, EAC; Connie Schmidt (contractor), Brit Williams (contractor)

Mr. Hancock:

Mr. Hancock offered an update of the EAC's Election Management Guidelines (EMG). Previously, election officials had to rely on materials developed and shared almost exclusively at the local level. However, now a federal agency is able to develop and distribute such a document. The EAC has made this project a priority under the EAC's role as a national clearinghouse role to promote the effective administration of elections.

Because of the urgency for the resources to assist election officials, the EMG has been broken up into modules by subject matter. That way chapters and topics can be completed on a priority basis and be distributed as soon as they are done. The full set should be completed by 2008. In addition the team has created "Quick Start" guides for each of the major chapters of the EMG and those are currently available. EMG is ready to go to the printer. Distribution copies will be available soon. The authors are the election officials who are from 19 different states and different organizations to contribute to the completion.

Mr. Williams:

Three chapters of the guidelines have been developed thus far. Mr. Williams presented on the second chapter entitled "Systems Security." Overall security of a computer based system is achieved by the combination of four factors: software (must be adequate to do the job), policies and procedures with permissions, physical security, and access logs. There must be a system of "two person accountability" and control. One person cannot be alone in a room. Try to develop guidelines to cut and fit and extract materials that will help your outfit.

If you ensure that you have installed the right version of the software that will allow you to monitor the software for accidental or fraudulent modification. Another resource is the use of the NIST software library. This system provides guidelines for the transmission of unofficial results over telephone circuits in the use of voting systems audits. Over time, there are many people who have or who have had access to a system. You must have policies in place for permissions and for individuals who should never have access. Passwords are the primary tool to restrict access. Guidelines for issuing them should be put in place by the chief election official.

Ms. Schmidt:

The guidelines are written in a generic fashion since "one size does not fit all". The intent is to provide recommendations as they work with their current procedures. The chapter that Ms. Schmidt covered is "Physical Security". That includes procedures, policies, equipment and physical peripheral pieces and parts. Election officials must create steps to follow when doing a security review of their operation. This must include how the units are stored, inventory control, and issues with human access to the system. Separation of duties, two person integrity, and background checks are ways of securing systems. The topics of this chapter cover discussions that deal with the time from when the equipment is delivered to managing storage and transportation. It also covers poll worker training, transmitting the votes, and getting votes secured during the lock down phase.

In addition there is a set of review questions which officials can ask themselves. The questions are posed to trigger a thought process to see what they are doing right within their own state. It's a reference tool.

The release of the chapters is an exciting step of providing reference tools to be used by officials, the public, and the media to understand what goes into the election process. The team is actively seeking input from officials to complete the process.

Ms. Otero:

Ms. Otero's presentation focused on future developments and forthcoming projects by the EMG staff. In 2007 EMG staff will begin to develop the next seven chapters and the next 5 quick start guides. The next chapters will be delivered to election officials in time for the election in 2008.

The next chapters include military/overseas voting and vote by mail/absentee voting, contingency/disaster planning, ballot designs, developing an audit trail and acceptance, pre-election and parallel testing, and polling place/vote center management.

The next Quick Start guides will cover certification, developing an audit trail, public relations, contingency/disaster planning and change of management.  The EMG staff expects the Quick Starts to be developed and distributed by September 2007.

EMG staff will work in small working groups and talk about best practices from overlapping jurisdictions.  The binders with the current chapters will be made available in the next couple of weeks.

There was a brief question and answer period.  Then the Chair gave her closing remarks and announced the date and time of the next EAC public meeting.  She then asked for a motion to adjourn.  Commissioner Hunter submitted a motion to adjourn and Commissioner Rodriguez seconded the motion.  The motion was taken to a vote and the motion was carried with a quorum of three.

The meeting was adjourned at 3:10 p.m. CST