

**United States Election Assistance Commission
Public Meeting**

1225 New York Avenue, NW

Suite 150

Washington, DC 20005

Held on Thursday, April 8, 2010

VERBATIM TRANSCRIPT

The following is the verbatim transcript of the Public Meeting of the United States Election Assistance Commission ("EAC") held on Thursday, April 8, 2010. The meeting convened at 10:00 a.m., EDT. The meeting was adjourned at 2:35 p.m., EDT.

PUBLIC MEETING

CHAIR DAVIDSON:

Good morning, we're going to call the meeting to order. And I'd like to thank everybody for attending this morning. And welcome to those that are going through our webcast to watch the meeting.

First of all, I'd like for us all to stand and do the Pledge of Allegiance.

[Chair Donetta Davidson led all present in the recitation of the Pledge of Allegiance.]

CHAIR DAVIDSON:

And I'd like our Associate General Counsel Tamar Nedzar to give the roll call please.

MS. NEDZAR:

Certainly, Commissioners, respond when I call your name. Chair Donetta Davidson.

CHAIR DAVIDSON:

Present.

MS. NEDZAR:

Commissioner Gracia Hillman.

COMMISSIONER HILLMAN:

Here.

MS. NEDZAR:

Commissioner Gineen Beach.

COMMISSIONER BEACH:

Present.

MS. NEDZAR:

Madam Chair, a quorum is present.

CHAIR DAVIDSON:

Thank you. In adoption of the agenda I'd like to move that we make one correction. It's in the second bullet of your agenda underneath the presentation -- discussion of the public comment version of the pilot program. The word UOCAVA should be removed from that because that contains -- the pilot program is any type of pilot that would come into our office. It's just not for UOCAVA. So, if I could get a second on that, I'd appreciate it.

COMMISSIONER BEACH:

Second.

CHAIR DAVIDSON:

Any discussion?

COMMISSIONER HILLMAN:

I just want to be clear, so you're saying that under new business, the second item it would be discussion of public comment version of Pilot Program Testing and Certification Manual. Is that correct?

CHAIR DAVIDSON:

That's correct.

COMMISSIONER HILLMAN:

Okay. And is that the way that it was identified in the comment that went out for public comment, do we know? Do we know?

MR. HANCOCK:

The word "UOCAVA" was not included.

MR. WILKEY:

It wasn't in it.

COMMISSIONER HILLMAN:

Okay so the word -- okay thank you.

CHAIR DAVIDSON:

So, we're fine. Thank you very much, because I wasn't sure about that, Commissioner, at all. So any other comments? All those in favor?

[The motion carried unanimously.]

CHAIR DAVIDSON:

Thank you, we'll move forward.

I'd like to welcome everybody today for being here, and before I begin I'd like to briefly tell you about two events that I attended this last month. And the first was a summit in Germany that was on the -- basically it was the Overseas Voting Summit. It was their fourth annual one. And it was mainly about the MOVE Act, outreaching and trying to reach all those that are overseas and military. Definitely we heard from people that was very involved in the process and very interested in it, so not only from federal individuals, but from the public themselves. And it was a very worthwhile conference.

The second one that I attended, along with Commissioner Hillman, was the Election Network Verification Conference here in D.C. And I really appreciated that they invited election officials and, obviously, us, to their meeting. I thought their outreach was very

healthy; that they made an open dialogue to everybody that they made concerning that conference. And I have posted comments on both of those on our Web site at eac.com, and I will post a few more comments on the trip to Germany before I get finished.

And does my Commissioners have any remarks they'd like to open up with?

COMMISSIONER HILLMAN:

I do, but unfortunately I've been nudged by the Associate Counsel that there's a technical thing. We need to move to adopt the amended agenda. The motion that we passed was to amend the agenda, and now we have to move to adopt the amended agenda. So move.

CHAIR DAVIDSON:

All right thank you.

COMMISSIONER BEACH:

I second.

CHAIR DAVIDSON:

All those in favor?

[The motion carried unanimously.]

COMMISSIONER HILLMAN:

Then the second one and I'm sure you won't mind this as a friendly collegial, you said eac.com, but it's eac.gov.

CHAIR DAVIDSON:

Gov.

COMMISSIONER HILLMAN:

Gov.

CHAIR DAVIDSON:

Yes ma'am.

COMMISSIONER HILLMAN:

For those people who are listening and may not have visited our Web site.

Thank you. I do want to just say at the beginning of this meeting that I look forward to all of our discussions, but particularly the Clearinghouse discussion. This is the beginning of a very busy primary season, you know, and as EAC has encouraged over the years, since its inception, that voters are registered, that they educate themselves and stay involved in the process, and there's a lot of information, and we encourage voters to use all the resources to get the information they need. And we hope that the EAC Web site and Clearinghouse will be one of the sources we use, and so, I will have a number of questions, but I welcome the opportunity to discuss this.

And, as I did last month, I want to encourage everybody to encourage everybody to complete the Census form, so that all Americans are counted, and so that we can have good numbers of people who are eligible to vote, and so the Census Bureau can do their projections on voter registration.

Thank you.

CHAIR DAVIDSON:

I appreciate that. I will let you know I filled out the long one and I also filled out the short one. Now I don't believe that's over voting because they told me I had to fill out the short one also.

COMMISSIONER HILLMAN:

I see, so you're counted twice, okay.

CHAIR DAVIDSON:

So, those of you that get the long one -- I don't know, but I was a little concerned about it, but I did check with them just so that you know.

Commissioner Beach.

COMMISSIONER BEACH:

Yes, I do have some remarks. First, since our last public meeting President Obama had nominated Tom Hicks, who is the Senior Elections Counsel from the House Administration Committee to serve on the Commission, so I would like to offer my congratulations to him. I had worked with Tom on House admin when I served as Counsel for ranking member Vernon Ehlers. So I had -- personally I had very good working relationship and I look forward to him joining the Commission in the future.

And also, as many of you know, there's currently a proposal to reduce the United States Postal Service mail delivery from six to five days, which would be halting Saturday mail delivery. The United States Postal Service, for this process must file a request for a non-binding advisory opinion from the Postal Regulatory Commission, and the final decision would be made by Congress. And I mention this because the role of the U.S. mail is a significant one in our elections. For instance, vote-by-mail has increased in our -- in recent years, particularly in the Northwest. And also, overseas citizens and the military rely on the Postal Service to receive and deliver their ballots. And at this point, I don't know what the impact, if any, would be on the proposal and what it would

have on our elections, but I think it's important for election officials to pay close attention to this issue and make sure that their voices are heard. I know the Postal Regulatory Commission was looking into this issue recently and there is an opportunity for public comment, so I urge election officials if they have any questions or want to submit comments to go to the United States Postal Service and the Regulatory Postal Commission Web site to get some more information. And if any election officials do have information or contingency plans on -- that address shortened delivery schedules, please share them with EAC and we'll be sure to post them on our Web site in our Clearinghouse -- in our contingency plan section.

Thank you.

CHAIR DAVIDSON:

Thank you. Well obviously, we know that our Web site provides a great deal of information, and I look forward also to our presentation today to see how we continue those efforts in our communications.

So, we'll go ahead and get started with our old business and the minutes are up for -- is there any discussion on them, or is there a motion to approve?

COMMISSIONER HILLMAN:

Move approval.

CHAIR DAVIDSON:

Second?

COMMISSIONER BEACH:

Second.

CHAIR DAVIDSON:

All those in favor of approving the minutes of our March 11th meeting say aye, please. Those opposed?

[The motion carried unanimously.]

CHAIR DAVIDSON:

Moving forward we have our Executive Director Tom Wilkey here with us today for his report, and so I'll turn it over to you.

MR. WILKEY:

Thank you Madam Chair and Commissioners, and I thank everyone for being here today.

I also have one correction based upon our correction that we did on our agenda item, so when I reach that I'll let you know.

But under Testing and Certification, we have posted the UOCAVA Pilot Program Testing Requirements on our Web site and are accepting public comments through April the 15th. We've also posted, and that should be a Pilot Program Testing, not UOCAVA as was indicated in our agenda, and Certification Manual, and are accepting comments on that through April 26th. In addition, we recently sent a letter to manufacturers in our program to remind them of their obligations as we prepare site visits to manufacturing facilities and monitor field EAC-certified voting systems. We've also approved a test plan for the ES&S Unity 3.2.1.0 v. 5.0. I think they do this just to see if I can get through these numbers. We also posted decision 2010-01 on the voltage levels that must be tested when performing the electrostatic discharge (ESD) test.

Under Grants, the deadlines for the Mock Election and the College Poll Worker grant programs have passed. We have

received 33 applications for the Mock Election program and 61 for the College Poll Work program. Due to severe weather in the Northeast, we extended the deadline for the College Poll Worker grant program to April 6th for applicants in Delaware, Massachusetts, Rhode Island, West Virginia and New Hampshire. These were the States that were declared disaster area by the President and FEMA. As we -- as a reminder, we're still seeking additional external peer reviewers to help us review the applications. Information about these paid, temporary opportunities are on our Web site.

Under requirements payments, we have extended the comment period for the draft Maintenance of Expenditure policy. The new deadline for submitting a comment is April 19th at 5 p.m. A draft of the policy and information on how to submit comments are posted on our Web site. Since our last meeting, we've disbursed 8.7 million in requirements payments. 1.1 million in FY 2008 payments, 1 million in 2009 payments and 6.6 million in 2010 payments. Payments went to five States: Alaska received 575,000 for FY 2008; 500,000 for FY 2009; and, 350,000 for FY 2010. Hawaii 575,000 for FY 2008 and 500,000 for FY 2009. Kentucky 983,000 for FY 2010. Iowa 710,834 for FY 2010. And New York 4,564,000 for FY 2010. This brings the total amount of disbursed payments to 80.4 million for 2008, 52 million for 2009 and 6.6 million for 2010.

We posted two Advisory Opinion requests: AOR-10-004 from Dawson County, Montana, asking about the use of Section 101 funds for ADA upgrades. The comment period closes March

28th. AOR-10-005 from Alaska asks if Section 251 funds may be used to purchase an automated mail ballot processing system to serve UOCAVA voters. We're accepting comments on this request through April 17th.

Under Tally Votes, the Commission has certified three tally votes since our last meeting: Submission of Notice and Comment Policy, and Voting by Circulation Policy for Public Notice and Comment; Submission of UOCAVA Pilot Program Testing Requirements for Public Notice and Comment; Submission of Voting System Pilot Program Testing and Certification Manual for Public Notice and Comment.

Under other news, Chair Davidson recently attended the Election Verification Network Conference in Washington, and Chair Bresso, the North Dakota Statewide Election Conference. Both have posted their observations from their trip on their respective Web sites -- web pages, which is on our Web site. The Commission has posted a draft Information Quality Guidelines Policy. We're accepting comments on it through April 30th. And finally, this month we moved to our new office. Our new offices are next door in 1201 New York Avenue, Suite 300. The move went very well, and we certainly want to thank and appreciate the very hard work of our administrative office staff for everything they did to make that move very smooth. We were all in in a couple of days, all of our computers were installed, everything was in working order and we certainly appreciate their hard work. And, finally, on another note which is not in my written report, I will not be with you this afternoon, as I'm traveling to St. Louis, Missouri, to take part in

a very special program sponsored by the East St. Louis Board of Election Commissioners. It's an annual program where they give awards for community service and Democracy awards, the Fitzpatrick Awards. And one of those awards I am pleased to announce goes to our former colleague, posthumously, Peggy Sims. We all certainly miss Peggy a great deal and I thought it was great of the staff of the East St. Louis Commissioners to remember her and to honor her. And I am very happy to accept that award on her behalf and on behalf of the EAC.

That is my report Madam Chair, if anyone has any questions.

CHAIR DAVIDSON:

Any questions for Mr. Wilkey?

COMMISSIONER HILLMAN:

I sure wish I did, but I don't right now, thank you.

COMMISSIONER BEACH:

I don't.

CHAIR DAVIDSON:

No questions? Okay. Well, we'll move forward to new business then.

Welcome. The Help America Vote Act instructed EAC to develop a national Clearinghouse for elections, and the EAC staff has been working very hard and been working together to develop this Clearinghouse policy for the Commissioner's consideration. And I believe we're just about at the end of that process and ready for move forward. So, we've asked for a briefing today from our Director of Communications, Jeannie Layson, who will provide an

update on the activity, including next steps, and then we're going to have a brief online demo. She's joined by the EAC's Program Policy Research Director Karen Lynn-Dyson, who has been working with Jeannie on this policy, and Jeannie will -- I mean Karen will also add a comment. I should say Miss Dyson, so I apologize. We know these employees too well and we start calling them by their first names at our hearings.

So, I will turn it over to Ms. Layson for your presentation. And I think we're going to turn around some of the monitors when you get ready for the demo, so the public doesn't need to be too concerned.

COMMISSIONER HILLMAN:

Madam Chair, before we do that, and I apologize for the interruption to Ms. Layson and Ms. Lynn-Dyson, but I wanted to, because it speaks to the Clearinghouse, ask Chair Beach (sic) to restate what you said about posting comments about the postal regulations in our Clearinghouse. I'm not sure that I understood what you were saying.

COMMISSIONER BEACH:

What I was saying is that we're not accepting comments about the delivery of the Postal Service. All I said is I know we have a Clearinghouse that deals with contingency plans and I don't know if any States have contingency plans out there for issues that come up with mail delivery. I know in Washington State they experienced floods several years ago and I don't know if they have a plan to deal with ballots that come in late because of other things. So I thought as part of our contingency plan Clearinghouse if there is

anything that dealt with mail delivery that they could submit it to us like they do with other issues for contingency planning to submit on our Web site.

COMMISSIONER HILLMAN:

So, you're talking about their contingency plans and not their comments to the Postal...

COMMISSIONER BEACH:

Correct.

COMMISSIONER HILLMAN:

Because it sounded to me like you were saying submit your comments...

COMMISSIONER BEACH:

No, what...

COMMISSIONER HILLMAN:

...the same comments you submit to the Post Office to us.

COMMISSIONER BEACH:

Well thank you. And for clarification for the public, any comments that you may have on the postal delivery, you should certainly go to the U.S. Postal Service Web site or the Postal Regulatory Commission to see how you can go about submitting any comments or input on that issue.

CHAIR DAVIDSON:

Okay, Ms. Layson, it's all yours.

MS. LAYSON:

Okay, thank you. Good morning Commissioners, Executive Director Tom Wilkey, Associate General Counsel Tamar Nedzar. I'm pleased to report that EAC staff is rapidly approaching the

finalization of a draft Clearinghouse policy for consideration by the Commission. Today, I will briefly share with you and the public our efforts to develop a proposed policy in accordance with the Help America Vote Act and our commitment to collaborative governance and transparency.

Section 202 of the Help America Vote Act, or HAVA, instructs the Commission to establish a national Clearinghouse. According to HAVA, the Commission shall serve as a national Clearinghouse and resource for the compilation of information and review of procedures with respect to the administration of federal elections by:

(1), carrying out the duties described in part three relating to the adoption of voluntary voting system guidelines,, including the maintenance of a Clearinghouse of information on the experiences of State and local governments in implementing the guidelines and in operating voting systems, in general.

(2), carrying out the duties described in subtitle B relating to the testing, certification, decertification and recertification of voting system hardware and software.

(3), carrying out the duties described in subtitle C relating to conducting studies and carrying out other activities to promote the effective administration of federal elections.

(4), carrying out the duties described in subtitle D relating to election assistance, and providing information and training on the management of the payments and grants provided under such subtitle.

(5), carrying out the duties described in subtitle B of Title III relating to the adoption of voluntary guidance.

And last, (6), developing and carrying out the Help America Vote College Program under Title V.

The development of a final draft policy has been an agency-wide effort. The Communications Division has collaborated with EAC program areas to make sure the Clearinghouse will serve the customer needs of their specific stakeholders. The Research, Policy and Programs Division has been especially helpful in this regard. Program Director Karen Lynn-Dyson, who is here with me today, has facilitated meetings with Clearinghouse managers from other federal agencies to help the EAC understand the policies that govern these Clearinghouses and their Web sites, and also how they contribute to and support agency goals.

During those meetings and through research, we learned that the scope of the policies that govern federal Clearinghouses, Web site content, and information disseminated to the public, in most cases were driven by the agency's mission. For example, the National Institute of Standards and Technology's mission is to "promote U.S. innovation and industrial competitiveness by advancing measurement science, standards and technology in ways that enhance economic security and improve our quality of life," tall order. NIST states that it "is committed to maintaining a high level of quality in the information it disseminates."

Consequently, NIST's Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Disseminated Information includes quality standards as well as a

review process that may include process design and monitoring, peer monitoring during information preparation, or the use of quality checklists, charts and statistics.

Another example, the U.S. Consumer Product Safety Commission operates the National Injury Information Clearinghouse, disseminating statistics and information about the prevention of death and injury associated with consumer products. Every year the Clearinghouse receives approximately 6,000 requests for information from the public. Computerized data sources include the national electronic Injury Surveillance System, the Death Certificate File, the In-Depth Investigations File and the Injury/Potential Injury Incident File. Multi-lingual staffers operate a hotline for reporting product-related injuries.

The National Clearinghouse for Long-Term Care Information, operated by the U.S. Department of Health and Human Services, includes the following: information to help consumers decide whether to purchase long-term care insurance, information about states with long-term care insurance partnerships under Medicaid and information about the availability and limitations of coverage for long-term care under Medicaid. The Clearinghouse offers a wide variety of resources, including interactive tools like a cost-savings calculator and ways to plan and pay for long-term care.

The mission and the customers formed the structure of these Clearinghouses and their governing policies. EAC staff has taken the same approach: we serve voters, elections officials and the general public in every state and U.S. territory. Our mission is to

assist the effective administration of federal elections. Our challenge was how to translate the needs of our stakeholders and EAC's mission into an online Clearinghouse.

First, we reviewed federal laws, policies and directives governing government information including, but not limited to OMB Policies for Federal Agency Public Web sites, the E-Government Act of 2002, OMB Circular A-130 and OMB Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by Federal Agencies.

We then reviewed best practices recommended by federal agency working groups such as the Web Managers' Council, an interagency group of senior federal government web managers who collaborate to improve the online delivery of government information and services. We will also incorporate the President's Memorandum on Transparency and Open Government and embrace the concepts of Government 2.0 by providing the public with multiple interactive and responsive mediums to comment on the contents of the Clearinghouse.

Now I'd like to give you a brief demonstration. The development of the Clearinghouse policy has been part of our overall effort to redesign EAC's Web site. So I'd like -- the demonstration I'm going to give you is also the Web site and the Clearinghouse as we envision it, as well. I would also like to say to the -- to the audience in the room that captioning will not be available here in the room while this demonstration is going on, but it will be available on the live webcast and the captioned version will also be available after the meeting, as well.

So, this is how we envision the new Web site. One of the most frequent comments that we got about our old Web site, or the current Web site that we use now, is that information was hard to find. We do have a search tool, but you can only search by key word. And we have a lot of information on our Web site, so we recognized that we needed to come up with a more sophisticated tool so that people would be able to find the information they were looking for. And so, our goal in developing the new Web site and the Clearinghouse was to empower users to customize their experience, and most important we want them to find value on our Web site. So, this is the beta version of our new Web site.

And I'd like to turn to Research Programs and Policy Director Karen Lynn-Dyson to discuss how we've worked together to meet the needs of our major stakeholders. In particular, for her program area, that would be local election officials, voters and policymakers and academics. And I also anticipate that Karen's program and the products and the data that they produce will populate a large portion of our Clearinghouse.

So, Karen, if you wanted to start and talk about some of the materials that we have in the -- that would appeal to election officials.

MS. LYNN-DYSON:

Great, thank you Jeannie. Let me say at the outset that for the public who happen to be onsite we've made a point today of putting out a lot of these materials, so that the public can get a sense of the vast reservoir of material we've developed over the last five years. All of these materials will, of course, be, and are currently, available

on our Web site and, as Jeannie mentioned, with this new navigation tool, we hope, easily available to everyone.

If you look at, as Jeannie mentioned, the materials we have available to local election officials, one of our key stakeholder groups, we have, to date, 19 Election Management Guideline Chapters and Quick Start Guides. We have forthcoming, on the site, you see 16, we have three more forthcoming this summer, which we will have available to our local election folks in time for the midterm elections. Highlights include our poll worker guidebooks on how to recruit/retain poll workers. Other materials, we like to highlight our ballot designs, are effective designs for administering elections, downloadable, fully printable ballot design materials. Again, all of these things will be readily available on the new Web site.

And when you look at our second category, resources to voters another major stakeholder group for us, we're particularly proud of the materials we've developed in our Language Accessibility Program. We have glossaries for election terms in five Asian languages. We have a Spanish glossary of terms. We have for the voting public a guide for voting in federal elections. I am particularly excited about the fact that we are in the process right now of doing a translation of glossaries of election terms in four Native American languages, and that should be ready in the next couple of months. And I think that also worth highlighting is the fact that we just completed a translation of the National Voter Registration Act form in five Asian languages and have gotten a lot of interest and a lot of requests for that NVRA form. While I'm

mentioning NVRA, we will be, in the upcoming months, begin our process for updating our regulations related to NVRA, so the public should stay tuned. Beginning this summer we'll be doing a lot of work around that, and we'll certainly be posting a lot of that activity on the new Web site.

The final category on the new Web site includes our research. And I'm very proud and very pleased to say over the last five years this agency has completed close to 24 research studies. Many -- the majority of those studies are applied research, so they are things that are of great interest to local election officials, we hope. But also in particular, we target policymakers and academics to look at the baseline of election data information that we have now been able to create through a series of biannual reports we've done on our -- through our Election Day Survey. All of these datasets are available on the Web site and they are there for use by the Academy and by policymakers to interpret and analyze that data as they wish.

I'm especially excited also on new work we will be doing in the coming year that we will use to populate the Clearinghouse around special election topics that, we in the Research Department, hear over the course of a year from a lot of folks, we answer queries from the public, from the Academy, from folks on the Hill about particular topics of special interests. So we will be working with senior management to figure out how best to research these topics and to get material available to the public.

MS. LAYSON:

As you can see, Karen's team has produced an amazing amount of material for voters, some of the most extensive election data and research available for academics, for policymakers. And our goal is to make sure they can find it, quite simply.

I was talking earlier about improving the experience for our stakeholders. We've built tools for the Clearinghouse that will allow them to customize that experience. I was talking earlier about the limitations of our current Web site. As you can see, and obviously, there is filler language here because we -- the Commissioners have not adopted a final policy, but this is a tool that we will use to help our stakeholders find information that they are looking for. And as you can see, they have many options. Not only can they search by key word, it also searches within files and not just titles. They can search by tag. They can search by date. And then when they get the results, as you can see, they are in different categories, so if they're looking for, you know, a video, if they're looking for a press release. So, we think it really will customize their experience.

And I also want to draw your attention to the box that says "Give us your feedback." That's another important element that will not only exist here in the Clearinghouse but throughout our new Web site, because our visitors will let us know if we are meeting their needs. So, we feel like this feedback option is very important and will be figured prominently, not only in the Clearinghouse, but throughout the site.

So, in conclusion, our effort to formulate a draft Clearinghouse policy has been deliberative and thoughtful. Like elections, one size does not fit all regarding federal agencies'

approaches to Clearinghouses and online information portals. EAC must consider the needs of our stakeholders, our governing statute and our available resources before Commissioners adopt a final Clearinghouse policy. It is important to note, however, as the needs of our stakeholders change and evolve, we will have the opportunity to review and consider updating our policy.

We anticipate presenting the Commission with the proposed draft policy within the next few weeks, and I will recommend at that time that the Commission consider putting it out for a 45-day public comment period according to EAC's Notice and Public Comment Policy.

I appreciate the support of the Commission and my EAC coworkers for helping me conduct research, find resources and understand the unique needs of our stakeholders. I believe the Clearinghouse policy will be more robust and customer-service based thanks to their contributions and their spirit of collaboration. I look forward to continuing to work with the Commissioners and EAC staff to develop a robust and considered Clearinghouse policy.

Thank you very much and I look forward to your questions.

CHAIR DAVIDSON:

Thank you. I appreciate the presentation from both of you. And it is exciting to see the new Web site, also.

I'll turn to Commissioner Hillman for questions.

COMMISSIONER HILLMAN:

Thank you. Let me begin by just commenting, Mr. Wilkey, as you and I work together to formulate the agenda and EAC presentation for the June Board of Advisors meeting this would certainly be an

excellent part of it and probably a good segue into some of the documents that the Board will be discussing at its meeting. So this is very helpful.

MR. WILKEY:

Yes.

COMMISSIONER HILLMAN:

Ms. Layson, and you know this is my concern that I've had forever, as our Web site gets more and more sophisticated it's fabulous, but what does it mean for areas of the country or voters and other individuals who don't have access to high speed broadband and may still be using dialup? Does it restrict their ability to navigate and interact with the Web site as it's currently being designed?

MS. LAYSON:

Well, as a matter of fact, the E-Government Act of 2002 takes that into consideration for people who may not have broadband and only have dialup access. And our Web site contractors are very aware of that. And we have -- they are going to find solutions to make sure that we are able to serve the needs of those who have dialup.

It's also important to note that we will have a usability testing period in which the public can report to us their experience with the Web site. And that will certainly be an opportunity for us to find out the solutions we have come up for those users is working. So that is something we are certainly taking into consideration.

COMMISSIONER HILLMAN:

Okay thank you. On the "Give us your feedback" site...

MS. LAYSON:

Yes.

COMMISSIONER HILLMAN:

...now we know that people often have unkind things to say about us.

MS. LAYSON:

Sure.

COMMISSIONER HILLMAN:

Is there a way that we capture the feedback to make sure that it doesn't contain words that should not be posted on a public Web site before they become visible?

MS. LAYSON:

Yes, there are solutions for that. However, it does require -- technology does not provide the only solution. There has to be someone who monitors that kind of thing. So it's a combination. But I do not anticipate because of what you just mentioned that any comments would be posted live for that very reason. We would need to review them to make sure the language is appropriate and so forth.

COMMISSIONER HILLMAN:

Um-hum, okay, thank you. With respect to the government policies, U.S. Government policies, and you noted some of them in your presentation, does our Clearinghouse policy have to adhere to certain government-wide policies? And I know you said we would incorporate parts of certain things into our Clearinghouse policy, but I'm just wondering if we have to have in place other kinds of policies that are sort of overarching and that our Clearinghouse comes under that.

MS. LAYSON:

Absolutely, and that's part of the reason that we've done this collaborative approach. I did not think it would make much sense for me to go off and work on a Clearinghouse policy without coordinating with those in the agency who are working on those very issues, for instance, being in compliance with FISMA, also our privacy statement that we're developing. And in addition, as the Executive Director mentioned, we have our Information Quality Guidelines out for comment. So, all of those things have to be considered because they will impact the Clearinghouse and its contents, especially the contents that are generated by the EAC.

COMMISSIONER HILLMAN:

A question to our Executive Director. EAC is, I guess, close to hiring a Chief Information Officer. We certainly are in the process. What is the Chief Information Officer's responsibility as it relates to the Clearinghouse?

MR. WILKEY:

Well certainly, there will be a lot of technical support given to the Office of -- the Chief Information Officer. As you know, we have relied on another agency to basically do a lot of our IT work since the beginning, and we need to -- we are at that point now where we need to look at integrating new systems. And, of course, this is going to require a lot of additional software, a lot of additional IT work. And so, that will be the primary responsibility of our CIO, in addition to completing all of our FISMA requirements that we hope to get done before -- within this fiscal year. So yes, that will be a major responsibility of our CIO's office.

COMMISSIONER HILLMAN:

Thank you, that's all I have for now.

CHAIR DAVIDSON:

Just briefly, I would -- didn't mention this at the very beginning of our meeting, but those of you that have BlackBerries, we're not as up-to-date with our technical microphones as we should be and we get feedback, so we don't interrupt anybody's presentation, if I can ask you to turn those off and also your cell phones to put them on vibrate. I'd appreciate it.

Now, I'll turn to Commissioner Beach and you can carry forward.

COMMISSIONER BEACH:

Okay, thank you. Ms. Layson, you know, over the past year I've been around to different States and, you know, I've talked to them about best practices that they have, you know, in election administration. For example, last fall we asked states to submit their contingency plans for H1N1 and for the flu for the election cycle. Would a collection of these best practices be included in the Clearinghouse? And do you think it would be beneficial to collect, you know, to have a section on there for best practices for states?

MS. LAYSON:

In my opinion, that certainly would be in keeping with our mission to improve the administration of federal elections, and I certainly think that having a hub of information sharing for election officials would certainly be beneficial. As you mentioned, when the Commission asked for flu season contingency plans, we got some really good straightforward plans. And we had a lot of election officials who

looked at those, there was a lot of interest in them, saving them money and time when one of their colleagues has come up with a good solution that perhaps they could use in their jurisdiction. So, I think that would be a wonderful use of the Clearinghouse, yes.

COMMISSIONER BEACH:

Okay. And you also talked about, in your testimony, that you've looked at other agencies that maintain Clearinghouses. Have you been able to see what type of steps they take to ensure that the information they have in their Clearinghouse is accurate?

MS. LAYSON:

It ranges from agency to agency, but the one thing that they all have in common is there is some type of process in place regarding quality assurance. And it seems to be driven by the resources available to the agency. For instance, I was speaking of NIST, and not a Clearinghouse by our definition, but basically, how they make sure that the information that they distribute to the public is accurate and current. So, it varies from agency to agency, but all of them have some kind of system in place, whether it's peer review, whether it's relying on internal experts, they do have a process in place to assure quality control.

COMMISSIONER BEACH:

Okay. And also, you mentioned in your testimony that you're recommending that we have a 45-day public comment period. I believe our Notice and Public Comment Period has, I guess, at least a 30 day. Why a 45 day for this particular policy?

MS. LAYSON:

This Clearinghouse is for the public. And I believe that we should give some extra time for them to comment on the policy, give us their ideas. In many cases as we've seen, especially from election officials, some of the best solutions come from them. And, you know, part of the Clearinghouse, as you mentioned earlier, would be to, perhaps, help them share practices, good ideas, creative solutions. So, I would look forward to hearing from them, as well as the public. And I think if we can give them more time, we should.

Also, at that time, it's very likely that the new Web site will be operating. So, there are going to be new search tools. So, I also want to give them time to be able to navigate the new Web site, as well.

COMMISSIONER BEACH:

Okay, thanks. I just have a quick clarifying question for Ms. Lynn-Dyson.

You stated that you're going to work with senior management on special election topics. Is it topics regarding special elections that are conducted? Or is it special...

MS. LYNN-DYSON:

No I'm sorry, special issues.

COMMISSIONER BEACH:

Special issues.

MS. LYNN-DYSON:

Special issues.

COMMISSIONER BEACH:

Can you give me an example?

MS. LYNN-DYSON:

Anything from early voting to better serving disabled voters, better service to language minority voters, provisional voting. Those are the kinds of issues. Felon voting, for instance, is of great interest at the moment, as you know. So, how can we within the Research, Policy and Programs Division accommodate and proactively provide research information to the public, to local election officials on those topics, current, helpful information.

COMMISSIONER BEACH:

Thanks.

MS. LAYSON:

And Commissioner, if I may, we will also work in conjunction with Karen's division to make sure that the information they generate is provided in a way that's helpful to the public. As I said earlier, we want to make sure they know it exists and how to find it. So, we're going to work together moving forward to make sure the information and the data that they collect is made available to the public and can be used.

COMMISSIONER BEACH:

Okay thanks. When I hear special election, I think of an actual election.

MS. LYNN-DYSON:

Yeah, I apologize.

COMMISSIONER BEACH:

No, no that's fine. Thanks for the clarification.

CHAIR DAVIDSON:

All right, thank you. My first question, I really don't care which one of you answer, but you mentioned that you had gone out and really

worked with other agencies, federal agencies that have Clearinghouse policies and brought them in. What is the one thing that you felt you gained from those meetings that we need to take in advisement and really make sure we follow through?

MS. LYNN-DYSON:

I'll go first. That was a very exciting meeting I felt. Jeannie and I working with some of our colleagues met with close to -- maybe a dozen representatives from across the government. I was struck by two things. One is how long some of these Clearinghouses have been in existence. I remember, in particular, a representative from the National Institutes of Mental Health probably some of the longest, deepest history with Clearinghouses is 25 years worth of information and expertise on how to reach the public.

And I think second, I would say, and I think Jeannie would echo this, we were struck by the amount of money that these agencies are able to put into their Clearinghouses functions. I remember, in particular, a representative from the Department of Education, and that was I think on average they spend about \$800,000 a year on the administration of their Clearinghouse functions. So that's, you know, we're the little engine that could but...

CHAIR DAVIDSON:

That's quite a hefty price tag.

MS. LYNN-DYSON:

It is.

MS. LAYSON:

And that's the low end.

MS. LYNN-DYSON:

And that is the low end, by all means. But, you know, when you start to think about a national Clearinghouse, it's a monumental -- monumental task.

CHAIR DAVIDSON:

So, for a little agency like this, we take it by steps?

MS. LYNN-DYSON:

Yeah, absolutely.

MS. LAYSON:

That was -- I was going to say, that was my -- that's what struck me as well, is when you get down -- you can think about the concept of the Clearinghouse, but then when you talk to people who actually manage a Clearinghouse, audit the Clearinghouse, put data in the Clearinghouse, you come to realize that there's a lot more involved than I think we had initially thought. And so, I think your point is a valid one. If we're unsure how we would be able to support a Clearinghouse at the EAC, you know, I would think at some point it may be advisable to look at kind of a gradual approach to moving forward, because I don't want to not be able to -- if we're going to have a robust Clearinghouse with a lot of links and so forth, I want to make sure that we're able to audit that to make sure that to make sure the information is current, make sure that it's accurate. And there's a lot of maintenance involved. And that was what struck me, as well.

CHAIR DAVIDSON:

Okay. The primary audience, you said the public. Is that what you really feel is your primary audience for this? I mean, obviously we

know everything we do for the public, but is there primary audiences out there that you would like to also identify?

MS. LAYSON:

Well, I think obviously, during a federal election year I want to make sure that voters have a credible hub to go to to get information. Obviously, most of the states do a really good job on their Web sites providing basic information. The most basic questions are, "Am I registered? And where do I vote?" If we can become a reliable resource for them, even if it's a hub of linking to states that provide that information, I think, during a federal election year from my standpoint I would want to make sure that voters have a place to go to get accurate information. But also election officials, you know, I want to make sure that we have a resource there for them as well. As Karen mentioned regarding the recruitment of poll workers, polling place design materials. So, I think it would for me it would depend on whether it's a federal election year or not, but certainly overall voters, election officials, the disability community, people who need language assistance. So it's a wide range of stakeholders.

CHAIR DAVIDSON:

Talking about language, is it your intention to make this multilingual where we can provide also the same Web site in several different languages?

MS. LAYSON:

We -- absolutely. We have -- major portions of the Web site have already been translated into six languages. And Karen's group

actually headed that up. And we translated the major portions how to vote. And of course, we got all the resources as well so, yes.

CHAIR DAVIDSON:

You know as I think about it, one of my concerns is making sure that we have up-to-date information, because we can put state law or state policies on and it can change overnight. Can you tell me how you plan on trying to keep it up-to-date as possible? I mean, that's my main concern. We're dealing with time sensitive information, obviously. And we think we have accurate and correct information when we do studies and everything, and it is very hard to actually capture the information for all the states.

MS. LAYSON:

It is -- it is difficult. It is a challenge. And, you know, as a federal agency we have responsibilities, as I just discussed earlier, regarding the accuracy of information that we link to or post. So, we have some high standards to meet. That's not always conducive with speed and doing things quickly, so it's a balance. And I think the important thing is to start with a foundation that we can manage, so that we can make sure the things we do post are current and accurate and that we have the resources to be able to audit that regularly.

MS. LYNN-DYSON:

I would add to that, Chair Davidson, I am particularly interested in and excited about in the coming year to year-and-a-half my folks doing a lot of work with local election officials to really make certain that all of the wonderful material we've developed over five years they know about, they're using, we're getting good feedback on.

And I think moving forward, working with Jeannie, we've already begun to discuss how we can realistically, almost in real time, have a network of local election officials who are designated to work with the EAC to update that information, should we get to a point where we do have material on the Web site that deals with statutes, that deals with policies and procedures states are using. Can we on, maybe not real time, but even on a quarterly basis reach out to them to get material updated? And it's just a really exciting piece. I'm looking forward to making, you know, real one-on-one connections in the field.

CHAIR DAVIDSON:

I guess, my last question is is back to the cost. And when you were planning for this, Ms. Layson, did you plan for it in our next budget that it would be maybe an initial increase in cost, of some sort? I mean, even translating of all the material, I see a cost there. I mean that's small compared to some of the other issues. So I wondered if you had planned for that type of increase.

MS. LAYSON:

Well, I think one of the ways that we're fortunate, here at the EAC, is that I believe the Clearinghouse is going to be a shared exercise. A lot of the material that will go in the Clearinghouse for instance, or that I would envision would go in the Clearinghouse, from Karen's division she has budgeted for. So, the challenge is going to be on my end making sure that we can maintain it, making sure that it's presented in a manner that is easy for the public to find and use. So, I think they're going to be shared costs. So, at this point I haven't put in a budget request for an increase based on the

Clearinghouse. A lot of it also would be driven by the scope of the final policy that the Commission adopts.

Now, I have already spoken to our Human Resources Department about finding creative ways to, maybe staff could share in the maintenance of the Clearinghouse based on subject area. Perhaps, we could have interns to come in to do some of the basic auditing of the site. So, we're looking at creative solutions, but depending -- it really depends on the scope of the final policy.

CHAIR DAVIDSON:

Mr. Wilkey, do you have any questions for our panelists?

MR. WILKEY:

I don't have questions, but if you would indulge me for 30 seconds I'd like to make a comment.

You know, in the nearly five years that I have been with the Commission, we certainly have had some hits, and some of them have been deserved. Others, for one reason or another, we still don't understand. A less positive person would allow themselves to get discouraged. But, when you see this kind of work, the very highly professional, first rate, comprehensive amount of work that goes into something like this, what you're going to hear in the next panel from our Certification Division, or whether it's our Grants Division, or what we've done in our finance end, it is an incredible amount of work that we have put forth over this five-year period. You're seeing it -- you're seeing it today. This is exactly in my view, and for those of us who go back to when HAVA was being discussed and formulated in the Congress, this is exactly the program that they envisioned for us. And I think it is one, in

addition to certification, in addition to grants, in addition to research, that we're going to prove that we have met our HAVA obligations, and then some.

So, thank you for allowing me to say that, because I think it needs to be said. This is an outstanding example of the kind of work that is coming out of our Commission every single day. And I appreciate it and I know you all do, too. Thank you.

CHAIR DAVIDSON:

Thank you. Any other questions?

COMMISSIONER HILLMAN:

I do, I just have one follow-up question for clarification. We've got - it sounds like we've got two things going on here. One is the Web site is being revamped irrespective of the Clearinghouse policy. I mean, the two come together, but the revamped Web site will be done before we do the Clearinghouse policy. Is that correct?

MS. LAYSON:

Yes. If you will allow me, Commissioner, I would also like to take this opportunity just to briefly tell the public what the next steps are regarding the launch of the new Web site, in conjunction with our work to move towards a final Clearinghouse policy.

What we're doing right now, as I said, is beta testing and we are work...

COMMISSIONER HILLMAN:

For those of us...

MS. LAYSON:

Yes.

COMMISSIONER HILLMAN:

...beta testing, yes indeed, I'm still on dialup.

MS. LAYSON:

Basically staff -- EAC staff, we all -- we worked with the EAC staff to make sure that their sections of the Web site, their respective program areas, that the Web site was going to meet their needs and also the needs of their stakeholders. So, right now, what we are asking them to do is go through their sections and make sure we accomplished that, where we didn't, to let us know, if we need to make changes, we'll do that.

Then, the next step, which is basically beta testing, the next step is we're looking to launch the site in May. However we -- it's my understanding that we may have some virtual meeting sessions coming up in April, maybe early May. I'm a little hesitant to make that switch while those meetings are going on. So, depending on when those begin and end, I would think we would launch the new site in May.

Then, what happens in May through June, we're going to conduct what we call usability testing. That's when we ask the public, we ask our Boards, we ask other experts to tell us if the site is usable from their perspective. And what I mean is, is it intuitive? Can you find what you're looking for? Does -- the search tool we came up with does it work? And we'll take that feedback as well and continue to make improvements after the site has been launched.

COMMISSIONER HILLMAN:

Thank you. And I just have one more to follow-up on a point that you raised about, I guess I'll use the term, the key stakeholder

groups using the Clearinghouse. I probably differ with Ms. Layson's perspective in the sense that I think while EAC absolutely should remain committed to providing information that individual voters can access and find useful, I think the stakeholder groups that will most benefit from our Web site will be election officials and academics and others who need the volumes of information to analyze, to either enhance the work they're doing or to gain best practices, or whatever. I really would think that voters may find some of the 20 something research reports interesting, but they probably would not use them on a regular basis the way other people would. So, it would be interesting to sort of compartmentalize and figure out the percentage of our Clearinghouse that is really individual user friendly and resource rich versus the larger entities. I mean, I just don't get the sense that voters really cruise through all the material we have up there. I mean, we do verbatim transcripts of our minutes and minutes of our meetings, and so on and so forth, and I really rather suspect that there are other groups who are the major stakeholder users of our Web site. But it will be interesting to see.

MS. LAYSON:

And I think, if I could respond to that Commissioner, I think we're going to take a very wide approach. When it comes to seeking people to do the usability testing, we're going to make sure that all of those groups are representative of the general public; voters, academics, as well as policymakers, both State legislators and we're going to ask some Capitol Hill staffers, as well. So I think -- I think we'll have all those perspectives represented.

COMMISSIONER HILLMAN:

Thank you.

CHAIR DAVIDSON:

Any follow-up from you, Commissioner Beach?

COMMISSIONER BEACH:

No.

CHAIR DAVIDSON:

Thank you, I appreciate it. Thank you for the great presentation.

And while we're setting up for our next panel, I think that we have Mr. Hancock that is here from our Certification and Testing Program, or I guess, I should say Testing and Certification, put it in the right format, that is going to be testifying before us. And he's going to be discussing the public comment version of the Pilot Program Testing and Certification Manual. Get all those words out.

Welcome.

MR. HANCOCK:

Thank you.

CHAIR DAVIDSON:

Thank you very much and we'll turn it over to you for your presentation.

MR. HANCOCK:

Thank you very much Madam Chair, Commissioners, Executive Director Wilkey, Counsel Nedzar. I appreciate you inviting me here this morning to give you some information on the new EAC Pilot Program Testing and Certification Manual.

I think it's important to state right up front that the primary purpose of the EAC's Pilot Program Certification Manual is to

provide clear procedures to manufacturers for the testing and certification of voting systems to be used in pilot election programs. The program recognizes that the Federal certification framework should encourage the voting systems industry to pursue technological innovation and experimentation in the design of voting systems and the methods of providing a better and more secure voting experience for voters in the United States. The general concept is to provide a quick and cost effective method to certify pilot program voting systems used by states that require EAC certification. This Manual provides a clear and transparent process for the testing, certification and evaluation of voting systems used in these pilot programs.

As Mr. Wilkey mentioned earlier, the EAC has submitted this Manual to the *Federal Register* and posted the document on the EAC's Web site for public comment. The public comment period is scheduled to run until 5 p.m. eastern time on Monday, April 26th, 2010. Information on how and where to submit comments can be found on our Web site at www.eac.gov.

The Pilot Program Certification Manual follows the same general outline format as the Testing and Certification Program Manual for our full certification program. The document contains eight sections, including an introductory section. The sections containing information and requirements pertaining to Manufacturer Registration, Request for Interpretation and the Release of Certification program information are virtually identical to those same sections of the Testing and Certification Program Manual adopted by the Commission in December of 2006.

Generally, to receive a determination that an EAC certification for a pilot -- determination on a certification for a pilot voting system, a registered manufacturer must submit an EAC approved application for that certification, had a voting system test lab submit an EAC approved test plan, had a test lab submit a voting system -- test a voting system to applicable voting system standards, had that test lab submit a test report to the EAC for technical review and approval and, finally, receive EAC approval of the report in a Decision on Certification. These elements are again very similar to our current Testing and Certification Manual. Like our full program, manufacturers must submit an application package containing very specific information about the system prior to testing. Unlike our full program, manufacturers will also be required to submit as part of the application package a Declaration of Conformity document. For the purposes of the EAC pilot certification programs, a Declaration of Conformity is the procedure by which a pilot voting system manufacturer notifies and affirms to the EAC that the manufacturer has taken the necessary steps to ensure that the system conforms to the applicable technical standards and requirements promulgated by the EAC for any particular pilot program. All testing done by the manufacturer pursuant to the Declaration of Conformity must either be conducted by the manufacturer themselves, under a quality process substantially similar to those noted in ISO/IEC 17025, or by a test laboratory accredited by the National Voluntary Laboratory Accreditation Program, which we know as NVLAP, or by the

American Association of Laboratory Accreditation, known better as A2LA.

The Declaration of Conformity places the legal onus on the manufacturer for conducting testing of their product to the standards or requirements listed in that document. This process is used in many other industries and provides benefits to the manufacturer by limiting both the time and cost of traditional VSTL testing. Our hope is that reducing both the time and cost of testing in this manner will benefit election jurisdictions by encouraging manufacturers to attempt innovative solutions while keeping the cost reasonable to both the manufacturers and to jurisdictions wishing to attempt limited time pilot programs.

Other changes to our process necessitated by truncated pilot program timeframes include an accelerated EAC review process for both Test Plans and Test Reports. We are suggesting we will review Test Plans within five business days and Test Reports within ten business days, also the limited nature of pilot certification and the certification number itself. Each certification document awarded to a manufacturer by the EAC will contain the specific expiration date which we feel generally will coincide with the timeframe for the conclusion of any election jurisdiction's pilot election work.

Because of the limited timeframe of pilot certification efforts, our Manual will not include provisions for the decertification of a pilot system. This Manual does however provide for the denial of certification for a pilot voting system with an expedited appeal capability by a manufacturer if a denial of certification is issued.

A denial of certification would, of course, be recommended by staff if the pilot system failed to show conformance to the applicable standards or requirements during the VSTL portion of the test campaign, or if the EAC's Declaration of Conformity audit, which I will discuss momentarily, finds that the manufacturer's testing documentation was missing or incomplete, or if the testing itself was inadequate to measure conformity to the applicable standards or requirements.

Under our Pilot Certification Program Manual, the EAC has two primary tools and one secondary tool for assessing the level of effectiveness of the pilot certification process. Our two primary tools are: manufacturer Declaration of Conformity audit that I just mentioned, and mandatory post election reporting by manufacturers.

Our secondary tool is voluntary pilot program monitoring reporting by State and local election jurisdictions that are participating and conducting pilot programs.

The manufacturer Declaration of Conformity audits will be conducted to: One, gather information and documentation to insure that the attestation in the Declaration of Conformity agrees with the actual documented testing done to the pilot system by the manufacturer; two, to review documentation including but not limited to: test plans, test cases, test methods, test suites, test procedures, test data recorded and test reports, to determine the adequacy of manufacturer conformance testing; and, three, to gather information and documentation to ensure that the

manufacturer adheres to their own stated quality management system and configuration management system.

Each manufacturer shall be subjected to a mandatory Declaration of Conformity audit during every pilot certification testing engagement. Declaration of Conformity audits shall be conducted for a period not to exceed five business days.

A written audit report will be drafted by the EAC and provided to the manufacturer within ten business days of completion of the audit. Manufacturers that pass these audits may continue in the pilot certification program. If the audit report finds a manufacturer's quality program, and/or product testing was deficient, or if the audit finds that required records were missing, inadequate or otherwise falsified or fabricated in order to circumvent the EAC process, the auditors will recommend that the pilot voting system be dismissed from the pilot program pending adequate resolution of non-conformities found during the audit.

The EAC will also require registered manufacturers of voting systems used in these pilot programs to collect and submit information related to the performance of the system in any election in which it's used. Information on actual pilot system performance in the field is a basic means of assessing the effectiveness of the pilot product as well as manufacturing quality control.

Manufacturers will be required to record each anomaly that affects the pilot voting system during an election. In addition, the manufacturer will be required to identify all root causes of each anomaly and report to the EAC all corrective actions identified and taken for each anomaly. We feel the reporting of these anomalies

will allow the EAC to better evaluate the performance of pilot systems under real election conditions in order to make recommendations for future use of that system. The report may be filed by the EAC by electronic mail or regular mail or by facsimile.

As our secondary means of gathering field data, the EAC will collect information from election officials who field EAC-certified pilot voting systems. Information on actual voting system field performance of pilot systems again is a basic means for assessing the effectiveness of the manufacturer's product and their quality control. We, of course, will provide a mechanism for State election officials to provide this information to us, and most likely it will be the voluntary anomaly reporting form that we use for our current certification program.

In conclusion, I'd like to say that the Certification Division feels that the new Manual will provide valuable services to both the election community and the voting system manufacturing community by providing a process through which new and innovative systems may be piloted in jurisdictions in order to gain first-hand experience with the new technology as it's implemented in real-world elections and certainly to evaluate those systems and its benefits to both domestics and potentially to overseas voters. We look forward to the public comments on this document as we move forward towards final adoption of the Manual.

And with that, I would be happy to answer any questions that you might have at this point.

CHAIR DAVIDSON:

Thank you, Mr. Hancock. Commissioner Hillman, are you ready for questions?

COMMISSIONER HILLMAN:

Thank you, I do have a question. Are there systems that would qualify under this program in the queue waiting for certification?

MR. HANCOCK:

We have not been made directly aware of any systems. But in our work that we'll be discussing in our panel this afternoon on UOCAVA Requirements, we had been contacted sort of unofficially by jurisdictions that were seeking processes in which to be able to use certification pilot programs in states that require EAC certification this year. So, while I can't tell you that manufacturer A, B or C is waiting for this, we have heard anecdotal information that states may be needing such a program.

COMMISSIONER HILLMAN:

So, without necessarily revealing something that manufacturers don't want discussed yet, for whatever reason, can you give me some generic description of what a system might be for pilot testing that wouldn't be a voting system going through certification that has already been certified?

MR. HANCOCK:

Sure, you know, very specifically, and again as we'll be discussing in our panel this afternoon, types of UOCAVA voting systems, whether they're kiosk-based systems, as we'll be discussing in the requirements this afternoon, or in the future, potential iterations of some sort of Internet voting systems, those would be new and be able to put through in the pilot certification program effort. But we

certainly didn't want to limit this Manual to those types of systems. You know, in the future we certainly expect manufacturers to be developing new voting systems with new cryptographic technologies, you know, ways of software independence that we might not have thought of before. And certainly, they may want to pilot those before they try to market those, you know, on a mass level, and we wanted to be able to have a process through which they could do that.

COMMISSIONER HILLMAN:

No, and I absolutely agree, I don't think that we should adopt a policy that's so limiting, and then the Commission has to come back and readopt an amended policy. But I'm just trying to get a grasp on what the technology, what the thing that might be that would go through pilot testing over the next, say, 12 months or so. And I just wondered if you could say a comment or two about what is a kiosk voting system versus a regular voting system...

MR. HANCOCK:

Sure.

COMMISSIONER HILLMAN:

...that voters have experienced...

MR. HANCOCK:

Right.

COMMISSIONER HILLMAN:

...to date.

MR. HANCOCK:

Yeah, and again, we'll talk about this more this afternoon, but a perfect example would be the voting system that was fielded in

Okaloosa County in the last election. It was a manned kiosk system, so to speak. It was set up at several places around the world. Military and overseas voters could go to that system and vote there as opposed to using the current absentee balloting system or UOCAVA system. And right now that is, because of time and other reasons, that's the most obvious type of system that might be put in place very quickly using this system. So, that was one of the impetuses for us doing this.

COMMISSIONER HILLMAN:

Okay. So I've heard you say that more will be discussed this afternoon and I'll wait, because I'm still not visualizing what a -- what this thing is, so I'll get the visualization this afternoon.

MR. HANCOCK:

We'll be discussing that in detail this afternoon.

COMMISSIONER HILLMAN:

Thank you.

CHAIR DAVIDSON:

Any other questions?

COMMISSIONER HILLMAN:

No, thank you.

CHAIR DAVIDSON:

Commissioner Beach.

COMMISSIONER BEACH:

Mr. Hancock, in the beginning of your testimony when you talk about the testing done by the manufacturer pursuant to the Declaration of Conformity, you noted ISO/IEC 17025. What exactly is -- can you give me a description of what that is?

MR. HANCOCK:

Sure, that is the basic procedures for -- in fact, that we and NVLAP use to review accredited laboratories. It sets up the procedures that they need to have in place, both the quality procedures and processes that a laboratory has. Most large manufacturers of any product, telecommunications product, voting systems otherwise, you know, do a lot of their own testing in-house and certainly the more testing that they do in-house, you know, benefits them going forward through certification testing. You know, our thoughts are that most of the real mature manufacturers probably run, you know, their systems through something very similar to the tests that our labs do on the VVSG, you know. We heard Jeannie just talk about beta testing for our system, and most manufacturers do that on their own system, whatever it might be, whether it's a voting system or telecommunication system. So, our thoughts are they are already doing that testing in-house.

And while we will have the voting system test labs do very specific testing on important things like security, you know, things like ESD, electrostatic discharge testing, and some other very basic things, we feel that it's a good way to try to save some costs and some time in the process by letting the manufacturer's testing be reviewed to see if it's adequate.

COMMISSIONER BEACH:

Okay, thanks. And when you discuss the audit that will be done, who will be conducting the audit? Is it EAC in-house or will there be other Technical Reviewers that conduct the audit? Can you talk a little -- I mean, we may get into this this afternoon, but just briefly.

MR. HANCOCK:

Yes, Commissioner. The thought would be to certainly have EAC oversight a staff member, perhaps myself on these audits, but certainly using our technical people to do the bulk of the work.

I should also, just as a bit of a side note, let you know that we are attempting this year to have training for some of our Technical Reviewers and the staff by A2LA, so that we actually become certified under their processes and actually have a certification to go in and do those audits, and specifically the audits of voting system test labs, as well.

COMMISSIONER BEACH:

Okay, and my final question. Are there any other industries that you're aware of that use this Declaration of Conformity process, this type of expedited process for testing?

MR. HANCOCK:

Yes, there are a number of industries. It's very common in the European Union, in fact. They use it almost exclusively in their telecommunications industries over there. So, it's widely used around the world, in fact.

COMMISSIONER BEACH:

Accepted practice?

MR. HANCOCK:

Yes it is.

COMMISSIONER BEACH:

Okay, thank you.

MR. HANCOCK:

Um-hum.

CHAIR DAVIDSON:

Brian, my question is, to save time and money, as you kind of talked about in this pilot program, what would prevent a manufacturer from going through this instead of going through our full certification and bypassing our full certification?

MR. HANCOCK:

Well, the important thing is that this certification will be limited to the period of the pilot election. As soon as that election is over, this certification is going to expire. Now, if the manufacturer, you know, if the process was great and they wanted to move forward to develop this system to something they wanted to sell to states, at that point we would make them come through in our full testing program.

CHAIR DAVIDSON:

Do you have any idea what the savings will be to go through a pilot to test it for one year instead of going through a full certification, what that savings would be to really test their system up front?

MR. HANCOCK:

We can't really say, you know. It would depend on the system. But certainly our goal was, you know, the last full system that we put through, took, you know, sort of eight to ten months, in the neighborhood of 800,000 or just a touch over that. Certainly we wanted to keep it significantly less than that. We didn't feel that given the small nature of the voting systems industry that it could absorb the cost for very short term pilot systems. We want to keep it, you know, under a quarter of a million dollars, certainly less, if we can. And timeframes I guess would kind of depend on when that

pilot election might be but, you know, as short as possible, perhaps six weeks, two months, something of that nature.

CHAIR DAVIDSON:

And obviously, the better the system is the less time it will take to go through the testing because anomalies won't be a problem?

MR. HANCOCK:

Absolutely, that's always the case. And we hope that would be the same for the pilot program.

CHAIR DAVIDSON:

Less money...

MR. HANCOCK:

Yes ma'am.

CHAIR DAVIDSON:

...shorter time.

MR. HANCOCK:

Yep, exactly.

CHAIR DAVIDSON:

Okay, very good. You have additional questions?

COMMISSIONER HILLMAN:

One last question. What is defined -- you said for the period of the election. What are the parameters in defining the election if there are two primaries and a general in a year? Does -- could it be for a year or is it literally for one election?

MR. HANCOCK:

Generally, the pilots that we've looked into in the past are for the period of one election. We'd certainly want to work with whatever jurisdictions want to participate in these pilots and, you know, give

the broadest certification possible to allow the jurisdictions to finish up whatever, you know, tallying work they might have to do at the end of their election process. But certainly when that's finished, the certification would end.

COMMISSIONER HILLMAN:

Thank you.

CHAIR DAVIDSON:

Maybe that's one we really want to make sure that the individuals that's giving comments on this weigh in on that subject of whether it should be a primary and a general, or just the general.

MR. HANCOCK:

That would certainly be welcome, yes ma'am.

CHAIR DAVIDSON:

Okay, thank you very much.

MR. HANCOCK:

Thank you.

CHAIR DAVIDSON:

We finished a little early, so we can break now and go to lunch. And I guess we'll start back at one o'clock, if you would make note. So, we'll start right at one, so if everybody would be back. You've got a little longer lunch hour today than normal.

Thank you.

[The Commission recessed at 11:25 a.m. and reconvened at 1:15 p.m.]

CHAIR DAVIDSON:

Thank you, we're going to go ahead and start the meeting. I apologize we couldn't start it before 1:15 because that's what we had in the Public Register, so being on time we started directly at 1:15, by our clock anyway.

And the first that we have, or the only discussion we have today is a discussion of the UOCAVA pilot program -- voting program and the requirements of the document. This is out for public comment, currently.

And I'm going to turn it over to Brian Hancock, which will introduce his panel and give some background on each one of them and how they were involved with this project. And he has with him his Deputy Director Matt Masterson, and then Mark Skall, and Paul Miller. So Brian, I'll turn it over to you, thank you.

MR. HANCOCK:

Thank you again, Madam Chair, it's a pleasure to be here this afternoon to talk about the UOCAVA Requirements document that we now have out for public comment.

As you noted, with me on the panel this afternoon are my Deputy Director Matt Masterson, and to Matt's immediate right we have Mark Skall. Many of us know Mark for his work, but for those who don't, Mark is currently serving as the EAC technical -- as part of our Technical Reviewer staff that's responsible for the detailed review of technical documents submitted as part of a voting system certification effort. Mark joined the EAC after retiring from NIST where he served as Chief of the Software Systems Division. In this capacity, Mark managed a professional staff of over 60 employees in the Information Technology Laboratory. Mr. Skall's division was

responsible for developing testing tools that improved the quality of the software industry and for working with major standard setting organization bodies, such as W3C, ISO, ANSI and others to develop standards. And, of course, Mr. Skall and his division were responsible for assisting the EAC's Technical Guidelines Development Committee in the development and submission of recommendations for the 2005 Voluntary Voting System Guidelines and the next iteration of standards document, which was submitted in 2007.

To Mr. Skall's right is Paul Miller. Mr. Miller's background includes 11 years working for the King County Elections office, as its assistant superintendent for data processing, where his duties included setting up and deploying voting systems in King County, which is Seattle, Washington, certainly one of the biggest election jurisdictions in the United States. For the past ten years Paul has been employed by the Washington Secretary of State in a variety of roles, including the testing and certification of voting systems for the State of Washington. Paul is also a member of the EAC's Technical Guidelines Development Committee representing the National Association of State Election Directors.

Mark and Paul were members of the UOCAVA working group which was responsible for drafting the document under discussion today. In addition to Mark and Paul, the group consisted of Carol Paquette, who you all know is an EAC contractor and a member of the Okaloosa County project BRAVO team. In addition, we had members from the voting system company SITEL (ph) and Everyone Counts. We had David Wagner of U.C. Berkeley and the

Technical Guidelines Development Committee. We also had Mr. Tom Caddy who is a security testing's expert and also an EAC Technical Reviewer. We also had Mr. Jim Silrum, Director of Elections for the State of North Dakota and member of the EAC Standards Board, and Bob Carey, FVAP Director and EAC Board of Advisors member. In addition to those individuals, we had EAC staff, NIST staff and Federal Voting Assistance Program staff to all assist in this effort.

In the early summer of 2009 the EAC began the process to create a set of testable requirements for UOCAVA pilot projects. The EAC wanted to provide a means for those states that require EAC certification to run pilot projects for UOCAVA voters in 2010. The first meeting of the working group was held on July 24th of 2009.

Of course, while the EAC was getting this pilot certification effort underway, legislation dealing with a number of UOCAVA voting issues was under consideration in Congress. Ultimately passed as part of the fiscal year 2010 National Defense Authorization Act, the MOVE Act, as it's known, contains a provision allowing the Secretary of Defense to establish one or more voluntary pilot programs to test the feasibility of new election technology for UOCAVA voters. The document that we will talk about today creates testable requirements for those systems.

And with that, I will let Matt take over and he'll talk to you about the process that we used. Matt?

MR. MASTERSON:

Thank you Brian, thank you Madam Chair and fellow Commissioners, for the opportunity to talk to you today about the UOCAVA pilot program testing requirements.

Since 2008, several states have enacted legislation enabling them to conduct electronic voting projects for UOCAVA voters. In July 2009 the EAC convened a UOCAVA working group to consider how to adapt the EAC's Testing and Certification Program to accommodate UOCAVA pilot systems. To support states with these projects, it was concluded that two work products were needed: a modified set of system testing requirements; and, a revised pilot program testing and certification process which Brian talked to you about earlier this morning.

In considering how to adapt the EAC's Testing and Certification Program to accommodate UOCAVA pilot systems, EAC has taken the same approach as states looking at UOCAVA pilot projects by drawing on source materials for this effort. And we drew from the following sources: the Voluntary Voting System Guidelines, which is the 2005 VVSG; the VVSG 1.1 or the one that's out for -- or was out for public comment earlier this year; the VVSG 2.0 which were the TGDC recommendations given to us in August of 2007; the VOI and SERVE projects done by the Department of Defense, and Florida requirements documents done in conjunction with the Okaloosa project, as well as FIPS and NIST Special Publications.

The drafting and development of the requirements was an iterative process. The EAC's UOCAVA working group provided EAC with opinions on the breadth and depth of the requirements.

After receiving this information EAC staff worked to use those opinions to create a requirements document that would provide for rigorous and efficient testing of pilot systems. In the course of this drafting process EAC held three in-person meetings with the working group to further discuss the document and offer additional analysis. EAC has also held numerous teleconferences with NIST, FVAP and various working group members to further develop the document. In the end, an estimated 86 drafts of the document were created before it was ready to go out for public comment.

Pilot projects are small in scale and short in duration. Consequently, certification for pilot systems needs to be a quicker and less expensive than the regular certification process currently used for conventional systems. Current systems have an expected life of more than ten years. Nevertheless, since actual votes will be cast using the voting systems utilized in the pilot project, the certification process must retain sufficient rigor to provide reasonable assurance that the pilot systems will operate correctly and securely.

There is a fundamental dichotomy in the complexity in remote voting architectures: those where the voting platform is controlled, e.g., provided by the election jurisdiction; and those where it is not controlled, e.g., the voter uses his own personal computer. Since the EAC planned to have the pilot certification process ready for implementation during the first half of 2010, it was decided that the EAC would focus its efforts on controlled platform architectures servicing multiple jurisdictions. This is a highly secure remote voting solution similar to the one used for the

Okaloosa Project in 2008. Defining requirements for this class of system architecture was determined to provide a reasonable test case that could be completed within the available timeframe. In addition, most of the core system processing functions are the same for both types of architecture. This allows for a substantial number of requirements to carry over as this work is expanded to include other methods of remote electronic voting.

The requirements document, which is currently out for public comment, contains testable requirements in the following areas: Functional requirements, usability requirements, software requirements, security requirements, quality assurance requirements, configuration management, technical data package requirements, and system user manual requirements.

There are a couple of areas that I would like to highlight for you because they are of particular importance for this type of voting. First, the requirements document contains requirements for penetration testing. This means that an EAC accredited VSTL will put together an experienced penetration testing team to check the system for vulnerabilities. The requirements for penetration testing are very specific as to the scope of this testing and the nature of the vulnerabilities to be evaluated. Second, the document emphasizes the auditability of the system. A great deal of consideration was given to how auditability will be achieved for the remote electronic voting process. These requirements require a higher degree of auditability than the 2005 VVSG.

The Certification Division feels that the UOCAVA Pilot Requirements document represents a solid set of testable

requirements that will rigorously evaluate a system while creating enough efficiency to make testing of the system worthwhile for a pilot process. In addition, once finalized, this requirements document will be given to the EAC's Technical Guidelines Development Committee to serve as an important first step as it begins the process of developing a full set of testable requirements for remote electronic voting systems as required by the 2002 and 2005 Defense Authorization Acts.

I would like to remind everyone here today, and watching on the webcast, that the UOCAVA Pilot Program Testing Requirements are currently out for public comment until April 15th. The document and instructions for how to comment are available at www.eac.gov. I strongly encourage anyone interested in these requirements to please offer their comments on the document.

Finally, I would like to commend and thank James Long and Josh Franklin for their work on this project. Both James and Josh worked tirelessly on the requirements and I believe the result of their hard work shines through in the document. Thank you for the opportunity to testify before you today and I'm happy to answer any questions.

CHAIR DAVIDSON:

Thank you. Mr. Skall?

MR. SKALL:

Thank you. Chair Davidson, Commissioners Hillman and Beach, thank you for the opportunity to testify today.

As we all know, the present system for UOCAVA voters is deficient due to the fact that mail transit time and unreliable delivery

pose significant barriers for many UOCAVA citizens. Consequently, several States have passed legislation enabling them to conduct electronic voting projects for UOCAVA voters, beginning with the 2010 elections. This legislation necessitated the need for developing requirements for UOCAVA systems. Since the existing voluntary voting system guidelines did not envision remote voting technologies, these requirements were not sufficient to test UOCAVA systems. Thus, in order to support the states in conducting electronic voting projects for UOCAVA voters, the EAC convened a UOCAVA working group to consider how to adapt the EAC's Testing and Certification Program to accommodate UOCAVA pilot systems. The working group decided to develop a UOCAVA Requirements document extracting source material from existing standards and guidelines whenever feasible. These standards and guidelines included, among others, the VVSG 1.0, 1.1. and 2.0, and NIST products including FIPS and NIST Special Publications. The working group was well aware that some of the source requirements needed to be modified for the new UOCAVA Requirements document. Furthermore, if a requirement, not available in the source documents was needed, it would be developed by the working group. So, we were not only taking requirements and putting them into this document, but we were also, on some occasions, developing new requirements.

A typical test campaign to test voting systems for the general election is very, very comprehensive and thorough and takes a long time to complete. Testing time has ranged from six months to two years. The long testing time is a necessary outgrowth of two

specific factors: First, the inclusion of many detailed requirements in the voluntary voting system guidelines; and, second, the need for VSTLs, or our test labs, with the oversight of the EAC, to comprehensively test each and every requirement.

The UOCAVA pilot program, however, had its own set of criteria if it was going to be successful. Since pilot programs are small in scale and duration, testing for these systems needed to be much quicker and much less expensive than for conventional systems in the general election. However, as Matt said, since real votes are cast and counted in these pilot programs, thoroughness and rigor could not be sacrificed. Thoroughness and rigor are assured by including sufficient requirements to allow testers and voters to have confidence that the resulting voting systems are reliable, secure and usable.

Consequently, it was decided to include all appropriate requirements and not to exclude any specific requirement just because it would make the system less costly and faster to test. Instead, the mechanism used by the working group, to dramatically decrease the time and cost of testing, was to assign the testing of some of the requirements to the manufacturer of the pilot voting systems. Thus, testing of requirements would be divided between the VSTL and the manufacturer. The testing of critical requirements was assigned to the VSTL, while the testing of non-critical requirements was assigned to the manufacturer of these pilot UOCAVA systems. After all, manufacturers need to comprehensively test their own systems during system development. Thus, they would be able to reuse many of the tests

they had already developed resulting in less costly and faster certification testing. By employing this dual-testing strategy, the knowledge, expertise and experience of the manufacturer could be leveraged.

There are, of course, risks in allowing manufacturers to test their own systems to determine whether or not they conform to many of the requirements in this document. To mitigate these risks, it was determined that stringent oversight by the EAC is necessary. First, the manufacturer will legally attest to the accuracy of the test results submitted to the EAC. Second, the EAC will review the test results and associated documentation from the manufacturer and make a determination that all requirements have been appropriately tested and that the test results are acceptable. Third, the EAC will conduct audits of manufacturer testing to ensure this adequacy. Any determination that a manufacturer has not conducted testing properly will result in loss of certification. This combination of legal attestations and physical audits will provide us with sufficient confidence that the manufacturer testing was done accurately and comprehensively, while enabling dramatically faster and less costly testing.

Now, under the current EAC certification program, any modification to a certified system, not authorized by the EAC, will result in the void of the certificate. However, in the UOCAVA testing and certification process, since the systems being tested are COTS systems, flexibility is needed to accommodate routine and expected changes to these COTS systems. Thus, in UOCAVA testing the concept of “equivalent configuration” was introduced. In

UOCAVA, an equivalent configuration is a voting system configuration that differs in some minor way from the tested voting system and has been attested by the manufacturer to perform identically to the tested baseline configuration. The requirements document enumerates very specific instances of changes that are allowed to be made without resulting in retesting. In providing for equivalent configurations, the UOCAVA Requirements document provides the needed flexibility to accommodate routine and expected changes to these COTS systems. Without this flexibility, UOCAVA systems would have to be continually retested due to many routine changes, such as operating system security patches, which are typically applied every few days.

Developing a standard or guideline, in any environment, is a difficult task. It entails coalescing many different representatives of different constituencies and getting them to agree on specific requirements that then have to be carefully worded to accomplish the collective intent. The standard or guideline then needs to not only clearly delineate the set of requirements, but also provide enough explanatory text so that different readers of the standard can discern what is being required. This is especially difficult in a world of elections where the degree of public scrutiny is so great that the readers of the standard are many and varied.

The UOCAVA Pilot Testing Program Requirements document faced even greater challenges. First, the composition of the EAC UOCAVA working group had to be decided, including the organizations that would participate, as well as deciding which individuals representing those organizations to invite. Decisions

then needed to be made with respect to the platform architecture that would be tested by these requirements. Next, crucial determinations on what requirements were to be part of each section needed to be made, as well as decisions as to which entity, the VSTL or the manufacturer, would be assigned the responsibility to test each and every single requirement. Furthermore, since this document was intended to be used for the 2010 elections, there was a very specific, and incredibly short, timeframe in which to develop this unique document. Lastly, the document had to be read as if it were written by one person. It needed to be internally consistent, uniform and homogeneous. This was an especially difficult task since these requirements had been gleaned from many different sources and had been written by working group members with widely diverse backgrounds.

In spite of all these obstacles, the UOCAVA Pilot Program Testing Requirements is an excellent set of requirements. The requirements are well-specified, clear and concise. They are comprehensive, yet not overly constraining. Each and every requirement references not only the test entity that is going to test that requirement but this document is also the first voting standard or guideline to describe the test method to be used. The UOCAVA Requirements document is also the first voting standard or guideline to incorporate comprehensive requirements for penetration testing. Penetration testing, similar to open ended vulnerability testing, involves an active analysis of the voting system to attempt to discover potential vulnerabilities.

In conclusion, the UOCAVA Requirements document is a seminal voting system guideline. It addresses needed functionality for UOCAVA systems and does this in a unique and groundbreaking manner. It introduces new and innovative ways to specify requirements and to test and certify UOCAVA systems. However, the UOCAVA Requirements document is only a first step. It assumes the kiosk model in which the voting platform is provided and controlled by the election jurisdiction. We will eventually need to migrate to the model where the voter uses his or her own computer to vote. The working group was well aware of this and attempted to define requirements, so that, as much as possible, they could be carried over to support the other model. The TGDC has been tasked to consider the full range of remote voting architectures, including instances where voters can use their own personal computer for voting. The pilot testing requirements document will be turned over to the TGDC as a starting point for their research and their deliberations. As stated earlier, the UOCAVA Requirements document is only a first step, but it is an essential first step.

Thank you for the opportunity to testify. I will be happy to answer any questions you may have.

CHAIR DAVIDSON

Okay, thank you.

CHAIR DAVIDSON:

Mr. Miller?

MR. MILLER:

Thank you, good afternoon. Commissioner Davidson, Commissioner Beach, and Commissioner Hillman, I appreciate very much the opportunity to come and talk with you about this important project.

As has been noted, my background includes the deployment and setup of voting equipment in a very large county, King County. And it also includes the process of testing and certifying equipment at the state level in the State of Washington.

I think in some ways, most importantly, I come to you as part of a state that really is concerned about the issues that UOCAVA voters face. It's very clear in our experience that a number -- that mail simply does not work well for a number of UOCAVA voters in that -- in that we don't get their ballots returned, and in that a number of voters indicate that they didn't get their ballots until too late to return them.

So, for the past nine months I participated in a small federal task force committed to the development of standards for systems that can be deployed in a remote location. Essentially, what we are talking about is having a polling place in a remote location where anybody from around the United States can come and vote. So, imagine a polling place where a person from Florida, a person from Washington, a person from Colorado can come and vote at that location. That's essentially what we're talking about. And as with any voting system, the task force approached the task with the goal of providing standards that are testable. And I think we've done a good job of that, but we need -- but there is a step that goes beyond that. The task of ensuring the accuracy, reliability,

availability and privacy of the system extends beyond just being able to determine that the system can be used in a safe manner.

And toward that end, it's my understanding that we will also be submitting to you a more detailed security plan and a document of best practices for the jurisdictions that would be involved in deploying this model.

So, these requirements come out of the Congressional mandate that the EAC provide guidelines to the Department of Defense as to how to vote using -- for FVAP voters to vote using remote technology.

In order to implement this project, the expectation was that vendors with experience in delivering online voting services will submit systems that support this remote location environment. They'll submit it to the voting testing laboratory, as Mark indicated, for review and testing in an expedited manner. Successful review of the system will lead to EAC issuing a pilot certification for the system.

The result of this project, we envision, will be that the -- we will have documented how vendors have solved a number of the problems that are involved in this kind of technology. We'll have experience with deploying the system in a small, low risk type of study. And we will have a set of baseline requirements that can be turned over to the Technical Development Guideline Committee, TDGC,, of which I'm a member, to develop systems to -- to develop requirements that more adequately meet the needs of the UOCAVA voters.

This project is envisioned as a small-scale, limited-scope feasibility study. And it's small-scope – small-scale in that only a few states are anticipated to participate, and it's anticipated that while the number of voters participating would be large enough to provide a statistical, meaningful study of the concept, it would also be small enough not to affect the outcome of any electoral race.

Ballots cast using this system, this pilot system, will count. The participants in this task force decided, early on, that the model will mimic early voting poll sites as much as possible. We're familiar with the security dimensions and the -- and understanding that method of voting because it's already used throughout the country.

That decision had direct implications for some of the security dimensions of this project. The voters will go to a designated polling place to vote. The voters will provide ID or signature to authenticate themselves to poll workers prior to voting. The polling location will be staffed and controlled. The voting device at the remote location will be under the direct supervision of an elected official or delegate at all times during voting hours. The voting platform will be set up and deployed in a controlled and known state. What that means is that one of the important issues that needs to be dealt with, in terms of getting to where we want to be, is that we don't know what software might be residing on a person's personal PC, and it will have a paper audit trail.

As a failsafe measure, volunteer voters participating in the project will be encouraged to also have a by-mail ballot as a back-

up, and the voting period extends from the date of availability of absentee ballots through the close of polls.

Now, in the testimony that I provided to you there is a diagram, sort of a high-level overview of what this process is anticipated to look like.

The first step would be the credentialing process. The voter would come in, present themselves to a poll worker and the poll worker would be able to validate that the person is a valid voter meeting the State requirements for validating that voter by determining whether they are eligible based off of a list or by providing -- by the voter providing ID or signature that matches an available signature.

As part of that credentialing process, they would also be issued a ballot token which would indicate which ballot they're allowed to vote, and they would go to the voting platform where the voting platform would bring up that ballot and allow them to vote that ballot. And it's anticipated that that ballot would not be just federal and Congressional, but would be available to go all the way down to the local level for that voter.

In terms of assessing the risk in this small scale feasibility study, there's three areas we want to take a look at: confidentiality, integrity and availability of the study.

Access to voter information, including the voter's signature, is restricted -- would be restricted to authorized poll workers. Access to the voting ballot records, the requirements lists the documentation required of the vendor.

In the area of integrity, there would be an alternate paper channel for capturing paper -- for the ballot choices and can be used to capture the -- verify the integrity of the electronic process. In other words, we would have a paper record of each person's vote. That paper record would be -- can be sent to the home jurisdiction and be used to verify that the votes that were received at the home jurisdiction matched the voter's intent and the way the person voted.

The project envisions two models for ensuring the one person-one vote rule. The absentee model is a model that allows the voted record to be encapsulated with the voter's information. What I would think about is the absentee model that we currently use with mail ballots. What we send through the mail is an envelope with the name on the outside of the envelope but the ballot is sealed inside of a security envelope in the inside. The outside of the envelope allows that ballot to be directed to the right location and it allows the receiving jurisdiction to know who voted that ballot but not how they voted the ballot. The process at the receiving location would be to discard the voter information, first of all, using encryption technology and separate that information from how that person voted. That would allow the receiving jurisdiction to ensure that only one vote for that person was counted.

The early voting model, which is the alternate model, would ensure that the person is only able to cast one ballot. So the first model ensures that the voter is only able to -- the first model only allows the voter to cast one ballot. The second model ensures that the voter is only able to cast one ballot. The -- it does that by

making sure that wherever in that jurisdiction, whatever path that voter has to be able to vote, ensures that they get -- that that jurisdiction records that they voted and they are not able to cast another vote.

In the absentee model, if a voter votes more than once you would vote -- you would count the first ballot that came in and not count any other ballots that come in.

In terms of availability, the goal is to provide a 24/7 availability. But there are -- to mitigate the chances of any failures in the technology, there are alternate channels available including mail, email and fax. The remote location will be available for several weeks up to Election Day. In many cases it's possible for the voter to return the ballot at a later time.

In conclusion, the impact of a security breach in this pilot model on the overall election administration can be considered to be low in all three areas of security objectives: confidentiality, integrity and availability. The key factors that I would point to there are that voters will not be disenfranchised because there are a variety of channels available to them to vote. There's an alternate channel for capturing the voter intent which allows us to check against the technology and the methods that were used to ensure that the voter's ballot was received and voted the way that they intended it to be voted. The standard of privacy provided by the current available technology, email and fax, is a relatively easy standard to exceed. And finally, the relatively small scale of the project makes it highly improbable that votes cast using this

technology would exceed the margin between a winning and losing candidate.

That's one context, consider the risks. The other context to consider the risks are the context of the mandate -- the Congressional mandate, and that mandate required to ensure the privacy of the voter. So an impact that would allow someone to target a specific voter and find out how that voter voted should be considered to be a fairly moderate to high risk to the success of this project. We would certainly want to -- if such a breach should occur, we would certainly want to analyze why it happened and whether or not it can be resolved, or whether it in fact is an issue that would prevent going forward with this project in the future, with this model in the future.

Finally, as noted earlier, this approach is anticipated to be very labor and cost intensive. And as a result, it isn't clear that this approach can be scaled to meet the overall needs of UOCAVA voters in the end. So what we anticipate, as Mark said, this is an important and worthwhile needed project to move us forward, but the end state of things is probably a system that will allow the flexibility for someone to vote from their own computer.

Again, thank you for letting me testify before you today. I hope you're looking forward to the best practices and a more detailed security plan than what I outlined today. If you have any questions I'm...

CHAIR DAVIDSON:

Thank you, thank you all. I want to make a couple of statements before I open it up for questions and if I'm wrong please, any of you, correct it.

First of all, this is a voluntary program and EAC's job is only to write the guidelines that they're going to be tested to. We're not supporting any manufacturer. And, obviously, the manufacturers after they have been tested will go out and try to convince states if they want to use it. This is a volunteer system for states, it's not mandatory, it's all volunteer.

And the other thing I would like to kind of -- I'm a visual person. And when you were describing Mr. Miller what this would be, when I think about, being a visual person, I think about possibly looking at the DREs, the direct record devices that would be set up because it can have numerous ballot types on there. And the token that you were talking about the voter getting after they are qualified to be able to vote and compare it on the list from whatever state they came in from, then that person would -- that ballot type would be pulled up for that person to vote. Then, there is a paper that is produced that matches their vote and is returned back, so that can be audited by the jurisdiction, whether it's by the state or the local county, however the county -- however the state has set that up. But their processes and that part of it is up to the local states to develop the process on how it's going to be used in that area. Am I correct in those statements that I just made?

MR. HANCOCK:

Yes ma'am.

MR. MILLER:

Yes.

CHAIR DAVIDSON:

Okay. Does that help the Commissioners in any way kind of visualize it? Because when you was talking about a...

COMMISSIONER HILLMAN:

No.

CHAIR DAVIDSON:

Didn't help you huh?

COMMISSIONER HILLMAN:

Well, I'll get to it.

CHAIR DAVIDSON:

Okay.

COMMISSIONER HILLMAN:

Mark knows I'm going to drill deep, so that's all right.

CHAIR DAVIDSON:

So anyway, I definitely wanted to make sure that everybody understood this is a volunteer for the states to be able to utilize this program. If they don't choose to do so, that's up to them.

So, I'll turn it over to you to really start drilling Mark on what this is all about.

COMMISSIONER HILLMAN:

Well, we'll see.

MR. SKALL:

She said "drilling us."

[Laughter]

COMMISSIONER HILLMAN:

Let me start with a general question to Mr. Hancock. Under what section or sections of HAVA are we doing the manual for the pilot, as well as the specific requirements for the UOCAVA pilot programs?

MR. HANCOCK:

The manual that we spoke of this morning would be sort of an offshoot of the requirement to test and certify voting systems that's in HAVA. The more specific UOCAVA requirements are outlined in I think several different sections of HAVA. I don't remember off the top of my head the specific section, but there are several requirements for the EAC to do research, studies and provide I believe the language says, standards or guidelines also for Internet UOCAVA voting systems.

COMMISSIONER HILLMAN:

When we posted the two documents for comment, and I forget this, so please remind me, do we identify what sections of HAVA that are addressed by the work that's being done under these two documents?

MR. HANCOCK:

I don't recall if the *Federal Register* notice for this document mentioned...

MR. MASTERSON:

The documents them self reference not only HAVA, but the requirements under the Defense Authorization Act and the MOVE Act...

COMMISSIONER HILLMAN:

All right.

MR. MASTERSON:

...which calls on us to help support FVAP if it chose to run pilots.

COMMISSIONER HILLMAN:

Okay, so the reader would be able to identify.

MR. MASTERSON:

Yes.

COMMISSIONER HILLMAN:

I mean, that question comes up as to progress that EAC is making in meeting various requirements under the Help America Vote Act.

MR. HANCOCK:

Matt is right. The introductory sections of the document do go into quite a bit of detail about the history and legislative requirements.

COMMISSIONER HILLMAN:

Okay. I'll ask the next question to Mr. Masterson, but any of the panelists probably can answer it. There have been several references this morning to the Okaloosa Project, and so somebody might want to say what that is. I think probably the viewers have figured out it's Okaloosa Florida, but then what?

MR. HANCOCK:

Sure, sure. No that's a great question and I think it might help clear up some of your questions about what we're talking about here hopefully. For -- in 2008, Okaloosa County Florida chose to do a ballot distancing project working with their overseas and military voters in which they fielded kiosk voting systems in jurisdictions in Germany, I believe England, and Japan, I believe. And basically, what that was, was Okaloosa County UOCAVA voters that lived in those areas, in and around those areas, could go to those sites

where they were fielded and vote on a remote system that was set up there. And so, for your visualization, it basically is a DRE that was set up in those locals for an Okaloosa County voter to come and vote on what was a PC that was hooked up to the Internet using Okaloosa County's ballot to vote on basically. So that was the Okaloosa County project.

The way we differ a little bit, or our goal in differing in this project, is to help support multiple jurisdictions. So, it's not just Okaloosa County but, as Paul said, it could support hopefully several different states or several counties within a state so that various jurisdictions could have their voters go to that site and vote on those kiosk systems.

So that's sort of the picture. I don't know if that helps a little bit with the picture you needed painted, but that was the Okaloosa County project and sort of how we differ.

COMMISSIONER HILLMAN:

Okay I'm going to scatter across the panel, but my next question I think would go to Mr. Miller. And that is the use of the term "poll worker" in this pilot program -- let me back up. We are only talking about under this discussion the UOCAVA pilot voting program and requirements document for voting outside of the United States?

MR. MASTERSON:

I would say it doesn't necessarily have to be outside of the United States. A jurisdiction could choose to deploy a kiosk, say at a base where several of their voters are dispersed throughout the country. Theoretically that could be a deployment as well.

COMMISSIONER HILLMAN:

So, this UOCAVA would include military stationed in the United States, but not necessarily in their home voting state?

MR. MASTERSON:

It certainly could.

COMMISSIONER HILLMAN:

It could? Okay.

MR. SKALL:

The requirements do not exclude that.

COMMISSIONER HILLMAN:

Okay, all right, so what are the implications of using the term “poll worker” if a kiosk is to serve multiple jurisdictions, in terms of whether a state has specific requirements about the assignment of poll workers or the way a polling place or a voting location is supported for voting for that state’s or jurisdiction’s ballot?

MR. MILLER:

I think in general, those requirements would apply to poll workers that are within the state, if you will. But I think that there is definitely some legislation that may be required in some states in order to make -- in order for them to be able to participate in the project.

Certainly, the way that the voter is identified can be supported with this model; whether you’re required to present ID, whether you’re required to sign a statement or an oath, those are all issues that we’ve taken into consideration, or whether you simply have to appear on a list of eligible voters. Those are all different models the way different states handle the issue of the eligibility of the voter to participate.

In terms of, I think, your question, if I understood your question correctly, it was specifically the qualifications of the person who was manning the polling place. And that might have to be addressed in some states with legislation.

COMMISSIONER HILLMAN:

Yeah, because I'm thinking like some states have a requirement that you have to have poll workers from every party.

MR. MILLER:

Right.

COMMISSIONER HILLMAN:

So, the question is how does a kiosk outside of the United States meet that requirement if some state has five or six or seven parties on the ballot? Mr. Masterson, I see you nodding your head "yes," so I'm just wondering if you have anything to add to the...

MR. MASTERSON:

I mean, the only thing I would add, and Paul touched on it a little bit in his comments, is that there's a lot of logistical challenges with the kiosk system and that's just one of them. There's a lot of state laws that address some of those problems, and we realized when we were trying to do this that some jurisdictions would not be able to participate, because a law change would be necessary and they couldn't get it done in time. And so we know that there are some jurisdictions that aren't going to be able to take advantage of this kiosk system in that way because of challenges like that.

COMMISSIONER HILLMAN:

Where did the term “kiosk” come from? I’m just curious. Was that part of the Florida County? Did they use that term? Or did that just sort of bubble up in the discussions or...

MR. MASTERSON:

I think what’s where we started referencing from. I don’t know if their official documentation did, but that’s certainly where we -- that’s how we referred to what they did in Okaloosa County was a kiosk. And so, yeah, that’s where that kind of terminology came from.

COMMISSIONER HILLMAN:

So Dr. Skall, I’m beginning to visualize this kiosk. And so, maybe it’s got curtains around it, maybe it’s a little booth, but it probably has a DRE in and somehow there are connections. You had used the term “remote voting technologies.” Could you elaborate on that a little bit in the reference to the kiosk model?

MR. SKALL:

Yes, certainly. I believe remote voting technology is actually the term from HAVA, if I’m not mistaken. I believe it’s interpreted as anything that uses networking capabilities to transmit information in elections. More specifically, it’s usually inferred the Internet is involved. So this particular set of requirements takes into account that some information is transmitted via the Internet, which is typically prohibited in all of our other standards. So, that’s what we’re talking about.

COMMISSIONER HILLMAN:

In what, please?

MR. SKALL:

In all of the other guidelines and standards that we've developed we don't envision voting via the Internet. In this case, we're moving towards that model. So, remote voting means using networking technologies or the Internet, if you like, to cast votes, essentially.

COMMISSIONER HILLMAN:

And is it envisioned in the kiosk that that is the transmission? I heard that there would be a paper ballot as a backup, but is it envisioned that the votes would be transmitted electronically to the jurisdiction where they are to be counted?

MR. SKALL:

To the central server, yes.

COMMISSIONER HILLMAN:

Okay, well, the central server. Where is the central server?

MR. SKALL:

The central server is typically at the jurisdiction.

COMMISSIONER HILLMAN:

Okay, so there would be more than one central server?

MR. MILLER:

Yes.

MR. SKALL:

Yes.

COMMISSIONER HILLMAN:

Yeah?

MR. MILLER:

Yes.

COMMISSIONER HILLMAN:

Okay. So, who makes the -- who pays for this? Who makes the decision as to how multiple jurisdictions share a kiosk? And are there funds in the Department of Defense budget or EAC's budget? I mean, where do the funds come from to do this pilot program? Or are we passing the plate this afternoon and taking up a collection?

[Laughter]

MR. HANCOCK:

I don't think we're passing the plate. I believe, I mean, I would like someone from FVAP to verify this, but I believe there is some funding in their budget to run pilot programs, or at least to assist with that. Certainly, in the past the states and local jurisdictions have picked up the bulk of the cost when they decided to participate in such pilot programs.

COMMISSIONER HILLMAN:

Um-hum, okay, and then, to Mr. Miller. I mean, I love the use of the terms "solid," "rigorous," "secure," "testable," "efficient," I mean, you know, the testimony today has been replete with very reassuring terminology. But what are the implications of using a pilot program in a real election? That is, this isn't a pilot election, it's a real election, and people will be voting through a pilot program which hopefully would have been tested through EAC's pilot program testing, but the State doesn't have to, right? I mean, the jurisdiction doesn't have to -- you know they can say, "We don't care whether it's tested or not, we want to do this."

MR. MILLER:

You're absolutely right, in terms of the voluntary nature of this, and you're absolutely right that -- and in fact, states are already lining up to do this.

COMMISSIONER HILLMAN:

I can't hear you.

MR. MILLER:

I'm sorry, do I need to push...

COMMISSIONER HILLMAN:

No, just a little closer.

MR. MILLER:

The states are already lining up to do their own experiments with electronic voting and -- and they don't have to go through this process. What we are trying to do here is to provide a process that can put a product out there that does have the pilot testing certification available for states, in particular for states that require EAC certification.

COMMISSIONER HILLMAN:

But, how does EAC, through this program, if we should, I don't know if we should, take this responsibility, but provide assurance to the voters that maybe it belongs solely to the state or the local jurisdiction; that this is not experimenting with their vote, that this is a pilot program to test the system and we aren't experimenting or pilot programming their vote? And anybody on the panel can answer it, but I was sort of picking on you having...

MR. MILLER:

Yeah. No, I think the assurances are there, because we've got the paper ballot backup that allows us to go back and say, this

experiment worked well, or it didn't work. And so -- and certainly our expectation is that it's going to work well, and that we've done the necessary rigor to ensure that this small scale project will work correctly.

But a couple of things to note, one is, this is voluntary. They have other methods -- other channels through which they can vote, number one. Number two is that this backup paper record is available to ensure that their ballot gets counted correctly.

MR. SKALL:

Commissioner Hillman, I think, as I indicated in my testimony, I think we can tell the voters that every single requirement that's needed to make these voting systems accurate, reliable and secure was put into this document. We did not leave out any requirement because these were pilot systems. We did not leave out any single requirement to make the testing quicker or faster. We included every single requirement that's needed to make this system as secure and accurate and reliable. And again, the way we tried to make sure that this was timely is by dividing up the testing and allowing some of the manufacturers to do the testing. But every single requirement is there and they're each tested, too. And that's what we can tell the voters.

COMMISSIONER HILLMAN:

Okay. So, I'm going to use myself as an example. Once upon a time I was a registered voter in the great city of New Bedford, Massachusetts. I'm the only person from New Bedford who's living in Germany, and so, I'm using the kiosk system and I happen to be the only person in New Bedford who voted UOCAVA from

Germany. How is my privacy and confidentiality protected, in that respect, in terms of that ballot coming from Germany, that paper ballot, and I'm the only one who voted from Germany?

MR. MILLER:

That is already an issue in terms of election administration, because it's very possible in very different circumstances that a person would be the only person from, say, a precinct or a precinct split who voted on a particular issue or on a particular ballot. And the way that that is handled within the jurisdictions is that they do not report at that level. They roll that vote up into some other category and don't report. The state laws allow them to protect the privacy of that voter by rolling any votes that would be, you know, uniquely revealed by the reporting element to roll that up into larger units so that it is protected.

COMMISSIONER HILLMAN:

So, a voter participating in one of these pilot programs would not necessarily have to waive their right to privacy the same they would if they faxed their ballot back?

MR. MILLER:

That's exactly the challenge that we're trying to solve, is that they would not have to waive their privacy, that's correct.

COMMISSIONER HILLMAN:

Thank you.

CHAIR DAVIDSON:

Commissioner Beach.

COMMISSIONER BEACH:

Okay, I'll direct this question to Mr. -- well, Matt and Brian, Mr. Masterson and Mr. Hancock. Just to be clear for the viewers, this pilot is just for the 2010 election? Or is this UOCAVA pilot going to go beyond, this particular program?

MR. HANCOCK:

Certainly the initial intent was to make it available for this year. The architecture, I don't think would necessarily limit, however, to use in the 2010 election.

COMMISSIONER BEACH:

Okay. And with the kiosk model, is there a ceiling of how many votes it can accommodate, or have you found that there's no...

MR. HANCOCK:

I don't believe there's a ceiling that we noted. In fact one of the -- one of the differences and one of the -- you know there was some question, initially, "Well, the Operation BRAVO that we talked about, you know, was very similar to this so why do this?" Well, one of the main reasons was, Operation BRAVO was very limited, as Matt said, a one-county project, essentially, so the number of voters were very limited. I think it would be very important to see how this scales to use in, say, an entire state of voters or perhaps jurisdictions from multiple states. So, those types of numbers are really, I think a very important aspect to have in a pilot system that we might be looking at this year.

MR. MASTERSON:

Yeah, your limiting factors are not going to be the system, but instead the number of voters who live around wherever that kiosk is

deployed that are eligible to use it. I mean, that would be the -- it's a logistical limit, not a system limit.

COMMISSIONER BEACH:

Okay. And talking about the kiosk system also, I know with other systems there is, you know, logic and accuracy testing and other tests that are performed before the election. Are there any different types of testing with a kiosk model that you would be required -- or the state would be required to do? Or are they similar to...

MR. MILLER:

I would hesitate to say "required to do." We do our testing. Certainly, there's numerous tests, and I'm sure Paul could expound on this, that states or localities, whoever is running the project, would be encouraged to do as far as logic and accuracy and setup, you know. That's one of the advantages or security advantages that the kiosk system brings, is that you control -- it's a controlled environment, and so you could run those tests on it, initially.

MR. MILLER:

Yes, to follow up on that I would certainly expect that part of the best practices would include testing that emulates the logic and accuracy testing process.

COMMISSIONER BEACH:

And also, with this type of system, you said there are, I guess, more COTS components than there are, perhaps, in other voting systems that are used like DREs and op scan, et cetera. What type of information can we get from this pilot program that can inform us, because I know we may have further discussions on the COTS

issue and how we can inform ourselves as we move forward with the 2000, sorry, the next iteration of the VVSG 2.0?

MR. MASTERSON:

Go ahead.

COMMISSIONER BEACH:

I'm sorry, I'm opening it up to the panel.

MR. MILLER:

As I indicated, I think the TGDC would be able to, one, have -- part of -- a large part of what we're expecting to be supplied to us is documentation from the vendors on how they solved these technical issues, and that would be very useful to the TGDC, as far as looking at what kind of requirements do we need to put in place for the future. We would also have, hopefully, out of this project, some experience with how it was deployed and what worked and what didn't work type of experience, so that we can think more realistically about what's needed in a system like this when we try to ramp it up -- if we were to try to ramp it up to a much larger scale. And then, finally we would have -- we have this baseline set of requirements that we've developed already in place to test this pilot program.

So, those are three products out of this project that would be very helpful in terms of the TGDC going forward and developing guidelines for the future ideal model.

MR. MASTERSON:

And the only thing I would add specifically, you know, as you remember when you were Chair you held the hearing on COTS and we discussed the challenges.

COMMISSIONER BEACH:

Yes.

MR. MASTERSON:

You know, this handles COTS a little bit differently, because of the need with the pilot project and what not on some flexibility. So, certainly it will provide some data for us on how that COTS is managed and whether it's an effective way. So I mean, it's going to teach us a little bit about COTS management and how that's handled in a little bit more flexible environment.

COMMISSIONER BEACH:

Okay, and my last question. Mr. Skall, in your testimony, you discussed new requirements that came outside of the realm of existing standards. Do you envision these new requirements, ones that can be introduced as we move forward on the next iteration of the VVSG? Or are they different from what we're looking at?

MR. SKALL:

What, in my testimony, are you referring to?

COMMISSIONER BEACH:

You discussed with regard to requirements being used for a pilot program that there are some new requirements that came from outside...

MR. SKALL:

Oh I'm sorry.

COMMISSIONER BEACH:

...the realm of the existing standards that we already have.

MR. SKALL:

Yes, yes. Okay, yeah, there were some rare instances when utilizing all the existing standards we still could not make this particular UOCAVA system as secure or reliable as we would have liked. They were pretty much particular to UOCAVA systems. So, we will certainly look at them, I'm sure the TGDC will look at the new requirements we developed, but it's fairly unlikely that they will be generally applicable to larger systems.

COMMISSIONER BEACH:

Okay.

MR. MASTERSON:

The only area I could think of where, at least, there's a corollary and we can look is the penetration testing requirements which were, you know, taken from various areas, but also made uniquely for this document. There's a -- in the TGDC recommendations there's an open ended vulnerability testing, and there's a difference between the two, but I think some information could be gathered about how that penetration testing works and whether it can inform what's in there about open ended vulnerability testing.

MR. SKALL:

That's a good point, right.

COMMISSIONER BEACH:

Okay thank you, that's all I have right now.

CHAIR DAVIDSON:

This question kind of goes to either Mr. Hancock or Mr. Masterson. In this document, can you tell me how it might fit into EAC's larger mandate requiring remote voting -- with remote voting systems?

And does it help us address some of those requirements that's underneath the MOVE Act?

MR. HANCOCK:

I think -- and that certainly was one of the intentions, yes. And I think as we move forward, this document, as I think all of us mentioned at one time or another, will be forwarded to the TGDC as we look to them to make actual, full standards for, perhaps, Internet voting systems, as is envisioned by the MOVE Act.

CHAIR DAVIDSON:

And I'm aware NIST was at the table when these were being developed, but do you see any of the reports that NIST is working on or have provided us, White Paper -- the one White Paper they've provided us or the reports they're working on, will that help us in the future?

MR. HANCOCK:

Well, I think anything, any research that NIST provides us will be helpful, you know. The threat analysis document that I think you're referring to that they sent us last December, I believe, certainly was looked at as we were developing this. I know they are working now on best practices and some other documents, that certainly will help not only the EAC, but election jurisdictions as they, you know, perhaps implement these types of systems.

CHAIR DAVIDSON:

Mr. Miller, I know that in 2008, and then, I know that you've been working on 2010 in your state to move towards more electronic voting with your UOCAVA voters and military voters that you have in Washington State. Looking and doing the UOCAVA pilot

programs and projects, how has -- how has this affected -- I mean, will this help you? I know you got -- what happened in 2008? What was your problem in 2008 that you didn't move forward? Was there something that took place that...

MR. MILLER:

We have -- we provide the opportunity to voters to return their votes by email or by fax. However, they can't be counted unless they already -- unless they follow up with the actual physical ballot. And that creates some problems for us in terms of -- in terms of being able to -- the voters being confused about whether -- they believed when they faxed it or emailed it back, they completed the process and don't always understand that they always -- that they also have to send back the physical ballot.

We have been -- in 2008 we were interested in trying to get some language, some legislation that would allow us to begin a pilot project to do some form of Internet voting. And the legislature -- actually the legislation eventually wound up going onto hold and being -- so we weren't able to move forward with that. We simply were interested in looking at finding sources of funding and the ability to do something in this area, to do research in this area, and we weren't able to do that in 2008. I think that might be what you're alluding to.

More recently we have tried to pass legislation that would allow us to join onto any project that was approved by the EAC. And that was very successful. It went through the House unanimously. It died in the Senate just a few weeks ago, because

budget concerns in our state were of such a high degree that they didn't want to get into this issue.

So, we certainly are seeing that a lot of our voters wind up -- a much higher percentage of voters who are overseas or military voters do not wind up returning their ballots than other voters. And the numbers that we're seeing correlate with -- well with a survey done by the Overseas Foundation that indicated that about -- somewhere about 25 percent of their voters indicated that they either didn't get their ballot in time or they didn't -- to be able to get it back in time or that they didn't get in time to be confident that they would be able to get their ballot counted. And so -- and I was talking with somebody this morning, Washington State is really very -- we're very dedicated toward getting every eligible voter's vote to count. So, it's discouraging to us when we're not able to get some of these voters who are eligible to vote, but for whom the mail system doesn't work well, aren't able to vote as a result of that. And so, we're trying to find solutions, and this seems to be a path toward an eventual solution.

CHAIR DAVIDSON:

Okay, thank you. Mr. Skall, you've been -- you've experienced, I know, a great deal of -- or been involved a great deal in developing standards. In comparing this to some of the other standards that you have been involved with in developing, like the ISO, how does this compare? Can you give me an idea? I guess, I'm wanting to know how good of a job have you guys done?

MR. SKALL:

Yeah, this was a lot less contentious, and if I still had hair, I don't think as much of it would have fallen out as did some -- during some of the other standard deliberations. Typically, the standards committees that I was familiar with, and involved with prior to voting, the large committees in the ANSO, ISO or W3C world, there were a lot of interests that were protected on those committees, they were mainly staffed by vendors, there was a lot of contentious debate and oftentimes the requirements that were finally decided upon were not necessarily anyone's first choice, but they were many people's second or third or fourth choice, because there were compromises in order to protect the various interests that each of the parties had.

On this committee, really, there was -- there really wasn't any of that, so it was much more harmonious. People actually were working toward the common goal. And, yes, there were people who had opinions. You'll always have opinions and you'll always have debates, which is healthy, but there was no one really looking to protect their interest. We did have two manufacturers and, of course, they are employed by their boss who would like their system to work well with these standards, and they took that into consideration. But there was none of this sort of digging in heels. So, it was much more cooperative and I saw no real compromises that had to be made. I mean, even on the TGDC which didn't have any manufacturers, there was -- there were a lot of people that represented specific interests, and there were a lot of compromises. Software independence is a product of one of those compromises.

So, on this I don't think you had that and I think you had people who were working toward writing a good standard. I'm very proud of what we ended up with.

CHAIR DAVIDSON:

Okay, I've got one more question for you. In your opinion, making the decision to reduce the cost by allowing the manufacturer to do some of their own testing, do you see this by other groups?

Commissioner Hillman asked Mr. Hancock this question, kind of this morning, but have you in your world do you see this being utilized by other organizations or other agencies? And then, also how do you -- how do you feel about that decision?

MR. SKALL:

Yeah, I think, as Brian said this morning, it is used in many other arenas, especially in the European community. I think it was just, really, the right decision. Again, to skimp on requirements is not doing justice to these voters, because the requirements in aggregate have the goal of making the system secure, reliable and accurate and every single requirement contributes to that end in some degree.

Testing is a different matter. Testing is really more, believe it or not, of an art rather than a science these days. It requires a lot of experience. A lot of people do testing differently. And to be quite frank, there are some areas in the standard, some requirements in the standard that are tested, they take a long time, and as an example, the software coding standards. They are important. Every requirement is important, because they're mainly stylistic and they lead to good code that can be read, and it's

important to have that. But, it's clearly not as crucial to have that as it is to have accurate results and secure results.

This testing, we found, has taken a majority of time when done by VSTLs, because they have to look at each line of code. So, we feel that manufacturers can do that much more efficiently, they wrote the code. And, to be quite frank, it's not nearly as crucial if they miss a line of code and the comment isn't correct, as, for instance, missing an accuracy requirement, which we've assigned to the VSTLs, or missing a security requirement which we've assigned to the VSTLs. I think we made a good division. The real important requirement of security and accuracy, the VSTLs are all doing. The others are primarily being done by the manufacturers with oversight by the VSTLs. So, it's a very good division. I think it's going to be a much more productive use of everyone's time and a more costly result -- a less costly result, I'm sorry.

CHAIR DAVIDSON:

That brings me to a question, then. Do you ever see this type of a process of having manufacturers do some of their own testing being utilized in our test program that we have out currently that we test equipment to? Anybody can answer that.

MR. HANCOCK:

Sure, you know, we're always looking for ways to make our current testing process less costly and more efficient. And, you know, we'll see how it goes for the pilot programs. It's certainly, if that's successful, it may be something that we, at least, want to consider, you know. I wouldn't want to say that we would adopt it, but it may

be something we might want to consider in the future to reduce the cost of testing.

MR. SKALL:

Yeah, if I may add to that, one of the things I just spoke about, the long time it takes for, for instance, code review to be done, we've been looking at outside of UOCAVA to see how we can improve upon that. Again, like Brian says, we certainly don't want to jump to any conclusions. I think we'll learn a lot through this pilot program and seeing what results. We need to first find out if the manufacturer testing is really efficient, if it is less costly. It should be. We don't know that. We need to make sure it's done well. We need to find all those things out, and then, we make an evaluation whether that's one of the things we would consider in trying to solve some of the other testing issues we have, like the long time of testing on some of the requirements that we don't think should be taking that long.

CHAIR DAVIDSON:

Okay, Commissioners do you have any follow-up questions?

COMMISSIONER HILLMAN:

I don't, thank you.

COMMISSIONER BEACH:

I do not.

CHAIR DAVIDSON:

All right, thank you panel, we appreciate it.

In closing, I'd just like to thank everybody for being here with us today. And also I'd like to remind the voting system manufacturers to please look at our Web. I know that you received

a letter recently making sure that you understand and that you will be reporting under our Quality Monitoring Program, but I just want to make sure everybody's aware of that. And that's all on our Web site at eac.gov.

And also, as Executive Director Wilkey said, we have a lot of different things out on our Web site right now that we need comments on. There's a lot of different areas that we have out for comment, so please look at our Web site, make those comments, and we would appreciate it.

Commissioner Hillman do you have any closing remarks?

COMMISSIONER HILLMAN:

Not so much closing remarks, but I want to bring us back to the Clearinghouse policy. And, I guess my question is, once we receive the recommended policy are we going to have an opportunity to re-discuss it before it goes -- before we make the decision of putting it out for public comment? And the reason I say that is, I think of two areas that I think need Commissioner discussion.

One is the issue of the posting of outside party documents, non-governmental documents that might come from any non-governmental organization. I know that is something that has been peripherally discussed, but I would think that it would be useful for us to be able to discuss it.

And then, the other thing is what we touched on a little bit this morning and that is, and I think we need to have some sense of this to inform the policy, and that is, the end goal in terms of the user, you know. To what extent is the policy designed to meet all

possible stakeholders? Or is that too much for EAC to take on in one policy and, therefore, do we have to limit, at least, the initial policy to be able to adequately service, you know, a few key stakeholders?

So, I'm just wondering if, in the schedule for future meetings, if we're going to be discussing it again. And if not, I would recommend that we do, if not in the future, take some time this afternoon.

CHAIR DAVIDSON:

I would think that we also would want to discuss, and I think we want more information before we really do, I think that once it's out there for comment and coming back, considering comments and other things, before we put it out, is, the cost of what each step would require. So, I think that that's another thing that we have to take in consideration, knowing where we stand on things.

So, I definitely can make sure that we put it back on the agenda, if that's the Commissioners' desire, before we decide on all the comments.

COMMISSIONER HILLMAN:

Well, but I was thinking even before it goes out for comment, what are we putting out for comment, what do we -- particularly on the issue of the posting of documents? I mean, does, you know, if there's consensus among us that we want to consider it, it goes in the draft policy. If there isn't consensus, there is no sense in putting something in a policy that we decide we don't want to do or don't have consensus on. So, I think, at least, that's one issue that

I think we should resolve before we agree on what is the draft policy that goes out for comment.

CHAIR DAVIDSON:

I mean, obviously, we can -- that's -- I need to hear from the other Commissioners, I mean, that's up to us. Our next meeting is the 27th. I've worked with the staff, we have a pretty full agenda, but if we want to have it on a public meeting, I think we need more information than what we have today...

COMMISSIONER HILLMAN:

Um-hum.

CHAIR DAVIDSON:

...before we can make determinations.

COMMISSIONER HILLMAN:

Well, yeah, I'm not saying that we make a determination, but I just - - you know, I know that we have, in the past, said, "Well, let's put the document out for comment, see what kind of comments, and then we'll make a decision based on that." But generally speaking, the policies have at least addressed the things that we know we're sort of headed -- all headed in the same direction on. We may not agree how to get there, but we're headed in the same direction. I am concerned that we have not previously discussed or had presentation on the merits of posting of third party -- non-governmental -- I don't mean third party -- non-governmental documents. And as I was flipping through the testimony after our meeting this morning, the morning portion of our meeting, it dawned on me that we didn't -- that wasn't part of the presentation. And I just didn't think to ask Ms. Layson as to what the other agencies do

with respect to the posting of third party. So, that would at least be a useful piece of information I think that I'd like to have as we consider what the staff presents to us.

CHAIR DAVIDSON:

Comments?

COMMISSIONER BEACH:

No, we can continue that discussion, sure.

CHAIR DAVIDSON:

Do you want to continue it today or later?

COMMISSIONER BEACH:

I think we need more information, so I think probably if there is room on the agenda for the 27th.

CHAIR DAVIDSON:

Okay, all right, I'll make sure that it gets on the 27th.

COMMISSIONER HILLMAN:

Yeah, and I will just send you the -- send to Mr. Wilkey and to you all, as well, just my couple of questions. But the thing that I really am focusing on is the -- how do we handle the documents, reports, studies, whatever, that come in from non-governmental organizations.

CHAIR DAVIDSON:

Okay, closing statement?

COMMISSIONER BEACH:

Yeah, I just have actually a clarification from my statement this morning when I had mentioned that the President had nominated Tom Hicks to serve as a Commissioner on the EAC. It is an intent to nominate, so I would like that clarified for the record.

Thank you.

CHAIR DAVIDSON:

Okay, is there a motion to close the meeting today?

COMMISSIONER BEACH:

I move to close.

CHAIR DAVIDSON:

Second?

COMMISSIONER HILLMAN:

Second.

CHAIR DAVIDSON:

All those in favor say aye.

[The motion carried unanimously.]

CHAIR DAVIDSON:

All right the meeting is adjourned, thank you. And thanks again for participating this afternoon.

[The public meeting of the United States Election Assistance Commission adjourned at 2:35 p.m.]