



May 23, 2019

Commissioner Christy McCormick
Chairwoman
United States Election Assistance Commission
1335 East West Highway, Suite 4300
Silver Spring, Maryland 20910

Submitted electronically via www.regulations.gov

Re: Comments from the Bipartisan Policy Center on EAC’s Proposed “Voluntary Voting System Guidelines 2.0 Principles and Guidelines” (Docket ID No. EAC_FRDOC_0001)

Dear Chairwoman McCormick:

The Bipartisan Policy Center is a nonprofit organization that combines the best ideas from both parties to promote health, security, and opportunity for all Americans. BPC drives principled and politically viable policy solutions through the power of rigorous analysis, painstaking negotiation, and aggressive advocacy. Our policy solutions are the product of informed deliberations by current and former elected and appointed officials, business and labor leaders, and academics and advocates who represent views from across the political spectrum.

BPC is pleased to submit comments on the U.S. Election Assistance Commission’s proposed Voluntary Voting System Guidelines 2.0 Principles and Guidelines. BPC’s Elections Project builds on the success of our efforts to enhance the voting experience by implementing the recommendations of the Presidential Commission on Election Administration. The Elections Project has convened three task forces in 2019 to analyze voting in America, develop bipartisan recommendations that improve the voting experience, and engage in the 2020 election conversation with respect to registering to vote, casting a ballot, and counting the vote. The Elections Project maintains relationships with local and state election administrators and policymakers and administers the largest data collection of line lengths at individual polling places throughout the country.

The proposed standards are the result of years of work by experts, administrators, and policymakers throughout the government, nonprofit, and advocacy sectors. All should be commended for their dedication to America’s voters.

Voters expect and deserve voting systems 1) on which they can make and change selections in an accessible, private, and independent manner with safeguards against inadvertent invalidation of their results, and 2) that produce an auditable record.

The proposed structure of the new VVSG as principles and guidelines for EAC commissioner adoption—along with separate technical requirements and test lab assertions that do not require commissioner adoption—will result in the development of voting technology that meets



federal standards and improves the voting experience without the additional risk of partisan or quorum concerns.

The EAC seeks feedback regarding all sections of the Voluntary Voting System Guidelines 2.0 Principles and Guidelines including the proposed structure of VVSG 2.0. BPC supports all 15 high-level principles as essential components of a voting system that works for the voter and increases confidence in end results. We have no comment on the specific principles and guidelines proposed.

Our comment, therefore, focuses on the new structure for VVSG 2.0. We support this new structure for three reasons:

1. The local and state election administrator community strongly endorses a structure for VVSG 2.0 that separates out the principles and guidelines from the technical requirements and voting system testing lab assertions. In fact, the National Association of State Election Directors (NASED) VVSG committee should be credited with proposing the new structure for the Voluntary Voting System Guidelines, as that group started focus on these changes more than five years ago. The EAC's own Board of Advisors and Standards Board endorsed the structure. Those two boards include nearly 150 local, state, and national experts representing every state in the country and numerous interests identified by Congress during the drafting of the Help America Vote Act of 2002. The Technical Guidelines Development Committee has also endorsed this new structure. These boards are meant to provide EAC commissioners a real-time assessment of the election official and advocacy community as EAC works to further its mission to help election officials improve the administration of elections and Americans participate in the voting process. They are intent on creating consistent, implementable guidelines for which technical requirements and testing lab assertions can be updated in short order by voting system technical experts as technology evolves.
2. While there is a full complement of commissioners now serving on at the EAC, that is not always the case, and BPC cannot endorse a structure of VVSG 2.0 that is inflexible should quorum issues reemerge at some point in the future. We expect the principles and guidelines to require review every few years while the technical requirements and voting system testing lab assertions may need more regular updating as new technology is invented and enters the market.

Based on a [BPC analysis from December 2018](#), the EAC has had all four commissioner slots filled simultaneously for less than a third of its time in existence. Between the beginning of 2012 and the end of 2018, there was an operational quorum of three commissioners less than half the time. The EAC's lapse in maintaining current, state-of-the-art guidelines can be traced directly to its quorum issues. This fact undermines Americans' confidence in the voting systems when they hear the systems in use today are built on guidelines that were mostly written more than a decade ago.



3. The structure of the EAC as strictly bipartisan was smart and the vast majority of EAC actions have been adopted unanimously. Election policy should be endorsed by Republicans and Democrats together through the political appointees on the EAC.

However, one needs only to look at the U.S. Federal Election Commission to see that partisanship can hamstring a bipartisan agency. While the principles and guidelines of the voluntary voting system guidelines are a policy level consideration appropriate for the commissioners' attention, the technical requirements and voting system testing lab assertions are procedural documents that do not implicate policy concerns and should not be subject to future partisan disagreement.

Voting system experts at the National Institute of Standards and Technology (NIST) and on the EAC staff need flexibility in maintaining and evolving the technical requirements and voting system testing lab assertions to ensure Americans regain and keep confidence that the voting technology is free from partisanship.

A new structure of VVSG 2.0 that codifies sub-commissioner level changes to the technical requirements and voting system test lab assertions could also allow for a policy change by which the full commission becomes the appeals panel to any NIST and EAC staff decisions to update the technical requirements and voting system test lab assertions. However, any such policy should be structured in a way that allows the process to move forward until a commission vote is taken that overturns a NIST and EAC staff decision. This structure maintains a strong and important role for the commissioners in overseeing the testing and certification of voting systems in situations where policy-level concerns may arise while avoiding the aforementioned quorum issues that have halted the process in the past.

In conclusion, BPC strongly believes that the new structure of VVSG 2.0 is better for election officials, vendors, and, most importantly, American voters. BPC encourages the EAC to consider these comments as it endeavors to create voluntary voting system guidelines that reflect modern technological advancement and that work in today's political environment.

Sincerely,

Matthew Weil
Director, Elections Project
Bipartisan Policy Center