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Congress of the United States
 House of Representatives
 Committee on Appropriations
 Washington, DC 20515-6015

January 23, 2008

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 (202) 225-2771

The Honorable Rosemary E. Rodriguez
 Chair
 United States Election Assistance Commission
 1225 New York Avenue NW, Suite 1100
 Washington, DC 20005

Dear Chair Rodriguez:

We are writing to strongly urge the Election Assistance Commission (EAC) to reconsider and reverse staff opinions relating to the ability of states to use funding under the Help America Vote Act of 2002 (HAVA) to replace certain existing voting equipment with new voting equipment.

EAC staff communicated with state officials, including officials in Florida and Tennessee, regarding states' requests to use HAVA funds to finance the replacement of voting systems that had been purchased with HAVA funds. The staff cited a need to determine whether such expenses were appropriate uses of Federal funds, and that the determination would depend on an evaluation of whether the costs are "allowable, allocable... and reasonable."

Staff provided the state officials with an opinion that the use of HAVA funds for the desired purposes was not "reasonable" if the funds were to be used to replace equipment that had been purchased with HAVA funds. We strongly disagree with this opinion.

The evolution of our understanding of electronic voting systems in the past few years has been dramatic. Direct record electronic (DRE) voting equipment was, at one time, hailed as the solution to the problems surrounding disputed or ambiguous election results. However, as states and localities gained more experience with DREs, including DREs purchased with HAVA funds, it became obvious that the reliability and security of these machines could not be guaranteed. Many states learned that they would have to look elsewhere for voting systems that would give voters an increased level of confidence that their votes would be counted accurately. For example, some states turned to optical scan equipment as a solution.

It is our opinion that states should be able to use HAVA funds to purchase replacement equipment that offers tangible benefits and material improvements over their existing equipment, even if the existing equipment was purchased using HAVA funds. This position is supported by language that was approved by the House Committee on Appropriations and included in the House report accompanying the Financial Services and General Government Appropriations Bill, 2008 (H.Rept. 110-207):

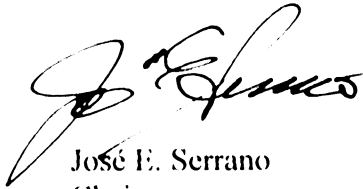
The Committee is concerned that the EAC recently ruled that HAVA money cannot be used to fund the purchase of HAVA compliant voting equipment that would replace other voting equipment purchased with HAVA funds. While the EAC claimed that such purchases are not "reasonable" costs, the Committee believes that ensuring accurate, reliable, and accessible voting is more than reasonable; it is essential. The Committee notes that the technology for voting equipment has improved in recent years, and states now have more experience with different technologies. States should have options and the flexibility to acquire better equipment, including equipment that will provide a durable, accessible, voter-verified paper ballot. The Committee believes that the EAC's "reasonableness" test is not at all reasonable when it prevents states from using funds in this manner. Therefore, the Committee directs the EAC to reconsider its ruling. If the ruling does not change, Congress should consider a legislative remedy that will give states the flexibility they need.

We believe, when viewed objectively, any reasonable person would agree that expenditures to improve the reliability of voting systems are appropriate. Our election process is too important to allow faulty voting systems to remain in place, particularly if a state has the willingness and the resources, including Federal HAVA funds, to improve its systems.

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Thank you for your consideration of our views. We understand that the Government Accountability Office will be examining this matter, and, therefore, we are providing a copy of this letter to the Comptroller General.

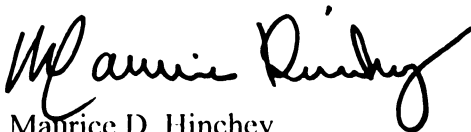
Sincerely,



José E. Serrano
Chairman
Subcommittee on Financial Services
and General Government



Carolyn C. Kilpatrick
Vice Chair
Subcommittee on Financial Services
and General Government



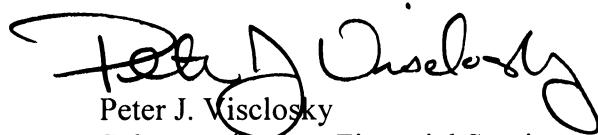
Maurice D. Hinchey
Subcommittee on Financial Services
and General Government



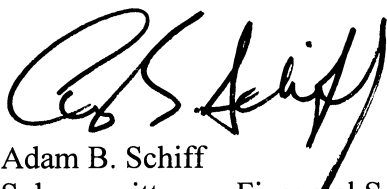
C.A. Dutch Ruppertsberger
Subcommittee on Financial Services
and General Government



Debbie Wasserman Schultz
Subcommittee on Financial Services
and General Government



Peter J. Visclosky
Subcommittee on Financial Services
and General Government



Adam B. Schiff
Subcommittee on Financial Services
and General Government

The Honorable Rosemary E. Rodriguez

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cc: Commissioner Caroline C. Hunter, Vice Chair
Commissioner Donetta L. Davidson
Commissioner Gracia M. Hillman
David M. Walker, Comptroller General of the United States