Minutes of the Public Meeting
of the United States Election Assistance Commission
July 13, 2006

The following are the Minutes of the Public Meeting of the United States Election Assistance Commission ("EAC") held on July 13, 2006, at the Hilton Santa Fe Historic Plaza, Mesa C., 100 Sandoval Street, Santa Fe, NM. The public meeting convened at 9:30 a.m. and ended at 12:21 p.m.

PUBLIC MEETING

Call to Order:

Chairman Paul DeGregorio called the meeting to order at 9:30 a.m.

Pledge of Allegiance:

Chairman DeGregorio led all present in a recitation of the Pledge of Allegiance.

Roll Call:

EAC Commissioners

EAC General Counsel Juliet Hodgkins called roll of the members of the Commission and found present: Chairman Paul DeGregorio, Vice-Chairman Ray Martinez III, Commissioner Donetta Davidson, and Commissioner Gracia Hillman.

Senior Staff

Executive Director Tom Wilkey, General Counsel Juliet Hodgkins and Director of Voting System Testing & Certification Brian Hancock.

Presenters

Elizabeth Hare, Project Manager, Design for Democracy; Mary Quandt, Research and Usability Specialist, Design for Democracy; Paddy McGuire, Deputy Secretary of State, Oregon; and Maria Matthews, Assistant General Counsel, Department of State, Florida

Adoption of the Agenda:

Chairman DeGregorio asked for a motion to adopt the agenda. Commissioner Hillman moved to approve the agenda. The motion was seconded by Vice Chairman Martinez. The motion carried unanimously.

Adoption of Minutes:

Chairman DeGregorio asked for a motion to adopt the minutes of the previous meeting. Commissioner Davidson moved to approve the minutes. The motion was seconded by Vice Chairman Martinez. The motion carried unanimously.

Reports:

<u>Executive Director</u>

Mr. Thomas Wilkey reported the EAC activity update as of July 2006. The EAC released the Quick Start Management Guide. The Guide is an overview of processes and procedures for local election officials to use when introducing a new voting system. The EAC is in the process of sending the Guide to election officials throughout the nation. The Guide is available at www.eac.gov or by calling toll free at 1-866-747-1471.

The Help America Vote College Program application deadline was June 15, 2006. $250,000 is available with a per applicant limit of $20,000. In 2004, the EAC had $750,000 available. Due to the decrease in funds, EAC only accepted one application per entity, not from umbrella organizations. The EAC is currently reviewing applications and the grants are expected to be awarded later this summer.

The EAC recently hosted a working group to discuss voter information access portals. Voter information access portals are used to provide voter registration and educational information. For more information, contact Edgardo Cortes at ecortes@eac.gov or by calling toll free at 1-866-747-1471. The EAC is working with the International Foundation for Elections Systems (IFES) to pilot test a poll worker manual. In addition, the EAC is working with Cleveland State University to conduct three college poll worker pilot projects.

The EAC began seeking certification from the 30 states that received section 102 funds to replace lever machines and punch card voting systems. States that accepted Section 102 funds were obligated to replace those systems by their first federal election. The EAC is asking the states to:
- Certify that they have replaced all such voting systems with systems that comply with HAVA Title III requirements; and
- Provide information on the number of precincts in which the older voting equipment was not replaced.

The EAC will use state responses to determine how much of the Section 102 funds have to be repaid. Returned funds will be used to make

additional requirements payments to states, in accordance with HAVA Section 104. The EAC recently issued a set of Frequently Asked Questions for election officials about the appropriate use of HAVA funding. The questions are available at www.eac.gov.

The EAC is distributing a monthly newsletter to keep the public updated on activities, upcoming meetings and other HAVA-related updates. To sign up, call toll free at 1-866-747-1471 or send an email to HAVAinfo@eac.gov.

Approval of Interim Certification Process

Mr. Brian Hancock proposed the first phase of the EAC's Voting System Testing and Certification Program. The first phase addresses critical modifications to voting systems required by the states to effectively administer the November 2006 General Election. The document will be delivered to each voter system manufacturer who has voting systems that will be used in the 2006 General election and such systems were previously qualified to the 2002 Voting System Standards (VSS) by the National Association of State Election Directors (NASED).

The EAC will implement the Testing and Certification Program in two distinct phases: (1) the pre-election phase, and (2) the full program. The pre-election phase is designed to meet the immediate needs of election officials from the date NASED terminates its qualification program until after the November 2006 General Election. The pre-election phase will begin July 24, 2006 and terminate upon the EAC's adoption of the full program. Certifications issued during the pre-election phase will also expire upon the EAC's adoption of the full program.

During the pre-election phase, manufacturers may submit modifications of voting systems previously qualified to the VSS to the EAC for certification. The manufacturer must submit an application package that includes the following:
- Submission Letter
- Test Plan
- Technical Data Package
- Test Report

Upon receipt of an application to certify a modification, the EAC shall review the application. The EAC Executive Director will determine whether to grant certification. The Executive Director will:
- Review Applications for Completeness
- Perform a Technical Review
- Make a Final Decision

The certification under the pre-election phase signifies only that the modification to the voting systems meets the requirements of the VSS and that the modification has successfully completed system integration testing. The system must be resubmitted by the manufacturers after the EAC formally adopts the full program. These systems will undergo testing and review and be eligible for receipt of a permanent EAC certification.

Manufacturers may appeal to the EAC Commissioners any agency decision denying certification. Appeals can be made to the Chair of the Commission. The Commission will render a written decision and the decision on appeal will be final and binding on the manufacturer.

Chairman DeGregorio asked for a motion to adopt the interim certification process. Commissioner Hillman moved to adopt the interim certification process. The motion was seconded by Vice Chairman Martinez. Chairman DeGregorio called for the vote. The motion carried unanimously. The following discussion ensued:

A modification is any change to the hardware, software or firmware to the system. The final implementation of the 2005 VVSG will be in effect December 2007. Many States require that vendors have their systems certified on a national level to the current standards. The vendors can trigger the certification process as well as the state or local jurisdiction. The impact of a court decision can also constitute grounds for modification.

The National Voluntary Laboratory Accreditation Program (NVLAP) is going to be looking at labs to test the competence to the 2002 VSS and the 2005 Voluntary Voting System Guidelines (VVSG). At that point, if the labs pass the NVLAP evaluation, the lab will receive NVLAP accreditation. NIST will forward to the EAC a list of these accredited labs for the EAC to consider and vote on whether to accredit the lab.

Mr. Hancock concluded that any new voting system that has not been through the NASED process before will need to wait until the implementation and adoption of the full program later in the year. The test labs need to review in detail all the documentation for the new system before the testing of the hardware, software and source code review.

Presentations:

Effective Ballot Design

Presenters: Elizabeth Hare, Project Manager and Mary Quandt, Project's Usability Specialist, Design for Democracy

Ms. Hare discussed that in September 2005, the American Institute of Graphic Arts (AIGA) was awarded a research and design contract by the EAC to assist states in meeting election reform requirements for ballot design and publicly posted voting information as mandated by sections 241(b)(2) and 302(b) of HAVA. The AIGA project activities include:

- examining the voting experience as a collaboration among voters, election officials (and other administrators), poll workers, voting machine manufacturers and printers;
- monitoring election reform news and legislation;
- auditing current practices for election design;
- incorporating usability requirements for solutions gathered from legislatures, accessibility experts and advocacy groups;
- designing solutions tested for success; and
- compiling a "best practices" set of guidelines for the design of election materials.

Ballot designs and signs are primarily visual communication. The "signals" emitted from them should emphasize usability, clarity and consistency. These signals are cued by typography, color, layout, illustration and the use of symbols. A voter or poll worker should not have a learning curve to utilize our work. Ballot designs include:

- The Direct Recording Electronic ballot (or DRE) prototype offers a voting experience mediated by a touch screen interface. The Landscape-Oriented Rolling Screen prototype largely mimics the structure outlined in the NIST *Ballot Design Guidance* document, and separates voting and reviewing processes into discrete activities. The AIGA built a low-fidelity demo in Flash software to test during phase 1 with non-disabled users, and plans to incorporate initial research findings with the full suite of compliance requirements for disabled voters in a high-fidelity demo for subsequent tests.
- The Full-Face Mixed Paper and Electronic ballot prototype effectively "flattens" the rolling voting sequence into a single matrix of contest data, where user voting and reviewing tasks are merged.
- The current Optical Scan Template is mainly derived from NIST's Ballot Design Guidance document and has been modified to accommodate bilingual, simplified language, layout, and color experiments for research and testing purposes. Most provisional, absentee and emergency ballots are in optical scan format.

The AIGA developed a five-category system for temporary polling place signs that support HAVA and Americans with Disability Act (ADA) requirements, plus other identified environmental and voter needs. Because elections are held in physical spaces not designed with voting activities in mind and due to the variability of most sign content, AIGA is

providing a set of prototypes for easily reproducible and managed paper signs.

Key design attributes of the AIGA proposed voting information system include:
- ADA-compliant color use (70% foreground/background contrast level) keyed by sub-system and the use of universally-recognized symbols;
- bilingual templates positioning English as the first language option;
- recommended paper sizes for easy reproduction;
- reproduction-safe, high contrast black-and-white signs and
- signs for information and instruction with simplified content for universal relevance.

Ms. Quandt discussed phases one, two, and three of the research and usability tests. Phase one consists of field research and evaluations. The formative field research approach is ethnographic, experiential and observational, and was designed to expand the realm of inspiration and insight. Specific field activities include:
- Interviews (by phone and in-person) with 17 election officials.
- Interviews (by phone and in-person) with 22 expert advisors from advocacy groups, academia, and voting machine manufacturers.
- Observations and interviews during June 6 primary elections in contrasting New Jersey locations—rural Hunterdon County and the city of Newark.
- Focus groups with 16 election administrators in three locations: Nebraska, Maryland and Orange County, California.

Forty-four non-disabled voter participants completed tasks designed to identify successes and deltas in AIGA's low-fidelity ballot prototypes, which were informed by NIST's Ballot Design Guidelines, Moderate Test Ballot document, legislative requirements, and insights from AIGA's field studies. The tasks supported typical voting scenarios such as choosing multiple candidates in a contest, voting for or against referenda, skipping a contest and casting a ballot.

Initial findings regarding election design usability evaluations include:
- Ballot design practice is generally constrained by limited budgets, staffing, and technology constraints.
- At a task level, voter's need is trumped by legislative requirements (mostly state-level), which drive election planning and design activities.
- In some states, certification is required for many aspects of the election process related to ballots, specifically for service providers (such as printers and translators) and voting equipment and software. No certification standard has been developed for ballot designers or for the ballots themselves.

- Election officials, legislators, machine manufacturers and voters may see value in changing their practices but often find comfort in and argue cost to justify the status quo.
- There is no one-size-fits-all solution for every jurisdiction, but we are identifying successful practices and modular design elements to be adopted incrementally.
- Successful ballot and polling place signage implementation is dependent on poll worker knowledge and preparation.

Research Highlights regarding ballots, include:
- Voters preferred the DRE prototype—it was considered shorter, faster and easier to use than the optical scan/paper ballot despite their identical content. Security, not usability, was the primary voter concern with electronic formats.
- Sample voters appreciated ballot overview content. They considered it useful in understanding their voting place/progress in the ballot sequence and in reviewing their contest selections.
- Voters dexterity and visual limitations made optical scan voting frustrating (or at least difficult) for some non-disabled test participants.
- Although voters supported multiple language options, a majority preferred ballots to be in a single language presentation, allowing them to work quicker and with greater clarity.
- Simple language requirements should be implemented to create baselines for reading levels and paragraph length in ballots. Legibility and readability in lengthy referenda proved problematic for some users and issues around labels and voting instructions arose.
- Colors in the optical scan ballot may help differentiate information for low literacy voters, but some election officials and testers feared this would "dumb-down" the ballot and contribute to a "lazy" discernment of candidates when color is applied to party names.
- The production and refinement of election content, such as district contests, candidates, rotations, and splits is often complicated and manually directed. Election management software integrated with ballot production permits a greater focus on the design of usable ballots.
- Veteran officials often have important election design practices committed to memory. Documenting and sharing their review protocols (which assure their ballots meet local standards), would serve their own local management efforts as well as the larger election administration community.

Research Highlights on Signage include:
- Election officials and voters both acknowledged information overload when entering a polling place.
- Testing showed that simple language, short paragraphs, and bulleted text lists organized by step or topic made posters easier to read and

remember than data taken directly from legal documents, such as a state's Bill of Rights.

- To get ahead of voter needs, sample ballots, voting instructions and Voter's Rights are often offered prior to Election Day via public demos, mailings and newspaper placements.
- Variations in polling place layout and size pose challenges when determining general signage materials and guidelines.
- Wall space, storage and transportation of sign materials are common considerations for officials. Posters are commonly 11" x 17" or smaller to accommodate for these restrictions, although larger posters are considered easier to read by voters.
- Signs are often developed or purchased on a reactive, as-needed basis to address frequently changing local and state requirements. Low cost and compliance, rather than usability and cohesion, are default determinants.

Phase two of the project consists of research and refinement with experts. After researching current successful practices nationwide, AIGA will incorporate a full and complete set of compliant design solutions for the prototypes. The AIGA team has planned sessions of usability testing with representative sample voters, but the intended focus in this phase will be consultation with our network of experts and advisors to meet all voter requirements.

The AIGA team is considering running a public survey online focused on nation-wide ballot practices and design elements. In the study, the team would deconstruct a typical optical scan and DRE ballot and explore general design practices known to positively affect usability. Studies examining the ordering of ballot contests, treatments of voting instructions, treatments of contest-specific instructions and methods for presenting multi-lingual ballots are envisioned starting points.

Phase three consists of a compliance assessment. The AIGA team plan to consult with the EAC and the advisory network to author protocols and requirements for simulated voting experiences. The team will recruit a broad panel of informants reflective of the target voting population to participate and provide feedback, including voters with visual, audio-tactile, visual-tactile, low-vision, and alternate language needs.

Ms. Quandt concluded that the AIGA final guidelines for the EAC will identify best practices in the design of ballots (optical scan and DRE formats) and polling place signage to help election officials achieve HAVA, ADA and VVSG compliance. The current working outline for our best practices includes these sections:

- Goals
- Disclaimers

- Priorities (federal requirements; design recommendations)
- How to Use
- Ballot components (optical scan, DRE full-face, DRE rolling)
- Sign components (5 categories)

Questions and Answers:

In response to questions by EAC Commissioners:

Ms. Hare reported that the AIGA project plan date for final delivery of materials to be disseminated on www.eac.gov is mid-October. The next phase of the project will be going through the full production process with an election official.

Ms. Quandt reported that colors and optical scan ballots are used to develop a presentation of information that will be user friendly for individuals who need additional assistance reading. Black and white ballots provide contrast for voters that may have low vision. The AIGA has been exploring the application of color in such a way that may provide the same level or an adequate level of contrast, but may also provide more information for users. The goal is contrast and more clarity.

The DRE prototype was easy to follow for people that had visibility or learning issues. Benefits of the electronic ballot are that font adjustments are easily calibrated per user and it is cost effective after the initial investment.

Presentations:

<u>Effective Polling Place Signage</u>

Presenter: Paddy McGuire, Deputy Secretary of State, Oregon

Mr. McGuire discussed a presentation by Marcia Lauren from Design for Democracy. Mr. McGuire was introduced to ideas on better designs of ballots, voter information materials, polling place signage, polling place set-up and materials for elections judges, and training manuals. Election reform can be accomplished in part by redesigning a ballot to make it more readable and reduce the potential of voters making errors.

Voting technology issues are real and demand attention, bad design is as troublesome as bad technology. Oregon is committed to both good design and good technology with the understanding that the good design is much cheaper than good technology. Design improvements are the most cost effective way to improve a voter's experience.

Oregon hired Design for Democracy to select the state's vote-by-mail system. The Design for Democracy team reviewed all materials, studied and researched all the components of Oregon's vote-by-mail process. The team traveled to Oregon to interview election officials, advocacy groups and individual voters. In addition, they also sent "research kits" to select Oregon voters so they could record their voting experiences in writing and send the results back to the class.

After three months of intense study, 20 student designers presented Oregon with proposed redesigns of the state's voter registration card, the "Voting in Oregon" guide for new voters, the packet each voter receives for a vote-by-mail election (which includes their ballot), the voter confirmation card, all of the state's election manuals that the public uses for participation in the different components of elections, various forms and the statewide voter's pamphlet.

Oregon implemented the following from the team's recommendations:
- Hired a full-time designer.
- Immediately began redesigning a new voter registration card
- The redesign of the "Voting in Oregon" guide for new voters
- Created inserts to the packet each voter receives for a vote-by-mail election (which includes their ballot)
- The redesign of ballots. The new ballots are easier to read, using well-tested design principles for spacing, graphics, font sizes and an easy-to-decipher hierarchy of information on the page.
- Establishment of a 1-800 line for voters to receive basic information about voting in Oregon. The 1-800 line is initially answered by a call center at one of the state's prisons.
- The redesign of various forms and statewide voter's pamphlets.

Mr. McGuire concluded that the design project has been one of the most positive and rewarding initiatives by the Oregon Election Division. The EAC should encourage all jurisdictions in the country to re-evaluate their election materials and encourage the involvement of election design professionals. In addition, the EAC should consider setting standards for ballot design in America. The design community should be involved in the development of the standards for touch-screen machines, etc.

Presenter: Maria Matthews, Assistant General Counsel, Department of State, Florida

Ms. Matthews discussed Florida's recent election reform. Chapter law 2001-40, was the first major piece of Florida election law reform after the 2000 Presidential Election. The law implemented many of the recommendations from the Governor's Select Task Force on Election Procedures, Standards and Technology and the Senate Committee on

Ethics and Elections project report entitled, Florida Senate, Review of the Voting Irregularities of the 2000 Presidential Election (Report Number 2001-201).

Before the recent election reform, ballot design was largely a matter within the discretion of local supervisors of elections. No formal process existed for review or approval of a ballot design although a supervisor was required to publish a sample ballot in the local newspaper or mail one to registered voters prior to the election. Florida became known as the home of the butterfly ballot, the caterpillar ballot, and even the so-called Monica ballot.

The Florida Legislature focused on revising a section of law pertaining to ballots. The legislature intended to provide uniformity and clarity in primary and general election ballot instructions, design and formats. The Legislature re-titled section 101.151, Florida Statutes, "Specifications for Ballots" directed the Department of State to adopt by rule "*graphic* depictions of sample uniform primary and general election ballot forms for each certified voting system" in the state.

Rule 1S-2.031, Florida Administrative Code, the Uniform Primary and General Election Ballot, further implemented the law and was first adopted in 2002. The rule underwent an extensive rulemaking development process which allows for workshops, publications, and public hearings to obtain input from the private and public sector. The rule emphasizes:
- a voter can only vote for one candidate per office;
- specifies the marking space for a voter's choice;
- prohibits any single race from appearing in more than one column on an optical scan ballot or on more than one screen of a touch screen ballot;
- specifies the minimum font size of 10 points and consistent font size for each category;
- requires the Division of Elections to approve any deviation from the rule; and
- provides uniform sample ballots and instructions for use with each of the primary types of certified voting systems in the state.

The Florida Department of State produces for the supervisors of elections two major signs that are posted in polling places: The Voter's Bill of Rights, Voter Responsibilities, and Instructions to Voters. Given the limited amount of space on the walls at the polling place sometimes due to the required posting of constitutional amendment proposals, some suggestions have been made to change the manner of display from a wall poster to a floor display. The display would consist of a very tall fabric covered floor stand that could be placed at the entrance to the polling room which the voter would see before entering the polling room.

In accordance with section 101.031, Florida Statutes, the Florida Department of State is required to produce the instructions for voters to use in voting. The instructions include at a minimum: the operating hours, the requirement that a photo ID with signature must be provided or else a voter will have to vote a provisional ballot, the brief specifics on how to cast the ballot if using an optical scan or a touch screen voting system, and the notice that the poll workers have full authority to maintain order in the polling area.

As a part of the 2001 election law changes, the Florida legislature also required the supervisors of elections to post at all the polling places the Voter's Bill of Rights and Voter Responsibilities. In addition to rights, the voter has certain responsibilities including:
- familiarizing himself or herself with the candidates and issues;
- maintaining a current address with the supervisor of elections' office;
- knowing the location of his polling place and hours,
- bringing proper id;
- familiarizing himself or herself with the operation of the voting equipment;
- treating precinct workers with courtesy, respecting the privacy of other voters;
- reporting any problems or violations to the supervisors of elections and
- making sure that his or her completed ballot is correct before leaving the polling station.

Questions and Answers:

In response to questions by EAC Commissioners:

Mr. McGuire reported that Oregon's call center staffed by Salem prison inmates consists of 20 inmates in an office-like setting. There are two non-inmate employees who staff the facility. Those employees have the ability to listen in to every phone call without the inmate being aware that they are being monitored. There is extensive data from the calls that come in. The call center has the ability to transfer calls to 36 county election offices if there is a question that can't be answered.

Oregon records the entire text of the voter's pamphlet on DVD. The state library has a program of distributing materials to Oregonians who are blind. Every Oregonian who is blind signs up with the state library gets a CD-ROM in the mail along with a sample ballot. The same information is also posted on the internet.

Ms. Matthews reported that Florida has provisions that require alternative programs for individuals with limited reading capacity. In addition, the voter has the right to ask the poll workers for assistance. Election materials are provided in alternative formats on an "as needed" basis by the election officials.

Adjournment:

Chairman DeGregorio adjourned the meeting at 12:21p.m.