

United States Election Assistance Commission

Public Hearing

**RE: Voting System Pre-Election Logic and Accuracy Testing and
Post-Election Audit Grants**

Sheraton Chicago Hotel and Towers
301 East North Water Street
Chicago, Illinois 60611

Monday June 28, 2010

VERBATIM TRANSCRIPT

The following is the verbatim transcript of the Public Hearing of the United States Election Assistance Commission ("EAC") held on Monday, June 28, 2010. The hearing convened at 2:42 p.m., CST. The hearing adjourned at 3:32 p.m., CST.

PUBLIC HEARING: VOTING SYSTEM PRE-ELECTION LOGIC AND ACCURACY TESTING AND POST-ELECTION AUDIT GRANTS

CHAIR DAVIDSON:

Dr. Abbott, you're back up on the podium. And, I will just say that I didn't realize I should have read my public notice, before I sit down, and made an announcement this morning that we would take people to sign up all day. So, those of you that want to sign up for the hearing, please do so, that you'd like to give testimony. Right now, I don't believe we have anybody signed up. So, if you would like to sign up I will take that.

But other than that, we will move forward with Dr. Abbott.

COMMISSIONER HILLMAN:

We have another go at Dr. Abbott, this is fun.

CHAIR DAVIDSON:

It's your day.

DR. ABBOTT:

I've asked for Mr. Thomas to come back up. It seems to be working pretty well.

[Laughter]

COMMISSIONER HILLMAN:

He left the -- he's leaving the room.

DR. ABBOTT:

He's signing up. He'd better be anyway.

[Laughter]

CHAIR DAVIDSON:

All right, Dr. Abbott, I will turn it over to you. Obviously, at this meeting what we wanted to do, we had put out a notice that we would get input from the public on how we would proceed forward with the testing -- logic and accuracy testing and the post-election audits.

And, as a former election official, I definitely understand how important logic and accuracy and making sure you know where all your ballots are and as you proceed with your process through the whole election. So, I'm anxious to see what we have. We definitely have \$3 million that we can hand out, in the way of grants, and how we go about doing that I would like to hear some comments from you, so Dr. Abbott.

DR. ABBOTT:

Thank you Chair Davidson. The logic and accuracy and post -- pre-election logic and accuracy and post-election audit initiative draft funding announcement is posted on our website now for public comment. This funding Notice has been awhile in the making, and I encourage folks to go and look at it. We're hopeful that it will be close to what the final announcement will look like that's going to be made public sometime in the near future.

What I thought I could do today is just give just two or three minutes of background on how we came to develop this funding Notice and then talk a little bit about what we're looking for in the notice content-wise. And then, I understand Mr. Thomas may be able to speak to timelines and relate it to when States will be able

to use this money and whether or not they have time to apply, you know, before the 2010 election cycle, or general election.

So, just a little bit of background, the funds for this initiative came in two years. We got the first batch of funds in FY '09 in Q-2, the second quarter of FY '09, and the second batch around the same time the following year. So, we decided to bundle those together and do one competition with several parts, and I'll talk about those parts in a minute.

The reason for doing them -- for bundling them together are twofold. First, in any given year that we're making grants we have to prioritize the work that we do. In an ideal world, we would do the grants simultaneously and get a lot of different things out on the street but, in fact, we have to do them consecutively. And so, when we prioritize, how we do that, we look first for money that has to be spent in the fiscal year. So, we have some grant money that expires and goes back to the Treasury on September 30th. So, our first priority is always to get those grant funds out, that in terms of the solicitation. When we receive applications back, we review the applications and make the awards in the fiscal year.

The second priority, over the last two years, has been requirements payments. Our requirements payments are, of course, the money that we talked about earlier today, money that goes to the States to finance election reform. Rolling into the first part of fiscal year '09, we still had \$100 million plus another -- \$115 million plus another \$100 million to distribute, so we spent a good deal of time, in fiscal year '09, getting the ball rolling on requirements payments. And we did about \$80 million worth of

requirements payments prior to September 30th. By then, we had gotten word that we had 2010 funds available, so we decided to put the money together and make one competition.

And then, we published in '09 -- early in '09, we published a plan for how we thought we would go ahead and spend this money. The plan was a requirement of Congress, so we published a draft plan we sent to them. So, we knew it might change over time and it was subject to final input from the Commissioners and from anyone on the Hill that cared to comment on it. So, we put that plan up in June of '09. And in that plan we talked about how we would spend the funds, what we thought the process would be, to gather input, so that we could make a funding Notice that met the needs of the field.

So, we did that and from that -- and then, following that blueprint, we proceeded to collect comment from interested parties. So, we talked to State election officials. We talked to local officials. We talked to vendors. We talked to researchers. Anyone that has had an interest or has a current interest in how logic and accuracy testing is done or post-election audits are accomplished came and talked to us about what they would like to see in a funding announcement. And so, we did all of that kind of in the daylight, in the open period before the announcement was drafted. And then, we went and we drafted the funding announcement you see before you today. Our hope is -- was that this would be published in plenty of time for the 2010 election cycle. The window for letting that happen is closing fairly quickly, and we can talk about that in a moment.

I think maybe what I'll do is just start talking about the funding Notice for a moment and just give you just a couple brief highlights from what we're anticipating.

So, the funds will support the research, development, documentation and dissemination of a range of procedures and processes used in managing and conducting high-quality L&A and post-election audit activities, by type of voting method, vendor-specific equipment, jurisdiction size and other ways to be determined by the applicants.

So, what we're trying to accomplish with the funding, initially, is, to support States and localities that are doing high quality work in this area, so that we can document that work in a way that other people might be able to use it. So, we're trying to build a library of effective practices, a library of training material, of resources that anyone could pick up if you're using that particular voting system, or you have like processes in your State, so you can kind of pick the pieces that you want so that in the future you can, in fact, adjust your practices to meet, what we consider, and what the external reviewers, who are peers, they're also State and local election officials that will be reviewing these applications, what they believe to be high quality.

CHAIR DAVIDSON:

Excuse me, can I ask you questions about that?

DR. ABBOTT:

Sure.

CHAIR DAVIDSON:

So, you're looking at, probably, two different types of grants. Is that correct?

DR. ABBOTT:

Yes, actually -- and it could be more than that depending on how you kind of break the funds up. In our funding Notice we have -- the big dividing line is with stuff that happens before the election and the stuff that happens after the election. But even that division is a little blurry, because some practices require that you -- the continuous improvement loop, where things that you learned after the election and go back into the processes and testing procedures that you did prior to an election, in different years. So, there is that distinction.

And then, we also made a distinction between work that's focused on documenting the current effective practices and work that pushes the envelope, if you will, or does demonstrations of new ideas or new, efficient ways of doing this, that may be untested, or may need to be verified or validated using live elections or using elections that have gone on in the past. So, that kind of research demonstration component of this funding Notice is something that's important, and that's in here. And there are separate guidelines for that. I don't anticipate that we would do a lot of work in that area, but I do know that there are proposals and groups that are actively working on post-election audits, and I can let Mr. Thomas speak to that more specifically, on some of the innovations that folks have proposed in that area.

Does that answer your question?

CHAIR DAVIDSON:

It did, thank you.

DR. ABBOTT:

So, the other aspect of this funding Notice, and I apologize, if you haven't read it, this may all -- for the folks behind me, it may seem like I'm a little disjointed -- is that we anticipate having some holdback funds. So, rather than giving the \$3 million out, all at once, to document these practices, we believe we should do a set of early grants, to do this documentation, these effective practices, and do a second set of grants that are implementation grants. So, anyone wanting to pick the practices up, or use some of this material, or implement, for the first time, perhaps, a different way of doing post-election audits, I guess, about a third of the States don't have that requirement right now, could get an implementation grant to move forward on some aspect of L&A or post-election audit, and presumably, use some of the material that we've developed in the first part of the competition to do so.

CHAIR DAVIDSON:

Okay. Commissioners, do you have any questions of Dr. Abbott before we take comments?

COMMISSIONER HILLMAN:

Not yet.

COMMISSIONER BRESSO:

I have questions, unless you want to wait until the -- is he finished with...

CHAIR DAVIDSON:

I think Dr. Abbott is finished.

COMMISSIONER BRESSO:

Okay, I'd have some...

CHAIR DAVIDSON:

Am I mistaken?

DR. ABBOTT:

No that's fine.

CHAIR DAVIDSON:

Okay.

COMMISSIONER BRESSO:

Okay, because I have some questions.

DR. ABBOTT:

Go ahead.

COMMISSIONER BRESSO:

Okay, I guess this dates back -- the first appropriation goes back to when, 2008, 2009?

DR. ABBOTT:

2009.

COMMISSIONER BRESSO:

Okay and...

CHAIR DAVIDSON:

But we didn't get the money until...

COMMISSIONER BRESSO:

Right.

CHAIR DAVIDSON:

...2010.

COMMISSIONER BRESSO:

...until after, correct. Did EAC or the authors of the appropriation consult EAC in the drafting of the appropriations language? Are

you aware, if anybody from the Appropriations Committee talked to us about this logic...

DR. ABBOTT:

Not that I know of. I have no knowledge of that, no.

COMMISSIONER BRESSO:

Okay. And -- because I believe that they did work with Mr. Wilkey.

He did right?

MR. WILKEY:

Um-hum yeah, he did.

COMMISSIONER BRESSO:

Okay. Can you explain to me what their vision was, then, for this program initially?

MR. WILKEY:

I think we had a number of things that we discussed. Now, that doesn't mean that they -- whatever language came out in the appropriations bill covered everything that was discussed but...

COMMISSIONER BRESSO:

I'm just trying to get what Congressional...

MR. WILKEY:

As a matter of fact, it was one of those things that they came to us and said if we could do some things, what is your list of things that you might consider that we do for grants, and this happened to be one of them. They picked and choose from probably several that we suggested to them. And of course, it stemmed from the recognition of the fact that we know that jurisdictions, many of them, do not have the ability to do -- or do not have a good understanding of what it takes to do a good L&A test. And then, the

new phenomena in the industry, of course, is post-election audits, where States are requiring jurisdictions to do some level of post-election audits. In fact, even some States, like my own, have pretty much put that in their State statute.

And so, the idea here was twofold, really, at least that's what we thought coming out of the Committee's decision, was to provide some grant money to "A", see what's going on out there, in terms of best practices and in developing those best practices, and what perhaps is working for them, not working for them or what they could use as a blueprint for both of them; and then, secondly, to provide grants to those who are not currently doing it, to be able to have some money available to them to hire a contractor and be able to get the necessary people onboard, or whatever, to be able to carry that out. So, I think the message there was twofold...

COMMISSIONER BRESSO:

Okay.

MR. WILKEY:

...to do both of those things. And frankly, we're very lucky to have that level of funding to be able to do it. But, certainly, it is probably one of the most worthwhile grant programs that they've given us, in addition to our college poll worker and our mock, and we're very appreciative of that.

COMMISSIONER BRESSO:

Okay, thank you for that explanation.

Now, going back to the first document that went out for public comment, and I believe that was in September of '09. That's correct? And three things that we said we would do, is, one, call for

input on the EAC website, asking the public to review and comment on possible activities that may be supported by the grant, which we did. And then, number three was soliciting input from the public at an EAC public hearing, which we're doing now. And then, number two says "extensive review and input from EAC's Testing and Certification Unit and National Institute of Standards and Technology NIST , regarding the type of activities that should be supported by the grants." Now in this draft that we have in our binder, does it reflect the comments -- well first of all, did the Testing and Certification Division and NIST provide comments and, if so, are they incorporated in this draft?

DR. ABBOTT:

Yes, they provided comments and they have been incorporated.

COMMISSIONER BRESSO:

All their comments have been incorporated in this draft?

DR. ABBOTT:

Yes.

COMMISSIONER BRESSO:

Okay. So, from September 1st until now you mentioned that there were public comments that came in on this NOFA.

DR. ABBOTT:

I don't actually think we received any comments via e-mail from the notice that was published on the website.

COMMISSIONER BRESSO:

Okay, there were no comments that came in at all on anything?

DR. ABBOTT:

No.

COMMISSIONER BRESSO:

Okay. Now, who, if anyone, have you consulted that you would consider an expert in drafting this advisory? I mean, have you talked to experts at NIST? Are there certain -- I mean, I know you mentioned that you talked to manufacturers and you talked to other people. Who would you consider an expert in this field have you consulted or provided input on this NOFA?

DR. ABBOTT:

I don't have a list of the folks that gave us input with me today. I'd be glad to provide it for you.

COMMISSIONER BRESSO:

Can you give me just kind of a background of the universe of people that you talked to, so I have an understanding of where these came from?

DR. ABBOTT:

Would you like me to name names?

COMMISSIONER BRESSO:

I'm not necessarily -- I just want to know what type of experts or consultants worked on this.

DR. ABBOTT:

We -- college professors.

COMMISSIONER BRESSO:

If you want to name names you could, that's fine.

DR. ABBOTT:

So, we talked to college professors that do work in election research. We've talked to probably a dozen State directors. We've talked to half a dozen county executives that do post-election audits

and L&A testing. We've talked to consultants that work in the field. We've talked to software vendors that are -- and trainers that have developed material around supporting localities in doing this kind of work. We've talked to special interest groups that are advocating for election reform. We've talked to statisticians, who believe that there's a different way to do ballot sample sizes. We've talked to non-profit organizations, including two fairly -- those names are escaping me -- large research organizations in Washington, D.C. that have an interest in this. I've had conversations with folks from Pew. I've talked to folks from Google, not to name names and, you know, the list goes on.

COMMISSIONER BRESSO:

Okay, well, were any of these in a public setting or a roundtable? Or were they all just one-on-one conversations that you've had?

DR. ABBOTT:

No, these are just conversations, whether it's in the hallway or via e-mail or on the phone or in person. We've had a couple groups to come in to talk to us, to share ideas, how it works in the development of a funding Notice, is, you can take input from anywhere you want, from just about any mechanism that you want, as long as you're not divulging information that would unfairly give them an advantage, once the funding Notice is released.

COMMISSIONER BRESSO:

Oh sure. And I guess that, you know, we would never want somebody who has provided comments or had actually made a decision in this process to then -- because they would have an advantage in applying for the grant.

DR. ABBOTT:

We take comments from everyone. We don't say which comments we're using or how they're using, but certainly the document reflects wide -- an extensive input.

COMMISSIONER BRESSO:

Okay, I believe that's all I have, thank you.

CHAIR DAVIDSON:

Okay, Mr. Thomas it's time, I guess, that we get comments from you.

MR. THOMAS:

Well, I think this is certainly a worthwhile grant program, no question about it. L&A has been around awhile. I know we've had it as a requirement of the rules since the late '70s, back in the punch card era. When one goes to optical scan, that multiplies out,. It's a lot easier to do a central count, one computer that is handling all the ballots, as opposed to going out to each tabulator and doing it. So, it's a very work intensive process to do this properly, and so, we would be certainly open to any innovations that are out there.

My comments to Dr. Abbott are, essentially, that it's timing. While there are people that I think are eager to go right now and have proposals or ideas that they have been waiting to apply for this I, certainly, would recommend moving forward, because I think there is some usage that could come from this. I would hope, also, there would be a possibility for, at least, some period after the general election, for others to come in and also make application, whether it's holding some portion aside for that, just because

various States they are in there, kind of run to November. And it's very tough to step back from what's right here, and start thinking globally about innovations. But many States have much to offer, which could be very useful to people this year, in terms of what they may be doing, that could translate to another State. So, I'm very supportive of this moving forward. It's critical. If there's any one thing that election officials do, and should do, it is this. And where election officials have gotten into trouble with tabulating equipment, when the dust has settled, and a review is done, it would usually find that this wasn't done well, if at all. So, in terms of any one thing they can do, the L&A is clearly the thing that should be done.

CHAIR DAVIDSON:

Mr. Thomas, to continue on with -- I'm going to take privilege, being the Chair, to ask you, in elections, obviously, we know the state of the economy, and to the counties and the locals that they've been cut, and we hear how they've been cut, and we've talked about how entities can save money, and what they've been doing to save money.

I also heard you say, just as a remark, and it really struck me, because I hadn't heard it yet, that you had some entities within your State that, possibly, where -- because they've got laws that they have to do certain things within the State for the election, and those have increased through time, and the cost of elections are up, and the way the counties are saving or your entities, which is municipalities, are saving, is, possibly, cutting staff. And the concern I have of cutting staff, if we don't have L&A and testing and, you know, do some innovative processes here, we could really

-- with staff being cut, we could really take a dive in our election process that we really improved upon. We could hurt our process by cutting staff.

MR. THOMAS:

I think that's true, Commissioner. I have heard from a number of my municipalities where they might -- and obviously, we do it at the city and township level, so in many cases we start out with a much smaller staff than if we were a county-run system -- but where a six or seven person office is now, down to three. And that's becoming -- and those are in some generally considered wealthy communities where those types of hits are being taken. So, it is occurring and election officials have expressed to me a concern they have in terms of errors.

This work is very labor intensive, there's no question about it, particularly in a punch card environment -- pardon me, an optical scan environment. And while it can be shopped out or vended out, we do not allow our jurisdictions to have the vendor who program their system also run their L&A test. I think there's an inherent conflict in that type of check and balance.

So, that requires them, if they want a third party to do it, to find someone else. So, yes, I think it's a concern all the way around, with the economy and the -- basically, the tax base and revenues are down and continue to be down, at least, in our State. It has a direct impact on these offices.

CHAIR DAVIDSON:

The other question I have from your testimony is that I kind of see that you're looking at this as kind of a three layer type grant; we do

one early on to get the proposals of what's being done, the innovative things that's being done right now. Then also, after the election, we have one immediately, you know, put one out that they could put into place that they tried out, and then, they're really writing the procedures and policies, and put those in place. And then the third one, of States that do not have a process to be able to move forward to create a process and take the comments that have been given, and maybe the other two to move forward. Is that -- do I understand you correctly?

MR. THOMAS:

Yes and, I mean, I'd leave that to you. I'm just looking for a window where those that are kind of immersed in it all today might get another shot at it later on. Those that may be moving ahead with innovations, it seems like it's getting late in the day to introduce innovations at this time -- in the year but, you know, some States that may still be feasible. So I think, yes, some sort of breaking it up into three categories would certainly make sense.

CHAIR DAVIDSON:

Did you want to add something?

DR. ABBOTT:

I can add to that.

CHAIR DAVIDSON:

Okay.

DR. ABBOTT:

It would be very easy to do that under the current structure of the funding Notice. It's not unheard of to have, I've seen rolling deadlines for competitive grants. I've seen monthly deadlines. You

could do two deadlines. The funding Notice, the way it's written now, would encompass the early work, as well as States wanting to pick this up and work on it for 2012, so maybe making application three or four months after the election. And then -- so we could accommodate that kind of staggered or tiered rolling and deadlines, very easily.

CHAIR DAVIDSON:

Okay, I'll turn to the Commissioners. Sorry, I took some out of turn there on that one, but Commissioner Hillman.

COMMISSIONER HILLMAN:

No problem, a question about the post-election auditing, Dr. Abbott. Jurisdictions that do canvassing, are they -- is that considered a post-election audit activity?

DR. ABBOTT:

I think canvassing is part of a post-election audit activity. Now, I caveat everything I say by the fact that I am clearly not the expert in the room on post-election audits. I was the convener and kind of the facilitator of development of this funding Notice, so where I get it wrong I'll refer to my colleague to my right. And maybe someone else can run out and sign up for testimony and correct me before we're done here.

So, we do consider it part -- it is considered part of the process. The way the funding Notice is written though, I think that applicants that come in and ask for money just to do that activity probably would not get a grant, because we have defined what we believe as post-election audit, fairly broadly, and to include a lot of other policies and practices, you'll find that on page eight in the

funding Notice, that the consensus was, these are the things you need to see if you are in fact doing this kind of work. And we, in fact know from the Advisory Committee meeting of the EAC that in fact there may not be as much utility as some believe in that activity.

COMMISSIONER HILLMAN:

Okay, so segueing -- I'm not going to let you steal my thunder, Dr. Abbott -- so Mr. Thomas, you were at the Board of Advisors meeting two weeks ago when there was a lively discussion about the value or not of post-election audits. And in fact, one or two people spoke up and said that they do find post-election audits useful. And I guess, I viewed it from the perspective that post any activity auditing can be useful, whether it's after a convention, you know, how did our procedures for establishing this convention go? Whether it's a campaign, or whether it's, I don't know, initiating some new program in the school, taking a look after the fact to see, you know, going forward what do we fix? What do we capitalize on?

I wonder if your comments -- I heard you in your earlier comments, Mr. Thomas, talking about logic and accuracy, L&A. You didn't say very much about the post-election audit portion of this notice, so I'm wondering what your comments are about that part of this funding initiative.

MR. THOMAS:

Well, having a couple weeks to think about my comments, let me step back. I was, I think, quite outspoken in terms of one aspect about post-election audits which is hand counting. And in talking to

my colleagues after, and with Dr. Abbott, after that conversation with the Board of Advisors, I do fully understand that post-election audits can be much broader than that. And when I've heard those who say they've got something positive out of a post-election audit, it's generally been in those areas, in other words, where the audit really goes into see whether the selected election office has really followed all the procedures. In other words, did they cut corners on their L&A test? Was it sealed as it's supposed to be? Was it run on a timely fashion? And any other number of procedures that are required to be done. And I find that type of audit, which is after the canvass, to have merit.

And I will argue to my death that, at least until shown, just before I die, that hand counts have some value, that I find that to be window dressing to make folks feel better, and being done before the canvass. So, that to me is an imposition of an audit into a process before the process is completed, which makes no sense. I mean, an audit should take something that's done, audit it and make its findings. What the hand count does is tries to impose something in the vein of a recount, that's not a recount, that doesn't accomplish a recount, that may find some number of precincts were off by, you know, half a percent, or a quarter percent or a couple of ballots which bears no extrapolation that can be done at that point in terms of saying, "Oh well, therefore, this election result was changed based on this." I never quite figured out what you get out of it.

The Connecticut study that recently came out, I think, concluded somewhat that what they proved was that hand counts

make errors. And I've heard experts in the field say that hand counting can be accurate if it's done by three separate independent teams conducting a hand count, which now, you know, you're into, you might as well reprogram the machine, do a more extensive L&A test on it, review the ballots just to make sure that -- I'm talking about optical scan here -- to make sure that they're properly marked and that any ballot that is erased, or what not. you hold that aside and handle that by hand and put the rest of them through the equipment, it would be a much better post-election audit than hand counts.

So, my long winded answer is that I do believe there is a valid audit process. I know Wisconsin has it, where they pick a county and they go in and they audit them head to toe, in terms of how they followed State procedures during the year. And I think that's extremely valid and is educational and probably shapes things up for the future, not only in that county, but in others. But the hand count I find to be window dressing.

COMMISSIONER HILLMAN:

So hopefully, out of this project we will get some good projects that will bring clarity and best practices to that whole discussion. Thank you.

CHAIR DAVIDSON:

Commissioner Bresso?

COMMISSIONER BRESSO:

Mr. Thomas, I wanted to get a sense from you, because I know a lot of the States, particularly the local counties/jurisdictions are experiencing budgetary issues. And since there is latitude with the

way we can structure this audit, in your opinion, would it be beneficial to try to give most of the money to States that want to do logic and accuracy testing that maybe don't have the money to do so, rather than to put more of the funds towards the study of research, and the same with the post-election audits?

MR. THOMAS:

Well, I tend to move somewhat to the side of research to come up with processes that can be -- that are portable and maybe more efficient than the way States may be doing them now. We've worked and actually have an RFP out, currently, to try to find a vendor who can automate the creation of the test desk which...

COMMISSIONER HILLMAN:

Of what?

MR. THOMAS:

Of a test deck and -- the test chart, excuse me. And what one needs to do in an L&A environment is, there's a huge chart that's got to be made, generally made by hand, that tells you which ballots need to have which marks. And that is all designed by and dictated by the composition of that ballot. In Michigan, we have extremely long ballots, full size 19 inch ballots on both sides. So, this -- creating that chart and doing that accurately is a challenge.

So, what we are seeking is an automated process where you can feed in what your ballot composition is that will then give you the chart. It's not going to make the ballots. You're still going to have to mark the ballots for the actual test desk, but it's going to give you the chart to mark that ballot. And that, one, would increase accuracy; and two, would cut the time down dramatically.

So, those types of things, or even just procedures that are being done by various States may cut time, increase accuracy.

In terms of those that don't have the money to do it, I think it's great to help them out. I don't know how long we can help them out. Obviously, at some point, they're going to have to stand on their own, but if that's what it takes to get it going that's clearly beneficial to those voters.

COMMISSIONER BRESSO:

Okay thank you.

CHAIR DAVIDSON:

The last question I have for you is, do you have any idea -- I mean, I know you're very involved with the National -- NACRC Board. So, do you have any idea how many States are doing really what I would call the audit process, you know, throughout, and how many of them really need help, even with L&A?

MR. THOMAS:

I don't know. You know, I know the Pew Center on the States that was one of their grants and they dealt with four groups, and we were one, only we were the ones that were going to prove the negative, but that was a product that was to come out of that. I've not seen that product in terms of what States are actually doing. And so, I would guess that people are all over the map on that.

The L&A, I would think there should be more consistency there but, you know, you still hear the stories about the ten ballot test deck, which you can prove that your machine operates with ten ballots, but you cannot prove that it's accurate with ten ballots.

CHAIR DAVIDSON:

Or the test that is done by, really, the vendors or the manufactures that is preprinted instead of...

MR. THOMAS:

No, you really cannot use anything that comes from a manufacturer, other than, perhaps, if there's a process that can be independently verified. But the actual construction of the test and the application of the test has to be by election officials or somebody that they have hired.

CHAIR DAVIDSON:

Well, I know NASED has been involved with, like you said, the Pew Foundation and they're really good about sharing information amongst themselves, but I didn't know if you had that type of information or not.

MR. THOMAS:

Off the cuff I do not, I'm sorry.

CHAIR DAVIDSON:

Okay.

COMMISSIONER HILLMAN:

I have an additional question, and it goes to one of the favorite topics that the Board of Advisors has tried to discuss, and that's the cost of running an election. And I guess, what I'm wondering is, and let me just do a hypothetical, if a jurisdiction has arrived at a place where its logic and accuracy testing has withstood the test of time, has provided them an excellent base from which to conduct its elections that they find relatively few errors, and if they determined it cost them ten percent of their annual budget to do the logic and accuracy testing, would it be fair a application to say to

other jurisdictions, "You can expect that it would cost you about ten percent of your annual budget to do"...

MR. THOMAS:

Yes.

COMMISSIONER HILLMAN:

I mean, is it proportional that way to the other expenses?

MR. THOMAS:

I would think. Right now, I think probably about the going that I've heard is about two to \$300 per precinct to actually prepare the test deck and, again, that's the labor intensive. Running the ballots also takes some time.

I mean, we have -- we have procedures that are mandated, at the State level and Administrative Rules that lay out the requirement to do the L&A test. So -- in our State, those that are doing it are supposed to be doing it following that manual. So, I think you can definitely extrapolate from that in terms of what costs would be, because it's pretty consistent across the State. Not necessarily costs, I mean, in certain markets employment -- employee costs are going to be more than others. But, in terms of the amount of time that one puts into it, and what you would charge to a third party contract to do it, it's probably pretty stable. Now, what percentage of a local budget that would be, I couldn't say.

COMMISSIONER HILLMAN:

Dr. Abbott, do you think that any of these projects will shed light on the cost issue of doing both the logic and accuracy and post-audit?

DR. ABBOTT:

I think so, because we actually asked them to tell us what the cost benefit is for the proposed strategies that they would like us to fund.

Let me just -- I'd like to just take one moment to read a couple of things to you that might be helpful. So, we're defining a post-election audit as a documented review of all aspects of the conduct of an election that could affect the election's accuracy. These elements include, but are not limited to; ballot accounting, chain of custody records, audit logs, vote cast records, result reports, et cetera. It is not a recount. So, we kind of laid this out in broad terms.

And then, we go on to say if you're planning to seek support from us, as a demonstration grant, focus on documenting high quality effective policies, practices and procedures that are currently in use. So, the people that are doing it well, you need to provide us five things: Evidence that your current practice is high quality and why you consider it high quality so that it can be judged by our external reviewers. How the applicant's high quality processes, tools and best practices are efficient, cost effective and innovative. So, we are asking them to show us the types and sources of equipment and data needed to carry out the demonstration, including but not limited to, live and past elections, voting systems to be used, number of polling places and machines that are going to be covered by the effort, and scope of the machines possibly benefited by this particular body of work. So, if you are doing this for a machine manufacturer that is in wide use, then maybe it has a great applicability to the work and processes you've outlined here. And then, development of evidence-based

findings for the measures of cost/benefit, effectiveness, usability and efficiency. So, show us that this actually, you know, is efficient and can save you money down the road or this is how much it will cost, vis-à-vis, the amount of work that it -- the benefits for how much it costs and the benefits for the amount of work that's going to take place.

So, this is not an easy lift for an applicant. I mean, a State might do this very well, but they would actually have to sit down and think about these questions. And they're probably going to do it with a partner, someone that is working in this field and has their own interest in seeing this field progress in a certain way, and has written about it, either through a university, or if they're a vendor, that they thought about it because of the products they sell.

But, in no way are these grants focused on research. The applicants have to be election officials in partnership with someone working on live or past elections, documenting current practices, or in the case where we're moving forward and saying if you want to submit an application piloting a new or an alternative method or something that hasn't been used a lot that you think is really good and there's some evidence for it, we'll invest to help you test what it is that you say works and validate the claims that you're making. And in fact, if it does save money, or if it's a better way to do part of a post-election audit, then let's try it out. And, let's put a little bit of money on there, because that's what advances the field, more than simply just doing effective practices, which are important and also an emphasis here.

So that's -- there is no research being done at a university that will get thrown out to a peer review process and then shelved somewhere. Regardless of who the applicant is, you have to be working with an election official on an actual election.

COMMISSIONER HILLMAN:

And just one final comment that I would have, and I realize it's not written into the specs of the request for proposal, nor would I suggest it be, but I hope that from this EAC and its program partners, funded partners will be able to demonstrate to the cash strapped jurisdiction where you're already working hard to squeeze the buffalo off the nickel, and you're told to cut your budget by ten percent, that you don't already budget for logic and accuracy or post-election audit, and you don't know where you could get the money from to budget it, but if you ask them to look at their costs, having to do redo things, at the last minute, in order to meet an election deadline that that might -- I hope we can do that in a way that helps jurisdictions see building this into their ongoing operations would be cost effective.

CHAIR DAVIDSON:

My last comment is, I'm very pleased to see that we have the whole election process built in, starting from logic and accuracy, tracking ballots through the process. There's nothing that drives me any crazier than to read a report that a box of ballots was not counted that were absentees or early voting ballots or something like that, because they didn't track their ballots properly to get them counted election night.

So, it's a busy time. There is so many areas for errors to happen. So if these procedures are built in for locals it makes it much easier than trying before Election Day, "Gosh, I've got to make sure that I have all my ballot boxes and how do I -- you know, so some of this is really important that we haven't done in writing or video or things like that in the past. I know a lot of offices are very good about it, but there is some that we have such a high number of turnovers within our election world, that they don't think about things like that. And if they're written and there for them, it would really help the newcomers that's coming in to follow the procedures.

So, that's my last comment. Do you have anything you'd like to add?

COMMISSIONER BRESSO:

No, I'm good, thank you.

CHAIR DAVIDSON:

Well, I do appreciate it. Are you -- I would love to be able to move forward on this, as soon as possible. So, I think that there's a few things that the Commissioners would like to have an opportunity to change.

COMMISSIONER BRESSO:

Yeah, I have some comments that I'd like to provide.

CHAIR DAVIDSON:

Yeah, hopefully they're not rewriting the whole policy and we can get it out right away because, as Mr. Thomas said, time is of an essence. So, we'll take comments immediately after we get back

from this meeting, and then try to get something out for a tally vote, right away, from the Commissioners the following week.

COMMISSIONER HILLMAN:

Can we establish a timeframe? We've got a lot of travel going on between now and the end of July...

CHAIR DAVIDSON:

That we do.

COMMISSIONER HILLMAN:

...either as a Commission or as individuals, and so, I'm afraid if we don't give ourselves a deadline so that we can say we will spend five business days, or whatever, that we'll find ourselves in August trying to scramble and catch up on this.

CHAIR DAVIDSON:

I'm hoping, because we've all made comments to it beforehand that there just...

COMMISSIONER BRESSO:

I didn't. I held back my comments, because when I talked with you we thought it would be best that I did them after, so we don't have many sets of comments going from me...

CHAIR DAVIDSON:

Oh, you didn't make comments before?

COMMISSIONER BRESSO:

No, because I was waiting until after this to provide a full set. So...

CHAIR DAVIDSON:

Okay.

COMMISSIONER BRESSO:

...now that I have everything here comprehensive...

CHAIR DAVIDSON:

How soon do you think you can make those comments?

COMMISSIONER BRESSO:

I can get them by Friday...

CHAIR DAVIDSON:

Okay, that would be great.

COMMISSIONER BRESSO:

...if not earlier. So...

CHAIR DAVIDSON:

If we have those by Friday, then hopefully, we can review those, the other two Commissioners, and we can -- I think we're mainly in that following week, but then we're out after that.

COMMISSIONER HILLMAN:

It's a short week too.

CHAIR DAVIDSON:

Yeah, it is a short week. We don't come back until Tuesday. So...

COMMISSIONER BRESSO:

Maybe we can get shoot to get something out the door before we leave for the NASS/NASED conference.

COMMISSIONER HILLMAN:

That's late. That's two...

CHAIR DAVIDSON:

Yeah, that's two weeks.

COMMISSIONER HILLMAN:

Yes.

CHAIR DAVIDSON:

Let's try for the week after we get back. We've got a Friday, so let's...

COMMISSIONER BRESSO:

So, it would be like the 9th or 10th.

COMMISSIONER HILLMAN:

The week of the 5th?

COMMISSIONER BRESSO:

It's the week of the 5th?

CHAIR DAVIDSON:

The week of the 5th...

COMMISSIONER BRESSO:

Okay.

CHAIR DAVIDSON:

...we'll get it done. And, we'll put it out so I can certify it.

COMMISSIONER BRESSO:

Okay.

CHAIR DAVIDSON:

Okay, all right, we'll put it out then by Wednesday of...

COMMISSIONER BRESSO:

Hopefully, yeah, if we can agree. Absolutely.

CHAIR DAVIDSON:

And that would...

COMMISSIONER HILLMAN:

That would be the 6th, July 6th.

CHAIR DAVIDSON:

That would be the 6th and that way it would give us two days to get it certified.

COMMISSIONER HILLMAN:

Wednesday is the 7th.

COMMISSIONER BRESSO:

That's presuming that we're all in agreement with what it says.

CHAIR DAVIDSON:

Right.

COMMISSIONER BRESSO:

Okay.

CHAIR DAVIDSON:

Right, okay I appreciate it. And my closing remark is I certainly appreciate all of you being here from wherever you came from for the meeting that's coming up. IACREOT is definitely a fine meeting of us, myself being an election official. So, I appreciate you staying with us here all day long. It's been a long day, and you can see we've got quite a bit done, and it's like 3:31. So, thank you for being here.

Any closing comments from the Commissioners?

COMMISSIONER BRESSO:

No.

COMMISSIONER HILLMAN:

No.

CHAIR DAVIDSON:

All right, with that is there a motion to adjourn?

COMMISSIONER BRESSO:

Motion to adjourn.

COMMISSIONER HILLMAN:

Well, it's a hearing so...

CHAIR DAVIDSON:

This is a hearing, so, we don't have to do that.

COMMISSIONER BRESSO:

Oh we don't...

CHAIR DAVIDSON:

It's concluded.

COMMISSIONER BRESSO:

It's concluded.

CHAIR DAVIDSON:

Thank you very much.

[The public hearing of the EAC adjourned at 3:32 p.m. CST.]