

Transcript of the Public Meeting

United States Election Assistance Commission

1225 New York Avenue, NW

Suite 150

Washington, DC 20005

Held on Tuesday, October 7, 2008

VERBATIM TRANSCRIPT

The following is the verbatim transcript of the public meeting of the United States Election Assistance Commission (“EAC”) held on Tuesday, October 7, 2008. The meeting convened at 10:00 a.m., EDT. The meeting was adjourned at 12:01 p.m., EDT.

PUBLIC MEETING

CHAIR RODRIGUEZ:

Welcome to the October 7, 2008, meeting of the United States Election Assistance Commission.

I’ll call this meeting to order and begin with the Pledge of Allegiance and invite Commissioner Gracia Hillman to lead us in the Pledge.

[Commissioner Gracia Hillman led all present in the recitation of the Pledge of Allegiance.]

CHAIR RODRIGUEZ:

Thank you. Madam General Counsel, roll call please.

COUNSEL HODGKINS:

Thank you, Madam Chair. Members, please respond by saying “here” or “present” when I call your name.

Rosemary Rodriguez, Chair.

CHAIR RODRIGUEZ:

Here.

COUNSEL HODGKINS:

Donetta Davidson, Vice-Chair.

VICE-CHAIR DAVIDSON:

Here.

COUNSEL HODGKINS:

Gracia Hillman, Commissioner.

COMMISSIONER HILLMAN:

Here.

COUNSEL HODGKINS:

Madam Chair, there are three members present and a quorum.

CHAIR RODRIGUEZ:

Thank you very much. And now we have an agenda before us. Is there a motion to adopt the agenda?

VICE-CHAIR DAVIDSON:

I move that we adopt the agenda for the day.

COMMISSIONER HILLMAN:

Second.

CHAIR RODRIGUEZ:

It's been moved and seconded to adopt the agenda. Are there any amendments? Any discussion? All those in favor of adopting the agenda indicate by saying aye. Opposed? None.

[The motion carried unanimously.]

CHAIR RODRIGUEZ:

I'd like to welcome everyone to the meeting today. We are in the final 30 days of the election and we are all -- well, the local election officials are definitely in the midst of an election. Many states have already begun voting, and Commissioners find themselves on fairly intense schedule of media opportunity availability. Both of our -- the Commissioners on my right and left have done national and local appearances and our messages to the voters is to primarily know your legal requirements, find out where to go, vote on Election Day if that's how you choose to vote and be sure to participate. And so -- and Mr. Wilkey has joined us in this effort, too. And it's actually quite amazing how wide the message is getting.

So welcome. And we'll begin the meeting. We'll start with old business. We have the minutes from September 18, 2008. Is there a motion to adopt the minutes?

COMMISSIONER HILLMAN:

So moved.

VICE-CHAIR DAVIDSON:

Second.

CHAIR RODRIGUEZ:

It's been moved and seconded to adopt the meeting minutes of September 18, 2008. Is there discussion on the motion? Any changes? I must say, I haven't said this before, they're in really

good shape. I thank our service for all of that. All those in favor of adopting the minutes indicate by saying aye. Any opposed?

[The motion carried unanimously.]

CHAIR RODRIGUEZ:

And now we are into the section of the meeting for the Executive Director's report. Mr. Wilkey.

EXECUTIVE DIRECTOR WILKEY:

Thank you, Madam Chair. We want to welcome everyone to this month's meeting. As the Chair reminded everyone, we're less than a month out from the election, and we have a lot to report on as we prepare for November 4th and the days leading up to it.

We're very pleased to announce that the U.S. Senate has recently confirmed the nominations of EAC's three existing Commissioners: Rosemary Rodriguez, Donetta Davidson and Gracia Hillman. Each was appointed to a second term. The Senate also confirmed Ms. Gineen Bresso Beach who will fill the seat recently vacated by Caroline Hunter. Ms. Beach, future Commissioner Beach will be serving her first term at the EAC and we look forward to working with her. Many of us had worked with her previously in her service in the House Administration Committee and we certainly look forward to having her with us.

We're holding another public meeting next Wednesday that we're very excited about. It will be held at the Press Club, and the meeting format will be a little different. We're hosting a panel of election officials and journalists to discuss how the public receives election results. We'll discuss consideration of time zones, exit polling and voting systems. We think it will be extremely useful, and hope that if you're not able to attend you'll watch the Webcast of it, which will be available 24 hours after the meeting. An agenda of the meeting is available on our Website at eac.gov.

The General Accountability Office recently confirmed that the EAC appropriately obligated the 2008 Requirements Payments, and we can continue distributing the funds to states as we have been in the past. You can find their letter on our Website.

This week we issued our new Quick Start Guides on four additional topics; Canvassing and Certifying an Election, Conducting a Recount, Provisional Ballots, Elderly and Disabled Voters in Long-term Care Facilities. These Quick Starts are available to election officials now. They can be downloaded from our election official center at eac.gov. GAO recently reported that election officials are using these management materials and finding a lot of value in them. Some states are sending the Guides to their counties and referring to them as they develop policies. We

appreciate your help in distributing these materials, and would like to remind you to call our office if you would like additional copies.

Under Information for Voters, we have issued a Voters Guide to Federal Elections. It's a one-stop shop for voters, including information about the basics of ballot casting and special voting procedures, such as early, absentee and military and overseas voting. It also contains contact information for each state's election office. It's available at eac.gov, and we also have hardcopies at the front of the entrance to our meeting room.

We also encourage the public to visit our Voter Information Center again at our Website eac.gov.

Under Voting Systems, work has begun on a contract we recently awarded to the University of South Alabama to develop a scientifically-based voting system risk assessment.

Under Research, at the last public meeting the Commission adopted the EAC's Alternative Voting Methods Study, which is available on our Website. This week we released our 2008 Election Administration and Voting Survey instrument. As most of you know, the EAC collects election administration data every two years in the nation's 55 states and territories. This year's survey will capture information relative to the National Voter Registration Act, the Uniformed and Overseas Citizens Absentee Voting Act, various key election administration issues, including the casting and

counting of provisional ballots and poll worker recruitment, and information on State laws, definitions and procedures governing election administration. In 2009, we will issue reports to the public and Congress based on the data we gather through this survey.

We've just issued background information on the Electoral College. For anyone who is interested in learning how it works and how we inherited this system, we invite you to download the paper from our Website at eac.gov.

We've had a number of tally votes since our last public meeting. All were passed unanimously. They include: The Advisory Opinion in response to Sacramento County, California, regarding the use of Section 251 funds for voting system maintenance; Advisory Opinion in response to Sacramento County, California, regarding the use of Section 251 funds for electronic poll books; Advisory Opinion in response to California regarding the use of HAVA funds for voting equipment reimbursement; Advisory Opinion in response to California regarding the use of Section 251 funds for poll worker training and voter education; Advisory Opinion in response to Wayne County, New York, regarding the use of HAVA funds to pay for poll worker training and lunch; Federal Register publication of changes to HAVA state plan in Idaho, Iowa, and Pennsylvania. Please note that Nevada, Louisiana, Idaho, Iowa and Pennsylvania state plans will be published in the Federal

Register this month and all of the Advisory Opinions I just mentioned will be posted on our Website today.

Website Updates. For updates on EAC activities, please remember to visit our Website. Our recent news features, details about GAO's decision on HAVA requirements payments, the Commissioners' Senate confirmations and a statement from Commissioner Davidson on EAC suggested outlines.

There are also two items that were not in my written report that I want to update you on. At last month's meeting, under our discussion of the Advisory Opinion regarding Maintenance of Effort, Commissioner Hillman outlined seven principles that staff were to take into consideration when revisiting or amending existing advisory on Maintenance of Effort. I'm updating you that the staff is currently looking at these principles in terms of what we have on the books now and will provide an analysis of that to the Commissioners at their December meeting.

There's one also issue that has come to light, following up our recent meeting with the Office of Management and Budget, and I'm going to defer to Counsel to report on that and then I will follow-up. Ms. Hodgkins.

COUNSEL HODGKINS:

Thank you, Mr. Wilkey. The Commissioners had asked that I provide a briefing on the Federal Funding Accountability and

Transparency Act, which is a federal statute that governs the EAC and requires posting information with regard to the awards that we make, grants, contracts and other distributions of federal funds. The Act requires that we post certain information on a single, free-of-charge Website, which has been established by the Office of Management and Budget. That Website is www.usaspending.gov. The Office of Management and Budget has also issued regulations and guidance to the Federal Government agencies on how they are to report this information.

The following information must be reported regarding grants and contracts issued by the EAC: The name of the entity receiving the award; the amount of the award; information on the award, including the transaction type, funding agency, the North American Industry Classification System Code or Catalogue of Federal Domestic Assistance number, where applicable; program source, and an award title that is descriptive of the purpose of each funding action; the location of the entity receiving the award and the primary location of performance under the award, including the city, state, congressional district and country; a unique identifier of the entity receiving the award and of the parent entity of the recipient should the entity be owned by another entity. And the Office of Management and Budget has determined that this is going to be the Dunn & Bradstreet number for that particular entity. The names

and total compensation of the five most highly compensated officers of the entity, if the entity in the preceding fiscal year received 80 percent or more of its gross revenue in federal awards and \$25 million or more in annual gross revenues from federal awards; and, the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under Section 13(a) or 15(d) of the Securities and Exchange Act of 1934.

The Federal Funding Accountability and Transparency Act requires that all executive branch agencies report this information beginning in fiscal year 2007. In addition, as of January 1, 2009, EAC will have to report the same data for subawards and subgrants in the same manner and regarding the same data points as are currently required for grant awards and contracts. The OMB regulations further require that certain information with regard to this requirement are placed in the solicitations for contracts and grants so that the recipients will be aware of the reporting requirements.

So I just wanted to make that presentation so that not only the Commissioners would be aware, but certainly that the public and our grant recipients will be aware of the information that we will be collecting with regard to those awards.

EXECUTIVE DIRECTOR WILKEY:

Thank you, Ms. Hodgkins. And just further to this, as you know we recently learned about this particular Act during our discussions with OMB. We are very fortunate in the fact that we do have a pretty comprehensive database of all of the research contracts that we have issued, and I will be directing staff to take a look at that for the information we need.

We are also very fortunate that we recently hired our own contracting officer who has many years of experience in this area, and so he will also be looking at this and making sure that we can meet our obligations under this Act.

CHAIR RODRIGUEZ:

At this time I think that I'll ask Ms. Hodgkins a question, and that is, does this affect the states at all? Is this simply for the EAC's reporting of how we spend money? Or does any of it go down to the states?

COUNSEL HODGKINS:

It certainly affects the states in that the states are recipients of grants that the EAC awards. So we will be having to report with regard to awards that are made to the states. And as I mentioned, as of January 1, 2009, if the states are making subawards or subgrants to counties or local jurisdictions, we will also have to report on those subawards. So the states will have to be providing us with information with regard to those subawards.

CHAIR RODRIGUEZ:

And is there a form? Or is there an easy way for the states to give us -- to report that information to the EAC?

COUNSEL HODGKINS:

I'm going to defer that to Mr. Wilkey, in terms of how the agency wants to implement that. Certainly we can develop a form. That would take some time, as it would be required to go through the Paperwork Reduction Act, but, you know, that is certainly one means by which you could effectively collect the information that you're talking about.

EXECUTIVE DIRECTOR WILKEY:

Thank you for asking that. We've already had some initial discussions with OMB, who will be working with us to help us develop that, because every agency is unique in the kinds of grants that they do give out. Certainly we're unique to some of the others. And so, we're gathering that information and they've been very helpful to us. Unfortunately, we've had two meetings set up with OMB in the last several weeks to discuss this and some other issues, but because of the recent legislation that was going through Congress, all of our OMB examiners kind of got diverted to that area. So we're hoping to pick up on that meeting very soon.

CHAIR RODRIGUEZ:

I mean, we might need to do some training beyond the -- we may need to do some training that assures that we reach each state if this has the potential to affect each state. And we probably, in conjunction with developing a form, probably had better come up with a training schedule.

EXECUTIVE DIRECTOR WILKEY:

That's a good recommendation, Madam Chair, because we had already had been discussing doing some further training this year in that whole area of reporting by the states on their HAVA funds. We did at the onset. We've done some in conjunction with some of the organizations, but we feel that it's always good to get that information out to them and bring them up to date. So this would be included in that training and we'll probably be doing that in the spring.

CHAIR RODRIGUEZ:

Commissioner Davidson.

VICE-CHAIR DAVIDSON:

Am I correct or mistaken, didn't OMB say that they were still working on some of the processes and procedures on how this was going to be accomplished at the meeting?

COUNSEL HODGKINS:

Well, based upon my research, OMB has issued both regulations and guidance for agencies to use as they are reporting information.

So those, to my knowledge, are in place. The Website is in place that reports the spending of federal funds. So I believe everything is in place and is available for our use.

VICE-CHAIR DAVIDSON:

Very good.

CHAIR RODRIGUEZ:

Commissioner Hillman.

COMMISSIONER HILLMAN:

Thank you. I have three questions, one, maybe for the General Counsel, so I'll ask it first. In your report you talked about EAC's needing to make certain that information is included in solicitations for grants and contracts. Would we also need to put the information in the HAVA award letters as we are disbursing 2008 payments?

COUNSEL HODGKINS:

Actually, it should be in the Catalogue of Federal Domestic Assistance because that's the solicitation for that particular grant program. So that's where the information should initially appear. I agree with you that it would be a good idea to reinforce that information, as we actually award the grants and remind the states of what their requirements would be, but it should definitely be in the Catalogue of Federal Domestic Assistance.

COMMISSIONER HILLMAN:

I still have two questions for Mr. Wilkey. But I just want to say, on this point, that in my opinion EAC has a responsibility to make sure that states are accurately and timely informed about these measures, and unfortunately, EAC seems to be in the cycle with states where when we provide them this information, they question whether we have the authority to impose these. So I want to make it absolutely clear, as we share this information with states, this is a requirement, this is not a discretionary action on the part of the Election Assistance Commission. So, however we communicate that, as long as States don't then turn around and say, "You don't have the authority to do this," we have a responsibility to inform them of our responsibility that affects their responsibilities.

This is just a little correction. When you were talking about the Electoral College...

EXECUTIVE DIRECTOR WILKEY:

Uh-huh.

COMMISSIONER HILLMAN:

...you used the term "we inherited the system." You don't mean "we" EAC. EAC has no responsibility for the Electoral College, right?

EXECUTIVE DIRECTOR WILKEY:

That's correct Commissioner.

COMMISSIONER HILLMAN:

Thank you. All right.

EXECUTIVE DIRECTOR WILKEY:

We might have inherited a few things, but that's not one of them.

COMMISSIONER HILLMAN:

You were talking about the United State of America?

EXECUTIVE DIRECTOR WILKEY:

The United States of America, right.

COMMISSIONER HILLMAN:

Okay, indeed. And then on your report on the MOE, I just want to correct what I understood was our timeline for MOE, and that's the Maintenance of Effort, and our revisiting our existing policy on MOE. I don't believe the timeline was that staff would come back in December and tell us what their assessment was; that staff were to do the assessment, provide information to the Commissioners so that we could post, if we were going to make any revisions, post it for public comment so we could be through in time to take final action in December. And that's very different than having staff come back with their analysis.

I would ask my colleagues if that is not what they would like to see; that we have a discussion about that now, so that I can then just readjust my thinking. We've been sitting on MOE for several months now and to push it off into 2009, I think, is unfair to the

states, particularly since the Inspector General is going to start up his audit schedule after the elections.

CHAIR RODRIGUEZ:

Commissioner Davidson.

VICE-CHAIR DAVIDSON:

I have no problem of the staff going ahead and preparing the document, so that we can see it, so it could be posted.

EXECUTIVE DIRECTOR WILKEY:

Okay.

COMMISSIONER HILLMAN:

With the goal of the Commission taking final action at our December meeting.

VICE-CHAIR DAVIDSON:

I think that all four Commissioners will be in place shortly, and so, I think moving forward with the MOE is -- obviously we have to move forward.

CHAIR RODRIGUEZ:

That gives us two months.

COMMISSIONER HILLMAN:

Two months.

CHAIR RODRIGUEZ:

Two months. That should be...

COMMISSIONER HILLMAN:

Enough time.

CHAIR RODRIGUEZ:

...ample time.

EXECUTIVE DIRECTOR WILKEY:

Yes, I agree. I think what we learned at our discussions with OMB, we'll be prepared to move forward with it in that timeframe.

COMMISSIONER HILLMAN:

Thank you.

EXECUTIVE DIRECTOR WILKEY:

Thank you.

CHAIR RODRIGUEZ:

Anymore questions on the report of the Executive Director? I would just ask that we make a special effort to let the election administrator groups know about Ms. Hodgkins' presentation, so that they can be tuned in to the change that we -- another thing we inherited, right? Okay.

COUNSEL HODGKINS:

Madam Chair, just on that point, I wanted to make the Commissioners aware that the information that I provided was posted to the Website today. So it is available to the public, as well.

CHAIR RODRIGUEZ:

Very good. I'm sure we'll get some questions.

Okay, Commissioner Hillman, Consideration of Draft Working Group Policy.

COMMISSIONER HILLMAN:

Right, thank you. At our last meeting, which was September 18th, we looked -- you had available a draft of the Working Groups Policy that then went internally for staff to review and make comments. At that time we were looking at a timeframe and a process where the Commission, by tally vote, would vote to publish the document in the Federal Register and on our Website for notice and public comment, and that would be mid October, again with the goal that we would get through the public comment process, whatever subsequent analysis on the part of staff, to be able to vote in December. I was hoping to expedite that so that we could have actually voted to post at this meeting, but on Friday, staff recommended that we look at the proposed draft policy in the context of our new roles and responsibilities to make sure that the policy wasn't inadvertently contradicting anything we had agreed to. So, rather than try to rush that for today's meeting, I agreed that the staff should take a couple of days to do that. So, we are still on track, although we may be a few days late, to have the draft available for Commissioner review. And then, I will issue a tally vote for the publication of it for notice and public comment. If we can get that done in the next week, we will still have plenty of time

through mid November, for the 30 day and then staff would have a couple of weeks to review it before our December 8th meeting.

CHAIR RODRIGUEZ:

Very good, thank you. And thank you again for working on it.

Okay, Mr. Cortes Consideration of Draft EAC Guidelines Regarding Material Changes to State Plans will be presented by Edgardo Cortes, Acting Director, HAVA Payments and Grants, and Election Administration Programs.

MR. CORTES:

Good morning Commissioners. Before I get started with this presentation I just wanted to step back for a second, in terms of the discussion on the Transparency Act. Our division has started formulating a plan for conducting trainings very early next year related to financial reporting. Aside from the Transparency Act, later next year, the Office of Management and Budget has also created a new reporting form that will replace the existing standard Form 269 that those states have been using. And so, we're putting together a comprehensive plan for training, related to all these matters, in regards to the guidance that needs to go out to states. So, we will have, at some point soon, so that we can begin working towards implementing that training schedule and providing the information to states.

CHAIR RODRIGUEZ:

Very good.

MR. CORTES:

I am here this morning to present a final draft for consideration regarding HAVA Section 254(a)(11) which deals with material changes in the administration of HAVA State plans. This document is part of EAC's ongoing efforts to provide information and training to our grant recipients, which is one of our responsibilities under HAVA. Drafts of this document were discussed at several public meetings and we also went through a formal public comment period in the Federal Register where we received comments, and I walked through those comments at the last public meeting.

I would like to take a moment and thank all the staff in my division, as well as the Office of General Counsel, for the work that everybody has put in to this document. We did, in preparing this final version, take into account the comments that were received, both through the public comment period and from Commissioners at the public meeting. We think that it is a very good document which encompasses everything that the EAC was -- that the Commissioners wanted to attempt to put out in this, and it also addresses some of the concerns that were brought up during the public comment period.

Commissioner Hillman just mentioned, in terms of the EAC's ability to issue some of these documents, we did, in the background

section, clarify our authority under HAVA to provide information and training to recipients of federal funds. We addressed some of those issues in here and we did take into account, again, the comments.

So, I want to see if there were any questions, but I would recommend that the Commissioners adopt this final interpretation of this section so that we can have a clear statement out there, for states, regarding this matter.

CHAIR RODRIGUEZ:

Any questions or discussion from Commissioners? I'm going to just fixate for a minute on the training. Is there any possibility -- I know at the state and local level, which is my background, agencies used to work together. So, is there any possibility that OMB would conduct this training with us so that states can better visualize the attachment to the circulars from the promulgating agency? It seems to me that that would really help us get our message across about the requirements.

MR. CORTES:

Well, I'm not sure what OMB's willingness will be, but I can tell you from our experience, OMB generally defers to the agency that's charged with implementing whatever Act it is, because they do create the standard forms and they create the circular and some of these reporting requirements. But, really, the questions that we've seen that the states have is, how is this applicable to the funds they

received under HAVA. Especially, you know, when you talk about funding that's restricted to certain activities under HAVA, OMB, I think, would defer to us being the subject matter experts on the implementation side to provide that training. So, we could certainly speak to them and see what information they could provide us or what assistance they could provide us in training. But I also feel very confident we have staff that have had extensive training in the OMB circulars and federal grants management, and I'm also very confident that we'll be able to provide whatever information states are looking for.

CHAIR RODRIGUEZ:

Okay, I'm just looking for a lifeline out there. Commissioner Davidson.

VICE-CHAIR DAVIDSON:

Talking about the form that has just been developed by OMB, is that available now? Is that something that is available now that states can start looking at, even before you do the training, so that they know that their reporting, they're going to have to use the new form?

MR. CORTES:

It is. And the form will not be effective for this next set of reports.

VICE-CHAIR DAVIDSON:

Okay.

MR. CORTES:

It will be for the set of reports after. Right now what we are considering is a requesting for several volunteer states, if you will, to -- the form is optional at this point, as of October 1, and we're considering requesting a handful of states to kind of serve as model states for us in this reporting period, to actually use the new form while everybody else continues to use the previous form, just so that we can get some feedback from states as to how this is working, what questions they have about it, so that next year when everyone is required to implement this new form we've had time to consider all that and put together training materials to address some of those questions and needs.

VICE-CHAIR DAVIDSON:

Okay.

MR. CORTES:

But, yes, we can also provide a link to it on our Website. I'll work with the communications division to link to all that information.

VICE-CHAIR DAVIDSON:

Okay.

CHAIR RODRIGUEZ:

Commissioner Hillman.

COMMISSIONER HILLMAN:

Madam Chair, I'm just...

CHAIR RODRIGUEZ:

Back to the material change.

COMMISSIONER HILLMAN:

...not quite clear on the material changes. Are we supposed to be considering taking action to approve it at today's meeting? Or are we just discussing it?

CHAIR RODRIGUEZ:

What is your recommendation?

MR. CORTES:

I would recommend that the Commissioners adopt the document, the final draft that were provided to Commissioners.

COMMISSIONER HILLMAN:

Well, I have questions, so in order that we can have a discussion on it I'll move adoption of the Interpretation of Material changes per HAVA Section 254(a) (11).

VICE-CHAIR DAVIDSON:

I'll second it.

CHAIR RODRIGUEZ:

It's been moved and seconded to adopt the revised Interpretation of Material Changes.

Commissioner Hillman.

COMMISSIONER HILLMAN:

Okay, this goes back to a point that I raised a little earlier in the meeting and that is what I described as EAC's responsibility to provide clear information to states, particularly when it's information that could affect their record keeping and the way they process their states plans and their other record keeping. And we had a discussion about the ten percent change in the budget and whether that would trigger a material change and, therefore, a submission of an amended state plan, and there was some discomfort. And it is my understanding, and Mr. Cortes, please correct me if I'm wrong, that there was communication from NASED, or at least one or two states, if not NASED, that they challenged EAC's authority to put the ten percent in the Interpretation of Material Changes.

MR. CORTES:

I would have to look back at the comments to see exactly where those comments came from. But I also am aware that -- I know Commissioner Davidson for instance, also had some questions and concerns about the ten percent figure.

COMMISSIONER HILLMAN:

Right, but I'm talking about push-back from the states. I just want to be sure that I recall correctly that somewhere in the public comment there was a question about EAC's putting ten percent change in the first draft we had out there.

MR. CORTES:

It was more about the applicability of the circulars in general, not just the ten percent...

COMMISSIONER HILLMAN:

Okay.

MR. CORTES:

...matter but everything related to circulars.

COMMISSIONER HILLMAN:

All right. And we have just earlier this year been through a little bit of an exercise where EAC was critiqued or challenged, I'm not sure what the appropriate diplomatic word is, that we didn't provide clear guidelines to the states soon enough, so that they would know how to efficiently prepare for audits. And so, we said that we would make sure that whatever clear guidelines we could provide, we would. And so, the first draft did have ten percent, the ten percent is out. I was surprised, quite frankly, to see that as an example of a provision of an OMB circular, the ten percent change in budget was taken out.

So, I just want to make sure that the minutes of this meeting reflect that that ten percent is not EAC's discretionary/arbitrary pick a percentage out of the air, but was reflecting an example of what is in the OMB circular that applies to the use and expenditure of the HAVA funds. Am I correct on that?

MR. CORTES:

That's correct. The ten percent figure is in the Common Rule and it is a requirement that was not created by the EAC.

COMMISSIONER HILLMAN:

Okay. And I guess the only thing I'll say, Commissioners, is that I really, really don't think EAC should be afraid to put in writing, things that can provide clarity to states that are just merely citing what other applicable federal rules and regulations and guidelines require of our grantees. If we can't tell our grantees what's required, then that means they have to take the responsibility to find out on their own. And what we were told before is that it was so much information for states to go through to know how to appropriately, not only spend the HAVA funds, but prepare for audits, that guidelines from EAC would be helpful. So that is just my position and my comment for the record.

CHAIR RODRIGUEZ:

Commissioner Davidson.

VICE-CHAIR DAVIDSON:

You know, I understand where Commissioner Hillman is coming from and as we know that this is basically the beginning of what a state plan -- you know, we want to do a lot of work in the state plan area and even call in states and talk about different things that might help states as they move forward, whether they're changing a state plan or presenting a new state plan because a lot of their

areas have changed. And in doing that, bringing the states in and talking about it, we've talked about whether it's a disaster area of the plan or whatever, but that was really my concern. We're right before an election and I think as we move forward in giving guidance to states in all arenas, it will be very helpful to them. But I think as we move forward, they know the circulars and they know that they're going to apply now. That was a question as, you know, Mr. Edgardo Cortes had stated earlier, that they questioned our authority in that area. But I think our meetings with OMB has put down some direct guidance for us and we understand where that lies, and I think the states are understanding where it lies also. But I do see that we can work with the states as we move forward in developing a whole state plan that will give them guidance in a lot of different areas. I think that working with them, they'll be more willing and we'll understand their issues and can work through those issues, as well as our own issues, and making sure that we are applying the circulars and the Common Rule.

CHAIR RODRIGUEZ:

Thank you, Commissioner Davidson. Mr. Cortes, will you sort of walk us through the changes in this document as compared to the previous draft?

MR. CORTES:

Sure. The first part, like I said, the background section, really, is framed differently and puts this in the context of our responsibility under HAVA, to provide training and information to grant recipients. That was something that came up in several of the public comments, and so, we thought it was important to address it directly right up front as to where the authority for this document lies.

The next thing in the background section was, you know, putting in there -- specifying again, that the state plans and the State Plan Development Committee are going to be the ultimate determiners of when a material change occurs. And this is guidance -- and there are, I can imagine, countless examples out there that are not covered in here, and so this was trying to provide them a framework to work off of.

In the interpretation section, this next section, we do restate that there are requirements in OMB Circular A-102 regarding the creation and amending of state plans; that those requirements are applicable to the state plans created under HAVA. And that includes things like the ten percent budget changes. I mean these are information that's contained in the circulars that is still applicable to the states and they still have to follow those circulars.

Under the first section regarding "New or revised federal laws or regulations," we add an additional example in there. There

was a question about what federal regulations EAC could foresee there being that would impact states, and I think we've had some discussion this morning about new federal regulations that are not created by EAC, that have a direct impact on states. And so, we added an example, in here, regarding Office of Management and Budget regulations that would impact some of the information contained in state plans to clarify that point.

Under the second section regarding -- this is in relation to the example regarding the organization in the state -- based on one of the comments, we reconsidered in terms of the reporting function between state agencies. The example we had given previously, was a state, that its election administration was previously under the Attorney General's Office and they had switched to the Secretary of State's Office through a state law. Because the state, in that instance, is continuing to follow the state plan and we're talking about more of a reporting function to the agency, we felt that -- and it's passed through state law, we did not feel that that required them to go through the State Plan Committee because it's still implementing the same plan; it's just the person or the office responsible for implementing it has changed.

Again, we took out the bullet regarding the ten percent budget change, so now instead of five points there are four separate points.

And then, under the last point, the availability of HAVA funds, based on several discussions with individual Commissioners, and also taking a look at, not only the fiscal year 2008 payments, but the possibility of requirements payments into the future and looking at how states could, not avoid, but, you know, if we -- we gave out payments -- or if a state received a payment this summer and they just updated their state plan and tomorrow Congress appropriates another amount, they just went through that process and the question is, would they have to amend it just because they're getting additional funding. And so, what we put here was, essentially, if your state plan -- if either the budget doesn't cover the amount of funding that you're getting, for instance, quite a number of states base their budget on the funding that was provided through fiscal year 2005. This year, there --last fiscal year, 2008, the states were provided additional funding for requirements payments. That goes above and beyond the budgeted amount that the states had and, therefore, the state plan doesn't cover what they're going to do with that funding. And in addition, the example where a previous state plan doesn't cover the fiscal year that the funds are provided. Again, using the fiscal year 2008 example, some of these plans were created back in 2003 and only went through 2006. We're now in 2008 and the state is still utilizing money and getting new funding, and so, we thought that

was an appropriate time to amend the plan to reflect different spending and different budget expectations and timelines by the state.

So those are the changes that went into the document.

CHAIR RODRIGUEZ:

And so, I'll say again, we don't approve these plans, but we pretty firmly believe that they should accurately reflect the real environment of that state; an accurate reflection of the funds, programs, et cetera. Is that correct?

MR. CORTES:

Well, certainly, staff believe that the state plan should reflect what the state is actually doing with the funding. We believe that was the intent of putting the state plans in there, to essentially notify the public and the voters in the state of what the state intended to do with its funding and how it's planning to spend that to implement the requirements in HAVA. And so, we do believe that is the case.

CHAIR RODRIGUEZ:

Okay. And are there anymore questions or items of discussion? Are we ready to vote on the staff recommendations? All those in favor of adopting the revised Interpretation of Material Changes per HAVA Section 254(a)(11) indicate by saying aye. Any opposed?

[The motion carried unanimously.]

CHAIR RODRIGUEZ:

Thank you, it's been adopted.

MR. CORTES:

Thank you. We will then get this posted on the Website. We will remove the draft and put it in final format to post on the Website.

CHAIR RODRIGUEZ:

Very good, thank you.

Now, under New Business, Mr. Cortes will continue with us to discuss Proposed Revisions, I think...

MR. CORTES:

Yes.

CHAIR RODRIGUEZ:

...to the Advisory Opinion Process.

MR. CORTES:

Thank you, Commissioner. We put this on the agenda today. As was mentioned earlier before, the next public meeting where Commissioners will be discussing items such as this, will be in December. And so, we wanted to put this on the agenda today to let people know what we are going to be doing between this meeting and the December meeting related to this topic.

As you know, earlier this year the Commission adopted a policy related to issuing advisory opinions about the use of HAVA funding. What it requires is, that all questions related to HAVA

funding be responded to via an advisory opinion voted on by the Commission. When requests are received, there's a ten-day public comment period about the actual request and then, you know, we prepare the draft advisory and the Commissioners vote on a final advisory, for issuance.

We have now been through the process of issuing several advisories. We've walked through the process on a couple of occasions now and we believe there is some room for changes to the policy that could help us respond to states more quickly and also -- but still allow for the Commissioners to play the policymaking role that's created in this.

I think the most important part of this policy was the fact that prior to this there was no set standard for when requests regarding HAVA funds went to the Commissioners. And so, this policy established a clear line that, in this instance, all questions went ultimately to be answered by Commissioners, but it essentially put everybody on notice about what the rules were regarding the submission of those questions and how they would be responded to. So I think that it's very important. I think it provides some clarity in that area that was not necessarily there before.

I think since that time there has been several things within the Commission that I think would impact this. The first is the adoption of the Public Notice and Comment Policy by the

Commissioners. This requires that, you know, policy matters be put out, before adoption by the Commission, be put out for at least a 30-day public comment period, but it defines the length of the public comment period and sets up that process, which is currently something that is not included in the advisory opinion process. The only thing in the advisory opinion process that's required to go through public comment is the actual request. And we think it would be much more helpful for rather than the request going out for public comment because there's -- you ask a question. There could be, you know, a whole host of ways you could go towards answering that. We think it will be more beneficial to people, and it would provide a better look for us, to put out draft advisory opinions instead, so that prior to issuing the advisory opinion, that document is what will go out for public comment, so people get a chance to not only know what the question is, but also what our proposed response is.

One issue that has come up is that there is -- the policy is very strict in that all questions related to HAVA funding have to be forwarded to the Commissioners, even those that have been previously answered. So this has put us where we've now had to issue I believe two or three separate advisories in response to the same question. And so, we would like to see some sort of way so that states get a faster response to those matters that have already

been resolved by the Commissioners through advisory opinions or other policies; that the staff be able to respond to those questions and refer them -- refer to those previous responses to expedite that process.

The next issue is one of capital expenditures. There's a requirement in the OMB circulars that capital expenditures, so that's equipment over \$5,000 in value or any alterations to property or purchases of property, receive pre-approval from the awarding agency. And in this case it would be EAC. We have several concerns with -- we just this week received our first request for a capital expenditure approval under this policy, and we have some concerns because there's a lot of information -- a lot of the information that's provided to us has to do with information related to price quotes and other information that's not releasable to the public under the Freedom of Information Act. And there's also the issue again of length of time that it takes for a response. A lot of times states are looking to purchase equipment or make alterations to property and they need a much quicker response than what the advisory opinion process provides. And so, because a lot of capital expenditure approvals are, in essence, taking the policies that Commissioners have already approved and seeing whether or not this fits into them, we'd like to see if there's a way to exclude those from this policy.

The last item is that we've come to the realization that some matters -- the policy has a very strict timeline. I think what we have come across now on two separate occasions is that some matters will require a lot more time for consideration by the Commission. They are very complex matters that have a lot of things that go into them. For instance, Commissioners may want to have extended public comment periods, they may want to discuss it at a public meeting. And there's a lot of options for these more complicated matters. And we think that the current policy doesn't allow the flexibility for the Commissioners to decide that they need more time to address these matters and really give, you know, the time that's needed for consideration, so that the first response that goes out is the correct one and we don't have to come back to the issue later.

What we would like to do is prepare some sample language for the Commissioners to consider, in terms of revisions to the policy and post that for public comment between now and the next meeting, so that we have a revised policy that's been out for public comment, we have time to consider the comments and provide you all with the feedback and the information, so that you can consider it at the next public meeting. We do hope that some action can be taken sooner, rather than later, so that we can going into the new year and with all the requirements that are coming in be clear on what the policy is for responding to questions. But we wanted to

make the public aware today that that's what we are planning on doing. I would like, perhaps, that the Commissioners issue a tally vote later on, you know, after we prepare some draft guidance, propose that it be posted in the Federal Register via tally vote, but just to make the public aware that that's the process we're hoping to follow.

CHAIR RODRIGUEZ:

Is it possible that we could ask the people who have submitted questions -- or the states that have submitted questions to us under this existing policy, for feedback, before we embark on a revision? Because I'm really interested in their thoughts about whether or not it worked for them, or it was helpful to them or not.

MR. CORTES:

And we have done that and we can get some more copies, but we have tried to go back for feedback.

CHAIR RODRIGUEZ:

I'm thinking more of like a focus group kind of discussion facilitated...

MR. CORTES:

We can certainly work on that because we have done that and most of the points I've touched on in here are...

CHAIR RODRIGUEZ:

Based on feedback?

MR. CORTES:

...based on feedback we've gotten from the states after they've also had to go through the process and what concerns they have. And I think, frankly, the biggest one was the issue of the public comment was related to the actual question rather than to the proposed policy being considered by the Commissioners.

CHAIR RODRIGUEZ:

Commissioner Hillman.

COMMISSIONER HILLMAN:

Two questions. Or a comment and a question. As we go through the next few weeks it would be useful to know what elements of the policy worked particularly well for EAC and the jurisdictions. Because it's not just states, right, local jurisdictions can ask questions as well?

MR. CORTES:

Correct.

COMMISSIONER HILLMAN:

Okay. Because it is one thing to point out the things that don't work so well, but I'd like to sort of also have an appreciation for what, under the policy, is serving an effective purpose.

Mr. Cortes raised a question that I think we really need to factor in, and that is, if a state makes a request on capital expenditures that has anything to do with preparations leading to

November 4, or all the post-election things that have to be done; recounts, audits, certifications, that we find a way to bypass this policy and give them the approval they need. I do not want to be sitting here hearing that because EAC has a 60-day policy, a State could not purchase additional equipment or whatever they needed in order to fulfill their responsibility for November 4. I don't know what that would be, but I think it's something that we really have to have as a contingency, ourselves.

CHAIR RODRIGUEZ:

Commissioner Davidson.

VICE-CHAIR DAVIDSON:

I also agree. There is things that happen right before an election, as we are aware, and I think this goes back to my statement that I put up on the Web. Definitely, I would like for us to research and see if we can't some way or another move forward with this, so we can give the states the ability to spend money where they have to have that support prior to the election, or after the election, as Commissioner Hillman said. This is an important election and we sure don't want something out there because we could not meet the timeframe that they needed.

CHAIR RODRIGUEZ:

There's no requirement that a state ask us before they make an expenditure.

COMMISSIONER HILLMAN:

Capital expenditure.

VICE-CHAIR DAVIDSON:

Yes, capital expenditure.

COUNSEL HODGKINS:

Yes, they have to be.

CHAIR RODRIGUEZ:

Every single one?

VICE-CHAIR DAVIDSON:

Uh-huh.

MR. CORTES:

In the OMB circulars, there is a requirement for that.

COUNSEL HODGKINS:

Yes.

MR. CORTES:

Yes.

VICE-CHAIR DAVIDSON:

Some of these really hurt us.

COUNSEL HODGKINS:

Madam Chair, I think the one point that may be important for the Commission to remember is that the policy does not require you to use 60 days. It sets 60 days as the outside time limitation, so...

COMMISSIONER HILLMAN:

But it's at least 15 because the question has to be posted ten days. It takes several days to get it in the Federal Register. We are looking at -- if we did nothing else for every day 24 hours a day, we might get this done in 21 days. That is the very earliest we could get it done.

VICE-CHAIR DAVIDSON:

Correct.

COMMISSIONER HILLMAN:

By 21 days the election is here. Now I don't know if the current capital expenditure request affects their ability to do the upcoming election. And fingers crossed, you know, nothing like that happens. But as we ask states to have contingency plans, we need a contingency plan. And if somebody loses, you know, through damage or some event, some equipment and they need to replace it right away, we need to be able to respond right away as well. And we must have the authority to waive our own policy for conditions like that, and I think we ought to look at that post-haste.

CHAIR RODRIGUEZ:

But if it's required by OMB, how can we waive it?

COMMISSIONER HILLMAN:

Our policy to go through this advisory opinion, not waive. We have to give the approval. I'm talking about our advisory opinion, our own internal procedure that says before we respond, we have to go

through this several step process and we won't be able to respond right away. We should make sure we have the capacity that if a state needs something between now and the end of December so that they can complete all their responsibilities for the election -- I use December, I don't know how long it takes for States to get their election certified -- that we have a way to respond so they can move as quickly as they need to.

MR. CORTES:

Commissioners, we can certainly prepare -- right after this meeting I can prepare some draft language that the Commissioners can pass perhaps via tally vote, or if you'd like before the end of the meeting I can bring something back that will essentially be a vote of the Commission to exempt these sort of procedures for giving an amount of time from the policy. We can come up with something, because the request that came in was from New York State as it related to some capital expenditures for the November 2008 election.

VICE-CHAIR DAVIDSON:

I think some type of an exemption that once we start in the process of election, 60 days before or something, at least 60, maybe 90, then the staff can act and if it's for that election they don't go through it or something.

COMMISSIONER HILLMAN:

Well I actually was thinking of just short-term right now. We can certainly factor that...

VICE-CHAIR DAVIDSON:

In later.

COMMISSIONER HILLMAN:

...into the longer term change, but I mean the immediate right now.

We've only got two months between now and when this is all over.

VICE-CHAIR DAVIDSON:

That's fine.

COMMISSIONER HILLMAN:

Yes.

VICE-CHAIR DAVIDSON:

And we can look at it when we address the state plans totally. And as we talk about emergency and disaster recovery we, as you say, we need to think about our own.

CHAIR RODRIGUEZ:

And I don't want you to rush and write something. I think -- I mean this is my opinion, but I think we should take a day or so to really develop something. And so I don't -- I personally don't have an expectation that you come back during this meeting with something. But it seems like there's consensus around a tally vote in a contingency plan for the Commission.

Any more questions for Mr. Cortes? Thank you very much.

MR. CORTES:

Thank you, Commissioners.

CHAIR RODRIGUEZ:

Okay, Mr. Brian Hancock will come back and lead us in a discussion of consideration of accreditation of CIBER, Inc. Brian?

Commissioner Hillman has asked for a five-minute break, so that will give you time to bring up all of your folks. So we will break for five minutes -- ten minutes.

[The Commission recessed at 11:01 a.m. and reconvened at 11:12 a.m.]

CHAIR RODRIGUEZ:

We're ready to restart, thank you. Mr. Hancock will you lead us in this discussion and introduce your guests, please?

MR. HANCOCK:

Yes, I will. Thank you, Madam Chair. I'm happy this morning to provide you some testimony regarding the accreditation of a new voting system test laboratory. Along with myself this morning, we have Jon Crickenberger of NVLAP, we have Ann Griffiths, Vice-President for CIBER, Inc., and we have Mary Saunders from NIST.

CHAIR RODRIGUEZ:

Great, thank you.

MR. HANCOCK:

Pursuant to the requirements in Section 231(b) of the Help America Vote Help, on June 12, 2008, the EAC received a recommendation from the Deputy Director of the National Institute of Standards and Technology to accredit CIBER, Inc, of Huntsville, Alabama, under our laboratory accreditation program. CIBER was recommended under a scope of accreditation allowing them to test voting systems to the 2005 Voluntary Voting System Guidelines.

Before taking the HAVA mandated vote to accredit these labs, EAC contacted CIBER and required that they submit a letter of application to the EAC, to provide information, agree to program requirements and submit a signed certification of Laboratory Conditions and Practices, as we have done for all of the other laboratories in our program. The CIBER documentation has received and reviewed according to the requirements outlined in Section 3.5 of the EAC's Laboratory Accreditation Program Manual. The information has been reviewed and found to be complete and sufficient.

In light of that, and noting that CIBER has undergone a successful lab assessment from NIST/NVLAP of their technical and management capabilities, and have submitted all information required by the U.S. Election Assistance Commission, the EAC staff recommends the following:

1. The Commission vote to accredit CIBER, Inc. of Huntsville, Alabama, as an EAC voting system test laboratory pursuant to the requirements of Section 231(b) of the Help America Vote Act.
2. The Commission causes EAC staff to forward to CIBER a certificate of accreditation as an EAC VSTL, noting their scope of accreditation and their successful assessment from NVLAP.
3. The Commission cause EAC staff to post the certificate of accreditation, laboratory letter of application and signed certificate of conditions and practices on the EAC's Website.
4. In light of issues encountered by the EAC over the past 12 to 18 months resulting from inexperienced laboratories and lab test engineers, the Commission directs EAC staff to closely monitor the initial test engagement undertaken by CIBER for an on-site testing observation and technical assessment pursuant to Section 4.5.2 of the EAC Laboratory Accreditation Program Manual.

With that, I would be glad to take any questions from you, or I'm not sure if you want to hear testimony from the other panelists first.

CHAIR RODRIGUEZ:

Very good. Why don't we go through each presentation. Of course if a Commissioner has a question at any point, please just let us

know, but let's go through the order so that would be Mr. Crickenberger first.

MR. CRICKENBERGER:

Thank you. First I'd like to thank the Election Assistance Commission for their invitation to speak at this hearing concerning the accreditation of CIBER, Incorporated. NIST believes that public hearings, such as this, provide the necessary transparency to promote confidence in our nation's voting system process.

The National Voluntary Laboratory Accreditation Program, known as NVLAP, is an accreditation body within the National Institute of Standards and Technology, NIST, which provides third-party assessments to arrive at a finding of competency for testing and calibration laboratories.

NVLAP operates under a management system based on ISO 17011 which is an international standard for accreditation bodies. NVLAP does not develop standards but uses standards developed and used by outside parties. NVLAP does, however, develop tools for reporting the assessment findings and evidence of compliance. For completeness and consistency, NVLAP uses handbooks and checklists which are program specific and available to the public on our Website at www.nist.gov/nvlap.

NVLAP conducted the assessment of CIBER, Incorporated for compliance to the ISO 17025 which is our version of NIST

Handbook 150 called “Procedures and General Requirements” and also the core test methods requirements of the EAC-approved 2002 Voting System Standard and the 2005 Voluntary Voting System Guidelines. To document the technical findings, NVLAP developed NIST Handbook 150-22, which is a program specific handbook, for the technical requirements of the 2002 and 2005 voting standards. NIST Handbook 150-22 does not restate all the requirements of the voting standards but does provide a framework for recording objective evidence of compliance to these standards.

CIBER, Incorporated received their on-site assessment visit on December 17 of 2007. This was a four-day assessment performed by a NVLAP lead assessor and a technical assessor. In the interest of consistency, NVLAP has used the same technical assessor for all on-site assessments of voting system testing laboratories. The lead assessor was responsible for assessing CIBER’s management system for compliance to NIST Handbook 150 and used the general operations checklist to record his findings. The technical assessor was responsible for evaluating CIBER’s technical competence to the voting standards and used the NIST Handbook 15-22 checklist to record his findings.

There were 20 non-conformities found during CIBER’s on-site assessment. Most of these required revisions to CIBER’s management system documentation. These included revisions in

documentation involving subcontracting, purchasing, internal auditing, personnel, test methods and validations, electronic transmission of results and the use of the NVLAP term and symbol.

The non-conformity findings in the technical phase of the assessment were consistent with the non-conformities found in other applicant laboratories. The most critical of these were CIBER's need to show more evidence in an ability to develop and validate test methods.

CIBER responded to the NVLAP non-conformity responses on January 23, 2008, by providing documentation of revised procedures and policies. These responses were evaluated by the two assessors and the NVLAP program manager. 13 of these 20 non-conformity responses were judged to be sufficient to satisfy the requirements. More detail was requested for seven of the responses, and an additional response was received by CIBER on April 15, 2008. CIBER's second response provided more detail to the previous responses, and most important of which was to provide a cross matrix showing how test procedures satisfied requirements in the voting standards. Their additional responses were deemed sufficient to satisfy the outstanding non-conformities.

CIBER was granted NVLAP accreditation on May 16, 2008, and a letter from the NIST Acting Director was sent to the EAC

recommending them for accreditation in the EAC accreditation program.

Thank you.

CHAIR RODRIGUEZ:

Thank you, Mr. Crickenberger. Ann Griffiths.

MS. GRIFFITHS:

Thank you, Madam Chair. CIBER is pleased to present this testimony for acceptance in connection with accreditation consideration by the Election Assistance Commission on this seventh day of October 2008. The testimony expresses CIBER's perception of the historical paths taken to prepare us for the National Voluntary Laboratory Accreditation Program. CIBER has a rich history of growth and has a strong commitment to act upon the EAC requirements for testing voting systems.

The delivery of this testimony is presented to the EAC with the understanding that CIBER acknowledges the milestones of transition from NASED to EAC governance of lab testing accreditation and how we as an organization were impacted. The testimony does not assume that EAC is not aware of its own processes but merely recaps the events and the impact on CIBER.

CIBER was founded in 1974 and is currently headquartered in Greenwood Village, Colorado. We conduct business from over 60 U.S. offices, 25 European offices and seven offices in Asia/

Pacific. In addition, CIBER operates in 18 countries, with more than 8,500 employees and 2007 revenues of approximately \$1.1 billion. CIBER, Inc. is a pure-play international systems integration and services company with both private and government sector clients. Our services are offered globally on a project or strategic-staffing basis in both custom and enterprise resource planning package environments, and across all technology platforms, operating systems and infrastructures.

In January of 1990, the Federal Elections Commission completed the development of national engineering and performance and test standards for voting machines. Following these standard recommendations, the National Association of State Election Directors developed voting system standards to provide requirements for manufacturer's and independent testing authorities, ITAs, to obtain certification for their voting systems. Since 1990, CIBER has held an ITA status with NASED.

In 2002, the Help America Vote Act, HAVA, was passed by Congress to address the difficulties encountered in the 2000 Presidential election. The Act defined that the EAC would establish new standards, known as the Voting System Standards, VSS 2002, and would require that manufacturers and test laboratories would use these standards to update the voting systems to meet the new requirements for federal certification. This change positioned the

CIBER/WYLE team as a recognized leader in providing these ITA services and continue to retain that status as a certified ITA. Audits were performed biannually and successfully through an internal audit and review process, and external assessments were performed by NASED through July of 2002.

As part of HAVA, in 2002 a new governing body known as the Election Assistance Commission was tasked with improving the testing processes for voting systems and removing the length of association between the independent test authorities and vendors. This led to the following changes:

Creating the NVLAP in August of 2006, which relieved NASED of its responsibilities for ensuring the ITA status of testing laboratories and certification of voting systems; establishing the National Institute of Standards and Technology in the role of subcontractor to EAC to perform formal external audits of laboratories seeking or retaining accreditation based on the standards of the ISO 17025 for laboratory testing and calibration; publishing a new set of requirements called the Voluntary Voting System Guidelines, VVSG, in 2005 for Voting System Manufacture Design and Laboratory Testing Practices. These guidelines focus on security issues and providing access to people with disabilities, both of which had been addressed only slightly or not at all in the past publications. Requiring current testing laboratories to apply for

full-term VVSG 2005 accreditation or to seek an interim accreditation to continue testing until the VVSG 2005 became effective. In 2006, the VSS 2002 practices of NASED were no longer supported by the EAC governance board and laboratories would not be eligible to perform qualification testing to certify voting systems until they became an accredited laboratory after January 2007.

CIBER chose to seek interim accreditation as an independent testing authority and to continue with the process improvement required of the VVSG 2005 guidelines before January 2007.

In July 2006, CIBER was audited on the new requirements for interim accreditation and, for the first time in 16 years, CIBER did not meet the status as a qualified ITA. Though processes were in place and progress was being made on strengthening policies, CIBER had fallen short on a second audit conducted in December 2006 to the newly released VVSG 2005 requirements. CIBER was cited and not granted interim accreditation for not following through with a notification requirement following the resignation of key staff employees in April of 2007, and for the lack of evidence and documentation in May 2007 of the audit outcome performed by NIST. EAC recommended that CIBER not be considered for

accreditation but encouraged CIBER to apply for full VVSG 2005 accreditation.

By June of 2007, CIBER, continuing to be committed to ensuring its good standing with the EAC and NIST, revised its application strategy for the VVSG 2005 NVLAP accreditation. The executive leadership at CIBER focused heavily on attaining accreditation and reorganized its laboratory for voting system testing under CIBER State and Local Government Segment. The leadership also appointed key roles for ITA leadership that would bring best practices in quality, documentation and process management.

Following these stringent policies allowed CIBER to achieve NIST accreditation in May of 2008. CIBER was also recommended for the second step of accreditation to the EAC Program Director for NVLAP, Mr. Brian Hancock. At the request of the Program Director, and by invitation, CIBER was pleased to apply for the honor of accreditation recognition.

CIBER's current ITA team possesses a unique synergy of skill sets given both its certified tester foundation level, CTFL staff, membership in the American Software Testing Qualifications Board, decades of project management experience and numerous years of business process and procedures development. This atmosphere of skills and professionalism creates the strongest of

documentation processes that are critical capabilities for the success of voting system verification validation practices.

We are confident in our abilities to support the more complex processes associated with the VVSG 2005 and, in fact, we continue to be asked to participate and contribute to NIST and EAC workshops.

CIBER is aware of the concerns the Commission has with our past ITA issues. CIBER is working to regain the level of prominence in voting system testing that it lost. We have confronted these issues by establishing training programs that focus on the necessity of documentation, conducting skill assessments on a per-project-basis and by providing additional training to the core testing organization as required.

CIBER has also been active in seeking business opportunities that support the practices of testing in election administration, parallel testing and non-certification voting system support for vendors and state officials. We believe these opportunities complement, increase and strengthen our current maturity level.

The investment in our employees' continuing education ensures that our employees' skills meet or exceed the level required for voting system testing and that CIBER is committed to

doing business as a qualified testing laboratory for voting system certification.

CIBER has found value in the process of accreditation as it has led to a strengthening of our policies and procedures for our test laboratory. We are confident we have the right tools, training program and human resources to perform at the expected quality levels required by NIST and EAC. We are committed to the continuing partnership with NIST and EAC.

In closing, CIBER commends both NIST and EAC for a job well done and we are excited to be working with you under this new governance. CIBER is a partner invested in the effort to improve the voting experience and in being part of an organization of partners that can be relied on to ensure that our rights, as Americans, to vote are protected.

CIBER has a renewed appreciation for the tough task that NIST and EAC entities have to accomplish because of the HAVA 2002 requirement. We appreciate the efforts to make the accreditation process meaningful and find this accreditation an honor achievement.

CIBER submitted its application for accreditation on July 31, 2008, and we are here today before the Commission to seek your vote and approval for accreditation status as an independent testing authority.

Thank you.

CHAIR RODRIGUEZ:

Thank you, Ms. Griffiths. We don't have a copy of your comments and we would like them please now during the hearing.

MS. GRIFFITHS:

I have one right here.

CHAIR RODRIGUEZ:

Okay. Can we get copies of those for the Commissioners?

Thank you very much for your presentation. And Ms. Saunders my understanding is that you're here to help with the Q&A if necessary?

MS. SAUNDERS:

That's correct. But with your permission could I make two statements for the record?

CHAIR RODRIGUEZ:

Oh, yes, please. Please.

MS. SAUNDERS:

I just wanted to clarify that NIST's National Voluntary Laboratory Accreditation Program was established in 1976 and it's an internationally recognized program. The voting system testing laboratory accreditation program was established in response to HAVA in 2006. And NIST recommends qualified testing laboratories to the EAC for accreditation so that laboratories can

test voting systems under the EAC's voting system certification program. And it was NIST's choice to utilize the NVLAP process to support the NIST director's recommendations of the EAC.

CHAIR RODRIGUEZ:

Thank you for that clarification. And just by way of introduction, Mary is the Chief of the Standards Services Division in NIST's Technology Services.

Are there any questions or discussion? Should we put it on the floor for adoption? Let's put it on the floor for purposes of discussion.

COMMISSIONER HILLMAN:

You mean the approval of the accreditation?

CHAIR RODRIGUEZ:

Yes.

COMMISSIONER HILLMAN:

So moved.

CHAIR RODRIGUEZ:

It's been moved...

VICE-CHAIR DAVIDSON:

Seconded.

CHAIR RODRIGUEZ:

...and seconded to approve the accreditation of CIBER, Inc. as recommended by the staff.

Commissioner Davidson?

VICE-CHAIR DAVIDSON:

I've got a couple of questions that I would like to ask. And I appreciate Ms. Griffiths that you're here today and all of you. Really, this is very helpful.

You talked about training of your -- and it sounded like you've been doing a lot of training -- as we said, we don't have your testimony in front of us -- but you've been doing a great deal of training. Have you also put any of the individual employees through an election type training itself?

MS. GRIFFITHS:

There actually are employees going through election type training right now for a project we're working on for Texas.

VICE-CHAIR DAVIDSON:

Okay. All right, I appreciate that. And then additionally the other question I would like to ask is can you describe your assurance processes that you have?

MS. GRIFFITHS:

For assurance of providing the quality that is...

VICE-CHAIR DAVIDSON:

Right.

MS. GRIFFITHS:

...expected for this?

VICE-CHAIR DAVIDSON:

Uh-huh.

MS. GRIFFITHS:

Absolutely. In addition to following all the policies and procedures in place as an accredited laboratory, CIBER is also an ISO 9001 certified company. What we've put into place that was not there before is one of our individuals from our center for project performance out of our corporate office has been assigned and is the quality assurance manager for our testing laboratory. His name is Dave Ellert. He's been with CIBER I believe for about seven years and his role -- he's been involved in reviewing everything that we're doing, and his involvement in every ongoing project that we will have is to ensure that the standards not only required for everything from the voting system policies and procedures and practices but also from ISO policy and procedures. So CIBER as a company is very much aware of producing objective evidence and ensuring that we are documenting every step of the way of what we're doing.

VICE-CHAIR DAVIDSON:

Okay. And I'll hold my questions for NVLAP until later giving the others an opportunity.

CHAIR RODRIGUEZ:

Commissioner Hillman, do you have anything?

COMMISSIONER HILLMAN:

I do. Let's just distribute the papers first and then I'll ask a couple of questions. And then I'll just need a couple of minutes to look at this and I may come back to questions for CIBER.

Let me start with Mr. Hancock. Can you sort of summarize what, if any, comments or opinions we have received from the public that is outside of EAC or NIST about this current application from CIBER?

MR. HANCOCK:

Well, we have received no comments outside the group.

COMMISSIONER HILLMAN:

Okay. Do we post this? I mean, how would the public know that CIBER was under consideration?

MR. HANCOCK:

Do you have any information about posting...

MS. SAUNDERS:

We post the recommendation letter to the NIST Website...

MR. HANCOCK:

Right.

MS. SAUNDERS:

...as it says. So that is publicly available.

MR. HANCOCK:

And prior to that the application from the laboratories to your program is also posted, correct?

MS. SAUNDERS:

We also post the list of applicants, yes.

MR. CRICKENBERGER:

Applicants.

MR. HANCOCK:

Yes.

COMMISSIONER HILLMAN:

So it's posted on the NIST Website. Do you know if there's a link from EAC to the NIST Website? In other words, if somebody is perusing and visiting our Website, is there a link that sort of prompts them to go to NIST for this subject?

MR. HANCOCK:

I don't know if there's a direct link from our accreditation page to the NIST/NVLAP page. I would have to defer to our press officer on that.

COMMISSIONER HILLMAN:

Do you know Mr. Wilkey if we have that link?

EXECUTIVE DIRECTOR WILKEY:

Yes, we do.

COMMISSIONER HILLMAN:

We do have a link?

EXECUTIVE DIRECTOR WILKEY:

As a matter of fact, and I see our communications director in the back nodding our head, we have also -- this has come up several times in my report to the Commissioners that we have received this notification from NVLAP, and there might have been other instances where this information has been placed on our Website where this has been -- this is under consideration. Is that correct?
I'm seeing a "yes."

COMMISSIONER HILLMAN:

So we are comfortable to say that there has been sufficient opportunity for the public to know that this has been under consideration and review and analysis?

EXECUTIVE DIRECTOR WILKEY:

I believe that that has been referenced both in my reports to you, as well as other information that we have posted in the voting system certification accreditation piece on our Website.

COMMISSIONER HILLMAN:

Okay, all right. So a question for colleagues from the National Institute for Standards and Technology, and I want to go to the part of your testimony, Mr. Crickenberger, about the non-conformity findings. And you cited there were 20 during CIBER's on-site assessment.

MR. CRICKENBERGER:

Correct.

COMMISSIONER HILLMAN:

Were there any in the non on-site assessment? In other words you referenced non-conformities of on-site, but is there any similar thing in the review of paper submission, applications or anything outside of the on-site assessment?

MR. CRICKENBERGER:

The on-site assessment, the 20 that we found, they were required to respond to in 30 days. So they sent us responses and then we evaluate those responses and decide do they really answer all that we need to see or do we need to see more evidence, more procedures, that sort of thing. So at that point they had closed out
13.

COMMISSIONER HILLMAN:

Right, but my question goes before that. That's from on-site.

MR. CRICKENBERGER:

Correct.

COMMISSIONER HILLMAN:

And I guess I'm asking if there were any, and I'm just using this term because I don't know...

MR. CRICKENBERGER:

Okay.

COMMISSIONER HILLMAN:

...and I'll ask Mary Saunders, if there were any similar kind of or non-conformity findings before you got to the on-site assessment.

MR. CRICKENBERGER:

Actually not because the only thing we had to consider was -- and of course we had prior knowledge of CIBER because they had joined the program before under let's say a different regime -- and we had had problems in communications, some of the same problems that Brian references where there was a lack of response when they had changed people. And, frankly, we were having trouble just contacting CIBER and getting responses to when they were ready to begin the on-site process and submit the information. So once they changed their personnel they became extremely proactive in the accreditation process.

So they submit -- as far as before the assessment, they submit documentations to the lead assessor before the assessment and we actually review their quality system for adequacy before we go. But that's also part of the on-site assessment. That would be addressed when we go. Once we decide that their system is adequate, then we show up and see do they actually comply with that system.

COMMISSIONER HILLMAN:

Okay, so your answer prompts another question. Was this assessment process of CIBER different because CIBER had

already been in the cue as compared to a lab that had never been accredited by EAC?

MR. CRICKENBERGER:

No. All labs are treated the same. They get the same...

COMMISSIONER HILLMAN:

No matter times they've come back?

MR. CRICKENBERGER:

Correct.

COMMISSIONER HILLMAN:

Okay, all right. So of the 20, you said the non-conformity findings in the technical phase of the assessment were consistent with those found in assessments of other applicant laboratories?

MR. CRICKENBERGER:

Correct.

COMMISSIONER HILLMAN:

Okay, so the number was consistent. We should not be alarmed about 20? Or was it the type of finding?

MR. CRICKENBERGER:

I'm going to say both. 20 is about -- consistent, about an average if I had to pick an average, because some of these are findings that can be acted on and corrected with some procedural things that they may not have done to our satisfaction. Some of these are fixes that require more work on their part but that we see at all the

lab levels. Things that -- for example, test method development. We may want to see more in-depth procedures on how they develop test methods. That's something we find with a lot of the labs. The training of their personnel, this is something we want to see more of. What kind of training do they have? How do they document it? How do they document that the people that are working on a specific test have been certified by somebody there that they are competent to perform that test?

COMMISSIONER HILLMAN:

Would this also be consistent with review for accreditation of laboratories for other disciplines other than voting systems?

MR. CRICKENBERGER:

Yes.

COMMISSIONER HILLMAN:

Okay, all right. And I want to go back to something else just for my own edification. In your testimony you said, "Non-conformity findings in the technical phase."

MR. CRICKENBERGER:

Yes.

COMMISSIONER HILLMAN:

What is the non-technical phase?

MR. CRICKENBERGER:

The non-technical phase -- when I talk about our general operations check of -- the ISO 17025 standard is an international standard used for all testing and calibration labs. We use that and all of our international bodies that we have recognition agreements with use that. We have our own version of that standard which we call NIST Handbook 150. It has a couple of editions to it like how to use the NVLAP logo, how to approve traceability, that sort of thing. That is more of a management system, a quality system, if you will, based standard. And that is what I would consider the non-technical standard. We have developed, and do develop for all of our programs, program specific handbooks which we have one for voting systems, we'll have one for the asbestos labs, one for EMC labs. So we have one for the voting system labs that has its own framework of requirements. As I said in my testimony, it doesn't reiterate everything in the standards because standards are just loaded with specific requirements. Labs have to know all those requirements. But the technical assessor and the technical evidence that we collect is documented in our program specific checklist. So there's a place in the program specific checklist for everything in the voting standards. And that becomes what I call the technical non-conformities.

COMMISSIONER HILLMAN:

So am I understanding there were no non-conformity findings in the non-technical? Is that what you're...

MR. CRICKENBERGER:

No, there were non-conformities in both areas.

COMMISSIONER HILLMAN:

In both areas.

MR. CRICKENBERGER:

Correct.

COMMISSIONER HILLMAN:

Okay. And so forgive me if I missed that in your testimony, but did you have the same reporting number where here you said 20 in the technical phase?

MR. CRICKENBERGER:

Yes. 20 was overall...

COMMISSIONER HILLMAN:

Overall.

MR. CRICKENBERGER:

...both technical and -- right, I did not...

COMMISSIONER HILLMAN:

Okay.

MR. CRICKENBERGER:

...split those out because what we do is when we have a closing meeting with a lab where we discuss with them all their findings so

they understand what they have to reply to, we just list all the non-conformities.

COMMISSIONER HILLMAN:

Okay. So your use of the term technical here did not mean...

MR. CRICKENBERGER:

Did not mean that they were...

COMMISSIONER HILLMAN:

Okay.

MR. CRICKENBERGER:

...additional ones or the 20 did not include those. The 20 overall included both technical and what we'll call the management system type non-conformities.

COMMISSIONER HILLMAN:

Okay. So my question -- back to Mr. Hancock. EAC had the recommendation from NIST for about four-and-a-half months, and if you could just sort of summarize and refresh my memory on what it was EAC was doing for the four-and-a-half months. And is that about the average length of time it would take EAC to review a NIST recommendation? Was it longer for NIST? Has it been like that for the other labs we accredited?

MR. HANCOCK:

It was a little bit longer this time, but you have to remember we actually did look at the CIBER accreditation specifically according

to the lab accreditation handbook that the Commission adopted earlier this year. So that was something new and there are a few more details in there.

The other thing was we, given our timeframe for public meetings, we had to wait almost an extra month. We were almost ready in September to put this, but it just missed the cutoff date. So this past month that's been taken into account as well.

COMMISSIONER HILLMAN:

But what would you tell us would be the amount of time anybody should expect that it would take EAC from the time you received the NIST recommendation until staff is ready to recommend action to the Commission? Assuming no...

MR. HANCOCK:

Right. And that was going to be my...

COMMISSIONER HILLMAN:

...big findings.

MR. HANCOCK:

Unless there were some non-conforming -- some non-responsiveness perhaps on the part of a laboratory, you know, I would venture to guess it would be in the future somewhere between 30 and 60 days.

COMMISSIONER HILLMAN:

30 and 60 days. Okay, and so I'm hoping that my colleagues have lots of other questions so I can just glance at this because you said a couple of things, but I just need to look at it on paper.

CHAIR RODRIGUEZ:

Thank you, Commissioner Hillman. Commissioner Davidson.

VICE-CHAIR DAVIDSON:

Okay. As everybody is aware I'm sure sitting at the table, there's been some issues with SysTest that has come up. I guess first of all, Mr. Crickenberger, can you answer did you assess this any different because -- CIBER any different because of some of these issues or is some of the things that came into play because of the issues that have come up? Is there anything any different that you did in this review than what has been done in the past?

MR. CRICKENBERGER:

Well the on-site assessment, of course, for CIBER took place...

VICE-CHAIR DAVIDSON:

Prior?

MR. CRICKENBERGER:

Right. In 2007, in December. What we did is we awarded them accreditation in May. The issues with SysTest came up a little later, so I can't say that we knew that the SysTest of course after the fact and then applied them to CIBER, but I can say that some of the issues that you have been having with SysTest we were aware

of with other labs in communication with the EAC. So as it happens, we did look at some of those areas more closely that later became areas of concern with SysTest.

VICE-CHAIR DAVIDSON:

All right. All right, very good. And can you kind of describe for me the difference in your assessment when you go in to assess a new lab and do a reassessment what you have to go through when you do a reassessment for us? Would you kind of go into that a little bit?

MR. CRICKENBERGER:

When we do the initial assessment, of course, the lab may be new to the system and it's actually really a learning experience for the lab. But we do the same -- we go through the same process on the reassessment. In other words, we look at the whole lab once again as if it hasn't been looked at before, with the exception that we're aware of where the lab problems were, where the non-conformities were before. And we pay special attention to those and make sure that they have been closed out to our satisfaction. So we -- it's -- the reassessment is not an abbreviated assessment. It's they get the same overall encompassing treatment that they do for the original one with the addition that we now know the lab, we may have gotten some feedback. For example, the voting system testing program has the benefit that none of our other programs

have in that the labs have to send their test methods and test plans to the EAC.

VICE-CHAIR DAVIDSON:

Uh-huh.

MR. CRICKENBERGER:

So we see -- we hear word of their final product all the time, which we may not with the other labs. So because we get feedback from the EAC from Brian's group, then we are better able I believe in the voting system program to go back and know beforehand on the reassessment some of those issues that actually have come up within that past year and that need special attention.

VICE-CHAIR DAVIDSON:

Okay.

MR. CRICKENBERGER:

So in other words, we do the same thing. It's all encompassing, but we zoom in and pay closer attention on issues that have shown to be a concern.

VICE-CHAIR DAVIDSON:

Okay, you know, additionally just I would like to know when -- obviously when you're doing an assessment early on and it's a new assessment you can't watch them do a testing because you're looking at whether they have the capability of performing the

testing. When you do a reassessment, do you actually watch testing that's going on within that laboratory?

MR. CRICKENBERGER:

We try to do that. We try to schedule, if we can, the reassessment visit to actually coincide with when they're doing testing in the labs. And I think one of the lessons we're learning is we're finding out that we have to make a better effort to make sure if the lab actually has work. And some labs may not, but if they don't have work we really need to actually either come back I think when testing is being performed, and we're doing that in some cases, to monitor the actual testing of the lab. But as a general rule we don't necessarily – or haven't necessarily been able to go back in the couple of labs that we've done and watch actual testing. But I think we're seeing instances where we may have to go back and do that in a monitoring fashion.

VICE-CHAIR DAVIDSON:

All right, okay. Ms. Griffiths is CIBER really willing to put if you need more employees -- because there's going to be more and more testing obviously coming up in the future -- are you willing to put more effort and put more employees in that division if necessary?

MS. GRIFFITHS:

Absolutely, yes.

VICE-CHAIR DAVIDSON:

Okay. I have no further questions.

CHAIR RODRIGUEZ:

Commissioner Hillman.

COMMISSIONER HILLMAN:

I guess my question for CIBER is more of a general one, and that is -- and this is current history -- so looking at the processing events that CIBER has been through with the accreditation to test voting systems under EAC, if you put it in context with other accreditation exercises that you have been through, what would you say are the significant differences? I mean what proved to be very different, unique or most challenging for CIBER?

MS. GRIFFITHS:

I would say that the most challenging was to try and be as prepared as possible. We had the expectation going in through the process through the on-site that there would be non-conformities. Our goal and objective was to have as few of those or have whatever we need to do in response to those as minimal information that we'd have to do at CIBER. I will say that as a result of this process the team today in Huntsville any time they have downtime, when they're not working on activities that we're working on CIBER projects or engagements, they're going back through and reviewing what is in place from the current practices and policies. There's a

lot of new changes with the 2005 and there isn't anyone that can say they know all of it. So part of the process and part of the challenge for us is to have our team as knowledgeable as possible for that and be involved, like we said, in the workshops that you have so we can give you feedback on things that we see; if it's something that becomes -- that we think is more burdensome for CIBER to do or for other labs to do let you -- make you aware of that because overall we want to improve the process. We want to know that everyone who votes is ensuring they get everything that we're certifying and testing that they can be assured was followed in the guidelines that were there. We do a lot of other kind of certifications. A lot of our individuals have outside training and certification process. And I would say that individual processes are probably very different than this being CIBER certified for the laboratory for the accreditation. But if you compare that to a process, many of our individuals now are certified testers. And the process of going through testing -- just as Jon was saying, there's other things they certify -- you can apply some of the same techniques and tools through the same processes. And that's where I see CIBER we can leverage that from other accreditations and other processes that we go through.

COMMISSIONER HILLMAN:

Okay. Your testimony says CIBER, Inc. is a pure-play international system integration and services company. In lay person's language, that means?

MS. GRIFFITHS:

That means that's one of the favorite terms of our president and CEO to say that as a pure-play company we will come in and do for you what we're telling you we're going to do as opposed to saying we've got five other things that maybe we do and if you need them we'll let you do them. It is a very unique term that doesn't have an easy explanation. It's more defined by our president and CEO.

COMMISSIONER HILLMAN:

Uh-huh. And is that sort of the logo or the slogan or the value or...

MS. GRIFFITHS:

Sort of the logo or slogan of the company, absolutely.

COMMISSIONER HILLMAN:

Uh-huh. Okay, thank you.

VICE-CHAIR DAVIDSON:

The only other question I might have, if you can tell me, I'm sure you're aware of the SysTest, you know, and you've been reviewing the issues that has come up there. Have you put anything else in place because of that? I know that you got your assessment done prior to those letters coming out, but have you done anything since

that time to make sure that those issues don't affect you in the future?

MS. GRIFFITHS:

And I wouldn't say there's anything unique that we've put in place, but being aware of it and again going back through and ensuring that we as CIBER would not be -- that there'd be nothing that we would be doing that would be seen to be in the same kind of light with SysTest. It's preparing as much as we can knowing that what we need to do is follow everything that's in place.

VICE-CHAIR DAVIDSON:

Okay, thank you.

CHAIR RODRIGUEZ:

Thank you. Mr. Hancock, do you have anything to add or any questions for any of the speakers?

MR. HANCOCK:

I don't think so. No, Madam Chair.

CHAIR RODRIGUEZ:

Are there any other comments or additions by any of our panelists?

Mr. Wilkey, do you have anything?

EXECUTIVE DIRECTOR WILKEY:

Yes, I do. I'll just make a fast comment and then ask a question both of Ann and Mary.

First of all, Ann I want to acknowledge the fact that you have in your testimony taken the steps to acknowledge some of the past difficulties that CIBER had, and I respect that a great deal and I think that says a lot to us and to the public.

Are you ISO 17025 in other areas?

MS. GRIFFITHS:

We are not in other areas.

EXECUTIVE DIRECTOR WILKEY:

So this was your first...

MS. GRIFFITHS:

This is our first, absolutely.

EXECUTIVE DIRECTOR WILKEY:

Okay. And just one question, and I think I know the answer but just for the benefit of everyone else Mary. Everything now related to this report is on the NVLAP Website. Is that correct?

MS. SAUNDERS:

Actually, yes, it's on the NIST voting Website.

EXECUTIVE DIRECTOR WILKEY:

Okay.

MS. SAUNDERS:

www.vote.nist.gov. We post the on-site assessment findings for each of the candidate laboratories that we recommend to the EAC, their responses and the final review determination. So everything

with respect to the non-conformities and the closing of those non-conformities is on the Website.

EXECUTIVE DIRECTOR WILKEY:

Okay, that's good because I think it's very important that those who are looking at the Webcast understand that they can go to our Website and virtually look at the whole process.

MS. SAUNDERS:

One more point. The NVLAP accreditations are facility specific, so the accreditation was for the Alabama facility that CIBER operates.

EXECUTIVE DIRECTOR WILKEY:

Okay, thank you very much. Thank you, Madam Chair.

CHAIR RODRIGUEZ:

Very good. Do we have then the information we need to vote on the motion? I'll just add that this -- CIBER sort of represents my term on the Commission; that we started this process with a letter to you. My first Congressional hearing was about CIBER, so I'm very interested in a commitment, the apparent change in the way that you've approached this. We do need testing labs to be available to handle the needs of the States and jurisdictions, so thank you very much for working with us on this.

Okay, we have a motion on the table to accredit CIBER, Inc. for the purposes of testing voting systems. All those in favor indicate by saying aye. Any opposed?

[The motion carried unanimously.]

CHAIR RODRIGUEZ:

The motion passed. Congratulations.

MS. GRIFFITHS:

Thank you.

CHAIR RODRIGUEZ:

Okay, then, that concludes our new business. We have a public meeting, which Mr. Wilkey talked about in his presentation, on October 15th, and it's basically our final election workshop. And we're going to bring together journalists and election officials to talk about how we might work together in behalf of America's voters, and that will be at the National Press Club on October 15th at 1 o'clock I think.

We don't have any other regular Commission meetings scheduled in November at this time. There may be a possibility of an emergency meeting, but if so we'll announce it. Hopefully not.

This concludes today's October 7th meeting. Thank you very much.

COMMISSIONER HILLMAN:

So moved to adjourn.

CHAIR RODRIGUEZ:

Is there a motion to adjourn?

COMMISSIONER HILLMAN:

So moved. So moved.

CHAIR RODRIGUEZ:

I always forget motion to adjourn.

VICE-CHAIR DAVIDSON:

Second.

CHAIR RODRIGUEZ:

All those in favor?

[The motion carried unanimously.]

[The public meeting of the United States Election Assistance Commission
adjourned at 12:01 p.m.]