

# State of Wisconsin\Government Accountability Board

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JUDGE THOMAS H. BARLAND  
Chair

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Director and General Counsel

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Via U.S. Mail and Email

September 8, 2014

Mr. Steve Pearson  
Vice President of Certification  
Election Systems & Software  
11208 John Galt Blvd.  
Omaha, NE 68137

Mr. Pearson:

On September 4, 2014 the Wisconsin Government Accountability Board (Board) granted approval for the ES&S EVS 5.2.0.0 and EVS 5.3.0.0.

G.A.B. staff tested and the Board approved the following hardware versions for the ES&S EVS 5.2.0.0.

<i>Equipment</i>	<i>Hardware Version(s)</i>	<i>Firmware Version</i>	<i>Type</i>
DS200	1.2.1 1.2.3 1.3	2.12.00	Polling Place Digital Scanner and Tabulator
DS850	1.0	2.10.00	Central Count Digital Scanner and Tabulator
AutoMark Voter Assist Terminal (VAT)	1.0 1.1 1.3	1.86.00	Ballot Marking Device
ExpressVote	1.0	1.4.00	Universal Vote Capture Device

Staff also reviewed and the Board approved the following software, which is included in the EVS 5.2.0.0 suite:

<i>Software</i>	<i>Version</i>
ElectionWare	4.6.0.0
Election Reporting Manager (ERM)	8.11.00
ES&S Event Logging Service (ELS)	1.5.5.0
ExpressVote Previewer	1.4.0.0
ExpressPass Application	1.1.0.0

Removable Media Service (RMS)	1.4.5.0
VAT Previewer	1.8.6.0

G.A.B. staff tested and the Board approved the following hardware versions for the ES&S EVS 5.3.0.0

<i>Equipment</i>	<i>Hardware Version(s)</i>	<i>Firmware Version</i>	<i>Type</i>
DS200	1.2.1 1.2.3 1.3	2.13.00	Polling Place Digital Scanner and Tabulator
DS850	1.0	2.10.00	Central Count Digital Scanner and Tabulator
AutoMark Voter Assist Terminal (VAT)	1.0 1.1 1.3	1.86.00	Ballot Marking Device
ExpressVote	1.0	1.4.00	Universal Vote Capture Device

Staff also reviewed and the Board approved the following software, which is included in the EVS 5.3.0.0 suite:

<i>Software</i>	<i>Version</i>
ElectionWare	4.7.0.0
Election Reporting Manager (ERM)	8.12.00
ES&S Event Logging Service (ELS)	1.5.5.0
ExpressVote Previewer	1.4.0.0
ExpressPass Application	1.1.0.0
Removable Media Service (RMS)	1.4.5.0
VAT Previewer	1.8.6.0
Regional Results	1.1.0.0

In order to maintain approval for use in Wisconsin, a voting system manufacturer must comply with the requirements of Chapter 7 of the Government Accountability Board Administrative Code. A copy of this chapter has been enclosed for your review. Specifically, Election Systems & Software (ES&S) must:

1. Pay the Government Accountability Board's costs for testing this voting system. An invoice will arrive separately.
2. Immediately notify the Government Accountability Board of any changes to this voting system. The Government Accountability Board will determine the procedures for approving any changes for use in Wisconsin on a case-by-case basis.

3. Furnish a copy of the programs, documentation, and source code for these systems to be placed in escrow with EscrowTech International, Inc.
4. Ensure that the election results from this system can be exported on election night into the Statewide Voter Registration System (SVRS) in a format specified by the Board.
5. Inform the Government Accountability Board regarding any municipalities in Wisconsin which agree to use this voting system as well as any states or other jurisdictions which approve this voting system for use.
6. In the instance of voluntary withdrawal, involuntary decertification by the US EAC (or other Federal agency responsible for voting systems certification), or revocation of approval by the Board of ES&S EVS 5.2.0.0 and EVS 5.3.0.0 (including any component), ES&S shall provide affected customers with substitute tabulation equipment such that any impacted election may be properly tabulated pursuant to Wis. Stat. § 5.40.
7. Submit an Engineering Change Order via an approval application for de minimis changes; however, any material changes require a full application and review process.
8. Complete the attached Certificate of Performance Compliance: Delivery of Voting System for each municipality. One certified copy must be provided to the municipality upon delivery of the voting system and one certified copy must be provided to the Government Accountability Board.

Furthermore, the Government Accountability Board enacted additional requirements for the ES&S EVS 5.2.0.0 and EVS 5.3.0.0. The Board determined that the following continuing conditions shall remain ongoing for purchasing localities.

1. As a continuing condition of the Board's approval, that ES&S may not impose customer deadlines contrary to requirements provided in Wisconsin Statutes, as determined by the Board. In order to enforce this provision, local jurisdictions purchasing ES&S equipment shall also include such a provision in their respective purchase contract or amend their contract if such a provision does not currently exist.
2. Purchasing entities are reminded Wis. Stats. 5.85(2)(b)1. requires all overvoted ballots to be remade. The voting system shall be configured to automatically reject these ballots with no opportunity for the voter to override.
3. The ExpressPass application software was **not** approved as part of the Board's approval.
4. As a continuing condition of the Board's approval, this system must always be configured to include the following options:
  - a. Automatic rejection of crossover ballots with no opportunity for the voter to override.
  - b. Automatic rejection of all improper ballots except blank ballots.
  - c. Digital ballot images to be captured for all ballots tabulated by the system.
5. Election inspectors shall remake all absentee ballots automatically rejected so that the ballot count is consistent with total voter numbers.

6. As part of US EAC certificate: ESSEVS5200, only equipment included in this certificate are allowed to be used together to conduct an election in Wisconsin. Previous versions that were approved for use by the former Elections Board and the G.A.B. are not compatible with the new ES&S voting system, and are not to be used together with the equipment seeking approval by the Board, as this would void the US EAC certificate. If a jurisdiction upgrades to EVS 5.2.0.0, they need to upgrade each and every component of the voting system to the requirements of what is approved herein. Likewise, if a jurisdiction upgrades to EVS 5.3.0.0, they need to upgrade each and every component of the voting system to the requirements of what is approved herein.
7. As a condition of approval, ES&S shall abide by applicable Wisconsin public records laws. If, pursuant to a proper public records request, the customer receives a request for matters that might be proprietary or confidential, customer will notify ES&S, providing the same with the opportunity to either provide customer with the record that is requested for release to the requestor, or shall advise Customer that ES&S objects to the release of the information, and provide the legal and factual basis of the objection. If for any reason, the Customer concludes that Customer is obligated to provide such records, ES&S shall provide such records immediately upon Customer's request. ES&S shall negotiate and specify retention and public records production costs in writing with customers prior to charging said fees. In absence of meeting such conditions of approval, ES&S shall not charge customer for work performed pursuant to a proper public records request, except for the "actual, necessary, and direct" charge of responding to the records request, as that is defined and interpreted in Wisconsin law, plus shipping, handling, and chain of custody.

Please note that noncompliance with these, or any other requirements contained in Wisconsin Statutes or the Government Accountability Board Administrative Code, may result in the suspension or withdrawal of the Board's approval of this voting system.

Thank you for your attention to these issues. If you have any questions, please do not hesitate to contact either myself or David Buerger of the Wisconsin Government Accountability Board.

Sincerely,

**Wisconsin Government Accountability Board**



Kevin J. Kennedy  
Director and General Counsel