

# State of Wisconsin\Government Accountability Board

212 East Washington Avenue, 3<sup>rd</sup> Floor  
Post Office Box 7984  
Madison, WI 53707-7984  
Voice (608) 266-8005  
Fax (608) 267-0500  
E-mail: [gab@wisconsin.gov](mailto:gab@wisconsin.gov)  
<http://gab.wi.gov>



JUDGE TIMOTHY L. VOCKE  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

Via U.S. Mail and Email

August 21, 2013

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

Mr. Pearson:

On August 13, 2013, the Wisconsin Government Accountability Board (Board) granted a conditional approval for the ES&S Unity 3.4.0.1 voting system. The Board's final determination regarding approval of the Unity 3.4.0.1 is pending the outcome of acceptance testing, functional testing, and use of the system in a test election. Based on the results of the acceptance test, the functional test, the test election, and any other credible information regarding the system's performance in its possession, the Board will determine whether the proposed voting system will be approved for use in the State of Wisconsin and so notify ES&S.

The Board also approved continuing conditions of use for municipalities that would purchase the Unity 3.4.0.1 after its final approval. If the Board does not grant final approval, ES&S shall remove all modems and associated firmware from the DS200's, rendering the modem functionality inoperable and effectively reverting the ES&S Unity 3.4.0.1 to the previously approved Unity 3.4.0.0.

G.A.B. staff tested and the Board conditionally approved the following hardware versions for the ES&S Unity 3.4.0.1.

<b>ES&amp;S UNITY 3.4.0.1 HARDWARE COMPONENTS</b>			
<b>3401 Equipment</b>	<b>Hardware Version(s)</b>	<b>Firmware Version</b>	<b>Type</b>
DS200	1.2	1.6.0.0	Precinct Tabulator
AutoMark Voter Assist Terminal (VAT)	1.0 1.1 1.3	1.3.2907	Ballot Marking Device

Staff also reviewed and the Board approved the following software, which is included in the Unity 3.4.0.1 suite:

SOFTWARE	VERSION NUMBER
Audit Manager	7.5.2.0
Election Data Manager	7.8.1.0
ESS Image Manager	7.7.1.0
Hardware Programming Manager	5.8.0.0VAT
Election Reporting Manager	7.8.0.0
AutoMark Information Management System (AIMS)	1.3.257
VAT Previewer	1.3.2907
Log Monitor	1.0.0.0

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 Unity3.4.0.1 (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. Sec. 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 voting systems application to be used in Wisconsin. All voting systems under this certificate must meet the provisions below. Final approval could be granted were the Board to determine that the system has met the following conditions:

1. *Acceptance Testing.* The purchasing locality (a) has conducted acceptance testing to assure that the system meets their needs and is identical to the certified system; (b) has conducted acceptance tests with the guidance of G.A.B. staff and c) has forwarded certification documentation to the G.A.B., signed by both the county and municipal clerks, confirming that the system has successfully met the acceptance testing requirements provided by the G.A.B.
2. *Functional Testing.* The purchasing locality has performed functional testing as part of the procurement process for the voting system. The vendor will work with municipalities to resolve any anomalies identified during the functional testing. G.A.B. will require that upon acquiring the equipment, the locality forward certification documentation to the G.A.B. confirming that the system has successfully met the functional testing requirements provided by the G.A.B. The functional test will demonstrate the system's ability to execute its designed functionality as advertised and tested, including but not limited to:
  - a. Successful transmission of results via simulator
  - b. Successful transmissions of results using analog telephone line on site
  - c. Successful receipt of all results from mock election
  - d. Generates system status and error messages
  - e. Produce or generate an interim report, or final report of the election as required
  - f. Produce an audit log
3. *Test Election.* The system has been successfully used in the 2014 Spring Primary and 2014 Spring Election prior to final approval. Successful completion of a test election includes a post-election audit. The audit will be conducted in accordance with existing G.A.B. processes for conducting voting equipment audits and will be subject to G.A.B. guidelines.

Based on the results of the acceptance test, the functional test, the test election, and any other credible information regarding the system's performance in their possession, the Board will determine whether the proposed voting system will be approved for use in the State of Wisconsin and so notify the vendor. G.A.B. Staff will provide an interim report at the March 2014 Board meeting and a full report for the Board's consideration at the May 2014 Board meeting. If the Board does not grant final approval, ES&S shall remove all modems and associated firmware from the DS200's, rendering the modem functionality inoperable and effectively reverting the ES&S Unity 3.4.0.1 to the previously approved Unity 3.4.0.0.

The Board also determined that the following continuing conditions shall remain ongoing should the Board ultimately decide to grant final approval of Unity 3.4.0.1.

1. *Acceptance Testing.* Any locality purchasing the Unity 3.4.0.1 shall conduct acceptance testing according to the specifications outlined above in the recommendations for conditional approval.
2. *Functional Testing.* Any locality that is using the Unity 3.4.0.1 in any election shall conduct functional testing according to the specifications outlined above in the recommendations for conditional approval for every election in which the 3.4.0.1 shall be used.
3. 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.
4. Only systems tested during this certification are allowed to be used together to conduct an election in Wisconsin. Previous versions that were approved for use by the former Elections Board are not compatible with the new ES&S voting system, and are not to be used together with the equipment versions seeking approval by the Board. If a jurisdiction upgrades to Unity 3.4.0.1, it needs to upgrade each and every component of the system to the requirements of what is approved herein.
5. Unity EMS 3.4.0.1. may only program the AutoMARK Voter Assist Terminal (VAT), versions 1.0, 1.1, 1.3.1 (Print Engineering Board (PEB)1.65), and 1.3.1 (PEB 1.70).
6. 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 costs.

7. Election Preparation Testing. Line and DS200 testing prior to each election is essential to ensure reliable and efficient data transmissions on election night. These tests should include line specification and quality tests along with operational verification testing of each modem equipped DS200 scanner.

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

Subsequent to receiving the Board's conditional approval, ES&S submitted an Application for a Modification to a previously approved system pertaining to eleven engineering changes to the DS200. Staff will need to review that application and make a recommendation for my consideration, as the Board has delegated that approval authority to the Director and General Counsel. ES&S may not deliver DS200s bearing the engineering changes prior to receiving approval from the G.A.B.

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

Sincerely,

**Wisconsin Government Accountability Board**



Kevin J. Kennedy  
Director and General Counsel

cc:

Michael Haas  
Elections Division Administrator  
Wisconsin Government Accountability Board

Ross D. Hein  
Elections Supervisor  
Wisconsin Government Accountability Board

Shane W. Falk  
Staff Counsel  
Wisconsin Government Accountability Board

Sherri Ann Charleston  
Voting Equipment Elections Specialist  
Wisconsin Government Accountability Board