Wisconsin Elections Commission

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<u>Via U.S. Mail and Email</u>

July 13, 2023

Mr. Tim Hallett
Vice President of Certification
Election Systems and Software
11208 John Galt Blvd.
Omaha, NE 68137

Dear Mr. Hallett:

On June 1, 2023, the Wisconsin Elections Commission ("WEC" or "Commission") granted approval for the ES&S EVS 6.0.6.0 and EVS 6.0.7.0 voting systems.

WEC staff tested and the Commission approved the following hardware versions for EVS 6.0.6.0:

Hardware Component	Hardware Version(s)	Firmware Version(s)	Type
DS200	1.2, 1.3	2.21.0.0	Polling place digital scanner and tabulator
DS450	1.0	3.5.0.0	Mid-range central count digital scanner and tabulator
DS850	1.0	3.5.0.0	High-speed central count digital scanner and tabulator
DS950	1.0	3.5.0.0	High-speed central count digital scanner and tabulator
ExpressVote HW 1.0	1.0	1.5.4.0	Universal voting system
ExpressVote HW 2.1	2.1.0.0, 2.1.2.0	2.6.0.0	Hybrid universal voting system and precinct count tabulator

WEC staff tested and the Commission approved the following software, which is included in EVS 6.0.6.0:

Software Component	Version
ElectionWare	5.0.6.0
ES&S Event Logging Service (ELS)	2.0.0.0
ExpressVote Previewer (HW 1.0)	1.5.4.0
ExpressVote Previewer (HW 2.1)	2.6.0.0
ExpressLink Printer	2.0.0.0
Removable Media Service (RMS)	2.0.0.0

Wisconsin Elections Commissioners
Don M. Millis, chair | Marge Bostelmann | Joseph J. Czarnezki | Ann S. Jacobs | Robert Spindell | Mark L. Thomsen

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Administrator
Meagan Wolfe

WEC staff tested and the Commission approved the following hardware versions for EVS 6.0.7.0:

Hardware Component	Hardware Version(s)	Firmware Version(s)	Type
DS200	1.2, 1.3	2.21.1.0	Polling place digital scanner and tabulator
DS450	1.0	3.5.0.0	Mid-range central count digital scanner and tabulator
DS850	1.0	3.5.0.0	High-speed central count digital scanner and tabulator
DS950	1.0	3.5.0.0	High-speed central count digital scanner and tabulator
ExpressVote HW 1.0	1.0	1.5.4.0	Universal voting system
ExpressVote HW 2.1	2.1.0.0, 2.1.2.0	2.6.0.0	Hybrid universal voting system and precinct count tabulator

WEC staff tested and the Commission approved the following software, which is included in EVS 6.0.7.0:

Software Component	Version
ElectionWare	5.0.7.0
ES&S Event Logging Service (ELS)	2.0.0.0
ExpressVote Previewer (HW 1.0)	1.5.4.0
ExpressVote Previewer (HW 2.1)	2.6.0.0
Removable Media Service (RMS)	2.0.0.0
Regional Results	1.3.0.0

To maintain approval for use in Wisconsin, a voting system manufacturer must comply with the requirements of Chapter EL 7 of the Wisconsin Administrative Code. A copy of this chapter has been enclosed for your review. Specifically, ES&S must:

1. Pay the WEC's costs for testing this voting system. An invoice will arrive separately.

2. Furnish a copy of the programs, documentation, and source code for these systems to be placed in escrow with EscrowTech International, Inc.

3. Provide the WEC with a list of software components, pursuant to Wis. Stat. § 5.905, that "record and tally the votes cast with this system." For the purposes of this condition, "software components" include vote-counting source code, table structures, modules, program narratives and other human-readable computer instructions used to count votes with this system. Should a valid request for inspection of software components under Wis. Stat. § 5.905(4) be made, the Commission will use this list to assist in making its determination as to what is available for inspection under Wis. Stat. § 5.905(2).

4. Ensure that the election results from this system can be exported on election night into the WisVote system in a format specified by the Commission.

5. Inform the WEC 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. 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 WEC.

7. Immediately notify the WEC of any changes to this voting system. The Wisconsin Elections Commission will determine the procedures for approving any changes for use in Wisconsin on a case-by-case basis.

8. Submit an Engineering Change Order via an approval application for de minimis changes; however, any material changes require a full application and review process.

9. 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 Commission of EVS 6.0.6.0 and EVS 6.0.7.0 (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.

Furthermore, the WEC enacted additional requirements for EVS 6.0.4.3. The Commission determined that the following continuing conditions shall remain ongoing for purchasing jurisdictions as well as ES&S:

1. As a continuing condition of the WEC's approval, ES&S may not impose customer deadlines contrary to requirements provided in Wisconsin Statutes, as determined by the WEC. 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. As a continuing condition of the WEC's approval, voting systems purchased and installed as part of EVS 6.0.6.0 and EVS 6.0.7.0 be configured in the same manner in which they were tested, subject to verification by the Commission or its designee. Once installed, the configuration must remain the same and may not be altered by ES&S nor by state, county, or municipal officials except as approved by the Commission.

3. Election inspectors shall continue to check both the write-in bin, where applicable, and main ballot bin for validly cast write-in votes after the close of polls in each election, and not rely upon the optional write-in report.

4. Any absentee ballot returned by the tabulation equipment with an overvote or crossover vote notification must be reviewed by election inspectors prior to being overridden or remade. If necessary, ballots must be remade pursuant to approved procedures listed in the Election Day and Election Administration manuals.

5. Any absentee ballot returned which has been marked with non-black ink be remade by election inspectors prior to any attempt at processing on the tabulation equipment.

6. Ballots marked with the ExpressVote in ballot marking mode and ExpressVote Tabulator be included as part of the pre-election public test.

7. As a continuing condition of the WEC's approval, that this system must always be configured to include the following options:
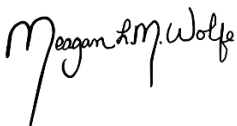
   a. Automatic rejection of crossover and overvoted ballots with or without the option to override.
   b. Automatic rejection of all improper ballots except blank ballots.
   c. Digital ballot images shall be captured for all ballots tabulated by the system.
   d. Require the return of ExpressVote Tabulator ballot cards for physical review prior to casting.
   e. Provide visual warning messages, utilizing Commission approved language, to voters when overvotes and crossover votes are detected.

8. As part of US EAC certificate: ESSEVS6060, only equipment included in this certificate can 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 WEC, as this would void the US EAC certificate. If a jurisdiction upgrades to EVS 6.0.6.0, it needs 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 6.0.7.0, it needs to upgrade each and every component of the voting system to the requirements of what is approved herein.

9. 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.

10. The Wisconsin application for approval contains a condition that requires the vendor to reimburse the WEC for all costs associated with the testing campaign and certification process. ES&S agreed to this requirement on the applications submitted to WEC on June 22, 2022, requesting the approval of EVS 6.0.6.0 and 6.0.7.0.

   Please note that noncompliance with these, or any other requirements contained in Wisconsin Statutes or the Wisconsin Elections Commission Administrative Code, may result in the suspension or withdrawal of the Commission'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 myself, Rob Kehoe, or Cody Davies of the Wisconsin Elections Commission.

   Sincerely,

   Wisconsin Elections Commission

   Meagan Wolfe
   Administrator