

# WISCONSIN ELECTIONS COMMISSION

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## 2016 Voting System Audit Requirements

Wis. Stat. § 7.08(6) is the state embodiment of § 301(a)(5) of the Help America Vote Act (HAVA). Wis. Stat. § 7.08(6), requires the Wisconsin Elections Commission (WEC) to audit each voting system that is used in this state following each General Election:

**(6) Enforcement of federal voting system standards.** Following each general election, audit the performance of each voting system used in this state to determine the error rate of the system in counting ballots that are validly cast by electors. If the error rate exceeds the rate permitted under standards of the federal election commission in effect on October 29, 2002, the commission shall take remedial action and order remedial action to be taken by affected counties and municipalities to ensure compliance with the standards. Each county and municipality shall comply with any order received under this subsection.

### Required Audit Distinguished from Required Testing

The pre-election test of an electronic voting system per Wis. Stat. § 5.84 uses a pre-determined set of ballots to ensure that the voting system is properly programmed prior to Election Day. The post-election voting system audit per Wis. Stat. § 7.08(6) is designed to assess how the electronic voting system performed on Election Day by reviewing the ballots cast by electors.

### Definitions

*Audit* – post-election voting system audit conducted pursuant to Wis. Stat. § 7.08(6).

*Blank Ballot* – a ballot on which an elector does not vote for any contest.

*Overvote* – when an elector votes for more than the number of candidates to which he or she is entitled to vote in that contest. This circumstance may be read as an undervote by some optical scan voting systems as no vote will be counted.

*Reporting Unit* – the ward, combination of wards, or other districts by which votes are tallied.

*Total Voters* – the total number of voters who appeared to vote at the polling place and whose valid absentee ballots were cast at the polling place. This total should correspond with the highest voter number/last voter number issued on the poll list.

*Type of Voting System* – a particular type of voting system. In Wisconsin there are two types of voting systems: (1) touch screen direct recording electronic (DRE) systems, and (2) optical scan tabulating systems.

*Undervote* – when an elector does not vote or votes for less than the number of candidates or offices to which he or she is entitled to vote in that contest. An undervote may also be how an overvote is recorded by the voting system.

*Votes Cast* – the number of actual votes cast for a contest. For any particular contest, this number may be less than the total number of voters.

*Voting Device* – an apparatus other than a voting machine which the elector uses to record his or her votes on a ballot. Wis. Stat. § 5.02(24g).

*Voting Machine* – a machine which serves in lieu of a voting booth and which mechanically or electronically records the votes cast by electors, who depress levers or buttons located next to the choices listed on the ballot to cast their votes. Wis. Stat. § 5.02(24r).

*Voting System* – the total combination of mechanical, electromechanical, or electronic equipment, including the software, hardware, and documentation required to program, control, and support the equipment that is used to define ballots, to cast and count votes, to report or display election results, and to maintain and produce any audit trail information. Wis. Stat. § 5.02(24w)(a).

### **Reporting Unit Selection**

Wisconsin Elections Commission staff will randomly select one hundred (100) reporting units across Wisconsin which will be subject to a voting system audit, including a minimum of five (5) reporting units for each voting system used in Wisconsin. In addition, each municipality may be selected to audit no more than two reporting units per each election. The audits will be conducted in accordance with the procedures set forth below. Both the municipal and county clerk of the reporting units selected for audit will be notified of the selection. If fewer than five (5) reporting units for any voting system are selected through the random selection process, then additional reporting units will be randomly selected by voting system until five reporting units per voting system have been selected. Any reporting unit selected for audit that is subject to a recount may be replaced by another reporting unit selected at random by WEC staff. For good cause, WEC staff may identify other reporting units to be audited.

### **Pre-Audit Preparations**

The audit shall be open to the public. Members of the public may not interfere with the conduct of the audit. The time and location of the audit must be posted at least 48 hours prior to the audit. Audits may commence as soon as notification is provided by the WEC. The audit must be conducted, however, no later than two (2) weeks after the Wisconsin Elections Commission certifies the election results.

If any municipality chooses to conduct the audit prior to the expiration of the recount deadline, significant caution and care must be exercised by the municipality to ensure all ballots are maintained securely and accounted for. Should a recount subsequently be required for a reporting unit whose audit was conducted prior to the recount deadline, it will be critical to have documentation and minutes that clearly establish chain of custody to ensure transparency and accountability, in an effort to limit any questions about ballot tampering or misconduct. Clerks may determine that it is not practical to begin the audit prior to the expiration of the recount deadline. In the event of close unofficial results, the WEC will advise clerks if the audit should be delayed until the recount request deadline.

Upon notification by WEC staff that the municipality shall conduct an audit of a selected reporting unit, the municipal clerk shall make arrangements with the county clerk and the county board of canvassers to preserve and retain the election materials including voter lists, the Inspectors' Statement (EL-104), Tally Sheets (EL-105), reports printed or generated by the voting system, ballots and any other required materials that will be used during the audit. All materials subject to audit must be retained in a secure location by either the municipal or county clerk.

Upon agreement of the municipality and county, the county clerk or county board of canvassers may perform the audit of the selected reporting unit(s) in lieu of the municipality. In this instance, the county would be entitled to any reimbursement provided by the Wisconsin Elections Commission.

### **General Procedures**

1. The municipality shall acknowledge receipt of its selection for the post-election voting system audit and confirm with the WEC the following information for each reporting unit selected:
  - a. Voting System Type
  - b. Voting Equipment Model
  - c. Accessible Voting Equipment Model
2. Four (4) contests shall be audited, including the top contest on the ballot, the presidential election. The other audited contests shall be selected randomly by WEC staff from the other state contests that appear on the ballot.
3. The clerk shall publicly post notice of the time and location for the voting system audit at least 48 hours prior to the scheduled audit. Clerks must notify the WEC of the time and location of the audit by sending an email to [wecaudits@wi.gov](mailto:wecaudits@wi.gov).
4. A minimum of two individuals shall participate in the audit. Votes shall be tallied by hand for the contests included in the audit. For some voting systems, this will require counting the votes listed on the voter-verified paper audit trail generated by the voting system on Election Day. At least two auditors shall each determine an independent total for each selected contest. These totals shall then be compared to each other. If the auditors' totals agree, the totals are then compared to the results generated by the voting system. Any discrepancies should be recorded and explained in the minutes of the audit.
5. If any offices contain an overvote, no vote is counted for that office, and it is considered an undervote.
6. Auditors should only count votes as the equipment would have counted them.

Example: A voter circled candidate name Jane Doe on an optical scan ballot where they should have filled in the oval next to the candidate name. No vote for this office should be counted as the voting equipment would not have counted a vote cast for a candidate in this manner.

7. In some cases, it may not be clear exactly how the ballot would have been counted by the voting equipment. Auditors should document in the minutes any ballots where it is unclear how the voting system would count the ballot. The auditors should include in the minutes how they counted the ballot as well as all reasonable alternatives on how the machine may have counted the ballot.

Example 1: Ballot 93, voter marked both Jane Doe and John Smith and attempted to erase the mark for John Smith. We counted it as a vote for Jane Doe, but the machine may have read this as an overvote in this contest. This may result in our tally having one more vote for Jane Doe and one less undervote in this contest.

8. The audit results should be compared to the results report from the voting equipment and an error rate should be determined. It may be possible that the auditors' totals do not match the voting equipment results report, but the auditors should be able to reasonably explain any difference in the totals by reference to specific ballots.

## **Recommended Audit Procedures**

### *Overview*

1. Two people review each ballot.
2. Auditors should rotate the stacks between them – i.e Person A works on Stack 1-100 while Person B works on Stack 101-200, etc...then they switch. Person A and Person B will each individually go through all the ballots.
3. Keeping the stacks in order allows the auditors to narrow down and locate where there are discrepancies between the two independent counts instead of needing to recount all the ballots over and over again.

### *Set-Up*

1. Count out ballots into sets of 100.
2. Label stacks (1-100, 101-200, 201-300, etc.)

### *Each Auditor Individually*

1. Tally contests from ballots that have been separated into groups of 20 – the goal is to be able to narrow discrepancies between individual tallies down to the smaller groups of 20.
  - a. Record the number of votes for each candidate on the tally sheet under the appropriate column for the group of ballots you are working on.
  - b. List the total votes for each office by counting down the column for the stack of 20 you are working on. Be sure to include any scattering or undervotes in your total. The total for each group of ballots should always be equal to the total number of ballots in the group (i.e. a group of 20 ballots should have a total of 20 votes, scattering and undervotes, and a group of 17 ballots would have 17 total votes, scattering and undervotes)
2. Keep separated in subgroups of 20 while tallying – it is helpful to keep the group of 100 in one stack but to alternate the directions of the subgroups of 20 ballots.

3. Add subtotals after each stack of 100 ballots is complete and note that number in the ‘ST’ column of the Tally section.
4. Complete the ‘Totals’ section of the tally sheet by listing the hand-count subtotals in the ‘Audit’ column, the totals from the voting equipment results tape in the ‘EVM’ column and noting any difference between those totals in the ‘Variance’ column.
5. Repeat 1-4 in sets of 100 until all ballots are counted.

*Auditors Jointly*

1. Compare individual tallies for each contest audited.
  - a. Circle any discrepancies between the two tallies.
  - b. If tallies do not match, recount the sub-group of 20 to determine which tally is correct. You should use a new tally sheet labeled “Recount [insert Stack Number/Subgroup]”.
2. After any discrepancies are reconciled, add the stack totals together to determine the total vote in each contest audited.
3. Compare to the electronic voting machine (EVM) total.
  - a. If the totals match, note that they match on the reporting form.
  - b. If the hand tally and voting equipment tally do not match for a contest, the auditors should review the minutes for ballots that were ambiguously marked that could explain the discrepancy. If the discrepancy can be reasonably explained by specific reference to these ballots, record that explanation on the reporting form.
  - c. If the minutes do not provide a reasonable explanation for the discrepancy, calculate the error rate and note the actual difference in votes and the error rate on the reporting form.

**Post-Audit Procedures**

Each municipality conducting an audit must submit the designated reporting forms and supporting documents from the audit, including tally sheets, to WEC staff to indicate the audit was completed and describe any discrepancies that were found. Clerks should email these findings to [wecaudits@wi.gov](mailto:wecaudits@wi.gov).

WEC staff may, at its sole discretion, request that the municipality submit all audit materials, including the source documents (ballots, poll lists, etc.) to the WEC for further review. In such a case, the WEC will reimburse the municipality for the associated postage/shipping costs.

In the event that a discrepancy between the machine tally and the paper record tally cannot be reasonably explained, WEC staff will request that the voting equipment manufacturer investigate and explain the reasons for any differences between the machine tally and the paper record tally. Should the vendor fail to provide a sufficient written explanation, including recommendations for preventing future occurrences, within 30 days of notification, WEC staff will suspend approval of the affected voting system in Wisconsin. This suspension will be implemented immediately, pending an appeal by the vendor to the Commission, which must be filed within 30 days.

Based upon the results of the audit, the Wisconsin Elections Commission may, at its sole discretion, choose to re-test the voting system per WEC Chapter 7. Such test would be a condition of continuing approval of said voting system.

### **Municipal Reimbursement**

The Wisconsin Elections Commission will reimburse municipalities for actual costs incurred, up to \$300 per reporting unit, for conducting each audit. The Wisconsin Elections Commission will not reimburse personnel costs at a rate exceeding \$10 per hour. Each municipality seeking reimbursement shall submit an itemized request that includes the names of the auditors, the pay rate at which they were compensated, the total sum requested for reimbursement and information on where the WEC can transmit any approved reimbursement amount.