Thank you for the chance to provide feedback on Version 2.0 of the Voluntary Voting System Guidelines (VVSG 2.0). The VVSG 2.0 represents an important opportunity to advance modern voting system standards that election vendors can use to build secure, trustworthy voting technology that voters can have confidence in.

The National Association of State Election Directors (NASED) represents all 50 states, the District of Columbia, and the five U.S. territories: American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, and the U.S. Virgin Islands. Our members serve on the Technical Guidelines Development Committee (TGDC), the Election Assistance Commission's (EAC) Board of Advisors, and the EAC Standards Board; NASED itself had a VVSG Committee when there was no quorum at the EAC to discuss solutions for moving the standards development process forward without the EAC.

The EAC has asked for feedback from the community on both the content of the VVSG 2.0 and the proposed structure. VVSG 1.0 was approved by the EAC in December 2005; in 2007, an effort to make significant changes to the VVSG and move to version 2.0 failed because the commissioners could not agree. In 2015, the commissioners approved minor modifications to version 1.0, updating the standard to version 1.1[1]. To put this in perspective, Apple released the first iPhone in June 2007; the current voting system standards are so technologically dated, they predate the first iPhone because the EAC commissioners could not agree on more significant revisions.

Standards must fit the world that we live in, and this requires the ability to change and adapt quickly. The proposed structure makes the Principles and Guidelines the VVSG 2.0 and leaves the technical requirements and voting system test lab test assertions separate, and therefore not in need of a vote by EAC commissioners; these additional documents would be updated consistent with a policy which would be voted on by EAC commissioners. The TGDC, the EAC Standards Board, and the EAC Board of Advisors, all of which include diverse state and local election officials and non-voting representatives from the EAC itself, voted in favor of the proposed

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[1] In software development, major changes result in a change to the first digit and minor changes result in a change to the second digit; thus VVSG v.1.1 represents minor changes to VVSG v. 1.0.

structure of the VVSG 2.0 in September 2017 and April 2018, respectively. Both the TGDC and the Board of Advisors also include technology and accessibility experts in addition to state and local election officials.

At the 2018 EAC Standards Board meeting, however, the EAC offered that EAC commissioners should not only vote on the Principles and Guidelines but on the requirements and the voting system test lab test assertions as well. This was a surprise, and defeats the purpose of designing the VVSG 2.0 as a separate document from the requirements and test assertions. Based on questioning at the Public Hearings on the VVSG 2.0 on April 10 and April 23, 2019, it is clear that the EAC commissioners continue to think this is the appropriate course of action; NASED disagrees. EAC commissioners have never cast a vote on voting system test lab test assertions.

NASED strongly supports the proposed structure of the VVSG 2.0 out for public comment, with the broad, high-level Principles and Guidelines requiring EAC commissioner approval and allowing the technical requirements and voting system test lab test assertions to be updated regularly by qualified EAC technical staff in close consultation with other experts, including those from the National Institute of Standards and Technology (NIST). This proposed structure will allow the testing and certification processes to be more efficient and permit new methods for certifying modifications, upgrades, and patches, all of which will allow election officials to better ensure the security and integrity of their voting equipment.

Consistent with the recent unanimous recommendation of the EAC Standards Board and the resolution passed by the EAC Board of Advisors, NASED views the Principles and Guidelines as the VVSG 2.0, required by the Help America Vote Act of 2002 (HAVA) and subject to EAC commissioner vote. Prior to adopting the VVSG 2.0, however, the EAC must also adopt policies governing the VVSG 2.0 that clearly state that the requirements and voting system test assertions are independent documents that do not require commissioner vote. This will allow the requirements and test assertions to be dynamic over time, even when there is no quorum of commissioners at the EAC.

EAC commissioners voting on requirements and test assertions is problematic for several reasons:

- The EAC is often without a quorum. If the requirements and test assertions are considered part of the VVSG 2.0, they cannot be updated in the absence of a quorum.

  NASED's concerns about a quorum at the EAC are not unjustified; in fact, the agency was without a quorum almost as soon as it was voted into existence. The EAC should have had a quorum within 120 days of the date of HAVA's enactment, or by February 23, 2003; the initial commissioners, however, were not appointed until December 13, 2003.[2] The EAC had a quorum from that date until December 10, 2010[3], when Commissioner Gracia Hillman left the agency. The EAC went without a quorum again until January 13, 2015,[4] and for another 317 days in 2018 and 2019 during which time Microsoft alone issued a dozen critical patches for its products.[5] In total, the EAC has been without a quorum for 2,105 days[6], or 35.6 percent of the agency's entire existence.

- The structure of the EAC – two Republican-appointed commissioners and two Democratic-appointed commissioners – makes the agency susceptible to politics. Voting system standards are not political or partisan, and cannot be hamstrung by a deadlock among the commissioners, particularly given that the commissioners typically are not technical experts. The development of the VVSG 2.0 has been a bipartisan, collaborative process from the very start, and the TGDC, Standards Board, and Board of Advisors are all bipartisan.

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[2] Testimony of the EAC Commissioners before the U.S. House of Representatives Committee on House Administration, June 17, 2004. See page 1.

[3] Amended Notice: Request for Substantive Comments on the EAC's Proposed Requirements for Version 1.1 of the Voluntary Voting System Guidelines (VVSG), published in the Federal Register October 1, 2012.

[4] EAC Major Management and Performance Challenges report, submitted to EAC Acting Executive Director Alice Miller by EAC Acting Deputy Inspector General Roger LaRouche, October 13, 2015. See page 3.

[5] Data on critical patches courtesy of the Elections Infrastructure Information Sharing and Analysis Center (EI-ISAC).

[6] February 23, 2003 to December 13, 2003 is 293 days; December 10, 2010 to January 13, 2015 is 1,495 days; March 24, 2018 to February 4, 2019 is 317 days. As of May 2, 2019, the EAC has been in existence for 5,912 days.

- Technical standards must be reviewed and approved by technical experts, not political appointees. At the EAC, the appropriate approver for technical standards is the Director and staff in the Testing and Certification department of the agency, in consultation with NIST and others, similar to how the EAC Executive Director and Director of Testing and Certification are responsible for the certification of voting systems. The commissioners must trust their staff and technical experts.

- The EAC commissioners have never voted on voting system test lab test assertions. The commissioners should not vote on more than they already do: VVSG 1.0 predates the iPhone because the commissioners could not agree on more significant changes to the standards.

  Test assertions represent the process by which the test labs will achieve the requirements, and therefore they must be modified on an ongoing basis to make sure that they continue to adequately test the requirements. The EAC did not vote on the current test assertions and has never voted on them in the past; some of the current test assertions were developed by the EAC and NIST and the rest are, according to EAC staff at the 2018 Standards Board meeting, "proprietary to each of the labs."[7] While we appreciate efforts to standardize the test assertions across voting system test labs, NASED does not believe that it is appropriate for non-technical experts to vote on highly technical procedures. The test assertions should be maintained via a public process and reviewed and approved by EAC technical staff in consultation with NIST.

The proposed VVSG has been formally in development since 2015, though NASED members began discussing this proposed structure as early as 2013 on the NASED VVSG Committee. Over the last four years, technology and accessibility experts, voting system vendors, and federal experts, including representatives from NIST and the EAC itself, have contributed to the Principles and Guidelines as well as to the development of the requirements and test assertions. TGDC meetings are public, and the working groups focused on the requirements' development, also public, include dozens of current and former state and local election officials from jurisdictions across the country, as well as voting system vendors, advocates, and others. The time to raise concerns about taking the requirements out of the VVSG was when the new structure was first proposed. Now that we are so close to the finish line, and now that the security threats we face demand it more than ever, we cannot begin the standards development process again from scratch.

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[7] Transcript of the 2018 EAC Standards Board Meeting, April 19-20, 2018 in Coral Gables, Florida. See pages 208 and 223.

State and local election officials, not the EAC or EAC commissioners, bear the brunt of public ire and media hostility when voting systems are out-of-date; the election administration community needs the VVSG 2.0 to pass in the proposed flexible form. The Principles and Guidelines independent from the requirements and test assertions are what the election administration community wants, and more importantly, what it needs to meet modern security standards and maintain voter confidence in our election process. It is critical that there be a mechanism for updating the technical requirements and test assertions for voting systems that does not require EAC commissioner approval. The integrity of American voting systems cannot be held hostage by lack of a quorum or philosophical differences among the commissioners. There is too much at stake.

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