

## SUPPORTING STATEMENT A

### U.S. Election Assistance Commission

#### Voting System Test Laboratory Program

#### ICR Title: EAC Voting System Test Laboratory Program Manual

### A. JUSTIFICATION

#### 1. Explain the circumstances that make the collection of information necessary.

The Help America Vote Act (HAVA) of 2002 (42 U.S.C. §15371) requires that the U.S. Election Assistance Commission (EAC) certify and decertify voting systems. Section 231(a)(1) of HAVA specifically requires the EAC to "... provide for the certification, de-certification and re-certification of voting system hardware and software by accredited laboratories." Furthermore, HAVA Section 231(b) requires the EAC to provide for the accreditation and revocation of accreditation of independent, non-federal laboratories qualified to test voting systems to Federal standards. Generally, the EAC considers for accreditation those laboratories evaluated and recommend by the National Institute of Standards and Technology (NIST) pursuant to HAVA Section 231(b)(1). However, consistent with HAVA Section 231(b)(2)(B), the Commission may also vote to accredit laboratories outside of those recommended by NIST upon publication of an explanation of the reason for any such accreditation.

In order to perform these mandated functions, the EAC has established 1) Voting System Testing and Certification Program ("Certification Program")<sup>1</sup> and 2) Voting System Test Laboratory Program ("Laboratory Program"). The Laboratory Program's information collection activities are being presented in this ICR for approval under the requirements of the Paperwork Reduction Act (PRA). Approval of this collection is essential in order for the EAC to comply with its HAVA requirements. This program requires the collection and retention of information by voting system test laboratories.

#### 2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

The information collected under the EAC's Laboratory Program<sup>1</sup> will be used solely by EAC personnel to determine whether a test laboratory meets the EAC requirements for accreditation as an EAC voting system test laboratory (VSTL). Ultimately, EAC determination regarding whether a test laboratory is accredited as a VSTL will be published. However, the information provided to the EAC to support a grant or maintenance of accreditation will be made public subject to the requirements of the Freedom of Information Act and the Trade Secrets Act. Chapter 7 of the EAC's Voting System Test Laboratory Program Manual (attached) discusses the general policy on the release of information under this program, and provides VSTL's with standards, procedures, and requirements for identifying documents as trade secrets or confidential commercial information.

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<sup>1</sup> The Laboratory Program's information collection activities are part of a currently approved information collection, Voting System Test Laboratory Program Manual, version 1.0, OMB No 3265-0013, exp. 6/30/2017.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.**

The EAC will collect information from identified parties mainly via the Virtual Review Tool (VRT), e-mail, Compact Discs (CDs), flash drives and document uploads.

**4. Describe efforts to identify duplication.**

The information sought in the Laboratory Program is not collected by other Federal agencies. Generally, the EAC considers for accreditation those laboratories evaluated and recommend by the National Institute of Standards and Technology (NIST) pursuant to HAVA Section 231(b)(1). While NIST's recommendation serves as a reliable indication of technical competency, the EAC takes additional steps to ensure that laboratory policies are in place regarding issues like conflict of interest, record maintenance, and financial stability. It also ensures that the candidate laboratory is willing and capable to work with EAC in its Certification Program.

**5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.**

This information collection does not have a significant impact on small businesses or other small entities. The reporting, recordkeeping, or disclosure activities needed to comply are, generally, usual and customary in the laboratories' voting system testing business. The information sought in the Laboratory Program is limited to that which will assist the EAC in assessing whether a test laboratory meets and complies with the requirements for accreditation as a VSTL and participation in the Certification Program.

**6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

This collection of information is necessary to comply with the Federal mandates under the Help America Vote Act (HAVA) of 2002 (42 U.S.C. §15371) to accredit test laboratories for the testing of voting system hardware and software. If the EAC does not collect this information, it will be unable to provide for the certification and decertification of voting system hardware and software in accordance with HAVA. Furthermore, if the collection is not conducted or is conducted less frequently, the EAC's role as the sole accreditation body and the robustness of its program would be jeopardized.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.**

***(a) Requiring respondents to report information to the agency more often than quarterly.***

Not applicable in this collection.

***(b) Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.***

Not applicable in this collection

***(c) Requiring respondents to submit more than an original and two copies of any document.***

Not applicable in this collection.

- (d) Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than 3 years.***

Not applicable in this collection.

- (e) In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study.***

Not applicable in this collection.

- (f) Requiring the use of statistical data classification that has been reviewed and approved by OMB.***

Not applicable in this collection.

- (g) That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use.***

This collection does not include a pledge of confidentiality not supported by statute or regulation.

- (h) requiring respondents to submit proprietary trade secrets or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.***

This collection does require the collection of proprietary or trade secret information protected by agency procedures. Proprietary trade secrets or other confidential information may be necessary to make a determination on accreditation. The EAC set procedures and policy for the identification and protection of this information consistent with the requirements of the Freedom of Information Act and the Trade Secrets Act. These policies are laid out in Chapter 7 of the EAC Voting System Test Laboratory Program Manual. A copy of this manual is provided.

**8. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

On numerous occasions over the past ten years, the EAC met with representatives from the voting system manufacturers and the testing laboratories impacted by this information collection to discuss the burdens imposed by this collection and methods for improving it. In addition, the EAC made revisions to the collection based on comments received during a public comment period. A copy of the Federal Register notices, a summary of the comments received, and an explanation of the revisions made have been submitted with this ICR.

**9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of**

**contractors or grantees.**

We will not provide any payment or gift to respondents in this collection.

**10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.**

No assurance of confidentiality has been provided to respondents. Information provided will be made public consistent with the requirements of the Freedom of Information Act and the Trade Secrets Act.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

The collection does not include sensitive or private questions.

**12. Provide an estimate in hours of the burden of the collection of information.**

The estimated hours of burden for the collection of information:

- a. Number of respondents = 4
- b. Number of responses per each respondent = 1
- c. Total annual responses = 4
- d. Hours per response = 322 hours
  - i. Reviewing instructions: 60 hours
  - ii. Developing, acquiring, installing, and utilizing technology & systems for information collection: 36 hours
  - iii. Developing, acquiring, installing, and utilizing technology & systems for processing and maintaining information: 28 hours
  - iv. Developing, acquiring, installing, and utilizing technology & systems for disclosing and providing information: 9 hours
  - v. Adjusting to comply with any previously applicable requirements: 64 hours
  - vi. Training personnel to respond to a collection of information: 41 hours
  - vii. Searching data sources: 40 hours
  - viii. Completing and reviewing the collection of information: 32 hours
  - ix. Transmitting or otherwise disclosing the information: 12 hours
- e. Total annual reporting burden = 1288 hours (*# of respondents x frequency of response x hours of response*)
  - i. Estimated annual cost burden (per respondent) = \$38,640
  - ii. Estimated total annual cost burden (*# of respondents x annual cost burden per respondent*) = \$154,560

**13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).**

The EAC has identified no “non-hour” cost burdens for this collection of information that are not part of the effected industry’s customary and usual business practices.

**14. Provide estimates of annualized cost to the Federal government.**

The estimated annual cost to the Federal Government is \$125,000 for personnel to administer, review and manage collections.

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.**

The figures were adjusted for version 2.0 of the manual to reflect the realistic experience of those in this program area over the last 6 years. Average costs for personnel based on program experience over the last 10 years lowered the federal estimated cost of the program.

**16. For collections whose results will be published, outline the plans for tabulation and publication.**

Information collected will be made public consistent with the requirements of the Freedom of Information Act and the Trade Secrets Act. Beyond the requirements of FOIA, the EAC intends to affirmatively publish program documents (or portions of documents) it believes will be of interest to the public. The policies and procedures for publishing this information are laid out in Chapter 7 of the EAC Voting System Test Laboratory Program Manual (attached).

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.**

Not applicable to this collection.

**18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.**

To the extent that the topics apply to this collection of information, we are not making any exceptions to the "Certification for Paperwork Reduction Act Submissions."