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May 20, 2017

Mr. Keith Ingram  
Director of Elections  
Texas Secretary of State  
Elections Division  
208 East 10th Street  
Austin, Texas 78711

**VIA EMAIL**

Re: Inspection of Election Systems & Software's EVS 5.2.2.0 System on April 19 and 20, 2017 (the "ES&S EVS 5.2.2.0 System")

Dear Mr. Ingram:

Pursuant to my appointment by the Texas Secretary of State as a voting systems examiner under TEXAS ELECTION CODE § 122.035, please allow this letter to serve as my report concerning the above referenced examination. The statutory examiners and staff from the Secretary of State's office heard a presentation from the manufacturer and examined the ES&S EVS 5.2.2.0 System on both April 19 and 20, 2017, at the offices of Elections Division of the Texas Secretary of State in Austin, Texas.

We examined the ES&S EVS 5.2.2.0 System for compliance with the relevant provisions of the TEXAS ELECTION CODE and Texas Administrative Code. I also reviewed the written materials submitted by ES&S for compliance with the TEXAS ELECTION CODE and Texas Administrative Code requirements for voting equipment.

The ES&S EVS 5.2.2.0 System contains many of the same components as a previous EVS system that the Secretary of State certified on December 15, 2016. However, there is a new central tabulator machine known as the "DS 450" and various upgrades and/or revisions to some of the software and functionality associated with the System.

## **TESTING OF THE HARDWARE AND SOFTWARE**

Before testing, ES&S officials provided a detailed explanation of the entire system and each of its components, with particular emphasis on the new facets of the system. A physical inspection and testing of each piece of equipment was also completed by the examiners and the Secretary of State staff. In so doing, the examiners cast several pre-set scripts of ballots on each voting machine included in the ES&S EVS 5.2.2.0 System. The mock votes were then tabulated and sorted with the applicable components of the ES&S EVS 5.2.2.0 System, including the DS

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200, the DS450, the DS850 and the ERM system for tabulation and reporting.<sup>1</sup> The tabulations and reports were confirmed to be accurate.

The audit logs from the system related to the cast ballots were also reviewed for each component. These logs showed all of the relevant events of the voting process and any anomalies that occurred during the process.

### OBSERVATIONS

General Compliance with Texas Election Code. Each of the separate pieces of hardware and software examined that were used for actually casting a ballot or tabulating votes complied with the applicable requirements listed in §§ 122.001 *et seq.* of the TEXAS ELECTION CODE and the related regulations in Texas Administrative Code.

Real-Time Audit Logs with a continuous feed printer. As has been the case with previous ES&S systems, the required audit logs for the central tabulators and related software in the ES&S EVS 5.2.2.0 System were present for the central tabulation devices used at a central count location, but there were no real time audit logs that produced a physical record for the precinct scanner devices. The concern is that the precinct scanner devices *could* be used as a central tabulator or an early voting device that is required to have a real-time physical audit log that is physically printed to a continuous feed printer.

Internal Audit Logs. The internal audit logs of the ES&S EVS 5.2.2.0 System operated as required. The functionality of the logs has been greatly improved by the ability to export the logs to a traditional spread sheet program that can be filtered and sorted. These logs, once exported, cannot be imported back into the election management of tabulation software, making the process secure from manipulation.

Potential for Rescan of Previously Cast Ballots. One anomaly in the scanning done with all the tabulation components of the ES&S EVS 5.2.2.0 System (DS200, DS450 and DS850) is that that the serial number of each ballot is *not* scanned such that a ballot could be scanned more than once.

The Large Blue Bins used with the DS200. The DS200 that acts as a optical scan device for the deposit of ballots has a large blue bin in the lower portion of the machine where the ballots are deposited. While these bins are large, there is the possibility that they could fill up during a large volume election day or over an early voting period. This may require that the bins be removed from the DS200 during early voting such that the box would need the security measures prescribed for ballot boxes in early voting scenarios. The boxes appear to be able to

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<sup>1</sup> It should be noted that none of the components of the ES&S EVS 5.2.2.0 System qualifies as a “DRE” device under Texas law.

meet those requirements, but there was some confusion about the two locks and the transport of these “full” boxes.

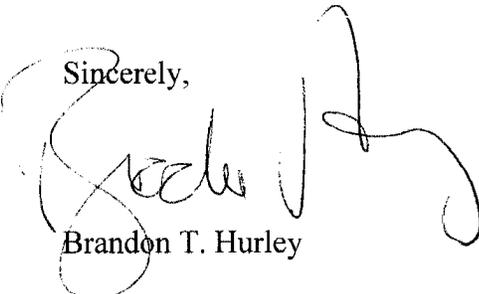
**CONCLUSION**

Based on the examination and review of the materials, it is my opinion that the ES&S EVS 5.2.2.0 System meets the requirements of Texas law and the applicable administrative rules. In the event the Secretary of State chooses to certify the ES&S EVS 5.2.2.0 System, I would recommend that the following conditions should be placed on the certification:

- The use of the DS200 in early voting should be subject to further clarification and procedures provided by the secretary of State’s office as it relates to the security of the large blue bins as ballot boxes and the transport of those boxes once they are full;
- The DS200 should not be certified as a central accumulator based on the lack of a physical real time audit log printer.

This report should not be construed as a comment on any of the technical aspects of the ES&S EVS 5.2.2.0 System. In the event any of the equipment, software or security devices examined or used with the ES&S EVS 5.2.2.0 System are altered, changed or decertified by any accrediting agency (other than a “minor modification qualified for administrative certification process” as that term is defined in § 81.65 of the Texas Administrative Code), this report should be considered withdrawn.

Thank you for the opportunity to serve as an examiner and participate in this important process that protects the integrity of Texas’ voting systems.

Sincerely,  
  
Brandon T. Hurley

cc:  
Examiners (*via email*)