

The State of Texas

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Ruth R. Hughes
Secretary of State

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September 24, 2020

Steve Pearson
Senior Vice President, Certification
Election Systems & Software
11208 John Galt Blvd.
Omaha, Nebraska 68137

Dear Mr. Pearson:

In the course of the certification exam for EVS 6.0.3.0, one of the independent examiners from our office observed an issue resulting from an installation method that had not been certified by the EAC or by our office.

According to the observations of the examiners and the responses provided by your team, this issue only occurred in ExpressVote 1.0 devices, and only in situations where the installation was performed using the "stick update" method rather than the "full Inno install" method. ExpressVote 2.1 devices and other components of the system were not affected, and ExpressVote 1.0 devices that had the system installed using the full Inno install method were also not affected by this issue. Though the issue was isolated to this specific hardware when the installation was performed using this stick update method, our examiner noted that this issue could create a potential security vulnerability as a proper software validation could not occur. Our examiner recommended that installations of this system only be performed using the full Inno install method, so as to prevent this issue from occurring on those ExpressVote 1.0 devices.

In the course of our discussions with the examiners and your team regarding this issue, you also noted that this installation method had been used for the EVS 6.0.2.0 system, and that the same issue would present itself on ExpressVote 1.0 devices installed with EVS 6.0.2.0 using the stick update installation method. You have since confirmed that this installation method was not presented to the Election Assistance Commission ("EAC") as part of the certification for EVS 6.0.2.0.

Our office requested that you identify the counties where this uncertified installation method was used for the EVS 6.0.2.0 system on their ExpressVote 1.0 devices, and you identified 18 Texas counties that currently use that system and for whom that installation method was used on those devices. While there is no indication that utilizing the uncertified installation method has resulted in any performance or security issues with the affected devices, it is inconsistent with how EVS 6.0.2.0 was certified and must be remediated.

As we emphasized during our call with you and your team yesterday, it is critical that ES&S act swiftly to address this issue. We appreciate your commitment to an expeditious resolution in advance of the November 3, 2020 election.

Thank you for agreeing to contact the counties immediately and committing to remedying this issue with their cooperation by the end of next week. While we recognize that a reinstallation process may delay the counties' ability to complete their ballot programming and logic and accuracy testing in the timeframes that they had originally envisioned, this process is necessary to ensure that the affected devices are used in a manner certified by the EAC and the Secretary of State's office. To that end, we were pleased to hear that ES&S was already developing a detailed plan for coordinating with the affected counties and completing the reinstallations in this timeframe.

You also agreed to provide our office with a list of the 18 counties and a description of your remediation efforts with each of those counties. In addition, by September 28, 2020, you need to notify us of the counties that will be completing the remediation process before the November 3, 2020 election.

Additionally, you have agreed to have a third-party perform a forensic analysis of the issues described and to provide a report detailing their findings to our office. This report must be submitted to our office by September 28, 2020.

When you contact the affected counties, you must also provide them with a copy of this letter.

We appreciate your efforts to resolve this situation. If you need anything from our office to help support the counties as they complete the reinstallation process, please let us know.

Sincerely,

A handwritten signature in black ink, appearing to read 'Keith Ingram', with a stylized flourish at the end.

Keith Ingram.
Director of Elections