Verified Voting

July 16, 2021

National Institute of Standards and Technology (NIST)
100 Bureau Drive
Gaithersburg, MD 20899
Via electronic submission

RE: NIST-2021-0003 Request for Information Regarding Promoting Access to Voting

On behalf of Verified Voting, I submit these comments in response to NIST-2021-0003 request for information regarding promoting access to voting. Verified Voting is a nonpartisan nonprofit organization with a mission to strengthen democracy for all voters by promoting the responsible use of technology in elections. Since our founding in 2004 by computer scientists, we have acted on the belief that the integrity and strength of our democracy rely on citizens' trust that each vote is counted as cast. Inherent in that belief is trust in the type of technology used in casting and counting votes.

The basis for this NIST request for information is to seek information about barriers to private and independent voting for people with disabilities. A number of barriers exist when policies and statutes make it unnecessarily burdensome for those with disabilities to cast their vote privately and independently, including newer barriers arising from increased use of vote by mail as seen in the past pandemic year. We believe there are suitable, secure innovations and methods that should be made available broadly to voters with disabilities to address these barriers, and would also support additional research to improve access for voters with disabilities. Such methods do not require and should avoid the electronic return of voted ballots.

First and foremost, jurisdictions should ensure compliance with federal law on polling place access. This includes accessible voting equipment and ensuring each polling location has an adequate number of accessible voting machines available for use for voters who need to use such equipment. Likewise, all of these machines should be tested prior to each election to ensure they are in working order, and every poll worker should be trained on how the machine works so that when a voter shows up to cast their vote using the assistive equipment it is a completely seamless process.

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To reduce the barriers to voting for those who are unable to make it to a polling location, some states, including California, have successfully implemented vote-on-demand or go-to-voter services in which sworn election officials deliver ballots directly to the voter in order to cast their vote securely and verifiably.[1] When delivering a ballot directly to the voter isn't feasible, counties have implemented a secure portable option whereby election officials bring certified portable accessible voting equipment to the voter so they may cast their vote privately and securely.[2]

Many states now offer remote ballot marking systems that allow remote accessible vote-by-mail (RAVBM). According to Disability Rights California "a RAVBM system gives a voter with a disability an opportunity to download a ballot, allowing them to read it and mark it using their own assistive technology device. At that point, the voter with a disability has to print out their selections and return them to the County Elections Office."[3] This method is safer, more secure, more accessible and ultimately verifiable compared to alternate methods.[4]

An additional consideration to ensure access, especially with the increase in vote by mail, is the assurance that signature matching technology and procedures do not disenfranchise voters with disabilities. Rules about signature matching vary widely, but should be better construed to support the needs of voters with disabilities, whose ballots are disproportionately rejected for signature mismatch. Technology used for matching is unregulated and may be administered unevenly across jurisdictions even within a single state. If relied upon exclusively, it could result in disproportionate harm to voters with disabilities, particularly if used for automated matching.

Dr. Andrew Appel, Professor of Computer Science at Princeton University writes, "A recent report by Professors Lisa Schur and Douglas Kruse of Rutgers University, 'Disability and Voting Accessibility in the 2020 Elections,'[5] provides very useful insights. Voting difficulties for people with disabilities declined markedly from 2012 to 2020, ***mostly because of the large pandemic-related shift to mail-in ballots***. 83% of voters with disabilities voted independently without any

[1] Gail Pellerin, "Voting by Many Methods," 2014. https://futureofcaelections.org/wp-content/uploads/2020/12/VBMM-March14_GPellerin.pdf.
[2] https://www.smcacre.org/new-site-press-release/san-mateo-county-offers-additional-accessible-voting-options-county-residents
[3] Many Voters with Disabilities Can Vote by Mail Privately and Independently. https://www.disabilityrightsca.org/publications/many-voters-with-disabilities-can-vote-by-mail-privately-and-independently
[4] Election Security and an Accessible Vote By Mail Option, Common Cause and Verified Voting, May 21, 2020 https://verifiedvoting.org/publication/election-security-and-an-accessible-vote-by-mail-option/
[5] Lisa Schur and Douglas Kruse, "Disability and Voting Accessibility in the 2020 Elections," 2021. https://smlr.rutgers.edu/sites/default/files/Documents/Centers/Program_Disability_Research/Disability_and_voting_accessibility_2020_election_Final_Report_survey_results.pdf

difficulty in 2020; and 89% were able to vote (independently or with assistance) without difficulty; this compares to 94% of voters without disabilities who were able to vote without difficulty."[6]

Multiple cybersecurity experts have repeatedly concluded that electronic ballot return is inherently insecure, including the National Academies of Science, Engineering, and Medicine in 2018[7] and the National Institute of Standards and Technology, the Election Assistance Commission, the Federal Bureau of Investigation and the Cybersecurity & Infrastructure Security Agency in a joint memo sent to states and local election officials during the lead up to the 2020 general election.[8] Even so, some states are exploring the electronic return of voted ballots.

While vendors of electronic return systems make bold statements about the security of their systems, these are not reliable assessments of the unacceptable risks to the security and privacy of the vote. Multiple studies have been performed on these types of systems and the conclusion is always the same: the risks are significant and no good solution yet exists to mitigate those risks.[9]

We recognize the profound challenge of ensuring every voter the equal opportunity to cast their secret ballot[10] privately and independently and we support innovative solutions that are both accessible and secure. We are available to provide additional information on any of these matters and look forward to NIST's balanced assessment.

Sincerely,

Cris Landa
Acting Co-Director

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[6] Andrew Appel, "Accommodating Voters with Disabilities," 2021. https://freedom-to-tinker.com/2021/05/27/accommodating-voters-with-disabilities/

[7] National Academies of Science, Engineering, and Medicine, 2018. "Securing the Vote: Protecting American Democracy." Washington, DC: The National Academies Press. https://doi.org/10.17226/25120.

[8] Joint EAC NIST FBI CISA Memo. https://www.politico.com/f/?id=00000172-9406-dd0c-ab73-fe6e10070001

[9] Michael A. Specter, James Koppel, and Daniel Weitzner. "The Ballot is Busted Before the Blockchain: A Security Analysis of Voatz, the First Internet Voting Application Used in U.S. Federal Elections." https://internetpolicy.mit.edu/wp-content/uploads/2020/02/SecurityAnalysisOfVoatz_Public.pdf; Michael A. Specter and J. Alex Halderman "Security Analysis of the Democracy Live Online Voting System" August 2021 https://jhalderm.com/pub/papers/omniballot-sec21.pdf

[10] https://secretballotatrisk.org/