



TO: Don Palmer, Chair
Tom Hicks, Vice Chair
Christy McCormick, Commissioner
Ben Hovland, Commissioner
U.S. Election Assistance Commission
Craig Burkhardt, Acting NIST Director
Members of the U.S. Election Assistance Commission Technical Guidelines
Development Committee (TGDC)

FROM: Marcia Johnson
Chief of Activation and Justice, League of Women Voters of the United States

DATE: June 27, 2025

SUBJECT: Comment for the EAC Technical Guidelines Development Committee regarding
the draft of the Voluntary Voting System Guidelines 2.1 and the implementation
of Executive Order 14248 “Preserving and Protecting the Integrity of American
Elections”

The U.S. Election Assistance Commission (EAC) Technical Guidelines Development Committee (TGDC) is soliciting public comment in preparation for their virtual meeting on July 02, 2025, during which EAC staff and TGDC members will discuss the draft of the Voluntary Voting System Guidelines (VVSG) 2.1 and the implementation of Executive Order No. 14248, titled “Preserving and Protecting the Integrity of American Elections” (EO). The meeting agenda states that the TGDC will discuss issues, pass resolutions, and vote on the VVSG 2.1 draft.

Thank you for the opportunity to comment on the upcoming TGDC virtual meeting. The League of Women Voters is a 105-year-old organization focusing on empowering voters and defending democracy. On behalf of over 750 Leagues across the country, we write to provide comments on the docket EAC-2025-0010.

We are commenting to raise substantive and process concerns regarding the upcoming July 2, 2025, TGDC virtual meeting, the development of the VVSG 2.1 draft, and the EAC’s purported implementation of the EO. First, Section 4(b) of the EO is an unlawful attempt by the President to dictate election rules. Second, we object to how the VVSG 2.1 draft was developed and how, if at all, it will be voted on during the July 2, 2025, meeting.

Section 4(b) of the EO is an unlawful attempt by the President to dictate election rules:

The President has no power to dictate election rules, or rewrite processes that are requirements outlined in Federal law. Section 4(b) of the EO is an unlawful attempt to do just that.

While the draft of VVSG 2.1 suggests in some places that modifications are being made “at the direction” or “produced by” the TGDC, elsewhere the source of the changes are quite clear: the draft states that



“[t]his version offers additional clarifications based on . . . the Preserving and Protecting the Integrity of American Elections Executive Order (EO) signed on March 25, 2025.”

The purpose of the *Help America Vote Act* (HAVA) Technical Guidelines Development Committee, (and its required feedback and guidance processes under HAVA Section 222 B), is to ensure that a broad subsection of election experts provide meaningful technical guidance. Explicitly changing guidance and language based on any executive order, rather than going through the requirements outlined in HAVA, is an improper exercise of TGDC/EAC responsibilities. And it can lead to any administration issuing executive orders making specific, improbable, or impossible requests for voting system requirements that could or should not be part of the VVSG. Following processes required by law is the way to ensure that the TGDC’s work and standards do not vary wildly from administration to administration.

It is unclear what, other than VVSG 2.1, the TGDC will consider in connection with implementation of the EO. To the extent that the TGDC (or the EAC) takes up the EO’s command regarding rescission of previous certifications, it must reject any action to rescind previous certifications. There is no lawful path to decertification under these circumstances. Decertification is only permitted where a system does not meet applicable VVSG (i.e., the VVSG the machine had previously been certified under), has been modified or changed without following the procedural requirements of the Manual, or the manufacturer has failed to follow the Manual’s procedures and the quality, configuration, or compliance of the system is in question. Further, rescinding all previous certifications of voting systems would leave eleven states and the District of Columbia without any legally available voting system option until a voting system can be certified. The cost implications for election officials and the taxpaying public would be massive, as would the loss of trust in the system because of those changes. Because elections must take place, the costs associated by any proposed decertification would result in a de facto tax increase that could be tied to this action and this executive order.

Objections to how the VVSG 2.1 draft was developed and how it will be voted on during the July 2, 2025, meeting:

An executive order cannot contravene processes that are already set forward in law, in this case, HAVA. The portions of VVSG 2.1 that purport to implement section 4(b) of the EO appear to be developed hastily and without transparency. In fact, the draft is materially misleading, for example, it does not accurately reflect the proposed changes over VVSG 2.0. Section 9.1.5-C shows deleted language, purportedly from VVSG 2.0, that never appeared in VVSG 2.0. Further, while the cover page of the VVSG 2.1 draft document says, “Prepared by the Election Assistance Commission at the direction of the Technical Guidelines Development Committee,” it is unclear if the TGDC gave that guidance during their last scheduled meeting on January 14, 2025. This meeting obviously occurred during the previous Administration and prior to the emergence of the EO.

Updates to the VVSG are governed by HAVA and EAC policy, which are designed to ensure that VVSG reflects the input of important stakeholders. The draft of VVSG 2.1 implementing the EO was not prepared following the processes required under federal law. Given the process failures, neither the TGDC nor the EAC have the benefit of the robust stakeholder input that the legislation and EAC rules require. The delay in publishing the draft of VVSG 2.1 and the lack of transparency in what else will be considered in connection with implementation of the EO mean that important stakeholders with deep expertise in election accessibility and security will not have a full and fair opportunity to comment.

Further, there are currently at least six vacancies on the TGDC, including one of the election officials from the standards board, both ACCESS board representatives, and two of the technical experts. Given that so much of the VVSG 2.1 draft focuses on accessibility, the TGDC should not vote on it when two-



thirds of the accessibility experts and 40% of the total TGDC are ineligible to vote. HAVA specifically refers to a TGDC quorum requirement that includes actual appointment of all members before it can take any business—with or without a quorum. Sec 221(c)2) “Quorum”, states: “A majority of the members of the Development Committee shall constitute a quorum, except that the Development Committee **may not conduct any business prior to the appointment of all of its members.**” That is no language just for the “first” TGDC, it is language encompassing all TGDC quorum and business requirements.

Summary

In summary, the League have legal, procedural, and technical concerns regarding the EAC’s plans to implement the EO, and how the VVSG 2.1 draft was developed. The EAC must remain a bipartisan and independent agency that receives and incorporates stakeholder input, as mandated by several laws and policies. Legitimate updates to the VVSG require adherence to rules set through HAVA and EAC policy. It appears the EAC and TGDC have failed to do this in the development of VVSG 2.1, and thus we urge the TGDC to rescind the 2.1 draft.

Further, the EO conflicts with federal law and the U.S. Constitution. We urge the TGDC and the EAC to defend the independence of our election systems, and their own independence, expertise, and bipartisanship.

We appreciate the work and service of the TGDC members, NIST staff, and the Commissioners and staff of the Election Assistance Commission. Part of the unique structure of HAVA’s requirements emerges from the need for bipartisan agreement and expert guidance, especially when it pertains to rules connected to the administration of elections.

Sincerely,

Marcia Johnson
Chief Counsel, League of Women Voters of the United States

