



# NORTH CAROLINA STATE BOARD OF ELECTIONS

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## Recommendation for Administrative Approval

(08 NCAC 04 .0302; NCSBE Elections Systems Certification Program 3.8.2)

November 27, 2019

APPLICANT: Election Systems & Software (ES&S)

APPLICATION DATE: September 9, 2019

REQUEST: Certification of EVS 5.2.4.0 Voting System

### Authority for Review

When a voting system vendor requests modification to its certified voting system, the State Board of Elections shall determine the extent of the requested change. Section 3.8.2 of the North Carolina State Board of Elections Systems Certification Program (“Certification Program”) provides for different levels of review depending on the extent of the requested change:

The State Board of Elections will review the application and determine if the application is a request for a full certification review or administrative review. If the State Board of Elections determines that the change or modification merits a full examination and testing, the vendor must follow the protocols outlined in Sections 3 and 4 of [the certification program document], as applicable. The vendor will be notified if the modification or change is a limited change that requires only an administrative review.

Section 3.3.4.12 of the Certification Program provides that a modification to the software or firmware of a voting system will act to decertify the program unless the vendor demonstrates that the modification “does not and will not compromise the reliability, accuracy, user-friendliness, or secure operation and maintenance of that system.”

08 NCAC 04 .0302(b) provides additional detail regarding the process of determining whether a change should be reviewed by the State Board or its executive director:

A change to any voting system or unit, including software and hardware modification, shall be submitted in writing for the review of the Executive Director of the

State Board of Elections. Following the review, the Executive Director shall determine whether the change is a modification of the voting system as certified by the State Board of Elections. If it is determined to be a modification, the voting system as modified shall be submitted to the State Board of Elections for approval. If the Executive Director shall determine the change is an enhancement that does not substantially alter the voting system as certified by the State Board of Elections, the Executive Director may approve the enhancement and the review of the State Board of Elections shall not be required.

The N.C. Administrative Code and the Certification Program do not define the term *modification*, but provides that an *enhancement*, which does not substantially alter the voting system, may be administratively approved by the executive director. Because these terms are not defined, guidance from federal authorities on this subject provides a useful analogy. The Election Assistance Commission (EAC) defines a *de minimis* change as “a change to a certified voting system’s hardware, software, TDP, or data, the nature of which will not materially alter the system’s reliability, functionality, capability, or operation. Under no circumstances shall a change be considered *de minimis* if it has reasonable and identifiable potential to impact the system’s performance and compliance with the applicable voting Standard.”

### System Review

On November 20, 2019, representatives from ES&S presented and demonstrated the changes from EVS 5.2.2.0, as currently certified in North Carolina, to EVS 5.2.4.0 to State Board of Elections (SBE) staff. Staff members present were Executive Director Karen Brinson Bell, General Counsel Katelyn Love, Associate General Counsel Kelly Tornow, Public Information Officer Patrick Gannon, and Voting Systems Team Members Neil Baddour, Eric Barcliff, and Brooks Jones.

Staff also reviewed documentation from the Election Assistance Commission (EAC) and the federally accredited voting systems testing laboratory Pro V&V. The EAC issued a Certificate of Conformance for EVS 5.2.4.0 on June 5, 2018 as a “modified voting system configuration” per the Scope of Certification because it determined the change was *de minimis*.

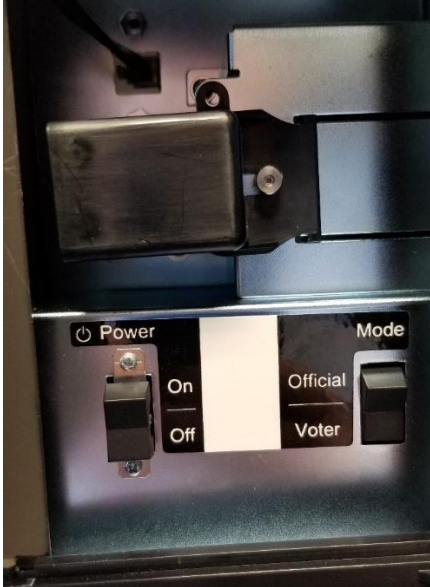
Having reviewed the application, supporting documentation, and presentation of changes, the Executive Director has determined that the following changes are proposed:

1. DS200 Texture Free Area for Security Seals. Adds texture-free areas across the exterior seams on the DS200 unit in order to have improved adhesion of the tape security seals on the exterior of the unit.

*Staff determination: de minimis*

2. ExpressVote USB Thumb Drive Cover. Adds a molded cover (see Figure 1) inside the key-accessed USB compartment to improve security. The cover slides over the USB drive(s) and can be sealed with a unique, enumerated wire or plastic seal.

*Staff determination: de minimis*



*Figure 1 ExpressVote USB Thumb Drive Cover*

3. DS200 End-of-Components. Updates the touchscreen controller, second source AUO touchscreen, introduces a quad-core processor on the motherboard, adds security features onto the motherboard, updates motor driver on the scanner board, and updates the USB hub power cable wire gauge.

*Staff determination: de minimis*

4. Second Source for Report Printer on DS450. The certified Dell S2810dn laser printer used for the dedicated report printer on the DS450 has reached end-of-life status. Allows for the B431D and B431DN (certified on the DS850) to be a second source report printer on the DS450.

*Staff determination: de minimis*

5. Second Source for Report Printer on DS450. The certified Dell S2810dn laser printer used for the dedicated report printer on the DS450 has reached end-of-life status. Adds an alternate report printer, the OkiData B432DN printer, to be a second source report printer on the DS450.

*Staff determination: de minimis*

6. Second Source for Report Printer on DS850. The certified Okidata B431D and B431DN laser printers used for the dedicated report printer on the DS850 have

reached end-of-life status. Allows for the B432DN printer to be a second source report printer on the DS850.

*Staff determination: de minimis*

7. Alternate Universal Power Supply (UPS) on DS450. Adds an alternate UPS, the APC Smart-UPS 1500, to the certified configuration for the DS450 Central Tabulator. Allows jurisdictions to receive either the existing UPS (APC Back-UPS Pro 1500) or the alternate UPS (APC Smart-UPS 1500).

*Staff determination: de minimis*

8. ExpressVote Keypad Cord Extension. Extends the keypad cord from 1800 mm to 3857 mm (see Figure 2) making the keypad more user-friendly by allowing the keypad to be operated at a greater distance from the ExpressVote.

*Staff determination: de minimis*



Figure 2 ExpressVote Keypad Cord Extension

### Determination

The changes are *de minimis* and do not substantially alter the voting system. For this reason, as the Executive Director, I find that the application by ES&S for approval of EVS 5.2.4.0 falls under the criteria for administrative review should therefore be approved as a certified voting system for North Carolina. If no board member raises any oral or written objection to the recommendation by Friday, November 29, 2019, the application will be administratively approved, and ES&S will be notified accordingly.

Issued by Karen Brinson Bell, Executive Director, this 27<sup>th</sup> day of November, 2019.