

APPROVED RESOLUTION 21-04

JANUARY 28, 2021

**CERTIFICATION OF CERTAIN COMPONENTS OF
ES&S EVS 6.0.4.1 VOTING SYSTEM AND DETERMINATION NOT TO CERTIFY THE
EXPRESSVOTE XL**

WHEREAS, Title II of Article 7 of the Election Law *inter alia* provides for the examination of and process for approving voting systems and their components for use at elections in the State of New York; and

WHEREAS, Election Systems and Software, LLC (ES&S) has submitted a voting system which contains new hardware and software components in addition to modifications to hardware and software from the previously certified ES&S voting system; and

WHEREAS, SLI Compliance (SLI) has conducted certification testing of said system, to ascertain compliance with the provisions of the U.S. Election Assistance Commission's 2005 Voluntary Voting System Guidelines, the State Board's Regulations, 9 N.Y.C.R.R. Part 6209, and the applicable sections of New York State Election Law; and

WHEREAS, the summary report of SLI Inc. was provided to the Board for consideration and has been duly considered; and

WHEREAS, the New York State Technology Enterprise Corporation (NYSTEC) has performed an independent review of the work conducted by SLI Compliance (SLI); and

WHEREAS the summary report of NYSTEC was provided to the Board, for consideration and has been duly considered; and

WHEREAS, written public comments and submissions from the applicant and public comments presented virtually at the January 14, 2021 meeting of New York State Board of Elections were duly received and considered by the Board; and

WHEREAS, having considered the summary reports and the results of functional testing, the Operations Unit of the New York State Board of Elections recommends the certification of certain components of said system, to wit:

- ES&S EVS 6.0.4.1 voting system components:
 - Electionware v5.2.0.0
 - DS200 Precinct-based scanner and tabulator v2.19.0.0
 - DS850 Central count scanner and tabulator v3.2.0.0
 - DS450 Central count scanner and tabulator v3.2.0.0

; and

WHEREAS, having considered the summary reports and the results of functional testing, the Operations Unit of the New York State Board of Elections recommends the following components of said system not be certified, to wit:

- ES&S EVS 6.0.4.1 voting system component:
 - ExpressVote XL

; and

WHEREAS, the following testing discrepancies, for which there are no reasonable compensating controls or mitigations, remain unresolved, to wit

(i) the ExpressVote XL as submitted for certification presently does not comply with the requirements of 9 NYCRR Part 6209.2 (f) (3) requiring that the “voting system shall display, print and store a paper record in any of the alternative languages chosen for making ballot selections”

(ii) the ExpressVote XL as submitted does not comply with the requirements of 9 NYCRR Part 6209.2 (f) (1) (iv) requiring that “the paper and electronic display of the voter’s selections shall be presented and positioned so as to allow the voter to easily read and compare the two”

; and

WHEREAS, having duly considered the aforesaid reports, functional testing, staff analysis and recommendations, public comments and applicant submissions:

NOW THEREFORE BE IT RESOLVED that the Commissioners of the New York State Board of Elections do hereby certify the following components of the ES&S EVS 6.0.4.1 voting

system; provided, however, this resolution shall not be construed to allow for the use of the DS200 hardware described herein as a precinct-based scanner and tabulator without a properly certified ballot marking device component to be used in tandem:

- ES&S EVS 6.0.4.1 voting system components:
 - Electionware v5.2.0.0
 - DS200 Precinct-based scanner and tabulator v2.19.0.0
 - DS850 Central count scanner and tabulator v3.2.0.0
 - DS450 Central count scanner and tabulator v3.2.0.0

; and

BE IT FURTHER RESOLVED that the Commissioners of the New York State Board of Elections do not certify the component of the ES&S EVS 6.0.4.1 voting system:

- ES&S EVS 6.0.4.1 voting system component:
 - ExpressVote XL

Approved January 28, 2021
VOTE: 4 Yes – 0 No