



GENERAL COUNSEL OF THE  
UNITED STATES DEPARTMENT OF COMMERCE  
Washington, D.C. 20230

March 17, 2011

The Honorable Robert A. Brady  
Ranking Member  
Committee on House Administration  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Representative Brady:

Thank you for your recent letter to the Under Secretary of Commerce for Standards and Technology and Director of the National Institute of Standards and Technology (NIST), Dr. Patrick Gallagher, regarding H.R. 672, a bill to terminate the Election Assistance Commission (EAC) and to transfer EAC's duties to NIST and other agencies. I appreciate the opportunity to provide the views of the Department of Commerce.

The Department strongly supports the current relationship between the EAC and NIST. However, should the legislation be enacted into law, as currently drafted, the Department would have some serious concerns about the ramifications of the legislation for NIST.

NIST, through its National Voluntary Laboratory Accreditation Program, accredits laboratories in a number of fields of critical national importance, including voting systems. The bill proposes to transfer the EAC's testing and certification program to NIST. This would result in a conflict of interest for NIST because it would put NIST in the position of both accrediting private sector laboratories that test voting equipment and systems, and of certifying the equipment and systems tested by these same labs.

Were NIST to be in a position both to accredit labs and to certify their products, this conflict of interest would be in direct violation of the International Laboratory Accreditation Cooperation, and the Asia-Pacific Laboratory Accreditation Cooperation to which NIST is a signatory.

The legislation also does not provide the resources necessary to absorb the proposed transfer of personnel or the continued work for which NIST is currently funded by the EAC. The Department is concerned that if the EAC is terminated and additional resources are not provided for NIST to carry out EAC activities, NIST's ongoing critical work in voting standards could be compromised.

The Department remains committed to working with you and the members of the Committee as the legislation moves forward. The Office of Management and Budget has advised that there is no objection to the transmittal of these views from the standpoint of the Administration's program. If you have any questions, please contact me or April Boyd, Assistant Secretary for Legislative and Intergovernmental Affairs, at 482-3663.

Sincerely,

A handwritten signature in blue ink, which appears to read "Cameron F. Kerry", is written over the typed name. The signature is stylized and fluid.

Cameron F. Kerry