Delaware County Board of Elections

Assessment of Election Staffing, Processes, Systems and Facilities

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We have concluded our engagement to perform an assessment of the current election processes, staffing, facilities and other integral services in preparation of the elections in November 2020 and beyond. Our report is attached. This engagement was agreed to by the Delaware County (the "County") Board of Elections (the "Board") and was performed solely to assist in evaluating the staffing, processes, systems, facilities and other integral services in place to support the County's elections (the "Organization") for the November 2020 elections and beyond.

The Board is responsible for the oversight and supervision of the County's elections, which includes all aspects necessary to support the County's elections: staffing, operations, systems and processes. The scope of procedures were determined by the Board and, therefore, the sufficiency of the scope and procedures of our engagement is solely the responsibility of the Board. Consequently, we make no representations regarding the sufficiency of the scope and procedures described below and in our report, either for the purpose for which this report has been requested or for any other purpose.

The Engagement was performed in accordance with applicable professional standards, including the Statements on Standards for Consulting Services issued by the American Institute of Certified Public Accountants (AICPA). Therefore (or consequently), EisnerAmper did not perform an audit, review, or compilation in accordance with Generally Accepted Auditing Standards or with attest standards established by the AICPA.

The procedures performed were limited to those described herein based on the documents provided, interviews performed, and other information obtained in evaluating the processes in place as evidence and demonstrated during the most recent election, the primary election on June 2, 2020. Information obtained subsequent to the date of our report may affect this analysis. The procedures were performed solely with respect to the scope defined in the above referenced engagement. Our report is not to be reproduced, distributed, disclosed or used for any other purpose.

Our report sets forth our observations and recommendations based on the consulting engagement for the consideration of the Board.

EISNERAMPER LLP

Philadelphia, Pennsylvania
July 28, 2020

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Executive Summary

The County's Board of Elections engaged EisnerAmper, LLP (EisnerAmper) to perform an assessment of the Delaware County 2020 primary election and the current structure and operations of the divisions under the supervision of the Board of Elections to determine the weaknesses in the processes, staffing, and facilities and to recommend areas for improvement. Over the course of over three weeks from June 25th, through July 20th, 2020, EisnerAmper held meetings with multiple employees of the Board of Elections, Bureau of Elections, Voter Registration, and the Voting Machine Warehouse to obtain an understanding of their roles and opinions of the recent primary election process and current structure and operations.

Background Information

Delaware County has three departments that report to the Election Board – Bureau of Elections, Voter Registration, and Voting Machine Warehouse. At the beginning of January of 2020, two of the three departments experienced known supervisor retirements (Voting Registration and Voting Machine Warehouse) and, collectively 50% of the budgeted positions were vacant and had been for extended periods. The standard practice for staffing the Bureau of Elections (BoE) in recent presidential election years was to start the year with a full staff and then increase staff to 150% of the budgeted full time staff with seasonal part-timers for the primary and, late in the summer, increase the seasonal part-time staff so the total number of workers would be approximately 200% of budgeted full time employees for the general election. In addition, in any election season, employees from other departments in the County were temporarily allocated to assist the election departments as needed.

In October of 2019, the Pennsylvania Legislature passed, and Governor Wolf signed, legislation known as Act 77, which (among other things) permitted a new form of "no excuse" absentee voting called "mail-in" voting. In prior primary elections, the County typically would receive 5,000-6,000 absentee ballots. Due to the advent of mail-in voting, the Pennsylvania Department of State, which oversees elections in the Commonwealth, projected that Delaware County could expect to see as many as 40,000 mail-in and absentee ballot applications. In addition, for the 2020 primary election, Delaware County was bound by state law to replace the voting machines it had been using since the mid-2000s with new voting equipment.

Through March of 2020, it appeared that the election process had been sufficiently scaled up to meet most of its immediate requirements to process the anticipated 40,000 mail-in ballots, to open and staff a satellite election office in Upper Darby, and to program and roll out new voting equipment successfully. On March 27th, 2020, Act 12, which postponed the 2020 Primary from April to June due to the COVID-19 pandemic and authorized special emergency polling place consolidations, became law. The Pennsylvania Department of State and many political campaigns, political parties, and other participants in the political process began encouraging voters to take advantage of the new mail-in ballot option due to the pandemic.

Over the following weeks, it became clear that the demand for mail-in ballots was going to far-exceed the Commonwealth's initial projections. In addition, the need to consolidate polling places, confirm recurring poll workers and recruit new poll workers, coupled with the inability to train poll workers through conventional group sessions, created substantial obstacles for the Election Departments. The County had a limited ability to requisition staff from other County departments to assist the Election Departments due to the COVID shutdown. In an attempt to remedy these staffing shortfalls, the County Personnel Department assigned a full-time resource to handle emergency staffing needs, and extra resources were assigned, in part through CARES Act funding. However, substantial

resource shortfalls remained, particularly with regard to processing and fulfillment of the massive number of mail-in ballot applications being received by the County.

The final count of mail-in and absentee ballots received by the County during the 2020 Primary Election was 86,000. The County now projects that it may receive over 170,000 mail-in and absentee ballots during the November 2020 General Election.

RESULTS

Observations

Below is our summary of key 'themes' noted during the review which are supported by related observations gleaned through the procedures performed for this engagement.

Theme # 1 – Staffing model warrants revision to ensure that properly skilled and capable staff are hired and retained and that the staff level is sufficient to support the general election with the ability to scale for peak volume.

Condition: Staffing requirements for the Board of Elections consists of those employees who support the year round efforts of the Organization, as well as those who are supporting the specific activities relating to the lead up and day of an election. It should also be noted that there are also on-going responsibilities throughout the election cycle, (such as campaign finance-related operations) that are considerable. The daily activities of staff have evolved over recent years to include frequent use of computer systems and data entry due to use of the SURE (Statewide Uniform Registry of Electors) and Verity by HART Intercivic systems. Prior to 2020, the job descriptions of Election Department staff had not been updated to reflect these important requirements. The current compensation levels of Election Department staff have not been revised to reflect these new required skill sets and capabilities. In addition, three County Election Departments are each led by a manager / supervisor position, with two having a deputy / assistant position. The rest of the positions are entry level. This flattened organization has not allowed for an adequate degree of supervision for the entry level staff, especially during periods of peak staffing when temporary or reallocated staff may be under the department's direction.

Due to the current environment with the COVID-19 pandemic, staffing for the 2020 Primary Election process proved to be a difficult process as skilled workers, decided to discontinue or forego employment with the Election Departments. New employees, temporary employees, and volunteers replaced the long-standing skilled workers but many lacked the skills and training to execute required tasks effectively. Despite substantial efforts, the County found itself unable to timely staff the various open positions for several reasons.

Historically, and as recently as a few elections ago, the Bureau of Elections received and processed about 6,000 absentee ballots, which is supported by the staff in place at the Bureau. However, due to the ongoing pandemic and the advent of mail-in voting, the volume of vote by mail ballot applications increased exponentially and overwhelmed the Bureau staff. New staff could not be hired and trained in time, and therefore current Bureau employees were required to work long hours and weekends. Notwithstanding those efforts, not all vote by mail ballot applications were processed and fulfilled in a timely manner, necessitating the Board seeking emergency relief for voters who did not get their mail-in and absentee ballots in time to return them by Election Day.

The three County Election Departments have, in the past, coordinated well around elections. However, the departments do not report to each other nor is there any process through which they would ordinarily meet to develop and plan for the processes, equipment, or priorities of each department. There is no required cross training for employees of any of the three departments, meaning that an employee of one Election Department cannot easily be "borrowed" by another Election Department during a period of temporary acute need.

Potential Effect: Inaccurate job descriptions and a lack of appropriate market compensation levels increase the risk that the County is not able to attract and retaining qualified candidates for Election Department positions. Due to unfavorable work environments with long hours and noncompetitive compensation levels,
Election Department employees may not be motivated to continue employment, leading to high turnover of employees and the loss of important capabilities and expertise. This, in turn, leads to the need to devote additional resources to hire and train new employees.

Lack of formal training leads to inconsistencies in employee work product and a slowdown in production.

The failure to adjust the staffing volume for high production times leads to an increase in overtime hours incurred and a delay in production of election materials.

Recommendations: We recommend the County create a director level position—an Executive Director of Elections—to oversee the performance of each of the three Election Departments which the Board of Elections oversees. The new Executive Director of Elections will report to the Board of Elections, will have the authority to execute the mission and requirements of the Board of Elections, will be responsible for ensuring all three Elections Departments are appropriately staffed to the required capacity and skill level, and will oversee the management of the elections process to ensure that all objectives are met, including working with other departments within the County and developing the longer-term budgeting and planning for the election functions of the County.

An Executive Director of Elections is essential for Delaware County because the County Board of Elections is not structured in a way to permit it to engage in day to day executive oversight of the Election Divisions. Rather, it is designed to operate much like a corporate board of directors. Board of Elections members are not paid for their service and all current board members have active full-time jobs that limit their ability to devote unlimited time to executive oversight of the Election Departments.

As a home-rule county, Delaware County is one of only seven counties in the state with a Board of Elections that is comprised of different individuals than those who manage the county executive function. As a result, the Delaware County Board of Elections does not have the same ability or latitude as the Boards of Elections in most Pennsylvania counties to redirect financial or staffing resources from other areas of County Government to support the Election Departments.

From a practical standpoint, the shifting processing peaks that each Election Department experiences, the need to coordinate and manage resources across all three Election Departments, and the need to make adjustments in real time necessitates an executive director position to manage the three Departments. It is critical that such a position be created and filled with a suitable candidate immediately to ensure a smooth election in November. Moreover, the position will also take the lead in addressing many of the recommendations in our report, For these reasons, it is imperative that this position be requisitioned and filled as soon as possible to prepare for the upcoming election.

We also recommend that any budgeted but vacant full-time and part-time seasonal positions within the three Election Departments be filled immediately so that those employees can be on boarded and trained before activity levels within the Departments become so high due to the November election that effective onboarding

and training becomes difficult or impossible. The County should also consider expanding full time staff beyond those positions already requisitioned. This should include designation of a tiered organization with manager, supervisor, and senior clerk positions.

We recommend job openings be updated with accurate, detailed descriptions of the qualifications and job responsibilities in order to attract qualified candidates. Job postings should not only be advertised on the Delaware County website, but also on various job posting forums such as Indeed and LinkedIn for more exposure and to attract more candidates. Additionally, supervisors of the departments in which there are job openings should be involved in the hiring process to ensure they are able to properly vet qualified employees for the positions they need to be filled.

We are aware that there is a county government-wide compensation review ongoing to determine if pay for Delaware County employees is competitive compared to the market. However, pending the results of that study, we recommend that the County consider adjusting pay for employees in the Election Departments to ensure its ability to attract and retain employees with appropriate skill sets. We also recommend that the County consider adjusting compensation for full-time management level employees within the three Election Departments during times of high demand in the election process (e.g. weeks leading up to election, day of election and post elections review) in order to better incentivize and reward them.

Training manuals should be updated, formally documented and distributed to all new employees and volunteers prior to the commencement of work responsibilities. Additionally, before employment, new employees should be required to attend training class to ensure consistency in the execution of work throughout the various sites.

Staffing modules should be adjusted for temporary seasonal workers. There are peak times in the election process in which more staff are needed for the mail-in and absentee ballot processing, election day activities, and the post-election vote count. For these activities, staffing should be adjusted based on the level of anticipated work volume, with sufficient lead time to permit effective and thorough training and to ensure insofar as possible the ability to respond to any unexpected changes.

For the November 2020 election cycle, planning to hire and train temporary seasonal employees must begin immediately. A supervisor level employee should be assigned to manage this process; the new Executive Director of Elections position would have oversight responsibility over that manager as relates to this function.

<u>Theme # 2</u> - Capacity to respond to and scale to meet external changes in requirements, transaction volumes and timelines is challenged.

    1. <u>Quality control over the printing and assembly of outbound mail-in ballots.</u>

Condition: The process to create a mail-in ballot is manually intensive, using non-automated printing equipment. The two systems used, SURE (Statewide Uniform Registry of Electors) and Verity by HART Intercivic, reside on different computer terminals and have different standard printers to produce the corresponding output. The SURE system prints the mailing labels for the ballot envelopes and return envelopes, while the Verity system prints the actual ballots. Each ballot is unique to each individual precinct. During a primary election, the ballot production requirements are greater than a general election because there are different ballots for each of the two major parties. During the 2020 Primary, each completed mail-in ballot package (consisting of an outer envelope, a ballot, a privacy envelope in which the completed ballot was to be placed by the voter, a return envelope for the voter to use to return the completed ballot inside the sealed privacy envelope to the Bureau of Elections, and an instruction sheet) was manually assembled by an individual who would match each mailing label with the appropriate ballot for the voter. Quality control checks were manual in nature and not performed in a systematic fashion.

Potential Effect: By having multiple systems producing output, which is then assembled manually with multiple components, without a formal, consistent quality control check, there is an increased risk of mail-in ballots not being correctly assembled, including the potential for creation of duplicate mail-in ballots. This multistep, manual process is time-consuming and not well-suited to generate consistent throughput on a large scale of mail-in ballots.

Recommendation: Currently the Bureau of Elections is responsible for (1) overseeing and processing ballots for in person voting, (2) printing, stuffing and mailing of the mail-in and absentee ballots, and (3) counting the returned mail-in and absentee ballots beginning on Election Day and continuing thereafter until complete. We recommend the vote by mail ballot operations be separated from the Bureau of Elections and be assigned to a dedicated team within the Organization. Some functions, such as the printing of mail-in and absentee ballots, may be able to be outsourced to third party vendors.

The vote by mail ballot printing and fulfillment process is unique and distinct from the other responsibilities of the Bureau of Elections. That process requires the management of raw ballot materials, resources to assemble, and produce an output. Further, given current conditions and trends, the volume of vote by mail ballots is predicted to increase significantly and is likely to remain at high levels for future elections.

Having an in-house team dedicated to managing the vote by mail process will require obtaining management personnel with the experience and ability to design and implement a process quickly. In addition, resources such as high speed printers and other system resources will be required. These may be purchased or leased, or some combination of the two. Finally, dedicated and secure space for the personnel, equipment, raw materials and assembled mail-in ballots will be needed. We understand that the county has recently identified what it deems to be suitable space and is moving forward with executing a lease on that space.

Utilizing third party vendors for certain services will require identifying viable vendors, selecting and agreeing to terms with a vendor, and integrating the selected vendor(s) into the Organization's processes.

We have given consideration to the option of using a third party vendor to handle the entirety of the vote by mail function. We see this as a more problematic alternative than developing the county's capabilities to handle the vote by mail function primarily in-house, for several reasons. First, there appears to be a shortage of experienced vendors available at this point in the election calendar. We understand that the experienced vendors are largely or entirely already engaged and thus are not available to work with Delaware County. Some vendors who may have some availability are new to this line of business, but their inexperience introduces significant risk that they may make mistakes or will encounter significant problems. Additionally, it is not clear than any vendor that may have availability has any experience with the SURE system, which is essential to perform the required tasks. The three Election Departments, on the other hand, do have that experience.

In addition, the use of an outside vendor would require the County to manage a complex contracting process at the front end and to have expertise in place to manage the vendor relationship. It is not clear that the County has either capability at this time.

Finally, the assignment of the entire vote by mail function to an outside vendor raises questions regarding the "outsourcing of accountability" for a government function of the utmost importance. If the County performs those functions itself, there is no question of outsourcing accountability.

2. <u>Obtaining additional SURE system terminals for the County</u>

Condition: The SURE system and terminals are dedicated, closed systems that are provisioned by the Department of State in Harrisburg requiring a physical terminal to be installed at a County's office and which is connected to the SURE application (and database) hosted by the Department of State in Harrisburg. Communication between the SURE terminal at the County and the application server hosted by the State is a secure connection that travels over a private network. Only one user can be on a SURE terminal at a time. The SURE terminals are used to provide data entry and recording of inbound mail in ballots

Potential Effect: The number of SURE terminals is a binding constraint as it takes a substantial amount of time to process a ballot application using the SURE application. Currently the County has 16 SURE terminals. Given that the Bureau of Elections was incurring a lot overtime and long work hours, to process mail in ballots for the primary, and the general election is forecast to have a much higher number of mail in ballots, the throughput of processing them is bound both by the number of staff assigned and the number of SURE terminals that can be deployed and used simultaneously.

Recommendation: It is our understanding that Harrisburg could provision an additional 25 SURE terminals to the County. We recommend that the County obtain and deploy these extra SURE terminals immediately. We understand that efforts to procure these additional SURE terminals are already underway, but our interviews were inconclusive as to the status of the request.

3. <u>Periodic tracking and reporting the processing of mail-in ballots.</u>

Condition: Given the unprecedented increase in mail-in voting that occurred in the 2020 Primary Election, the Bureau of Elections Department Chief Clerk and staff had to work exceptionally long hours to process the backlog in an intensive processing and data entry mode. However, several individuals we interviewed indicated that they had little or no visibility into the status of the backlog because there were no processes in place to track with accuracy the cumulative backlog of mail-in ballot applications, and the total number of mail-in ballot applications that had been processed, prepared for mailing, and mailed out.

Potential Effect: Keeping accurate track of the processing of mail-in and absentee ballot applications will be essential to manage the expected volume of vote by mail ballot applications in the 2020 General Election which, as noted above, could exceed 170,000. Monitoring the processing of the vote by mail ballot applications [e.g., Total applications = Backlog Queue + In Process + Processed] will be instrumental in managing the effort, including determining whether additional staff are needed in real-time and identifying bottlenecks that need to addressed to increase throughput.

Recommendation: Implementing an ongoing process to track and report the processing of mail-in votes will be critical to managing the effort. We recommend that a process to track vote by mail ballot processes in a reliable and accurate way be implemented for daily reporting.

Theme #3 – Ensuring sufficient secure physical space is a priority, especially for storing mail in ballots, raw materials, assembled mail in ballots, and received "live" mail in ballots. In addition, adequate space is require to support the staff following COVID-19 restrictions, including the increased staff levels leading up to and on the election.

Condition: The current facilities, specific to the Bureau of Elections, did not contemplate and could not handle the dramatic increase in volume of mail-in ballots, including the personnel, equipment, and materials to produce and store the ballots. Further, the restrictions around COVID-19 mitigation requirements also required staff to be spaced out or otherwise separated, which was not possible in the current office arrangement. After considering multiple potential locations, we understand that the county has recently identified what it deems to be suitable space, and is moving forward with executing a lease on that space.

Potential Effect: Lack of appropriate physical space will lead to storage problems and potential loss of records, and will limit the ability of the Bureau of Elections to achieve sufficient staffing levels to handle the anticipated volume of work associated with the 2020 General Election. Simply put, there is not sufficient physical space in the current Bureau of Election office to handle the number of full-time and seasonal temporary workers that will be needed for the 2020 General Election.

Recommendation: In addition to moving to new physical space, which we understand is underway, the Board of Elections should evaluate the ability to outsource those portions of activities which are variable and spike leading up to an election and are manually intensive, including the printing of mail-in ballots. This will allow for the Organization to focus on other critical tasks.

<u>Theme #4</u> – New Election Day Rules, Requirements and Processes

1. <u>Voting equipment deployed and poll workers knowledgeable in their use</u>

Condition: For various reasons, scanners were not deployed at poll locations – instead completed ballots were put into ballot boxes at poll locations, which were then transported to the Media government building after the polls were closed where they were then centrally scanned and officially counted.

A support team (the Voting Machine Warehouse team) was not staffed sufficiently to respond timely to polling place service requests, as well as phone bank questions relating to voting equipment issues, especially in light of the roll-out of new voting equipment and relocated polling places. The short staffing of the Voting Machines Warehouse support functions was further magnified by the requirements of the many new, inexperienced poll workers, creating an extra burden on the undersized support staff. The new voting machine systems (in particular, the ballot marking device machines) are a more modern computer-type systems that also require a higher level of skill and training to understand and support.

Polling place workers (local election board members) did not receive the planned training for the new voting equipment due to COVID-19 limitations. In addition, many experienced poll workers elected not to serve during the 2020 Primary due to personal health concerns related to COVID-19. This not only created a shortage of poll workers, but it also resulted in a much larger than usual number of new and inexperienced poll workers who had come in to fill the gaps.

Potential Effect: The adoption of a new method of voting (paper ballots) combined with the absence of scanners at poll locations caused a decrease in voter confidence in the integrity of the voting process. Moving the ballots to a central location for counting created a new chain of custody consideration and introduced the potential for the election results to be further questioned.

The lack of fully staffed and fully trained local election boards at many polling places on Election Day negatively impacted the voting experience for many voters.

Recommendation: We recommend identifying a dedicated manager to take responsibility for communicating with polling places and ensuring that all poll worker positions are filled and that all poll workers are fully trained to operate all aspects of the polling place, including all of the new voting equipment (including the scanners, which we understand will be deployed in the polling places in the 2020 General Election). This will allow voters to submit their ballots in real time and get confirmation their ballot was counted.

The Voting Machine Warehouse call center needs to be fully staffed and those staffing it need to be fully trained. The Voting Machine Warehouse field response teams should be of a sufficient number to permit prompt Election Day response times. The field teams must all be properly trained fully staffed, including one HART representative on each team.

2. Extensive use of provisional ballots

Condition: With many mail-in ballots produced at the deadline, many voters did not receive them by Election Day, and were forced to go to their polling place to vote in person. Because a mail-in ballot had already been produced for those voters, they were forbidden by law to cast regular ballots and were only able to cast provisional ballots. This resulted in the casting of more than 8,000 provisional ballots across the County—a number dramatically larger than in any prior election in memory. The historic level of demand for provisional ballots created a shortage of provisional ballots at the polls as well as the expenditure of dramatically more time in the review and counting of provisional ballots as compared to prior elections. In addition, because many judges of election were unfamiliar with the proper process for completing a provisional ballot, a number of the provisional ballots were completed incorrectly and could not be counted. Moreover, the process of completing a provisional ballot is far more time consuming than completing and voting a regular ballot and requires more poll worker time to monitor and supervise.

Potential Effect: In the event of a delay in the delivery of mail-in ballots like that experienced in the 2020 Primary, there is a potential that there will not be a sufficient number of provisional ballots at certain polling places. In addition, high levels of provisional ballot voting could substantially slow down voting at polling places, potentially leading to longer lines and longer wait times for all voters.

Recommendation: It is essential that mail-in and absentee ballots be processed and mailed out as early as possible to eliminate inasmuch as possible the late delivery of those ballots and, in turn, a corresponding increase in provisional ballot voting. Additionally, we recommend that the Board plan to print substantially larger numbers of provisional ballots for each precinct and, in doing so, consider the number of mail-in ballot applications in each precinct.

3. Communication with voters and local election personnel

Condition: Although the ultimate responsibility for the planning and execution of the County's election is by the Board and the Organization, there are community members who play a key role in supporting Election Day activities. This includes the local election boards at each precinct (and the poll workers who comprise those boards), local party committee members, and other volunteers.

Potential Effect: When circumstances change, as occurred during the 2020 Primary Election, including the postponement of the election, the mass relocation and consolidation of polling places, and the roll out of new voting equipment, timely and effective communication to all individuals involved in the process is essential to reduce confusion.

Recommendation: We recommend that a management level employee be identified and charged with the responsibility for all election-related communications, including with polling site hosts, poll workers, and voters, to ensure that important election-related information is communicated as soon as possible in an effective manner to reach all individuals involved in the process.