Republican Party of Virginia
Election Integrity Working Group
Comments on Statewide Risk-Limiting Audit
March 2, 2021

Virginia's first statewide risk-limiting audit answered one and only one question—was the certified winner in the Presidential race correct (i.e., Did Joe Biden get more votes than Donald Trump)?

Suggestions that the risk-limiting audit (RLA) answers any other questions are wrong. An RLA does not:

- Establish that the voting system is inherently secure and reliable
- Confirm that voter intent was recorded accurately
- Show that only properly registered voters cast ballots
- Show that voters were not disenfranchised
- Provide any information about whether proper procedures were followed
- Provide any information on the efficacy or security of absentee voting using drop-off locations

In addition to this critical fact about risk-limiting audits, Virginia's risk-limiting audit presented several challenges detailed in this report, which also presents recommendations for improvements in post-election audits generally.

The Election Integrity Working Group (EIWG) reviewed relevant literature on risk-limiting audits, reviewed the public information provided by the Department of Elections and worked with local GOP units around the state to observe many local RLA sessions.

EIWG highlighted four areas of concern with the RLA

1. RLA design did not meet requirements of the Code of Virginia—Section 24.2-671.1 sets out Virginia's requirements for a risk-limiting audit. While the statute itself does not conform exactly to the common understanding of a risk-limiting audit, the Department made insufficient effort to tailor the RLA design to the statute's requirements.
    a. Specifically, the statute requires that the audit study the accuracy of ballot scanner machines—the RLA design did not, it answers only the question of whether the correct winner certified (it doesn't even provide evidence that the vote totals were correct—only that the correct winner was certified).
    b. The statute also charges the local electoral boards with carrying out the audit of the ballot scanner machines. The Department centralized key portions of the audit.

    General Assembly leaders wrote to the Department in February regarding this problem. The letter is available here.
2. RLA design did not conform to best practices for risk-limiting audits and other post-tabulation audits.
    a. Specifically, the Department did not provide for the possibility of additional iterative rounds of ballot review. A risk-limiting audit should continue to review more ballots up to and including a full hand recount if the first sample does not provide sufficient evidence that the correct winner was certified. The Department's instructions and schedule provided no possibility for any additional ballot review.
    b. In a related issue, the Department choose only the two contests that allowed it to limit the sample to the fewest possible ballots. A well-designed post-tabulation audit will not exclude any particular contests but provide for some criteria to choose the contests to

audit (other than pick the easiest ones). None of the close contests for U.S. House of Representatives or any local office were included in the audit (the Department has indicated it has plans for subsequent audits, which the EIWG hopes to see).

3. Department communications did not consistently describe the purpose of the RLA—for example, in its introductory message, the Department wrote "[t]his is our opportunity for election administrators to demonstrate the election integrity and security measures we have in the Commonwealth of Virginia." Even the best-designed risk-limiting audit can not demonstrate the efficacy of election integrity or security measures. The Commissioner's comments at the results meeting continued this same flawed analysis, "Our goal is to affirm the integrity of Virginia's election; that's what this process set out to do."
4. Implementation was inconsistent across localities, lacked sufficient transparency, and revealed weaknesses in the chain of custody and physical storage of ballots.
    a. In observations in different localities, information provided was inconsistent—some localities provide full explanation of the process to participants and observers, others provided little or no information to observers.
    b. Preparation of ballot manifests and verification of chain of custody was not uniformly carried out in open meetings or with allowance for observers (the actual work of pulling the ballots and tallying by audit review boards was completely open to observers).
    c. Localities had very different methods of storing ballots after the election, including some that were not well organized and made ballot manifest preparation difficult because of the large batches that were listed, as well as many batches for which a precise number of ballots was unknown. Had localities been aware of audit requirements during the canvass period, they may have chosen more clear methods of storing ballots so that manifest creation would have been simpler. Implementation of a relatively uniform batch size would have simplified the audit procedure.
    d. Localities employed different methods of retrieving the specific ballots required by the ballot retrieval list, some of which were not clearly explained (for example, observers saw the Scale method, the Counting method, and the K-Cut method). Although it may be statistically acceptable to use different methods, it does little to facilitate broader understanding of the process by the public.

EIWG Recommendations for improving post-election audits in Virginia

1. Post-Election Canvass
    a. Implement uniform ballot accounting process and ballot storage procedures during the post-election canvass.
    b. Election officials should be aware of the general audit design, although not the specific contests to be audited or the sample to be used.
2. Risk-Limiting Audit
    a. Conduct risk-limiting audits prior to certification so that any detected errors can be corrected.
    b. Ensure opportunity for proper additional sampling up to and including a full hand recount if the risk limit is not reached with the original sample.
    c. Require full transparency of all steps by allowing observers at every stage.
    d. Develop criteria for selecting contests to audit such that all contests are subject to some possibility of auditing but allowing for the prioritization of some contests.
    e. Formalize process for investigating discrepancies and promoting continuous improvement.
3. Procedural Audits

    a. In addition to Risk-Limiting Audits, Virginia should plan audits to answer other important questions about the election.
    b. In its post-election report, the Department included statistical information about some election processes, such as absentee ballot readiness, logic and accuracy testing certification, and election night reporting. These statistical compilations could be converted to audit status to ensure all are treated with the seriousness they deserve and that formal audit findings can be used to improve future processes.
    c. Additional areas that might be included in procedural audits include provisional ballot decision making, ballot chain of custody from printing to post-election storage, assignment of officers of election to precincts in conformance with the Code.
4. Describe audit activity and findings accurately—public trust can only be enhanced when only claims that can be supported by audit design and findings are made. Any audit should be clearly described as to the questions it answers and those it cannot. It's particularly important that no claims be made about any policy or procedure changes that are not evaluated. For example, in the 2020 election, absentee ballot procedures were overhauled not once, but twice (in the regular and special sessions of the General Assembly). No audit or review conducted or proposed to be conducted speaks to the effects of those changes.

The Election Integrity Working Group found the paper Principles and Best Practices for Post-Election Audits particularly helpful. Work done by VerifiedVoting on risk-limiting audits was also useful; it can be accessed here.