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Executive Office
Tribal Council
The Eastern Band of Cherokee Indians
Cherokee, NC 28719

The Office of Internal Audit and Ethics (“OIAE”) retained Veriti Consulting LLC (“Veriti”) to investigate alleged election irregularities with respect to the 2017 Tribal General Election held on September 7, 2017 and subsequent recounts. Veriti completed its field work relative to the allegations which included an independent and objective review of all pertinent documents, video recordings, and interviews with select individuals specifically regarding the elections in Birdtown, Woftown and Big Y. The results of Veriti’s investigation strongly suggest ballot tampering occurred.

Secondarily, Veriti identified significant internal control weaknesses in the election process and safeguarding of election documentation. Veriti provided recommendations to address the internal control weaknesses which should be reviewed and addressed by the Board of Elections.

An overview of the investigation can be found in the attached report prepared by Veriti. The cooperation and assistance of the Board of Elections and staff is acknowledged and appreciated. OIAE and Veriti can be available to further discuss the content of this report if requested.

Sincerely,

Sharon Blankenship, CIA, CGAP, CFE
Chief Audit and Ethics Executive

cc: Savannah Ferguson, Audit and Ethics Committee Chair
Justin Eason, Tribal Prosecutor
Denise Ballard, Board of Elections Chair

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**Expert Report Regarding Alleged Voting Irregularities
in the Eastern Band of Cherokee Indian General Election
on September 7, 2017**

Report Date:
January 29, 2018

Submitted to:
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INTRODUCTION

The Eastern Band of Cherokee Indians (“EBCI” or “Client”) retained Veriti Consulting LLC (“Veriti”) to investigate alleged election irregularities with respect to the general election (“General Election”) held on September 7, 2017 (“Election Day”), a recount of votes on September 13, 2017 (“Recount”), and a run-off election held on October 10, 2017 (“Run-off Election”). Veriti was requested to interview Board of Election members (“BOE Members”), review various documentation, procedures, and internal controls related to the General Election, Recount and Run-off Election (“Analysis”) and prepare this report (“Report”) of our findings and recommendations.

This engagement consists of management advisory services, and therefore does not contemplate the audit, review, or compilation of the financial information provided in accordance with the United States generally accepted auditing standards. No warranty is given as to the accuracy of the facts, estimates, or other information provided to Veriti. Veriti relied upon the representations and information provided by others in completing the work detailed herein. It is our understanding this Report will be used by the Client for internal management purposes. It should not be relied upon for any outside reporting, federal compliance, or other purposes.

The services performed by Veriti as part of its Analysis were conducted in accordance with the standards of the Association of Certified Fraud Examiners, American College of Forensic Examiners, and the Statement on Standards for Consulting Services promulgated by the American Society of Certified Public Accountants. The independent Analysis, as it pertains to the services stipulated herein, consists of agreed-upon procedures in which Veriti examined certain financial records and issued a Report of its findings to the Client. In accordance with our professional standards, Veriti is not opining on the guilt or innocence of any party in connection with this Report.

SCOPE OF WORK

Veriti was retained by EBCI to determine if irregularities occurred within the General Election, Recount and Run-off Election as a result of significant discrepancies in the voting tabulation in the community of Birdtown. EBCI also expressed concerns about the existing voting process and internal controls currently in place. Veriti’s scope of work included interviewing BOE Members, reviewing various policies and procedures, voting documentation, and other information prior to submitting our recommendations and findings.

ASSUMPTIONS AND LIMITING CONDITIONS

Following are the assumptions and limiting conditions under which the Report is prepared.

- Veriti is not a law firm and it does not employ attorneys. As such, nothing in this Report is intended to render a legal opinion or legal advice.
- Veriti relied upon information provided by the Client for the analyses and opinion detailed herein. We make no representation regarding the accuracy of the information provided.
- Neither Veriti, nor any of its directors, employees or agents, had any relationships with the Client or its executives, employees, or agents prior to being retained for this matter.
- The fees paid to Veriti Consulting are not contingent upon the outcome of the findings in this Report.

The Report is subject to other assumptions and limiting conditions, as detailed herein.

QUALIFICATIONS

Elizabeth B. Monty and John P. White, Veriti's managing directors, conducted the election investigation with the assistance of professional staff. Ms. Monty and Mr. White each have been licensed CPAs for more than 25 years, and have performed complex fraud investigations, forensic accounting projects, internal control analysis, economic damages, and business valuation services. Their curricula vitae are included at Appendix A.

BACKGROUND

On September 7, 2017, EBCI held a general election for members of its tribal council ("Tribal Council") and school board ("School Board"). Eligible, enrolled members of EBCI are authorized to vote, and voting is segregated into six communities, or precincts, as follows.

- Big Cove
- Birdtown
- Cherokee County/Snowbird
- Painttown
- Wolftown/Big Y
- Yellowhill

The General Election ballot included a slate of four Tribal Council candidates for each of the six communities, with the highest number of votes for two candidates in each community being awarded a seat on the Tribal Council. The General Election ballots also included two candidates for one open School Board seat in three communities—Big Cove, Birdtown, and Wolftown.

The Recount was conducted for the Birdtown general election Tribal Council candidates. Election Day resulted in Boyd Owle (“Owle”) winning the first-place position with a considerable lead. The results for the second and third positions were for Albert Rose (“Rose”) and Ashley Sessions (“Sessions”), respectively, with a difference of only 12 votes. The Recount of General Election ballots (including the early and absentee ballots) was made on September 13, 2017. Table 1 presents the Election Day and Recount results for Birdtown, as calculated by EBCI.

TABLE 1			
Birdtown General Election Results			
Candidate	Election Day Results on 9/7/2017	Recount Results on 9/13/2017	Recount Increase in Votes
Albert Rose	431	443	+12
Travis Smith	323	330	+7
Boyd Owle	506	536	+30
Ashley Sessions	419	448	+29
Total votes, as calculated by EBCI.	1,679	1,757	+78

The change in ballot counts between Election Day and the Recount resulted in the third-place candidate, Sessions, moving into the second-place position. After challenges by both Rose and Sessions, the Board of Elections called for the Run-off election on October 10, 2017, between Rose and Sessions. Rose won the Run-off Election by a wide margin.

The results of the Election Day vote for Birdtown are being investigated due to the increase of 78 votes between the Election Day results and the Recount results. Veriti’s Report addresses the Recount discrepancies and internal control deficiencies associated with the overall election process.

INVESTIGATION PROCEDURES

The procedures followed during the course of the investigation were developed by Veriti for the purpose of identifying the extent to which potential voting irregularities may have impacted the outcome of the elections.

Veriti personnel conducted onsite interviews and document analysis from November 13 through 15, 2017. Following is a schedule of interviews Veriti performed during its site visit in Cherokee, North Carolina.

- Sharon Blankenship, chief audit and ethics executive, and Rebecca Claxton, audit manager, with the EBCI's Office of Internal Audit and Ethics.
- BOE Members and staff, including Denise Ballard, chairperson, Annie Owens, Shirley Reagan, Roger Smoker, Margaret French, and Nancy Locust. Veriti also conducted a telephonic interview with Pamela Straughan.
- William "Bill" McKee, superintendent of Bureau of Indian Affairs ("BIA") Cherokee Agency.
- BIA employee Alexander "Mingo" Hornbuckle.
- Telephonic interview with Mario Ruiz and Timothy Kloeppe with Automated Elections Services ("AES") on December 14, 2017. AES provided election management services and supplies to EBCI for the General Election.

Veriti also performed the following procedures.

- Toured three polling locations – Birdtown, Wolftown and Big Y.
- Reviewed documentation at the Board of Election's office, including registered voter logs detailing early ballots and votes, absentee ballots and votes, and general ballots and votes.
- Assessed physical location BOE and BIA offices for security and safeguarding of documents.
- Reviewed various live stream segments of meetings for EBCI's budget council and Tribal Council.
- Reviewed ballots, Election Day reports¹, security seals, ballot bins provided by AES, pens, etc., for Birdtown, Wolftown and Big Y communities. The bins were used to store the ballots for all precincts after the elections.

¹ The Election Day reports are the results of the votes read by the vote tabulation machines after all ballots are cast.

- Viewed storage location, assessed security, and evaluated the safeguarding of election data at BIA's office, where ballot bins are stored in a vault after the election.
- Performed detailed analysis of voting results for Birdtown, Wolftown, and Big Y communities.

The following sections detail Veriti's investigative procedures.

TYPES OF BALLOTS

Enrolled members were eligible to vote in the General Election for EBCI Tribal Council and Cherokee Central Schools Board of Education on September 7, 2017. Enrolled members cast ballots in their precinct, or community. Each ballot permitted two votes from the slate of four EBCI Tribal Council candidates and one vote for School Board candidates. Results for each race became official when the votes were certified by the Election Board.

Eligible voters were permitted to cast ballots in one of three manners during the general election.

- Election Day ballots ("Election Day Ballots") were cast at the polling locations on September 7, 2017. These ballots are white.
- Early voting ballots ("Early Ballots"), which are green, were provided to eligible voters who made a physical appearance at the early voting poll location, which was the conference room beside the Election Board office. The General Election on September 7, 2017, was the first time EBCI permitted early voting.
- Absentee ballots ("Absentee Ballots") were provided to eligible voters who met certain requirements, including the inability to make a physical appearance on Election Day. These voters mailed their ballots to the Election Board office. The Absentee Ballots are blue.

Only Election Day Ballots were used for the Run-off Election. Enrollees were not permitted to vote in absentia or early.

VOTING PROCESS IN BIRDTOWN

Birdtown experienced discrepancies between the Election Day results and the Recount results, as previously described.² Veriti interviewed all BOE Members, as well as the BOE administrative

² It should be noted Wolftown also experienced ballot discrepancies, but it did not change the overall outcome of the results.

assistant. In addition, Veriti examined the following documents and supplies provided by AES and visited EBCI and BIA sites.

- Ballot bins for General Election Early and Absentee Ballots
- General, Early, and Absentee Ballots
- Voting machine reports produced by AES' automated polling machines
- AES-provided pens
- AES-designated zip ties, or security seals
- AES-provided plastic bins used for storing ballots, voter logs, and other election documents
- Polling locations
- BIA storage location

ANALYSIS PERFORMED

Veriti reviewed all ballots for Birdtown, Wolftown, and Big Y. In order to assist in our review, Bates numbers³ were added to each ballot, as shown in Exhibits 1 and 2 for Birdtown. Veriti also reviewed poll books, ballot accounting forms, and security seals of the bins that held the election materials after the elections were finalized. The following sections detail Veriti's findings.

Review of Birdtown Election Day Ballots

Veriti reviewed 811 ballots for Election Day in Birdtown. The total Tribal Council votes cast per the Veriti count was 1,470. Per the Voting Machine Report ("VMR")⁴, the total Tribal Council votes cast was 1,471. As shown in Table 2 and detailed in Exhibit 1, the following votes were cast.

³ Bates numbers are a referencing system that numbers individual pages in order to more easily identify a particular page or set of pages.

⁴ The VMR refers to the voting tabulator's number of votes and ballots. The results are printed out by type of vote (i.e., in person or early vote) and the total number of votes by candidate.

TABLE 2 Birdtown Election Day Ballot Count						
Vote Count Source	Albert Rose	Travis Smith	Boyd Owle	Ashley Sessions	Total	Undervote
Per Voting Machine Report on 9/7/17	384	279	453	355	1,471	151
Per BOE Member Recount on 9/13/17	384	279	452	355	1,470	N/A
Veriti Consulting LLC Count - 11/17	384	279	453	354	1,470	152
Difference between VMR and Veriti Count	0	0	0	1	1	1
Note: An undervote refers to a ballot that is missing a vote for a candidate when two votes are permitted ("Undervote Ballot").						

Veriti reviewed a total of 153 Early Ballots, comprised of 98 green Early Ballots and 55 blue Absentee Ballots on which "Early Ballot" was written. Per BOE Members and other EBCI personnel, all of the green Early Ballots were used, so Absentee Ballots were used and marked as Early Ballots. As shown below in Table 3 and detailed in Exhibit 2, per Veriti's count of votes, it appears the total number of Birdtown votes increased by 86 between Election Day on September 7, 2017, and the Recount on September 13, 2017. In addition, there was a decrease of 76 Undervotes between Election Day results per the VMR and the Recount.

The number of Early Ballots and Votes are calculated in Table 3 below.

TABLE 3 Number of Birdtown Early Ballots and Votes	
Per Voting Machine Reports on 9/7/17	193
Additional Votes cast, per Recount (+)	86
Undervotes, per Recount (+)	27
Total votes per Recount (=)	306
Total Early Ballots (votes/2)	153
Note: It is unknown why there would be a difference in the VMR votes and the number of votes per the manual Recount.	

The calculation in Table 3 is Veriti's methodology for proving 86 additional votes were cast between the General Election and Recount. The analysis in Table 3 indicates that the additional votes cast appears to have occurred by a change in the number of Undervotes, (i.e., thus explaining the decrease

in the number of Undervote ballots) by adding a vote to the Undervote ballots. The process for how this may have occurred is subsequently described in this Report.

The results of Election Day and Recount Early Votes were calculated by each candidate, as follows.

TABLE 4						
Difference Between Birdtown Early Ballots and Recount						
Vote Count Source	Albert Rose	Travis Smith	Boyd Owle	Ashley Sessions	Total	Undervote
Voting Machine Reports dated 9/7/17	42	39	49	63	193	103
EBCI Recount on 9/13/17	57	48	81	93	279	N/A
Veriti Count - 11/17	57	48	81	93	279	27
Difference between VMR and Veriti Count	15	9	32	30	86	76

Review of Birdtown Absentee Ballots

Veriti reviewed four blue Absentee Ballots for Birdtown and compared them to the VMR. As shown in Table 5, there were no discrepancies between the VMR and Veriti’s review of the Absentee Ballots.

TABLE 5					
Difference Between Birdtown Absentee Votes					
Vote Count Source	Albert Rose	Travis Smith	Boyd Owle	Ashley Sessions	Undervote
Voting Machine Reports dated 9/7/17	2	3	3	0	0
EBCI Recount on 9/13/17	2	3	3	0	N/A
Veriti Count - 11/17	2	3	3	0	0
Difference between VMR and Veriti Count	0	0	0	0	0
Note: Total of eight votes casts divided by two votes per ballot equals four ballots.					

Review of Birdtown Run-off Ballots

Veriti reviewed 922⁵ run-off election ballots (“Run-off Ballots”) for Birdtown and compared them to the hand count sheets⁶ received. Per EBCI, there was only a manual count performed of the Run-off Ballots. As shown in Table 6, there were no discrepancies between the hand count sheets and Veriti’s review of the Run-off Ballots.

TABLE 6		
Difference in Birdtown Run-off Ballot Votes		
Vote Count Source	Albert Rose	Ashley Sessions
Hand count sheets	541	381
Veriti Count - 11/17	541	381
Difference in Run-off Ballots	0	0

Conclusion of Birdtown Ballots

Per Veriti’s analysis, it appears the General Election in Birdtown, specifically the Early Ballots and Undervote Ballots (“Undervote Ballots”), were altered between Election Day and the Recount. The fact there was an *increase* of 86 additional votes per the Recount and a *decrease* in the Undervote Ballots supports our conclusion that ballot tampering occurred. AES has explained to EBCI that the pens used are the reason for the discrepancy in the Early Ballots and the Recount. In particular, AES has claimed that the amount of carbon in some of the pens may have not been sufficient to be read by the voting tabulator machine.⁷ Based on Veriti’s independent research regarding the pens provided by AES, we do not believe the amount of carbon in the pens was a factor, as subsequently described in this Report.

Review of Wolfstown Election Day Ballots

Veriti reviewed 525 Wolfstown Election Day Ballots and compared the votes cast to the VMR. Per Tables 7 and 8 below, the votes cast were off by one vote for Sam Reed and Dennis Taylor, as shown below.

⁵ Comprised of 541 votes for Albert Rose and 381 votes for Ashley Sessions, per Table 6 above.

⁶ The hand count sheets are the pages used by BOE Members when the Recount was performed. Each sheet tallied the number of votes per candidate.

⁷ Per AES’s presentation to EBCI’s Budget Council on September 27, 2017.

TABLE 7 Total Number of Wolftown Ballots	
Per Voting Machine Reports on 9/7/17	976
Additional Votes cast, per Recount (+)	2
Undervotes per VMR (+)	72
Total Votes (=)	1,050
Total ballots (votes/2)	525

The difference in Wolftown Election Day votes is detailed in Table 8 below.

TABLE 8 Difference in Wolftown Election Day Votes						
Vote Count Source	Bo Crowe	Jeremy Wilson	Sam Reed	Dennis Taylor	Total	Undervote
Voting Machine Reports on 9/7/17	327	264	228	157	976	72
Per Recount on 9/13/17	327	264	229	158	977	N/A
Veriti Count - 11/17	327	264	229	158	977	71
Difference between VMR and Veriti Count	0	0	1	1	1	1

Review of Wolftown Early Voting Ballots

Veriti reviewed the Early Ballots for Wolftown, including the VMR, Recount and Veriti’s analysis. Per Table 9 below, there is a discrepancy between the VMR and Veriti’s review of the Early Ballots. The Undervotes per the VMR on Election Day were 35, which decreased to 7 in Veriti’s review.

TABLE 9 Difference in Wolftown Early Ballot Votes						
Vote Count Source	Bo Crowe	Jeremy Wilson	Sam Reed	Dennis Taylor	Total	Undervote
Voting Machine Reports on 9/7/17	29	26	27	13	95	35
Per Recount on 9/13/17	34	33	41	17	125	N/A
Veriti count - 11/17	34	33	41	17	125	7
Difference between VMR and Veriti Count	5	7	14	4	30	28

Conclusion of Wolftown Ballots

Similar to Birdtown, the discrepancy in both the Election Day and the Recount appear to be the result of possible ballot tampering with the Early Ballots and Undervote Ballots. The same internal control weaknesses observed in Birdtown were evident in Wolftown, as subsequently described in this Report. However, in Wolftown there was no change in the outcome of the election results.

Review of Big Y Election Day Ballots

Veriti reviewed 188 Big Y Election Day Ballots and compared them to the VMR and the Recount. Per Table 10 below, there were no discrepancies between Veriti’s review, the VMR or the Recount number of ballots (i.e., no votes were added).

TABLE 10 Total Number of Big Y Votes and Ballots	
Voting Machine Reports on 9/7/2017	353
Votes added (+)	0
Undervote Votes (+)	23
Total votes (=)	376
Total ballots (votes/2)	188

The results of the votes cast in Big Y on Election Day are presented in Table 11 below. There were no discrepancies noted.

TABLE 11 Difference in Big Y Election Day Votes						
Vote Count Source	Bo Crowe	Jeremy Wilson	Sam Reed	Dennis Taylor	Total	Undervote
Voting Machine Reports on 9/7/17	131	81	77	64	353	23
Recount on 9/13/17	131	81	77	64	353	N/A
Veriti Count - 11/17	131	81	77	64	353	23
Difference between VMR and Veriti Count	0	0	0	0	0	0

Review of Big Y Early Voting Ballots

Veriti reviewed the Big Y Early Ballots per the VMR, Recount and Veriti’s review. Per Table 12 below, there was a small discrepancy between the VMR and Veriti’s review.

TABLE 12						
Difference in Big Y Early Ballots						
Vote Count Source	Bo Crowe	Jeremy Wilson	Sam Reed	Dennis Taylor	Total	Undervote
Voting Machine Reports on 9/7/17	11	12	9	3	35	5
Recount on 9/13/17	12	12	9	5	37	N/A
Veriti Count - 11/17	12	12	9	5	37	2
Difference between VMR and Veriti Count	1	0	0	2	3	3

Conclusion – Big Y Ballots

The discrepancy in the Big Y’s election process appears to also be related to the Early Ballots and Undervote Ballot tampering with votes possibly being altered to add additional votes. The same internal control weaknesses observed in Birdtown and Wolftown were evident in Big Y. However, in Big Y, there was no change in the outcome of the election results.

OVERALL CONCLUSION OF ELECTION BALLOT TOTALS

It is Veriti’s opinion based on the above analysis and subsequent internal control weaknesses surrounding the safeguarding of election data, ballot tampering may have occurred within the precincts analyzed. If, in fact, ballots were tampered with, it impacted only the outcome of Birdtown, which necessitated the Run-off election. Following are Veriti’s recommendations to improve specific aspects of the election process.

FINDINGS AND RECOMMENDATIONS

This section of the Report identifies Veriti’s observations related to the overall election procedures. Also included are observations noted during interviews with BOE Members, and EBCI and BIA personnel. Veriti’s findings and recommendations for strengthening internal controls and processes for elections and safeguarding of election data are detailed below.

Physical Polling Locations and Election Day

Veriti visited the polling locations for Birdtown and Wolftown.⁸ The following are the findings and recommendations for physical polling locations.

Recommendation #1: According to BOE Members, none of the polling locations have security cameras on site. Apparently, each location has two poll workers and AES staff on site; however, Veriti was informed poll workers are sometimes left alone. EBCI should consider installing security cameras at all polling locations, and ensure no poll worker is alone at the polling sites.

Recommendation #2: According to the BOE Members, poll workers allegedly are not properly trained. They receive one day of training prior to Election Day, which is apparently inadequate. Veriti is not an authority on how much training is standard in the industry and AES should be consulted to assess if one day of training is adequate. If possible, a written handbook detailing the Election Day process should be available to poll workers.

Recommendation #3: Security cameras should be on at all times in the Election Board offices, with no ability to “cut” portions out of the backup tapes.

Ballots

Voted ballots were stored based upon the protocols in place for the type of ballot. After the polls closed on September 7, 2017, Election Day Ballots were transported by police escort from the polling locations to the Tribal Council House, where votes were read by the voting machine tabulators. The voting machine reports (“VMRs”) generated by the tabulators totaled the vote count by candidate, number of Undervotes, number of overvotes (“Overvotes”),⁹ and total ballots.

Unvoted ballots were not secured during the election cycle. They were stored on open shelving in the Election Board office. While the Election Board office was locked, Veriti was informed many people had access during normal office hours, and an unknown number of people had after-hours access. Per Veriti’s interviews with BOE Members and staff, there are neither working cameras near the office where the ballots are stored, nor are there adequate controls as to who has access via keys to the office. The ballots themselves were not stored in secured containers, so anyone with access to

⁸ Big Y’s polling location was not open on Veriti’s EBCI site visit.

⁹ Overvotes are ballots that have been cast and have more than the required number of candidate votes. For example, if the vote can vote for two Tribal Council candidates, but instead votes for three, that ballot is considered an overvote.

the Election Board office could have had access to the unvoted ballots. It is impossible to determine whether any unvoted ballots were illegally obtained for potential vote tampering purposes.

The fact that the ballots are housed in an office that has an unknown amount of accessibility, no working security cameras, and in an unlocked area is a material deficiency in the safeguarding of election data. In addition, some EBCI personnel interviewed by Veriti claim even if the cameras were working, there is a concern tapes could be easily manipulated or “cut,” to remove portions of activity.

Absentee Ballots and Early Ballots – General Election (Birdtown)

Five Absentee Vote mailing envelopes and official ballot envelopes were returned with completed information, including name, township, signature, date, witnesses, and certification. All five of the voters that returned Absentee Ballots were noted on the election roster as having voted in absentia (blue highlights). However, only four Birdtown Absentee Ballots were in the absentee ballot bin and only four Birdtown Absentee Ballots were run through the AES vote count machine, per the tape generated by the AES tabulator.¹⁰ The number of votes identified on the Absentee recount form dated September 13, 2017, corresponded with the votes per the four ballots (i.e., two for Rose and zero for Sessions). Therefore, it appears one Absentee Ballot was missing from the Birdtown absentee ballot bin.

The General Election on September 7, 2017, was EBCI’s first use of Early Ballots. Allegedly, Birdtown ran out of Early Ballots (green) and used Absentee Ballots (blue) for the remaining Early Ballot votes cast. The use of the Early Ballots was the source of discrepancies in the three communities Veriti reviewed.

Recommendation #4: All ballots must be secured in a locked cabinet with limited access. In addition, a log should be maintained to monitor who has accessed the ballots.

Recommendation #5: Security cameras should be on at all times in the Election Board office, with no ability to “cut” portions out of the backup tapes.

Recommendation #6: The Election Board offices should be rekeyed with the new keys provided to only authorized personnel. All access to the Election Board office should be logged remotely, providing the ability to review who has been in and out of the offices.

¹⁰ It is possible the difference in ballots is due to a spoiled Absentee Ballot.

Review of Voting Machine Tabulators, Bins and Pens

AES provides the election materials, including voting machine tabulators, bins used for early and absentee voting, storage bins, pens, security seals and general support for EBCI on Election Day. Staff from AES are also onsite for training poll workers and to oversee the voting process. Based on information provided to or researched by Veriti, phone conversations with AES, and independent voting companies, the following recommendations should be implemented.¹¹

Recommendation #7: Currently, the early and absentee black voting containers are stored in the Election Board offices. As previously described, the BOE offices are essentially unsecured, as the number of key holders is not logged and a key can easily be made, per BOE Members and staff. Although the keys to the early and absentee containers are stored in a fire proof safe kept under a desk, BOE Members and staff should have access to the safe within the BOE offices. However, BOE Members believe unauthorized EBCI personnel or other individuals may have a key to the Election Board offices; therefore, the containers are basically unsecured, as both the Election Board offices and the containers are accessible to an unknown number of key holders.

Recommendation #8: AES stated one reason for the discrepancies in the votes may be related to the amount of carbon in the pens being read by the voting machine tabulators. The voting machine tabulators are Optech III-P machines, developed in the 1980's. They are considered to be an older type of voting tabulator; however, they are still used and serviced to existing customers such as AES. According to Veriti's research and confirmed by an independent voting company, several types of marking devices are suitable for use with the type of voting tabulator machine used by EBCI. A felt marking pen which produces a mark of adequate reflectivity is the preferred instrument; however, a Number 2 lead pencil is fine as well. The machine will sometimes have a problem reading red ink, which should be avoided. Although AES provides new pens for Election Day, they cannot control what type of pen a voter is actually using. Veriti did not detect any red ink used on the ballots reviewed. In addition, the independent voting company Veriti contacted did not mention that the amount of carbon in a pen may impact the way the tabulator counts votes on ballots. A process should be implemented wherein only new pens are available at polling locations.

¹¹ Recommendations for bins and security seals are separately addressed in this Report.

Review of Poll Books and Physical Vote Counts

Veriti reviewed poll books received for Birdtown and Wolftown, as subsequently described.¹² The poll books include the precinct, name and address of voter, and their initials when voting in person. A sample page from a poll book is included in Exhibit 3.

Birdtown Poll Book

Veriti received two poll books for Birdtown. It appears one was for early voting participants (“Early Voting Poll Book”) and the other was for Election Day, including the early votes cast by participants which had been transferred to a combined poll book (“Birdtown Combined Poll Book”). The Birdtown Combined Poll Book entries were highlighted according to which category the voter fell into - yellow for Election Day, green for early voting, and blue for absentee. The Birdtown Combined Poll Book has 810 yellow highlights, 151 green highlights and 5 blue highlights. The Early Voting Poll Book had 155 green highlights, meaning that when the Early Votes were transferred from the Early Voting Poll Book to the Birdtown Combined Poll Book, four votes were not transferred. It is unknown why there is a discrepancy of green highlights between the Early Voting Poll Book and the Birdtown Combined Poll Book.

Veriti noted multiple instances where the wrong person’s name had been highlighted in green in the Combined Poll Book, supposedly when they were transferring the Early Votes to the Birdtown Combined Poll Book from the Early Voting Poll Book. This was most likely a clerical error, that could have prevented someone from voting.

Veriti also noted a page of yellow highlights that appear to be from Election Day, which were in the Early Voting Poll Book. It appears the poll books were not properly recording all voters.

Wolftown Poll Book

Veriti received the Combined Poll Book and Early Voting Poll Book for Wolftown. Per Veriti’s review of the Wolftown Combined Poll Book, there were 525 yellow highlights, which agrees with the number of Election Day Ballots Veriti received. Per Veriti’s review of the early voting ballots for Wolftown, there were 66 early voting ballots and 63 green highlights in the Combined Poll Book and Early Voting Poll Book for Wolftown.

¹² Veriti did not receive a combined polling book for Big Y.

Big Y Early Poll Book

Per the Early Voting Poll Book for Big Y, there were 24 early voters, and some notations by green highlights which were illegible. Veriti received 20 early voting ballots for Big Y, indicating either a clerical error, or possible ballot tampering.

Recommendation #9: Additional oversight needs to be implemented on the highlighting of types of voters in both the Early Voting poll book and the Combined Poll Book. The fact that incorrect types of votes, and an incorrect name were posted could be an isolated error, but also could be an indication of ballot tampering.

Recommendation #10: All poll books should be reviewed and checked by another BOE member prior to certifying the election results.

Recommendation #11: All poll book entries should be compared to the actual ballots to verify the correct number of early, absentee and in-person votes.

Recommendation #12: When conducting physical vote counts, a total for the number of ballots should be included on the count sheets and a BOE member should sign off on the results.

Ballot Accounting Form Review

Veriti reviewed registration cards and received ballot accounting forms for white Election Day Ballots for Birdtown, Big Y, and Wolfstown. Ballots are recorded through the stub log comparing the first and last stub used. Veriti did not receive ballot accounting forms for Early or Absentee Ballots.

Recommendation #13: Currently, there is no audit or verification of registration cards. Veriti noted the registration information, including deceased members information, is clearly visible in the Election Board offices. Due to the unsecure nature of the Election Board offices, voter registration fraud could occur.

Recommendation #14: A voter can allegedly register onsite with a poll worker, although it was Veriti's understanding registration needs to be completed one week prior to an election. According to information provided to Veriti, there is no way the poll worker can readily verify the authenticity of the voter. All voters should be pre-registered at the Election Board offices prior to Election Day.

In each precinct reviewed, the ballot accounting forms for Election Day, agree to the total number of ballots (including voted and unvoted). Veriti's findings and recommendations follow.

Pull Tight Security Seals

Cargo bins containing election documentation, including ballots, are sealed with pull tight security seals, similar to zip ties. We identified two types of security seals on the election documentation storage bins.

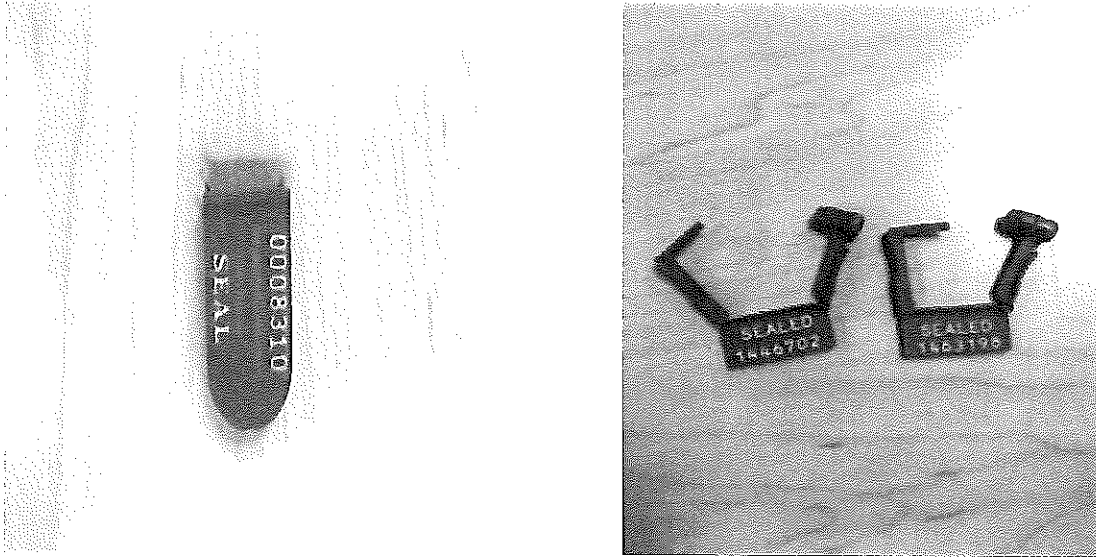
1. AES designated seals, which were supplied to the Election Board by AES. These seals are stamped with "AES" indicating they were provided by AES. The seals are also stamped with an identifying seven-digit number.
2. Generic designated seals, which are stamped "SEALED" and a seven-digit code.

AES seals and the generic seals used in the ballot bins are depicted in the photos below.

Seals provided by AES:



Veriti also detected two types of generic seals used on the ballot storage bins:



BOE Members indicated the AES stamped seals were not secured in the Election Board office. As such, anyone with access to the office had access to the AES stamped seals.

While the AES seals were pre-stamped with numbers, they were randomly packaged. For example, Election Board personnel provided Veriti with an unopened package of 10 AES seals. The numbering on these seals ranged from 0009276 to 0015194. The non-consecutive nature of the numbered seals makes it difficult for Election Board personnel to monitor which seals have been used. Per AES, the supplier does not offer sequentially numbered seals.

Election Board personnel also do not maintain a proper log of the use of seals, nor are they located in a physically secured location. Per BOE Members, the security seals are located in the Election Board president's office, which has no security cameras, and an unknown number of keys for access.

Since a log listing the number on the security seal and the purpose for opening the bin is not maintained, Veriti performed additional analysis on various bins. Upon opening the Absentee Ballot bin, 14 broken seals were located inside the bin, which indicates the bin had been opened on at least seven occasions.¹³ However, no log was included inside the bin to indicate the reason it was opened

¹³ Each bin is sealed with two numbered tags—one on each end of the top of the bin. Election Board personnel indicate that broken seals are placed inside the bin when it is opened.

on seven occasions. This is a material weakness in the storage of election materials. According to AES staff, the fact the Absentee Ballot bin had been opened seven times was unusual.

In addition to the AES seals, Veriti noted two other types of security seals. According to Election Board staff, there have been no purchases of additional seals other than those provided by AES. In fact, if there is a shortage of AES security seals, the storage bins are simply taped. The generic seals are available for online purchase from American Casting & Manufacturing Corp. at a cost of \$59 for 100 seals.¹⁴ These seals are identical to the AES seals, except they are stamped "SEALED" instead of "AES." BOE Members and staff were not aware of any purchases of security seals other than those provided by AES. Since these types of seals were used to secure the bins, it is possible an unauthorized person opened the bins between Election Day and the Recount and altered ballots, then resealed the bins using the generic seals.

With ready access to the AES and generic seals, or storage bins that are taped, anyone with access to the BIA Vault could have opened any of the voting storage bins and tampered with ballots. Veriti has the following recommendations regarding the seals and proper storage of the seals.

Recommendation #15: All security seals must be secured in a locked cabinet with limited access. In addition, a log should be maintained to monitor who has accessed the security seals, as well as the reason access to the seals was necessary. Two signatures should be noted on the log each time a bin has been opened, with one signature by a BOE Member.

Recommendation #16: Only AES security seals should be used, and AES should provide security seals in sequential pre-numbered order, instead of randomly numbered seals in each package.

Recommendation #17: The Election Board office should be rekeyed with new keys provided to only authorized personnel. All access to the Election Board office should be logged remotely, providing the ability to review who has been in and out of the office.

Storage Bins Housed in BIA Vault

After the count at the Tribal Council House on election night, the ballots and other election documentation were stored in plastic bins provided by AES in the BIA Vault. BOE Members indicated the BIA Vault is left unlocked most of the time; however, BIA personnel state the vault is locked all the time. The BIA Vault lock is allegedly very hard to unlock and evidently only a single maintenance person can unlock it with the combination, which is allegedly kept in the desk drawer

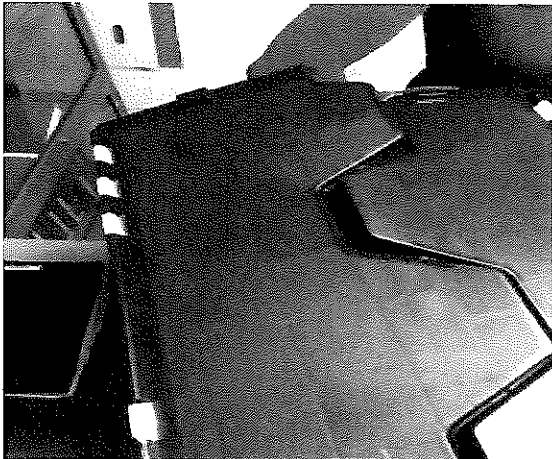
⁵<https://seals.com/index.php/all-products/plastic-strap-seals/heavy-duty-pull-tight-seals-594>. November 7, 2017.

next to the BIA Vault. Veriti inspected the BIA Vault on four separate occasions, noting it was unlocked each time. On one occasion, all BIA staff were in a meeting room at the opposite side of the BIA building while Veriti accessed the vault unnoticed. Veriti observed only one time where the vault appeared to be locked. Veriti also noted the room in which the BIA Vault is located was unstaffed and unlocked, which would have allowed anyone inside the BIA building to gain access to the ballots and election materials.

Per BIA employee William “Bill” McKee, superintendent of BIA - Cherokee agency, there are cameras in the BIA hallways that record all activity. The data from the cameras is stored for 30 days. When Veriti was onsite, it had been more than 30 days since any election activity.

Unsecured Storage Bins

Veriti noted three types of storage bins provided by AES that contained the election ballots and documentation. Each type of bin was “sealed” shut with a numbered zip tie. However, even with the security seals in place, several bin types remained unsecured. With minimal effort, we opened the sealed bins and slid our arm in and removed ballots. The following pictures depict how easily the sealed storage bins can be accessed.





Following is a list of storage bins of the type that allows access to contents, even with the zip tie security seals in place.

- Early voting general election ballots
- Birdtown general election ballots
- Wolftown general election ballots
- Big Y general election ballots
- Snowbird general election ballots
- Cherokee County general election ballots
- Yellowhill general election ballots
- Big Cove general election ballots
- Birdtown runoff ballots

The unsecured, but sealed, storage bins would have permitted the possible manipulation of General Election ballots between the election night count on September 7, 2017, and the Recount on September 13, 2017. Anyone with access to the BIA Vault could have added, removed, or altered ballots with relative ease. Based upon election data previously described, we believe this may have been the means by which an unknown person or persons altered ballots.

Based upon our observations, we conclude the ballots were not secured while stored in the BIA Vault. Anyone with access to the Election Board office and BIA building possibly could have accessed and tampered with ballots and election documentation. This is a material internal control weakness that may compromise the outcome of elections.

Recommendation #18: Discontinue use of AES-provided plastic storage bins that can be easily accessed despite having security seals. Purchase metal bins or other sturdier containers that have a better locking system to provide the safeguarding of sensitive data to prevent tampering, theft or destruction of documents.

Recommendation #19: Consider off-site secure storage of election data with access only if accompanied by a BOE Member. If this is not possible, the backup videos from the BIA office should be reviewed on a regular basis.

Recommendation #20: Establish and enforce a security policy with respect to election and other sensitive EBCI data.

SUMMARY AND CONCLUSION

Veriti's opinion regarding the discrepancy between the number of ballots counted by the VMRs on Election Day and those totaled per the Recount is based on the following internal control weaknesses observed in the election process.

1. There was easy access to the ballots in both the Election Board office and in the BIA office. It is unknown how many individuals had access to the election offices. Also, the security cameras were not functioning.
2. The Birdtown ballot bins housed in the BIA vault had been accessed numerous times based on the used security seals in the Birdtown storage bin. There is no documentation explaining why the bins were accessed other than for the Recount.
3. Veriti could easily put a large hand in many of the bins, including Birdtown's without breaking the security seal.
4. Veriti's analysis matches the Recount, which was performed manually by BOE members and was videotaped during their process.
5. There was no difference in the pens provided by AES at Birdtown and the other communities. In addition, per Veriti's research of the type of tabulator used by AES, the tabulator is not

necessarily carbon sensitive, other than a weakness reading red ink. It will read blue and black pens and No. 2 pencils. There was no red ink on any of the ballots.

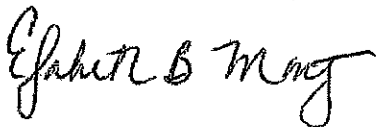
6. The decrease in the Undervote Ballots between Election Day and the Recount could have been caused by ballot tampering by adding one additional vote to the Undervote Ballots.
7. The Run-off Election, which did not use the AES tabulators, did not have any discrepancies between the manual count and Veriti's count of the ballot and election outcome.

In summary, it is Veriti's opinion there was ballot tampering between Election Day and the Recount due to significant internal control weaknesses in the election process and safeguarding of election documentation. It is impossible to determine who the person or persons were that committed the alleged ballot tampering. Further analysis and review of all internal controls related to the election process should be performed to further assess, and strengthen policies and procedures.

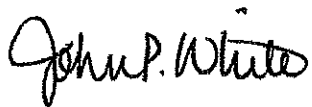
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Sincerely,

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