Approved
Resolution Concerning Fees for Testing of
Open Source Software

Presented for Public Comment
by the New York State Board of Elections
October 16, 2007

The State Board of Elections may elect to waive the fee for examination of voting systems set forth in Section 6209.4(G) if a voting system vendor meets all of the following:

1) The vendor submits an application for examination fee waiver including a sworn affidavit stating that the voting system software and documentation are offered under an open source license or free software license.

    (a) The open source license shall meet with the Open Source Definition as set forth by the Open Source Initiative which requires:
        (i) free redistribution,
        (ii) source code,
        (iii) derived works,
        (iv) integrity of the author's source code,
        (v) no discrimination against persons or groups,
        (vi) no discrimination against fields of endeavor,
        (vii) distribution of license,
        (viii) license must not be specific to a product,
        (ix) license must not restrict other software,
        (x) license must be technology-neutral.

    (b) The free software license is a matter of liberty, not price, and shall meet with the Free Software Definition as set forth by the Free Software Foundation which requires:
        (i) freedom to run the program, for any purpose;
        (ii) freedom to study how the program works, and adapt it to your needs;
        (iii) freedom to redistribute copies so you can help your neighbor;
        (iv) freedom to improve the program, and release your improvements to the public, so that the whole community benefits; and
        (v) freedom to access the source code is a precondition for these freedoms.

2) The vendor has paid the application fee set forth in 9 NYCRR § 6209.4(F).

3) The application for examination fee waiver is supported by no less than three public statements of support from organizations or individuals with demonstrated expertise in voting systems and/or software security during a thirty day public comment period.

4) The waiver of examination fees would apply only to the cost of examination of free software and/or open source systems available for use by any person or corporation owning or being interested in any voting machine or system.

The State Board shall retain the discretion to (a) revoke any examination fee waiver granted under this subsection, and (b) immediately order the termination of the examination if it finds the testing demonstrates that the submission obviously does not meet one or more of the requirements of section 7-202 of the Election Law or 9 NYCRR Part 62.