FEBRUARY 2021 SUBJECT MATTER EXPERT PUBLIC REPORT
RE: UNITED STATES V. HARRIS COUNTY, TEXAS, NO. 4:16-CV-02331 (S.D. TEX.)

PREPARED FOR
United States Dept. of Justice
Civil Rights Division
Disability Rights Section
950 Pennsylvania Avenue, NW
Washington, DC 20530

Project #: 1RWJ20002
Date: 2/12/2021
**Common Acronyms and Abbreviations**

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Definition</th>
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<tr>
<td>EDS</td>
<td>Election Day Surveys/Surveyors</td>
</tr>
<tr>
<td>DOJ</td>
<td>United States Department of Justice</td>
</tr>
<tr>
<td>HCCO</td>
<td>Harris County Clerk’s Office</td>
</tr>
<tr>
<td>LOF</td>
<td>Letter of Findings dated September 29, 2014</td>
</tr>
<tr>
<td>NCNR</td>
<td>Non-compliant, not remediable with temporary remedial measures</td>
</tr>
<tr>
<td>SME</td>
<td>Subject Matter Expert</td>
</tr>
</tbody>
</table>

**Glossary of Terms**

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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</thead>
<tbody>
<tr>
<td><strong>Attachment A</strong></td>
<td>Polling places and violations identified within the Settlement Agreement taken from the September 29, 2014 DOJ Letter of Findings and DOJ expert reports dated August 9, 2018.</td>
</tr>
<tr>
<td><strong>Election Day Surveys/Surveyors</strong></td>
<td>Reviews/reviewers of implemented remedial measures at polling places during elections.</td>
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<tr>
<td><strong>Settlement Agreement</strong></td>
<td>Agreement between Harris County and DOJ which stipulates the terms in which Harris County must provide accessible polling places.</td>
</tr>
<tr>
<td><strong>Subject Matter Expert</strong></td>
<td>Person chosen by Harris County and DOJ to provide technical assistance and training to help Harris County comply with the terms of the Settlement Agreement.</td>
</tr>
<tr>
<td><strong>Remedial Measures</strong></td>
<td>Actions taken by Harris County at polling places to remediate identified violations during elections.</td>
</tr>
</tbody>
</table>
1.0 Executive Summary

This report serves as the Harris County Subject Matter Expert’s (SME’s) semi-annual public report pursuant to Paragraph 51 of the Settlement Agreement between the United States of America and Harris County, Texas, DJ No. 204-74-351 (Settlement Agreement). This is a report of Harris County’s compliance with the Settlement Agreement. It includes SME’s reviews of polling place accessibility during elections and of Harris County’s progress with polling place surveys.

Polling place surveys complying with paragraph 25 of the Settlement Agreement are underway. Currently, three hundred twelve (312) surveys have been submitted for SME review. Approximately half of surveys reviewed have resulted in the polling place or voting room to be categorized as non-compliant, not remediable with temporary remedial measures (NCNR). Please see Sections 2.3 and 3.5 for more information.

The SME reviewed remedial measures implemented during the November 2020 General Election. A marked improvement in the remediation statuses was noted when compared to prior elections. Please see Section 4.3.1 for more information.

<table>
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2.0 Background

In August 2016, the United States Department of Justice brought a civil action against Harris County, Texas, alleging that Harris County failed to comply with the Americans with Disabilities Act (ADA) by not making various polling places accessible to persons with disabilities. A Settlement Agreement was signed between the two parties on March 12, 2019. The Settlement Agreement required an independent Subject Matter Expert (SME) to review Harris County’s compliance with the ADA in its voting program and to provide training and technical assistance to support Harris County’s compliance with its obligations pursuant to the Settlement Agreement. Robert Judd was selected as the SME in late January 2020, replacing the SMEs named in Paragraph 46 of the Settlement Agreement, Jeromy Murphy and Attila Huszka.

Per the Settlement Agreement, Harris County is also required to train election judges, poll workers, contractors, and staff to ensure that persons with disabilities can vote privately and independently.

2.1 SUBJECT MATTER EXPERT ROLE

The SME role is to provide Harris County technical assistance and training throughout the Settlement Agreement. The SME also analyzes and reports on data reflecting Harris County’s progress on complying with the polling place physical accessibility aspects of the Settlement Agreement.

Through regular reviews of remedial measures implemented at polling places during elections, the SME is also tasked with assessing the quality and sufficiency of Harris County’s survey process and implementation of remedial measures. To accomplish this, the SME visits a sampling of polling places during elections where remedial measures are identified to be implemented and assesses whether they are executed properly. The SME then compares his survey results to that collected by Election Day Surveyors (EDSs), as described in Section 2.4.
The SME is required to submit a report to be made public every six (6) months on Harris County's compliance. This report will include recommendations, if any, to facilitate or sustain compliance, as well as information obtained through the above regular reviews of remedial measures and polling place surveys (Section 2.3).

2.2 ATTACHMENT A POLLING PLACES

Included in Attachment A of the Settlement Agreement are ADA violations from 189 Harris County polling places that were surveyed by DOJ. Attachment A violations were previously identified by the DOJ in its Letter of Findings (LOF) on September 29, 2014, and in its five expert reports sent on August 9, 2018.

Per Paragraph 17 of the Settlement Agreement, Harris County is required to address the violations listed in Attachment A with remedial measures to make the polling places accessible if these polling places are used in subsequent elections. Some polling places identified in Attachment A were identified as being non-compliant polling places that cannot be made accessible with temporary remedial measures. These polling places are considered non-compliant, not remediable with temporary remedial measures, or NCNR.

Attachment A polling place remedial measures are being included in the overall polling place surveys currently underway. Surveyors conduct full surveys of these polling places and address the Attachment A violations in their notes. If a route, parking area, or entrance has changed from those identified in Attachment A, the surveyors note this and provide photographic evidence. The surveyors also identify which remedial measures address the Attachment A violations. This is ongoing and continual improvements are being made to the Attachment A violation process.

2.3 POLLING PLACE SELECTION AND SURVEYS

The Settlement Agreement requires that Harris County select polling places to use in elections that are accessible to persons with disabilities, including mobility and vision disabilities. In order to do this, Harris County is required to survey each polling place using a survey tool based on the DOJ’s ADA Checklist for Polling Places (link). This is accomplished with a team of polling place surveyors to survey each polling place selected to be used in future elections. If violations or barriers to access are found during these surveys, Harris County is required to identify remedial measures to address the violations and bring them into compliance with the ADA Standards during elections. If no remedial measures can be identified to remediate violations found during the polling place surveys, the polling place may be identified as NCNR. If a polling place that is identified as NCNR is approved for use by the DOJ, Harris County must provide program access at it using curbside voting and absentee voting. Universal curbside voting and county wide voting has been implemented by HCCO since the signing of the Settlement Agreement. Harris County is also required to train election judges, contractors, and staff on the ADA requirements.

2.4 ELECTION DAY SURVEYORS

Harris County is directed through the Settlement Agreement to review compliance at polling places where remedial measures are implemented. This is done through Election Day Surveyors, or EDSs, who are Harris County employees or contractors. Currently, EDSs review compliance during early voting periods and election days using a proprietary iPad database tool developed by Jensen Hughes. The role of the EDS differs from that of the polling place surveyor. Polling place surveyors check the compliance of a polling place anticipated to be used during an election and identify remedial measures to be installed during elections. In contrast, EDSs confirm that the remedial measures identified by the surveyors are implemented and fully address all barriers during elections.

3.0 Polling Place Surveys

3.1 POLLING PLACE ACCESSIBILITY

An ADA Checklist for Polling Places (link) was developed by DOJ in 2016 to incorporate typical ADA requirements applicable to polling places and to provide Title II entities the information needed to self-survey
their facilities for compliance. In order to determine whether a polling place meets the ADA requirements, the Settlement Agreement requires that Harris County conduct surveys to assess the physical accessibility of each polling place and develop a survey instrument to assist in data collection during these surveys. The survey instrument must include measurements of each feature in the survey form (e.g., width of parking space, slope of curb ramp); photographs of each element of the polling place and of each measurement; the identification of all appropriate remedial measures; and measurements (including slope measurements) and photographs of each remedial measure as it will be implemented during the elections.

3.2 SURVEY TOOL

Harris County contracted with ContentActive, a local software developer who also developed the Harris County Pollbook, to develop the survey instrument referenced above. The survey instrument is run on an iPad and used in the field to collect survey data required by the Settlement Agreement, Paragraph 24. The survey tool was substantially complete the week of July 17, 2020.

The survey tool incorporates all questions from the ADA Checklist for Polling Places, as modified for use in Harris County. Both survey results and remediation plans are developed simultaneously by the surveyor during the survey. The tool collects measurements, photographs, and notes as well as providing a means for the surveyor to identify all appropriate remedial measures for each violation. It also interfaces with HCCO’s temporary equipment inventory.

While the tool is still being revised and developed to meet HCCO and the SME’s data collection and reporting needs, the SME believes that the survey tool is effective in helping Harris County fulfill the requirements of the Settlement Agreement.

3.3 POLLING PLACE SURVEY REVIEW METHODS

Harris County sends surveyors in teams of two to document compliance at the polling places using the survey tool described above. Once the polling place is surveyed by Harris County, an internal review is conducted of the survey before submitting it to the SME for review. Within an online portal developed by ContentActive, the SME then reviews each question, any developed remedial measure, and associated photographs for completeness, accuracy, and compliance with the Settlement Agreement. If the SME observes that a violation and associated remedial measure is properly documented, the SME marks the item Approved. If there is any missing information or issues with accuracy, clarity of measurements, or if SME request that the surveyors weigh other options for compliance, the SME will mark the item Return to HC for Edits. If the surveyor and the SME are unable to determine an appropriate remedial measure (NCNR) or if the SME has a question for DOJ on the specific item, the SME will mark the item Forward to DOJ for Clarifications.

Any item marked Return to HC for Edits is reviewed by Harris County and updated as requested. Items marked Forward to DOJ for Clarification are reviewed by DOJ, who provides their input.

3.4 DATA ANALYSIS LIMITATIONS

The SME is awaiting the development of a data analysis portal in order to better analyze the survey data. Currently, the SME is relying on data downloads from ContentActive in table form and manual counting from the online survey portal, which limits the depth of analysis as well as the verification of data accuracy. It is anticipated that the data analysis portal will be functional by summer 2021. The survey results below are based on multiple data sources, and the SME is unable to fully verify the accuracy of the data.

For example, the data download received by the SME from ContentActive shows which polling places and voting rooms have been surveyed, but does not show the compliance status of each voting room (e.g. NCNR, non-compliant remediable, compliant). A second data table provides the SME of the questions and how they are answered. This second table only provides what are known as primary questions. The question related to whether the polling place is able to be remediated using temporary measures is a secondary question, and it not
included in the data received by the SME. In order to determine how many polling place surveys have been identified as NCNR requires the SME to manually count statuses in the survey portal. These statuses are Harris County’s assigned statuses based on how the surveyors answered a primary and secondary question. These statuses do not necessarily reflect whether the SME has approved or rejected this status assignment. Within the survey portal, the SME has noted certain surveys marked as fully complaint which actually contain violations and should have been marked non-compliant remediable. The number of surveys meeting this criterion is small and is manually verified and adjusted in the data forthcoming. Other surveys have been assigned an NCNR status by the surveyor, but these statuses have not been approved by the SME because not all remedial measures have been considered. These surveys were not individually verified in the data portal and are not reflected in the data presented in the next section.

The data presented in the following section should be interpreted with these considerations in mind. The SME believes the data accurately reflects overall trends, but the specific numbers may vary.

3.5 POLLING PLACE SURVEY RESULTS

Harris County completed many polling place surveys in 2019, but those surveys were allegedly deficient. The parties agreed that Harris County must resurvey polling places in 2020. The DOJ and Harris County came to an agreement that polling place surveys required by Paragraph 25 will not be undertaken until the survey tool described in Section 3.23.1 is ready for field use. Polling place surveys were delayed by Coronavirus. As such, surveys did not substantially start until the third week of August 2020.

As of January 27, 2021, three hundred twelve (312) polling place surveys were submitted to the SME for review. Five (5) of these surveys are awaiting a first review by the SME, although surveys are being submitted for the SME review daily. Of these surveys, Harris County has identified one hundred fifty-two (152) as being non-compliant, remediable (NCR), meaning that all violations identified at the polling place are able to be remedied using temporary measures. One hundred sixty (160) of the surveys were identified as being NCNR and no surveys (0) were identified by Harris County as being fully compliant.

About half of surveys resulted in NCNR statuses. Under the Settlement Agreement, Harris County must relocate NCNR polling places to an accessible location or one that can be made accessible through remedial measures. If that is not possible, then Harris County must request DOJ approval to use the NCNR location in
future elections. As stated in Section 2.3, if a polling place that is identified as NCNR is approved for use by the DOJ, Harris County must provide program access at it using curbside voting and absentee voting. Universal curbside voting and county wide voting has been implemented by HCCO since the signing of the Settlement Agreement.

Out of 4,602 survey questions that have been submitted to SME, 1,755 violations were identified by the surveyors. Of these violations, 1,073 (61%) had remedial measures that were approved by the SME. Of the violations that have yet to be approved by the SME, 116 (7%) are pending for DOJ review, 34 (2%) have been addressed by Harris County and are awaiting an additional review by the SME, and 532 (30%) have been returned to Harris County for edits.

![Figure 2 - Violations Status](image)

Approximately 25% of those items that are returned to Harris County were due to missing photographs in the survey results or unclear photographs of measurements to verify the results. Around 35% of those items returned to Harris County involved missing measurement photographs or situations where the SME requested that the surveyor change their measurement method for a specific element.

Overall, the quality of surveys is good and continuously improving. Every survey is reviewed by SME before being finalized. Harris County is showing diligence when addressing any comments and questions on items the SME returns for edits.

Once it is safe to travel, the SME will assess the accuracy of the polling place surveys as required by paragraph 50 of the Settlement Agreement.

4.0 November General Election Assessment

4.1 INTRODUCTION

This section reflects the SME observations and recommendations from the November 2020 General Election analyses on October 19 & 21, 2020 and November 03, 2020. The SME team who conducted the field surveys consisted of Alexandra (Lexi) Thompson and Christopher (Chris) Hall. Due to Covid-19 protocols, the SME, Rob Judd, was unable to travel to Harris County but was present virtually during the SME team's field surveys and monitored their inspections. Because of this, an assessment of the accuracy of the polling place surveys, as described in paragraph 50 of the Settlement Agreement, was not conducted during this election.
4.2 SME REVIEW RESULTS
The SME team surveyed the proposed temporary remedial measures for Harris County polling places, developed by Harris County Clerk’s Office (HCCO) and reviewed by the SME. The SME team analyzed whether the remedial measures were installed/placed as directed and whether the remedial measures were appropriate for the barrier to access. The SME team also analyzed whether the curb-side voting call buttons were operational and placed by the election judges as directed by HCCO.

The SME team utilized a self-developed prototypical database survey tool developed on the Filemaker platform and run on an iPad.

4.3 POLLING PLACES
The following polling places were visited by the SME team during early voting on October 19 and 21, 2020:

- Baker Ripley Cleveland Ripley Neighborhood Center
- City Jersey Village Municipal Government Center
- El Franco Lee Community Center
- Green House International Church
- Harris County MUD 81 Building
- Hiram Clark Multi Service Center
- Hosanna Lutheran Church
- ISGH Bear Creek Community Center
- James E Taylor High School
- La Porte Recreation and Fitness Center
- Lee College Wellness Center
- Lone Star College Cypress Center
- Morton Ranch High School
- Neighborhood Centers Inc Ripley House Campus
- Pipers Meadow Community Center
- Richard and Meg Weekley Community Center
- Shrine of the Black Madonna Cultural and Event Center
- Sunnyside Multi-Service Center
- University of Houston Clear Lake
- Victory Worship Center

The following polling places were visited by the SME team on November 03, 2020:

- Alvin D. Baggett Community Center
- Clark Park Community Center
- Harris County Cultural Arts Center
- Hampton Inn and Suites Katy Fwy
- HCC West Loop South
- Iglesia Una Luz En Tu Camino
- John Phelps Courthouse
- Kashmere Multi-Service Center
- Kingdom Builder Center
- Marriott Houston South at Hobby Airport
- Milton Lusk Use Activity
- Raindrop Turkish House
- Sheraton Houston Brookhollow Hotel
- The Grand Tuscany Hotel
- The Power Center
4.3.1 Results

In general, most remedial measures were implemented properly.

<table>
<thead>
<tr>
<th>Remediation Status</th>
<th>Early Voting Results</th>
<th>Election Day Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>Implemented Properly</td>
<td>60</td>
<td>52</td>
</tr>
<tr>
<td>Not Implemented Properly</td>
<td>27</td>
<td>12</td>
</tr>
<tr>
<td>Not Implemented</td>
<td>1</td>
<td>0</td>
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</tbody>
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Compared to the July Primary Runoff, these results show a significant improvement in the Judge’s performance.

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4.3.2 Specific Remedial Measures

4.3.2.1 Temporary Ramps

When specifying the temporary ramps to be used at the polling places, the SME did not anticipate the design limitations of Harris County using the EZRampz temporary ramps to remediate level changes and other barriers. To ensure that compliant ramp running slopes were provided on temporary ramps, the SME instructed the surveyors to specify ramps longer than the length required to achieve a 1:12 (8.33%) running slope, the maximum permitted under the ADA. This, in theory, would result in a running slope of less than 8.33%. The temporary ramps that were recommended by EZRampz and used during the election turned out to be manufactured so they only rest flush with the ground when the ramp slope approached 8.33%. A slope of 7 or 6% results in the lip of the ramp raising off the ground. Instead of using angled edge ramps or shortening the ramp to ensure the starter ramp edges were flush to the ground, EZRampz installed 16” transition plates to the standard ramp. These plates resulted in running slopes in excess of 8.33%, because the ramp surface on a standard ramp is ~1-1/2” above the ground. If installed on a flat surface, this plate would result in a ~9.4% slope. EZRampz did not provide slope measurements on these transition plates prior to the election, so when the SME team conducted their early voting surveys, all ramps with transition plates were non-compliant. Parts needed to possibly correct these issues were not in inventory, so the ramps remained in place through election day.
Bottom transition plates were found on twenty-four of the twenty-five ramps the SME team analyzed during the election. All bottom transition plates provided running slopes in excess of 8.33%. The only ramp analyzed by the SME team that was implemented properly was the ramp without the bottom transition plate. This ramp was located at Lee College Wellness Center.

Removing the transition plate issues from the ramp analyses, twelve of the twenty-four ramps with bottom transition plates were still not implemented properly. Many of the twelve ramps provided excessive level changes or excessive gaps where the ramp transitions to the sidewalk.

Excessive level changes at the ramp top transitions occurred at

+ Pipers Meadow Community Center
+ Richard and Meg Weekley Community Center
+ Victory Worship Center
+ El Franco Lee Community Center

Excessive gaps were found at the top transitions of ramps at

+ James E Taylor High School
+ Sunnyside Multi-Service Center
+ El Franco Lee Community Center
+ University of Houston Clear Lake
There were also some issues with slopes at the ramp landings. An excessive running slope (3.1%) was measured at the top landing of the ramp placed at Morton Ranch High School. The polling place survey photos show a 1.9% slope at this location. Since this election, it was determined that the ramps are not suited for overlaying on top of existing ramps and curb ramps. An alternate temporary ramp location will be explored for future elections.
At Green House International Church, the landing cross slope on the sidewalk was greater than 2.08% at 3.2%. The polling place survey identified a different location for the top landing, which had slopes no greater than 2.08% in any direction.

![Figure 7 - Green House Int'l Church Landing Slope](image)

The running slope on the ramp at the Harris County Cultural Arts Center increased to greater than 8.33% when weight was applied to the ramp. This indicates that either the ramp system is not rigid enough to provide long ramp runs, or the installation was insufficient to keep the ramp from flexing under load.

One ramp planned at Harris County MUD 81 Building was removed during early voting due to site configuration issues.

Since the issue with the bottom transition plate was discovered, EZRampz and EZ Access have discussed modifying the starter ramps so they can be used at a greater range of slopes less than 8.33%. Since the election, EZRampz has provided specifications for new ramp designs. Please refer to Section 4.4 for more information on the new ramp designs.

4.3.2.2 Mats

Only a few errors were observed in the judges’ placement of mats and plates during this election.

One plate was missing under a mat at City Jersey Village Municipal Government Center. The SME team adjusted some of the plates that had shifted at this location.

![Figure 8 - Jersey Village - Shifted Plate](image)
One plate was missing beneath a mat at Morton Ranch High School. At Harris County MUD 81 Building, one mat and plate were placed over the incorrect joint. The other mats and plates at this location were placed as indicated in the checklist.

The mat and plate placed at Pipers Meadow Community Center were placed correctly, but not taped down as indicated in the checklist.

![Figure 9 - Pipers Meadow Community Center Mat](image)

4.3.2.3 Doors

Multiple doors identified to be propped open during the election were not. At the Sheraton Houston Brookhollow Hotel, the double doors at the voting room were identified to be propped open. Only one leaf was propped open and a table blocked the other. The facility entrance doors were also not propped open as indicated in the checklist.

![Figure 10 - Sheraton Houston Brookhollow Hotel Voting Room Doors](image)

At the Power Center, the voting room doors were propped open, yet the facility entrance doors were not. The checklist indicated that the facility entrance was to be propped open with no checklist item related to the voting room doors. No poll worker was present to assist in opening the facility door.

At Hampton Inn and Suites Katy Fwy, the judge notified the SME team that the facility doors were unable to be propped open due to mechanical issues. The SME team observed a greeter stationed at the doors and operating the doors for the duration of their survey. This item was considered as implemented properly.
4.3.2.4 Signage

At Richard and Meg Weekley Community Center, directional signage was placed as indicated in the checklist, yet the door indicated as accessible was locked when the SME team arrived at the polling place. Staff unlocked the door prior to the SME team leaving.

![Locked Accessible Entrance Door at Richard and Meg Weekley Community Center](image1)

**Figure 11 - Locked Accessible Entrance Door at Richard and Meg Weekley Community Center**

At La Porte Recreation and Fitness Center, directional signage was not placed at the main entrance door as indicated in the checklist.

![No Directional Signage at Entrance - La Porte Recreation and Fitness Center](image2)

**Figure 12 - No Directional Signage at Entrance - La Porte Recreation and Fitness Center**
At Bear Creek Community Center, two temporary parking signs were posted at accessible parking spaces, and neither one was located at the spot indicated on the aerial diagram. The SME team assisted the judge in remediating this item.

**Figure 13 - Parking Signage at Bear Creek Community Center**

4.4 CONCLUSIONS AND RECOMMENDATIONS

The election judge’s performance during the November General Election showed an improvement over the July Primary Runoff. An increase of roughly 23% in the percentage of remedies implemented properly and a decrease of roughly 90% in the percentage of remedies not implemented were observed. A majority (57%) of the remedies not implemented properly were due to ramp installation.

The SME recommends strategizing among the parties to come up with ways of increasing remedial measure implementation accuracy for the election judges. While the performance this election was an upgrade over prior elections, there is still some room for improvement.

The SME reviewed the schematics for the new starter ramps being designed by EZ Access and concluded that, if installed correctly, these ramps will meet the accessibility requirements in the Settlement Agreement. The SME will alter the surveyor, contractor, and EDS survey trainings to clarify the level change requirements for ramp transitions. The SME will also alter training to ensure that excessive gaps at curb lines will be addressed at the time of ramp installation.

Once it is safe enough to travel, the SME recommends being present for the ramp installation verification process to ensure that the ramp configurations used at each polling place are compliant with the ADA Checklist for Polling Places. Currently, Harris County is planning on conducting ramp installation verification late February 2021 for the May 1, 2021 Uniform Election. Due to Covid-19 travel restrictions, the SME does not anticipate being able to travel to Harris County for this effort but will observe and direct the ramp testing virtually.

4.5 HCCO EDS RESULTS

Per paragraph 38 of the Settlement Agreement, Harris County is obligated to review compliance during elections (See Section 2.4 for more information). The results of the reviews are to be delivered to the DOJ and the SME within ninety (90) days after each election. The deadline for delivery of the November General Election EDS results is February 1, 2021. These results will be analyzed under a separate cover.
5.0 Surveyor Training

5.1 ELECTION DAY SURVEYOR TRAINING
The SME conducted an EDS training refresher for the November General Election on November 2, 2020. The training consisted of a virtual in-class training covering accessibility requirements and reading, understanding, and analyzing remedial measures to ensure all action items are captured.