**Section 204.55 Provision of the Voting System Computer Code**

a) All voting system vendors, whether currently providing an election authority with a voting system already approved by the State Board of Elections, submitting an application for approval of a voting system for the first time, or submitting for approval a modification, update or change in an existing voting system, shall provide to the Board the Computer Code associated with the voting system, to be placed in escrow with the Board. Failure to submit the code by December 1, 2005 or as part of an application for approval shall be cause for withdrawal of the approval subject to Section 204.120 or for rejection of the application for failure to submit a completed application for approval.

b) The Computer Code shall be placed in a safety deposit box located at a secure facility chosen by the State Board of Elections, with access limited to designated staff of the State Board of Elections and those persons specifically authorized by Section 23-15.1 of the Election Code to have access to the code in conjunction with the proceedings of an election contest. The safety deposit box shall at all times contain a log of its current contents. This log shall be a printed copy of an electronic document on file at the State Board of Elections. Access to this document shall be limited to designated staff of the State Board of Elections.

c) To maintain a chain of custody for the Computer Code, a log shall be maintained by the State Board of Elections tracking the whereabouts, handling and movement of any kind of the medium containing the code from the moment it comes into possession of the State Board of Elections until its return to the vendor who submitted it.

1) The log for the Computer Code shall include but not be limited to the following:

A) The name of the vendor submitting the code;

B) the name of the voting system containing the code;

C) whether the submission is for an approved or existing system, a proposed system or a modification of an existing system (if it is a modification of an existing system, the reason for the modification, along with the new version number, shall also be included);

D) the date the code was received, opened and examined by the designated State Board of Elections staff member, along with that staff member's name;

E) the date and initials of the designated staff person who delivered the medium to the safety deposit box; and

F) the date the old version of the Computer Code (if a newer source code is provided) was returned to the vendor.

2) The log shall also list any problems with the Computer Code medium, including but not limited to any non-compliant or unreadable media, along with the date that the medium was returned to the vendor.

3) A separate log shall be created in the event that a Computer Code is required to be copied and delivered to a judge or tribunal overseeing an election contest in which the Computer Code is a subject of the contest. This separate log shall indicate:

A) the date the code was requested and provided;

B) to whom it was provided;

C) the jurisdiction in which the voting system was used;

D) the election that was contested;

E) the name of the judge or tribunal presiding over the case, along with the venue and docket or case number;

F) the date of the order;

G) the date of the return of the Computer Code to the State Board of Elections; and

H) the designated staff persons who were responsible for the copying, delivery and receipt of the affected Computer Code medium.

d) Representatives of the voting system and vendors providing the Computer Code in question shall have access to the logs described in this subsection (c)(3) provided that the representatives make prior arrangements with the SBE in consideration of mutual convenience.

e) In the proceedings of an election contest, access to a vendor's Computer Code is limited to the particular code being used by the voting systems actually utilized in the election being contested and will only be released pursuant to an order of a judge or tribunal hearing the contest. In the event that an order is issued to provide the Computer Code, written notice will be given to the vendor as soon as practicable, but in no case shall it be given less than two business days from the date of receipt of the order by the State Board of Elections. Any authorized recipients of the Computer Code must enter into a nondisclosure agreement with the Board. The Board will provide the agreement to all authorized voting system vendors upon receipt of the code.

f) All Computer Code shall be provided in a medium chosen by the State Board of Elections and shall not be password protected. The Computer Code provided by each vendor shall be accompanied by a list describing what is being provided and, if necessary, instructions detailing the proper method for its reproduction. The list shall include the file names, file types, and file versions, a brief file description, and a reference to the corresponding object or Computer Code files. The vendor shall provide to the Board, at least 60 days prior to an election, a list of the names of all the Illinois election authorities who are using the approved Computer Code and, if more than one is being used in a jurisdiction, the versions being used. The lists required by this subsection shall be updated and submitted to the Board, upon any changes in the users or changes to the Computer Code, within 10 business days after the change, but in no case less than 5 days prior to an election. The Computer Code shall at no time be copied, reproduced, published, divulged or publicly disseminated in any way by the State Board of Elections unless a judge or tribunal overseeing an election contest orders its production.

g) Any staff member of the State Board of Elections who intends to handle or otherwise have access to a vendor's Computer Code required to be provided by Section 23-15.1 of the Election Code must be so designated by the Executive Director of the State Board of Elections.

h) Return of Escrowed Computer Code to Vendor

1) The State Board of Elections shall return all escrowed Computer Code to the vendor when:

A) the Board refuses to grant approval subject to Section 204.110 of this Part; or

B) the Board withdraws approval subject to Section 204.120 of this Part and at least 23 months have elapsed since the last election in which the Computer Code was used to tabulate ballots in the State, if no election contest is pending involving the code.

2) To insure the receipt of the returned escrowed Computer Code by the vendor, the State Board of Elections shall place the code in a suitable envelope or other appropriate container and send it to the vendor by registered mail, return receipt requested. If the code is returned to the State Board of Elections as non-deliverable, or the return of the code to the vendor is otherwise unable to be accomplished, it shall be destroyed by the State Board of Elections in a suitable manner.

(Source: Added at 29 Ill. Reg. 13734, effective August 25, 2005)