

**STATE OF OREGON
BENTON COUNTY REPUBLICAN PARTY
RESOLUTION 2022-2
ADVOCATING A FULL FORENSIC “CONFIDENCE
BUILDING” AUDIT**



PROOFS

Proof 1: WHEREAS, the Oregon constitution makes the Secretary of State (SoS) the official auditor of the State:

Oregon Constitution, Article VI, Section 2.

Section 2. Duties of Secretary of State. The Secretary of State shall keep a fair record of the official acts of the Legislative Assembly, and Executive Branch; and shall when required lay the same, and all matters relative thereto before either chamber of the Legislative Assembly. The Secretary of State shall be by virtue of holding the office, Auditor of Public Accounts, and shall perform such other duties as shall be assigned to the Secretary of State by law. [Constitution of 1859; Amendment proposed by H.J.R. 44, 2011, and adopted by the people Nov. 6, 2012]



Proof 2: WHEREAS, the Secretary of State states on the SoS website that forensic audits do not have a uniform definition and implies they interfere with the right of a secret ballot:

“Forensic audits are not currently a part of conducting elections in Oregon. Although the term “forensic auditing” is widely used and has an accepted definition in fields such as finance and accounting, it does not yet have a uniform definition in regard to elections. In the financial world, forensic audits typically trace issues back to individual transactions or people – this cannot be done in an election, as voters have the right to and expectation of a secret ballot. “

Source:

Commentary by krh: *The statement is disingenuous in that:*

- (1) A forensic audit examines and evaluates an organization’s financial records to derive evidence used in a court of law or legal proceeding. Forensic audits going on around the country on election systems have the same intent, but are focused on ballot processing.
- (2) The definition of a “forensic audit” is not relevant as long as a specification of what materials are needed; what the process is; what the goal is; and what the work proofs will be; are enumerated and agreed to by the participants; and
- (3) The SoS frequently hires outside auditors to conduct unbiased audits of various departments; and
- (4) From a practical point-of-view, there is a unique voter ID that can show whether or not a given voter has returned his/her ballot without the public knowing the content of that ballot; and
- (5) We agree that a voter has the right to and expectation of a secret ballot. It is a concern that ballots are being manipulated to change or counterfeited to change outcomes that drive the calls for forensic audits.
- (6) The SoS hired an outside firm to do a comprehensive in-depth audit, sometimes labeled as “forensic”, to investigate wrongdoing in the Business Energy Tax Credit (BETC) program (audit in 2016).
- (7) The SoS conducted what could be termed a “forensic audit” of the Oregon Ethics Commission processes and included its methodology in the report, as it should.
- (8) In order to depoliticize the effort, the term “comprehensive” will be used in place of “forensic”.

Proof 3: WHEREAS, SoS Directive 2021-2 prohibits cooperating with post-election audits:

OFFICE OF THE SECRETARY OF STATE

SHEMIA FAGAN
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE
TRIBAL LIAISON



ELECTIONS DIVISION

DEBORAH SCROGGIN
DIRECTOR

255 CAPITOL STREET NE, SUITE 501
SALEM, OREGON 97310-0722

(503) 986-1518

DIRECTIVE OF THE SECRETARY OF STATE	SUBJECT: POST-ELECTION AUDITS	DIRECTIVE ISSUED AT THE REQUEST OF: SECRETARY OF STATE	DATE:	NO.:
			September 22, 2021	2021-2

As Oregon's chief elections officer, the Secretary of State is responsible for maintaining uniformity in elections procedures statewide. (ORS 246.110 and ORS 246.120.) Pursuant to that authority and given laws governing Oregon's current robust and transparent post-election audit process, the Elections Division is issuing this directive prohibiting alternative post-election audit procedures. County clerks must comply with this directive. (ORS 246.120 and ORS 246.410.)

In the wake of the 2020 election, county clerks throughout Oregon have received numerous inquiries concerning alternative post-election audit procedures.

Oregon law already requires post-election audit procedures, transparency in vote counting, and robust security measures. ORS 254.529 (1) provides county clerks with a choice of post-election audit procedures: either a hand count of ballots which is compared to vote tally system results, or a risk-limiting audit. Procedures for a hand count are described in ORS 254.529 (2)-(9). Procedures for a risk-limiting audit are described in ORS 254.532. ORS 258.150-.300 also describe additional procedures for automatic or demand recounts, such as for races that come within a specific margin or can be requested by a campaign.

Existing statutes also include safeguards to protect ballots from loss or damage (ORS 192.355 (32) and ORS 254.074), recognize that critical security information must remain secure (ORS 192.345 (22) and (23)), require numerous tests of voting machines (ORS 254.235), and provide multiple avenues for public observation of ballot counting (ORS 254.482 and ORS 258.211). Oregon law vests county clerks with a special responsibility for the safekeeping, disposition, and security of ballots. (ORS 254.483).

These statutes direct the way in which clerks count and verify results. The statutes carefully consider the need for accurate and fair elections and the need for finality in determining the results of election contests.

Alternative post-election audit procedures are prohibited.

Alternative post-election audit procedures would circumvent the Legislature's requirements concerning election verification, transparency, and security, including vital chain of custody safeguards. Procedures that remove ballots or tabulation machines from the care and custody of county clerks are especially egregious, as they may damage ballots or compromise critical elections infrastructure.

For these reasons, alternative post-election audit procedures are inconsistent with Oregon law. Neither the Secretary of State nor county clerks may authorize any post-election audit procedures other than those that already exist in statute.

County clerks should consult me directly with any questions about this directive.

Deborah Scroggin
Director of Elections

Proof 4: WHEREAS, in 2016, Secretary of State Jeanne P. Atkins hired an outside agency to conduct a forensic audit of the Oregon Department of Energy Business Energy Tax Credit (BETC) program; and

JEANNE P. ATKINS
SECRETARY OF STATE



SECRETARY OF STATE
136 STATE CAPITOL
SALEM, OREGON 97310-0722
Phone 503-986-1500

September 8, 2016

Dear Oregon Legislators,

More than 35 years ago a Business Energy Tax Credit (BETC) was established in the Oregon tax code. In 2007 the program was expanded; in 2011 that program was curtailed, and in 2014, the program ended.

During those years of expanded operation, over \$1 billion in tax credits were issued under the BETC program by the Oregon Department of Energy for more than 14,000 projects.

Much has already been written and publicly discussed about the BETC program, including the legislative history behind the expansion, the contraction and ultimate conclusion of the program, the staff turnover at the Energy Department during this period, and the agency's struggle to administer this high-dollar, high-volume program. As you already know, the Department of Justice has determined that at least one project shows evidence of fraudulent activity and legal remedies are being pursued.

In a meeting with my office earlier this year, leadership at the Department of Energy was candid that the state of the BETC project files did not inspire confidence that there were no further instances of fraud or other problems with tax credits granted. However, there was concern that additional research into the high number of files might not provide sufficient useful information to support any appropriate recovery for the state.

Thus, to assess the state's options for follow up regarding questionable credits, the Secretary of State's Audit Division commissioned a third-party independent financial investigation of the program's records. In May we contracted with Marsh Minick Financial Crime Consulting Services for the purpose of providing an independent examination of a statistically significant set of records, evaluating financial controls within the program, and identifying which projects and credits may have been most at risk of any wrong-doing.

It is important to note that this investigation was not charged with evaluating whether the expanded BETC program met its legislative goals of producing energy savings, growing alternative energy sources, or creating jobs at the time of a great recession. Like any investigation, the evaluation is narrowly focused and does not reach conclusions about the overall value the program provided to Oregonians.

The report released today confirms what has already been widely reported: that the major program controls employed by the Department were limited to those found in the terms of the statute passed by the Legislature. The records show that the priority for Department management was achieving the goals of the program as directed by state leadership. Past leadership of the agency did not further refine the boundaries of the program by employing formalized risk management assessments or by establishing management controls to assure that projects and credits met high standards of financial management. As a result, there were many financial risks for which there were no adequate controls.

Here are the key findings related to BETC projects outlined in the independent report:

- Through a forensic data analysis performed on all 14,494 BETC projects, the investigators found that out of the \$1 billion in tax credits issued, there are \$347 million worth of tax credits where records contain evidence of risk factors that were “concerning.” Areas of concern discovered by the investigators included: direct conflicts of interest; projects that were never operational; businesses that closed or went out of business; indistinguishable, missing or suspicious eligible cost documents; projects with unaccounted for equipment; brokering conflicts and intermediary issues; and illogical projects.
- More than 25 percent of large projects – those involving project costs over \$1,000,000 – exhibited at least one characteristic of concern for the investigators. About 97 percent of projects of this size were reviewed individually; this consisted of 311 project files that accounted for \$773 million in tax credits issued of which \$340 million were of concern.
- In contrast, of 3,150 smaller project files that were reviewed, only 2.7 percent (86 projects) exhibited at least one characteristic of concern for the investigators. Extrapolating this sample to the overall population of smaller BETC projects estimates a total of \$7.2 million in tax credits of concern out of \$266 million in credits issued for these smaller projects.
- The examination identified no direct evidence of fraud. However, out of the 14,494 total BETC projects, this statistical and direct examination of records identified 79 large and small projects combined where there was circumstantial evidence of suspicious behavior. The evidence was sufficient to warrant referral to the Oregon Department of Justice for further review.

This independent report is of value in three separate ways:

It provides an assessment of whether previously unidentified instances of inappropriately issued credits, including likely fraud, could still be identified for this now-closed program. Additionally, the report provides a pathway to reinvigorate management of remaining active BETC tax credits. And finally, of even greater importance, are the recommendations regarding financial controls that must be put into place for programs such as the BETC in the future.

It is my assessment that this independent report provides a valuable, outsider look at a program that has been rife with concerns. It is my hope that both the Executive Branch and legislative

leadership will use the recommendations attached to evaluate future legislative proposals establishing tax credit programs and will make financial controls an essential part of program start-up in the future.

Sincerely,



Jeanne P. Atkins
Oregon Secretary of State

Energy, Oregon Department of Business Energy Tax Credit Program Investigative Examination, [Contract Audit Report No. 2016-20](#)
SoS Letter [2016-20-sos-letter](#)
Agency Response [2016-20-agency-response](#)
September 2016

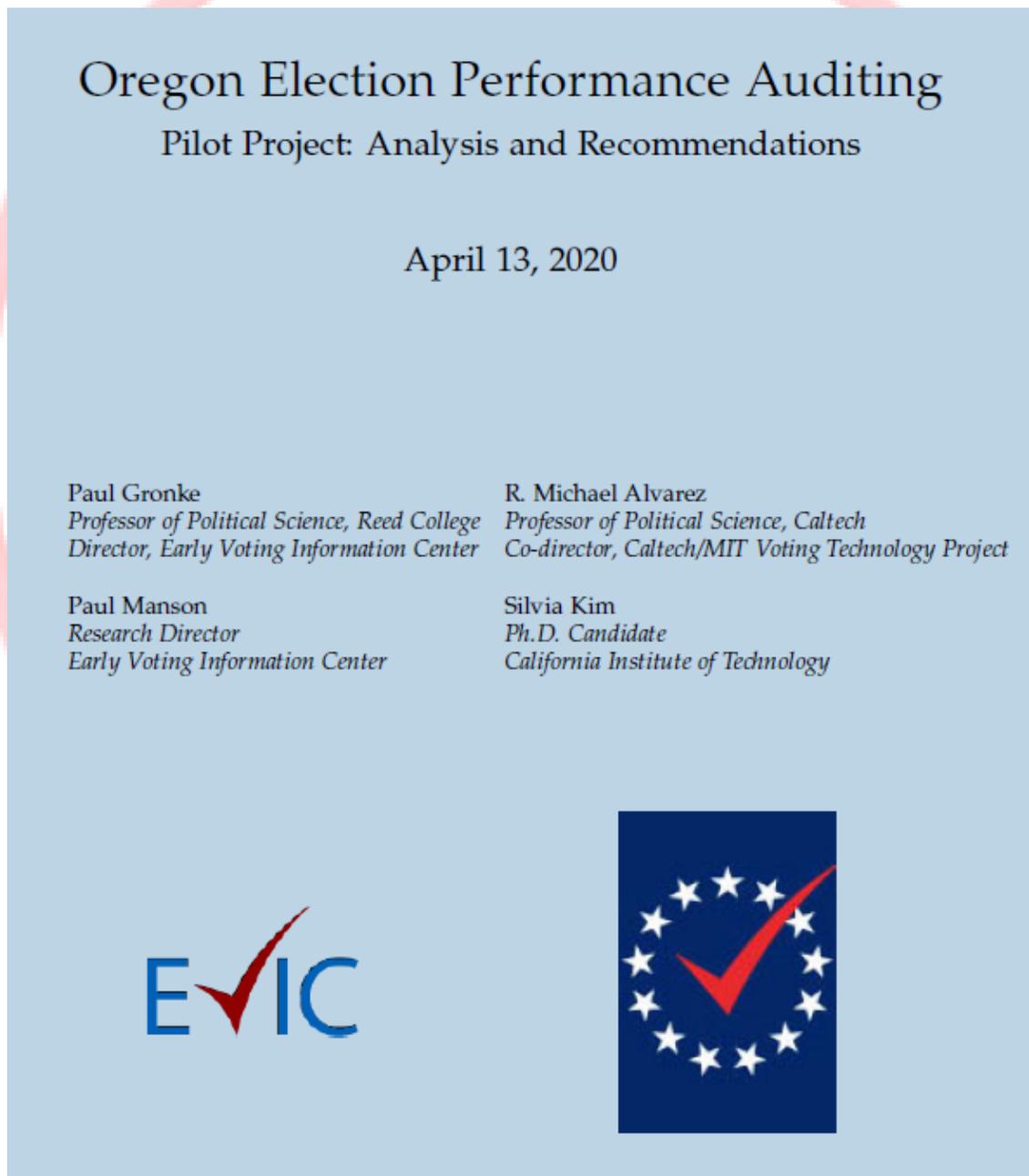


Proof 5: WHEREAS, the Oregon Election Performance Audit Pilot Project (4/13/2020), conducted by the Early Voting Information Center at Reed College, recommended a Comprehensive Performance Audit of the Oregon Elections System to start in January, 2020, which did not happen:

Link to Full Report to the Legislature: [221911 \(oregonlegislature.gov\)](https://www.oregonlegislature.gov/bills-introactions/default.aspx?bill=221911)

(Note that although the recommendation included a Comprehensive Performance Audit to start in January 2020, the report was not submitted to the legislature until April 2020.)

The Cover and Executive Summary are provided below:



April 13, 2020

To: Steve Trout, Director
Elections Division
Oregon Secretary of State

From: Paul Gronke Director, Early Voting Information Center at Reed College
R. Michael Alvarez, Professor of Political Science, Caltech, and Co-director
of the Caltech/MIT Voting Technology Project

Dear Director Trout:

We were recently retained by the Oregon Secretary of State's Election Division (S-16500-08) to conduct a pilot project regarding the feasibility of a performance audit of the Oregon statewide elections system, and to collect polling data to establish statewide levels of confidence in the system and identify areas that need improvement. Our final report and report appendices are attached.

While we did not find any immediate vulnerabilities in the system, and found high quality and accurate data in the system, the most important and pressing conclusion of our report is that the Oregon Centralized Voter System, like many voter registration systems nationwide, is difficult to audit as it is based on outdated technology that needs to be modernized.

We also found that Oregonians express a high level of confidence in the integrity of the state's election system, but there are significant gaps in knowledge about processes and procedures currently in place that should enhance confidence and trust.

We provide a pathway forward to conduct audits for the January 2020, May 2020, and November 2020 elections, and use the auditing system as a method to help the Secretary of State make fully informed decisions about how to modernize the OCVR and associated databases. We also recommend a strategic communications plan and ongoing monitoring of public attitudes to assure that the public understands how the state assures the security and integrity of the system.

At monitoringtheelection.us, we provide the rationale for a trusted third-party elections performance audit system, how these systems can help to improve election administration help election administrators assure the integrity of their registration and elections database systems.

This project involved the first collaboration between the Early Voting Information Center at Reed College and the Caltech/MIT Voting Technology Project at the California Institute of Technology. While our institutions have very different educational missions, we share an interest in helping to leverage our scientific research capacity to improve American elections and to mentor new generations of scholars of election science and administration.

We want to highlight the contributions of Seo-Young Silvia Kim, who is finishing her PhD in Social Science at Caltech, and Paul Manson, who is finishing his PhD in Public Affairs and Policy at Portland State University and serves as Research Director at EVIC. We are fortunate to be able to work two smart and creative junior scholars.

Questions or comments about the report can be directed to Dr. Paul Gronke, gronkep@reed.edu, or Dr. Michael Alvarez, alvarez.research@gmail.com.

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1 Executive Summary

In this pilot project, we established a proof of concept for a data-driven, comprehensive performance audit of the Oregon election system. The project consisted of two parts: (1) accessing and evaluating key data flows in the Oregon Centralized Voter Registration system and Elections Workspace; and (2) completing a public opinion survey to establish baseline estimates of voter knowledge of the state's election administration system and their confidence in Oregon elections.

The key findings of the report are:

- ✓ The quality of data in Oregon's election system, based on a static analysis and using established data quality standards, is generally high;
- ✓ Development of diagnostic tools and forensic indicators that would allow election administrators to pro-actively identify data anomalies and vulnerabilities is feasible, but requires immediate financial and personnel investment directed at system modernization;
- ✓ Oregonians express a high level of confidence in the election system, but are not well aware of existing audit procedures and other system protections.

The goal of the project was to generate forensic tools that could help Oregon elections officials identify anomalous patterns in data flowing into and out of key databases in the election administration system. Unfortunately, an outdated and archaic database system hampered data accessibility to such a significant degree that while we could demonstrate how such tools could be developed, it was impossible for us to obtain sufficient access to produce statistically valid measures of key items like the frequency (and range) of new registrations, the number of address changes, the frequency of registration removals, the frequency of cross-county moves, the rates of undeliverable mail ballots, and the rates of ballot returns (among some of the most important quantities for registration auditing). This is not meant to indicate that these quantities cannot be calculated or are not available, but rather that we were unable to estimate *statistical parameters* (averages, standard deviations) of these quantities, and by use of these statistical quantities, develop forensic tools which would identify anomalies.

Our inability to quickly and reliably access necessary auditing information from the Oregon Centralized Voter Registration system is in our opinion a consequence of a system that was implemented in 2004, and which has not been substantially modernized since implementation. The system was designed to solve a specific set of federal policy objectives, which unfortunately did not include data quality analysis and auditability.

We recommend that Oregon's database management system, which is now more than fifteen years old, undergo an extensive overhaul. A modernized system will (1) allow for flexible and stable access, and more responsiveness to external clients; (2) make more efficient use of staff and resources in the Elections Division; and (3) create a more secure and efficient data pipeline within the Division and between the Division and Counties. With better data access, we can perform a

more detailed audit of the election databases than we have showed in this pilot report.



Proof 6: WHEREAS, there is precedent for contracting with private firms not connected to state administration to assure an unbiased comprehensive audit of the election system

CONTRACT AUDITS of INTEREST

- **SAIF Corporation** Financial Statements-Statutory Basis as of and for the Years Ended December 31, 2019 and 2018, Supplementary Schedules as of December 31, 2019, and Report of Independent Auditors, **Contract Audit** [Report No. 2020-27](#), Financial August 2020
- **SAIF Corporation** Financial Statements and Supplementary Schedules as of and for the Years Ended December 31, 2019 and 2018, and Report of Independent Auditors, **Contract Audit** [Report No. 2020-28](#), Financial August 2020
- **Oregon Secretary of State Elections Division** Feasibility of Performance Audit of the Oregon state-wide election system. **Contract Audit** (S-16500-08)
- **SAIF Corporation** SAIF Corporation: Financial Statements-Statutory Basis as of and for the Years Ended December 31, 2018 and 2017, Supplementary Schedules as of December 31, 2018, and Report of Independent Auditors, **Contract Audit** [Report No. 2019-30](#), Financial Audit August 2019
- **Energy, Oregon Department of Business** Energy Tax Credit Program Investigative Examination, **Contract Audit** [Report No. 2016-20](#)
SoS Letter [2016-20-sos-letter](#)
Agency Response [2016-20-agency-response](#)
September 2016

Through a **forensic data analysis** performed on all 14,494 BETC projects, the investigators found that out of the \$1 billion in tax credits issued, there are \$347 million worth of tax credits where records contain evidence of risk factors that were “concerning.” Areas of concern discovered by the investigators included: direct conflicts of interest; projects that were never operational; businesses that closed or went out of business; indistinguishable, missing or suspicious eligible cost documents; projects with unaccounted for equipment; brokering conflicts and intermediary issues; and illogical projects

Proof 7: WHEREAS, the Presidential Election of 2020 is of historical importance but voting records only have a 22 – 24 month retention period:

1. We assume that everyone recognizes that the 2020 election is controversial and will be discussed and analyzed for many years – unless the source data for analysis is lost.

2. ORS 254.535 Preservation of certain materials

Conduct of Elections

**ORS 254.535
Preservation of certain materials**

- **retention of records**

- (1) Except as provided in subsection (3) of this section, each tally sheet, return sheet, record relating to a risk-limiting audit conducted under [ORS 254.532 \(Risk-limiting audit\)](#), record relating to a hand count of ballots conducted under [ORS 254.529 \(Choice of conducting hand recount of ballots or risk-limiting audit\)](#) and ballot return identification envelope shall be preserved for two years after the election to which it relates.
- (2) Except as provided in subsection (3) of this section, the county clerk shall destroy the ballots and written challenge statements not sooner than the 90th day after the final day permitted for a contest of the election, unless otherwise ordered by the court.
- (3) In accordance with 42 U.S.C. 1974, any ballot, voter registration records and any other materials relating to any election at which a candidate is nominated or elected to federal office shall be retained for not less than 22 months following the date of the election. [1979 c.190 §275; 1999 c.410 §62; 2007 c.154 §48; 2019 c.562 §4]Note: See note under [254.529 \(Choice of conducting hand recount of ballots or risk-limiting audit\)](#).

Proof 8: WHEREAS, an analysis of the January 2021 voter registrations in Benton County, alone, show 67,762 registered voters, 7079 of which, are "inactive" status, an additional 6,569 are in "active" status and received ballots they did not return or use for an estimated cost of \$36,195:

1. The number of registered and inactive voters was obtained by using the *Microsoft Access* database function to count the number of records in the January 2021 Voter History file provided by the Benton County elections officer, and to count the number of records with status code "I", indicating inactive.
2. All active voters receive ballots unless they request otherwise.
3. The number of ballots not returned or used are from the Secretary of State's Statistical Summary of the voter registration and participation for both the Primary and the General election.
4. To estimate the cost of "not returned" ballots, we assumed that the number of "not returned" ballots in the Primary election was the same as for the General Election. The idea being that most of the "not returned" ballots are because people have moved away or died before the General Election and that we can reasonably use that for the Primary rather than the usually lower participation in the Primary.
5. The cost estimate was derived by $\text{Cost} = (a*b) + (c*d)$, where:
a = the number of "not returned" ballots in the General election.
b = the cost / ballot of the General Election published by the Secretary of State.
c = the number of "not returned" ballots in the Primary election.
d = the cost / ballot of the General Election published by the Secretary of State.

$$a = 6,569; b = \$2.48; c = 6,569; d = \$3.03$$

$$\text{Estimated cost of "not returned" ballots} = (6569 * \$2.48) + (6,569 * \$3.03)$$

Estimated cost of "not returned" ballots is \$36,195 in Benton County alone.

Proof 9: WHEREAS, the confidence of the electors in the current voting systems

has been damaged by government officials, active social media meddling, foreign actors meddling, and internal actors meddling:

[Faith in Elections in Relatively Short Supply in U.S. \(gallup.com\)](https://www.gallup.com)

WORLD

FEBRUARY 13, 2020

Faith in Elections in Relatively Short Supply in U.S.

BY [RJ REINHART](#)



STORY HIGHLIGHTS

- 59% of Americans say they are not confident in the honesty of U.S. elections
- Confidence measurably worse only in Chile and Mexico

WASHINGTON, D.C. -- Although their faith has been shaken for some time, Americans are heading into their next presidential election with relatively little confidence in the honesty of the process. Four in 10 Americans (40%) interviewed in 2019 said they are confident in the honesty of elections in the country, while the majority (59%) said they are not.

	%	%
Finland	89	9
Norway	89	9
Sweden	87	11
Luxembourg	82	14
New Zealand	81	17
Switzerland	81	12
Netherlands	77	22
Ireland	76	20
Germany	74	21
Austria	72	26
Poland	71	17
Canada	66	33
Slovenia	66	33
Australia	62	35
United Kingdom	61	33
Greece	59	33
France	57	41
Japan	57	35
Spain	56	38
Slovakia	54	35
Italy	53	44
Portugal	53	44
Estonia	52	31
South Korea	49	48
Belgium	46	48
Hungary	45	42
United States of America	40	59
Lithuania	40	44
Turkey	39	52
Latvia	37	46
Chile	31	65
Mexico	30	68

GALLUP WORLD POLL 2019

Americans' current level of confidence in their elections is far from the lowest it has been at times in the past decade, but it is notably one of the worst ratings across the world's wealthiest democracies. Ratings were statistically lower last year only in Chile (31%) and Mexico (30%).

Confidence in the Honesty of Elections in OECD (Organisation for Economic Co-operation and Development) Countries, in 2019

In this country, do you have confidence in each of the following, or not? How about honesty of elections?

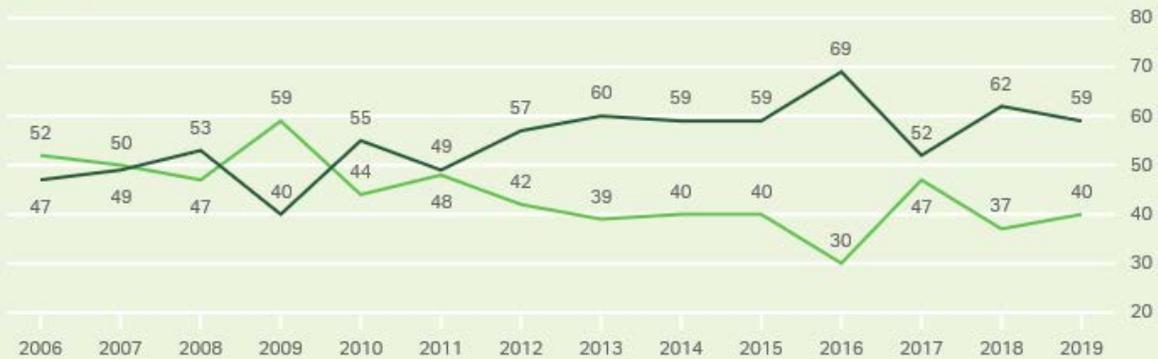
The latest data for the U.S. come from the Gallup World Poll of Americans conducted in April and May 2019. At that time, eight U.S. intelligence agencies had confirmed allegations of foreign interference in the 2016 presidential election and identified attempts to engage in similar activities during the 2018 midterms. Additionally, cybersecurity experts had raised some substantial questions concerning the potential digital security vulnerabilities of computerized voting systems.

However, Americans' doubts about their elections are not new. Majorities of Americans have consistently lacked confidence in the honesty of elections every year since 2012. Americans' lack of confidence peaked at 69% in 2016, in the midst of the presidential campaign that year.

Six in 10 Americans Do Not Have Confidence in the Honesty of U.S. Elections

In this country, do you have confidence in each of the following, or not? How about honesty of elections?

■ % Yes ■ % No



GALLUP WORLD POLL

Gallup World Poll surveying in 2016 was conducted in the midst of allegations that the process to select the Democratic Party presidential nomination had been interfered with to the detriment of then-candidate Bernie Sanders. The survey also took place after then-candidate Donald Trump alleged that the Iowa Caucus had been "stolen" from him, but prior to his claims the overall presidential election was dishonest.

Who Is Least Confident?

Gallup's World Poll does not ask about political affiliation, but Americans' lack of confidence is most pronounced among those who disapprove of the country's leadership, with 74% of this group reporting no confidence in the honesty of elections. Trust is also low among Americans aged 30 to 49, with 68% lacking confidence. Rounding out the three groups with the lowest levels of confidence in the honesty of elections are U.S. women, among whom 65% say they lack confidence.

U.S. Confidence in the Honesty of Elections in 2019, by Key Subgroups

In this country, do you have confidence in each of the following, or not? How about honesty of elections?

	Yes %	No %
All Americans	40	59
Gender		
Male	46	54
Female	35	65
Age		
15-29	42	58
30-49	31	68
50+	45	54
U.S. Leadership Approval		
Approve	63	36
Disapprove	26	74
Urban or Rural		
Urban	39	61
Rural	43	57

GALLUP WORLD POLL, APR 23-MAY 23 2019

While rural Americans are often described by political analysts as forgotten or disaffected, there is little difference in confidence in the honesty of elections between this group and those that live in urban areas.

Bottom Line

Whether related to issues of foreign interference, security vulnerability, interference in the nomination process by the political elites, or just general frustration with an election outcome, the majority of Americans do not have confidence in their elections. The recent Iowa Caucuses are an example of the types of events that can shake Americans' faith in the election process and the legitimacy of the winners of elections. Institutions and fair processes are important in holding society together, and particularly so in this era of intense partisanship in the U.S.

For complete methodology and specific survey dates, please review [Gallup's Country Data Set details](#).

Learn more about how the [Gallup World Poll](#) works.

