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August 22, 2007

VIA E-MAIL TRANSMISSION
AND OVERNIGHT DELIVERY

Brian Hancock
Director of Voting Systems Certification
U.S Election Assistance Commission
1225 New York Avenue, N.W.
Suite 1100
Washington, D.C. 20005

RE: Notice of Noncompliance- ES&S response

Dear Mr. Hancock:

Election Systems & Software, Inc. ("ES&S") is in receipt of your letter dated August 14, 2007, regarding the inclusion of a complete list of manufacturing and assembly facilities as part of our January 2007 registration with the EAC. Below we will address the substantive issue raised in your August 14 letter. First, I would like to reiterate that we have some concerns about the process through which this matter was handled by the EAC. The Commission plays an incredibly important role in overseeing the election process and maintaining voter confidence. At ES&S, because of our respect for the Commission's duties and authority, we have a strong record of working with EAC staff to comply with requirements and provide all necessary information and resources.

If, in the future, you or your staff has questions or concerns, we would appreciate an opportunity to address them with you directly. In this situation, the process through which you first posted a notice on your Web site and distributed it to election officials across the country, without contacting us first for explanation, created confusion and could undermine voter confidence in the entire field of elections. This has broad ramifications for everyone involved in carrying out elections: vendors, election officials, and even the EAC. Further still, this entire situation appears to have been driven by the promotion of a then yet-to-be-aired news media report. If we had been given the opportunity

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to present our information to you directly, we are confident this matter would have been resolved to your full satisfaction, without raising unnecessary concerns among the elections community we have served and supported for nearly 35 years.

After receiving your communication, we have dedicated an extraordinary amount of time to reviewing the facts surrounding this situation. Importantly, ES&S, at the time of our Manufacturing Registration to the EAC, made a deliberate and thorough effort to complete the EAC's Manufacturing Registration. There was never any intent by ES&S not to disclose or to misrepresent any portion of the registration information. In fact, the presence and activity of this assembly facility is widely reported to federal authorities. The Independent Testing Authority, Wyle Laboratories, under the accreditation of NASED's certification program, has performed multiple site inspections of the Manila facility in question over the course of several years. Those test reports have always been approved and submitted. Please know that, based on our understanding of Section 2 of the EAC's Testing and Certification Manual (which relates to manufacturing registration), ES&S made every effort to comply with the full requirements for the manufacturer registration process. Reflecting on our conversations following issuance of your notice, we have compiled (and have attached) a more detailed list of our prime manufacturer contractors and their sub-contractors, in an effort to fulfill the intent of this requirement.

In our registration, which was reviewed and approved by the EAC on March 12, 2007 (in your notice of registration approval), ES&S listed all of our prime contractors that have manufacturing and final assembly responsibilities for all products for which we are currently seeking EAC certification. These manufacturers are responsible for all final assembly of our final products. The names, addresses, and locations for these manufacturers were provided as required by the registration process.

Regarding the Manila facility, Pivot International of Lenexa, Kansas, is the prime manufacturer for ES&S' iVotronic system, various sub-components for the iVotronic, and the ES&S Model 100 optical scanner. ES&S and Pivot have a longstanding relationship dating back to 1998. Pivot sub-contracts and oversees the final assembly of the iVotronic and M-100 to Teletech Telesystems, Inc. ("TTI"), in Manila, Philippines, and has done so since 1998.

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To avoid similar misunderstanding in the future, as we discussed in our August 15, 2007, telephone conversation, ES&S feels it is important that the EAC provide to all of the vendors further clarification of requirement 2.3.1.7 in the Manufacturing Registration process. Just as in other industries involving the manufacturing of technology, there are thousands of components manufactured and sub-assembled in many parts of the global supply chain. Given the lack of specificity in this requirement, we included the primary contractors for our complete line of products to assist you in the conduct of manufacturing site reviews under the Quality Monitoring Program procedures in Section 8 of the Testing and Certification Manual.

An important question to consider is whether the EAC is only interested in final assembly manufacturers and/or facilities involved in the "final" assembly of the voting system or *all sub-component* manufacturers and/or facilities as well?

In order for ES&S and the other voting system manufacturers to provide the EAC with an adequate level of information, it is important for us to get clarification from the EAC, at minimum, on the following general questions:

1. Do we only list the final assembly facilities?
2. Do we list all sub-assembly facilities? And components manufacturing facilities?
3. Are we required to list all COTS equipment manufacturers and/or assembly and sub-assembly facilities?
4. Are plastic modeling facilities and sub-contractors meant to be included in this requirement?
5. Does this requirement only pertain to current and future manufacturers and/or assembly facilities? Or, do you want historical lists looking back to before the EAC's certification responsibility?
6. Does the requirement include previous manufacturers and/or assembly facilities as in the case of Pivot International's use of the Manila facility? If so, how far back?

ES&S has made every attempt to achieve and maintain full compliance with all aspects of the EAC's Testing and Certification Program since its inception. ES&S has maintained open and frequent interaction with the EAC, by providing valuable input to the process before it became final in January 2007. Since that time, we have sought clarification on numerous occasions for



requirements that were either not well defined or incomplete. Again, there was never any intent by ES&S to not disclose or to misrepresent any portion of the registration information.

Thank you for your consideration. We look forward to receiving your advisory clarification of this requirement and the opportunity to discuss with you our more detailed list of manufacturers and sub-contractors to determine if we fulfill the intent of this requirement.

Sincerely,

A handwritten signature in black ink, which appears to read 'Steven M. Pearson', is centered below the word 'Sincerely,'.

Steven M. Pearson
Vice President, Certification

CC: Aldo J. Tesi – President & CEO
Ken Carbullido, Senior Vice-President Product Development
John S. Groh, Senior Vice-President

Encl: Updated list of prime and sub-contracting manufacturing & assembly facilities
Evidence of Wyle VSTL last Manila assembly facility audit
Pivot International and TTI facilities ISO 9000 certificate documents

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Prime and Sub-Contracting
Manufacturing Facilities

Product Description	Primary Manufacturer	Sub Contractor
iVotronic 15" DRE Terminal	Pivot International Inc. P.O Box 15269 Lenexa, KS 66285-5269 Steve Beyer 913-312-6900	TELETECH TELESYSTEMS, INC. 3/F Liberty Industrial Bldg. Domestic Airport Road Pasay City, Metro Manila, Philippines 1300 Robbie Cie 011-632-851-4086
Ancillary iVotronic Products		
Compack Printer	Pivot International Inc. P.O Box 15269 Lenexa, KS 66285-5269 Steve Beyer 913-312-6900	Tzung Huei Electronics Co. 3FL, No. 36 Lane San Cheng, Shlioujie Rd. Jiaushi Shiang Ilan, Taiwan, 262 R.O.C Mr. Lin 03-9886662
PEB	Pivot International Inc. P.O Box 15269 Lenexa, KS 66285-5269 Steve Beyer 913-312-6900	TELETECH TELESYSTEMS, INC. 3/F Liberty Industrial Bldg. Domestic Airport Road Pasay City, Metro Manila, Philippines 1300 Robbie Cie 011-632-851-4086
PEB Reader	Pivot International Inc. P.O Box 15269 Lenexa, KS 66285-5269 Steve Beyer 913-312-6900	TELETECH TELESYSTEMS, INC. 3/F Liberty Industrial Bldg. Domestic Airport Road Pasay City, Metro Manila, Philippines 1300 Robbie Cie 011-632-851-4086
RTAL Booth	Pivot International Inc. P.O Box 15269 Lenexa, KS 66285-5269 Steve Beyer 913-312-6900	Mega Plastic Hardware & Electronics Co. Ltd. Tian Mei Industrial Zone Huang Jiang Dong Guan, Guan Dong Province China Robin Lai (0769) 3368060
RTAL Booth	Xten Industries 9600-55th St. Kenosha, WI 53144 Conrad Hauser 262-605-9000	
RTAL Printer	FutureLogic, INC. 1818 East Sky Harbor Circle North, Phoenix, AZ 85034 Kevin Rainbolt 818-244-4700	
Automatic Barcode Reader	Jadak Technologies 225 Greenfield Pkwy Liverpool, NY Clark Stanton 315-701-0678	
M650 Central Tabulator	Election Systems & Software 11208 John Galt Blvd. Omaha, Ne 68137 Jim Schmidt 402-593-0101	
M100 Central Tabulator	Election Systems & Software 11208 John Galt Blvd. Omaha, Ne 68137 Jim Schmidt 402-593-0101	
M100 Central Tabulator	Pivot International Inc. P.O Box 15269 Lenexa, KS 66285-5269 Steve Beyer 913-312-6900	TELETECH TELESYSTEMS, INC. 3/F Liberty Industrial Bldg. Domestic Airport Road Pasay City, Metro Manila, Philippines 1300 Robbie Cie 011-632-851-4086
DS200 Central Tabulator	Ricoh Electronics, Inc. 1100 Valencia Avenue Tustin, CA 92780 Taiken Shimizu 714-566-2500	
PBC InkaVote	Electronic Design and Manufacturing (EDM) 12202 Cary Circle La Vista, NE Dan Bystrek 402-334-8120	
Ancillary Central Tabulator		
PBC InkaVote Booth	ILTS 2310 Cousteau Court Vista, CA Jeff Johnson (760) 734-3257	
Ballot Box	Douglas MFG. 1530 Pine Street Crete, NE 68333 Roger Douglas 800-356-8098	
Ballot Box	EDC 29751 Valley Center Dr. Valley Center, CA 92082 Dick Stephens 760-751-1131	California Precision Products, INC. 8790 Flanders Drive San Diego, CA 92121 Joe Bean 858-638-7300