

October 4, 2007

Mr. Brian Hancock
Director of Testing and Certification
U.S. Election Assistance Commission
Voting System Testing and Certification Program
1225 New York Avenue, NW Suite 1100
Washington, DC 20005

Re: U.S. Election Assistance Commission ("EAC")
Notice of Non-Compliance dated September 11, 2007
Follow up regarding SysTest Labs work product

Dear Mr. Hancock:

As a follow up to our letter of 24 September 2007, there is the matter of SysTest Labs' work product under the System 4.0 testing effort. A reading of your correspondence to SysTest Labs and their response to you dated September 12, 2007 indicates that SysTest requires a directive from your offices to release System 4.0 work product to either Sequoia or to iBeta Quality Assurance. Sequoia has received a draft Termination Agreement from SysTest, which has undergone review by our General Counsel and was sent to SysTest earlier today for their comment. Sequoia requests that you direct SysTest Labs to fulfill the requirements of your letter dated 11 September 2007:

Additionally, we request a description of any testing performed on this system, including status and results. ... As noted in the letter, you MAY also be requested to submit detailed information on all testing completed on the system to Sequoia's lead laboratory (iBeta). [capitalization added for clarity]

I'm sure that you can appreciate that failure to provide the requested information and work product to either Sequoia or iBeta (which of the two parties is at your discretion) will negatively affect the timing of our System 4.0 EAC Test Report. At this time, it is my belief after discussions with SysTest management that they have packaged the material for shipment; and this letter is in no way intended to cast a negative light on SysTest's efforts to comply with your letter or the quality of testing they provided to the System 4.0 certification effort. Feel free to contact me for any further information or clarification.

Sincerely,

A handwritten signature in cursive script that reads "Edwin B. Smith, III".

Edwin B. Smith, III
Vice President, Compliance/Quality/Certification
Sequoia Voting Systems



October 24, 2007

delivered via electronic mail (2 pages, 3 attachments)

Mr. Brian Hancock
Director, Testing and Certification
Election Assistance Commission
1225 New York Avenue, NW; Suite 1100
Washington, D.C. 20005

Dear Mr. Hancock:

Sequoia Voting Systems is in receipt of your letter of October 12, 2007 requesting clarification of two items related to our letter to you of September 24, 2007.

In the first instance, you request the Master Services Agreement between Sequoia Voting Systems and SysTest Labs. An unsigned copy of the final draft version of this Agreement from November 2006 is enclosed. Neither Sequoia's Contracts department nor General Counsel could locate a signed copy of the Agreement. The record of this document's evolution ends with this final version of the draft Agreement, in both Sequoia's and Counsel's files. It is possible that Sequoia did not receive a fully executed copy for its files.

In the second instance, you request clarification of persons in the SysTest Statement of Work titled as "Software VSTL Consultant." We believe that "Consultant" references a program that was considered by Sequoia and SysTest but never initiated- that is, a Quality Assurance program for Sequoia products with the assurance work performed by a separate department of SysTest Labs. After reviewing the Notice of Clarification, both SysTest and Sequoia quickly agreed that such a program was no longer a viable option; and no assurance work was performed under this or any similar program. A copy of every SysTest Labs invoice received in calendar year 2007 is enclosed. You will find no mention of a consultant or consultative role invoiced to Sequoia Voting Systems. Our investigation did note two hours on invoice 9690, covering work from June 16 through June 30, for "Quality Assurance" activities. It is Sequoia's belief that such Quality Assurance work did not apply to any activities germane to Sequoia product quality, but to SysTest's own Quality Assurance program as it relates to System 4.0 submittals. Sequoia Voting Systems can find no work product from SysTest that would indicate that this or any other activity violates the July 24th Notice of Clarification regarding "Outside" work.

In the third and last instance, you request clarification "*as to the certification tests that SysTest was being contracted to perform as part of the EAC's certification process.*" Sequoia Voting Systems continues to assert, as it has in prior correspondence to you, that no contract existed between Sequoia Voting Systems and SysTest Labs. This assertion is based on the lack of standard contracting documents being signed for WinEDS System 4.0 testing, the existence of a Statement of Work that covered only Project Planning and in which Testing remains silent, and our substantial and persistent efforts to foster a contract between SysTest Labs and iBeta Quality Assurance. That being said, it was Sequoia's intention to have SysTest perform:

- source code review on our voting machine firmware,
- PCA on the voting machines,
- FCA on the voting machines,

functional unit testing on the voting machines, and
authoring of the EAC Test Plan for the voting machines for submittal to iBeta and
incorporation into the final Test Plan that iBeta would submit to the EAC.

The attached invoices provide another view into SysTest's activities related to System 4.0 testing. In summary, Sequoia Voting Systems is pleased to be able to provide to you these clarifying remarks and objective evidence. We assert that no activities occurred which would violate the July 24 Notice of Clarification regarding VSTL activities for manufacturers.

On a related matter, SysTest is holding its work product related to System 4.0 pending direction from the EAC regarding its disposition. You may recall this from my letter to you dated 4 October 2007 (attached) with courtesy copies to staff members at both iBeta Quality Assurance and SysTest Labs. We ask once again that SysTest be given clear direction on work product delivery at your earliest convenience. Lack of action in this regard irreparably delays work toward completion of System 4.0 VSTL testing.

Sincerely,

A handwritten signature in cursive script that reads "Edwin B. Smith, III".

Edwin Smith
VP, Compliance/Quality/Certification
Sequoia Voting Systems



September 17, 2007

Brian Hancock
Director, Testing and Certification
US Election Assistance Commission
Voting System Testing and Certification Program
1225 New York Avenue, NW, Suite 1100
Washington, DC 20005

Dear Mr. Hancock,

We are in receipt of your letter of September 11, 2007 detailing the EAC Notice of Non-compliance issued for the Sequoia Voting System –WinEDS version 4.0.34. As you have requested we are providing a narrative chronicling iBeta's knowledge of the events leading up to the present contract structure. We are providing the supporting documentation that you have requested.

At this time iBeta continues to work on the WinEDS version 4.0.34 certification effort.

Narrative of Events:

- April 13, 2007: An NDA between iBeta and Sequoia was executed. iBeta (Gail Audette and Carolyn Coggins) attended a meeting at Sequoia (Ed Smith, Doug Weinel, Sandy Green). In the meeting there was a general discuss about certification testing. Ed expressed Sequoia's desire to work with two labs for the purpose of ensuring sufficient capacity. He indicated he intended to have a similar discussion with SysTest. iBeta agreed that subcontracting was possible under the rules of the EAC.
- April 18, 2007: The iBeta Master Services Agreement (MSA) was delivered to Sequoia.
- May 2, 2007: Carolyn Coggins and Gail Audette attended a meeting of the VSTL's and EAC at SysTest's facilities. This meeting included a general discussion of VSTL subcontracting relationships.
- May 7, 2007: The iBeta Statement of Work (SOW) was delivered to Sequoia.
- May 14, 2007: Ed Smith visited iBeta to discuss the scope of certification testing. During this discussion he identified that iBeta would be Sequoia's lead VSTL.
- May 15, 2007: Carolyn Coggins sent an email to Brian Hancock and Gavin Gilmore of the EAC with questions requesting a clarification about the subcontractor VSTL structure. Brian Hancock's response was copied to all of the VSTL's. As the EAC message specifically identified another vendor it was not forwarded to Sequoia. Carolyn Coggins instead sent an email detailing Brian Hancock's comments. The original EAC message was never sent to Sequoia.
- May 31 2007: The MSA was executed.
- June 13, 2007: The SOW was executed.
- June 20, 2007: iBeta received the full WinEDS source code from Sequoia.
- June 22, 2007: iBeta requested Sequoia facilitate a meeting with SysTest to discuss the subcontracting scope. (Phone call and email exchanges between iBeta and Sequoia over the next several weeks regarding a meeting gave us the impression that there was resistance from SysTest.)
- July 23, 2007: In a teleconference between the iBeta source code review team and Sequoia development team it was identified that they had just delivered source code to SysTest. Gail Audette immediately contacted Ed Smith advising Sequoia to issue a stop work because the work performed by SysTest could not be accepted by iBeta if they were not under a subcontract

agreement and the direction of iBeta. Ed Smith indicated he would issue a stop work. Gail was informed that a Sequoia/SysTest SOW had been issued but there was no MSA with SysTest in place. Ed agreed to move forward on facilitation of a meeting in order to structure the process correctly.

- July 31, 2007: iBeta (Gail Audette, Earl Wing) and SysTest (Kevin Keelan, Mike Santos) attended a meeting at Sequoia (Ed Smith, David Allen) to discuss the scope of work and subcontractor relationship. Citing Brian Hancock's May 15 email to the VSTL's, NIST Handbook 150 section 4.5, and NIST Handbook 150-22 section 4.5.4 iBeta expressed the belief that all contracting, materials and quality controls of the certification effort were required to go through the lead VSTL. The SysTest representatives disavowed knowledge of the May 15 email, disagreed with iBeta's contracting interpretation and indicated that they had executed a SOW with Sequoia. The result of the meeting was iBeta was to develop a Subcontractor Master Service Agreement, while Sequoia was to advise the EAC of this situation and request clarification/guidance.
- August 1, 2007 iBeta received the firmware (Audio Box, D-10, Edge and Card Activator). This was the source code that was designated to be reviewed by the subcontractor, SysTest. That delivery has been held in escrow awaiting the execution of the subcontracting agreement.
- August 23, 2007: Carolyn Coggins attended a meeting at the EAC. Brian Hancock and Gavin Gilmore confirmed that they had spoken with Ed Smith regarding the subcontractor relationship and had told Ed that all contracting, materials and quality controls of the certification effort must go through the lead VSTL.
- August 27, 2007: Carolyn Coggins and Gail Audette had a conference call with Ed Smith to review his discussion and the August 23rd EAC meeting. Ed agreed that the path forward was clear and asked us to follow through on issuing the MSA.
- August 28, 2007: The iBeta Subcontractor Master Services Agreement was completed and forwarded to SysTest and InfoGard Labs. (This MSA incorporated Brian Hancock's May 15th email and the discussions at the August 23rd meeting).
- September 5, 2007: Gail emailed SysTest to follow up on the Subcontractor MSA. Kevin Keelan responded that SysTest was weighing its options. Gail asked that they please look at NOC 07-005 as they reviewed their options.
- September 6, 2007 Gail Audette forwarded SysTest's email to Ed Smith. Ed confirmed he had reviewed NOC 07-005 and planned to meet with SysTest on the following day for a resolution.
- September 10, 2007: Gail Audette was informed by Ed Smith that SysTest had issued a letter to the EAC regarding work they had performed for Sequoia. It was at this time that she learned that SysTest had performed work. Gail advised Ed that this was a serious problem for Sequoia.
- September 12, 2007: Carolyn Coggins received the EAC's letter requesting information.

It is iBeta's contention that the email sent by Brian Hancock on May 15, 2007 clearly provided all VSTL's with straight-forward guidance on how to structure subcontractor relationships. The fact that this message was not sent directly to the manufactures would reasonably support a claim of confusion on the part of the manufacturer, if they received conflicting information from the VSTL's.

In moving forward with this test effort iBeta believed that the process was in compliance with the EAC program because:

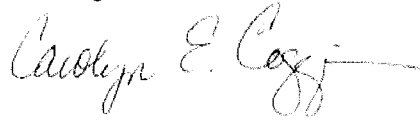
- Sequoia had confirmed that iBeta was the lead VSTL and had delivered all code to iBeta. Code for SysTest to review remained in escrow while details of the subcontractor agreement were being worked out.
- Sequoia was informed that work performed outside a formal subcontractor relationship would not be usable and they acknowledged the need to issue a stop work. As iBeta had no knowledge of the terms of the SOW or if it involved possible state certifications, at this juncture we believed cancellation of the SysTest SOW was a business issue between SysTest and Sequoia.
- It was our observation that Sequoia was receiving conflicting information from the VSTL's but did not have information directly from the EAC. Sequoia's confusion could only be resolved by the EAC, which was the action they were taking.

- SysTest was in possession of all notifications from the EAC and, iBeta unaware of any contractual content, would have expected a VSTL not to start or continue with any federal certification testing if there was any question regarding an EAC policy.

We are submitting copies of the Master Services Agreement and the Statement of Work as separate files. The third document submitted is a copy of the email that was sent to Sequoia on May 15, 2007 reporting your comments regarding VSTL subcontracting relationships. This email was not sent to SysTest but the email that is referenced in this document was sent by you to Jim Nilius and Kevin Keelan of SysTest. The EAC already has their original email response that is the subject of the email to Sequoia.

We do wish to assure the EAC and Sequoia that iBeta will make every effort to cooperate with the EAC and provide a timely and thorough methodology to facilitate moving forward on the Win EDS version 4.0.34 certification effort. Please note that there are several significant predecessor tasks that need to be performed prior to issuance of the test plan. In the interim we will comply with all requests for information to facilitate EAC oversight.

Best regards,



Carolyn E. Coggins

Separate Files:
iBeta/Sequoia Master Services Agreement
iBeta/Sequoia Statement of Work
Email May 15