October 28, 2008

Mark Phillips
Vice President of Compliance Services
SysTest Labs, Incorporated
216 16th Street, Suite 700
Denver, CO 80202-5115

NVLAP Lab Code 200733-0

Dear Mr. Phillips,

On behalf of the National Voluntary Laboratory Accreditation Program (NVLAP), I write to notify of you of NVLAP's decision to suspend its accreditation of SysTest's electronic voting testing program pursuant to NIST Handbook 150, *NVLAP Procedures and General Requirements*, 2006 Edition, section 3.10. This letter provides an explanation of NVLAP's decision and describes the steps SysTest can take to reinstate its accreditation.

This action pertains to voting systems under review by SysTest to be recommended for certification by the Election Assistance Commission for future elections and is not pertinent to systems already deployed for the 2008 election which were certified under alternate systems.

Background Discussion
SysTest Labs, Incorporated is currently accredited by the National Voluntary Laboratory Accreditation Program (NVLAP), a program within the National Institute of Standards and Technology (NIST), to perform testing to federal standards in accordance with the Help America Vote Act of 2002 (HAVA). These standards are the 2002 Voting System Standards (VSS-2002) and the 2005 Voluntary Voting System Guidelines (VVSG-2005). On August 8, 2008, NVLAP sent SysTest Labs a letter outlining specific concerns with respect to SysTest's NVLAP-accredited testing of voting systems, including voting system test campaigns submitted to the Election Assistance Commission (EAC) under their voting system certification process. These specific concerns are documented in the March 2008 NVLAP on-site assessment checklist, produced as part of the normal reassessment process, and in communications between the EAC and NIST regarding issues that EAC staff identified with test reports submitted by SysTest Labs (enclosed). The August 8th letter (also enclosed) outlined three specific concerns. In short they were:

1) SysTest's lack of properly documented and validated test methods.

2) Testing conducted by unqualified or untrained personnel.

3) Improper assurances made to manufacturers regarding testing outcomes.

NVLAP directed SysTest to submit information to NVLAP, including a schedule of all accredited voting systems testing planned, within 14 days of receipt of the August 8th letter. NVLAP informed SysTest of its intention to conduct on-site monitoring of the testing of electronic voting machines. SysTest was notified by email on October 6, 2008 of NVLAP's intention to visit their lab on October 14th through 16th to observe testing that had been scheduled during that period.

NVLAP assembled a team consisting of the NVLAP voting system technical assessor, the NIST/NVLAP program manager for voting system testing and four members of the NIST Information Technology Laboratory (ITL) involved in writing the federal voting system standards. In addition, two EAC staff members were invited to provide their observations. During the on-site visit this eight-member team witnessed several tests, interviewed testers, and examined documents related to the areas of concern.

Site Visit Observations
As a result of this on-site monitoring visit, NVLAP has serious concerns about SysTest's performance of voting system testing. These concerns were supported by observations of testing where the test methods being used were not fully developed, validated, mapped to the requirements of the applicable standards, and controlled under SysTest's document control policy.

From the team's observations it was unclear who at SysTest had the ultimate responsibility for test method development. During the observed tests, it appeared that the testers were running the tests for the first time. Changes were made to the test procedures to address items that should have been caught during an initial run-through of the test. Basic tests, such as the system readiness test, were not conducted successfully. Three test methods failed due to problems with the procedure, tester error, or unfamiliarity with the test set-up. Some anomalies or potential problems during testing were not reported by the testers but were pointed out by members of the on-site team.

During the team's visit SysTest personnel stated that their policy was to validate test methods during the actual testing of voting equipment. This approach is unacceptable. The lab must validate all test methods separate from actual testing so that equipment nonconformance can be isolated from test method problems. This validation must follow set documented procedures and show a clear chain of responsibility for the process.

SysTest has undergone numerous changes in personnel since its original accreditation and, in fact, since the March 2008 NVLAP on-site assessment. SysTest staff conducting testing during the monitoring visit demonstrated a lack of familiarity with the test equipment and procedures. Some personnel who participated in past on-site assessments were no longer associated with the NVLAP-accredited testing; they had been reassigned to work in support of state certification of voting systems. SysTest management's stated goal was to transfer the expertise and testing approach from their New York testing

campaign to the NVLAP/EAC accredited testing campaign. SysTest must improve the level of training of personnel involved in NVLAP/EAC accredited testing given that SysTest has reassigned experienced testers to other work. SysTest should consider bringing in outside instructors to train laboratory personnel.

SysTest was advised that an appearance of impropriety had occurred in a case where personnel had given a client an indication that their equipment would successfully pass testing. SysTest's response was that this was an isolated incident and the person involved had not intended to give this impression. SysTest further stated that their employees were given a quiz which they felt covered training in this situation. It is NVLAP's position that this quiz is insufficient and SysTest must provide specific training to their employees on professional ethics and document the employees' intent to adhere to SysTest's stated policy.

NVLAP's Decision
Pursuant to NIST Handbook 150, *NVLAP Procedures and General Requirements*, 2006 Edition, section 3.10, NVLAP hereby suspends SysTest's accreditation effective as of the date of this letter. SysTest Labs, Incorporated is prohibited from using the NVLAP symbol on its test reports, correspondences, and advertising during the suspension period for all voting system testing. Accreditation may be reinstated only after such time that SysTest can demonstrate voting system testing in accordance with the requirements of the applicable voting system standards and NIST Handbook 150. This demonstration must be achieved through an on-site visit to SysTest to witness testing, review documentation, interview personnel, and any other means necessary to gather objective evidence in support of a decision regarding reinstatement.

This on-site visit will occur only after NVLAP is convinced, through the submission of documentation, that SysTest has taken the necessary steps to correct the areas of nonconformance herein addressed. This documentation will include, but is not limited to: procedures for test method development; procedures for test method validation; revised document control procedures that specifically address technical procedures; fully developed test methods showing validation, document control, and mapping to the federal voting system standards; and, procedures or policies that address methods by which SysTest will control statements or assurances to their clients regarding the outcome of voting system testing.

SysTest was accredited by NVLAP based on its ability to develop and perform competent testing within the framework of an effective management system. SysTest now needs to revise its management system to correct the nonconformances found during this visit and implement these system changes. NVLAP believes that the current SysTest management team is committed to accomplishing this goal and will work with them to that end.

Sincerely,

Sully Bruce for

Jon Crickenberger
NIST/NVLAP Program Manager

Enclosures

Cc: Brian Hancock, Election Assistance Commission

NIST HANDBOOK 150-22 CHECKLIST

Instructions to the Assessor: This checklist addresses the general accreditation criteria prescribed in the NIST Handbook 150-22, *NVLAP Voting System Testing,* (2007 Edition). The checklist items are numbered to correspond to the requirements found in Clauses 4 and 5 of the Handbook.

Place an "X" beside each checklist item that represents a nonconformity. Place a "C" beside each item on which you are commenting for other reasons. Record the item number and written nonconformity explanation and/or comment on the comment sheet(s) at the end of the checklist. Write "OK" beside all other items you observed or verified as compliant at the laboratory.

4 Management requirements for accreditation

4.1 Organization

4.1.1

<u>OK</u> The laboratory shall establish and maintain policies and procedures for maintaining laboratory impartiality and integrity in the conduct of voting system testing.

Covered in Par. 4.1 (Organization) of the VSTLQSM

<u>OK</u> When conducting testing under HAVA, the laboratory policies and procedures shall ensure that:

Covered in Par. 4.1 (Organization) of the VSTLQSM

<u>OK</u> a) The laboratory cannot perform both developmental testing and accredited testing of a particular voting system or system component;

Covered in Par. 4.1 (Organization) of the VSTLQSM

<u>OK</u> b) The laboratory cannot provide consultation or other services to a voting system developer such that the independence, or appearance of independence, in the testing of a voting system or system component would be compromised.

Covered in Par. 4.1 (Organization) of the VSTLQSM

<u>OK</u> **4.1.2** The laboratory shall have physical and electronic controls augmented with an explicit policy and set of procedures for maintaining separation, both physical and electronic, between the laboratory test personnel and laboratory consultants, product developers, system integrators, and others who may have an interest in and/or may unduly influence the outcome of the test.

Covered in Par. 4.1 (Organization) of the VSTLQSM

4.2 Management system

4.2.1

<u>OK</u> a) The controlled version of the laboratory management system documentation may be paper-based or computer-based. Version control shall be maintained in either case.

Covered in Par. 4.2 (Management System) of the VSTLQSM and Par. 4.3 (Control of Documents and Vendor Items) in the VSTLQSM.

OK   b)   If both methods are used, one or the other will be identified as a primary source with the other having the status of a copy (e.g., historical, archive, working, distribution).

> The documentation is computer-based and is controlled at the electronic data ("soft copy") level.

4.2.2   The following general management system procedures (required, but not limited to) should be available for assessor examination prior to the on-site visit (if requested), but in any event shall be part of the on-site assessment process:

OK   a)   Internal audits and management review;

> Pargraphs 4.14 (Internal Audits) and 4.15 (Management Reviews) of the VSTLQSM are appropriate. Also, SLP-QS-02 (Change Control and Approvals) and SLP-QS-03 (Configuration Management and Record Control) are pertinent for these two areas.

OK   b)   Writing and implementing system procedures;

> Paragraphs 4.2 (Management System) and 4.3 (Control of Documents and Vendor Items) of the VSTLQSM are appropriate for this item. Also, SLP-QS-01 (Quality System Document Structure and Usage), SLP-QS-02 (Change Control and Approvals) and SLP-QS-03 (Configuration Management and Record Control) are pertinent for writing and implementing system procedures.

OK   c)   Writing and implementing system instructions;

> Paragraphs 4.2 (Management System) and 4.3 (Control of Documents and Vendor Items) of the VSTLQSM are appropriate for this item. Also, SLP-QS-01 (Quality System Document Structure and Usage), SLP-QS-02 (Change Control and Approvals) and SLP-QS-03 (Configuration Management and Record Control) are pertinent for writing and implementing system procedures.

OK   d)   Staff training and individual development plans;

> Paragraphs 5.2 (Personnel) and 5.2.3 (Training Facilities) in the VSTLQSM address this issue. Appropriate procedures are found in TR-01 and TR-02.

OK   e)   Contract review;

> Paragraphs 4.4 (Requests, Tenders, Contracts, Reviews and Results) and 4.5 (Subcontracting of Testing Services) of the VSTLQSM cover this item. There are additional procedures that cover this item as well.

OK   f)   Staff members who work at home and at alternate work sites outside the laboratory (e.g., telecommuting);

> Par. 5.3.3 (Offsite Facilities) of the VSTLQSM covers this item.

OK   g)   Referencing NVLAP accreditation and use of the NVLAP symbol.

> Par. 4.3.7 (Use of NVLAP Logo and Accrditation Statements) is appropriate.

4.2.3 The following program-specific procedures (required, but not limited to) should be available for assessor examination prior to the on-site visit (if requested), but in any event shall be part of the on-site assessment process:

OK a) Review of the vendor Technical Data Package (VSS-2002, Volume II, Section 2 and VVSG-2005, Volume II, Section 2);

> Referenced in Par. 4.4.1 (Review of Requests, Tenders and Contracts) of the VSTLQSM covers this item. Also, SLP-VC-06 (Deliverables Check-In), SLP-VC-07 (PCA Documentation Review), SLP-VC-11 (PCA Source Code Review), and SLP-VC-14 (Preparing Source Code Review for Certification Report) also cover this item.

OK b) Selecting the laboratory staff for the certification test campaign;

> Par. 5.2.5 (Assigning Laboratory Staff for a Voting Test Campaign) of the VSTLQSM handles this issue. TR-01 and TR-02 are appropriate procedures.

OK c) Writing a Certification Test Plan for first-time testing and testing of modified systems (VSS-2002, Volume II, Appendix A and VVSG-2005, Volume II, Appendix A);

> SLP-VC-05 (Certification Test Plan) covers this item.

OK d) Writing Test Operation Procedures (VSS-2002, Volume II, Appendix A.6.4 and VVSG-2005, Volume II, Appendix A.6.4);

> Par. 5.4.1 (VSTL Test Methods) of the VSTLQSM is appropriate. Also SLP-VC-12 (FCA Preparing Test Case(s) addresses this item.

OK e) Conducting testing at a customer's site (if the laboratory offers such services);

> Par. 5.4.3 (Offsite or Vendor Site Testing) of the VSTLQSM covers this issue.

OK f) Writing a National Certification Test Report (VSS-2002, Volume II, Appendix B and VVSG-2005, Volume II, Appendix B);

> Covered in SLP-VC-19 (Certification Report).

OK g) Reviewing the Configuration Management Plan (VSS-2002, Volume II, Section 2.11 and VVSG-2005, Volume II, Section 2.11);

> Covered in SLP-VC-07 (Physical Configuration Audit Documentation Review).

OK h) Ensuring the protection of proprietary information against threats from persons outside the laboratory, from visitors to the laboratory, from laboratory personnel without a need to know, and from other unauthorized persons;

> Par. 4.3.6 (Security and Retention of Materials) of the VSTLQSM addresses this item satisafactorily. In addition, SLP-VC-02 (Ensuring Protection of Proprietary Items and Data) adds additional information in this area.

OK i) Performing security testing, (VSS-2002, Volume II, Section 6.4 and VVSG-2005, Volume II, Section 6.4);

> Par 5.4.1 (VSTL Test Methods) of the VSTLQSM covers this item.

OK j) Cooperating with the EAC during test campaigns;

> Par. 5.4.1.2 (EAC Interpretations) satisfies this item.

OK k) Witnessing of system build and installation;

> SLP-VC-13 (PCA Witness of System Build and Installation) covers this item.

OK l) Matrix cross-referencing the laboratory's test methods to the voting system standard. Specific test methods will be checked for compliance with the standard.

> The CaliberRM trace record handles this item.

4.3 **Document control**

There are no requirements additional to those set forth in NIST Handbook 150.

4.4 **Review of requests, tenders and contracts**

OK **4.4.1** The procedures for review of contracts shall include procedures to ensure that the customer understands that its products and systems must meet the requirements of HAVA, the VSS-2002, VVSG-2005, and the EAC.

Covered in Par. 4.4.1 (Review of Requests, Tenders and Contracts) and Par. 4.4.2 (Responsibility) in the VSTLQSM. Also covered in SLP-QS-11 (Review of Requests, Tenders and Contracts) especially Par. 5.2.2.1 (Clarify the Client's Request and Needs) and Par. 5.2.2.3 (Review Discussion with Client and SysTest Labs' Familiarization).

4.4.2 The review shall include (but is not limited to):

OK a) laboratory competencies and resources to provide the service,

Covered in SLP-QS-11 (Review of Requests, Tenders and Contracts).

OK b) Vendor-supplied documentation,

Covered in SLP-QS-11 (Review of Requests, Tenders and Contracts).

OK c) Tests to be conducted,

Covered in SLP-QS-11 (Review of Requests, Tenders and Contracts).

OK d) Testing in additional Certification Testing,

Covered in SLP-QS-11 (Review of Requests, Tenders and Contracts).

OK e) And subcontracting.

Covered in SLP-QS-11 (Review of Requests, Tenders and Contracts).

OK **4.4.3** Procedures for the review of requests, tenders, and contracts should include provisions to ensure that any state certification testing does not replace or dilute National Certification requirements.

Covered in Par. 5.2.2.2 (Assess SysTest Labs' Ability to address Client's Needs [Internal Review]) of procedure SLP-QS-11, Rev. 2.1.

OK **4.4.4** When conducting a contract review, the VSTL should determine if there are any special or changed requirements from the EAC or from state or local election authorities.

Covered in Par. 5.2.2.2 (Assess SysTest Labs' Ability to address Client's Needs [Internal Review]) of procedure SLP-QS-11, Rev. 2.1.

4.5 **Subcontracting of tests and calibrations**

4.5.1

OK a) Subcontracting of tests is the use of laboratory services outside of the VSTL to perform tests, e.g., electromagnetic compatibility testing, environmental testing, shock and vibration testing, and FIPS 140 validation.

Covered in Par. 4.5.1 (Subcontracting of Tests) in the VSTLQSM. Also covered in SLP-QS-10 (Supplier Agreements and Management) and SLP-VC-24 (Subcontractor Management).

OK   b)   It may also include contracting of services for equipment needed to support testing but not part of the core test requirements such as test equipment calibration or the monitoring and operation of an environmental test chamber to support the 48-hour environment portion of the accuracy and reliability tests.

> Covered in Par. 4.5.1 (Subcontracting of Tests) in the VSTLQSM. Also covered in SLP-QS-10 (Supplier Agreements and Management) and SLP-VC-24 (Subcontractor Management).

X   c)   The word *subcontracting* is not used to describe a mechanism by which the laboratory employs staff members (see 5.2.7).

> Par. 4.5.2 of the VSTLQSM refers to "temporary subcontractors" and this is not allowed.

OK   **4.5.2**   All core voting system testing shall be conducted by a VSTL. If the VSTL subcontracts testing for any test within its scope of accreditation, the subcontracted laboratory shall also be an EAC-accredited VSTL authorized to do business in the United States.

> Par. 4.5.1.1 (Subcontracting within Scope) of the VSTLQSM covers this item.

4.5.3

OK   a)   Subcontractors for non-core testing do not need to be accredited under the VST LAP. If laboratories accredited in another LAP are available for non-core testing, VSTLs shall use accredited laboratories.

> Par. 4.5.1 (Subcontracting of Tests) of the VSTLQSM covers this.

OK   b)   When an accredited laboratory is not available for non-core testing, the VSTL shall conduct an audit of the subcontracted laboratory and shall document that the laboratory is competent and qualified for use.

> Par. 5.1 (Subcontractor Selection Criteria) of SLP-VC-24 (Subcontractor Laboratory Management) covers this item.

4.5.4

OK   a)   When a VSTL subcontracts to another laboratory, the VSTL is responsible for ensuring that setup, configuration, testing, and reporting is competent, appropriate, and conducted by qualified people.

> SLP-VC-24 (Subcontractor Laboratory Management) covers this item.

OK   b)   The VSTL shall ensure that there are no gaps in the knowledge required to conduct the testing. For example, a VSTL subcontracting with another laboratory to conduct temperature cycling tests should conduct the functional testing itself rather than allowing the subcontractor to do so.

> SLP-VC-24 (Subcontractor Laboratory Management) covers this item.

OK   c)   The VSTL is responsible for ensuring that the entire voting system is properly tested.

> SLP-VC-24 (Subcontractor Laboratory Management) covers this item.

4.6   Purchasing services and supplies

There are no requirements additional to those set forth in NIST Handbook 150.

4.7   Service to the customer

OK   The customer shall not operate the equipment during testing.

> Par. 5.3 (Controlling Staff Access to Proprietary Items and Data) in SLP-VC-02 (Ensuring Protection of Proprietary Items and Data) covers this item.

4.8   Complaints

> There are no requirements additional to those set forth in NIST Handbook 150.

4.9   Control of nonconforming testing

> There are no requirements additional to those set forth in NIST Handbook 150.

4.10   Improvement

> There are no requirements additional to those set forth in NIST Handbook 150.

4.11   Corrective action

> There are no requirements additional to those set forth in NIST Handbook 150.

4.12   Preventive action

> There are no requirements additional to those set forth in NIST Handbook 150.

4.13   Control of records

OK   **4.13.1**   The laboratory shall set policies and procedures on the retention of records that meet the requirements of HAVA and the EAC and meet the needs of its customers as agreed in a contract.

> Par. 4.3 and Par. 4.3.6 of the VSTLQSM are appropriate. Also, SLP-VC-22 (Archiving Voting Test Materials) is appropriate.

OK   **4.13.2**   Laboratory records shall be maintained, released, or destroyed in accordance with the laboratory's policy on proprietary information and contractual agreements with customers.

> SLP-VC-22 (Archiving Voting Test Materials) is appropriate. Also, SLP-QS-03 (Configuration Management and Record Control) covers this item.

OK   **4.13.3**   The Certification Test Report plus the laboratory's records of the certification test shall contain sufficient information to allow repeating, reproducing and/or auditing the entire certification test.

> Par. 4.13 (Control of Records) of the VSTLQSM covers this item.

4.14   Internal audits

OK   **4.14.1**   The internal audit shall cover the laboratory management system and the application of the management system to all laboratory activities, including compliance with NVLAP, HAVA, VSS-2002, VVSG-2005, contractual, laboratory management system, and any additional EAC requirements.

> Par. 4.14 (Internal Audits) of the VSTLQSM covers this item.

4.14.2

OK   a)   In the case where only one member of the laboratory staff is competent to conduct a specific aspect of a test method, and performing an audit of work in this area would result in that person auditing his or her own work, then the audit may be conducted by another staff member.

> Par. 4.14.1 (Reponsibility) of the VSTLQSM covers this item.

OK   b)   The audit shall cover the methodology for that test method and shall include a review of documented procedures and instructions, adherence to procedures and instructions, and review of previous audit reports.

> Par. 4.14.1 (Reponsibility) of the VSTLQSM covers this item.

OK   c)   External experts may also be used in these situations.

N/A   **4.14.3**   The laboratory shall perform at least one complete internal audit of its management system prior to the first on-site assessment.

> This is the second on-site assessment.

4.15   Management reviews

N/A   The laboratory shall perform at least one management review prior to the first on-site assessment.

> This is the second on-site assessment.

5   Technical requirements for accreditation

5.1   General

OK   The quality manual shall contain, or refer to, documentation that describes and details the laboratory's implementation of procedures covering all of the technical requirements in NIST Handbook 150 and this handbook.

> Covered in Systest VSTLQSM.

5.2   Personnel

X   **5.2.1**   The laboratory shall maintain a competent administrative and technical staff appropriate for testing voting systems to be recognized by the EAC under HAVA.

> Multiple instances were found of staff insufficiently trained to performed their duties. In particular deficiences were found in the technical training and experience of those responsible for assessing the need for individual staff training and for guiding the training process. Multiple instances were found of staff performing tests, particulary functional / accuracy testing and security testing without sufficient training and experience in voting equipment, elections and security evaluation.

OK   **5.2.2**   The laboratory shall maintain a list of personnel designated to fulfill NVLAP requirements including: technical manager, Authorized Representative, Approved Signatories, and team leaders.

> Laboratory Director: Jim Nilius (05/19/03) VP of Compliance Operations
> Technical Director: Earl Burba (Chief Engineer)
>
> Authorized Representative: List names and titles
> a.   Jim Nilius, VP of Compliance Operations
>
> Approved Signatories:
> a. Jim Nilius
> b. Glenn Truglio (alt) (Chief Operating Officer)
>
> Team Leaders (Test Manager--develops test)
> a. **Traci Mapps (1/2/08) (Directory of Operations, manages the test teams)
> b. Mike Santos_(8/15/06)
> c. ** Tracy Mapps (1/2/08)
> d. Ron Thomas_(3/1/08)
> e. John Schweitzer (10/10/05) New to Compliance testing.
>
> Voting System Tech
> e.   **Sascha Davis (software code analyst)
>
> Program Management Office   Geoffrey Pollich
> Quality Assurance Manager: **Jerry Prochazka_(1/28/08)
> Hardware Management: Al Backlund_(11/13/06)
> Security Services Director: **Ron Wood (Feb 08)
> Compliance Security Specialist **Dan Weiske (new)
>
> ** Interviewed

X   **5.2.3**   The laboratory shall notify both NVLAP and the EAC within 30 days of any change in key personnel. When key personnel are added to the staff, the notification of changes shall include a current resume for each new staff member.

> Covered in SLP-TR 01, 5.2.2.3 Notifying NVLAP and EAC. Ltr received 080222 for Traci Mapps. Multiple key staff members were identified for whom notification to the EAC and NVLAP could not be documented

OK   **5.2.4**   Laboratories shall document the required qualifications for each technical staff position

> Covered in Par. 5.2 (Personnel)and Par. 4.1 (Organization) in the VSTLQSM. Job Description: Dir VSTL Operation, Manager,.

     5.2.5

OK   a)   The laboratory shall have documented a detailed description of its training program for new and current staff members.

> SLP-TR-01 (Identifying Employee Training Needs) and SLP-TR-02 (Conducting Training) are appropriate. Curriculum file.

OK	b)	Each new staff member shall be trained for assigned duties.

> SLP-TR-01 (Identifying Employee Training Needs) and SLP-TR-02 (Conducting Training) are appropriate. Curriculum file.

C	c)	The training program shall be updated and current staff members shall be retrained when the VSS-2002 and VVSG-2005 changes, or when the individuals are assigned new responsibilities.

> On test campaign initialization, the project manager reviews the RFI file to see if there are changes and to review for changes necessary which provides notification at the Project level. Concurrences are gained from all in the team and final endorsement from VSTL project management (VP of compliance, Dir of Operations, Dir of Program) are required on variances . Also processed against process improvement. Not clear where updating the entire staff awareness about these changes occurred.

X	5.2.6	The laboratory shall review annually the competence of each staff member for each test method the staff member is authorized to conduct. A record of the annual review of each staff member shall be dated and signed by the supervisor and the employee

> Par. 5.2 of the VSTLQSM covers this item. Was not implemented previously, as VSTL Training Record was to hold this info. The Training Record does not have it.

OK	5.2.7	Individuals hired to perform testing activities are sometimes referred to as *subcontractors*. NVLAP does not make a distinction between full-time laboratory employees and individuals hired on a contract. NVLAP requires that the VSTL maintain responsibility for and control of any work performed within its scope of accreditation. To that end, the VSTL shall ensure all individuals performing testing activities satisfy all NVLAP requirements, irrespective of the means by which individuals are compensated (e.g., the VSTL shall ensure all test personnel receive proper training and are subject to annual performance reviews, etc.).

> Par. 5.2 of the VSTLQSM handles this. SLP-TR-01 (Identifying Employee Training Needs) and SLP-TR-02 (Conducting Training) are appropriate.

	5.2.8	The records for each person having an effect on the outcome of the testing shall include:
OK	a)	Position description;

> Par. 5.2 of the VSTLQSM handles this. Verified for Manager 9/18/06,(J Schweitzer) and Dir of VSTL Operations 8/15/07 (T Mapps) Also reviewed personnel files on Sascha Davis, Ron Thomas, Ron Wood, and Daniel Weiske.

OK	b)	Resume/bio to match the person to the position;

> Par. 5.2 of the VSTLQSM handles this, Verified for J. Schweitzer.

OK	c)	Duties assigned;

> Par. 5.2 of the VSTLQSM handles this. Verified for J. Schweitzer.

X	d)	Annual competence review;

> Par. 5.2 of the VSTLQSM handles this. Was not verified as no evidence was provided of an annual competence review has been performed

OK	e)	Training records and training plans.

> Par. 5.2 of the VSTLQSM handles this. Verified for J. Schweitzer..

OK   5.2.9   In order to maintain confidentiality and impartiality, the laboratory shall maintain proper separation between personnel conducting testing and other personnel inside the laboratory or outside the laboratory, but inside the parent organization.

Par. 5.2 of the VSTLQSM handles this.

5.3   Accommodation and environmental conditions

5.3.1

OK   a)   The laboratory shall have adequate facilities to conduct the voting system testing that it offers.

Paragraph 5.3 (Accommodation and Environmental Conditions) covers this.

OK   b)   If testing activities are conducted at more than one location, all locations shall meet the NVLAP requirements.

Paragraph 5.3 (Accommodation and Environmental Conditions) covers this.

OK   5.3.2   A protection system shall be in place to safeguard customer proprietary hardware, software, test data, electronic and paper records, and other materials. This system shall protect the proprietary materials and information from personnel outside the laboratory, visitors to the laboratory, laboratory personnel without a need to know, and other unauthorized persons.

Paragraph 5.3 (Accommodation and Environmental Conditions) covers this.

5.3.3

OK   a)   Laboratories shall have systems (e.g., firewall, intrusion detection) in place to protect internal systems from distrusted external entities.

Paragraph 5.3 (Accommodation and Environmental Conditions) covers this.

OK   b)   The laboratory shall have regularly updated protection for all systems against viruses and other malware.

Paragraph 5.3 (Accommodation and Environmental Conditions) covers this.

OK   5.3.4   If the laboratory is conducting multiple, simultaneous tests, it shall maintain a system of separation between the products of different customers. This includes the product itself, the test platform, peripherals, documentation, electronic media, manuals, testing area, office space, and records.

Paragraph 5.3 (Accommodation and Environmental Conditions) covers this.

OK   5.3.5   If testing activities will be conducted outside of the laboratory, the management system shall include procedures for conducting activities at customer sites or other off-site locations. For example, procedures may explain how to secure the site, where to store records and documentation, and how to control access to the test facility.

Paragraph 5.3 (Accommodation and Environmental Conditions) covers this.

5.3.6

C   If the laboratory is conducting its tests at a customer site or other location outside the laboratory facility, the environment shall conform, as appropriate, to the requirements for a laboratory environment.

Paragraph 5.3 (Accommodation and Environmental Conditions) covers this. QSM 5.4.3, SLP-VC-17 5.2.2 deprecated) Look for records for ESS testing)

C   If a customer's system on which a test is conducted is potentially open to access by unauthorized entities during test, the VSTL shall control the test environment. This is to ensure that the systems are in a defined state compliant with the requirements for the test before starting to perform testing work and that the systems ensure that unauthorized entities do not gain access during testing.

> Paragraph 5.3 (Accommodation and Environmental Conditions) covers this. QSM 5.4.3, SLP-VC-17 5.2.2 deprecated) Look for records for ESS testing).

5.4 Test methods and method validation

X **5.4.1** The test methods for this program are given in the VSS-2002 and VVSG-2005. In the VSS-2002 and VVSG-2005, there are specified test methods, test methods that require adaptation, and requirements for which the laboratory shall have to develop test methods. When the EAC publishes amendments or augmentations to the standards or guidelines, the laboratory shall develop procedures for implementation of the new requirements.

> Test methods are not being produced, documented, nor reported. For most testable requirements test methods should meet the requirements of VVSG-2005 Vol. 2 Annex A.6.4, "The test lab shall provide the step-by-step procedures for each test case to be conducted." were not available.

X **5.4.2** Where the laboratory has developed or modified test methods to meet the requirements of the VSS-2002 and VVSG-2005, validation of the test methods shall be referenced in the test report.

> No report of test method validation could be found in the test report for the Assure 1.2 system. No provisions for performing test method validation or records of a test method were found. Note that this is the only test report which was available.

   5.4.3

OK a) For the purposes of achieving product certification under HAVA, laboratories shall comply with interpretations of the test methods as provided by the EAC.

> QSM 5.4.1.2 EAC RFI, SLP-VC-05, 5.1.2.1, SLP-VC-19 5.1.3.1. In the GEN01 case, a RFI changes was found.

C b) When exceptions to the testing methodology may be necessary for technical reasons, the laboratory shall ask the EAC for an interpretation, the customer shall be informed, and details of an interpretation shall be described in the test report.

> Covered by QSM 5.4.1.2, SLP-VC-05 5.1.2.1, SLP-VC-19 5.1.3.1, Cert Test Plan, Cert Test Report. No RFI was reported as part of the ASSURE report.

C **5.4.4** As a part of the testing procedure, the laboratory shall describe by whom and how the voting system will be configured. If the customer configures any part of the voting system, then the laboratory shall verify the configuration, including all software.

> Covered by SLP-VC-09 Hardware and Software Configuration Audit, Not seen in Assure Report.

   5.4.5

N/A a) Testing may be conducted at the customer site, the laboratory or another location that is mutually agreed to by the laboratory and the customer.

> Definition, no assessment required

C	b)	When testing activities are conducted outside the laboratory, the laboratory shall have additional procedures to ensure the integrity of all tests and recorded results. These procedures shall also ensure that the same requirements that apply in the laboratory are maintained at the non-laboratory site.

Covered by QSM 5.4.3 and SLP-VC-17 Testing at the customers Site. Noted that SysTest requires the test results to only be stored on SysTest computers. SysTest has allegdley suspended testing at the vendor sites.

OK	5.4.6	The laboratory shall clearly identify any test methods included in the test campaign that are outside of the laboratory's scope of accreditation.

Current practice is that SysTest is to make such a test a separate non-VSTL/NVLAP report.

5.5 Equipment

N/A	5.5.1	For the purposes of this section "equipment" is defined as test equipment used in the testing process. Test equipment includes software and hardware products or other assessment mechanisms used by the laboratory to support the testing of products and systems.

Definition only

5.5.2

OK	a)	The laboratory shall document and maintain records on all test equipment used during testing.

Redundant See HB 150

X	b)	The laboratory shall have procedures to configure and operate all equipment within its control.

QSM 5.5, does not specify, should be in SLP or Test Case
Module Finder has no procedures or instructions,
Need to ensure with new existing and new equipment coming in

5.5.3

X	a)	Equipment used during the conduct of testing shall be under configuration control.

QSM 5.5, Need to develop in SLP-QS-03

X	b)	The laboratory shall have procedures to ensure that any equipment used for testing is in a known state prior to use for testing.

Needs to be done. Reinforces 5.5.5 f) to cover setup and readiness/configuration checks

5.5.4

X	a)	Any software test tools shall be validated to be sure that they are accurately testing to the standard.

Needed. The Module Finder setup screen implies options that do not work. The tool is still useful but needs to be documented as it requires accommodations to correct for the errors..

X	b)	They shall also be examined to ensure they do not interfere with the conduct of the test and do not modify or impact the integrity of the product under test in any way.

No procedures identified to require this. Some of the software tools are known to modify the OS level .dlls. This validation check needs to be done on the new tools coming in.

C   c)   VSS-2002 and VVSG-2005 require the documentation of the test software and supporting hardware in the certification.

> Found in the Certification Test Plan and Report template. The test equipment was reported in the sample test report but needed some additional review to complete identification of configuration details.

5.6 Measurement traceability

C   All developed test methods and tests performed within the test campaign shall be traceable to the VSS-2002 and VVSG-2005. This validation shall be documented (e.g., cross-reference matrix).

> Covered in QSM 5.6.2. SLP-VC-05 Qualification Test Plan/ SLP-VC-19 Qualification Report, 5.1.3, The sample report was missing known requirements and did not identify formal test methods.

5.7 Sampling

This section does not apply to the VST LAP since testing to the entire standard is required.

5.8 Handling of test and calibration items

OK   **5.8.1**   The laboratory shall maintain separation between and control over the items from different tests, to include the product being tested, its platform, peripherals, and all documentation.

> Covered by QSM 5.8.1 Protection of Products and Systems under Test, back pointer to 5.3. Specific procedures and policy are in place for setting separate Voting Testing Rooms (VTR) to separate project and vendors, a room without external windows or access with robust locks.

OK   **5.8.2**   When the product being tested includes software components, the laboratory shall ensure that configuration management mechanisms are in place to prevent inadvertent modifications to the software components during the testing process. This includes the customer's software, test tools, and commercial off-the-shelf (COTS) software.

> Covered by QSM 5.8.1 Protection of Products and Systems under Test, with back pointer to QSM 5.3 . TDP folder is read-only. If work product needs to duplicate, it is performed as a copy and paste action.. Voting Admins users only are allowed access to add and deleted Voting Editors can add files, everyone else only has Read-only permissions.)

5.9 Assuring the quality of test and calibration results

X   The laboratory procedures for test method validation shall include tests for abnormal conditions as well as normal operations where the program functionality includes requirements to detect and respond to invalid data, operator actions, or hardware malfunctions.

> Not included in current policy or procedures. Test method validation is not currently implemented.

5.10   Reporting the results

5.10.1

<u>C</u>   a)   Reports shall be submitted in the form and by the method specified in VSS-2002 and VVSG-2005.

VVSG Annex B B.5 Cert Test Result Summary B6 Appendix Test Operation and Findings The actual report does not follow the VVSG format but does include the specific reports required. Need to consider more clearly identifying this in terms of the VVSG format per HB 150 5.10.8   Suggest that the subattachments should also be listed in the index found in the main report.

<u>X</u>   b)   Information required to reproduce the test but not included in the Certification Test Report shall be kept by the laboratory as part of the testing records. For example, the report shall contain sufficient information for state certification officials to identify what testing was completed for the purpose of ascertaining what additional testing may be necessary at the state level.

The Windows CE customizing files were not reported as being reviewed as non-COTS source files. An open questions exists of how to report these files but the presence and review of the WIndowsCE customizing files needs to reported to identified that they were missed..

<u>N/A</u>   5.10.2   Reports intended for use only by the customer shall meet customer-laboratory contract obligations and be complete, but need not necessarily meet all other requirements.

Definition

<u>C</u>   5.10.3   The section of a Certification Test Report that meets the VSS-2002 and VVSG-2005 requirements for a summary or the recommendation section of a test report for a customer shall also meet the requirements of NIST Handbook 150 on opinions and interpretations under *Reporting the results.*

Covered by QSM 5.10.1, SLP-VC-19 5.1.3. We did not see the "professional" language in the Summary sections where they were expected.

NIST HANDBOOK 150-22 CHECKLIST

Instructions to the Assessor: Use this sheet to document comments and nonconformities. For each, identify the appropriate item number from the checklist. Identify comments with a "C" and nonconformities with an "X". If additional space is needed, make copies of this page (or use additional blank sheets.)

Item No.	C or X	Comment and/or Nonconformities
5.2.1	X	Multiple instances were found of staff insufficiently trained to performed their duties. In particular deficiences were found in the technical training and experience of those responsible for assessing the need for individual staff training and for guiding the training process. Multiple instances were found of staff performing tests, particulary functional / accuracy testing and security testing without sufficient training and experience in voting equipment, elections and security evaluation.
5.2.3	X	Covered in SLP-TR 01, 5.2.2.3 Notifhing NVLAP and EAC. Ltr received 080222 for Traci Mapps. Multiple key staff members were identified for whom notification to the EAC and NVLAP could not be documented
5.2.6	X	Par. 5.2 of the VSTLQSM covers this item. Was not implemented previously, as VSTL Training Record was to hold this info. The Training Record does not have it.
5.2.8.d	X	Par. 5.2 of the VSTLQSM handles this. Was not verified as no evidence was provided of an annual competence review has been performed
5.4.1	X	Test methods are not being produced, documented, nor reported. For most testable requirements test methods should meet the requirements of VVSG-2005 Vol. 2 Annex A.6.4, "The test lab shall provide the step-by-step procedures for each test case to be conducted." were not available.
5.4.2	X	No report of test method validation could be found in the test report for the Assure 1.2 system. No provisions for performing test method validation or records of a test method were found. Note that this is the only test report which was available.
5.5.2.b	X	QSM 5.5, does not specify this policy Module Finder has no procedures, Report Generator, TB provided (new purchase) EZ-Tap device and software "sniffer";, TBD Force gauge (calibration records) Hashing tools, others TBD
5.5.2	X	QSM 5.5, does not specify, should be in SLP or Test Case Module Finder has no procedures or instructions, Need to ensure with new existing and new equipment coming in
5.5.3.a	X	QSM 5.5, Need to develop in SLP-QS-03
5.5.3.b	X	Needs to be done. Reinforces 5.5.5 f) to cover setup and readiness/configuration checks

Item No.	C or X	Comment and/or Nonconformities
5.5.4.a	X	Needed. The Module Finder setup screen implies options that do not work. The tool is still useful but the needs to be documented as it requires accommodations to correct for the errors.
5.5.4.b	X	No procedures identified to require this. Some of the software tools are known to modify the OS level .dlls. This validation check needs to be done on the new tools coming in.
5.6	X	Covered in QSM 5.6.2. SLP-VC-05 Qualification Test Plan/ SLP-VC-19 Qualification Report, 5.1.3, The sample report was missing known requirements and did not identify formal test methods.
5.9	X	Not included in current policy or procedures. Test method validation is not currently implemented.
5.10.b	X	The Windows CE customizing files were not reported as being reviewed as non-COTS source files. An open questions exists of how to report these files but the presence and review of the WIndowsCE customizing files needs to reported to identified that they were missed..

Item No.	C or X	Comment and/or Nonconformities

U. S. ELECTION ASSISTANCE COMMISSION
VOTING SYSTEM TESTING AND CERTIFICATION PROGRAM
1225 New York Avenue, NW, Suite 1100
Washington, DC. 20005

Mr. Mark Skall
Chief, Software Diagnostics and Conformance
Testing Division
National Institute of Standards and Technology
100 Bureau Dr.
Gaithersburg, MD 20899-8970

Ms. Mary Saunders
Chief, Standards Services Division
National Institute of Standards and Technology
100 Bureau Drive, Mail Stop 2100
Gaithersburg, MD 20899

March 13, 2008

Dear Ms. Saunders and Mr. Skall:

The U.S. Election Assistance Commission (EAC) appreciates the work done by the National Voluntary Laboratory Accreditation Program (NVLAP) over the past two and one-half years to accredit Voting System Test Laboratories (VSTLs). We value our partnership established under Section 231 of the Help America Vote Act (HAVA) and continue to count on the expertise of NVLAP to assure the technical competency of the VSTLs. HAVA tasks NIST with the responsibility to "monitor and review, on an ongoing basis, the performance of the laboratories accredited by the Commission". As such, NVLAP recommendations are a pillar of the EAC laboratory accreditation process and a key component to a successful certification program.

Now that those VSTLs initially reviewed and accredited through the NVLAP program are approaching their second review pursuant to the renewal of their accreditation, the EAC believes this would be an appropriate time to discuss some observations and concerns gained from working with the VSTLs during recent EAC certification engagements.

Because the VSTLs have moved forward quickly to hire the staff necessary to take on a heavy workload of voting system test engagements, we would like your upcoming reviews to include an evaluation of the following staffing related issues:

- Please review the management process of each lab for assigning appropriately qualified staff to their EAC related voting system test engagements.
- Review the qualifications of all staff members directly involved in the testing of voting systems to assure that each has the appropriate qualifications and appropriate certifications in their relevant testing areas (for example a CISSP or similar certification for staff involved in security testing).
- Review how the VSTLs prioritize staffing for Federal testing engagements and other state or local voting system testing arrangements to ensure that testing is being conducted and managed by qualified personnel.

Furthermore, as you know, NIST is in the process of developing a standardized suite of test methods for voting systems. Because the VSTLs do not yet have such standardized methodology, each lab must currently develop and validate unique test methods appropriate for voting systems. The EAC recommends NVLAP review these test methods and their validation by the VSTL's to ensure that NIST remains confident of each VSTL's ability to test voting systems.

If NVLAP is unable for any reason to undertake any of the review items noted above, please inform the EAC at your earliest opportunity so that we may immediately pursue other avenues for laboratory review on these issues.

Thank you once again for your ongoing work in this extremely important field of accreditation. The EAC and the voting public is indebted to NVLAP for this invaluable service to our country.

Sincerely,

Brian J. Hancock
Director
Testing and Certification

U. S. ELECTION ASSISTANCE COMMISSION
VOTING SYSTEM TESTING AND CERTIFICATION PROGRAM
1225 New York Avenue, NW, Suite 1100
Washington, DC. 20005

Mary Saunders
Chief, Standards Services Division
National Institute of Standards and Technology
100 Bureau Drive, Mail Stop 2100
Gaithersburg, MD 20899

July 10, 2008

Dear Ms. Saunders,

Now that many of the Voting System Test Laboratories (VSTLs) have completed their 2nd NVLAP accreditation review, the EAC would like a status report from NVLAP on the items we noted as observations and concerns in our letter to you dated March 13, 2008. (Attached) Because these issues are so critical to the success of our certification program, we are requesting a response by August 8, 2008, or sooner if possible.

Specifically, we are interested in updates on how SysTest Labs LLC, iBeta Quality Assurance, and Wyle Laboratories:

- Assign appropriately qualified staff to EAC certification engagements.
- Assure that testers have certification in specific critical areas, particularly a CISSP or similar certification for staff involved in security testing.
- Prioritize EAC certification engagements in light of other State or local contractual responsibilities.
- Use their quality management process to develop and validate test methods to ensure test-to-test and case-to-case repeatability.

As you know, the credibility of the EAC Testing and Certification Program depends largely on having competent VSTLs to thoroughly test voting systems to the applicable Federal Standards. NVLAP review of the technical competency of these laboratories is a critical prerequisite to EAC accreditation of the VSTLs and provides assurance that the labs will function in accordance with internationally accepted standards for testing bodies.

Thanks to you and the NVLAP staff for your continued great work and support.

Sincerely,

Brian J. Hancock
Director, Testing and Certification

U. S. ELECTION ASSISTANCE COMMISSION
VOTING SYSTEM TESTING AND CERTIFICATION PROGRAM
1225 New York Avenue, NW, Suite 1100
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Ms. Mary Saunders
Chief, Standards Services Division
National Institute of Standards and Technology
100 Bureau Drive, Mail Stop 2100
Gaithersburg, MD 20899

March 13, 2008

Dear Ms. Saunders and Mr. Skall:

The U.S. Election Assistance Commission (EAC) appreciates the work done by the National Voluntary Laboratory Accreditation Program (NVLAP) over the past two and one-half years to accredit Voting System Test Laboratories (VSTLs). We value our partnership established under Section 231 of the Help America Vote Act (HAVA) and continue to count on the expertise of NVLAP to assure the technical competency of the VSTLs. HAVA tasks NIST with the responsibility to "monitor and review, on an ongoing basis, the performance of the laboratories accredited by the Commission". As such, NVLAP recommendations are a pillar of the EAC laboratory accreditation process and a key component to a successful certification program.

Now that those VSTLs initially reviewed and accredited through the NVLAP program are approaching their second review pursuant to the renewal of their accreditation, the EAC believes this would be an appropriate time to discuss some observations and concerns gained from working with the VSTLs during recent EAC certification engagements.

Because the VSTLs have moved forward quickly to hire the staff necessary to take on a heavy workload of voting system test engagements, we would like your upcoming reviews to include an evaluation of the following staffing related issues:

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- Review how the VSTLs prioritize staffing for Federal testing engagements and other state or local voting system testing arrangements to ensure that testing is being conducted and managed by qualified personnel.

Furthermore, as you know, NIST is in the process of developing a standardized suite of test methods for voting systems. Because the VSTLs do not yet have such standardized methodology, each lab must currently develop and validate unique test methods appropriate for voting systems. The EAC recommends NVLAP review these test methods and their validation by the VSTL's to ensure that NIST remains confident of each VSTL's ability to test voting systems.

If NVLAP is unable for any reason to undertake any of the review items noted above, please inform the EAC at your earliest opportunity so that we may immediately pursue other avenues for laboratory review on these issues.

Thank you once again for your ongoing work in this extremely important field of accreditation. The EAC and the voting public is indebted to NVLAP for this invaluable service to our country.

Sincerely,

Brian J. Hancock
Director
Testing and Certification

Brian Hancock
Director, Testing and Certification
U. S. Election Assistance Commission
1225 New York Ave, NW, Suite 1100
Washington, D.C. 20005

July 21, 2008

Dear Mr. Hancock,

I am responding to your July 10, 2008 letter in which you ask for a status report from the National Voluntary Laboratory Accreditation Program (NVLAP) on items that the Election Assistance Commission (EAC) noted as specific observations and concerns with respect to voting system testing laboratory (VSTL) operations in an earlier letter, dated March 13, 2008. Specifically you are interested in updates regarding how the accredited laboratories, now undergoing their second round of assessments, are performing in the areas of:

At this point in time, NVLAP has completed the second round of on-site assessments for two VSTLs – SysTest Labs LLC and iBeta Quality Assurance. The assessor reports and laboratory responses to identified nonconformities are under review. NVLAP on site assessments specifically addressed EAC concerns and observations regarding VSTL staff qualifications, appropriate assignment of qualified staff and development and validation of test methods.

NVLAP agrees that VSTL competence in these areas is critical to their ability to carry out work in support of EAC certification. We recommend that relevant NIST and EAC representatives meet before the end of August to discuss in depth the NVLAP on site assessment finding to date, VSTL responses and EAC concerns and observations. We see this meeting as an opportunity for NVLAP and the EAC to consider and agree on future steps to further enhance the credibility of both the NVLAP accreditation process and the EAC Testing and Certification Program.

With respect to your question regarding VSTL prioritization of their EAC workload, this type of review is not normally part of the accreditation process but we would be willing to discuss how issues arising from improper prioritization may be addressed. In addition we would like to identify any specific training certifications (your example was CISSP certification) that would be helpful to include as requirements for VSTLs.

NIST

Thank you for the opportunity to respond to your concerns. We view this as an integral part of our accreditation process and a critical contribution to our joint goals of ensuring that VSTLs are competent to test voting systems and that the test reports they generate meet EAC expectations.

Sincerely,

Mary Saunders
Chief, Standards Services Division
Technology Services

August 8, 2008

Mr. James Nilius
Senior Director, VSTL
SysTest Labs, LLC.
216 16th Street, Suite 700
Denver, CO 80202

NVLAP Lab Code 200733-0

Dear Mr. Nilius,

SysTest Laboratories (SysTest) is currently accredited by NVLAP to NIST Handbook 150 for a core set of voting system test methods contained within the 2002 Voting System Standards (VSS-2002) and the 2005 Voluntary Voting System Guidelines (VVSG-2005). As part of the accreditation process SysTest is required to demonstrate the ability to document and validate the test methods used to comply with the requirements of VSS-2002 and VVSG-2005. These documented test methods were to be used for testing conducted in all NVLAP accredited test reports, which include voting system test campaigns submitted to the U. S. Election Assistance Commission (EAC).

Unfortunately, during the last NVLAP on-site assessment, there were no documented test methods available, even though SysTest had performed NVLAP accredited testing for voting systems submitted to the EAC. A lack of documented test methods also precludes the documentation of the validation of said methods. In addition, there were instances discovered where testing was performed by personnel who had not been qualified to perform the testing.

Since the NVLAP on-site assessment another issue has surfaced which may be interpreted as improper behavior between an independent testing laboratory and its client. This issue is documented in a letter from the EAC to you, as the VSTL Senior Director, dated July 25, 2008. The letter cites a situation, supported in an attached email message, where SysTest may be "allowing and inviting manufacturers to play an inappropriate role in the development of test plans." NVLAP shares the EAC's concern in this matter, which, if true, would be a significant violation of ISO 17025 and NIST Handbook 150 and as such could affect SysTest's accreditation status.

These findings are of great concern to NVLAP and are supported in the nonconformities found during the last on-site assessment as well as reports from the EAC. Due to the severity of these non-conformances it is necessary for NVLAP to take further steps to ensure that all accreditation requirements are being met. Such steps will take the form of on-site monitoring of actual testing by representatives from NVLAP, the EAC, and the NIST Information Technology Laboratory. In addition SysTest must submit, to NVLAP, copies of test methods, the test method validations, and a listing of testers, with their documented qualifications, for all subsequent testing until further notice.

Specifically, NVLAP is requiring that SysTest submit a schedule of all accredited voting system testing within 14 days of receipt of this letter. NVLAP will then decide whether to witness all or parts of the testing and assemble a team of observers from the groups mentioned above. This team will arrive unannounced at SysTest to observe the testing and evaluate the test methods and validations. In addition, beginning with the receipt of this letter, SysTest must send a package to NVLAP for each subsequent accredited testing campaigns which includes the documented test methods, the test method validations, a list of testers performing the tests, and evidence that the testers are qualified. These packages will be sent to NVLAP until further notification.

NVLAP is committed to ensuring that the accreditation requirements are met by all participating laboratories. In the past SysTest has been a cooperating member of our program and we trust that the laboratory is willing to prove its competency using the methodology described above. We look forward to being able to facilitate this process as expeditiously as possible.

Sincerely,

Jon M. Crickenberger
NIST/NVLAP Program Manager

cc: EAC