



September 14, 2007

delivered via electronic mail

U.S. Election Assistance Commission
Voting System Testing and Certification Program
1225 New York Avenue, N.W.
Suite 1100
Washington, D.C. 20005

Attn: Mr. Brian Hancock

Re: Notice of Non-Compliance dated September 11, 2007

Dear Mr. Hancock:

This letter will acknowledge receipt by Sequoia Voting Systems, Inc. of your letter of September 11, 2007. Sequoia takes this communication from the Election Assistance Commission very seriously and is in the process of preparing a more formal reply.

We are confident that this reply will demonstrate that the information presented in your letter is erroneous and that Sequoia has signed a Master Agreement (contract) with only one VSTL (iBeta Quality Assurance), is in compliance with the EAC testing and certification program as established, and that there exists not even the appearance of undue Sequoia influence over certification of the WinEDS 4.0 voting system.

Sequoia anticipates having the above referenced detailed reply submitted to the EAC well within the 30-day response period.

Very truly yours,

SEQUOIA VOTING SYSTEMS, INC.

A handwritten signature in black ink that reads "Edwin B. Smith, III".

Edwin B. Smith, III
VP, Compliance/Quality/Certification



September 12, 2007

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

Dear Mr. Hancock,

We received your letter dated September 11, 2007 regarding both Sequoia Voting Systems' non-compliance and your directives to SysTest Labs regarding our involvement in EAC VSTL related voting system testing of the WinEDS Version 4.0.34. Please be assured that SysTest Labs has complied with your requests to halt any and all involvement with Sequoia Voting Systems and that we will be submitting to the EAC a description of the testing and analysis performed on this system, including status and results. We also understand and will comply should the EAC require that SysTest Labs submit to Sequoia Voting Systems' Lead EAC VSTL detailed information on all testing completed by SysTest Labs on the system.

As you stated in your letter, SysTest Labs does take our role as an EAC VSTL very seriously and endeavor at every point to adhere to each and every policy and regulation regarding EAC VSTL testing and related services. We do understand the policies and guidelines published by the EAC and fully recognize that past informal regulations established by the NASED organization have no applicability in the EAC's program. SysTest Labs' was not aware that Sequoia Voting Systems had entered into contracts with both SysTest Labs and iBeta until July 2, 2007, one week after we executed a contract for EAC VSTL testing services with Sequoia and over two months since SysTest Labs had a kick-off meeting with Sequoia defining the VSTL effort. When SysTest Labs asked Sequoia's Management in a meeting with SysTest Labs' on July 6, 2007 who would be Sequoia's Lead EAC VSTL, we were told that the decision had not yet been made. It was not until late in July 2007 that we were notified that Sequoia had selected iBeta as their Lead EAC VSTL and at no time had Sequoia notified SysTest Labs that they had completed an Application for Voting System Testing with the EAC specifying SysTest Labs as a subcontractor to iBeta.

It has not, is not, and will never be our intention to try and circumvent the EAC's policies and guidelines in any way and was not our intention in this matter. As you know from our history as an audited and accredited Full ITA for NASED, an audited and accredited Full Interim ITA for the EAC, and as an audited and accredited EAC VSTL, our commitment to the integrity of this program is second to none.

A handwritten signature in blue ink that reads "James M. Nilius".

James M. Nilius
Vice President of Compliance Services
SysTest Labs Incorporated



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

September 11, 2007

Mr. Edwin B. Smith,
VP, Compliance, Quality and Certification
Sequoia Voting Systems
1800 Glenarm Place, Suite 500
Denver, CO 80202

RE: Notice of Non-compliance

Dear Mr. Smith:

It has come to the EAC's attention that Sequoia Voting Systems has contracted with more than one Voting System Test Laboratory (VSTL) for the testing of its Sequoia Voting System-WinEDS version 4.0.34. This practice is inconsistent with the disclosure made on your *Application for Voting System Testing* and violates the requirements and procedures of the EAC Testing and Certification Program.

As you know, EAC's Certification Program requires manufacturers to identify the EAC VSTL it has selected to perform testing. The selection of a VSTL is performed at the start of the certification process and must be noticed to the EAC on the *Application for Voting System Testing* (Form EAC 002C). Specifically, the Manufacturer's application must provide for the "[s]election and identification of the VSTL that will perform voting system testing and other prescribed laboratory action consistent with the requirements of this Manual." (Certification Program Manual, Section 4.3.1.2., *Selection of Accredited Laboratory*). Additionally, the Manual states that "[o]nce selected, a Manufacturer may NOT replace the selected VSTL without the express written consent of the Program Director. Such permission will be granted solely at the discretion of the Program Director and only upon demonstration of good cause." (Certification Program Manual, Section 4.3.1.2., *Selection of Accredited Laboratory* (emphasis in original)).

Section 4.3.1.2. encompasses four basic principles: (1) a manufacturer must select one accredited VSTL responsible for the testing of a particular system under EAC's program; (2) this selection must be noticed on a system's application form and is subject to review and approval by the EAC program Director pursuant to Section 4.3.3. of the Manual; (3) the selected VSTL will be the entity responsible to "perform voting system testing and other prescribed laboratory action consistent with the requirements of [the] Manual;" and (4) manufacturers are strictly prohibited from contracting or directly employing another VSTL without the "express written consent of the Program Director."

In Sequoia's August 9, 2007 application for the testing of its WinEDS version 4.0.34 voting system, you identify iBeta Quality Assurance as your "lead VSTL." You also identify,

although it is not required, two laboratories “subcontracted to iBeta.”¹ To the extent Sequoia had entered into an agreement for certification testing with any laboratory other than iBeta, its actions are inconsistent with its application form and not in compliance with EAC’s certification program.

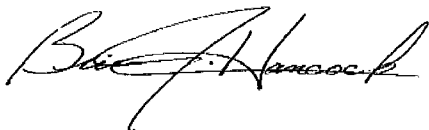
It is important to understand that the purpose behind these requirements is to protect the independence of EAC VSTLs. As you recognized in your application, EAC’s laboratory program operates under the “lead laboratory” concept. VSTLs perform testing consistent with their accreditation, EAC’s Programs and EAC monitoring. Testing decisions are made by VSTLs, independent of the Manufacturer. Even the appearance of manufacturer influence over the testing process is unacceptable. A situation where a manufacturer is contracting directly with multiple laboratories to perform various parts of the certification process creates the appearance that the manufacturer is influencing the certification of its own product. This is not acceptable.

Consistent with Section 2.3.1.7 of EAC’s Testing and Certification Program Manual, you must either respond to this notice of non-compliance with an explanation demonstrating that the information presented in this notice is erroneous and you are, in fact, in compliance or cure your non-compliance within 30 days. To cure non-compliance Sequoia must:

- (1) Provide EAC a detailed description of all contracts or agreements with any laboratory (other than iBeta) regarding the testing of Sequoia Voting System-WinEDS version 4.0.34 as well as a narrative chronicling Sequoia’s knowledge of the events leading up to the present contract structure. The EAC will coordinate directly with the laboratories to acquire additional information;
- (2) Develop, for EAC approval, a cure plan which will ensure the independence of EAC VSTLs by conforming Sequoia’s practices to the EAC’s lead laboratory requirement; and
- (3) Agree to cooperate with the EAC by enabling any laboratory that conducted certification testing under contract with Sequoia to provide iBeta (as Sequoia’s identified lead VSTL) all information, results and documentation necessary to determine whether such testing was performed independently, consistent with EAC Certification Program requirements and consistent with VSS standards. Such testing and results must be accepted by both iBeta and the EAC to serve as a basis of certification.

Failure to timely comply with this notice will result in the suspension of your organization’s registration pursuant to Section 2.6 of EAC Testing and Certification Manual. Please contact me if you have questions.

Sincerely,



Brian Hancock
Director of Testing and Certification

Attachment: *Application for Voting System Testing*

¹ The EAC has already clarified (in NOC 07-005) that the VSTL identified by a manufacturer on its system application form (the lead VSTL) is solely and independently responsible for the decision to use and the selection of a subcontractor.



Application for Voting System Testing

1. **Manufacturer Name:** Sequoia Voting Systems
2. **Manufacturer Code:** SEQ
3. **Version of Standards to be Used for Testing:** FEC 2002
4. **Voting System Name:** Sequoia Voting Systems - WinEDS version 4.0.34
5. **System Model/Version Number:** See number 8 below for details
6. **EAC Accredited VSTL:** iBeta Quality Assurance as lead VSTL, SysTest Labs and Wyle Labs subcontracted to iBeta
7. **Requested EAC Certification number:** SEQ-40-2007-W1
8. **Brief Description of System or system modification:**

Note: Version numbers (last digit(s)) may increment as last minute changes are made to address coding changes required by iBeta.

 - WinEDS Workstation - v 4.0.034 - WinEDS Client Application
 - WinEDS Server - v 4.0.034 - WinEDS Server Application
 - Extended Services - 1.08 - Functionality includes manual data entry and database backup/restore
 - Election Reporting - 4.0.12 - Election Night Reporting Application
 - HAAT Listener - 1.5.5 - Receives results transmissions from the HAAT
 - WFR - 1.0.17 - WinEDS Flash Recorder - used in conjunction with batch cartridge creation and tally, supports multi-port USB hub
 - WinETP - 1.16.1 - Tally software for the 400C
 - Ballot Wizard - 1.2 - Creates Optech ballot layouts. Used in MI only
 - Insight - APX - 2.16 - Pack Logic
 - Insight HPX - 1.44 - Insight Firmware
 - Insight - CPX - 1.14 - Communications Firmware
 - Edge II - 2.1.12, HAAT - 2.5.16, Edge II Plus - 2.1.40, Advantage Plus 1.2.17, Advantage D10 - 10.4.3, Card Activator - 2.1.12

Signature:

Edwin B. Smith III

Edwin B. Smith III 8-9-2007

Digitally signed by Edwin B. Smith III
DN: CN = Edwin B. Smith III, C = US, O = Sequoia Voting Systems, OU = Compliance/Certification
Date: 2007.08.09 11:07:01 -06'00'

Date:

8-09-2007