



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

November 20, 2007

Edwin B. Smith, III
Vice President, Compliance/Quality/Certification
Sequoia Voting Systems
1800 Glenarm Place, Suite 500
Denver, CO 80202

Dear Mr. Smith:

This letter is a continuation of our correspondence concerning the Notice of Non-compliance issued to Sequoia Voting Systems (Sequoia) on September 11, 2007. Please find a copy of this correspondence, attached. As you know, the notice alleged that Sequoia was utilizing more than one Election Assistance Commission (EAC) Voting System Test Laboratory (VSTL) to test its WinEDS 4.0.34 voting system in violation of EAC's Testing and Certification Program requirements. As a result, the EAC (1) sought information regarding Sequoia's agreements or relationship with SysTest Labs Inc (SysTest), a VSTL not identified as the organization's lead laboratory (iBeta Quality Assurance); (2) required Sequoia to submit a cure plan to ensure the organization's practices conformed with EAC's lead laboratory requirements; and (3) required Sequoia's cooperation in identifying and determining the usability of any testing performed by a VSTL, other than its identified lead laboratory.

After careful review of the correspondence and contracts submitted by all parties involved, the EAC has determined that testing on Sequoia's WinEDS 4.0.34 voting system was conducted by SysTest outside the oversight of your lead laboratory, iBeta. It appears that Sequoia adopted the impermissible contract structure after consultation with SysTest. The EAC has further concluded that because this testing was conducted outside the program, the results will not be accepted as the basis for an EAC Certification. The tests will have to be repeated by, or under the direction of, Sequoia's lead laboratory, iBeta. EAC has been pleased with Sequoia's cooperation during our review of this matter. Furthermore, we understand that you agree with the conclusions reached, and share our goal to ensure that the testing of all voting systems under EAC's program is above reproach.

Finally, before this matter may be closed, the EAC must receive the cure plan requested in its letter dated September 11, 2007. The notice of non-compliance required development of a "...cure plan which will ensure the independence of EAC VSTLs by conforming Sequoia's practices to the EAC's lead laboratory requirement." Please submit the cure plan mentioned above by December 20, 2007. While the EAC has been

pleased with Sequoia's willingness to resolve the non-compliance in this specific instance, it is incumbent on Sequoia to demonstrate to the EAC what steps it has taken to ensure that this will not occur again.

If you have any questions please feel free to contact me.

Brian Hancock

A handwritten signature in black ink, appearing to read "Brian Hancock". The signature is stylized with a large, sweeping initial "B" and "H".

Director
EAC Testing and Certification Program



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

November 5, 2007

Mr. James Nilius
Vice President of Compliance Services
SysTest Labs Incorporated
216 16th Street, Suite 700
Denver, Colorado 80202

Dear Mr. Nilius:

This letter is a follow up to a letter issued by the EAC on September 11th, 2007 (attached) regarding SysTest Labs Inc. (SysTest) involvement in voting system testing of the Sequoia WinEDS 4.0.34. First, let me express my appreciation for your cooperation in providing the documentation necessary for the EAC to determine the relationship between SysTest and Sequoia Voting Systems (Sequoia).

Per the EAC's letter we request that you submit: 1) a description of any testing performed on the system, including status and results, and 2) detailed information on all testing completed on the system, to Sequoia's lead laboratory iBeta Quality Assurance (iBeta). Despite continued concerns regarding the relationship between SysTest and Sequoia the EAC believes it is in the best interest of its Testing and Certification Program to allow iBeta access to the previous testing information in order to develop a plan and proceed with the testing of the system. The EAC is continuing with its review of the contractual relationship between SysTest and Sequoia and appreciates your cooperation as we work towards a resolution.

If you have any questions regarding this request or should have further information that you feel is germane to EAC's inquiry into the relationship between SysTest and Sequoia please feel free to contact me.

Brian Hancock

A handwritten signature in black ink that reads "Brian Hancock". The signature is written in a cursive style with a large initial "B".

Director,
EAC Testing and Certification Program

Cc: Ms. Carolyn Coggins, iBeta
Mr. Edwin Smith, 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". The signature is written in black ink and is positioned below the word "Sincerely,".

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



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

October 12, 2007

Edwin B. Smith, III
Vice President, Compliance/Quality/Certification
Sequoia Voting Systems
1800 Glenarm Place, Suite 500
Denver, CO 80202

Dear Mr. Smith:

We are in receipt of your letter dated September 24, 2007 regarding the Election Assistance Commission's (EAC) Notice of Non-compliance issued to Sequoia Voting Systems Inc. (Sequoia) on September 11, 2007 and subsequent letter dated September 14, 2007. Before the EAC can formally address the issues you present in your letter and offer a proper response, the EAC needs further clarification on some information provided in your response.

First, the EAC requests that you send the "Master Services Agreement" between Sequoia and SysTest Laboratories Inc. (SysTest) mentioned in your letter. In order to properly understand the relationship between all of the parties involved it is important to have all of the documents that created these relationships.

Second, the Statement of Work signed by Sequoia and SysTest on June 27, 2007 states under section "6. Estimated Costs" that there will be a \$125.00/hour fee for "Software VSTL Consultant". The EAC is interested in fully understanding the nature of these consultant services and the amount of these services that were provided under the June 27th Statement of Work. As you know, on July 24th, 2007 the EAC issued a Notice of Clarification entitled "VSTL Work with Manufacturers Outside of Voting System Certification Engagements". One of the purposes of this Notice of Clarification was to clearly state the EAC's policies regarding a VSTL's participation in both the development and testing of a voting system. Therefore, the EAC is interested in fully understanding the nature of consultant services provided in the context of EAC Certification Testing.

Finally, the June 27th Statement of Work references four "service classifications" in section 6 (referenced above). These four services are: 1) Software VSTL Consultant 2) Project Manager 3) Hardware Environmental Test Engineer 4) Hardware Environmental Test Manager. The Statement of Work does not offer any other additional details

regarding the services provided. Based on these “service classifications” the EAC cannot readily determine the certification testing services that are being provided to Sequoia. The EAC is requesting further clarification as to the certification tests that SysTest was being contracted to perform as part of the EAC’s certification process.

I appreciate your prompt response to our previous requests. I look forward to hearing back from you on the issues presented in this letter. If you should have any questions please feel free to contact me anytime.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian J. Hancock". The signature is fluid and cursive, with the first name "Brian" and last name "Hancock" clearly legible.

Brian J. Hancock
Director, Testing and Certification



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:

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- 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". The signature is written in black ink and includes a small flourish at the end.

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:

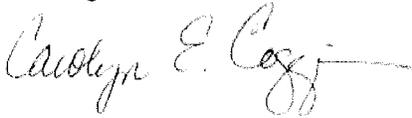
- Sequoia had confirmed that iBeta was the lead VSTL and had delivered all code to iBeta. Code for SysTest to review remained in escrow while details of the subcontractor agreement were being worked out.
- Sequoia was informed that work performed outside a formal subcontractor relationship would not 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



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

OMB Control # 3265-0004

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:  8-9-2007

Edwin B. Smith III

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