



**U. S. ELECTION ASSISTANCE COMMISSION
OFFICE OF THE EXECUTIVE DIRECTOR
1225 New York Avenue, NW, Suite 1100
Washington, DC. 20005**

November 3, 2008

Mr. Randolph C. Hite, Director
Information Technology Architecture and Systems
United States Government Accountability Office

This letter is intended to serve as the required written response to the Government Accountability Office's (GAO) Report 08-770 *Federal Programs for Accrediting Laboratories That Test Voting Systems Need to Be Better Defined and Implemented*. As required by 31 U.S.C. 720 I am submitting the attached document, on behalf of the Commission, as a written statement of the actions taken on GAO's recommendations. The EAC appreciates GAO's recommendations and takes very seriously its HAVA mandated responsibility for the accreditation of laboratories to be used for the testing of voting systems under the EAC's Voting System Testing and Certification Program.

If you should have any questions about the steps the EAC is taking to implement GAO's recommendations or any aspect of the EAC's Laboratory Accreditation Program, please do not hesitate to contact me at any time. We appreciate the chance to respond and look forward to talking further about the work of the EAC's Laboratory Accreditation Program. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "TW", is written over a light blue horizontal line.

Thomas R. Wilkey

EAC Response to Findings Reported in GAO-08-770 Accreditation of Voting System Testing Laboratories

Pursuant to 31 U.S.C. 720, the purpose of this letter is to provide an update on U.S. Election Assistance Commission (EAC) efforts to implement Government Accountability Office (GAO) recommendations in its report regarding Federal voting system laboratory accreditation programs (GAO-08-770).

As the GAO report notes, EAC has properly “*published procedures governing how the accreditation program is to be executed, such as procedures for granting, maintaining, modifying, suspending, and withdrawing accreditation.*” (GAO-08-770, pg 27 – 28). Generally, EAC has provided clear procedures, in the form of its recently published Voting System Test Laboratory Manual (Manual), that outline the certification process and its requirements for participating manufacturers. The areas that GAO has identified for improvement generally focus upon the need to formally document EAC’s internal procedures. This requires creating written steps to guide EAC employees in performing their accreditation efforts. (GAO-08-770, pg 35). Having a formalized internal procedure will help ensure that EAC’s accreditation activities remain consistent, improve documentation and increase transparency. The EAC fully supports these goals and agrees with GAO’s recommendations.

GAO generally recommended that EAC establish and implement internal procedures for the EAC’s Voting System Test Laboratory Program (VSTL Program) consistent with NIST and GAO guidance. In making this recommendation GAO notes four areas for improvement by the EAC; (1) Documentation of specific accreditation steps and criteria to guide assessors in conducting each laboratory review; (2) transparent requirements for the qualifications of accreditation reviewers; (3) requirements for the adequate maintenance of records related to the VSTL accreditation program; and (4) requirements for determining laboratory financial stability.

Documentation of specific accreditation steps and criteria to guide assessors in conducting each laboratory review.

In its report GAO recognizes that for all voting system test laboratory reviews conducted thus far, the EAC utilized a checklist for the review of submitted documents for accreditation. However, the GAO report goes on to add that the EAC’s checklist for accreditation review lacks the requisite steps and criteria for a reviewer to consistently review each laboratory. In response to this recommendation the EAC has begun creating comprehensive and detailed review procedures for its VSTL program. This includes the development of more comprehensive and detailed check lists that contain improved objective review criteria. The EAC’s Testing and Certification Program staff will coordinate these efforts with EAC contractors, recently employed to improve EAC procedures agency wide. The EAC expects to have a draft completed by July 2009.

Transparent requirements for the qualifications of accreditation reviewers.

As noted in the GAO report (GAO-08-770, pg. 35) the EAC's review of voting system laboratories is not technical in nature. Per the Help America Vote Act it is NIST who is primarily responsible for the technical assessment of laboratories. The GAO report notes, "*NIST is to focus on assessing laboratory technical qualifications, while the EAC is to use those assessment results and recommendations, and augment them with its own review of related laboratory capabilities.*" (GAO-08-770, pg 10). EAC conducts an administrative review of the applicant laboratory.

EAC's administrative review includes collecting: (1) laboratory information required by Section 3.4.1 of EAC Voting System Test Laboratory Program Manual (Accreditation Manual), (2) a signed agreement affirming that the laboratory will meet all elements of the EAC Accreditation Program (Chapter 2 of the Accreditation Manual), and (3) a Certification of Laboratory Conditions and Practices (Attachment A of the Accreditation Manual) documenting that the laboratory has certain conditions and required policies in place (specifically: a conflict of interest policy, a personnel policy, a recordkeeping policy and evidence of sufficient resources and financial stability). Thus, EAC review is limited to (1) determining whether required information and the signed agreement and certification were, in fact, provided and (2) determining whether the certifications of the laboratory (concerning its conflict of interest policy, personnel policy, recordkeeping policy and resources and financial stability) are acceptable by comparing the policies provided with the EAC program requirements.

Given the administrative nature of the EAC's accreditation review, any qualifications for EAC reviewers would be limited. The primary requirement necessary to conduct an EAC accreditation review is a full understanding of EAC program requirements. This understanding can be achieved through training on the EAC's program manual and experience. This knowledge base in conjunction with a detailed checklist will serve to improve the review process. The issue of the qualification of these reviewers will be addressed in the internal procedures document mentioned above.

Requirements for adequate maintenance of records related to the VSTL accreditation program

Consistent with this recommendation and GAO's report the EAC added the following section to its VSTL program manual:

The EAC shall retain all records associated with the accreditation of voting system test laboratories. The records shall otherwise be retained or disposed of consistent with Federal statutes and regulations (VSTL manual, sec. 1.11)

GAO recommended the addition of this language which is consistent with the record retention requirements in the EAC's *Voting System Testing and Certification Program*

Manual. In addition, the EAC will provide detailed procedures and schedules for the maintenance, storage, and archiving of this information in its internal procedures as noted above.

Requirements for determining laboratory financial stability

The GAO Report specifies five program features (or areas of required information) an accreditation program should include. As the GAO report notes, EAC's Accreditation Program Manual contains requirements for each of these features, including: organizational information, records and record keeping, test methods and procedures, conflict of interest policy and assurance of financial stability. However, for the last requirement, GAO recommended that the EAC provide additional criteria for review and obtain additional laboratory information.

Per GAO's recommendation, EAC's VSTL Program Manual now includes additional requirements/criteria for the documentation of financial stability and the collection of additional information. The section on financial stability requirements now states:

2.14. Resources and Financial Stability. *As a condition of accreditation, all VSTLs shall allocate sufficient resources to enable the laboratory to properly use and maintain its test equipment, personnel, and facility and to satisfactorily perform all required laboratory functions. The laboratory shall maintain insurance policies sufficient to indemnify itself against financial liabilities or penalties that may result from its operations. VSTLs shall:*

2.14.1. Maintain insurance policies (see Section 3.4.1.8.) that indemnify the laboratory against the potential losses identified in its liability assessment (see Section 3.4.1.9.); and

2.14.2. Document solvency through demonstrating that the laboratory's assets are greater than its liabilities in its audited financial statement (see Section 3.4.1.16.).

The Manual's new information collection requirements include:

3.4.1.8. The identity of the laboratory's insurer(s), name of insured, and coverage limits for any comprehensive general liability policies, errors and omissions policies, professional liability policies, and bailee policies.

3.4.1.9. A written assessment of the laboratory's commercial general liability.

3.4.1.16. A copy of the most recent annual report, the names of the current board of directors and the previous year's board of directors, the names of any majority shareholders, and audited financial statements of the

companies or entities that own and operate the laboratory. Laboratories not incorporated should provide comparable information

The addition of these new provisions provide clear criteria for the evaluation of financial stability and require VSTL's to submit additional information for the assessment of their financial stability. The EAC will provide additional internal procedures for the implementation of these requirements in its internal procedures noted above.

EAC has already begun implementing changes consistent with the recommendations of GAO. In fact, EAC amended its VSTL Program Manual to address two of the four recommendations prior to the release of the GAO report. The EAC is in the process of addressing the remaining issues through the creation of additional internal procedures. The EAC has found GAO's report to be informative and helpful in the continued development of its Voting System Test Laboratory Program. The EAC is committed to continuous improvement in all of its programs. The EAC is focused on making its accreditation process part of a world class testing and certification program.