



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

Notice of Clarification

NOC 07-002: VSTL Work with Manufacturers Outside of Voting System Certification Engagements

Issued by Program Director, July 24, 2007: 

This notice addresses a question raised by an EAC Accredited VSTL concerning conflicts of interest and prohibited practices. The specific question for clarification asks if a VSTL may perform quality assurance/software testing for a registered manufacturer when the work is done by a separate business component within the laboratory.

Each VSTL has certified, through a signed Certification of Laboratory Conditions and Practices that it maintains and enforces policies which prevent and prohibit conflicts of interest. A prohibited conflict includes “the holding of a financial stake in the entity whose product is being tested [or] a direct competitor of the entity...” Additionally, again pursuant to the signed certification, VSTLs have certified that they will adopt and enforce policies which prohibited certain practices, including: involvement in “[b]oth the development and testing of a voting system,” as well as, “providing consultation or other services to a developer that would compromise the independence of the testing of a voting system.”

The fact that a VSTL utilizes different business verticals to separate laboratory functions is not relevant to this issue as it does not resolve the conflict between a VSTL’s financial interests and certification responsibilities. Such measures are only effective in resolving conflicts of interest pertaining to individual employees. Changing an employee’s duties so that they are no longer aligned with a financial interest will resolve an individual conflict of interest.

When a VSTL considers doing business outside the certification context, it must consider the implications of such a decision in light of the prohibitions related to conflicts of interest and prohibited practices. VSTL’s may not test voting systems if they have a conflict of interest between their responsibilities under the certification program and their financial interests. Having an outside contractual or fiduciary relationship with a manufacture whose product the VSTL is responsible for testing under EAC’s Certification program is a conflict of interest.

VSTLs must also be cognizant of the impact of prohibited practices. A laboratory may not be involved in both the development of a voting system and the certification of a system. Voting system development includes any testing, consultation or design work performed in order to ready a system for the market place or the certification process. Generally, any testing performed on behalf of a voting system manufacture that was not otherwise performed pursuant to an EAC certification will be considered developmental. When a VSTL is involved with the development of a voting system, it is prohibited from future testing of that system under EAC Program.

VSTLs play a central and vital role in EAC's Voting System Testing and Certification Program. An EAC accreditation provides VSTLs the authority to test voting systems on behalf of the agency. This accreditation, however, also places responsibilities and restrictions on the VSTLs, which will necessarily limit other business opportunities with voting system manufacturers.