

Testimony  
**Before the U.S. Election Assistance Commission**

**Public Meeting February 8, 2007**

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As noted by Mr. Alderman, on January 18, 2007, the EAC received a list of recommended labs put forward for EAC accreditation under the requirements of Section 231 (b) of the Help America Vote Act (HAVA). These labs were iBeta Quality Assurance located in Aurora, Colorado, and SysTest Labs, located in Denver, Colorado.

While NIST, through its National Voluntary Laboratory Accreditation Program (NVLAP), has thoroughly reviewed these two labs technical capabilities, procedures and personnel, the EAC must also carry out its own due diligence prior to a Commission vote to accredit these labs. On January 31, 2007, EAC sent both laboratories a letter requesting specific information, asking them to agree to specific program requirements and to certify certain conditions and practices of the laboratory.

EAC has ask the labs to provide simple information about the lab, including physical address and contact information for lab personnel, the identity of the labs insurer(s) and coverage limits, a lab organizational chart, a copy of the labs conflict of interest policy, a copy of the laboratory facilities brochure as well as a copy of the labs most recent annual report and corporate information. Non-incorporated labs will be asked to provide similar information.

EAC has also requested the labs submit a signed letter of agreement stating their acceptance of certain policies as a pre-condition to EAC accreditation. These policies include:

- A requirement that the labs maintain their NVLAP accreditation.
- A requirement to allow authorized EAC staff and representatives to enter the lab facilities to observe voting system testing, review documentation and examine lab conditions and practices.
- A requirement that the lab adhere to all current and future EAC requirements regarding the EAC Laboratory Accreditation Program and the Voting System Testing and Certification Program.
- A requirement that the lab provide EAC with notice of any lawsuits or claims filed against it or its subcontractors related to work done, or the management of the labs voting system testing program.

Finally, a lab may not receive EAC accreditation unless it positively affirms certain conditions and practices. These practices include:

- A certification that the lab does not, and will not employ individuals who have been convicted of any criminal offenses involving fraud.

- A certification that the laboratory maintains and enforces policies that prohibit and prevent conflicts of interest or perceived conflicts of interest. Specifically prohibited conflicts include the holding by a lab employee, their spouse or dependent children, of any financial stake in a voting system manufacturer; being involved with the development of any voting system or system component which might come under test; providing consulting services to a manufacturer that would compromise the independence of the testing process; and a prohibition on soliciting or receiving gifts, directly or indirectly from a voting system manufacturer.
- A certification that the lab possesses sufficient financial resources to properly use and maintain its test equipment and facility, and
- A certification that the lab operates and manages a record keeping system to maintain all test related information on a voting system for a period of 5 years after the last test of any version of a particular system.

EAC has requested that Systest and iBeta provide the requested information to the Commission no later than February 15, 2007. At that time, EAC staff will review the submissions for sufficiency prior to making a recommendation that the Commission formally vote to accredit these labs.

Because EAC staff expects that it will conclude its information gathering and review of documentation from these labs shortly, this appears to be the appropriate time to officially end all work related to the accreditation of labs under our interim laboratory accreditation program, which was discussed earlier.

### **Recommendation**

In light of the imminent EAC accreditation of the two labs recommended by the Director of NIST pursuant to the requirements of HAVA, EAC staff recommends that the Commission vote to terminate any laboratory accreditation applications that remain outstanding under the EAC interim program as of close-of-business March 5, 2007. This date corresponds directly to the date on which EAC has directed Ciber, Inc. to correct all non-conformity issues found during the two interim laboratory assessment conducted by EAC.