



October 31, 2008

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

cc: Jon M. Crickenberger
NIST/NVLAP Program Manager
National Institute of Standards and Technology
100 Bureau Drive, Stop 2140
Gaithersburg, MD 20899

Re: October 29, 2008 Notice of Intent to Suspend

Dear Mr. Hancock:

This letter is in response to the above-cited Notice of Intent to Suspend SysTest Labs pursuant to section 5.4 of the Program Manual. While we recognize the fact that NIST NVLAP has suspended SysTest Labs' accreditation status, we challenge the appropriateness of this finding based on the following:

1. *Manufacturer Communications*: One area of concern raised by NVLAP centered on alleged "Improper assurances made to manufacturers regarding testing outcomes." The EAC has, in fact, already examined this allegation and in an undated letter to SysTest Labs stated "After fully reviewing all of the correspondence regarding this matter, the EAC has concluded that SysTest was compliant with the EAC program requirements and it will not be issuing a compliance management report..." Since extensive review of this has been conducted and our staff have been trained and sensitized on this very important matter, we question why our accreditation status has in any way been jeopardized by this allegation.
2. *Qualification of Personnel*: NVLAP questioned the qualifications of some of SysTest Labs' staff. While we understand during the stressful conditions imposed by close observation, which included questioning and interviewing by up to eight NVLAP representatives, some of our staff may have not provided complete responses. We would like to point out that all staff conducting voting system testing are degreed and experienced testing professionals who have passed our audited and approved internal training and testing curriculum. We know that experience in voting systems can always improve, but given that we have followed our disclosed procedures in this area we disagree that this constitutes a reason to suspend accreditation.
3. *Validation of Test Methods*: In addition to an extensive review of our quality system during the monitoring visit, NVLAP representatives required that they be allowed to observe actual testing of a voting system. However, the only testing available at the time of the monitoring visit were initial test runs, tests being executed for the very

first time. Due to the fact that these were initial runs, faults were uncovered. We agree with NVLAP's recommendations associated with the need for clarity on test case validity and the difference between initial tests, validation runs and actual run for the record testing. Our agreement is substantiated by the package we submitted to NVLAP on Monday October 27 (and copied to EAC) that shows the procedural changes we plan to make in this area as well as document control at the project level. SysTest Labs believes that this is constructive input that will result in more efficient testing. We also believe that procedural remedies are available to correct any weakness uncovered and we have demonstrated our understanding of exactly how we will implement these recommendations. Discussions about test methods and validation that were held during the monitoring visit made it clear that interpretations of requirements varied even among the NVLAP team members. NVLAP reviewers stated that there were multiple interpretations of test methods within their own team and that further review of 150/150-22 HB would be needed for them to internally reconcile this matter. We would also respectfully point out that when we inquired whether other VSTLs had more effective or clearer test method documentation and validation processes, NVLAP representatives stated that the other labs also had issues and difficulties in this area. Based on our constructive response and ability to rapidly remedy this area, suspension of our accreditation is not warranted and, in fact, will only hinder our ability to effect these changes.

4. *Readiness Testing:* As above, we agree with the recommendations in this area as shown in our October 27 response. We would again respectfully point out that during discussions with the lead NVLAP auditor, there was consensus that requirements regarding readiness testing are unclear and that an RFI would be necessary to clarify this for the benefit of the entire program. Holding our accreditation in suspense for an area where requirements are acknowledged to be unclear is not appropriate. This finding also has implications for all other VSTLs; will they and all relevant testing be held in suspense until program-wide agreement is reached?

We will be communicating with NVLAP on our progress in implementation of the process changes that we have already outlined on the above items. In the interim, we ask the EAC to reconsider its position based on the fact that i) all remedies are procedural in nature and ii) our demonstrated ability to effect these changes. Areas of clarification still exist for the entire program in test validation and readiness testing, and SysTest Labs' accreditation status should not be held hostage to this ambiguous standard until such time as it is clearly defined for all VSTLs.

Yours Sincerely,



Mark Phillips
Vice President, Compliance Services