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 that 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 <u>one</u> 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.

Print Form   Submit by Email

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 iBet

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: 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