

ELECTION CODE

TITLE 8. VOTING SYSTEMS

CHAPTER 122. STATE SUPERVISION OVER VOTING SYSTEMS

SUBCHAPTER A. VOTING SYSTEM STANDARDS

Sec. 122.001. VOTING SYSTEM STANDARDS.

(a) A voting system may not be used in an election unless the system:

- (1) preserves the secrecy of the ballot;
- (2) is suitable for the purpose for which it is intended;
- (3) operates safely, efficiently, and accurately and complies

with the voting system standards adopted by the Election Assistance Commission;

- (4) is safe from fraudulent or unauthorized manipulation;
- (5) permits voting on all offices and measures to be voted on at the election;
- (6) prevents counting votes on offices and measures on which the voter is not entitled to vote;
- (7) prevents counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevents counting votes for more than the number of candidates for which the voter is entitled to vote;
- (8) prevents counting a vote on the same office or measure more than once;
- (9) permits write-in voting; and
- (10) is capable of providing records from which the operation of the voting system may be audited.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 404 (H.B. 25), Sec. 8, eff. September 1, 2020.

(c) The secretary of state may prescribe additional standards for voting systems consistent with this title. The standards may apply to particular kinds of voting systems, to particular elements comprising a voting system, including operation procedures, or to voting systems generally.

(d) Effective January 1, 2006, a voting system may not be used in an election if the system uses:

- (1) mechanical voting machines; or

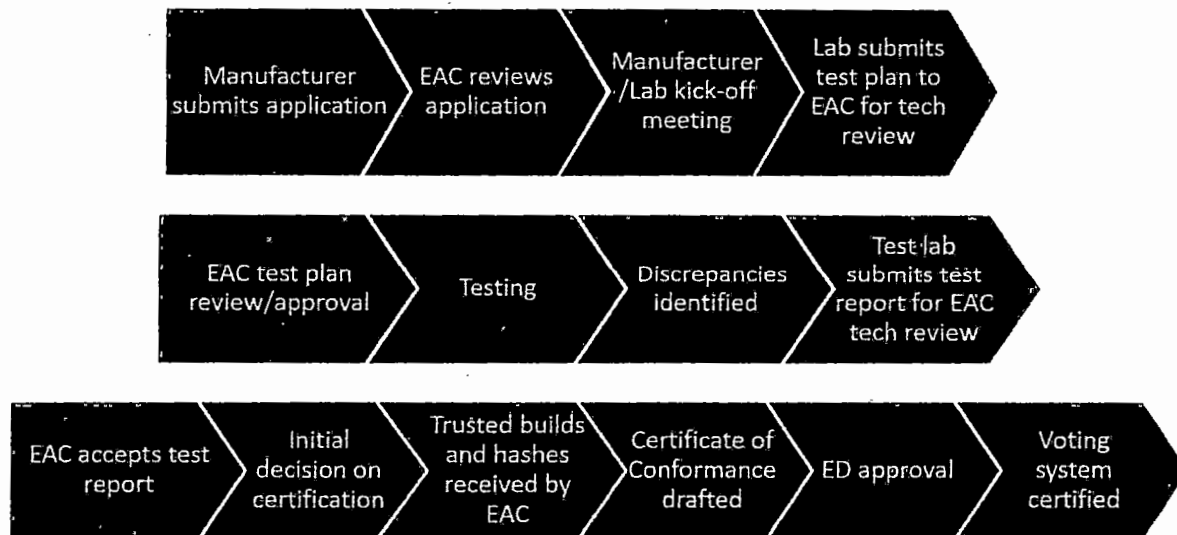
Voting System Certification

A voting system is considered EAC certified when it has been tested by a federally accredited test laboratory, has successfully met the requirements of the VVSG and any other claims made by the voting system manufacturer and the EAC has issued a certificate that all the steps required by the lab and the manufacturer have been completed.

The EAC accredits independent test laboratories (voting system test laboratories or VSTLs) that evaluate voting systems, including their software against the VVSG to determine if they provide all of the basic functionality, accessibility, and security capabilities required of these systems. The test laboratory provides a recommendation to the EAC, and the Commission's Testing and Certification Division, working through the Executive Director, makes the determination whether to issue a certification. Once a decision has been made, the EAC will post the information on the Voting System Certification section of the EAC website.

Before final certification is granted, the VSTL must deliver specified elements in the EAC repository including, the source code used for the trusted build and its file signatures, a detailed description of the build environment including setup and configuration, executable code, and all documentation to provide evidence to verify that a particular system has met all requirements.

In addition to system certifications, the EAC also processes engineering change orders such as updating end of life commercial hardware components or applying security patches.



The diagram above outlines the process steps for voting system certification

1. Introduction

- 1.1. **Background.** In 2002, Congress passed the Help America Vote Act of 2002 (HAVA). HAVA created the U.S. Election Assistance Commission (EAC) and assigned to the EAC the responsibility for both setting voting system standards and providing for the voluntary testing and certification of voting systems. This mandate represented the first time that the Federal government provided for the voluntary testing, certification, and decertification of voting systems nationwide. In response to this HAVA requirement, the EAC has developed the voting system standards in the form of the Voluntary Voting System Guidelines (VVSG), a voting system certification program in the form of the Voting System Testing and Certification Program Manual and this document, the Voting System Test Laboratory Program Manual.
- 1.2. **Authority.** HAVA Section 231(b) (42 U.S.C. §15371(b)) requires that the EAC provide for the accreditation and revocation of accreditation of independent, non-federal laboratories qualified to test voting systems to Federal standards. Generally, the EAC considers for accreditation those laboratories evaluated and recommended by the National Institute of Standards and Technology (NIST) pursuant to HAVA Section 231(b)(1). However, consistent with HAVA Section 231(b)(2)(B), the Commission may also vote to accredit laboratories outside of those recommended by NIST upon publication of an explanation of the reason for any such accreditation.
- 1.3. **Role of the National Institute of Standards and Technology.** Section 231(b) (1) of HAVA requires that the National Institute of Standards and Technology “conduct an evaluation of independent, non-federal laboratories and shall submit to the Commission a list of those laboratories...to be accredited....” Additionally, HAVA Section 231(c) requires NIST to monitor and review the performance of EAC accredited laboratories. NIST has chosen its National Voluntary Laboratory Accreditation Program (NVLAP) to carry out these duties.

NVLAP conducts a review of applicant laboratories in order to provide a measure of confidence that such laboratories are capable of performing testing of voting systems to Federal standards. Additionally, the NVLAP program monitors laboratories by requiring regular assessments. Laboratories are reviewed one year after their initial accreditation and biennially thereafter. The EAC has made NVLAP accreditation a requirement of its Voting System Test Laboratory (VSTL) Program. However, a NVLAP accreditation is not an EAC accreditation. The EAC is the sole Federal authority for the accreditation and revocation of accreditation of Voting System Test Laboratories.

- 1.4. Scope. This manual provides the procedural requirements of the EAC Voting System Laboratory Program. Although participation in the program is voluntary, adherence to the program’s procedural requirements is mandatory if VSTLs choose to participate. The procedural requirements of this manual supersede any prior laboratory accreditation requirements issued by the EAC. This manual is intended to be read in conjunction with

(the Voting System Testing and Certification Program Manual)

- 1.5. Manual Maintenance and Revision.** The manual will be reviewed periodically and updated to meet the needs of the EAC, VSTLs, voting system manufacturers, election officials, and public policy. The EAC is responsible for revising this document. All revisions will be made consistent with federal law. Substantive input from stakeholders and the public will be sought whenever possible. Changes in policy requiring immediate implementation will be documented via policy memoranda and will be issued to each VSTL and manufacturer. Changes, addendums, or updated versions will also be posted on www.eac.gov.
- 1.6. Clarification of Program Requirements and Procedures.** VSTLs and manufacturers may request clarification regarding the requirements and procedures set forth in this manual. Requests for interpretation must be based upon ambiguity arising from the application of this manual. Hypothetical questions will not be considered. Requests must be submitted to the Program Director in writing as described in Chapter 9 of the Voting System Testing and Certification Program Manual. The request must clearly identify the section of the manual and issue to be clarified, a proposed interpretation and all relevant facts. Clarifications issued by the EAC will be provided to all VSTLs and manufacturers and published on www.eac.gov.
- 1.7. Program Personnel.** All EAC personnel and contractors associated with this program are held to the highest ethical standards. All agents of the EAC involved in the VSTL Program are subject to conflict-of-interest reporting and ethics review, consistent with federal law and regulation. The term "Program Director" as used throughout this manual refers to the Voting System Testing and Certification Director. In the event of a vacancy in this position, the EAC Executive Director will designate staff to temporarily assume these duties.
- 1.8. Submission of Documents.** Any documents submitted in accordance with the requirements of this manual must be submitted electronically via secure e-mail or physical delivery of digital media. The submitted electronic files must be in PDF format, formatted to protect the document from alteration. If sent via physical delivery, by certified mail (or similar means that allows tracking) to the following address:

U.S. Election Assistance Commission
Attn: Testing and Certification Program Director
633 3rd Street NW, Suite 200
Washington, DC 20001

3.5.1. Notice of Nonconformity. In the event the Program Director identifies (1) missing documentation or information and/or (2) issues of noncompliance, the Program Director must notify the laboratory of the deficiencies. The written notice of nonconformity must identify missing documentation or information and issues of noncompliance. The laboratory will have 10 business days to amend the application package or submit additional information in response to identified nonconformities.

3.5.2. Action on Notice of Nonconformity. A laboratory's response to a notice of nonconformity must include any missing documents identified in the notice, as well as any additional or clarifying information or documentation responsive to an issue of noncompliance. If a laboratory fails to provide required information or documentation within the required timeframe, the Program Director will reject the application as incomplete and return the package to the laboratory for resubmission consistent with the requirements of this chapter.

3.5.3. Recommendation to Commissioners. After final review of the application package, the Program Director must forward the application package to the Chair of the Commission with a recommendation of disposition.

3.5.4. Vote by Commissioners. Upon receipt of an application package and recommendation from the Program Director, the Chair of the Commission will forward the information to each EAC Commissioner. The Chair of the Commission will bring the matter to a vote, consistent with the rules of the Commission. The measure presented for a vote will take the form of a written Commissioners' Decision which (1) makes a clear determination as to accreditation and (2) states the basis for the determination.

3.6. **Grant of Accreditation.** Upon a vote of the EAC Commissioners to accredit a laboratory, the Program Director must inform the laboratory of the decision, issue a Certificate of Accreditation, and post information regarding the laboratory on www.eac.gov.

3.6.1. Certificate of Accreditation. A Certificate of Accreditation will be issued to each accredited laboratory. The certificate will be signed by the Chair of the Commission and state:

- The name of the VSTL;
- The scope of accreditation, by stating the VVSG version(s) to which the VSTL is competent to test;
- The effective date of the certification; and
- The technical standards to which the laboratory was accredited.

3.6.2. Post Information on Web Site. The Program Director will make the following



United States Election Assistance Commission

Certificate of Accreditation

**SLI Compliance,
Division of Gaming Laboratories International, LLC
Wheat Ridge, Colorado**

is recognized by the U.S. Election Assistance Commission for the testing of voting systems to the 2002 Voting Systems Standards, the Voluntary Voting Systems Guidelines versions 1.0 and 1.1 under the criteria set forth in the EAC Voting System Testing and Certification Program and Laboratory Accreditation Program. SLI Compliance is also recognized as having successfully completed assessments by the National Voluntary Laboratory Accreditation Program for conformance to the requirements of ISO/IEC 17025 and the criteria set forth in NIST Handbooks 150 and 150-22.

Effective Through

January 10, 2021

A handwritten signature in black ink, appearing to read "B. Newby", is positioned above the title of the Executive Director.

Date: 1/10/18

Brian Newby,
Executive Director, U.S. Election Assistance Commission

EAC Lab Code: 0701



United States Election Assistance Commission

Certificate of Accreditation

SLI Compliance **Division of Gaming Laboratories International, LLC** **Wheat Ridge, Colorado**

is recognized by the U.S. Election Assistance Commission for the testing of voting systems to the 2005 and 2015 Voluntary Voting Systems Guidelines (VVSG 1.0 & 1.1) under the criteria set forth in the EAC Voting System Testing and Certification Program and Laboratory Accreditation Program. SLI Compliance is also recognized as having successfully completed assessments by the National Voluntary Laboratory Accreditation Program for conformance to the requirements of ISO/IEC 17025 and the criteria set forth in NIST Handbooks 150 and 150-22.

Original Accreditation Issued on: 2/28/2007

**Accreditation remains effective until revoked
by a vote of the EAC pursuant to 52 U.S.C. §
20971(c)(2).**

Mona Harrington

Date: 2/1/21

Mona Harrington
Executive Director, U.S. Election Assistance Commission

EAC Lab Code: 0701



United States Election Assistance Commission

Certificate of Accreditation

SLI Compliance **Division of Gaming Laboratories International, LLC** **Wheat Ridge, Colorado**

is recognized by the U.S. Election Assistance Commission for the testing of voting systems to the Voluntary Voting Systems Guidelines VVSG 1.0, 1.1 & 2.0 under the criteria set forth in the EAC Voting System Testing and Certification Program and Laboratory Accreditation Program. SLI Compliance is also recognized as having successfully completed assessments by the National Voluntary Laboratory Accreditation Program for conformance to the requirements of ISO/IEC 17025 and the criteria set forth in NIST Handbooks 150 and 150-22.

Original Accreditation Issued on: 2/28/2007

**Accreditation remains effective until revoked
by a vote of the EAC pursuant to 52 U.S.C. §
20971(c)(2).**

Date: 11/15/22

Mark A. Robbins
Interim Executive Director, U.S. Election Assistance Commission

EAC Lab Code: 0701



United States Election Assistance Commission

Certificate of Accreditation

Pro V&V, Inc.
Huntsville, Alabama

is recognized by the U.S. Election Assistance Commission for the testing of voting systems to the 2005 Voluntary Voting Systems Guidelines under the criteria set forth in the EAC Voting System Testing and Certification Program and Laboratory Accreditation Program. Pro V&V is also recognized as having successfully completed assessments by the National Voluntary Laboratory Accreditation Program for conformance to the requirements of ISO/IEC 17025 and the criteria set forth in NIST Handbooks 150 and 150-22.

Effective Through

February 24, 2017

A handwritten signature in black ink, likely of the Acting Executive Director, is positioned above the date line.

Date: 2/24/15

Acting Executive Director, U.S. Election Assistance Commission

EAC Lab Code: 1501



United States Election Assistance Commission

Certificate of Accreditation

**Pro V&V, Inc.
Huntsville, Alabama**

is recognized by the U.S. Election Assistance Commission for the testing of voting systems to the 2005 and 2015 Voluntary Voting Systems Guidelines (VVSG 1.0 & 1.1) under the criteria set forth in the EAC Voting System Testing and Certification Program and Laboratory Accreditation Program. Pro V&V is also recognized as having successfully completed assessments by the National Voluntary Laboratory Accreditation Program for conformance to the requirements of ISO/IEC 17025 and the criteria set forth in NIST Handbooks 150 and 150-22.

Original Accreditation Issued on: 2/24/2015

***Accreditation remains effective until revoked
by a vote of the EAC pursuant to 52 U.S.C. §
20971(c)(2).***

Mona Harrington

Date: 2/1/21

***Mona Harrington
Executive Director, U.S. Election Assistance Commission***

EAC Lab Code: 1501



United States Election Assistance Commission

Certificate of Accreditation

**Pro V&V, Inc.
Huntsville, Alabama**

is recognized by the U.S. Election Assistance Commission for the testing of voting systems to the Voluntary Voting Systems Guidelines VVSG 1.0, 1.1 & 2.0 under the criteria set forth in the EAC Voting System Testing and Certification Program and Laboratory Accreditation Program. Pro V&V is also recognized as having successfully completed assessments by the National Voluntary Laboratory Accreditation Program for conformance to the requirements of ISO/IEC 17025 and the criteria set forth in NIST Handbooks 150 and 150-22.

Original Accreditation Issued on: 2/24/2015

***Accreditation remains effective until revoked
by a vote of the EAC pursuant to 52 U.S.C. §
20971(c)(2).***

Date: 12/21/22

**Mark A. Robbins
Interim Executive Director, U.S. Election Assistance Commission**

EAC Lab Code: 1501

42. This implies that a certification lapsed or would lapse because it had an expiration date.

Due to administrative error during 2017-2019, the EAC did not issue an updated certificate to Pro V&V causing confusion with some people concerning their good standing status. Even though the EAC failed to reissue the certificate, Pro V&V's audit was completed in 2018 and again in early 2021 as the scheduled audit of Pro V&V in 2020 was postponed due to COVID-19 travel restrictions. Despite the challenges outlined above, throughout this period, Pro V&V and SLI Compliance remained in good standing with the requirements of our program and retained their accreditation. In addition, the EAC has placed appropriate procedures and qualified staff to oversee this aspect of the program ensuring the continued quality monitoring of the Testing and Certification program is robust and in place.

Figure 2. Portion of EAC Letter, July 22, 2021.

43. The EAC (see Figure 2) admitted to “administrative error” (the Accardi doctrine), therefore violating the laws set by HAVA; “Applying the Accardi doctrine to the facts, the Court in Heffner said: ‘An agency of the government must scrupulously observe rules, regulations, or procedures which it has established. When it fails to do so, its actions cannot stand and courts will strike it down ...’” (*United States v. Toussaint*, 456 F. Supp. 1069, 1074 (S.D. Tex. 1978)).

44. The EAC used both administrative error and Covid-19 as an excuse for an expired accreditation certificate for Pro V&V from 2017 and an invalid accreditation certificate for SLI Compliance from 2018.^{13 14} (EAC Letters at Exhibit J).

45. Despite recent claims that accreditation does not expire, the EAC currently has a list on its website of expired VSTL accreditations¹⁵. (Exhibit K).

46. On March 19, 2019, Deputy Secretary of State Jose A Esparza illegally certified ES&S EVS 6.0.2.0 for use in Texas elections without the legal number of examiners required to

¹³https://www.eac.gov/sites/default/files/voting_system_test_lab/files/SLI_Compliance_Accreditation_Renewal_delay_memo012721.pdf (last viewed May 23, 2023)

¹⁴https://www.eac.gov/sites/default/files/voting_system_test_lab/files/VSTL%20Certificates%20and%20Accreditation_0.pdf (last viewed May 23, 2023)

¹⁵ <https://www.eac.gov/voting-equipment/accredited-laboratories> (last viewed May 23, 2023).

modified to comply with applicable standards or to not deviate from an approved system or equipment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 3, eff. Sept. 1, 1987.

Sec. 122.004. PREPARATION OF SOFTWARE BY SECRETARY OF STATE. (a) The secretary of state may prepare any type of software for use with an electronic voting system.

(b) The software is subject to the standards and examination procedures applicable to voting systems.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 3, eff. Sept. 1, 1987.

Sec. 122.005. VENUE FOR OFFENSES. Venue for prosecution of an offense under this chapter is in the county in which the offense was committed.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 31, eff. Sept. 1, 1993.

SUBCHAPTER B. APPROVAL OF VOTING SYSTEM AND EQUIPMENT

Sec. 122.031. APPROVAL OF SYSTEM AND EQUIPMENT REQUIRED. (a) Before a voting system or voting system equipment may be used in an election, the system and a unit of the equipment must be approved by the secretary of state as provided by this subchapter.

(b) The secretary of state may seek a temporary restraining order or a writ of injunction obtained through the attorney general to prevent the use of any part of a voting system or voting system equipment that has not been approved.

(c) A person commits an offense if the person executes a contract to sell, lease, or otherwise provide a voting system or voting system equipment that the person knows has not been approved. An offense under this subsection is a Class A misdemeanor.

(d) This section does not prohibit a person from exhibiting a voting system or unit of voting system equipment that has not been approved.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 32, eff. Sept. 1, 1993.

ELECTION CODE

TITLE 8. VOTING SYSTEMS

CHAPTER 123. ADOPTION AND ACQUISITION OF VOTING SYSTEM

SUBCHAPTER A. ADOPTION OF VOTING SYSTEM

Sec. 123.001. ADOPTION OF VOTING SYSTEM REQUIRED. (a) Before a

voting system may be used in elections, the authority designated by this section by resolution, order, or other official action of the authority, must adopt the system for use in the elections.)

(b) The decision on whether to adopt a voting system is made by the following authority:

(1) for general elections for state and county officers, the commissioners court;

(2) for primary elections, the county executive committee of the political party holding the primary; and

(3) for any other elections:

(A) the commissioners court, if ordered by the governor or by a county authority; or

(B) the governing body of the political subdivision served by the authority ordering the elections, if ordered by an authority serving a political subdivision other than a county.)

(c) If a voting system is adopted for use in elections, the voting system shall be used in the elections in accordance with the terms and conditions stated in the official action adopting the system, subject to this title.

(d) Repealed by Acts 2005, 79th Leg., Ch. 1107, Sec. 2.21(1), eff. January 1, 2006.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2001, 77th Leg., ch. 1054, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.21(1), eff. January 1, 2006.

Sec. 123.002. MODIFICATION OF ADOPTION ACTION. The official action adopting a voting system for use in elections may be modified or rescinded at any time by the adopting authority.

References

EAC Voting System Test Laboratory Program Manual v 3.0

EAC Testing and Certification Program Manual v 3.0

<https://www.eac.gov/voting-equipment/manuals-and-forms>

VSTL Accreditation Certificates

<https://www.eac.gov/voting-equipment/voting-system-test-laboratories-vstl>

Texas Election Code Chapters 122 and 123

3.6.1. Certificate of Accreditation. A Certificate of Accreditation shall be issued to each laboratory accredited by vote of the Commissioners. The certificate shall be signed by the Chair of the Commission and state:

3.6.1.1. The name of the VSTL;

3.6.1.2. The scope of accreditation, by stating the Federal standard or standards to which the VSTL is competent to test;

3.6.1.3. The effective date of the certification, which shall not exceed a period of two (2) years; and

3.6.1.4. The technical standards to which the laboratory was accredited.

3.6.2. Post Information on Web Site. The Program Director shall make information pertaining to each accredited laboratory available to the public on EAC's Web site. This information shall include (but is not limited to):

3.6.2.1. NIST's Recommendation Letter;

3.6.2.2. The VSTL's Letter of Agreement;

3.6.2.3. The VSTL's Certification of Conditions and Practices;

3.6.2.4. The Commissioner's Decision on Accreditation; and

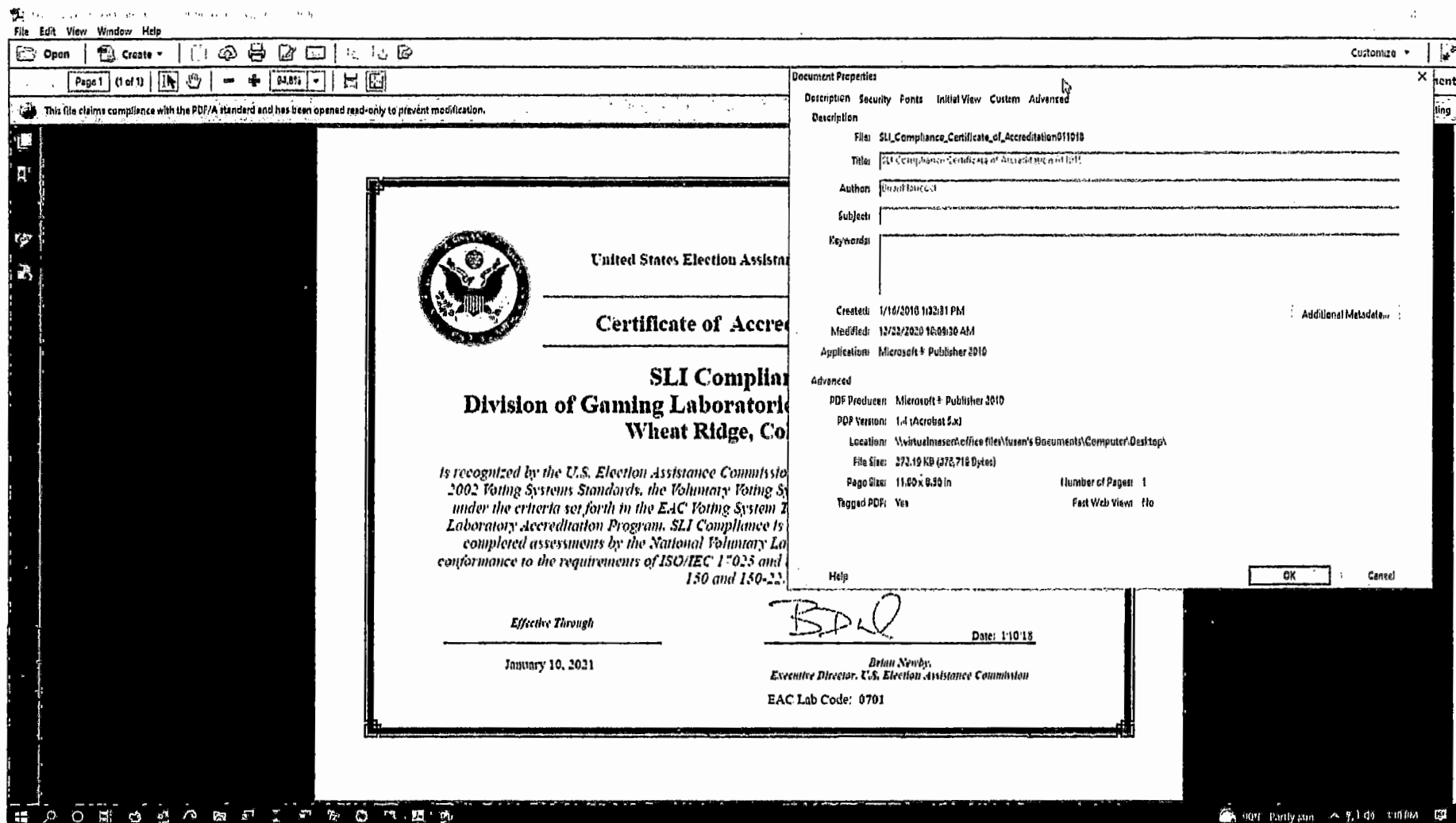
3.6.2.5. The Certificate of Accreditation.

3.7. **Effect of Accreditation**. Receipt of an EAC Accreditation indicates that a laboratory has met the applicable technical, procedural, management and staffing requirements and may serve as a Voting System Test Laboratory (VSTL) under EAC's Testing and Certification Program.

3.7.1. Scope of Accreditation. A laboratory shall operate within the limits of the scope of accreditation as stated on its Certificate of Accreditation.

3.7.2. Representation. No VSTL may make representations regarding its accreditation beyond its scope of accreditation.

3.7.3. No Endorsement. A Certificate of Accreditation is **not** an endorsement of the recipient laboratory. A VSTL may not state or imply EAC endorsement.





U.S. ELECTION ASSISTANCE COMMISSION
633 3rd St. NW, Suite 200
Washington, DC 20001

FROM: Jerome Lovato, Voting System Testing and Certification Director

SUBJECT: SLI Compliance EAC VSTL Accreditation

DATE: 1/27/2021

SLI Compliance, a division of Gaming Laboratories International, LLC (SLI) has completed all requirements to remain in good standing with the EAC's Testing and Certification program per section 3.8 of the Voting System Test Laboratory Manual, version 2.0:

Expiration and Renewal of Accreditation. A grant of accreditation is valid for a period not to exceed two years. A VSTL's accreditation expires on the date annotated on the Certificate of Accreditation. VSTLs in good standing shall renew their accreditation by submitting an application package to the Program Director, consistent with the procedures of Section 3.4 of this Chapter, no earlier than 60 days before the accreditation expiration date and no later than 30 days before that date. Laboratories that timely file the renewal application package shall retain their accreditation while the review and processing of their application is pending. VSTLs in good standing shall also retain their accreditation should circumstances leave the EAC without a quorum to conduct the vote required under Section 3.5.5.

Due to the outstanding circumstances posed by COVID-19, the renewal process for EAC laboratories has been delayed for an extended period. While this process continues, SLI retains its EAC VSTL accreditation.



U.S. ELECTION ASSISTANCE COMMISSION

633 3rd St. NW, Suite 200

Washington, DC 20001

Notice of Clarification

NOC 21-01: VSTL Accreditation Status

Issued by Program Director on July 23, 2021

Section of Manual to Be Clarified:

Voting System Test Laboratory Manual, version 2.0:

3.8. Expiration and Renewal of Accreditation. A grant of accreditation is valid for a period not to exceed two years. A VSTL's accreditation expires on the date annotated on the Certificate of Accreditation. VSTLs in good standing shall renew their accreditation by submitting an application package to the Program Director, consistent with the procedures of Section 3.4 of this Chapter, no earlier than 60 days before the accreditation expiration date and no later than 30 days before that date. Laboratories that timely file the renewal application package shall retain their accreditation while the review and processing of their application is pending. VSTLs in good standing shall also retain their accreditation should circumstances leave the EAC without a quorum to conduct the vote required under Section 3.5.5.

Purpose:

The Voting System Test Lab (VSTL) accreditation process is an essential component of the EAC's testing and certification program. It consists of two assessments: one by the National Institute of Standards and Technology's (NIST) National Voluntary Laboratory Accreditation Program (NVLAP) and one by the EAC.

NVLAP accreditation is the primary means by which the EAC ensures that each VSTL meets and continues to meet the technical requirements of the EAC program. It sets the standards for each VSTL's technical, physical, and personnel resources, as well as its testing, management, and quality assurance policies and protocols. NVLAP reviews VSTLs one year after their initial accreditation and biennially thereafter.

The EAC VSTL assessment takes additional steps to ensure that laboratory policies are in place regarding compliance management and issues like conflict of interest, record maintenance, and financial stability. It also ensures that the VSTL is willing and capable to work with EAC in its Testing and Certification Program. This is performed by regularly working closely with the labs and performing audits biennially and generating certificates.



U.S. ELECTION ASSISTANCE COMMISSION

633 3rd St. NW, Suite 200

Washington, DC 20001

The EAC is the sole Federal authority for the accreditation and revocation of accreditation of VSTLs.

Clarification:

The intent of section 3.8 in the Voting System Test Laboratory Manual, version 2.0 is to make clear that the VSTL accreditation is subject to reassessment by NVLAP and the EAC with a period of approximately two years, at the discretion of the EAC. It is not intended to describe the EAC VSTL accreditation revocation process, which is described in chapter 5 of the Voting System Test Laboratory Manual, version 2.0.

Federal law (HAVA) provides that EAC accreditation of a voting system test laboratory may not be revoked unless the EAC Commissioners vote to revoke the accreditation.

52 U.S. Code § 20971(c)(2). APPROVAL BY COMMISSION REQUIRED FOR REVOCATION - The accreditation of a laboratory for purposes of this section may not be revoked unless the revocation is approved by a vote of the Commission.

The VSTL Certificate of Accreditation that is issued after the EAC performs the audit, and the expiration date listed on the certificate relates to the EAC program requirement to reassess VSTLs periodically to ensure conformance to the requirements of the testing and certification program for a VSTL. For that reason, the EAC has removed the expiration date from the certificate and instead will track the reassessment period separately.

Conclusion:

As of the date of this document, section 3.8 in the Voting System Test Laboratory Manual, version 2.0 is replaced with the following:

3.8. VSTL Accreditation Reassessment. The accreditation of a laboratory for purposes of this section may not be revoked unless the revocation is approved by a vote of the Commission consistent with Chapter 5 of this manual. Reassessment of VSTLs shall occur two years from the date their most recent Certificate of Accreditation was issued, or at the discretion of the EAC. VSTLs in good standing shall request reassessment their accreditation by submitting an application package to the Program Director, consistent with the procedures of Section 3.4 of this Chapter, no earlier than 60 days before and no later than 30 days prior to the reassessment date, or a date chosen at the discretion of the EAC. VSTLs in good standing shall retain their accreditation while the review and processing of their application is pending and should circumstances leave the EAC without a quorum to conduct the vote as specified under Section 3.5.5.

guideline or the contents of any guideline (or any modification to any guideline) adopted by the Commission under this chapter.

(f) Publication of recommendations in Federal Register

At the time the Commission adopts any voluntary voting system guideline pursuant to section 20962 of this title, the Development Committee shall cause to have published in the Federal Register the recommendations it provided under this section to the Executive Director of the Commission concerning the guideline adopted.

(Pub. L. 107-252, title II, § 221, Oct. 29, 2002, 116 Stat. 1682.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (e)(3), was in the original “this Act”, meaning Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1666, known as the Help America Vote Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 15361 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

§ 20962. Process for adoption

(a) General requirement for notice and comment

Consistent with the requirements of this section, the final adoption of the voluntary voting system guidelines (or modification of such a guideline) shall be carried out by the Commission in a manner that provides for each of the following:

- (1) Publication of notice of the proposed guidelines in the Federal Register.
- (2) An opportunity for public comment on the proposed guidelines.
- (3) An opportunity for a public hearing on the record.
- (4) Publication of the final guidelines in the Federal Register.

(b) Consideration of recommendations of Development Committee; submission of proposed guidelines to Board of Advisors and Standards Board

(1) Consideration of recommendations of Development Committee

In developing the voluntary voting system guidelines and modifications of such guidelines under this section, the Executive Director of the Commission shall take into consideration the recommendations provided by the Technical Guidelines Development Committee under section 20961 of this title.

(2) Board of Advisors

The Executive Director of the Commission shall submit the guidelines proposed to be adopted under this subpart (or any modifications to such guidelines) to the Board of Advisors.

(3) Standards Board

The Executive Director of the Commission shall submit the guidelines proposed to be

adopted under this subpart (or any modifications to such guidelines) to the Executive Board of the Standards Board, which shall review the guidelines (or modifications) and forward its recommendations to the Standards Board.

(c) Review

Upon receipt of voluntary voting system guidelines described in subsection (b) (or a modification of such guidelines) from the Executive Director of the Commission, the Board of Advisors and the Standards Board shall each review and submit comments and recommendations regarding the guideline (or modification) to the Commission.

(d) Final adoption

(1) In general

A voluntary voting system guideline described in subsection (b) (or modification of such a guideline) shall not be considered to be finally adopted by the Commission unless the Commission votes to approve the final adoption of the guideline (or modification), taking into consideration the comments and recommendations submitted by the Board of Advisors and the Standards Board under subsection (c).

(2) Minimum period for consideration of comments and recommendations

The Commission may not vote on the final adoption of a guideline described in subsection (b) (or modification of such a guideline) until the expiration of the 90-day period which begins on the date the Executive Director of the Commission submits the proposed guideline (or modification) to the Board of Advisors and the Standards Board under subsection (b).

(e) Special rule for initial set of guidelines

Notwithstanding any other provision of this subpart, the most recent set of voting system standards adopted by the Federal Election Commission prior to October 29, 2002, shall be deemed to have been adopted by the Commission as of October 29, 2002, as the first set of voluntary voting system guidelines adopted under this subpart.

(Pub. L. 107-252, title II, § 222, Oct. 29, 2002, 116 Stat. 1683.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 15362 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

PART B—TESTING, CERTIFICATION, DECERTIFICATION, AND RECERTIFICATION OF VOTING SYSTEM HARDWARE AND SOFTWARE

§ 20971. Certification and testing of voting systems

(a) Certification and testing

(1) In general

The Commission shall provide for the testing, certification, decertification, and recertification of voting system hardware and software by accredited laboratories.

(2) Optional use by States

At the option of a State, the State may provide for the testing, certification, decertification, or recertification of its voting system hardware and software by the laboratories accredited by the Commission under this section.

(b) Laboratory accreditation**(1) Recommendations by National Institute of Standards and Technology**

Not later than 6 months after the Commission first adopts voluntary voting system guidelines under subpart 3 of part A of this subchapter, the Director of the National Institute of Standards and Technology shall conduct an evaluation of independent, non-Federal laboratories and shall submit to the Commission a list of those laboratories the Director proposes to be accredited to carry out the testing, certification, decertification, and recertification provided for under this section.

(2) Approval by Commission**(A) In general**

The Commission shall vote on the accreditation of any laboratory under this section, taking into consideration the list submitted under paragraph (1), and no laboratory may be accredited for purposes of this section unless its accreditation is approved by a vote of the Commission.

(B) Accreditation of laboratories not on Director list

The Commission shall publish an explanation for the accreditation of any laboratory not included on the list submitted by the Director of the National Institute of Standards and Technology under paragraph (1).

(c) Continuing review by National Institute of Standards and Technology**(1) In general**

In cooperation with the Commission and in consultation with the Standards Board and the Board of Advisors, the Director of the National Institute of Standards and Technology shall monitor and review, on an ongoing basis, the performance of the laboratories accredited by the Commission under this section, and shall make such recommendations to the Commission as it considers appropriate with respect to the continuing accreditation of such laboratories, including recommendations to revoke the accreditation of any such laboratory.

(2) Approval by Commission required for revocation

The accreditation of a laboratory for purposes of this section may not be revoked unless the revocation is approved by a vote of the Commission.

(d) Transition

Until such time as the Commission provides for the testing, certification, decertification, and recertification of voting system hardware and software by accredited laboratories under this section, the accreditation of laboratories

and the procedure for the testing, certification, decertification, and recertification of voting system hardware and software used as of October 29, 2002, shall remain in effect.

(Pub. L. 107-252, title II, §231, Oct. 29, 2002, 116 Stat. 1684.)

Editorial Notes**CODIFICATION**

Section was formerly classified to section 15371 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

PART C—STUDIES AND OTHER ACTIVITIES TO PROMOTE EFFECTIVE ADMINISTRATION OF FEDERAL ELECTIONS**§ 20981. Periodic studies of election administration issues****(a) In general**

On such periodic basis as the Commission may determine, the Commission shall conduct and make available to the public studies regarding the election administration issues described in subsection (b), with the goal of promoting methods of voting and administering elections which—

(1) will be the most convenient, accessible, and easy to use for voters, including members of the uniformed services and overseas voters, individuals with disabilities, including the blind and visually impaired, and voters with limited proficiency in the English language;

(2) will yield the most accurate, secure, and expeditious system for voting and tabulating election results;

(3) will be nondiscriminatory and afford each registered and eligible voter an equal opportunity to vote and to have that vote counted; and

(4) will be efficient and cost-effective for use.

(b) Election administration issues described

For purposes of subsection (a), the election administration issues described in this subsection are as follows:

(1) Methods and mechanisms of election technology and voting systems used in voting and counting votes in elections for Federal office, including the over-vote and under-vote notification capabilities of such technology and systems.

(2) Ballot designs for elections for Federal office.

(3) Methods of voter registration, maintaining secure and accurate lists of registered voters (including the establishment of a centralized, interactive, statewide voter registration list linked to relevant agencies and all polling sites), and ensuring that registered voters appear on the voter registration list at the appropriate polling site.

(4) Methods of conducting provisional voting.

(5) Methods of ensuring the accessibility of voting, registration, polling places, and voting equipment to all voters, including individuals with disabilities (including the blind and visually impaired), Native American or Alaska Native citizens, and voters with limited proficiency in the English language.



U.S. ELECTION
ASSISTANCE
COMMISSION

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ACCREDITED LABORATORIES

The following voting system test laboratories have been accredited by EAC to test voting systems. For more information about the test laboratory accreditation process, visit the **National Institute of Standards and Technology**.
(<http://www.nist.gov/itl/vote/>)

Accredited Test Labs

NTS Huntsville (<http://www.nts.com/locations/huntsville>) (formally Wyle Laboratories)

7800 U.S. Highway 20 West

Huntsville, AL 35806

Ryan Chambers, Voting Systems Program Manager

Phone: 256-716-4225

03/05/14 -- **NTS completes acquisition of Wyle Laboratories, Inc.**

04/11/12 -- **Wyle Quality Assurance Letter of Agreement**

04/11/12 -- **Wyle Quality Assurance Letter**

05/04/10 -- **Wyle Accreditation Certificate**

10/14/09 -- **Wyle Quality Assurance Letter**

10/04/07 -- **Wyle Accreditation Certificate**

09/25/07 -- **Wyle Quality Assurance Letter**

01/11/07 -- **EAC letter to Wyle Laboratories on partisanship in the workplace**

Pro V&V (<http://www.provandv.com/>)

700 Boulevard South, Suite 102

Huntsville, AL 35802

Jack Cobb, President
Phone: 256-713-1111

02/24/15 -- Pro V&V Accreditation Certificate

SLI Compliance, a Division of Gaming Laboratories International, LLC
(<http://www.slicompliance.com/>) (formerly SLI Global Solutions/SysTest Labs)
4720 Independence Street
Wheat Ridge, CO 80033
Traci Mapps, Director of Operations
Phone: 303-422-1566

01/11/16 -- Letter on Company Name/Address Change

10/01/10 -- Letter on Company Name Change

07/29/09 -- SysTest Response to EAC on Site Assessment

07/16/09 -- SysTest Accreditation Certificate

06/18/09 -- Final SysTest Policy and Procedures Laboratory Audit Report

03/05/09 -- EAC Notice to SysTest Labs Lifting Suspension of Accreditation

02/05/09 -- SysTest notifies EAC: Premier files suit against SysTest

11/19/08 -- EAC Approval of SysTest Remedial Action Plan

11/05/08 -- SysTest Cure Plan

11/05/08 -- SysTest Labs Request to Cure EAC Program Non-Compliance

10/31/08 -- SysTest Labs letter to EAC Regarding Suspension Notice

10/31/08 -- EAC Suspension of Accreditation Notice to SysTest Labs

10/08/08 -- EAC letter to SysTest Labs

08/11/08 -- EAC letter to SysTest Labs

08/08/08 -- NVLAP letter to SysTest Labs

08/04/08 -- SysTest Labs Letter to EAC

(/sites/default/files/eac_assets/1/Page/SysTest%20Labs%20Letter%20to%20EAC%20August%204%202008.doc) -

07/25/08 -- **EAC letter to SysTest Labs**

07/03/08 -- **EAC letter to SysTest Labs**

11/20/07 -- Correspondence between EAC, Sequoia, SysTest and iBeta (Notice of Non-compliance update): **File 1** , **File 2** , **File 3**

09/12/07 -- **SysTest Labs response to EAC**

09/11/07 -- **EAC letter to SysTest Labs**

02/28/07 -- **SysTest Accreditation Certificate**

02/08/07 -- **SysTest Quality Assurance Letter**

01/11/07 -- **EAC letter to Systest Labs on partisanship in the workplace**

Expired Accreditation Test Labs

CIBER, Inc. (<http://www.ciber.com/>)

7800 Madison Blvd.

Suite 206

Huntsville, AL 35806

Phone: 256-895-2525

10/07/08 -- **CIBER Accreditation Certificate**

(/sites/default/files/eac_assets/1/6/CIBER_Accreditation_Certificate.jpg)

07/30/08 -- **CIBER Certification of Laboratory Conditions and Practices**

06/13/07 -- **EAC Letter to Election Officials and Congress Terminating CIBER Interim Accreditation** (Congress)

06/13/07 -- **EAC Letter to CIBER Terminating Interim Accreditation**

06/12/07 -- **EAC Memo & Tally Vote to Terminate CIBER's Interim Accreditation**

05/15/07 -- **CIBER Response to EAC Request**

05/18/07 -- **EAC Letter to CIBER**

02/01/07 -- **EAC Letter to CIBER Requesting Action**

01/26/07 -- EAC Letter to CIBER Explaining Close of Interim Accreditation Program

01/26/07 -- EAC Letter to CIBER Regarding Incomplete Assessment Records not Posted to EAC Website

01/03/07 -- Letter from CIBER to EAC Seeking Clarification for Not Recieving Accreditation

12/06/06 -- CIBER Follow-up Interim Accreditation Assessment

09/15/06 -- EAC Letter to CIBER Concerning Quality

07/17/06 -- EAC Assessment of CIBER and Wyle, Huntsville, AL

07/10/06 -- EAC Assessment of Systest Labs and Percept Technology Labs

iBeta Quality Assurance (<http://www.ibeta.com/>)

3131 South Vaughn Way, Suite 650

Aurora, CO 80014

Mike Stark, Director of Sales and Marketing

Phone: 303-627-1110

11/29/10 -- iBeta's Intention to Withdraw from EAC VSTL Program

07/28/09 -- Final iBeta Policy and Procedures Audit Assessment Report

07/16/09 -- iBeta Accreditation Certificate

02/28/07 -- iBeta Accreditation Certificate

02/07/07 -- iBeta Quality Assurance Letter

InfoGard Labs (<http://www.infogard.com/>)

641 Higura St., Second Floor

San Luis Obispo, CA 93401

Tom Caddy, General Manager and Laboratory Director

Phone: 805-783-0889

11/05/08 -- NVLAP Letter Regarding Expiration of InfoGard Accreditation

06/20/07 -- InfoGard Accreditation Certificate

- 1.6.2. State officials have responsibility for testing voting systems to ensure the system will support the specific requirements of each individual state. States may use EAC-accredited VSTLs to perform testing of voting systems to unique state standards while the systems are being tested to the VVSG. However, the EAC does not certify voting systems to state standards.
 - 1.6.3. State or local officials are responsible for deciding if an EAC-certified voting system complies with state laws and making the final acquisition decision based on which voting system offers the best fit and value for their specific state or local jurisdiction.
- 1.7. Conformity Assessment, Generally.** According to ISO/IEC 17000, conformity assessment is the "demonstration that specified requirements relating to a product, process, system, person or body are fulfilled." Conformity assessments exist to protect the quality and ensure compliance with standards of products and services, and attempt to answer a variety of questions:
- 1.7.1. *What specifications need to be met for a system to be in compliance?* For voting systems, the VVSG and its associated test assertions need to be met. States and local jurisdictions also have supplemental standards and legislative requirements.
 - 1.7.2. *How are systems tested against required specifications?* The Program is a central element of the larger conformity assessment and provides for the testing and certification of voting systems to versions of the VVSG adopted by EAC Commissioners and deemed current.
 - 1.7.3. *Are the testing authorities qualified to make an accurate evaluation?* The EAC accredits VSTLs, after the National Institute of Standards and Technology (NIST) National Voluntary Lab Accreditation Program (NVLAP) has reviewed, and approved, their technical competence and lab practices to ensure the test authorities are fully qualified. Furthermore, the EAC reviews and approves all test plans and test reports from VSTLs to ensure an accurate and complete evaluation.
 - 1.7.4. *Will manufacturers deliver units within manufacturing tolerances equivalent to those tested?* This manual requires manufacturers to have appropriate change management and quality control processes to monitor the quality and configuration of their products. The Program provides mechanisms for the EAC to verify manufacturer quality processes through field system testing and manufacturing site audits. States have implemented policies for acceptance of delivered units.
- 1.8. Test Assertions.** Many of the VVSG requirements focus on design at a high level and may be open to interpretation. In order to thoroughly test these requirements, manufacturers and VSTLs need the ability to break down each VVSG requirement into unambiguous, specific, and testable conditions. Test assertions are a method to accomplish this. The test assertions contain granular conditions that must be tested to determine conformance to specific VVSG requirements. The overall goal of the assertions is to ensure that the VSTLs test each requirement in the VVSG correctly and comprehensively. EAC staff will regularly review and revise the test assertions with feedback from VSTLs, manufacturers, election officials, NIST, and other stakeholders and will