

1 New York State Board of Elections Plan for HAVA Compliance
2 January 4, 2008
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4 Pursuant to the December 20, 2007 direction of the Court, upon the
5 Record, the Defendant State Board of Elections (NYSBOE) offers the following
6 as its Plan of Compliance with the Court's June 2, 2006 Remedial Order:

7 A. Ballot Marking Device:

8 Since the submission of the two separate Plans of Compliance by NYSBOE
9 and the Defendants' submission in Opposition to the Department of Justice's
10 Motion to Enforce the June 2, 2006 Remedial Order, NYSBOE respectfully
11 advises the Court and the Department of Justice that:

- 12 • Attached as Exhibit "C", is a time line which identifies the tasks required to
13 achieve interim HAVA compliance in 2008, via the deployment and
14 implementation of at least one ballot marking device in each polling
15 location in the State of New York. Defendants NYSBOE, Kosinski and
16 Zalen are committed to this facet of the proposed Plan of Compliance
17 which they believe would address the minimum level of compliance which
18 the Court will accept, as indicated upon the Record on December 20,
19 2007.
- 20 • NYSBOE has completed initial tasks related to the re-bidding of contracts
21 for accessible ballot marking devices in order to allow the State to have in
22 place no later than February 29, 2008 a mechanism for increasing the
23 number of such devices from which county boards may make their
24 selections.

- 1 • To date the New York State Office of General Services (OGS) has
2 received submissions from the following vendors for both Lot 1 (full voting
3 systems) and Lot 2 (ballot marking devices) machines: Premier, ES&S,
4 Avante, IBS and Sequoia.
- 5 • NYSBOE and OGS have completed initial contract negotiations with
6 Premier, Avante and ES&S and negotiations with Sequoia are being
7 scheduled as set forth in Exhibit C attached hereto.
- 8 • Although much has been already accomplished to implement this Plan Of
9 Compliance, in many respects NYSBOE is at the mercy of the production
10 schedule of the vendors who have responded to the Notice to Bid and
11 their ability to produce a sufficient number of ballot marking devices in
12 time for the implementation of this Plan.

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14 B. Testing, Certification and Selection of Voting Systems:

15 Moving forward, NYSBOE respectfully advises the Department of Justice that:

- 16 • NYSBOE has completed the tasks related to re-bidding to secure the
17 services of an Independent Testing Authority (ITA), for the purposes of
18 conducting certification testing for all voting systems being proposed for
19 sale in New York. A complete contract award has been made as of
20 December 11, 2007 to SysTest, Inc. of Colorado which is currently
21 working up testing protocols.
- 22 • NYSBOE is proceeding with voting system testing forthwith, by reason of
23 completion of a contract award to the successful ITA, and currently

