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March 14, 2008

Hon. Gary L. Sharpe
United States District Judge
James T. Foley U.S. Courthouse
445 Broadway, Room 441
Albany, New York 12207

Re: *United States of America v New York State Board of Elections, et al.*
06-CV-0263 (GLS)

Dear Judge Sharpe:

We enclose the Defendant New York State Board of Elections' Weekly Status Report pursuant to your Order of January 16, 2008.

Respectfully submitted,

s/ _____
Allison M. Carr (513044)
Special Counsel

s/ _____
Paul M. Collins (101384)
Deputy Special Counsel

Attorneys for the New York State
Board Of Elections and Defendants
Valentine and Zalen

HAVA COMPLIANCE UPDATE

Activities & Progress for the Week of 03/7/08 - 03/13/08

Following is a detailed report concerning the previous week's progress in implementing the terms of the Court's Orders.

PLAN A

Overall Compliance Status Summary

Overall, activities and progress toward HAVA compliance are on schedule per the project timeline for Plan A.

Contracting with Voting System Vendors

Status of tasks in this category: *on schedule*

- No new developments to report this week.

Testing, Certification, and Selection of Voting Systems & Devices

Status of tasks in this category: *on schedule*

- Conducted weekly conference call meeting with SysTest, to review status of testing.
- SysTest efforts to evaluate work performed by the previous SBOE ITA (CIBER), as well as work completed during previous and/or current SysTest engagements, continued. The team is reviewing source code, documentation, and hardware testing information, to determine if previous activities may be leveraged against the current Lot I/Plan A test effort. Target completion date remains 5/15/08.
- SysTest and NYSTEC continued conference call/working meetings on the Requirements Matrix.
 - SysTest is currently reviewing NYSTEC feedback in response to the most recent draft version of the Requirements Matrix, which was forwarded last week.
- A discrepancy report on the external hash-checking source code from Dominion was forwarded to SBOE by SysTest. Five discrepancies were identified.
- Conducted weekly status meeting with NYSTEC to review status of all Plan A work activities.

- NYSTEC and SysTest continue to meet via conference calls, to work on planning and coordinating functional and security testing tasks for Plan A systems.
- NYSTEC is currently reviewing the SysTest draft Master Test Plan and TDP Review Plan. Preliminary feedback indicates that additional detail of test cases needs to be incorporated, and the mapping to specific requirements as identified in the VVSG needs additional work.
 - SysTest states that work continues on both sets of test plans, and that they are on schedule to submit to SBOE by 4/10/08, as expected. They are currently reviewing NYSTEC feedback and amending as needed.
- A demo is scheduled for 3/17/08 for another asset management product. Additional research by OGS revealed that the one product is considered a preferred source for purchasing in New York State. A determination regarding which asset management product to procure is pending, as requirements and funding are under discussion.
- SysTest is finalizing charges incurred for Avante testing, in preparation for a final accounting of Avante's financial status with regard to certification costs. (Avante recently withdrew from Lot I/Plan A certification.)

Delivery and Implementation of Voting Systems & Devices

Status of tasks in this category: *on schedule*

- No updates this week relative to this category.

PLAN B

Overall Compliance Status Summary

Overall, activities and progress toward HAVA compliance are on schedule per the project timeline for Plan B.

Contracting with Voting System Vendors

Status of tasks in this category: *on schedule*

- SBOE & OGS are preparing Change Notice Instructions to address those instances when purchase orders have been issued and a County Board subsequently seeks to make a change.
- SBOE & OGS are refining expectations regarding the approach to be taken for the placement of supply orders by County Boards. (Supplies are defined as items required for each system, such as consumables.)
- Voting system vendors who were awarded with interim certification were reminded that, per the *Purchasing Memorandum for Centralized Contracts for the Acquisition of Voting Systems and Ballot Marking Devices*, they are required to supply within 10 business days of State Board approval (i.e., certification), instructional materials for each product and component. This obligation was met by each vendor, by C.O.B. 3/12/08, as required.
- SBOE and NYSTEC are in the final stages of completing “*Vendor Escrow Waiver and Consent Agreement*” and “*Confidentiality Agreement*” documents. Additional meetings were held to resolve matters relating to the contractual arrangement which will be an aspect of negotiations with the selected vendor, Iron Mountain. Legal staff is currently reviewing the entire packet of escrow materials, as well as creating an exhibit document stipulating specific release conditions.

Testing, Certification, and Selection of Voting Systems & Devices

Status of tasks in this category: *on schedule*

- Activities and plans progressed for single-site Acceptance Testing of BMD's.
 - Supply and office equipment orders continue to be submitted; initial deliveries have begun.

- OGS has provided a key to allow SBOE convenient access to the testing site at Building 3. Staff are reviewing the space and making preliminary workflow and space layouts.
- OGS is working with the current occupant at Building 3 regarding a date for sole occupancy by SBOE.
- The Administrative and Certification Project Managers met with representatives from Kelly Services to discuss plans for staffing under the OGS contract for temporary personnel services. A preliminary quote was submitted by Kelly Services, identifying staff titles, term of service, and estimated cost. It is currently under review by SBOE and OGS.
- SBOE and NYSTEC staff have completed draft versions of system-specific checklists to be implemented during Acceptance Testing of BMD's.
- Conducted weekly status meeting with NYSTEC to review overall status of Plan B effort.
- NYSTEC has submitted additional revisions and recommendations for test decks to be used in BMD testing. SBOE feedback and discussion is expected to conclude late this week.
- NYSTEC is drafting system-specific physical security requirements for certified BMD's, as part of acceptance testing procedures.
- NYSTEC is developing system-specific physical security requirements for the receiving and storing of BMD's.

Delivery and Implementation of Voting Systems & Devices

Status of tasks in this category: *on schedule*

- A mandatory conference call meeting was scheduled to be held on 3/18/08 with voting system vendors, in order to provide an overview of the process for delivery to the single-site acceptance testing location in Albany; process flow for the testing that will be conducted; shipment from Albany to the respective County Boards; and, to respond to any remaining contractual or billing questions that vendors may have for OGS.
- OGS Receiving Procedures and payment process instructions for County Boards were finalized. This information is scheduled for distribution to all County Boards shortly.

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- OGS and SBOE refined documents detailing the billing and collection process for County Board matching funds. Once approved, invoices will be sent to each county, with additional invoices issued as additional purchase orders are processed by OGS. Consistent with the time line, payment of matching funds will be due from County Boards in April.
- OGS was tasked with drafting instructions to County Boards on the procedure for BMD training and related purchases.