



U. S. ELECTION ASSISTANCE COMMISSION
VOTING SYSTEM TESTING AND CERTIFICATION PROGRAM
1225 New York Avenue, NW, Suite 1100
Washington, DC. 20005

Notice of Clarification

NOC 09-002: Clarification of EAC Laboratory Independence Requirement

Issued by Program Director, May 4, 2009:

A handwritten signature in black ink, appearing to read "Bruce J. Hancock".

Section of Manual to Be Clarified:

Voting System Test Laboratory Program Manual:

2.11.1. Testing Independence. Consistent with the requirements of this Manual, only the lead VSTL identified on a voting system's application form may test or oversee the testing of that system. Under no circumstances may a Manufacturer perform or participate in any testing which will serve as the basis of an EAC certification. Participation includes but is not limited to the observation of testing by the Manufacturer. Additionally, lead VSTLs shall ensure that Manufacturers do not have access to a system under test unless accompanied and monitored by a VSTL representative.

Purpose:

This clarification is intended to further explain the EAC's program requirement for testing independence. Specifically, this NOC will clarify what is meant by the prohibition on manufacturer participation in testing. The EAC firmly believes that in order to conduct an independent conformance assessment of a voting system the manufacturer of that system must be kept separate from the testing being conducted. However, experience through various testing engagements has shown that the manufacturer can play an important role in ensuring proper set up and operation of the system under test. This NOC will clarify the role of the manufacturer during active system testing.

Clarification:

The EAC's Program Manual states in part, "Participation [in testing] includes but is not limited to the observation of testing by the Manufacturer." The purpose of this statement

is to reiterate that under no circumstances can a voting system manufacturer be present in the testing room while certification testing is being conducted. This prohibition is in place to ensure that the conformance testing being conducted is an independent evaluation of the system to the standards without influence or interference by the manufacturer.

The EAC does recognize that in some cases there is value in allowing manufacturers to witness a particular test or a re-creation of a test in order to allow them to comment on the proper system set up or operation. However, any such participation must be (1) at the discretion of the VSTL, (2) supervised by the VSTL and (3) clearly documented in order to maintain laboratory independence. Therefore, the EAC finds the following three situations to be allowable under section 2.11.1. of the *Voting System Test Laboratory Program Manual*:

1. The VSTL may at any time, and at its own discretion, halt an active certification test and bring the manufacturer into the testing room for a re-creation of the test being performed. If the VSTL chooses to do this it **must**:
 - a. Document the time and circumstance that cause a halt in testing.
 - b. Document the reason why the manufacturer's presence is needed.
 - c. Document the result of the test prior to re-creating the test for the manufacturer.
 - d. Document any re-running of the official EAC Certification Test. This documentation must include any change that occurred to the "as run" test case as a result of the re-creation and the result of the official test.
 - e. Have the test supervisor in charge of the project present for the re-creation of the test. If the test engineer conducting the test is also the test supervisor in charge of the project, one other VSTL employee **must** be present in the room during the re-creation of the test. The test supervisor present should be the most senior engineer or personnel assigned to the testing engagement. Documentation of the re-creation of the test should include lab personnel present at the time of the re-creation.
 - f. All documentation must be retained according to NVLAP and EAC requirements.

2. The VSTL may, at its own discretion, create for the manufacturer either a closed circuit video feed or web cam feed of the official EAC Certification Testing being conducted and allow for real time correspondence between test engineers and the manufacturers provided that:
 - a. All correspondence between the test engineers and the manufacturer is documented and retained.
 - b. Any changes to the testing that results from correspondence between the manufacturers and the VSTL is signed off by the VSTL project manager and provided to the EAC as part of the test report package.

3. The VSTL may, at its discretion, provide supervised access to the manufacturer prior to and during the official EAC Certification Testing to perform unscheduled and non-routine maintenance provided that:
 - a. All documentation related to the maintenance activities is recorded within the "as run" test case.
 - b. Any unscheduled maintenance that is performed is documented in the discrepancy report included as part of the test report materials.

Conclusion:

The EAC is committed to administering an efficient, rigorous, and transparent Testing and Certification Program. As part of that commitment it is imperative that VSTLs be given the tools necessary to conduct testing in an independent and efficient manner. It is the EAC's belief that this clarification maintains the high level of testing independence required in the program manual while allowing for greater efficiency in the testing process.