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March 7, 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' Revised 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)
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Attorneys for the New York State
Board Of Elections and Defendants
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HAVA COMPLIANCE UPDATE

Activities & Progress for the Week of 02/29/08 - 03/6/08

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*

- Concluded discussions with OGS relative to the performance bond and clarification of SBOE expectations concerning its form beyond terms set forth in the solicitation.

- Received formal notification from Avante International Technology, Inc. of their intent to withdraw from Lot I testing for certification.

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.

- Received formal submission by SysTest of their Master Project Plan deliverable, consistent with the timeline.

- SysTest indicates that their work with NYSTEC continues on the Requirements Matrix, particularly regarding items relating to security testing.

    - NYSTEC is scheduled to forward comments and suggested changes to the most recent draft version by 3/7/08.

- SysTest states that they are on schedule to submit a draft Master Test Plan to NYSTEC for review by 3/7/08. A follow-up conference call meeting of SysTest and NYSTEC is scheduled for 3/14/08. This effort is reported as on track for delivery of a final version by 4/10/08.

- SysTest and NYSTEC are scheduled for a conference call meeting during the week of 3/17/08 to discuss security and work on attack trees.

- A discrepancy report on the external hash-checking source code from Dominion will be forwarded to SBOE by SysTest by the end of this week.

- The SysTest test team is performing a review of test case templates and expanding the procedures to include additional detail.

- Evaluation of prior work by SysTest continues, with a target completion date of 5/15/08.

- SBOE and NYSTEC on-line access to the *SharePoint* program has been implemented by SysTest. This (secure) site will offer access to status reports, discrepancy documents, issues, calendaring, and other information relating to the work of the ITA.

- Conducted weekly status meeting with NYSTEC to review status of all Plan A work activities.

- NYSTEC, SysTest, and the SBOE Certification Project Manager conducted a four hour conference call meeting on 3/4/08 to discuss a number of issues in preparation for certification testing of the Plan A voting systems. Meetings will continue with the goal of working closely together so that the requirements and test plans for Plan A are fully understood and developed in a consistent, thorough manner. Key points from the discussion include:

    - Determining a way for SysTest and NYSTEC to share access to all test cases for easy review and feedback.

    - Defining a method for maintaining up-to-date change control between systems located in Denver and Albany.

    - Working out how regression testing will be done during the break fix period.

    - A recalculation of SysTest time requirements for the "run for record" tests and test report creation, in order to arrive at a deadline date for ceasing all Plan A voting system changes submitted by vendors.

- NYSTEC is drafting machine-specific physical security requirements for the certified BMD's that will be part of acceptance testing procedures, and will be performing another BMD review next week to further refine security requirements.

- NYSTEC & SBOE are working with OGS to identify procurement options relative to purchase of an asset management tracking system. The cycle

time for the procurement process may be shortened through leveraging of existing state contracts in use elsewhere.

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*

- On 3/5/08 SBOE received a decision by State Court Judge O'Connor regarding the *Liberty* case, denying both pending motions for contempt and a re-opening of the bidding process.

- OGS completed and distributed all purchase orders, as scheduled. Voting system vendors have 10 days to reject or question purchase orders, after which purchase orders are determined to be "accepted" by default. To date, neither SBOE nor OGS is aware of any issues from any vendor in this regard.

    - OGS also distributed a spreadsheet of the purchase orders that were issued, to both SBOE and each vendor.

- OGS continues to submit updated summaries of available HAVA funds for County Board purchases of BMD equipment, services, and support.

- Procedures and instructions for billing and collection of the county match and any overspending are being updated by OGS. Payment of the matching funds is due from County Boards by 4/18/08.

- SBOE continued work with NYSTEC to develop escrow procedures; an escrow waiver document; and language for the contractual agreement to be utilized with an escrow agent. Revised draft documents are in circulation for review and comment internally, with resolution of outstanding issues anticipated by the end of next week.

Testing, Certification, and Selection of Voting Systems & Devices

Status of tasks in this category: *on schedule*

- Project planning discussions continued regarding single-site Acceptance Testing of BMD's, which will serve as a pilot for the development of SBOE's approach to Plan A Acceptance Testing.

    - Orders for supplies and office equipment continue to be submitted.

- Arrangements are in process for a vendor session to discuss the approach for testing to be conducted, and SBOE expectations regarding shipping, labeling, and related particulars.

- Next steps discussions were held with Kelly Services (temporary personnel services contractor). Preliminary arrangements to address staffing needs are proceeding smoothly. Kelly Services has begun recruitment targeted toward the specific requirements identified by SBOE, and has initiated preparation of a quote.

- NYSTEC continues development 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.

- SBOE staff participated in EMS training on the AutoMARK, provided by ES&S.

Delivery and Implementation of Voting Systems & Devices

Status of tasks in this category: *on schedule*

- Revised draft receiving procedures provided by OGS are currently under review by SBOE staff. This information will be distributed to County Boards once finalized.

- An "Instructions to Vendors" document was sent to vendors along with purchase orders, requiring that vendors provide a production/delivery schedule within 15 days. Vendors were advised that this information will be used for status reporting to DOJ. Such detail will enable knowledge of delivery plans by county. Vendors were previously instructed to ship in purchase order number. The combined schedules provided by vendors will enable tracking of delivery to each county, and will satisfy the Plan B timeline task for County Board and voting system vendor's negotiation of delivery dates.