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January 18, 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:

Attached please find a copy of the State Board's Status report to the United States as required pursuant to the Court's order (Docket # 188).

Respectfully submitted,

___/S/_____
TODD D. VALENTINE (507572)
Special Counsel

___/S/_____
PAUL M. COLLINS (191384)
Special Deputy Litigation Counsel

Attorneys for the New York State Board
of Elections and the Defendants
Kosinski and Zalen

cc: All Counsel of record

HAVA COMPLIANCE UPDATE

Activities & Progress for the Week of 01/14- 01/18/08

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 contract negotiation sessions with all voting system vendors submitting bids for Plan A, except IBS, whom SBOE believes to be non-responsive

- Contract award notification letters prepared by OGS have been executed by SBOE and will be sent to vendors for counter-signature upon approval of the award by the Office of State Comptroller and the Attorney general, to be returned forthwith.

Testing, Certification, and Selection of Voting Systems & Devices

Status of tasks in this category: *on schedule*

- Took receipt of hardware, software, Applications for Certification, documentation, & users manuals submitted by Avante; initiated review of same

- Took receipt of hardware, software, Applications for Certification, documentation, & users manuals submitted by Liberty Election Systems; initiated review of same

- Took receipt of hardware, software, Applications for Certification, documentation, & users manuals submitted by Dominion; initiated review of same

- Participated in user training provided by Dominion

- Initiated inventory of all submitted systems, both at SBOE and SysTest (Independent Testing Authority) in Colorado, for a total of 8 Lot I submissions

- Continued internal discussion and research concerning SBOE escrow requirements (must be resolved at time of certification)

- Initiated weekly status meetings with SysTest (Independent Testing Authority)

- Received and reviewed preliminary draft Communications Management Plan from SysTest

- Finalized invoicing process and format with SysTest

Delivery and Implementation of Voting Systems & Devices
Status of tasks in this category: n/a

- Continued planning discussions with Kelly Services concerning their provision of temporary contract staff to support statewide acceptance testing

- NYSBOE and it's contractor, SOE, Software, will make a presentation at the NYS Election Commissioners' Association upcoming Annual Winter Conference to inform the members of the Poll Worker Training and Voter Education Project Plan. Also, introduction of the advisory committee members will be made.

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*

- Concluded contract negotiation sessions with all voting system vendors submitting bids for Plan B, except IBS, whom SBOE believes to be non-responsive
- Contract award notification letters prepared by OGS have been executed by SBOE and will be sent to vendors for counter-signature upon approval of the award by the Office of State Comptroller and the Attorney general, to be returned forthwith.
- Scheduled informational sessions with vendors to discuss County Board procedures for placement of Ballot Marking Device (BMD) orders
- Worked with the Office of General Services to develop ordering packet and informational materials for County Board order placement, including cost lists and order forms
- Worked with the Office of General Services to develop summary of available HAVA funds for purchases of BMD equipment, services, and support

Testing, Certification, and Selection of Voting Systems & Devices

Status of tasks in this category: *on schedule*

- Took receipt of hardware, software, Application for Certification, documentation & users manuals submitted by Avante; initiated review of same
- Took receipt of hardware, software, Application for Certification, documentation & users manuals submitted by Liberty Election Systems; initiated review of same

- Took receipt of hardware, software, Application for Certification, documentation & users manuals submitted by Dominion; initiated review of same
- Participated in user training provided by Dominion

- Initiated inventory of all submitted devices, both at SBOE and with SysTest in Colorado, for a total of 6 Lot II submissions

- Initiated weekly status meetings with SysTest

- Continued review and analysis of draft testing requirements matrix with SysTest and NYSTEC

- Received and reviewed preliminary draft Communications Management Plan from SysTest

- Finalized invoicing process and format with SysTest

- Requested and received a cost estimate from SysTest for testing of a single Lot II system

- Scheduled and held demonstration session with Citizen's Election Modernization Advisory Committee (CEMAC) to review and provide comment to SBOE Commissioners on BMD's submitted for certification under Lot II bidding

Delivery and Implementation of Voting Systems & Devices
Status of tasks in this category: *on schedule*

- Modified asset management system to accommodate BMD equipment tracking

- Continued preparations to identify and secure Albany location for the conduct of acceptance testing of BMD's and pre-election testing

- Met with space planning staff from the Office of General Services to map out requirements for Albany location

- Continued development of proposed test deck and procedures to be utilized in acceptance testing of logic & accuracy of BMD's

- Continued planning discussions with Kelly Services concerning their provision of temporary contract staff to support statewide acceptance testing

- Continued refining "roles & responsibilities" documenting participation expectations for all parties (SBOE, County Boards, NYSTEC, temporary contract staff, vendors) involved in the conduct of acceptance testing of Plan B devices

- NYSBOE and it's contractor, SOE, Software, will make a presentation at the NYS Election Commissioners' Association upcoming Annual Winter Conference to inform the members of the Poll Worker Training and Voter Education Project Plan. Also, introduction of the advisory committee members will be made.