

Summary of and Response to Comments on the U.S. Election Assistance Commission's Voting System Test Laboratory Accreditation Program Manual

The EAC did not receive any comments regarding the Paperwork Reduction Act (PRA) requirements of this information collection. In accordance with PRA, the information collection was published on the Federal Register on February 2, 2008 (73 FR 6494) and on August 25, 2008 (73 FR 50140). However, in addition to the PRA notices, the EAC requested substantive comments on the *Voting System Test Laboratory Accreditation Program Manual* on February 2, 2008 (73 FR 6495). The EAC received thirty-eight substantive comments from the public. The majority of these comments came from voting system test laboratories, with the remainder coming from the general public. As such, the comments are described below along with a summary of changes made to the information collection since it was first published on the Federal Register.

The majority of comments received by the Commission raised concerns or questioned the meaning or application of various provisions of the manual. Another block of comments were less specific and focused on the fundamental purpose behind the program or its basic methodology. Comments in this category included concerns regarding the level of allowable participation by manufacturers in the testing process and the responsibilities of Voting System Test Laboratories regarding third party testing. Finally, there were a range of specific recommendations on a wide variety of topics. Examples include: (1) changing the scope of core and non-core testing; (2) clarifying who is responsible for the

validation of test methods; (3) allowing hardware mitigation by the manufacturer; (4) clarifying the scope of the use of prior testing in a testing campaign; (5) clarifying the restriction on testing at manufacturer owned or controlled facilities and the allowance of such activity in conjunction with the witness or trusted build; and (6) placing the responsibility for the proper identification of proprietary information on the manufacturer and not on the testing laboratory.

The EAC reviewed and considered each of the comments presented. In doing so, it also gathered additional information and performed research regarding the suggestions. The EAC's commitment to public participation is evident in the final version of the Laboratory Manual. The Manual has been enhanced in a number of areas in response to public comment. A total of about five pages have been added to the Manual.

Throughout the entire Manual the EAC added or amended language to clarify its procedures consistent with the comments it received. For example, to further clarify terminology used throughout the Manual eight terms were newly defined or significantly clarified in the definition section of Chapter 1. Additionally, the EAC made changes to clarify the independent role of Voting System Test Labs in the program, enhance the supervision requirements of EAC accredited laboratories over third party contracted laboratories, and further defined the level of detail required by the EAC on test plans, test cases, and test reports. Finally, the EAC clarified financial stability documentation requirements for laboratories seeking accreditation.

Significant Changes to Manual by Chapter

Chapter 1

- Added definitions for *Lead Voting System Test Laboratory* and *ISO/IEC*.

Chapter 2

- Added the parent corporation to the entities covered by the prohibited practices restrictions.
- 2.5.2. Added a restriction limited the laboratory, Parent Corporation, or laboratory employee from participating in the development of a voting system.
- 2.5.2.1.3 Added a section allowing the manufacturer to conduct hardware mitigation at the laboratories facility given certain conditions defined in 2.5.2.1.3.1. – 2.5.2.1.3.5.
- 2.5.3.1.1. and 2.5.3.2.1. Required annual collection of conflict of interest documentation.
- 2.5.3.3.1.1. Added that the collection of any information from third party laboratories for the purposes of conflict of interest shall be done prior to the execution of a contract and annually from that point on.
- 2.5.3.3.2. Added clarifying language regarding VSTL direct supervision of third party testing in lieu of collecting information regarding conflict of interest. The VSTL may now directly supervise the third party laboratory with an employee who is properly informed regarding the conflict of interest provisions, is competent to supervise the testing being performed, and has no financial interest in the third party laboratory they are supervising.
- 2.5.4.4. Added a requirement for the EAC's program director to publish all waiver denials regarding prohibited practices and conflict of interests.
- 2.10.2. Added a section requiring the submission of test cases by the VSTL for EAC review.
- 2.10.3. Added a section regarding the level of testing expected by the EAC including ISO and NIST practices.
- 2.10.4.1. Removed cryptographic testing from the definition of Core Testing.
- 2.10.4.2. Added a section allowing for the use of non-accredited laboratories for non-core testing provided (1) there is no recognized laboratory available to do the testing and (2) the VSTL has conducted a thorough assessment of the labs capabilities.
- Added footnote #4 defining non-core cryptographic testing.
- 2.10.6. Removed the presumption of validity of previously performed tests by a VSTL. Instead VSTL's may choose to use previously performed tests if certain conditions are met.
- 2.10.6.4. Created a requirement for the VSTL to review all prior testing before use and confirm that there are no errors or omissions in the testing. All errors or omissions shall be reported to the EAC.
- 2.11.1. Defined participation in testing by a manufacturer to include but not be limited to the observation of testing by the manufacturer.
- Added footnote #6 limiting the definition of testing activities to not include trusted or witness builds.

- 2.11.5. Defined and provided examples of “substantive discussions” between the manufacturer and the VSTL that must be documented.
- 2.14.1-2.14.2. Defined standards of documentation for VSTL financial stability in the areas of solvency and insurance coverage.
- Added footnote #7 allowing VSTLs to go to the manufacturers facilities for the creation of witness and trusted builds.

Chapter 3

- 3.4.1.9. Added a requirement for the laboratories to provide documentation of their commercial general liability.

Chapter 4

No Changes

Chapter 5

- 5.7. Added section requiring a VSTL who has had its accreditation revoked prior to the completion of testing to provide all required information contained in section 2.10.7. of the manual. Also, added a reference to section 4.3.1.2. of the EAC’s *Voting System Testing and Certification Program Manual* allowing manufacturers to request a replacement VSTL in certain circumstances.

Chapter 6

No Changes

Chapter 7

- Added footnote #9 allowing the VSTLs to ask the manufacturer’s help in identifying any information it believes to be a trade secret or confidential commercial information, provided all communications are made in writing.

Appendix A

No Changes

Appendix B

No Changes

Appendix C

- Added the certification of laboratory conditions and practices letter that must be submitted by the VSTL before it can be accredited.

Appendix D

No Changes