



**U.S. ELECTION ASSISTANCE COMMISSION**  
**1225 New York Ave. NW – Suite 1100**  
**Washington, DC 20005**

MEMORANDUM

TO: Commissioners Davidson, Rodriguez, Hunter and Hillman

FROM: Thomas Wilkey  
Executive Director

DATE: June 7, 2007

RE: Approval to Terminate the Review of CIBER's application Under EAC  
Interim Laboratory Accreditation Program

BACKGROUND:

As required by Section 231 of the Help America Vote Act of 2002 (42 U.S.C. §15301 *et al.*), the EAC is mandated to provide for the testing, certification, decertification, and recertification of voting systems. To accomplish this goal, the Commission is required to first develop a process for accrediting independent, non-Federal testing laboratories. As a part of this process, NIST is required to evaluate and provide a list of recommended laboratories to the EAC. Ultimately, laboratories accredited by the EAC will test voting systems in accordance with applicable EAC standards or guidelines and consistent with the requirements of EAC's Certification Program.

The EAC initiated the first phase of its certification program on July 24, 2006. This interim phase of the program focused on providing voting system manufacture's a temporary certification procedure to meet the immediate needs of elections officials as they fielded voting system modifications for the November 2006 general election. It was vital that the EAC have accredited laboratories for this program to function. As of that date, the EAC had not received a list of recommended laboratories from NIST, and was informed that such a list would not be delivered until after the November election. Under these circumstances, EAC took action to provide an interim accreditation process in order to meet the needs of the election community and voters and to ensure there would be no gap in certification service. To this end, the EAC initiated technical assessment reviews of laboratories previously accredited by the National Association of State Election Directors (NASED).

CIBER was one of three laboratories involved in this process, along with Wyle Laboratories and SysTest Laboratories LLC. SysTest and Wyle both received their interim accreditations in August of 2006.

Per the requirements of 42 U.S.C. §15371(a)(2)(B), the EAC published an explanation for the accreditation of laboratories without receipt of a recommendation from the National Institute of Standards and Technology (NIST).

The initial EAC assessment of CIBER revealed a number of management, procedural and policy deficiencies that required remedial action before the laboratory could be considered for accreditation. These deficiencies are identified in the initial CIBER/Wyle report. They were also brought to the attention of CIBER's President of Federal Solutions in a letter from EAC's Executive Director dated September 15, 2006. The letter outlines, consistent with recommendation of EAC's assessor, the steps the laboratory must take to achieve compliance. The letter required CIBER to:

- a. *Assign resources, adopt policies and implement systems for developing standardized tests to be used in evaluating the functionality of voting systems and voting system software. Neither ITA Practices, Ciber nor any of its partners will be permitted to rely on test plans suggested by a voting system manufacturer.*
- b. *Assign resources, adopt policies and implement systems for quality review and control of all tests performed on voting systems and the report of results from those tests. This shall include provisions to assure that all required tests have been performed by ITA Practices, Ciber or its accredited partner lab.*

Finally, the letter required an additional "follow-up" assessment of the laboratory.

The follow-up assessment of CIBER was performed by EAC's assessor in December of 2006. In the findings, the assessor recognized significant changes CIBER had made to its program in response to the initial assessment, including new policies regarding test procedures, management and personnel. The report also noted a number of non-conformities that had yet to be addressed by the laboratory.

In a letter dated January 3, 2007, CIBER provided a written response to EAC's follow-up assessment and report. The response sought to address the deficiencies noted in the December assessment. Additionally, CIBER officials requested to meet with EAC staff to discuss their January 3 response. This meeting took place at EAC on January 10, 2007. At the meeting, EAC staff informed CIBER that their report could not serve as the basis of accreditation because it failed to resolve all outstanding issues. A number of CIBER responses to noted deficiencies were listed as "TBD."

In a letter dated January 26, 2007, EAC notified CIBER that it had received from NIST its first list of recommended laboratories under the HAVA mandated laboratory accreditation program. CIBER was also notified in this letter that the EAC would vote to close the interim certification program, and that CIBER had 30 days to satisfy all remaining nonconformities in order to achieve interim accreditation and that if the

requirements were not met within that timeframe, EAC would no longer consider CIBER'S application for interim accreditation. On February 27, 2007, CIBER delivered to the EAC numerous documents containing additional information on the previously noted nonconformities.

The EAC's laboratory assessor continued the processes of formally reviewing CIBER's February response for adequacy until the May 1st receipt of a Memorandum from Wyle Laboratories notifying the voting systems community that they had recently increased their staff in pursuance of full VSTL accreditation by adding ex-CIBER employees Shawn Southworth and Jack Cobb. This notification prompted another EAC query to CIBER on May 11, 2007 noting this apparent change, asking for verification of the personnel change and noting that a response was due no later than May 18, 2007. The EAC inquiry also made it clear that a lack of response by this date or an inadequate response would result in the EAC terminating the ongoing actions related to interim accreditation. CIBER'S response of May 15, 2007 is attached to draft letter awaiting your action.

I therefore offer the following recommendations to the Commission:

RECOMMENDATION:

I recommend that the Commission vote to terminate the review of CIBER's application under EAC Interim Laboratory Accreditation Program and to approve the attached letter informing CIBER of the reasons for this action. In addition, I recommend that the Commission cause the letter to be posted on the EAC web site for the public record.