

Dear Mr. Hancock:

Certification test report number [06-V-DB-058-CTR-01](#)¹ is incorrect. Its recommendation to certify the system under test (found on page 37 of the report) is an express violation of paragraph B.5 of Volume II of the 2002 Voting System Standards.

The recommendation in Section 6 of the certification test report reads in whole:

SysTest Labs has successfully completed the testing of Premier's Assure 1.2 voting system. It has been determined that Assure 1.2 successfully met the required criteria of the Federal Election Commission Voting System Standards April 2002.

Based on testing scope and results, as detailed in this report, it is SysTest Labs' recommendation that the EAC committee grant certification of Premier's Assure 1.2 voting system.

This recommendation is an undeniable violation of paragraph B.5 of the 2002 VSS.

As you know, Howard Stanislevic and I, as well as others, have contended that the 2002 VSS and 2005 VVSG are standards in form only and without substance. The chief support for this criticism is paragraph B.5 of Volume II. This paragraph is identical in both the 2002 VSS and 2005 VVSG and reads [emphasis mine]:

*Of note, any uncorrected deficiency **that does not** involve the loss or corruption of voting data shall not necessarily be cause for rejection. Deficiencies of this type may include failure to fully achieve the levels of performance specified in Volume I, Sections 3 and 4 of the Standards, or failure to fully implement formal programs for qualify [sic] assurance and configuration management described in Volume I, Sections 7 and 8. The nature of the deficiency is described in detail sufficient to support the recommendation either to accept or to reject the system, and the recommendation is based on consideration of the probable effect the deficiency will have on safe and efficient system operation during all phases of election use.*

Mr. Stanislevic first [registered this objection](#)² two years ago. The most recent iteration of my objection to paragraph B.5 was during the EAC Round Table discussion held on April 24, 2008 ([page 54](#)³).

The certification test report, 06-V-DB-058-CTR-01 has the following 79 findings:

1. Functional, Accufeed will not feed ballots (Finding #1 page 38)
2. Doc, Batch Start card is not rejected (Finding #2 page 38)
3. Functional, Batteries are not functioning (Finding #1 on page 39)
4. Functional, BallotStation is not accepting voter access cards (Finding #5 on page 45)
5. Functional, TSX looping with use of AVPM II (Finding #6 on page 45)
6. Doc, Housing door does not fit over the canister (Finding #7 on page 45)
7. Doc, Provisional votes flow from the BallotStations up to GEMS is not clear (first Finding #4 on page 45)

8. Doc, User's Guide does not list the limitations of the VCE (Finding #8 on page 45)
9. Doc, VCE does NOT save loaded data unless POSITION 1 is loaded (Finding #9 on page 45)
10. Doc, Statement in #1 is incorrect and may need to be removed (Finding #10 on page 45 – note, this item references the following one)
11. Doc, Section 3.1 references out of date (first Finding #1 on page 45)
12. Functional, The AVPM I and II print modules are not operating (first Finding #2 on page 45)
13. Functional, Ballot Station freezes (second Finding #1 on page 45)
14. Doc, Doc does not provide information on Recall/Retain type C (second Finding #2 on page 45)
15. Doc, Installing and Removing the OSAA (Finding #3 on page 45 – note, this finding and other below are not explained)
16. Functional, Build failed, “failed to verify file” (second Finding #4 on page 45)
17. Doc, Section 8.3: Adding and Editing an Audio file (first Finding #2 on page 52 - unexplained)
18. Doc, Section 14.4: Exporting Required Translations (first Finding #3 on page 52 - unexplained)
19. Doc, Section 5.3: Importing Election Data into AIMS (Finding #4 on page 52 - unexplained)
20. Doc, Section 15.1: Importing Text Translations (Finding #5 on page 52 - unexplained)
21. Doc, Section 4.1: Getting Started (Finding #6 on page 52 - unexplained)
22. Doc, Section 4.2: Logging On (Finding #7 on page 52 - unexplained)
23. Info, Section 5.1: Setting Up a New Election in AIMS (Finding #8 on page 52 - unexplained)
24. Info, Section 5.1: Setting Up a New Election in AIMS (Finding #9 on page 52 - unexplained)
25. Doc, Section 5.1: Setting Up a New Election in AIMS (Finding #10 on page 52 - unexplained)
26. Doc, Section 5.3.1: Importing Diebold GEMS Data (Finding #11 on page 52 - unexplained)
27. Doc, Section 12.8: Languages (Finding #12 on page 52 - unexplained)
28. Doc, Section 12.8: Languages (Finding #13 on page 52 - unexplained)
29. Doc, Section 6.1: Removing the Ink Cartridge (Finding #1 on page 52 - unexplained)
30. Doc, Section 6.5.3: Setting the Admin Password (second Finding #2 on page 52 - unexplained)

31. Doc, Section 6.5.1: Printing the Operation Log (second Finding #3 on page 52 - unexplained)
32. Doc, Section 1.5: Assisting the Voter who uses an AT Device (first Finding #4 on page 53)
33. Functional, Audio script does not match text script (Finding #5 on page 53)
34. Functional, Ballot title not voiced on 2nd race screen (Finding #6 on page 53)
35. Doc, Section 1.3: Using the AutoMARK VAT with an AT Device (Finding #7 on page 53 - unexplained)
36. Doc, instructions/procedures are not provided (first Finding #8 on page 53)
37. Doc, Flash Memory Card the Pin # is not provided in the doc (first Finding #9 on page 53)
38. Doc, Japanese text for 'Write-in' different than what was input (first Finding #10 on page 53)
39. Functional, Both Chinese languages have the same text on select button (first Finding #11 on page 53)
40. Functional, Voting Instructions are not translated (Finding #3 on page 53)
41. Functional, Audio is not provided when voting with a UAID device (Not Supported) (second Finding #4 on page 53)
42. Doc, Issues with foreign fonts (second Finding #8 on page 53)
43. Doc, Section 4 - The listed fonts do not cover all Vietnamese characters (second Finding #9 on page 53)
44. Functional, Cannot select the Contrast or Large Text buttons with the Keypad on the R6 (second Finding #10 on page 53)
45. Functional, No visual cue for every error-type audio cue (second Finding #11 on page 53)
46. Doc, Section 12.1.3 of Appendix D is incorrect (Finding #12 on page 53)
47. Functional, 6 and the 4 keys on the keypad do not function as described (Finding #13 on page 53)
48. Informational, dB levels of 113-115 were consistently measured. (Finding #14 on page 53)
49. Functional, A tenth language is not selectable via the keypad device (Finding #15 on page 53)
50. Functional, Report was not found to exist (Finding #2 on page 53)
51. Functional, Error message when attempting to connect to Assure Security Service Host (first Finding #1 on page 59)
52. Doc, Missing information in the documentation on how to create the MDB file (second Finding #1 on page 59)
53. Functional, OSX unit allowed a blank ballot w/no message (third Finding #1 on page 59)

54. Doc, Document does not contain enough info to resolve the errors (first Finding #2 on page 59)
55. Functional, OSX unit failed when attempting to download via modem (first Finding #3 on page 59)
56. Functional, Central Scan application failed to open the system audit log (fourth Finding #1 on page 59)
57. Functional, Error can't connect to the security service host (second Finding #2 on page 59)
58. Doc, (discrepancy is not valid) (second Finding #3 on page 59)
59. Functional, users and roles that were assigned in the Access Control window are lost (first Finding #4 on page 59)
60. Functional, documentation does not specify how the user is notified when the Vote Center is finished loading (Finding #5 on page 59)
61. Functional, Users and Rolls lost that were assigned in the Access Control window (Finding #6 on page 59)
62. Functional, Messages block user from being able to run PCS (Finding #7 on page 59)
63. Doc, Unable to use "Next card" and "Previous card" buttons (Finding #8 on page 59)
64. Functional, Message – "workspace could not be opened" (Finding #9 on page 59)
65. Doc, VCE requires a commercial off the shelf (COTS), (fifth Finding #1 on page 59)
66. Doc, Voter Card Encoder does not have an ENTER button (third Finding #2 on page 59)
67. Doc, Acceptance Test do not match the steps for encoding a voter access card (third Finding #3 on page 59)
68. Doc, Prompts stated in the user's guide match do not match VCE (third Finding #4 on page 59)
69. Doc, User's guide does not explain what a master voter access card is (Finding #5 on page 60)
70. Doc, User's guide does not provide clear and detailed steps on how to overwrite a ballot key (Finding #6 on page 60)
71. Doc, No explanation of how to create a master voter access card (Finding #7 on page 60)
72. Functional, GEMSVoterCardData.txt file disappears (Finding #1 on page 64)
73. Doc, GEMS documentation does not specify how to setup a Blanket Open Primary (Finding #3 on page 69)
74. Functional, Exception error was encountered (Finding #4 on page 69)

- 75. Functional, 2.0.1 users guide is shown. The installed software is the 2.0.4 (Finding #6 on page 74)
- 76. Doc, Automark System Installation and Maintenance Guide procedures not adequate (Finding #1 on page 82)
- 77. HW, Unit inoperable; caused loss of data from the operations log (Finding #2 on page 82)
- 78. Doc, AutoMARK 3010 Poll Worker's Guide, no indication for message "Alert!" (Finding #3 on page 82)
- 79. Info, Changes in the total printed count in the operations log on the ATS VAT can be caused by abnormal shutdown (Finding #4 on page 82)

As an aside, a recommendation I would ask the EAC and or NIST to consider is to ask SysTest to sequentially number their findings. The numbering system used by SysTest makes it very difficult to reference a finding for later discussion. For example, there are 5 findings on page 59 alone which are all designated as *Finding #1*.

SysTest found 79 non-conformances to the standards. Of these 79 findings, 77 fit within the conformance exemption defined in paragraph B.5 of Volume II of the 2002 VSS (and the 2005 VVSG). For example, the findings (under my numbering) 33-49 are substantial non-conformances. These findings demonstrate the system under test fails to conform to the accessibility requirements for blind voters and the accessibility requirement for some foreign language voters. Another non-conformance (my number 72) involves the destruction of an election record. The destruction of an election record used in a federal election prior to 22 months after that election is a felony under [Title 42, Chapter 20, Subchapter II, § 1974](#)⁴. But, since none of these specific 18 non-conformances nor 59 of the remaining 61 non-conformances *involve vote loss or corruption of voting data*, none of these 77 non-conformances prevent a recommendation for certification.

It is because of the very broad nature of the paragraph B.5 that there is almost no failure to conform to the 2002 VSS (or the 2005 VVSG) that would prevent a system from being certified by the EAC or prevent qualification under the previous NASED/ITA program. The 2002 VSS and 2005 VVSG are made toothless because of the conformance exemption found in paragraph B.5. But, as broad and eviscerating as the conformance exemption of paragraph B.5 is, **it is not a blanket exemption**.

Findings 77 and 79 above involve the loss and corruption of vote data. Because these two findings involve the corruption and loss of vote data, the system under test **cannot** be recommended for certification under any circumstances. To make such a recommendation is to violate the 2002 VSS (and the 2005 VVSG).

In summary, SysTest found 79 non-conformances to the 2002 VSS. One of these (my number 72) makes the system illegal to use in a federal election. Many non-conformances render the system unusable as an accessibility device. But, because of the conformance exemption found in paragraph B.5 of Volume II, none of these finding prevent SysTest from recommending to the EAC that the system under test be certified. In fact, the system as tested but containing only 77 of the 79 non-conformances, is certifiable.

However, two of the non-conformances *involve the loss or corruption of voting data*. On the basis of these two findings, according to the 2002 VSS themselves, the system **cannot** be recommended for certification. SysTest erred when it made a recommendation to the EAC to certify this system.

Sincerely,

John Washburn

End notes

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http://www.eac.gov/files/voting_systems/Premier%20Assure%201.2%20Certification%20Test%20Report%20Rev01.pdf

2 http://www.votetrustusa.org/index.php?option=com_content&task=view&id=1299&Itemid=26

3 <http://www.eac.gov/News/meetings/News/meetings/EAC%20Roundtable%20042408.pdf>

4 http://www.law.cornell.edu/uscode/html/uscode42/usc_sec_42_00001974----000-.html