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August 22, 2007

**VIA E-MAIL TRANSMISSION
AND OVERNIGHT DELIVERY**

Brian Hancock
Director of Voting Systems Certification
U.S Election Assistance Commission
1225 New York Avenue, N.W.
Suite 1100
Washington, D.C. 20005

RE: Notice of Noncompliance- ES&S response

Dear Mr. Hancock:

Election Systems & Software, Inc. ("ES&S") is in receipt of your letter dated August 14, 2007, regarding the inclusion of a complete list of manufacturing and assembly facilities as part of our January 2007 registration with the EAC. Below we will address the substantive issue raised in your August 14 letter. First, I would like to reiterate that we have some concerns about the process through which this matter was handled by the EAC. The Commission plays an incredibly important role in overseeing the election process and maintaining voter confidence. At ES&S, because of our respect for the Commission's duties and authority, we have a strong record of working with EAC staff to comply with requirements and provide all necessary information and resources.

If, in the future, you or your staff has questions or concerns, we would appreciate an opportunity to address them with you directly. In this situation, the process through which you first posted a notice on your Web site and distributed it to election officials across the country, without contacting us first for explanation, created confusion and could undermine voter confidence in the entire field of elections. This has broad ramifications for everyone involved in carrying out elections: vendors, election officials, and even the EAC. Further still, this entire situation appears to have been driven by the promotion of a then yet-to-be-aired news media report. If we had been given the opportunity

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to present our information to you directly, we are confident this matter would have been resolved to your full satisfaction, without raising unnecessary concerns among the elections community we have served and supported for nearly 35 years.

After receiving your communication, we have dedicated an extraordinary amount of time to reviewing the facts surrounding this situation. Importantly, ES&S, at the time of our Manufacturing Registration to the EAC, made a deliberate and thorough effort to complete the EAC's Manufacturing Registration. There was never any intent by ES&S not to disclose or to misrepresent any portion of the registration information. In fact, the presence and activity of this assembly facility is widely reported to federal authorities. The Independent Testing Authority, Wyle Laboratories, under the accreditation of NASED's certification program, has performed multiple site inspections of the Manila facility in question over the course of several years. Those test reports have always been approved and submitted. Please know that, based on our understanding of Section 2 of the EAC's Testing and Certification Manual (which relates to manufacturing registration), ES&S made every effort to comply with the full requirements for the manufacturer registration process. Reflecting on our conversations following issuance of your notice, we have compiled (and have attached) a more detailed list of our prime manufacturer contractors and their sub-contractors, in an effort to fulfill the intent of this requirement.

In our registration, which was reviewed and approved by the EAC on March 12, 2007 (in your notice of registration approval), ES&S listed all of our prime contractors that have manufacturing and final assembly responsibilities for all products for which we are currently seeking EAC certification. These manufacturers are responsible for all final assembly of our final products. The names, addresses, and locations for these manufacturers were provided as required by the registration process.

Regarding the Manila facility, Pivot International of Lenexa, Kansas, is the prime manufacturer for ES&S' iVotronic system, various sub-components for the iVotronic, and the ES&S Model 100 optical scanner. ES&S and Pivot have a longstanding relationship dating back to 1998. Pivot sub-contracts and oversees the final assembly of the iVotronic and M-100 to Teletech Telesystems, Inc. ("TTI"), in Manila, Philippines, and has done so since 1998.

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