NYS BOARD OF ELECTIONS DECISION CONCERNING REQUEST FOR INTERPRETATION

Requestor(s)	Election Systems & Software Eric Wall – Director of Software Development

Request Date	August 19, 2008 {revised request} August 6, 2008 {original request}

NYS Election Law, Guideline, or Other Issue to be Clarified	2005 VVSG Volume 1 Section 5.2.2 *Self-modifying, dynamically loaded or interpreted code is prohibited, except under the security provisions outlined in Subsection 7.4. This prohibition is to ensure that the software tested and approved during the certification process remains unchanged and retains its integrity.*

Proposed Interpretation	ES&S does not believe the application of a COTS patch from a microcontroller manufacturer violates the intent of the cited section of the VVSG. The VSTL has verified the contents of the patch do not change and ES&S asserts it has no effect on the integrity of the machine.
NYSBOE Response Date	9/9/08
Conclusion	The New York State Board of Elections does not agree with the proposed interpretation provided in the RFI submitted by ES&S, and therefore does not allow the use of the bootloader module, as proposed therein.
NYSBOE Response	The Board bases its position upon the revised RFI as submitted and the subsequent supporting documents provided, as reviewed by both SysTest and NYSTEC. The consensus recommendation is that the bootloader module defined by ES&S is dynamic code, thus it is in violation of the 2005 VVSG, Volume 1, section 5.2.2, which prohibits

	self-modifying, dynamically loaded, or interpreted code. The exclusions identified in 2005 VVSG, Volume 1, section 7.4, are also pertinent to this issue, as they prohibit the activity described in the RFI unless managed by the voting system software.