BACnet TESTING LABORATORIES

APPEALS PROCEDURE

Revised May 8, 2007

BACnet is a registered trademark of ASHRAE. ASHRAE does not endorse, approve or test products for compliance with ASHRAE standards. Compliance of listed products to the requirements of ASHRAE Standard 135 if the responsibility of BACnet International (BI). BTL is a registered trademark of BI.

Introduction

The requirements that a product must meet in order to be eligible for a BTL listing are set by BACnet International (BI). Product testing is performed by test laboratories approved by BI. Testing results and the determination of whether or not a product has met the requirements for a BTL listing shall be made by the sole determination of BI. Notwithstanding the foregoing, the parties recognize that questions may arise regarding the interpretation of a requirement, specific decisions, or the test results in general. Such questions may, at the request of the Applicant, be addressed through the Appeals Procedure described in this document. The full costs of the Appeals Procedure shall be borne by the Applicant. The Appeals Procedure will allow a reasonable opportunity for the Applicant's concerns to be heard, reviewed, and, if determined on appeal to have substance, acted upon.

Applicants are encouraged to resolve disputes without recourse to the Appeals Procedure. Questions about the selection or execution of specific tests should be directed to the management of the test laboratory or to the BTL manager, and questions about test requirements should be directed to the BTL working group through the BTL manager.

Reasons for an Appeal

An Applicant that has submitted a product testing application to BI may appeal for any of the following reasons:

1. Applicant believes that a BI requirement for obtaining a listing is in some way inappropriate. Such an appeal may be filed before testing begins, while testing is underway, or after testing has been completed.

2. Applicant believes that the test laboratory responsible for testing Applicant's product has misinterpreted BI's requirements by selecting inappropriate tests. Such an appeal may be filed while testing is underway or after testing has been completed.

3. Applicant believes that the test laboratory responsible for testing Applicant's product performed a test incorrectly or has misinterpreted the results of a test. Such an appeal may be filed while testing is underway or after testing has been completed.

4. Applicant believes that circumstances exist that may have substantially impacted the ability of the test laboratory to perform, repeat, or communicate the results of testing in a professional and objective manner.

Initiating an Appeal

An appeal shall be initiated by written notice from the Applicant to the Executive Director of BI. The notice must include the following:

1. The reason(s) for the appeal;
2. Documentation supporting the appeal; and
3. A non-refundable deposit of $500 (U.S.) that will be applied to the cost of the appeal.

Applicant must file an appeal not later than six months after the completion of testing of a product, otherwise Applicant loses the right to appeal any decisions made by the test laboratory concerning that product. Applicant may halt an appeal filed previously by Applicant at any time by written notice to BI's Association Manager.

The Appeals Board

Applicant's appeal shall be heard by an Appeals Board consisting of three people selected by BI's Association Manager from a list of people previously approved by BI's Board of Directors. The members of the Appeals Board shall be selected for each appeal on the basis of their ability to render a fair judgment based on technical and business considerations. A person will be disqualified from serving on an Appeals Board if in the opinion of BI's Association Manager the person has a significant conflict of interest that is relevant to the appeal.

Once the members of the Appeals Board are selected, BI's Association Manager will provide the Applicant with the names and affiliations of the members of the Appeals Board. If the Applicant believes that one or more members of the Appeals Board will not be able to render a fair judgment, the Applicant may present relevant evidence to the BI's Association Manager, who after reviewing the evidence and contacting the parties involved may change the members of the Appeals Board.

Once the Applicant is ready to proceed with the Appeal, BI's Association Manager will officially seat the Appeals Board. The members of the Appeals Board will review the documentation supplied by the Applicant, materials supplied by other parties including the test laboratory and BI, and collect any other information that is relevant to the appeal. For each item being appealed, the Appeals Board will issue a decision. Each decision requires a majority vote of the members of the Appeals Board. The decisions may include any or all of the following:

- Reject an item in the appeal.
- Reverse the outcome of a specific test already performed by the test lab, if it is determined that the test lab incorrectly interpreted the test results.
- Require the test lab to remove, modify, substitute, or add specific tests in order to test BACnet functionality claimed by Applicant, if it is determined that the test lab chose tests that did not meet the requirements approved by BI.
- Require the test lab to rerun a test, if it is determined that the test lab incorrectly executed a particular test. Appropriate instructions shall be given to the test lab.
- Require the test lab to take additional steps to ensure that the tests are sufficiently documented and repeatable. Appropriate instructions shall be given to the test lab.
- Request the review of a particular test requirement by BI, if it is the opinion of the Appeals Board that the test requirement is not sufficiently clear.

- Request the review of a particular test requirement by BI, if it is the opinion of the Appeals Board that the test requirement is not appropriate.

The collection of decisions, the reasons for the decisions, and any minority opinions will be presented to BI's Association Manager in a written report. The report shall be completed within 30 days of the formation of the Appeals Board unless BI's Association Manager determines there are unusual circumstances and extends the deadline by an additional 30 days. Failure to deliver the written report by the deadline shall result in the appeal proceeding directly to the BI Board of Directors. Following the delivery of the written report, the Appeals Board shall be disbanded, although its members may be contacted by members of the BI Board of Directors if there is some question about the content of the report.

BI's Association Manager will provide a copy of the Appeals Board's report to Applicant and to the manager of the BTL.

Review of Test Requirements

If the Appeals Board's report requests the review of one or more test requirements, then BI shall complete such a review of those requirements not later than 30 days after the receipt of the report. The review will be conducted using procedures determined by BI. Such a review may result in the removal, modification, or addition of test requirements, and the new set of requirements shall apply to all of Applicant's products that are currently being tested and all products submitted for testing after the review is complete. BI's Association Manager will inform Applicant of the results of the review.

Appeal to BI's Board of Directors

Following the completion of the Appeals Board's report and any possible review of test requirements by BI, Applicant may appeal to BI's Board of Directors by written notice to BI's Association Manager. After reviewing the Appeals Board's report, considering Applicant's arguments, and obtaining any other relevant information, the Board of Directors will issue a decision. The decision reached by the Board of Directors is final and may not be appealed.

Applicant's appeal to BI's Board of Directors must be filed within the 60 days following the receipt of the Appeals Board's report. The Board of Directors shall issue a decision within 60 days of receipt of Applicant's appeal.

Implementation of Decisions

BI's Association Manager is responsible for the implementation of decisions reached as a result of this Appeals Procedure.

Confidentiality

BI does not guarantee that information pertaining to Applicant's appeal will be kept confidential. In particular, certain documents generated as a result of the appeal will be distributed to people that are involved in determining how BACnet products should be tested by the BTL, and summaries of appeals decisions may be published.

Appeal Cost

BI will invoice Applicant for the cost of the appeal. Applicant will be charged $500 in administrative fees, plus reasonable fees for time and expenses charged to BI by the Appeals Board members and the test laboratory. The maximum amount charged to Applicant for a single appeal will be $5,000. A single appeal may include multiple claims on a single product.

Delivery of Documents

All notices, reports, and other documents shall be sent by e-mail, fax, mail or courier, in each instance confirmed by certified mail return receipt requested, with notice to be given to the parties at their principal address as recorded in the official BI records.

Changes to the Appeals Procedure

Changes to the Appeals Procedure may be made at any time by BI. The current version of this document may be obtained free of charge from BI.