



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

March 10, 2006

Ms. Lillie Coney
Associate Director
Electronic Privacy Information Center (EPIC)
1718 Connecticut Ave, NW
Washington, DC 20009

Dear Ms. Coney:

This letter is in response to your two Freedom of Information Act (FOIA) requests received by the U. S. Election Assistance Commission (EAC) on February 3, 2006.

FOIA Request Number One

The first request sought records pertaining to all agency records concerning agency contracts awarded between July 9, 2004 and the date of your FOIA request, specifically documents regarding contracts involving employment of:

1. Britain Williams
2. Paul Craft
3. Current or former members of the Technical Guidelines Development Committee (TGDC)

No Records. After a review of its files the EAC has determined that it has no records pertaining to item 2.

Responsive records. Please find the responsive documents attached regarding Britain Williams (item 1). One three page document has been withheld. This document is covered by the Deliberative Process Privilege and exempted from release under 5 U.S.C. §522(b)(5). The document sought was a pre-decisional policy recommendation from EAC Counsel. Responsive records regarding item 3 (members of the TGDC), are similarly attached. The responsive records relate to Mr. Stephen Berger. Please note that your previous FOIA submissions also requested information pertaining to Stephen Berger, which EAC provided. Therefore, the information attached includes only new materials related to Stephen Berger that have been generated since your prior FOIA requests. Some of the communications responsive to request number one have been redacted in part. The removed portions contain personal information (such as home and e-mail addresses,

bank accounts and Social Security Numbers). This redaction is required by 5 U.S.C. §522(b)(6).

FOIA Request Number Two

The second request you submitted sought records concerning the EAC contract with Kennesaw State University, and the Voluntary Voting System Guidelines (VVSG) public comment process. Specifically, you requested the following:


1. Database of comments filed with the EAC on the Voluntary Voting System Guidelines tracking and management system.
2. The individuals or organizations and their comments on the Voluntary Voting System Guidelines.
3. The records related to the assignment of reference numbers as listed in the Tracking Management System.
4. Records that define or explain the meaning of the "Accept/Reject" designation in the Section Comments Sorted by Section Number document EAC provided under an earlier FOIA request.

No Records. EAC has determined that it has no documents related to items 3 and 4. However, even though it is not required by FOIA, we would like to take the opportunity to provide an explanation for items 3 and 4. In regards to the assignment of reference numbers, they were assigned in chronological order automatically by the database system as the comments were received. Regarding the meaning of "Accept/Reject," every comment received was reviewed. If a comment was labeled "accept," the entire comment or part of the comment was incorporated into the formation of the final VVSG. If a comment was labeled "reject," it was because it was not germane to the VVSG, or it was the same or similar to other comments. There was a third category of comments, labeled "carry-over." These comments were not incorporated into the 2005 VVSG, but were considered germane to ongoing voting system guidelines work, and were submitted to the National Institute of Standards and Technology and the Technical Guidelines Development Committee for future consideration.

Responsive Records. Regarding items 1 and 2, this information is available to the public on the EAC website at www.eac.gov by clicking on the VVSG link.

The EAC has decided to waive the processing fees for your request. If you interpret any portion of this response as an adverse action, you may appeal it to the Election Assistance Commission. Your appeal must be in writing and sent to the address noted on the above letterhead. Any appeal submitted, must be postmarked no later than 60 calendar days from the date of this letter. Please include your reasons for reconsideration and attach a copy of this letter.

Sincerely,

A handwritten signature in black ink, reading "Jeannie Layson". The signature is fluid and cursive, with the first name "Jeannie" written in a larger, more prominent script than the last name "Layson".

Jeannie Layson
Director of Communications
U.S. Election Assistance Commission

Attachments:

1. Your Request Letter (February 3, 2006);
2. Your Request Letter (February 3, 2006);
3. Responsive Documents



February 3, 2006

Fax 202-566-3127

Julie Thompson
FOIA Officer
United States Election Assistance Commission
1225 New York Avenue N.W., Suite - 1100
Washington, DC 20005

1718 Connecticut Ave NW

Suite 200

Washington DC 20009

USA

+1 202 483 1140 (tel)

+1 202 483 1248 (fax)

www.epic.org

RE: Freedom of Information Act Request

Dear Ms. Thompson,

This letter constitutes a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and is submitted on behalf of the Electronic Privacy Information Center (EPIC).

We are seeking the following records concerning the performance of the Election Assistance Commission's (EAC) agency contract number EAC-0544 awarded under no-bid circumstances to Kennesaw State University. The documents sought include:

- Database of Comments filed with the EAC on the Voluntary Voting System Guidelines found in the EAC's Voluntary Voting System Guidelines Tracking & Management System (see attachments). If possible, we request that you provide this on CD-Rom.
- The individuals or organizations and their comments on the Voluntary Voting System Guideline and the records related to the assignment of reference numbers as listed in the "Tracking Management System." (See attachment A).
- Records that define or explain the meaning of the "Accept/Reject" designation in the "Section Comments Sorted by Section Number" document provided by the agency under a FOIA request. (See attachment B).

For purposes of FOIA fee assessments, we request that EPIC be placed in the category of "news media" requester. The U.S. District Court for the District of Columbia has determined that EPIC qualifies for "news media," fee status, *EPIC v. Department of Defense*, 241 F.Supp.2d 5 (D.D.C. 2003). We also request a waiver of all processing fees, as release of this information will contribute significantly to the public's understanding of the activities and operation of the government.

Thank you for your consideration of this FOIA request. As the FOIA regulations provide, I look forward to your response within 20 working days. Should you require additional information, please contact me at 202-483-1140 x 111 or by e-mail at coney@epic.org.

Sincerely,

Lillie Coney
Associate Director

ELECTRONIC PRIVACY INFORMATION CENTER

epic.org

February 3, 2006

Fax 202-566-3127

Julie Thompson
FOIA Officer
United States Election Assistance Commission
1225 New York Avenue N.W., Suite - 1100
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Washington DC 20009

USA

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RE: Freedom of Information Act Request

Dear Ms. Thompson,

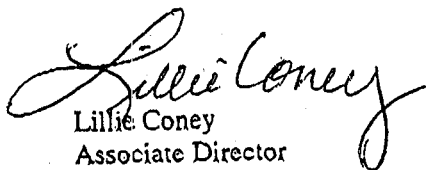
This letter constitutes a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and is submitted on behalf of the Electronic Privacy Information Center (EPIC).

We are seeking all agency records concerning agency contracts awarded between July 9, 2004 and the date of the receipt of this letter. The documents sought include, but are not limited to, documents regarding contracts, memoranda of understanding, and fee-for-service agreements in the employment of Brittain "Brit" Williams and Paul Craft by the U.S. Election Assistance Commission (EAC). We also seek documents regarding contracts, memoranda of understanding, fee-for-service agreements, and employment of other current or former members of EAC's Technical Guidelines Development Committee (TGDC).

For purposes of FOIA fee assessments, we request that EPIC be placed in the category of "news media" requester. The U.S. District Court for the District of Columbia has determined that EPIC qualifies for "news media" fee status, *EPIC v. Department of Defense*, 241 F.Supp.2d 5 (D.D.C. 2003). We also request a waiver of all processing fees, as release of this information will contribute significantly to the public's understanding of the activities and operation of the government.

Thank you for your consideration of this FOIA request. As the FOIA regulations provide, I look forward to your response within 20 working days. Should you require additional information, please contact me at 202-483-1140 x 111 or by e-mail at coney@epic.org.

Sincerely,



Lillie Coney
Associate Director

COPY



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

MEMORANDUM

FILE

TO: Diana Scott
FROM: Brian Hancock *BH*
RE: Personal Services Contract - ~~Stephen Berger~~
DATE: January 25, 2006

Attached is the justification document for a proposed personal services contract with Stephen Berger as well as the draft agreement. Please review the justification document. If money is available in the FY06 budget sufficient to fulfill the FY06 obligation under this agreement, please sign the justification document and forward it along with the draft agreement to Tom for approval.

I have made arrangements with Bert to send this to Tom via Federal Express. I have asked that all documents be returned to you upon approval and signature for processing the needed financial paperwork to fund this agreement.

Thank you for your assistance. If you have any questions, please let me know.

U.S. ELECTION ASSISTANCE COMMISSION
ADMINISTRATIVE DETERMINATION: SELECTION OF PERSONAL SERVICES
CONTRACTORS AND THEIR RATE OF PAY
(Contract 06-03, H. Stephen Berger)

Background

Section 231 of HAVA requires EAC to provide for the testing, certification, decertification and recertification of voting system hardware and software by accredited test laboratories. To carry out this mandate, EAC must define the laboratory accreditation process that will follow receipt of NIST recommendation for accreditation, and the EAC certification process. The system certification process should include the following elements: 1) submission and technical review of both voting system test plans and test reports, 2) qualification, application and training requirements for technical reviewers, 3) evaluation criteria for test plans and test reports, 4) forms and documentation requirements, 5) procedures for interpretation and clarification of the voluntary voting system guidelines, 6) procedures for the resolution of test lab and vendor disagreements on the interpretation and application of the voting system guidelines. Concurrent with assuming these responsibilities, EAC will also be responsible for appropriate record keeping and information dissemination related to these programs.

Position Description and Qualifications

The appointment related to this determination shall be for the intermittent employment of a contracted expert (contractor). The contractor will review existing EAC drafts of work processes, evaluation criteria, documentation requirements and other materials to become familiar with the current status of the work. The contractor will review technical issues identified by EAC staff related to the testing and certification program and provide recommendations for resolution. The contractor will call upon past experience with conformity assessment programs in other industries and provide an analysis of alternative methodologies and criteria and make recommendations regarding the appropriate process for application to the EAC certification model. Contractor will also assist EAC staff in completion of procedures and associated materials based on the appropriate methodology.

To complete development of the EAC testing and certification program, the project can be broken down into several discreet phases in 2006.

Phase 1 will include the development of documents and written procedures addressing manufacturer (vendor) registration, and application and evaluation criteria for technical reviewers as well as the development of training scenarios for these reviewers.

Phase 2 will include final drafting of all procedures, forms and documentation related to the actual voting system certification, decertification and recertification process, to include options for program transparency and overall public information and education initiatives.

Phase 3 will address the development of an appeal process and an interpretation and petition process related to the testing and certification program. This phase should also develop processes and procedures to address changes (both normal and expedited) to previously certified voting systems.

To accomplish these goals, the contractor must have prior experience dealing with government conformity assessment programs, and knowledge of standards, standards setting bodies and the practical applications of those standards when testing a specific product. More specifically, then contractor must have an intimate working knowledge of the FEC's 2002 Voluntary Voting Systems Standards and the EAC's recently adopted 2005 Voluntary Voting System Guidelines. The contractor should also have extensive knowledge of election administration in the U. S. and the interplay of voting systems in the larger election process.

Selection Process

As stated above, the needed expertise is unique in that the contractor must have experience and expertise in standard setting and testing as well as demonstrated knowledge of election systems and the election process. While there are a number of persons experienced in standards setting and testing, there is only one uniquely qualified individual who has experience and expertise in applying that experience to testing and certification of election systems for use in this nation's election process.

After review and research of available and qualified individuals, H. Stephen Berger was deemed by EAC as singularly qualified to assist EAC with completing and implementing the Voting System Testing and certification program required by the HAVA because of his unique combination of experience with standards setting and testing, knowledge of the election process, experience with election system standards and testing, and other related experience and technical skills.

Mr. Berger has over 20 years of experience with product development, technology planning and conformity assessment programs. Mr. Berger's resume is attached for reference. That document shows that as director for Field Sensing Products for EMCO, Mr. Berger worked with the test department and accomplished improving throughput of that program by five times, with no increase in personnel. This was accomplished by extensive automation and the invention of new, patented test technology. While working as a Senior Engineer in Wireless Terminals Compliance and as Project Manager for Standards and Regulations for Siemens Corporation, Mr. Berger had extensive experience interacting with all aspects of the conformance assessment program developed by the Federal Communications Commission (FCC) relating to the testing of various wireless communications devices.

Mr. Berger also has unique and extensive experience with election systems and the election process. Mr. Berger is a member of the IEEE Standards Board and chair of the IEEE EMC Society Standards Development Committee and of the IEEE Project 1583 standards for voting equipment. From 2000 to 2002, Mr. Berger assisted the Federal Election Commission (FEC) in the development of the 2002 Voluntary Voting System Standards as a member of IEEE, and currently serves on the EAC Technical Guidelines Development Committee which guided NIST

and EAC in the development of the 2005 Voluntary Voting System Guidelines. Mr. Berger has the unique experience of working on the EAC certification program. In 2005, he worked to assist the EAC in the initial conception and initial phases of development of the voting system testing and certification program.

Determination that Pay Rate is Fair and Reasonable

The pay rate of \$135 per hour is fair and reasonable given Mr. Berger's experience, expertise and unique qualifications. This rate is below the rate generally charged in the private sector for experts with Mr. Berger's background and technical expertise. Similarly qualified individuals routinely charge between \$125 and \$175 per hour for similar services as required by EAC. Furthermore, the rate contemplated for this contract is a 10% reduction in Mr. Berger's regular hourly rate.

Determination of Funds Availability

The proposed contract would span two federal fiscal years, FY06 and FY07. After review of the FY06 budget, it has been determined that \$78,000 is available in FY06 to fund the proposed contract. Furthermore, the proposed contract will be made subject to the availability of funding in FY07. The funding needed in FY07 to fulfill obligations under the proposed contract is \$38,000.

Conclusion

Given the reasons listed above, H. Stephen Berger is the one individual in the United States that can provide the EAC with the necessary skill sets to complete the task of developing the EAC lab accreditation and voting system testing and certification program in an expedited and cost effective manner.

Submitted by:

Funding Availability Confirmed by:

Brian Hancock, by permission
Brian Hancock
Date 1/25/06

[Signature]
Diana Scott
Date 1/25/2006

Approved by:

[Signature]
Thomas R. Wilkey, Contracting Officer
Date 1-30-06



U.S. ELECTION ASSISTANCE COMMISSION
1225 NEW YORK AVENUE, N.W., SUITE 1100
WASHINGTON, D.C. 20005

January 26, 2006

Mr. Stephen Berger
TEM Consulting, LP

Via Federal Express

RE: Personal Services Contract 06-03

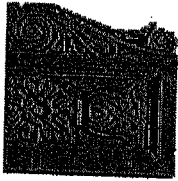
Dear Mr. Berger:

Enclosed are two copies of a proposed personal services agreement whereby you would provide expert services to the United States Election Assistance Commission regarding the development and implementation of a voting system certification and testing program. Please review this document. If you agree to the terms of the proposed contract, please execute both copies. Retain one copy for your files and return the other signed original to Diana Scott, EAC, 1225 New York Avenue, NW, Suite 1100, Washington, DC 20005 in the enclosed envelope.

We look forward to working with you. If you have any questions regarding this agreement, please feel free to contact Julie Thompson or Brian Hancock at 202-566-3100.

Sincerely,

Thomas R. Wilkey
Executive Director & Contracting Officer



Brian Hancock/EAC/GOV
01/25/2006 11:01 AM

To: Diana Scott/EAC/GOV@EAC
cc
bcc
Subject: Stephen Berger Contract information

Diana,
Gavin will very shortly be transmitting contract documents for Stephen Berger who we are hiring as an expert to assist us in completing the implementation of the testing and certification program. Funding is available in my budget for this contract. Since the contract goes over the end of this fiscal year, the budget breakdown is below.

FY '06 compensation approx. \$71,280
FY '07 compensation Approx. \$35,640 (assuming available funding)
FY '06 travel approx. \$6,500
FY 07 travel, approx. \$1,500

Stephen's information is:

Stephen Berger

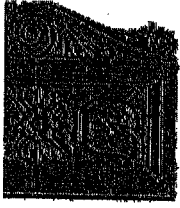


FILE

Brian

Brian Hancock
U.S. Election Assistance Commission
1225 New York Avenue, NW, Ste. 1100
Washington, DC 20005
202-566-3100
www.eac.gov

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Brian Hancock/EAC/GOV

01/25/2006 11:23 AM

To Thomas R. Wilkey/EAC/GOV@EAC

cc Juliet E. Thompson/EAC/GOV@EAC, Gavin S. Gilmour/EAC/GOV@EAC

bcc

Subject Contract with Stephen Berger to complete implementation of EAC testing and certification program

Tom,

You will shortly receive documentation which would allow us to enter into a contract with Stephen Berger. We need to enter into this contract with Mr. Berger so EAC can use his expert assistance to expeditiously complete the implementation of our voting system testing and certification program.

As you are likely aware, Mr. Berger is uniquely qualified for this task given his background in working with the FCC testing and certification program for wireless phones, as well as for his wealth of experience with the IEEE 1583 voting standards project, the FEC's 2002 Voting system Standards project, and through his role as a TGDC member in the development of our recently released 2005 VVSG. As you are also aware, Mr. Berger assisted the EAC in FY 2005 during drafting of the outlines and objectives of our testing and certification program.

Funding is available in FY 2006 to cover the cost of this contract. For FY 2006, labor and travel costs will be approximately \$77,780. Subject to the availability of funds in FY 2007, the remainder of Mr. Berger's labor and travel during our next fiscal year would be approximately \$37,140.

Given the above information, I recommend that we go forward and enter into this contractual agreement with Stephen Berger.

Brian

Brian Hancock
U.S. Election Assistance Commission
1225 New York Avenue, NW, Ste. 1100
Washington, DC 20005
202-566-3100
www.eac.gov

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EAC 06-003
Personal Services Contract for Intermittent Expert Services

Background

The Help America Vote Act of 2002 (HAVA) (42 U.S.C. §15301, *et sec.*), requires the U.S. Election Assistance Commission (EAC) to provide for the testing, certification, decertification, and recertification of voting systems. This mandate requires the Commission to create and manage a certification program for voting technologies. Moreover, HAVA requires the Commission to develop a program for accrediting independent, non-Federal testing laboratories. These accredited laboratories will test voting systems in accordance with the applicable Voluntary Voting Systems Guidelines and create a report which vendors will provide to the EAC for use in its system certification program.

Consistent with the HAVA requirements, above, the Commission is required to create a program that certifies voting systems. This program will be the first of its kind in the Federal government. The creation of this program is highly technical and specialized. Its development requires a high-level understanding of various technologies, standard setting, election administration and the certification process and procedure. Given these requirements, the EAC seeks an expert to assist the agency in creating its certification program.

Nature of the Appointment

The EAC enters into this contract pursuant to its authority to contract for consultants and experts under 5 U.S.C. §3109 (See 42 U.S.C. §15324(b)). As such, this contract is for personal services and creates a limited employment relationship. (See 5 C.F.R. §304). The initial appointment under this agreement shall be for the intermittent employment of an expert as defined by 5 C.F.R. §304.102(d) and (e). The expert (hereinafter "contractor") shall work as required by the EAC, without a regularly scheduled tour of duty. Under no circumstances may contractor work more than 858 hours during the one year term of this agreement (5 C.F.R. §304.103(c)(2)(i)).

Supervision and Management.

The EAC Manager and Contracting Officer's Representative (COR) for this effort is EAC Research Specialist Brian Hancock. Mr. Hancock will provide taskings, and authorize, supervise, review and approve all work and performance. He will also approve all labor hours on invoices and travel vouchers submitted for compensation under this agreement.

Period of Appointment.

The appointment under this contract is temporary and shall be for a period of one year.

The contract period shall begin the first Sunday after the date of award. The contract may be extended and contractor reappointed for an additional year upon agreement of both parties. (See 5 C.F.R. §304.103(c)).

Compensation

The consultant shall be paid at a rate of \$135 per hour. Contractor shall perform the services prescribed by this agreement as directed by the COR on an intermittent basis. **However, in any event, the contractor shall not work more than [33 hours] in either of the 2 two week periods that make up each four week pay period.** Further, as aforementioned, the contractor may not work more than 858 hours within the one year appointment. The dates of performance are flexible but shall be based upon the needs of the project and the EAC. COR shall provide contractor notice and authorization when performance under this agreement is required.

The consultant shall not incur overtime and is not eligible for premium pay under subchapter V of chapter 55 of title 5, United States Code. (5 C.F.R. §304.106(b)). The contractor, as an intermittent appointee, is also not entitled to sick or annual leave. Contractor will not receive compensation for Federal holidays when no work is performed. (5 C.F.R. §304.106(b)). The contractor shall **not** receive automatic adjustments of pay based upon 5 U.S.C. §5303. Contractor's pay rate may be increased at the sole discretion of the Contracting Officer, consistent with Federal regulations. Contractor may be reimbursed for other costs, such as local travel, consistent with this agreement if approved by the COR and submitted in writing via invoice.

Travel

The contractor may be required to travel on a periodic, as needed basis, throughout the duration of their appointment. All travel must be pre-approved by the EAC COR. The contractor will be reimbursed for hotel and ground transportation costs, proper incidental expenses, and per diem while on official, pre-approved EAC travel. Compensation for travel shall be made in accordance with the rates set forth in the Federal Travel Regulation.

Release of Information

As a result of the limited employment relationship created by this agreement, and pursuant to this agreement, you are required to follow all Federal laws and regulations as they relate to the release of agency documents and information. All research, information, documents and any other intellectual property (including but not limited to policies, procedures, manuals, and other work created at the request or otherwise while laboring for the EAC) shall be owned exclusively by the EAC, including copyright. All such work product shall be turned over to the EAC upon completion of your appointment term or as directed by the EAC. The EAC shall have exclusive rights over this material. You may not release government information or documents without the express written

permission of the EAC.

Compensation Procedures

Compensation shall be made for work done (labor hours) by submitting invoices. (Model Invoice Attached). Invoices shall be submitted every four weeks from the date of award. A week shall be from Sunday to Saturday. The first pay period shall begin the Sunday after the date of award. As such, there will be 13 invoice periods. Invoices must be submitted every 4 weeks when compensable work under this contract has been performed. The COR will provide the contractor with an invoice schedule, identifying each of the 13 invoice periods. Invoices shall be delivered to the COR for review and approval. Each invoice shall:

- (1) Identify each day (by date) that work was performed and the number of labor hours performed that day. Briefly describe the nature of the work performed for that day;
- (2) State the total number of labor hours that have been expended under the agreement for the invoice period;
- (3) State the total number of hours worked for each of the two week periods that make up the total invoice time;
- (4) Provide a cumulative total of hours worked during the entire contract performance period (one year);
- (5) Submit, as a separate line item, all reimbursable travel costs for approval. The submission must provide dates of travel, receipts and other information as required by the Federal Travel Regulation.
- (6) Include the contractor's signature, affirming that information contained in the invoice is accurate.

Duty Location

Contractor's duty station shall be his/her home or place of business. The contractor has access to and shall supply common office equipment to include telecommunications, internet access, a computer, office supplies, facsimile machine and common workplace software (including Microsoft Word, Project and Excel). All other resources will be provided by the EAC as needed and at its discretion.

Notices

Any notice, given by any of the parties hereunder, shall be sufficient only if in writing and delivered in person or sent by telegraph, telegram, registered, or regular mail as follows:

To EAC: 1225 New York Avenue, Suite 1100, Washington, DC 20005,
Attention: Contracting Officer Representative, Brian Hancock.

To Contractor: At EAC and at the Contractor's address shown on the Cover Page of this contract or to such other address as either of such parties shall designate by

notice given as herein required. Notices hereunder shall be effective in accordance with this clause or on the effective date of the notice whichever is later.

Areas of Responsibility (Statement of Work)

Generally, contractor will provide EAC with technical advice and products based upon his or her expertise and experience with similar conformity assessment programs towards the goal of implementing the EAC Voting System Testing and Certification Program following, as closely as possible, all applicable ISO guidelines as adapted to the unique needs and resources of the EAC.

The contractor will work with EAC staff to identify and develop all necessary components of a voting system Certification and Testing Program. This program is expected to include the following components: Application procedure and processes; test plan review procedures and policy; testing report review procedures and policy; policies regarding qualified test review personnel; Manufacturer (Vendor) Qualification policies; Detailed procedures and processes for appeals, formal interpretations and the granting or revocation of certifications; and Procedures for expedited testing of component parts of a previously certified voting system. Contractor will be responsible for identifying any additional policies or procedures the certification program may require.

Contractor is also responsible for assisting EAC staff in the development of materials necessary for the successful implementation of the program. These materials must include all necessary applications, forms, letters, certification notices, tracking documents and any other documents deemed necessary to allow the EAC to effectively manage and implement all phases of this program.

Terms and Conditions

The following additional terms and conditions shall apply to this personal services contract:

a. Federal Acquisition Regulation Clauses Incorporated by Reference:

This contract incorporates the following clauses by reference with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. These clauses may be obtained on the internet at <http://farsite.hill.af.mil/>.

- | | |
|-----------|--|
| 52.203-7 | Anti-Kickback Procedures (JUL 1995) |
| 52.203-12 | Limitation on Payments to Influence Certain Federal Transactions (Sept 2005) |
| 52.215-2 | Audit and Records -- Negotiation (Jun 1999) |
| 52.224-1 | Privacy Act Notification (APR 1984) |

52.224-2	Privacy Act (APR 1984)
52.232-17	Interest (JUN 1996)
52.246-25	Limitation of Liability-Services (FEB 1997)
52.252-4	Alterations in Contract (APR 1984)

b. Federal Acquisition Regulation Clauses in Full Text:

Contract Termination (FAR 52.249-12)

The Government may terminate this contract at any time upon at least 15 days' written notice by the Contracting Officer to the Contractor. The Contractor, with the written consent of the Contracting Officer, may terminate this contract upon at least 15 days' written notice to the Contracting Officer. (End of Clause)

Site Visit (FAR 52.237-1)

Offerors or quoters are urged and expected to inspect the site where services are to be performed and to satisfy themselves regarding all general and local conditions that may affect the cost of contract performance, to the extent that the information is reasonably obtainable. In no event shall failure to inspect the site constitute grounds for a claim after contract award. (End of Clause)

Protection of Government Buildings, Equipment, and Vegetation (FAR 52.237-2)

The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation on the Government installation. If the Contractor's failure to use reasonable care causes damage to any of this property, the Contractor shall replace or repair the damage at no expense to the Government as the Contracting Officer directs. If the Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost, which may be deducted from the contract price. (End of Clause)

Covenant Against Contingent Fees (FAR 52.203-5)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, expect a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

(b) "Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

"Bona fide employee," as used in this clause, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

"Contingent Fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

"Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.
(End of Clause)

Disputes (FAR 52.233-1), Alternate I

(a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d) (1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2)

(i) The contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding \$100,000.

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."

(3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the offer.

(h) The Government shall pay interest on the amount found due and unpaid from

(1) the date that the Contracting Officer receives the claim (certified, if required); or

(2) the date that payment otherwise would be due, if that date is later, until the date of payment.

With regard to claims having defective certifications, as defined in FAR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

- (i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer. (End of Clause)

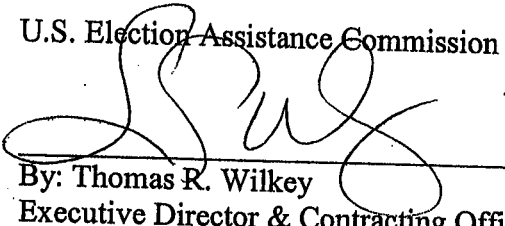
Availability of Funds for the Next Fiscal Year

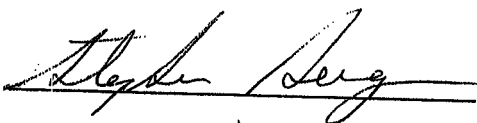
Funds are not presently available for performance under this contract beyond September 30, 2006. The Government's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise for performance under this contract beyond September 30, 2006, until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing by the Contracting Officer. (End of clause)

THUS agreed to and signed on the dates and in the locations specified below:

U.S. Election Assistance Commission

Stephen Berger


By: Thomas R. Wilkey
Executive Director & Contracting Officer



Date: 2-1-06

Date: 2/1/06

Location: Washington DC

Location: WASHINGTON, DC

COPY

ORDER FOR SUPPLIES AND SERVICES

IMPORTANT: See instructions in GSAR
553.370-300-1 for distribution

PAGE 1 OF 1 PAGES

1. DATE OF ORDER

2. ORDER NUMBER

3. CONTRACT NUMBER

4. A

02/27/06

EAC 06-003

E4019909

5. ACCOUNTING CLASSIFICATION

6. FINANCE DIVISION

FOR
GOVERNMENT
USE
ONLY

FUND 8036	ORG CODE TQM91100	B/A CODE 10	O/C CODE 25	AC	SS	VENDOR NAME
FUNC CODE 000	C/E CODE 516	PROJ./PROS. NO.	CC-A	MDL	FI	G/L DEBT
W/ITEM	CC-B	PRT./CRFT		AI	LC	DISCOUNT

7. TO: CONTRACTOR (Name, address and zip code)

Stephen Berger

8. TYPE OF ORDER

REFERENCE YOUR

☒ A. PURCHASE

Please furnish the following on the terms specified on both sides of the order and the attached sheets, if any, including delivery as indicated.

☐ B. DELIVERY

This delivery order is subject to instructions contained on this side only of this form and is issued subject to the terms and conditions of the above numbered contract

C. MODIFICATION NO.

AUTHORITY FOR ISSUING

9A. EMPLOYER'S IDENTIFICATION NUMBER

9B. CHECK, IF APPROP
☐ WITHHOLD
20%

10A. CLASSIFICATION

☒ A. SMALL
BUSINESS☐ B. OTHER THAN
SMALL BUS-
INESS☐ C. SMALL
DISADVANT-
AGED☐ D. SMALL
WOMEN-
OWNED11. ISSUING OFFICE (Address, zip code,
and telephone no.)U.S. Election Assistance Commission
1225 New York Avenue, NW, Suite 1100
Washington, DC 2000512. REMITTANCE ADDRESS (MANDATORY)
Remittance via EFT

10B. TYPE OF BUSINESS ORGANIZATION

☒ A. CORPOR-
ATION☐ B. PARTNER-
SHIP☐ C. SOLE13. SHIP TO (Consignee address, zip code and telephone no.)
Same as block 11

14. PLACE OF INSPECTION AND ACCEPTANCE

U.S. EAC, 1225 NY Ave., NW, Suite 1100, Wash., DC 20005

15. REQUISITION OFFICE (Name, symbol and telephone no.)

U.S. Election Assistance Commission

16. F.O.B. POINT

Destination

17. GOVERNMENT B/L NO.

18. DELIVERY F.O.B. POINT ON OR
BEFORE 02/01/2006

19. PAYMENT/DISCOUNT TERMS

Net 30

20. SCHEDULE

ITEM NO.

SUPPLIES OR SERVICES

QUANTITY
ORDERED
(C)UNIT
(D)UNIT PRICE
(E)AMOUNT
(F)

(A)

(B)

Under the authority of Public Law 107-252, dated October 29, 2002, establishing the U.S. Election Assistance Commission (EAC). Request to provide technical assistance in defining EAC system certification and lab accreditation processes. See attached consulting agreement.

FY 2006:
Labor: \$80,190.00; Travel: \$6,500.00
FY 2007: Subject to availability of funds
Labor: \$35,640.00; Travel: \$1,500.00

TOTAL COST OF CONTRACT: \$123,830.00

21. RECEIVING OFFICE (Name, symbol and telephone no.)

U.S. Election Assistance Commission (202) 566-3100

TOTAL
FROM
300-A(s)

\$123,830.00

22. SHIPPING POINT

23. GROSS SHIP WT.

GRAND
TOTAL

123,830.00

24. MAIL INVOICE TO: (Include zip code)

General Services Administration (FUND)

U.S. Election Assistance Commission

1225 New York Avenue, NW, Suite 1100

Washington, DC 20005

25A. FOR INQUIRIES REGARDING PAYMENT CONTACT:

Diana M. Scott

25B. TELEPHONE NO.

(202) 566-3100

26A. NAME OF CONTRACTING/ORDERING OFFICER (Type)

Thomas R. Wilkey, Executive Director

26B. TELEPHONE NO.

(202) 566-3100

26C. SIGNATURE

GENERAL SERVICES ADMINISTRATION

1. PAYING OFFICE

GSA FORM 300 (REV. 2-93)

PURCHASE ORDER TERMS AND CONDITIONS

52.210-70 FEDERAL, STATE, AND LOCAL TAXES (APR 1984)

The contract price includes all applicable Federal, State, and local taxes. No adjustment will be made to cover taxes which may subsequently be imposed on this transaction or changes in the rates of currently applicable taxes. However, the Government will, upon the request of the Contractor, furnish evidence appropriate to establish exemption from any tax from which the Government is exempt and which was not included in the contract price.

52.210-79 PACKING LIST (DEC 1989)

(a) A packing list or other suitable shipping document shall accompany each shipment and shall indicate (1) Name and address of consignor; (2) Name and address of consignee; (3) Government order or requisition number; (4) Government bill of lading number covering the shipment (if any); and (5) Description of the material shipped, including item number, quantity, number of containers, and package number (if any).

(b) When payment will be made by Government commercial credit card, in addition to the information in (a) above, the packing list or shipping document shall include: (1) Cardholder name and telephone number and (2) the term "Credit Card".

52.232-1 PAYMENTS (APR 1984)

The Government shall pay the Contractor, upon the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified in this contract, payment shall be made on partial deliveries accepted by the Government if: (a) The amount due on the deliveries warrants it; or (b) The Contractor requests it and the amount due on the deliveries is at least \$1,000 or 50 percent of the total contract price.

52.232-8 DISCOUNTS FOR PROMPT PAYMENT (APR 1989)

(a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a prompt payment discount in conjunction with the offer, offerors awarded contracts may include prompt payment discounts on individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the date on which an electronic funds transfer was made.

PROMPT PAYMENT

Prompt Payment clause 52.232-25 is incorporated in this contract by reference. The clause contains information on payment due date, invoice requirements, constructive acceptance and interest penalties. Certain portions of the clause regarding payment due date, invoice requirements, and constructive acceptance have been extracted for your convenience. All days referred to in the extracts below are calendar days.

(a)(2) . . . The due date for making invoice payments by the designated payment office shall be the later of the following two events:

- (i) The 30th day after the designated billing office has received a proper invoice from the Contractor.
- (ii) The 30th day after Government acceptance of supplies delivered or services performed by the Contractor . . .

(a)(4) . . . An invoice shall be prepared and submitted to the designated billing office specified in the contract. A proper invoice must include the items listed in . . . (i) through . . . (viii) . . . If the invoice does not comply with these requirements, then the Contractor will be notified of the defect within 7 days after receipt of the invoice at the designated billing office . . . Untimely notification will be taken into account in the computation of any interest penalty owed the Contractor . . .

- (i) Name and address of the Contractor.
- (ii) Invoice date.
- (iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).
- (iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.
- (v) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.
- (vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).
- (vii) Name (where practicable), title, phone number, and mailing address of person to be notified in event of a defective invoice.

NOTE: Invoices must include the ACT number (block 4) and shall be submitted in an original only, unless otherwise specified, to the billing office designated in block 24 to receive invoices. The "remit to" address must correspond to the remittance address in block 12.

(a)(6)(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day (unless otherwise specified in block 20) after the Contractor delivered the supplies or performed the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality or contractor compliance with a contract provision . . .

52.222-40 SERVICE CONTRACT ACT OF 1965, AS AMENDED - - CONTRACTS OF \$2,500 OR LESS (MAY 1989)

Except to the extent that an exception, variation, or tolerance would apply if this contract were in excess of \$2,500, the Contractor and any subcontractor shall pay all employees working on the contract not less than the minimum wage specified under Section 6 a) (1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201-208). Regulations and Interpretations of the Service Contract Act of 1965 are contained in 29 CFR Part 4.

52.222-41 SERVICE CONTRACT ACT OF 1965, AS AMENDED (MAY 1989)

52.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 1989)

(52.222-41 and 52.222-42 apply to service contracts when the amount exceeds \$2,500).

The GSA Form 2186, Service Contract Act of 1965 and Statement of Equivalent Rates for Federal Hires is attached hereto and made a part hereof.

52.252-2 CLAUSES INCORPORATED BY REFERENCE (JUN 1988)

This contract incorporates the following clauses by reference with the same force and effect as if they were given in full text. Upon request the Contracting Officer will make their full text available:

FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

Applicable to purchase orders for supplies or services:

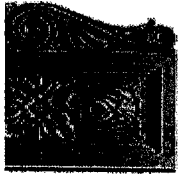
- 52.203-1 Officials Not to Benefit (APR 84)
- 52.203-3 Gratuities (APR 84)
- 52.203-5 Covenant Against Contingent Fees (APR 84)
- 52.203-6 Restriction on Subcontractor Sales to the Government (JUL 85)
- 52.203-7 Anti-Kickback Procedures (OCT 88)
- 52.212-9 Variation in Quantity (APR 84)
(In the preceding clause, the permissible variations are stated in the schedule.)
- 52.222-3 Convict Labor (APR 84)
- 52.222-26 Equal Opportunity (APR 84)(Applies when amount exceeds \$10,000.)
- 52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 84)(Applies when amount exceeds \$10,000.)
- 52.222-36 Affirmative Action for Handicapped Workers (APR 84)(Applies when amount exceeds \$2,500.)
- 52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 88)(Applies whenever clause 52.222-35 is included.)
- 52.223-6 Drug Free Workplace (JUL 90)(Applies if contract is awarded to an individual.)
- 52.225-3 Buy American Act - Supplies (JAN 89)
- 52.225-11 Restrictions on Certain Foreign Purchases (MAY 92)
- 52.232-25 Prompt Payment (SEP 92)
- 52.233-1 Disputes (DEC 91)
- 52.233-3 Protest After Award (AUG 89)
- 52.246-1 Contractor Inspection Requirements (APR 84)
- 52.249-8 Default (Fixed-Price Supply and Service)(APR 84)

Applicable to purchase orders for supplies:

- 52.222-4 Contract Work Hours and Safety Standards Act - Overtime Compensation - (MAR 86)(Applies when amount is between \$2,500 and \$10,000.)
- 52.222-20 Walsh-Healey Public Contracts Act (APR 84)(Applies when amount exceeds \$10,000.)
- 52.243-1 Changes - Fixed Price (AUG 87)
- 52.249-1 Termination for Convenience of the Government (Fixed Price)(Short Form)(APR 84)

Applicable to purchase orders for services:

- 52.222-4 Contract Work Hours and Safety Standards Act - Overtime Compensation - (MAR 86)(Applies when amount exceeds \$2,500.)
- 52.243-1 Changes - Fixed Price (APR 84) - Alt. II
- 52.249-4 Termination for Convenience of the Government (Services)(Short Form)(APR 84)



Brian Hancock/EAC/GOV

01/24/2006 04:44 PM

To



cc

bcc

Subject Draft EAC contract

Steve,

The attached contract should be signed by Tom tomorrow. Just wanted to give you a heads-up since we have changed our contracting procedures (mostly internal changes) significantly from last year. The major change from your end will be that we are contracting with you as an individual expert and not TEM Consulting as a whole. Your hourly rate is the same as that established last year, and, of course, the task is essentially the same.

Please review this as you have time and let me know if you have any questions. Thanks.

See you soon.

Brian



Certification Expert FINAL.doc

Brian Hancock
U.S. Election Assistance Commission
1225 New York Avenue, NW, Ste. 1100
Washington, DC 20005
202-566-3100
www.eac.gov

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"Stephen Berger"

01/25/2006 09:53 AM

Please respond to

To bhancock@eac.gov

cc

bcc

Subject RE: Draft EAC contract

Brian,

Thank you very much. I am looking forward to working with you in the year ahead.

Best Regards,

Stephen Berger

TEM Consulting, LP

Web Site - www.temconsulting.com

E-MAIL -

Phone -

Mobile -

FAX -

From: bhancock@eac.gov [mailto:bhancock@eac.gov]

Sent: Tuesday, January 24, 2006 3:45 PM

To: stephen.berger@cox-internet.com

Subject: Draft EAC contract

Steve,

The attached contract should be signed by Tom tomorrow. Just wanted to give you a heads-up since we have changed our contracting procedures (mostly internal changes) significantly from last year. The major change from your end will be that we are contracting with you as an individual expert and not TEM Consulting as a whole. Your hourly rate is the same as that established last year, and, of course, the task is essentially the same.

Please review this as you have time and let me know if you have any questions. Thanks.

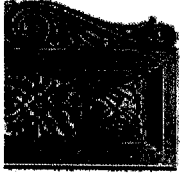
See you soon.

Brian

Brian Hancock
U.S. Election Assistance Commission
1225 New York Avenue, NW, Ste. 1100
Washington, DC 20005
202-566-3100

www.eac.gov

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Brian Hancock/EAC/GOV

01/30/2006 09:36 AM

To

cc

bcc

Subject Contract update, EAC Meeting

Steve,

Just a quick note to let you know that the contract is now in our finance office and will be forwarded to you via fax, with a hard copy to follow in the mail. Also, if you have a brief outline of what you plan to say at the EAC Meeting on Thursday, our General Counsel would like a copy for the Commissioner Briefing Books as soon as possible. This does not have to be extensive or exhaustive. You can simply email this to me when you have a moment. Thanks. See you on Wednesday.

Brian

Brian Hancock
U.S. Election Assistance Commission
1225 New York Avenue, NW, Ste. 1100
Washington, DC 20005
202-566-3100
www.eac.gov

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U.S. ELECTION ASSISTANCE COMMISSION
1225 NEW YORK AVENUE, N.W., SUITE 1100
WASHINGTON, D.C. 20005

BEFORE THE ELECTION ASSISTANCE COMMISSION

In the Matter of

Management Guidelines

)
)
)
)

CERTIFICATION

I, Gracia M. Hillman, Chair of the Election Assistance Commission, do hereby certify that on September 19, 2005, the Commission decided by a vote of 4-0 to take the following action(s):

1.

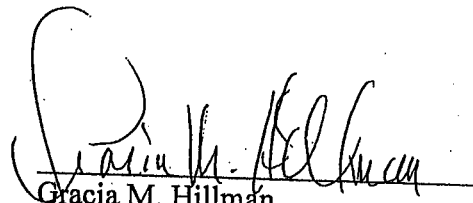
Approve the award of contracts EAC 05-56, EAC 05-57, and EAC 05-58 to Ms. Connie Schmidt, Dr. Britain Williams, and NASED respectively. The amount of each Co-Manager contract is \$126,000. The amount of the NASED contract is \$100,000.

Commissioners Davidson, DeGregorio, Hillman and Martinez voted affirmatively for the decision.

NOTE: The Chair approves the recommendation despite her strong objection to the high hourly rate EAC is paying the consultants.

Attest:

20 September 2005
Date


Gracia M. Hillman
Chair



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

MEMORANDUM FOR THE RECORD

Date: October 28, 2005

From: Brian Hancock

A handwritten signature in black ink, appearing to be 'BH' with a long horizontal stroke extending to the right.

Re: Contract with Dr. Britain Williams (EAC Contract No. 05-57) and Connie Schmidt (EAC Contract No. 05-56): Election Management Guidelines Project

My name is Brian Hancock and I serve as an Election Research Manager at the Election Assistance Commission (EAC). I manage the above referenced project. In the summer of 2005, the Commission determined that the creation of Election Management Guidelines was an agency priority. The management guidelines are needed to compliment the Voluntary Voting System Guidelines that were in development. For many years, the Voting Systems Board of the National Association of State Election Directors (NASED) has been calling for the development of election management guidelines to complement the technical standards. EAC and NASED have agreed to cooperatively undertake this effort over the course of the next two to three years to create a comprehensive set of guidelines for use by local and state election officials. EAC management determined that two consultants with relevant education and experience would be needed to manage the project. The individuals would report to me as the research manager overseeing the project.

Dr. Britain Williams and Ms. Connie Schmidt were soon identified as project managers due to their excellent qualifications, experience and desire to be a part of the project. A contract was drafted and agreed to Dr. Williams and Ms. Schmidt. The Commission voted to appoint the two as personal Services Contractors on September 16, 2005. Following the Commissioner's vote and pursuant to instruction, I contacted Dr. Williams and Ms. Schmidt to inform them that they had been awarded the contract.

The two began work on the project immediately. We held a kick-off meeting on September 22, 2005 to discuss the project, set short-term goals and assign duties. Ms. Schmidt documented the meeting and sent copies to all parties via email. Further, Dr. Williams and Ms. Schmidt coordinated with NASED Voting Systems Board members to identify state and local election officials potentially qualified to serve on a working group. The consultants have also begun work to develop and outline of topics for the management guidelines.

Attachment 5



U.S. ELECTION ASSISTANCE COMMISSION
1225 NEW YORK AVENUE, N.W., SUITE 1100
WASHINGTON, D.C. 20005

BEFORE THE ELECTION ASSISTANCE COMMISSION

In the Matter of

Ratification of Personal Service Contract with
Dr. Britain Williams (EAC 05-57)

)
)
)
)

CERTIFICATION

I, Gracia M. Hillman, Chair of the Election Assistance Commission, do hereby certify that on November 14, 2005, the Commission decided by a vote of 3-0 to take the following action(s):

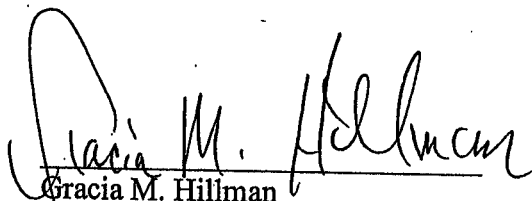
1.

Ratification of Personal Service Contract with Dr. Britain Williams (EAC 05-57).

Commissioners Davidson, DeGregorio, and Hillman voted affirmatively for the decision.

Attest:

11-18-05
Date


Gracia M. Hillman
Chair




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

TALLY VOTE MEMORANDUM

September 15, 2005

TO: EAC Commissioners

FROM:  Tom Wilkey, Executive Director
U.S. Election Assistance Commission

SUBJECT: Election Management Guidelines Contracts

BACKGROUND

On June 29 the Election Assistance Commission published its proposed 2005 Voluntary Voting System Guidelines for public comment. These guidelines update and augment the 2002 Voting Systems Standards. The first set of standards for voting machines was promulgated in 1990. While there have been three editions so far of guidelines for voting equipment, there is no companion document that covers the election administration and management aspects of the registration and voting process. It is well known that deficiencies in procedures can have just as much impact on the enfranchisement of voters and the outcome of elections as the functioning of the voting machines.

For many years, the Voting Systems Board of the National Association of State Election Directors (NASED) has been calling for the development of election management guidelines to complement the technical standards. EAC and NASED have agreed to cooperatively undertake this effort over the course of the next two to three years to create a comprehensive set of guidelines for use by local and state election officials. The approach will be to develop a comprehensive set of topics, and then to develop materials on a modular basis so that products can be distributed to the election community as they are completed. We have targeted the 2008 election cycle for completion of the effort.

To get this process underway, EAC is entering into three contracts: one with NASED for the purpose of providing administrative support for the project; one with Ms. Connie Schmidt, a former county election administrator now consulting on election administration issues, to serve as a project Co-Manager; and one with Dr. Britain Williams, member of the NASED Voting Systems Board and voting systems certification consultant to the States of Georgia, Maryland, Virginia, and Pennsylvania, to serve as a

project Co-Manager. The period of performance for this initial set of contracts is from September 2005 through December 2006. Prior to this date, an assessment of the work effort remaining to be completed will be performed and follow-on contracts scoped appropriately.

ROLES AND RESPONSIBILITIES

NASED will assemble a Management Guidelines Working Group of experienced state and local election officials to provide subject matter expertise to carry out this effort. EAC is contracting with NASED to provide overall direction and management oversight for this project in coordination with the EAC. NASED will also provide administrative support to the Working Group and to the two Co-Managers of the project, and to reimburse travel and other authorized for Working Group participants. The NASED funding may also be used for technical writing services and minor research activities that might be required to support the project.

RECOMMENDATION

Approve the award of contracts EAC 05-56, EAC 05-57, and EAC 05-58 to Ms. Connie Schmidt, Dr. Britain Williams, and NASED respectively. The amount of each Co-Manager contract is \$126,000. The amount of the NASED contract is \$100,000. Copies of these contracts are attached along with the resumes of Ms. Schmidt and Dr. Williams.

Contract # EAC 05-56 for Ms. Schmidt
Contract # EAC 05-57 for Dr. Williams
Contract # EAC 05-58 for NASED

ELECTRONIC FUNDS TRANSFER (EFT) ENROLLMENT FORM

Use this form to enroll in Direct Deposit of your federal payment from the General Services Administration

Privacy Act Statement Collection of this information is authorized by 31 U.S.C. 3332(g), 3325(d) and 7701(c) The information will be used by the Government to make payments by EFT to a vendor. This information may also be used for income reporting and for collecting and reporting on any delinquent amounts arising out of a vendor's relationship with the Government. Disclosure of the information by the vendor is mandatory. Failure to provide the requested information may result in the delay or withholding of payment to the vendor.

Company/Payee Name	BRITAIN J. WILLIAMS, III				
Address	[REDACTED]				
City	[REDACTED]	State	[REDACTED]	Zip	[REDACTED]
Taxpayer ID Number (TIN)	[REDACTED]				

Financial Institution Name	[REDACTED]				
Financial Institution Phone Number	[REDACTED]				
Financial Institution Routing Transit Number (RTN)	[REDACTED]				
Depositor Account Title	BRITAIN JOEL WILLIAMS, III				
Depositor Account Number	[REDACTED]				
A	[REDACTED]				

Company/Payee Contact Person	BRITAIN J. WILLIAMS, III				
Phone	[REDACTED]				

MUST HAVE SIGNATURE Company/Payee Authorized Signature	[REDACTED]				
--	------------	--	--	--	--

Print

Account Number: [REDACTED]

To the customer:

- **Employer Payroll:** Simply print this form and provide it to your employer's payroll administrator. You may have to transfer some of this information to a form used by your employer.
- **Social Security or Supplemental Security Income:** Please print this form, then call the Social Security Administration at 1-800-772-1213 and ask to speak to a representative who can help you set up Direct Deposit. They can enroll you on the phone. Provide the account and routing information below.
- **Other payments:** For other recurring payments (pensions, annuities, Federal Benefits, etc.), please print this form, then contact the payor to request Direct Deposit and provide the account and routing information below.

If you have any questions, please call [REDACTED]

To the Employer, Government Agency, or other Payor:

Please use this information in lieu of a voided check to establish Direct Deposit for our customer:

**BRITAIN JOEL WILLIAMS III &
PENELOPE HOLSTUN WILLIAMS**

Account number: [REDACTED]

(The account number for Direct Deposit consists of the nine digits 593853800 followed by the customer's eight-digit Schwab account number referenced above.)

ABA / Routing & Transit Number: [REDACTED]

Account Type: [REDACTED]

(For proper processing, account type must be designated as "checking" regardless of the type of account held at Schwab.)

Please do not use a voided check or its MICR information to establish Direct Deposit; use the information above instead.

Name of the Financial Institution:
[REDACTED]

Questions: Please call [REDACTED]

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Brokerage Products: Not FDIC Insured • No Bank Guarantee • May Lose Value

Viewed as of: September 7, 20

9/7/2005

ORDER FOR SUPPLIES AND SERVICES

IMPORTANT: See instructions in GSAR 553.370-300 for distribution

PAGE 1 OF 1 PAGES

1. DATE OF ORDER

11/23/05

2. ORDER NUMBER

3. CONTRACT NUMBER

EAC 05-57

4. A

E4019688

FOR
GOVERNMENT
USE
ONLY

5. ACCOUNTING CLASSIFICATION

FUND 8035	ORG CODE TQM91100	B/A CODE 10	O/C CODE 25
FUNC CODE 000	C/E CODE 516	PROJ./PROS. NO.	CC-A
W/ITEM	CC-B	PRT./CRFT	

6. FINANCE DIVISION

AC	SS	VENDOR NAME
MDL	FI	G/L DEBT
AI	LC	DISCOUNT

7. TO: CONTRACTOR (Name, address and zip code)

Britain J. Williams III

Contact: Britain Williams

8. TYPE OF ORDER REFERENCE YOUR

☒ A. PURCHASE

Please furnish the following on the terms specified on both sides of the order and the attached sheets, if any, including delivery as indicated.

☐ B. DELIVERY

This delivery order is subject to instructions contained on this side only of this form and is issued subject to the terms and conditions of the above numbered contract

C. MODIFICATION NO.

AUTHORITY FOR ISSUING

9A. EMPLOYER'S IDENTIFICATION NUMBER

9B. CHECK, IF APPROP
☐ WITHHOLD 20%

10A. CLASSIFICATION

☒ A. SMALL BUSINESS

☐ B. OTHER THAN SMALL BUSINESS

☐ C. SMALL DISADVANTAGED

☐ D. SMALL WOMEN-OWNED

11. ISSUING OFFICE (Address, zip code, and telephone no.)

Election Assistance Commission
1225 New York Ave., N.W., Suite 1100
Washington, DC 20005

12. REMITTANCE ADDRESS (MANDATORY)

Remittance via EFT

Except as provided herein, all terms and conditions of the original order, as heretofore modified, remain unchanged.

10B. TYPE OF BUSINESS ORGANIZATION

☐ A. CORPORATION

☐ B. PARTNER-SHIP

☒ C. SOLE

13. SHIP TO (Consignee address, zip code and telephone no.)

Same as block 11

14. PLACE OF INSPECTION AND ACCEPTANCE

EAC, 1225 New York Ave., NW, #1100, Wash. DC 20005

15. REQUISITION OFFICE (Name, symbol and telephone no.)

Election Assistance Commission

16. F.O.B. POINT

Destination

17. GOVERNMENT B/L NO.

18. DELIVERY F.O.B. POINT ON OR BEFORE 09/19/05

19. PAYMENT/DISCOUNT TERMS

Net 30

20. SCHEDULE

ITEM NO.

(A)

SUPPLIES OR SERVICES

(B)

QUANTITY ORDERED (C)

UNIT (D)

UNIT PRICE (E)

AMOUNT (F)

Under the authority of Public Law 107-252, dated October 29, 2002, establishing the U.S. Election Assistance Commission (EAC). Request to provide the EAC and NASED with project management services in the development of election management guidelines which will update and augment the 2002 Voting Systems Standards for use by state and local election administrators. See the attached personal services contract for a description of of the specifics.

COST OF CONTRACT: \$126,000.00

21. RECEIVING OFFICE (Name, symbol and telephone no.)

U.S. Election Assistance Commission

(202) 566-3100

TOTAL FROM 300-A(s)

\$126,000.00

22. SHIPPING POINT

23. GROSS SHIP WT.

GRAND TOTAL

126,000.00

24. MAIL INVOICE TO: (Include zip code)

General Services Administration (FUND)
Election Assistance Commission
1225 New York Ave., NW Suite 1100
Washington, DC 20005

25A. FOR INQUIRIES REGARDING PAYMENT CONTACT:

Diana Scott

25B. TELEPHONE NO.

202-566-3100

26A. NAME OF CONTRACTING/ORDERING OFFICER (Type)

Gracia Hillman, Chair

26B. TELEPHONE NO.

202-566-3100

26C. SIGNATURE

Gracia M. Hillman

GENERAL SERVICES ADMINISTRATION

1. PAYING OFFICE

GSA FORM 300 (REV. 2-93)

PURCHASE ORDER TERMS AND CONDITIONS

552.229-70 FEDERAL, STATE, AND LOCAL TAXES (APR 1984)

The contract price includes all applicable Federal, State, and local taxes. No adjustment will be made to cover taxes which may subsequently be imposed on this transaction or changes in the rates of currently applicable taxes. However, the Government will, upon the request of the Contractor, furnish evidence appropriate to establish exemption from any tax from which the Government is exempt and which was not included in the contract price.

552.210-79 PACKING LIST (DEC 1989)

(a) A packing list or other suitable shipping document shall accompany each shipment and shall indicate (1) Name and address of consignor; (2) Name and address of consignee; (3) Government order or requisition number; (4) Government bill of lading number covering the shipment (if any); and (5) Description of the material shipped, including item number, quantity, number of containers, and package number (if any).

(b) When payment will be made by Government commercial credit card, in addition to the information in (a) above, the packing list or shipping document shall include: (1) Cardholder name and telephone number and (2) the term "Credit Card".

52.232-1 PAYMENTS (APR 1984)

The Government shall pay the Contractor, upon the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified in this contract, payment shall be made on partial deliveries accepted by the Government if: (a) The amount due on the deliveries warrants it; or (b) The Contractor requests it and the amount due on the deliveries is at least \$1,000 or 80 percent of the total contract price.

52.232-8 DISCOUNTS FOR PROMPT PAYMENT (APR 1989)

(a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a prompt payment discount in conjunction with the offer, offerors awarded contracts may include prompt payment discounts on individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the date on which an electronic funds transfer was made.

PROMPT PAYMENT

Prompt Payment clause 52.232-25 is incorporated in this contract by reference. The clause contains information on payment due date, invoice requirements, constructive acceptance and interest penalties. Certain portions of the clause regarding payment due date, invoice requirements, and constructive acceptance have been extracted for your convenience. All days referred to in the extracts below are calendar days.

(a)(2) . . . The due date for making invoice payments by the designated payment office shall be the later of the following two events:

(i) The 30th day after the designated billing office has received a proper invoice from the Contractor.

(ii) The 30th day after Government acceptance of supplies delivered or services performed by the Contractor . . .

(a)(4) . . . An invoice shall be prepared and submitted to the designated billing office specified in the contract. A proper invoice must include the items listed in . . . (i) through . . . (viii) . . . If the invoice does not comply with these requirements, then the Contractor will be notified of the defect within 7 days after receipt of the invoice at the designated billing office . . . Untimely notification will be taken into account in the computation of any interest penalty owed the Contractor . . .

(i) Name and address of the Contractor.

(ii) Invoice date.

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms), Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in event of a defective invoice.

NOTE: Invoices must include the ACT number (block 4) and shall be submitted in an original only, unless otherwise specified, to the billing office designated in block 24 to receive invoices. The "remittance address" must correspond to the remittance address in block 12.

(a)(8)(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day (unless otherwise specified in block 20) after the Contractor delivered the supplies or performed the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality or contractor compliance with a contract provision . . .

52.222-40 SERVICE CONTRACT ACT OF 1965, AS AMENDED - - CONTRACTS OF \$2,500 OR LESS (MAY 1989)

Except to the extent that an exception, variation, or tolerance would apply if this contract were in excess of \$2,500, the Contractor and any subcontractor shall pay all employees working on the contract not less than the minimum wage specified under Section 6 a) (1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201-206). Regulations and Interpretations of the Service Contract Act of 1965 are contained in 29 CFR Part 4.

52.222-41 SERVICE CONTRACT ACT OF 1965, AS AMENDED (MAY 1989)

52.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 1989)

(52.222-41 and 52.222-42 apply to service contracts when the amount exceeds \$2,500).

The GSA Form 2166, Service Contract Act of 1965 and Statement of Equivalent Rates for Federal Hires is attached hereto and made a part hereof.

52.252-2 CLAUSES INCORPORATED BY REFERENCE (JUN 1988)

This contract incorporates the following clauses by reference with the same force and effect as if they were given in full text. Upon request the Contracting Officer will make their full text available:

FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

Applicable to purchase orders for supplies or services:

- 52.203-1 Officials Not to Benefit (APR 84)
- 52.203-3 Gratuities (APR 84)
- 52.203-5 Covenant Against Contingent Fees (APR 84)
- 52.203-8 Restriction on Subcontractor Sales to the Government (JUL 85)
- 52.203-7 Anti-Kickback Procedures (OCT 88)
- 52.212-9 Variation in Quantity (APR 84)
(In the preceding clause, the permissible variations are stated in the schedule.)
- 52.222-3 Convict Labor (APR 84)
- 52.222-26 Equal Opportunity (APR 84)(Applies when amount exceeds \$10,000.)
- 52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 84)(Applies when amount exceeds \$10,000.)
- 52.222-36 Affirmative Action for Handicapped Workers (APR 84)(Applies when amount exceeds \$2,500.)
- 52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 88)(Applies whenever clause 52.222-35 is included.)
- 52.223-6 Drug Free Workplace (JUL 90)(Applies if contract is awarded to an individual.)
- 52.226-3 Buy American Act - Supplies (JAN 89)
- 52.226-11 Restrictions on Certain Foreign Purchases (MAY 92)
- 52.232-25 Prompt Payment (SEP 92)
- 52.233-1 Disputes (DEC 91)
- 52.233-3 Protest After Award (AUG 89)
- 52.248-1 Contractor Inspection Requirements (APR 84)
- 52.249-8 Default (Fixed-Price Supply and Service)(APR 84)

Applicable to purchase orders for supplies:

- 52.222-4 Contract Work Hours and Safety Standards Act - Overtime Compensation - (MAR 86)(Applies when amount is between \$2,500 and \$10,000.)
- 52.222-20 Walsh-Healey Public Contracts Act (APR 84)(Applies when amount exceeds \$10,000.)
- 52.243-1 Changes - Fixed Price (AUG 87)
- 52.249-1 Termination for Convenience of the Government (Fixed Price)(Short Form)(APR 84)

Applicable to purchase orders for services:

- 52.222-4 Contract Work Hours and Safety Standards Act - Overtime Compensation - (MAR 86)(Applies when amount exceeds \$2,500.)
- 52.243-1 Changes - Fixed Price (APR 84) - Alt. II
- 52.249-4 Termination for Convenience of the Government (Services)(Short Form)(APR 84)



U.S. ELECTION ASSISTANCE COMMISSION
1225 NEW YORK AVENUE, N.W., SUITE 1100
WASHINGTON, D.C. 20005

OFFICE OF THE CHAIR

DEC 08 2005

November 30, 2005

Dr. Britain J. Williams

Via U.S. Mail and Facsimile Transmission

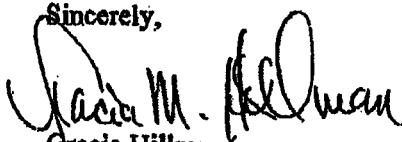
Dear Dr. Williams:

Enclosed is a signed personal services contract (EAC 05-57) for the provision of services to the U.S. Election Assistance Commission (EAC) in providing project management for the EAC's Election Management Guidelines program. EAC has reviewed the contract and concluded that ratification of this agreement is appropriate. EAC has ratified the agreement made with you on September 19, 2005. This date remains the award date of your contract.

To acknowledge receipt of this ratification action, please countersign and date below and return the original to the EAC "attention of Nicole Mortellito."

We appreciate your work on these important efforts.

Sincerely,


Gracia Hillman
Chair


Dr. Britain J. Williams



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

MEMORANDUM FOR THE RECORD

Date: November 17, 2005

From: Gracia Hillman, Chair
On Behalf of the Commission

Re: Ratification of Personal Services Contract with Dr. Britain Williams (EAC Contract No. 05-57)

The purpose of this memorandum is to document the ratification of the above referenced personal services agreement. Ratification is the process proscribed to approve, by an official with the authority to do so, an agreement that was not binding on an agency because the Government representative who made it lacked authority to enter into the agreement on behalf of the government (unauthorized commitment). (FAR 1.602-3(a)). While personal services agreements are based upon EAC's authority to contract for consultants per 5 U.S.C. §3109 (See 42 U.S.C. §15324(b)) and not the Federal Acquisition Regulation (FAR), the FAR's ratification provisions provide useful guidance for the action and its documentation.

Background. Information was brought to the attention of the Commission late in the week of October 10. This information suggested that communication of award for the above referenced agreement may not have been made by an individual with authority to bind the government. As such, the agreement may be viewed as an unauthorized commitment. The above referenced personal services agreement was to obtain project management services to plan for the development and create election management guidelines. For many years, the Voting Systems Board of the National Association of State Election Directors (NASED) has been calling for the development of election management guidelines to complement the technical standards. EAC and NASED have agreed to cooperatively undertake this effort over the course of the next two to three years to create a comprehensive set of guidelines for use by local and state election officials.

The Commission has considered Dr. Britain William's qualifications and found him to be uniquely qualified through experience and education. (Attachment "1", Resume; and Attachment "2", Administrative Appointment Memorandum). The original agreement between the parties is evidence by the original statement of work and e-mails between the contractor and EAC employees (Attachment "3", Statement of Work and e-mails). The decision to award the contract was made by full vote of the EAC

Commissioners on September 19, 2005 (Attachment "4", Tally Vote Certification and Memorandum).

Award was communicated by an EAC employee immediately following the Commission's vote to award the contract. (Attachment "5", Statement from Brian Hancock). The award was announced by the Commission on the record at a public meeting on September 27, 2005. Work began on the contract following award notification. This was evidenced by a kickoff meeting between EAC employees and the contractor which took place on September 22, 2005. (Attachment "6", Conference Call Notes). Also, the contractor coordinated with NASED Voting Systems Board members to identify state and local election officials qualified to serve on a working group. The consultant has similarly begun work to develop an outline of topics for the management guidelines. (Attachment "5", Statement from Brian Hancock). Ultimately, ratification of this agreement will result in the Commission receiving all of the deliverables identified in the Statement of Work.

Funding was available in fiscal year 2005 (FY 05) for the services at issue. These FY 05 funds remain available. The funds were in fact obligated to the agreement, in the amount of \$126,000.00 on September 21, 2005. This was done under the belief that a legal obligation had been created. The agreement approved for award by the Commissioners had a total estimated cost of \$126,000.00.

Requirements. FAR 1.602-3 (b) and (c) set federal ratification policy and requirements. These sections note:

- (1) Agencies should take action to prevent the need for ratification actions. Ratification procedures should not be used in a manner that encourages unauthorized commitments being made by government personnel. (FAR 1.602-3(b)(1)).
- (2) The head of an agency's contracting activity, unless the authority is designated higher, may ratify an unauthorized agreement. This authority may be delegated with limitations. (FAR 1.602-3(b)(2) & (3)).
- (3) Agencies should process unauthorized commitments consistent with FAR 1.602-3. Such actions should not be forwarded to the General Accounting Office for resolution unless they are subject to a Contracts Dispute Act Claim or are not otherwise ratifiable under the subsection. (FAR 1.602-3(b)(4)-(5) & (d)).
- (4) Consistent with FAR 1.602-3(c)(1)-(7), ratification authority may be exercised only when:
 - a. *Supplies or services have been provided to and accepted by the Government, or the Government otherwise has obtained or will obtain a benefit resulting from performance of the unauthorized commitment;*
 - b. *The ratifying official has the authority to enter into a contractual commitment;*

- c. *The resulting contract would otherwise have been proper if made by an appropriate contracting officer;*
- d. *The contracting officer reviewing the unauthorized commitment determines the price to be fair and reasonable;*
- e. *The contracting officer recommends payment and legal counsel concurs in the recommendation, unless agency procedures expressly do not require such concurrence; and*
- f. *Funds are available and were available at the time the unauthorized commitment was made.*

Analysis. The commitment at issue began as a routine contracting effort. EAC is an agency specifically authorized by statute to enter into personal services contracts under 5 U.S.C. §3109. See HAVA Section 204(b). Issues regarding the agreement's unauthorized nature arose near the end of the award process. While the contract authority (Commissioners) properly took action to make an award determination, they relied on EAC employees to communicate this fact to the contractor. In doing so, the Commission failed to realize that it is the communication of acceptance and award by the appropriate person that serves to obligate the government. EAC personnel seem to have viewed the Commissioners' recorded vote as granting them the authority to communicate award in a manner that would obligate the agency. The bottom line is that the EAC employee believed his efforts to notify the contractor of award obligated the EAC by accepting the contractor's proposal. Based upon this, the contractor began performance on the agreement and the EAC has and will receive benefit.

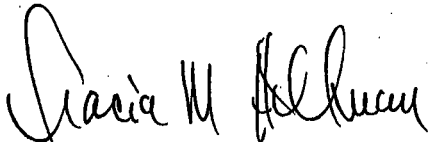
Looking specifically at the requirements for ratification noted in FAR 1.602-3(c) and the facts outlined, above, the Commission finds:

- a. Services Accepted or Benefit Received. Services under this agreement have been accepted by the government. Moreover the government has and will obtain needed benefit from the services provided and upon completion of the unauthorized agreement.
- b. Contract Authority. The undersigned, as the chair of the EAC, has the authority to contract on behalf of the agency. Furthermore, the Chair's signature represents the decision of the full Commission to take this ratification action. This is documented by the attached Tally Vote. (Attachment "7", Tally Vote). EAC's four Commissioners have the legal authority to contract and otherwise bind the agency per the specific authority of the Help America Vote Act (42 U.S.C. §15325(e)) and, generally, as agency heads (see FAR 1.601).
- c. Contract Otherwise Proper. This agreement, having previously been initiated, processed, and awarded by full vote of the Commission was proper, but for the unauthorized communication of award made by an individual without authority to bind the agency. As stated previously, EAC is specifically authorized by statute to enter into personal services contracts. HAVA Section 204(b). This agreement

falls within the statute and regulations governing personal services contracts. See specifically 5 U.S.C. 3109 and 5 CFR Part 304.

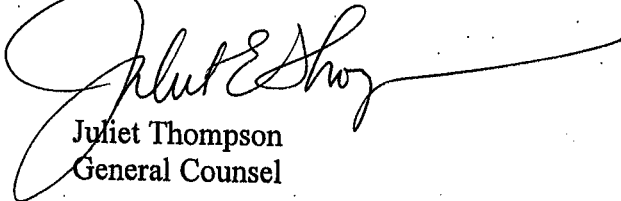
- d. Price Fair and Reasonable. The rate at which this contractor is providing services is within the amount allowable under 5 CFR Part 304.105. In addition, the rate provided in the agreement is lower than his regular rate of billing. (Attachment "2", Administrative Appointment Memorandum).
- e. Payment of Funds Recommended. After consultation with the General Counsel, the Commission recommends payment of funds.
- f. Funds Available. Consistent with the facts noted above, the Commission finds that funds are available and were available at the time of the unauthorized commitment.

Prevention. Unfortunately, there are a number of agreements which have suffered from the same deficiencies as discussed above. FAR 1.602(b)(1) makes it clear that agencies should take steps to prevent the need for ratifications and avoid using the process in a way that would encourage unauthorized commitments. The EAC must determine why these unauthorized commitments occurred and how to prevent them in the future. An initial review of EAC's contract process showed deficiencies in (1) the contracting procedure, (2) training of employees on contracting process and procedure, (3) coordination with the General Counsel's office, and (4) communication amongst contracting officers and staff that resulted in an unauthorized commitment. No new contracting should occur until issues surrounding the process have been resolved. EAC is in the process of negotiating with another government agency to handle its procurement process, thereby relieving the EAC staff of the responsibility of processing these procurements.



Gracia Hillman
Chair
On Behalf of the Commission

I Concur.



Juliet Thompson
General Counsel

Election Vita for

Britain J. Williams, III

Election Activities

Election Assistance Commission, 2003 – Present, Member of the Technical Guidelines Development Committee.

Federal Election Commission, 1984 – 2003, Consultant to the Director, Clearinghouse on Election Administration.

National Association of State Election Directors, 1986 – present, member of the NASED Voting Systems Board. The Voting Systems Board is responsible for the maintenance and implementation of the FEC Voting Systems Standards.

National Association of State Election Directors, 1996 – present, Chairman of the ITA Technical Sub-committee of the NASED Voting Systems Board. The Technical Committee is responsible for evaluating and monitoring the Independent Test Agencies that examine voting systems for compliance with the FEC Voting System Standards.

State of Georgia, 1984 – present, Consultant to the Secretary of State, State Election Director, and local election officials. Conduct State certification tests of electronic voting systems and provide consulting services to State and County Election Officials.

State of Maryland, 1996 – 2001, Consultant to the State Election Director.

Commonwealth of Virginia, 1994 – present, Consultant to the State Election Director.

Commonwealth of Pennsylvania, 1998 - 2003, Consultant to the Commissioner of Elections.

Education

<u>Degree</u>	<u>Institution</u>	<u>Year</u>	<u>Major</u>
B.S.	University of Georgia	1959	Mathematics
M.A.	University of Georgia	1961	Mathematics
Ph.D.	University of Georgia	1964	Statistics

Academic Positions

Kennesaw State University, 2001-present, Professor Emeritus
Kennesaw State University, 1996-2001, Professor of Information Systems and Computer Science.

Attachment 1

Kennesaw State University, 1990-1996, Associate Professor of Information Systems and Computer Science.

Georgia State University, 1976-1979, Adjunct Professor of Information Systems.

University of Georgia, 1967-1972, Assistant Professor of Statistics and Computer Science.

Florida Institute of Technology, 1964-1967, Adjunct Professor of Statistics..

Administrative Positions (In Education and State Government)

Georgia Institute of Technology, 1988 - 1990, Assistant to the Vice President, Office of Information Technology.

Georgia Tech Research Institute, Georgia Institute of Technology, 1987 - 1988, Senior Research Scientist.

Georgia Tech Research Institute, 1984 - 1987, Chief, Computer Technology and Applications Division.

State of Georgia, 1972 - 1974, Director, Division of Information and Computer Services, Department of Administrative Services.

University of Georgia, 1969 - 1972, Associate Director, University of Georgia Computer Center.

University of Georgia, 1961 - 1964, Assistant Statistician, Department of Experimental Statistics.

Business and Professional Experience

Scientific-Atlanta, Atlanta Georgia, 1981 - 1984, Director, Information Management.
Battelle Memorial Institute, Columbus, Ohio, 1979 - 1981, General Manager, Battelle Southern Operations.
Southern Airways, Atlanta, Georgia, 1976 - 1979, Manager, Computer Operations and Data Communications.
Management Consultant, 1974 - 1976.
RCA Service Company, Patrick AFB, Florida, 1964 - 1967, Senior Systems Analyst

Membership in Professional and Honor Societies

Certified Data Processor Certificate
Pi Mu Epsilon
Sigma Xi
Association for the Advancement of Computing in Education
Institute of Electrical and Electronic Engineers
International Association of Clerks, Recorders, Election Officials and Treasurers

Personal Information

Name: Britain Joel Williams, III

Home Address:

Business Address:

SSN:

Phone:

E-mail:

U.S. ELECTION ASSISTANCE COMMISSION
ADMINISTRATIVE DETERMINATION: SELECTION OF PERSONAL
SERVICES CONTRACTORS AND THEIR RATE OF PAY
(Contracts EAC 05-56 & 57)

Background

On June 29, 2005, the Election Assistance Commission (EAC) published its proposed 2005 Voluntary Voting System Guidelines for public comment. These guidelines update and augment the 2002 Voting Systems Standards. The first set of standards for voting machines was promulgated in 1990. While there have been three editions of guidelines for voting equipment in the past 15 years, there is no companion document that covers the election administration and management aspects of the registration and voting process. It is well known that deficiencies in procedures can have just as much impact on the enfranchisement of voters and the outcome of elections as the functioning of the voting machines.

For many years, the Voting Systems Board of the National Association of State Election Directors (NASED) has called for the development of a set of election management guidelines to complement the technical standards for voting equipment. The EAC has also identified this activity as a high priority agency requirement. Among the stated purposes in the preamble to the Help America Vote Act (HAVA) is "... to establish the Election Assistance Commission ... to establish minimum election administration standards for States and units of local government responsible for the administration of Federal elections ...". In addition, Subtitle C of the Act, "Studies and Other Activities to Promote Effective Administration of Federal Elections," charges the Commission with conducting a wide variety of studies having to do with the administration of elections.

Consequently, EAC and NASED have agreed to cooperatively undertake the development of a comprehensive set of election management guidelines that will be promulgated for use by local and state election officials. NASED will work with the EAC to identify qualified state and local election officials who are willing to serve on a working group. These individuals will provide technical expertise and share various state best practices with the EAC. To manage this project, the EAC needs two experienced consultants to serve as Co-Managers for the project.

Qualifications

In order for this work to have credibility and be accepted by the election community, it needs to be carried out by members of that community, who possess the requisite knowledge and experience. In addition, there is no established academic or commercial source of supply for this work. The administration of elections is very specialized subject matter, knowledge of which is mostly gained through on-the-job training. This management guidelines effort is the first attempt to comprehensively document best practices and procedures for this field of endeavor.

Attachment 2

To manage this project, The EAC needs two consultants to serve as Co-Project Managers for the project: one to focus on procedures related to the use of voting equipment, and one to focus on procedures for all other aspects of election administration. The individuals identified by the Commission to meet these needs are Dr. Britain Williams and Ms. Connie Schmidt, respectively. These individuals possess the unique mix of professional services required to meet EAC's needs, including: subject matter expertise regarding state and local election practices and procedures; State and Federal laws, regulations, administrative guidelines, etc. governing election administration in the 55 jurisdictions covered by HAVA; election administration customs and practices; the development of election management best practices; knowledge of the proposed EAC Voluntary Voting Systems Guidelines, and project management experience. This work also requires a demonstrated ability to work effectively with federal, state and local election officials.

Ms. Schmidt instituted many nationally-recognized and award-winning innovations and best practices as Election Commissioner of Johnson County, Kansas. These include the 1998 Digital Government Award of Excellence, the 1999 NACO Achievement Award for its bi-state public/private partnership program to recruit election workers, 2001 NACO Achievement Award for Civic Education and Public Information, 2002 NACIO Superior Award for her Congressional testimony on national election reform, and several NACIO Meritorious Awards in 2004 for publications on a variety of election administration topics. She has chaired the Professional Education Program Certification Board for The Election Center and served as a member of the NASED Voting Systems Standards Board. In December 2004 she received the National Association of Secretaries of State Medallion Award for outstanding service to American democracy. Her focus will be election management practices other than those associated with voting systems.

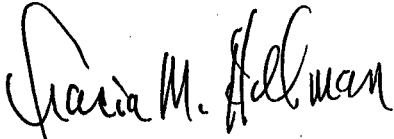
Dr. Williams has served on many national-level committees and boards including the Technical Guidelines Development Committee for the Voluntary Voting System Guidelines and the NASED Voting Systems Board. He chairs the ITA (test lab) Technical Subcommittee of the latter. From 1984 to the present he has worked as a consultant to the State of Georgia Secretary of State, the State Election Director, and local election officials to conduct certification and acceptance testing of electronic voting systems. He played a central role in establishing the State of Georgia's process for voting system acquisition, acceptance, operations and maintenance, which evolved into the Center for Election Systems, the only institution of its kind in the country. His focus will be the election management practices associated with the use of voting systems.

Determination that Pay Rate is Fair and Reasonable

Each of the Co-Managers will be compensated at an hourly rate of \$120 and reimbursed for travel and other appropriate expenses. This is the rate at which Ms. Schmidt has recently been paid for comparable work on two projects for the State of Maryland. This is a discounted rate from Dr. Williams' established rate of \$150 per hour. These hourly rates are in line with the rates being paid by EAC for consultants with comparable levels of experience and education.

Conclusion

Dr. Williams and Ms. Schmidt are well and uniquely qualified to serve as EAC consultants on the Election Management Guidelines Project. Further, their labor rate is fair and reasonable.

A handwritten signature in black ink, appearing to read "Gracia M. Hillman". The signature is fluid and cursive, with the first name "Gracia" and last name "Hillman" clearly distinguishable.

Gracia Hillman
Chair

Contract # EAC 05-57 - Project Management Services to Assist EAC and NASED with the Development of Election Management Guidelines

Background

On June 29 the Election Assistance Commission published its proposed 2005 Voluntary Voting System Guidelines for public comment. These guidelines update and augment the 2002 Voting Systems Standards. The first set of standards for voting machines was promulgated in 1990. While there have been three editions so far of guidelines for voting equipment, there is no companion document that covers the election administration and management aspects of the registration and voting process. It is well known that deficiencies in procedures can have just as much impact on the enfranchisement of voters and the outcome of elections as the functioning of the voting machines.

For many years, the Voting Systems Board of the National Association of State Election Directors (NASED) has been calling for the development of election management guidelines to complement the technical standards. EAC and NASED have agreed to cooperatively undertake this effort over the course of the next two to three years to create a comprehensive set of guidelines for use by local and state election officials.

Roles and Responsibilities

Project management of the Election Management Guidelines effort will be shared by two Co-Managers. It is the responsibility of these individuals to devise a division of labor so that it is clear which areas each Co-Manager will have lead responsibility for, and the workload is approximately evenly divided. NASED will assemble a Working Group of experienced state and local election officials to provide subject matter expertise and work under the direction of the Co-Managers. NASED will provide administrative support services for the Co-Managers and the Working Group. NASED will cover reimbursement for travel and other authorized expenses for the Working Group members. The expenses of the Co-Managers will be paid through their individual contracts. The following tasks will be performed by the Co-Managers.

Tasks

1. **Develop a comprehensive outline of topics.** Drawing on their own knowledge and experience, and in consultation with the NASED Management Guidelines Working Group, the Co-Managers will develop a comprehensive outline for the Management Guidelines document. This outline should appropriately integrate with the 2005 EAC Voluntary Voting System Guidelines. This outline shall be coordinated with the NASED Executive Committee and the approved outline provided to the EAC.
2. **Prioritize topics and create work plan.** The Co-Managers will prioritize the topics based on degree of perceived existing deficiencies, anticipated high return in administration improvement, and other relevant criteria. The NASED Executive

Attachment 3

Committee will recommend criteria for use in prioritizing topics. In particular EAC suggests that topics that could be completed in time for use in the 2006 elections be given a top priority rating.

Following approval of the prioritized list by EAC and the NASED Executive Committee, the Co-Managers will create a work plan, including a timeline for the development of guidelines for each topic. While this effort is expected to take several years to complete, it is EAC's intention to proceed with the work on a modular basis, so that products on particular topics can be distributed to the election community as soon as they are completed. The work plan should be structured to accommodate this approach. The work plan should be provided to EAC following NASED Executive Committee review.

3. Manage the guidelines development effort. Following approval of the work plan by EAC and the NASED Executive Committee, the Co-Managers shall make work assignments to members of the Working Group and oversee the development of guidelines for each of the identified topics. It is anticipated that this work will draw heavily on documented best practices and procedures already in use in election jurisdictions around the country. The Co-Managers can request NASED to draw on their project funds to cover expenses to convene Working Group meetings and teleconferences, reimburse Working Group members for expenses associated with meetings, conduct limited research efforts, acquire technical writing services to assist with documentation, and other supporting services as required.

4. Report status of work effort to EAC Executive Director and NASED Executive Committee. The Co-Managers shall provide a monthly progress report that briefly describes the work performed, identifies issues and their resolution, indicates progress against the timeline, and reports on funds utilized. Periodically, the Co-Managers and the Working Group will be expected to meet with the Commission and the NASED Executive Committee to brief their activities and progress. There is also a requirement to make periodic presentations to the EAC Board of Advisors and Standards Board.

Period of Performance

The period of performance for this initial work effort is from the date of award until December 31, 2006. It is EAC's view that it will require a longer period to complete a comprehensive set of management guidelines. A program review will be conducted three months before the end date of this contract to evaluate the progress made in this initial work effort along with an assessment of the work remaining. It is anticipated that a follow-on contract will be awarded after this review, when more information is available to scope the completion of the effort.

Schedule of Deliverables

- | | |
|----------------------------|--------------------------------------|
| 1. Draft outline of topics | 1 month after contract award |
| 2. Final outline of topics | 1 week after EAC/NASED comments |
| 3. Project work plan | 1 month after final outline approved |

4. Management Guidelines modules
5. Progress reports
6. Briefings
7. Program review

As specified in project work plan
Monthly
As required, at least quarterly
October 2006

Compensation

Consultant shall be paid at the rate of \$120.00 per hour. Consultant shall be reimbursed for any required travel at the standard Federal government rate for airfare, hotel, ground transportation, per diem, and other allowable travel expenses. A budget of \$6000.00 has been allocated for travel.

Invoicing

Consultant shall invoice monthly for all hours worked and any reimbursable expenses incurred during the month. Expenses claimed for reimbursement shall be itemized with appropriate receipts provided. Invoices shall be delivered to Ms. Diana Scott, Administrative Officer, U.S. Election Assistance Commission, 1225 New York Ave., N.W., Suite 1100, Washington DC 20005.

Contract Termination

This contract shall terminate at the end of the period of performance unless extended in writing by mutual agreement of the parties. The contract can be terminated in advance of the current end date by two weeks' notice in writing by either of the parties.



09/26/2005 10:17 AM

To bhancock@eac.gov, LLamone@elections.state.md.us,
sandy@sos.state.la.us
cc cpaquette@eac.gov

bcc

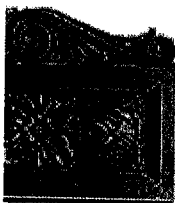
Subject Re: Project Meeting

Excellent! I will mark my calendar. If we can begin the meeting around noon on the 27th, it will allow for working group members to arrive in the morning on the 27th, and possibly return home in the evening on the 28th.

Brit - when you have some time, let's begin discussion on a draft project outline to get the discussion started at our first working group meeting.

Sandy and Linda - let us know as soon as you have confirmed the membership of the working group.

Connie



Brian Hancock/EAC/GOV

09/20/2005 11:32 AM

To [REDACTED] sandy@sos.state.ia.us,

LLamone@elections.state.md.u [REDACTED]

cc

bcc

Subject Teleconference for Kickoff of Management Guidelines Contract

Linda, Connie, Brit, Sandy,

Would you all be available sometime Thursday morning for a relatively brief teleconference to officially kick-off the contract for the management guidelines work. We need to have this conversation as early as possible before the end of the fiscal year, and with the TDGC Plenary Meeting next week, time is limited.

Please let me know if you can do a conference around mid-morning, say 10:00am?

Myself, Carol and perhaps Tom will be here on the EAC end of the phone.

Thanks.

Brian

Brian Hancock
U.S. Election Assistance Commission
1225 New York Avenue, NW, Ste. 1100
Washington, DC 20005
202-566-3100
www.eac.gov



Scjschmidt@aol.com
09/20/2005 01:29 PM

To bhancock@eac.gov [REDACTED]
cc [REDACTED] LLamone@elections.state.md.us

bcc

Subject Re: Teleconference for Kickoff of Management Guidelines Contract

Brian,

Can we do the conference call at 11 a.m.? I forgot that I have another conference call already scheduled for 9 a.m. Kansas City time.

Thanks..Connie



"Linda Lamone"
<LLamone@elections.state.m
d.us>

09/20/2005 01:43 PM

To bhancock@eac.gov [REDACTED]
sandy@sos.state.ia.us [REDACTED]

cc

bcc

Subject RE: Teleconference for Kickoff of Management Guidelines Contract

I am fine for any time on Thursday except around lunch (I have a lunch meeting). However, I am not sure Sandy will be in her office (she indicated yesterday that she had to go out of town).

-----Original Message-----

From: bhancock@eac.gov [mailto:bhancock@eac.gov]

Sent: Tuesday, September 20, 2005 11:33 AM

To: britw@bellsouth.net; sandy@sos.state.ia.us; Linda Lamone; scjschmidt@aol.com

Subject: Teleconference for Kickoff of Management Guidelines Contract

Linda, Connie, Brit, Sandy,

Would you all be available sometime Thursday morning for a relatively brief teleconference to officially kick-off the contract for the management guidelines work. We need to have this conversation as early as possible before the end of the fiscal year, and with the TDGC Plenary Meeting next week, time is limited.

Please let me know if you can do a conference around mid-morning, say 10:00am?

Myself, Carol and perhaps Tom will be here on the EAC end of the phone.

Thanks.

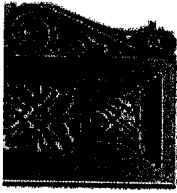
Brian

Brian Hancock
U.S. Election Assistance Commission
1225 New York Avenue, NW, Ste. 1100
Washington, DC 20005
202-566-3100
www.eac.gov

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This email has been scanned by networkMaryland Antivirus Service for the presence of computer viruses.



Brian Hancock/EAC/GOV

09/21/2005 08:58 AM

To [REDACTED] sandy@sos.state.ia.us,
LLamone@elections.state.md.us [REDACTED]

cc

bcc

Subject Thursday Teleconference Kickoff Meeting

All,

It looks like we will do the conference at 11:00am tomorrow. I'll call each of you and conference you together at that time.

Thanks.

Brian

Brian Hancock
U.S. Election Assistance Commission
1225 New York Avenue, NW, Ste. 1100
Washington, DC 20005
202-566-3100
www.eac.gov



09/22/2005 01:47 PM

To bhancock@eac.gov, cpaquette@eac.gov,
[REDACTED] andy@sos.state.la.us,
LLamone@elections.state.md.us

cc

bcc

Subject Conference Call notes

Everyone,

Attached is a brief summary of our conference call this morning. Brit - when you can, please give me a call to discuss the draft outline.



Connie NOTES FROM CONFERENCE CALL.doc

NOTES FROM CONFERENCE CALL - September 22, 2005

EAC VOTING SYSTEMS ADMINISTRATIVE MANAGEMENT GUIDELINES

Attendance: Brian Hancock, Carol Paquette, Linda Lamone, Connie Schmidt

Carol indicated that final contracts will be sent out next week. Any questions, please contact Brian.

The EAC's timeline extends to 2008 for this project. The current contract is through December 2006. The program will be reviewed around October 2006. They will look at what work has been accomplished at that point and what remains and then new contracts for completion of the management guidelines will be discussed.

The goal is completion of the guidelines prior to the 2008 election.

First step is the appointment of the working group members. That group will develop an outline of topics. From that list, any "burning" issues for 2006 will be developed first. The priority is best practices or guidelines for 2006 elections.

Final product will probably be completed in chapters. If there is a relationship to the Voting Systems Guidelines, it should be noted.

The existing Voting Systems Guidelines have an appendix with miscellaneous best practices regarding accessibility and security. They would like all best practices taken from the VSG relating to election administration and placed within the administrative management guideline document.

The project work document includes dollars for NASED to provide administrative support to the project co-managers and the working group.

There is a need to develop a budget for the NASED dollars as it must be allocated for travel expenses for the working group, administrative support and any necessary research projects.

Tom Wilkey will be briefing the TGDC members on this project at their upcoming meeting in Boulder.

Connie and Brit will pull together a draft outline for the first working group meeting. Linda will communicate with Sandy for confirmation of working group members. Potential meeting dates discussed were 10/13-14; 10/20-21, or 10/27-28. The meeting will last 1 ½ days. Brian will email the availability of the EAC office as the meeting location.

Wms

Contract # EAC 05-57 - Project Management Services to Plan for the Development and Create Election Management Guidelines

Background

On June 29 the Election Assistance Commission published its proposed 2005 Voluntary Voting System Guidelines for public comment. These guidelines update and augment the 2002 Voting Systems Standards. The first set of standards for voting machines were promulgated in 1990. While there have been three editions so far of guidelines for voting equipment, there is no companion document that covers the election administration and management aspects of the registration and voting process. It is well known that deficiencies in procedures can have just as much impact on the enfranchisement of voters and the outcome of elections as the functioning of the voting machines.

For many years, the Voting Systems Board of the National Association of State Election Directors (NASED) has been calling for the development of election management guidelines to complement the technical standards. EAC and NASED have agreed to cooperatively undertake this effort over the course of the next two to three years to create a comprehensive set of guidelines for use by local and state election officials. The purpose of the personal services contract is to obtain a project manager with significant experience in election administration to oversee the process of developing guidelines on Federal election management. This consultant will be required to manage the process and develop the guidelines in cooperation with another consultant (co-manager) and a working group of election officials from NASED.

Nature of the Appointment

The EAC enters into this contract pursuant to its authority to contract for consultants under 5 U.S.C. §3109 (See 42 U.S.C. §15324(b)). As such, this contract is for personal services and creates a limited employment relationship. (See 5 C.F.R. §304). As a result of this unique relationship, and pursuant to this agreement, you are required to follow all Federal laws and regulations as they relate to the release of agency documents and information. All research, information, documents and any other intellectual property (including but not limited to policies, procedures, manuals, and other work created at the request or otherwise while laboring for the EAC) shall be owned exclusively by the EAC, including copyright. All such work product shall be turned over to the EAC upon completion of your appointment term or as directed by the EAC. The EAC shall have exclusive rights over this material. You may not release government information or documents without the express permission of the EAC.

Supervision and Management.

The EAC Manager for this effort is Brian Hancock, EAC Research Specialist. Mr. Hancock will provide taskings, and supervise, review and approve all work and performance. He will also approve all labor hours on invoices and travel vouchers

Areas of Responsibility

Consultant will share project management of the Election Management Guidelines effort with another consultant selected by the EAC. The consultant will be responsible for working with and sharing responsibility with this co-manager. The consultant will also be required to work with a working group of election officials. NASED will be responsible, under separate agreement with the EAC, to assemble working groups of experienced state and local election officials as required to provide EAC subject matter expertise. The consultants shall work with NASED to create a working group(s), lead the group(s), collect and document its work product and use this work product to create the Management Guidelines. Consultants will be responsible for:

1. Developing a comprehensive outline of topics. Drawing on consultant's own knowledge and experience, and in consultation with the NASED Working Group, develop a comprehensive subject matter outline for the Election Management Guidelines document. This outline should appropriately integrate with the 2005 EAC Voluntary Voting System Guidelines.

2. Prioritizing topics and creating a work plan. The consultants will prioritize the topics based on degree of perceived existing deficiencies, anticipated high return in administration improvement, and other relevant criteria. Topics that could be completed in time for use in the 2006 elections should be given a top priority rating.

Based upon the priorities developed, consultants will create a work plan, including a timeline for the development of guidelines for each topic. This work plan and timeline are essential products as they will set forth the long-term plan for the completion of the entire guidelines project. As such, the work plan and timeline are expected to project efforts well into the future. Given the long term nature of this process, it is EAC's intention to focus efforts on subject matter modules so that products on particular topics can be completed piecemeal and be distributed to the election community as soon as they are completed. The work plan will be structured to accommodate this approach.

3. Developing draft guidelines. Following approval of the work plan, the Consultants/EAC shall coordinate with NASED to convene a subject matter Working Group. The EAC can request NASED to convene Working Group meetings and teleconferences and conduct limited research efforts. The Consultants shall manage, lead and task these working groups. Ultimately, the Consultants shall be responsible for creating draft guideline sections for subject matters identified in the working plan. These important drafts shall be presented to the EAC for review and adoption as guidance to state election officials. It is anticipated that this work will draw heavily on documented best practices and procedures already in use in election jurisdictions around the country.

4. Creating a final work plan and report. An import objective in this agreement is the creation of a final, practical work plan that may be used by the EAC as a long-term tool to complete its Election Management Guidelines. Given this fact, prior to the end of the

submitted for compensation under this agreement.

Period of Appointment, Compensation and Travel.

The period of appointment under this contract shall be one year. The appointment shall constitute intermittent appointment (without a regularly scheduled tour of duty) per 5 C.F.R. §340.401(b). The consultant shall not incur overtime. The consultant shall not receive automatic adjustments of pay based upon 5 U.S.C. 5303. The consultant is not eligible for sick and annual leave, nor compensation for work performed on federal holidays. The consultant shall be paid at a rate of \$120 per hour. The consultant is expected to work as needed during the one year appointment period, however, the consultant shall not work more than 37 hours in any given two week period. Further, the consultant may not work more than 1,040 hours within the one year appointment. The dates of performance are flexible but shall be based upon the needs of the project and the EAC.

Consultant's duty station shall be his/her home or place of business. The consultant has access to and shall supply common office equipment to include telecommunications, internet access, a computer, office supplies, facsimile machine and common workplace software (including Microsoft Word, Project and Excel). Other resources will be provided by the EAC as needed and at its discretion.

The consultant is required to travel on a periodic, as needed basis, throughout the duration of their appointment. Travel and compensation shall be in accordance with Federal Travel Regulations. All travel must be pre-approved by the EAC per Federal Travel Regulations and EAC policy. The consultant will be reimbursed, at the Federal government rates, for hotel and ground transportation costs, proper incidental expenses, and per diem while on official, pre-approved EAC travel.

Compensation Procedures

Compensation shall be made for work done (labor hours) by submitting invoices. Invoices shall be submitted every four weeks from the date of award. A week shall be from Sunday to Saturday. The first pay period shall begin the Sunday prior to the date of award. As such, there will be 14 invoice periods. Invoices must be submitted every 4 weeks even if no work was performed. Invoices shall state the number of labor hours that have been expended under the agreement. The invoice must show the number of hours worked for each of the two week periods that make up the total invoice time. It must also note the total number of days on which the work was done. As noted above, the contractor may not invoice more than 37 labor hours per two week period. Furthermore, invoices shall report a cumulative total of hours worked during the contract performance period (one year). Invoices shall be delivered to Mr. Brian Hancock for review and approval, U.S. Election Assistance Commission, 1225 New York Avenue, N.W., Suite 1100, Washington DC 20005. Compensation for travel shall be submitted by travel voucher consistent with Federal Travel Regulation and EAC requirements.

agreement, consultant will be tasked with creating a report and a final version of the work plan. Using their experiences over the last year, consultants will amend the initial work plan and timeline to reflect realities inherent in the project. The goals are to provide a plan and timeline that are realistic and as accurate as possible. The final report will provide guidance to the EAC regarding the most effective and efficient processes and practices to use in researching and developing Guidelines in the future. The report will recommend a Guidelines development process. Ultimately, the plan, timeline and report will be used by the EAC to set long-term project goals and allocate staff and resources.

Project Requirements

1. Draft outline of topics
2. Final outline of topics
3. Project Timeline
4. Management Guidelines Work Plan
5. Draft of Management Guideline Sections
6. Monthly progress reports
7. Briefings
8. Program Report and Final Work Plan

Contract Termination

This contract shall terminate at the end of the period of performance unless extended in writing by mutual agreement of the parties. The contract can be terminated in advance of the current end date by two weeks' notice in writing by either of the parties.