

Review Project.

Here are the planning assumptions I have made:

1. The project would need to commence ASAP and extend into late October, early November, depending upon the publication date in the Federal Register.
2. The Glossary of the Guidelines needs immediate work, including editing and annotation. This work product has a high priority.
3. A system of cataloging comments needs to be developed. This system will collect comments, excise identifying emails or other information that could be used to determine the author of the comments, and forward the comments in electronic (or hardcopy, depending upon form of submission) to us. We will then review the comment and implement the following actions:
  - a. Non-useable comments (those that are simply opinions, or not sufficiently well-formed to determine the author's intent) will be identified and held in abeyance;
  - b. Grammatical and editing comments will be identified and an immediate recommendation made to the EAC liaison regarding their deposition will be made.
  - c. Comments that are substantive will be cataloged and annotated. These comments will be organized into logical groupings that facilitate mapping the comments to the appropriate Guideline section.
  - d. The cataloged comments will be stored on a secure server so that all appropriate EAC-designated individuals can review the comments as needed. Summary reports will be provided to the EAC, as needed.
4. A final, comprehensive Glossary, benchmarked to as many jurisdictions as is practical, will be developed for the next iteration of the Guidelines. This Glossary of terms will attempt to provide jurisdiction-specific versions of commonly used terms in elections management.
5. Project personnel will need to travel to several meetings to collect data and observe. Travel to meet with the EAC is also anticipated.
6. We would like to have Brit Williams engaged and compensated for his role on this project. Because Brit is a retiree from the Univ. System of Georgia, we are unable to hire him on this project. We would like the EAC to explore a separate contract with Brit to support this (and perhaps other) work.
7. In the attached budget, I am proposing a total fixed costs of \$59,100 with variable costs of \$50,450, for a total-not-to-exceed \$109,550. We would invoice at an agreed upon interval. If there was a small volume of comments, the cost to the EAC would be approx. \$65K. If we needed to add additional consultants, we could invoice the EAC up to \$45K. If the volume of comments exceeds the anticipated upper bound,

018260

we

would ask that the EAC consider an addendum to this contract to facilitate the completion of the contract.

I hope this reflects a realistic schedule, work product and budget. Please let me know your thoughts.

- Merle.

Merle S. King  
<http://science.kennesaw.edu/csis>  
Chair, CSIS Department  
Kennesaw State University  
1000 Chastain Road, MB #1101  
Kennesaw, GA 30144-5591  
voice: 770-423-6354; fax: 770-423-6731

018261



"Merle King"  
 <mking@kennesaw.edu>  
 05/25/2005 04:51 PM

To cpaquette@eac.gov  
 cc  
 bcc

Subject Follow-up to Monday's Meeting

Carol - Thank you for giving us your morning on Monday. It was very helpful to hear your explanations of the work products for the Guideline Review Project.

Here are the planning assumptions I have made:

1. The project would need to commence ASAP and extend into late October, early November, depending upon the publication date in the Federal Register.

*end of December*

2. The Glossary of the Guidelines needs immediate work, including editing and annotation. This work product has a high priority.

*EAC  
 doing  
 this*

3. A system of cataloging comments needs to be developed. This system will collect comments, excise identifying emails or other information that could be used to determine the author of the comments, and forward the comments in electronic (or hardcopy, depending upon form of submission) to us. We will then review the comment and implement the following actions:

*maintain  
 master  
 copy of  
 document  
 & make  
 revisions  
 as directed  
 by EAC  
 maintain  
 version  
 control*

a. Non-useable comments (those that are simply opinions, or not sufficiently well-formed to determine the author's intent) will be identified and held in abeyance;

b. Grammatical and editing comments will be identified and an immediate recommendation made to the EAC liaison regarding their deposition will be made.

c. Comments that are substantive will be cataloged and annotated. These comments will be organized into logical groupings that facilitate mapping the comments to the appropriate Guideline section.

d. The cataloged comments will be stored on a secure server so that all appropriate EAC-designated individuals can review the comments as needed. Summary reports will be provided to the EAC, as needed.

4. A final, comprehensive Glossary, benchmarked to as many jurisdictions as is practical, will be developed for the next iteration of the Guidelines. This Glossary of terms will attempt to provide jurisdiction-specific versions of commonly used terms in elections management.

5. Project personnel will need to travel to several meetings to collect data and observe. Travel to meet with the EAC is also anticipated.

*2 hearings plus Bd mtgs organize this*

6. We would like to have Brit Williams engaged and compensated for his role on this project. Because Brit is a retiree from the Univ. System of Georgia, we are unable to hire him on this project. We would like the EAC to explore a separate contract with Brit to support this (and perhaps other) work.

7. In the attached budget, I am proposing a total fixed costs of \$59,100 with variable costs of \$50,450, for a total-not-to-exceed \$109,550. We would invoice at an agreed upon interval. If there was a.

018262

small volume of comments, the cost to the EAC would be approx. \$65K. If we needed to add additional consultants, we could invoice the EAC up to \$45K. If the volume of comments exceeds the anticipated upper bound, we would ask that the EAC consider an addendum to this contract to facilitate the completion of the contract.

I hope this reflects a realistic schedule, work product and budget. Please let me know your thoughts.

- Merle

Merle S. King  
<http://science.kennesaw.edu/csis>  
Chair, CSIS Department  
Kennesaw State University  
1000 Chastain Road, MB #1101  
Kennesaw, GA 30144-5591  
voice: 770-423-6354; fax: 770-423-6731



EACTGDCGuidelinesProposalBudget.xls

018263

Carol A. Paquette/EAC/GOV  
05/14/2005 11:55 AM

To mking@kennesaw.edu

cc britw@██████████

bcc

Subject EAC support requirements

Merle -

The EAC needs to get a contract in place as soon as possible for the following three support activities. We are looking for an organization that can provide overall project management and the basic technical capabilities from their own staff as well as being able to pull in additional expertise from other institutions and from the election community. The EAC seeks to have broad-based participation in all its activities to ensure the election community and the general public accept the results as having integrity and validity because all points of view have been considered. The unique capabilities and mission of the Center for Election Systems suggests to me that your organization is ideally suited to support these EAC requirements. I would like to discuss your interest and ability to support these activities at your earliest opportunity. The EAC's goal is to have as many information products available to assist election officials with the 2006 elections as possible.

#### Activity 1: Review and recommend disposition of Voluntary Voting System Guidelines comments

On May 9, the EAC received the initial TGDC recommendations for revised voting system guidelines. We are currently reviewing this document to determine if it is acceptable to publish for public comment as proposed guidelines, or if some modifications might be required. We anticipate completing this review and publishing the resulting proposed guidelines by early June. The EAC is severely under-staffed to appropriately handle the workload of reviewing and determining the disposition of the potentially substantial volume of comments that are expected over the 90 day comment period. We also lack the range of appropriate technical expertise required for this task. The Commissioners have requested that we put together an appropriate review team to assist the EAC with this comment review activity. We envision this process working as follows. We anticipate that most comments will be submitted via the EAC website. We are developing a comment tracking and management application to assist in managing the comments. We will also receive comments from other sources, such as email and paper mail. There will also be two public hearings with panel presentations followed by an open mike public comment period. We plan to review comments on a weekly basis. EAC personnel and members of the review support team would convene a weekly meeting or teleconference to do a first pass review, followed by assigning out of comments requiring additional consideration. Review team members would complete their assigned topics and make disposition recommendations in a subsequent meeting of the review group and the EAC lead staffer. NIST resources will be available to do additional research and/or for consultation, if required.

#### Activity 2: Development of quality control procedures for voting system acceptance by election officials

There are a variety of system acceptance procedures that election officials can employ to promote consistent quality in newly delivered voting systems. The CES has developed a model process for voting system acceptance and configuration management. This methodology and the practical experience acquired from applying it over several years can be drawn on to develop a set of scaled quality assurance recommendations to meet the needs of the variety of election jurisdictions that are purchasing voting equipment this year. The concept is to provide a range of elements and approaches so election officials will have some choices for what might best suit their particular circumstances.

#### Activity 3: Development of Election Management Guidelines or Best Practices

The quality of election management practices has a direct impact on the integrity and overall success of the voting process. There appeared to be only a few instances of significant voting equipment

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malfunctions in the 2004 election, but there were many instances of procedural glitches. The need for management guidelines has long been recognized in the election community. The EAC would like to initiate the development of such guidelines or best practices, as a complementary product to the Voluntary Voting System Guidelines. In EAC's view, this work would require participation of a working group of election officials. However, an entity is needed to manage the development process and to provide research, documentation and other capabilities necessary to this work.

Carol A. Paquette  
Interim Executive Director  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov

018255

Carol A. Paquette/EAC/GOV  
06/01/2005 11:15 AM

To: Gracia Hillman/EAC/GOV, Paul DeGregorio/EAC/GOV,  
Raymundo Martinez/EAC/GOV, Juliet E.  
Thompson/EAC/GOV;twilkey@~~XXXXX~~  
cc: Sheila A. Banks/EAC/GOV, Adam Ambrogi/EAC/GOV, Gavin  
S. Gilmour/EAC/GOV, Brian Hancock/EAC/GOV  
bcc:  
Subject: proposed consulting contract to assist with NASED/EAC  
transition work

Commissioners et al. -

The work on developing the EAC processes, documentation, etc., for transitioning lab accreditation and system certification from NASED to EAC has fallen significantly behind schedule. The project timeline called for completion of this work for Commissioner review by the end of May. We are perhaps 50% complete at this point.

We had requested assistance from NIST to work with Brian Hancock on this effort, but they have not been forthcoming with meaningful help. They provided a point of contact who passed on a lot of reference material for Brian to review, but they haven't identified anyone to help with defining the processes and preparing the documentation. The point of contact has since been diverted by some family medical problems, and Lynne Rosenthal hasn't been able to identify another person.

Prior to his departure, Commissioner Soares encouraged me to find some additional resources to help move this work to completion. The Chair similarly advised me about two weeks ago when I was speaking to her about my concern over the lagging schedule.

In response to this direction to get help, I sent an email to Steve Berger, David Karmol, Paul Craft, Brit Williams, and Michael Shamos, asking if they could identify any individuals or companies we could contract with quickly to get this work done. Steve Berger responded that he could assist. I checked with EAC Counsel's Office to see if there were any issues regarding EAC contracting with a member of the TGDC. Julie and Gavin informed me that there were no problems with this. Steve is very well-qualified by education and experience to assist us in this effort. Paul Craft and Brit Williams concurred that Steve could more than adequately fill the requirement.

Brian and I have had several conversations with Steve and are convinced that his assistance will enable us to move ahead quickly to meet our revised target completion date of June 30. He has worked on defining similar quality conformance programs for other organizations and is knowledgeable of all the relevant standards, etc., and which need to be applied.

Consequently, I am recommending that the EAC enter into a consulting contract with Steve Berger for a not to exceed amount of \$40,000 and a period of performance from June 1 through July 31. The first milestone is to help Brian complete this work for Commission review by June 30. Steve's time in the month of July would be utilized to respond to questions and comments from the Commissioners to complete the work for Commission approval and establishment of a transition date.

I am available to discuss this matter and answer any questions you may have. If you are in agreement with this course of action, I will ask DeAnna to prepare appropriate consensus vote,

Carol A. Paquette  
Interim Executive Director  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov

018266



"Stephen Berger"

<stephen.berger@ [REDACTED]>

[REDACTED]

06/01/2005 09:57 AM

Please respond to  
stephen.berger@ieee.org

To bhancock@eac.gov, "Donald Heirman"  
<d.heirman@[REDACTED]>, "Dan Hoolihan"  
<hoolihan@[REDACTED]>

cc cpaquette@eac.gov

bcc

Subject RE: EAC Draft Documents

Brian,

Let me introduce the 3<sup>rd</sup> member of our "work crew" Dan Hoolihan. Dan has a lot of relevant experience to what we are doing. He is a NVLAP accreditor, very active on the FCC's Technical Competent Body Counsel and also works in international lab recognition areas. I know you will find Dan a valuable resource to have involved.

In talking to Dan this morning about our project we found ourselves discussing whether ISO Guide 65 type topics would be in view for this project. Guide 65 deals with vendor related topics, like their quality system, to assure that the manufactured product is the same as the tested product. ISO Guide 17025 focuses by contrast on lab accreditation. I asked Dan to write up a short discussion and forward it to you, to help us all get a clear focus on what we are doing first, what might come later and where we might find helpful guidance in preparing our materials.

Best Regards,

Stephen Berger

TEM Consulting, LP

Web Site - [www.temconsulting.com](http://www.temconsulting.com)

E-MAIL - [stephen.berger@ieee.org](mailto:stephen.berger@ieee.org)

Phone - [REDACTED]

Mobile [REDACTED]

FAX - (512) 869-8709

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

**Sent:** Wednesday, June 01, 2005 8:05 AM

**To:** Donald Heirman; Stephen Berger

**Subject:** EAC Draft Documents

Steve, Don,

Nice talking with you yesterday. Both Carol and I look forward to working with you to move the project towards completion.

Attached are three draft documents that will give you an idea of where we see the program headed. The first document is the letter of certification which we plan on sending initially to the current test labs which we would grandfather until the NVLAP portion of the program produces results.

The second document is a series of flow charts which outline the basic steps of the certification and testing, and laboratory accreditation program. The third document is a draft policy guide on the testing and certification program. The policy guide has some obvious gaps in several sections which I have not yet had time to complete. We value your assessment of these documents and look forward to meeting with you, Steve, next week, and with Don as soon as possible.

Thanks again.

018267



"Stephen Berger"  
<stephen.berger@ [REDACTED]>

To cpaquette@eac.gov

cc

06/01/2005 09:49 AM

bcc

Please respond to  
stephen.berger@ieee.org

Subject RE: additional contracting information

Carol,

The EIN for TEM Consulting is: [REDACTED]

I am attaching our W9 in case you need that in the future.

TEM Consulting is a small business and it is a corporation.

I filled out the EFT form and signed it, the PDF is attached.

Best Regards,

Stephen Berger

TEM Consulting, LP

Web Site - [www.temconsulting.com](http://www.temconsulting.com)

E-MAIL - [stephen.berger@ieee.org](mailto:stephen.berger@ieee.org)

Phone - [REDACTED]

Mobile - [REDACTED]

FAX - (512) 869-8709

---

**From:** cpaquette@eac.gov [mailto:cpaquette@eac.gov]

**Sent:** Wednesday, June 01, 2005 7:46 AM

**To:** stephen.berger@ieee.org

**Subject:** additional contracting information

Steve -

Need a little more information about your business to complete processing of contract.

1) What is your tax ID # (or SSN, if no tax ID)

2) What is the classification of your business: small; other than small, small disadvantaged, small woman-owned

and the type of business: corporation; partnership; sole proprietorship

Also, if you wish to receive payments electronically you will need to complete the attached EFT authorization form. Thanks!

Carol A. Paquette

018268

Carol A. Paquette/EAC/GOV  
06/01/2005 08:24 AM

To stephen.berger@ieee.org  
cc  
bcc  
Subject additional contracting information

Steve -

Need a little more information about your business to complete processing of contract.

1) What is your tax ID # (or SSN, if no tax ID)

2) What is the classification of your business: small; other than small, small disadvantaged, small woman-owned  
and the type of business: corporation; partnership; sole proprietorship

Also, if you wish to receive payments electronically you will need to complete the attached EFT authorization form. Thanks!



EFT form~9075810.tif

Carol A. Paquette  
Interim Executive Director  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov

018269



"Stephen Berger"  
<stephen.berger@ [REDACTED]>

To cpaquette@eac.gov

cc

05/30/2005 10:04 AM

bcc

Please respond to  
stephen.berger@ieee.org

Subject RE: Dates

Carol,

Hope you don't have to work all of memorial day? I wanted to get back with you on a couple of things.

I haven't heard back from Don or Dan yet, but let's tentatively plan on a conference call tomorrow at 1 ET. Do you have a conference number or would you like me to send out the one I use?

SATO is the travel agency that NIST uses when I come to the TGDC meetings. They don't seem to have the problem with last minute fare increases that we get booking directly. Otherwise the cost seems roughly comparable. For example, Southwest or American are the best connections from Austin. Right now, with 1 week notice I can to BWI for \$109 each way, \$218 plus tax roundtrip. Less than a week and it goes to \$586 plus tax roundtrip.

I can arrive at BWI by 1:30 out of Austin, and be at your office by 3:30.

So for the week of the 6<sup>th</sup>, if it gives us enough time I could come in Monday the 6<sup>th</sup> and coordinate my departure to match your schedule, say leaving late on the 8<sup>th</sup>?

I am putzing around the house and also working today. So feel free to call, it isn't an inconvenience [REDACTED] To get the lower airfare I should book today.

Best Regards,

Stephen Berger

TEM Consulting, LP

Web Site - [www.temconsulting.com](http://www.temconsulting.com)

E-MAIL - [stephen.berger@ieee.org](mailto:stephen.berger@ieee.org)

Phone - [REDACTED]

Mobile [REDACTED]

FAX - (512) 869-8709

---

**From:** cpaquette@eac.gov [mailto:cpaquette@eac.gov]

**Sent:** Friday, May 27, 2005 5:06 PM

**To:** stephen.berger@ieee.org

**Cc:** bhancock@eac.gov

**Subject:** RE: Dates

Steve -

Don't know what SATO stands for, does it mean Invitational travel orders (i.e., the government makes your travel arrangements and provides you a ticket)?

Monday is a government holiday which I will be celebrating by trying to complete my review of the Voluntary Voting System Guidelines.

018270

How about a phone call on Tuesday, the 31st? I'm available at 1 or 4:30 Eastern. Wednesday, June 1, is open all day, if that works better for you and your colleagues. Then we could have in person meeting the week of the 6th as you suggest. I'm on leave the 8th to attend an out-of-town graduation.

Carol A. Paquette  
Interim Executive Director  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov

"Stephen Berger" <stephen.berger@[REDACTED]>

05/27/2005 05:00 PM

To: cpaquette@eac.gov  
cc  
Subject: RE: Dates

Please respond to  
stephen.berger@ieee.org

Carol,

Assuming I can travel under SATO, as when I come to TGDC meetings, we don't need to worry about last minute flight costs.

I am working on a meeting at the FCC for June 13-14 and could extend to work with you, which would save some travel costs. I think though that you will want a first meeting sooner. Would you like to have an initial conference call, including Don Hejman and Dan Hoolhan, on Monday and in in-person meeting sometime the week of June 6? With your statement that the contract looks acceptable I am comfortable with going ahead and getting started. I could also fly up next week, but wonder if we wouldn't accomplish more by having a couple of conference calls and doing some preparatory work on our side?

My thought is after an initial conference call we should see what models and similar documents we can gather from sources we are aware of and adapt to the needs of the EAC. So at a first meeting the following week we potentially would come with some model documents and procedures to consider.

Best Regards,

Stephen Berger

TEM Consulting, LP  
Web Site - [www.temconsulting.com](http://www.temconsulting.com)  
E-MAIL - [stephen.berger@ieee.org](mailto:stephen.berger@ieee.org)  
Phone - [REDACTED]  
Mobile [REDACTED]  
FAX - (512) 869-8709

018271

---

**From:** cpaquette@eac.gov [mailto:cpaquette@eac.gov]  
**Sent:** Friday, May 27, 2005 3:43 PM  
**To:** stephen.berger@ieee.org  
**Subject:** Re: Air Force Contract

Thanks, Steve. I agree with you that the consulting contract is the better way to go. I have reviewed the agreement you sent and it looks fine to me in terms of having all the appropriate clauses and safeguards. I have passed it to our General Counsel to see if she agrees that it is an acceptable contract document. If she gives me the okay we can probably have this in place by next Wednesday (June 1). We should be working on a date for you to come in so we can review work accomplished and what further remains to be completed.

Carol A. Paquette  
Interim Executive Director  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov

"Stephen Berger" <stephen.berger@[REDACTED]>

05/27/2005 04:04 PM

To "Carol A. Paquette" <cpaquette@eac.gov>  
cc  
Subject Air Force Contract

Please respond to stephen.berger@ieee.org
--

Carol,

Attached is my Air Force contract. Besides a lot of boilerplate, the principle difference is that this is a firm fixed price contract. You can see that a set of initial deliverables was specified and funded. Options were included that could be exercised at the agencies discretion. We can go that way with your job but I would need a clear set of deliverables to bid on. Of course my bid will be competitive but guarded to be sure that I can provide the deliverables within the bid. I think the work assignment based contract will be both quicker to get in place and provide you a lower final cost. Having a not-to-exceed on the work items should give you the same budget protections that the Air Force is getting with the firm fixed price approach.

Best Regards,

018272



"Stephen Berger"

<stephen.berger@ [REDACTED]>

05/27/2005 09:14 AM

Please respond to  
stephen.berger@ieee.org

To cpaquette@eac.gov, stephen.berger@ieee.org

cc bhancock@eac.gov

bcc

Subject RE: Help on establishing equipment certification system

Carol,

I will look forward to talking with you and Brian tomorrow.

Best Regards,

Stephen Berger

TEM Consulting, LP

Web Site - [www.temconsulting.com](http://www.temconsulting.com)

E-MAIL - [stephen.berger@ieee.org](mailto:stephen.berger@ieee.org)

Phone - [REDACTED]

Mobile [REDACTED]

FAX - (512) 869-8709

---

**From:** cpaquette@eac.gov [mailto:cpaquette@eac.gov]

**Sent:** Thursday, May 26, 2005 11:28 AM

**To:** stephen.berger@ieee.org

**Cc:** bhancock@eac.gov

**Subject:** RE: Help on establishing equipment certification system

Steve -

1 p.m. tomorrow is good. Brian Hancock will be sitting in on the call. Do you want us to call you or will you call us? My direct dial is 202.566.3125. Thanks!

Carol A. Paquette

Interim Executive Director

U.S. Election Assistance Commission

(202)566-3125 cpaquette@eac.gov

018273



"Stephen Berger"  
<stephen.berger@ [REDACTED]>

05/27/2005 03:55 PM

Please respond to  
stephen.berger@ieee.org

To "Carol A. Paquette" <cpaquette@eac.gov>  
cc  
bcc  
Subject Draft Contract

Carol,

Attached is the draft work assignment based contract I have been using. So far it has worked very well for the kind of assignment we are discussing.

I will send a copy of the Air Force Contract attached to a separate note for you to consider as an alternative.

I look forward to working with you. Thank you very much for the confidence expressed in making this opportunity available.

Best Regards,

Stephen Berger

TEM Consulting, LP

Web Site - [www.temconsulting.com](http://www.temconsulting.com)

E-MAIL - [stephen.berger@ieee.org](mailto:stephen.berger@ieee.org)

Phone - [REDACTED]

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EAC-TEM - Consulting Contract.doc

018274

Carol A. Paquette/EAC/GOV  
05/24/2005 04:00 PM

To: stephen.berger@ieee.org  
cc  
bcc  
Subject: Re: Help on establishing equipment certification system

Steve -

Sorry I didn't have time to call you this morning. Today was pretty fully booked. What's your availability tomorrow or Thursday?

Carol A. Paquette  
Interim Executive Director  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov  
"Stephen Berger" <stephen.berger@ieee.org>



"Stephen Berger"  
<stephen.berger@ieee.org>  
05/23/2005 01:36 PM  
Please respond to  
stephen.berger@ieee.org

To: "Carol A. Paquette" <cpaquette@eac.gov>  
cc  
Subject: Help on establishing equipment certification system

Carol,

After our talk last week I made a few phone calls both to identify resources that are available and also to organize my own thinking around what kinds of help might be of the most help to you.

I started with some of my colleagues who have experience helping other agencies in similar areas. I am working with the assumption that you would like to have both expertise and experience as well as purely the hours to produce the necessary products. In my calls I started on the experience and expertise side.

I am going to make some assumptions about where you are at in these tasks, so feel free to correct me if I am wrong.

I have 3 of us with a lot of experience in setting up and managing laboratories and working on equipment grants at the FCC and FDA. If you look at my website, [www.temconsulting.com](http://www.temconsulting.com) you will find resumes for myself and Don Heirman (currently president of IEEE Standards Association). Also Dan Hoolihan has some time available, <http://www.emcexpert.com/>. All of us have other commitments but also have some time available between now and the end of June.

From our conversation I would assume matching a team like this with some contract tech writers may give you the manhours you need with the expertise to direct it efficiently.

If you like I can offer to contract all three of us through my company, TEM Consulting. I often use a work assignment based contract. This establishes a durable set of terms and conditions. Work and therefore payment are approved by work assignments. So the first work assignment can be for current needs with appropriate not-to-exceed limits and delivery dates. If further service is desired then new work assignments can be opened up. I have a standard contract that I use but also am working under a variation of this using an Air Force contract for some assignments I have for them.

018275

If this is going in a direction that interests you I think I would suggest that you and I talk to set things up and then have an introductory call with the team to outline assignments and organize what we would do for you.

As I have thought about what I would do were I in your position I think I would make one of our assignments to go over to the FCC laboratory in Columbia and ask their help, borrowing as much as they may feel comfortable in sharing. I have contract with Rashmi Doshi almost weekly and would assume he would be helpful. The positive is that there may be a lot of workproduct from their system that could be adopted for EAC use. I would also assume that there is a lot of experience that could be gathered in to the benefit of the EAC. I think the principle challenge would be to 'right-size' the system to the EAC and voting equipment vendors. I believe the FCC manages something like 25,000 grants a year and has a system of 500 commercial test labs doing the testing required.

Probably my biggest general worry for the EAC is that it would be easy to create an overly complex system that would not be appropriate for this sector. However, there is a lot of experience out there that could be gathered in.

I will be in meeting from about 2:30 to 6:30 ET, but call me on my mobile before then if you want to talk further. Tomorrow I have an early flight from Tucson but would be available until about 10:30 ET.

Best Regards,

Stephen Berger

TEM Consulting, LP

Web Site - [www.temconsulting.com](http://www.temconsulting.com)

E-MAIL - [stephen.berger@ieee.org](mailto:stephen.berger@ieee.org)

Phone - [REDACTED]

Mobile - [REDACTED]

FAX - (512) 869-8709



Brian Hancock/EAC/GOV  
05/24/2005 09:21 AM

To: Carol A. Paquette/EAC/GOV@EAC  
cc  
bcc  
Subject: Associates of Steve Berger

Carol,

Don Heirman who works with Steve at TEM Consulting, has 30 years with Bell Laboratories in many EMC (Electromagnetic Compatibility) roles including Manager of Lucent Technologies (Bell Labs) Global Product Compliance Laboratory. He is also President of IEEE Standards Association, and has been a group manager for electromagnetics for the U.S. National Committee Technical Management Committee for the IEC (International Electrotechnical Commission). Finally, (in his spare time) he serves as an adjunct professor/senior research scientist at the University of Oklahoma Center for the Study of Wireless EMC.

Dan Hoolihan was Vice-President of the Minnesota Operations of TÜV Product Service from 1994-1999, Chief Operating Officer and co-founder of AMADOR Corporation from 1984 to 1994 and from 1969 to 1984, he was an EMC engineer and manager for Control Data Corporation in Minnesota. He is also a past President of the IEEE Electromagnetic Compatibility Society, and active with ANSI standards programs in this field.

Brian

Brian Hancock  
U.S. Election Assistance Commission  
1225 New York Avenue, NW, Ste. 1100  
Washington, DC 20005  
202-566-3100  
[www.eac.gov](http://www.eac.gov)

018277

Carol A. Paquette/EAC/GOV  
05/18/2005 03:10 PM

To pcraft@dos.state.fl.us;britw@ [REDACTED] stephen.berger@i  
eee.org;dkarmol@ansi.org;shamos@cs.cmu.edu  
cc  
bcc  
Subject EAC needs technical assistance to define system  
certification process

Gentlemen:

As you may be aware, the EAC is supposed to take over the lab accreditation and voting system certification processes from NASED this fiscal year. Brian Hancock has been working very diligently to get the procedures defined, the forms, etc., designed, report formats specified, etc. Our legal counsel has been working on legal aspects. However, we just do not have adequate numbers of staff personnel to get this work completed in a timely fashion. Neither Brian nor counsel can devote full time to this effort because of the press of other EAC business and our general lack of staff resources.

We are looking for either individual consultants or companies with experience in doing this type of work. Our original completion date was the end of May, which we are not close to meeting. We are now targetting the end of June to complete documentation of the procedures, criteria, forms, etc., so this transition can happen by August. But this date cannot be met without assistance. Please forward any recommendations you might have as soon as possible. Since we have our own procurement authority we can turn around contracts quickly and we have adequate budgetary resources available to cover this work. We just need to identify some qualified sources who can go to work immediately. Thank you for your assistance.

Carol A. Paquette  
Interim Executive Director  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov

018278

**Donald N. Heirman**  
**Don HEIRMAN Consultants**

████████████████████  
██████████ NJ ██████████ USA

Phone: ██████████

FAX: +1 732-530-5695

Email: [d.heirman@ieee.org](mailto:d.heirman@ieee.org)

Web site: <http://www.DonHEIRMAN.com>

Donald Heirman is president of Don HEIRMAN Consultants, training, standards, and educational electromagnetic compatibility (EMC) consultation corporation founded in 1997. His work includes consulting with a wide range of private and governmental bodies on EMC matters including implementation of state of the art EMC test facilities and evolving standardization, laboratory competency, and measurement aspects of human exposure to radio frequency energy. He provides workshops and tutorials on many of these topics both in the United States and in Europe.

Previously he was with Bell Laboratories for over 30 years in many EMC roles including Manager of Lucent Technologies (Bell Labs) Global Product Compliance Laboratory, which he founded, and where he was in charge of the corporation's major product safety, telecommunications, and EMC regulatory test facility and its participation in ANSI accredited standards committee and international EMC standardization. The laboratory was one of the first EMC testing labs accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) on a wide range of telecommunication products.

He chairs, or is a principal technical expert contributor to, US and international EMC standards organizations including ANSI ASC C63 (committee vice chairman and chairman of its Subcommittee 1 which is responsible for most of the C63 standards on EMC testing, calibration and instrumentation specifications and techniques) and the International Electrotechnical Commission's (IEC) Special International Committee on Radio Interference (CISPR) where he is a member of the CISPR steering committee and chairman of its Subcommittee A (Radio Interference Measurements and Statistical Techniques). Subcommittee A is responsible for CISPR Publication 16 which is the basic set of standards used worldwide for performing radio interference measurements to meet associated national regulatory requirements. He is a member of the IEC's Advisory Committee on EMC (ACEC) and the Technical Management Committee (TMC) of the US National Committee (USNC) of the IEC. In the TMC, he is Group Manager for electromagnetics which is responsible for ensuring appropriate US participation in the IEC on EMC matters and chairs its Coordinating Committee on EMC which helps formulate US EMC positions among the many USNC technical advisory committees (TAGs) with EMC aspects. He is also an active member of the USNC TAGs for CISPR Subcommittee A and Subcommittee I (EMC of Information Technology Equipment, multimedia equipment and receivers).

Mr. Heirman is past president and now member of the Board of Directors (managing business development) of the National Cooperation for Laboratory Accreditation (NACLA) which recognizes the competency of testing and calibration accreditation bodies in the US via the adherence of these accrediting bodies to ISO guides for competency of accrediting bodies and





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

OFFICE OF THE CHAIR

July 22, 2005

Mr. Earle Holley  
Vice President for Business & Finance  
Kennesaw State University  
1000 Chastain Road, MS #0102  
Kennesaw, Georgia 30144

Dear Mr. Holley:

Enclosed is a signed contract in the amount of \$175,000.00 for the provision of technical services to assist the Election Assistance Commission (EAC) with the collection and review of public comments on the draft Voluntary Voting System Guidelines. The work effort also includes updating the referenced external standards (e.g., IEEE, ANSI) in the Guidelines and to expand the Glossary.

The adoption of new voting system guidelines is one of the major EAC responsibilities mandated by the Help American Vote Act. We expect to receive a substantial volume of comments during the course of the 90 day comment period. EAC is a very small organization and does not have sufficient internal staff to manage this workload. The purpose of this contract is to help us keep up with the review and classification of comments for further consideration and to assist EAC staff in updating portions of the Guidelines, such as the referenced standards, to include the most recent editions.

To acknowledge your receipt and acceptance of this contract, please countersign and date below and return one copy to the attention of Carol Paquette, who will be coordinating this work effort for the Commission.

We look forward to working with Kennesaw State University on this very important EAC product.

Earle Holley  
Kennesaw State University

Sincerely,

  
Gracia Hillman, Chair



Office of Sponsored Programs

August 25, 2005

Ms. Carol Paquette  
U.S. Election Assistance Commission  
1225 New York Avenue, N.W. Suite 1100  
Washington, D.C. 20005

Re: EAC-0544, Kennesaw State University

Dear Ms. Paquette,

Please find enclosed one copy acknowledging receipt and acceptance of EAC-0544, Contract for Technical Assistance for the EAC for the Collection, Management, Review, and Response to the Public Comments Received on the Voluntary Voting System Guidelines. As this is a cost reimbursement type (Time and Materials) contract, we have enclosed our budget for this work. We will expect to be reimbursed for the expenses outlined on the attached budget.

Please let me know if you have any questions with any of the foregoing.

Kind regards,

Carolyn Elliott-Farino  
Associate Director

MEMORANDUM

TO: Commissioners Hillman, DeGregorio, and Martinez  
FROM: Carol A. Paquette CP  
DATE: June 3, 2005  
RE: Consulting contract to assist with EAC system certification process development

BACKGROUND:

The work on developing EAC processes, review criteria, and documentation requirements for lab accreditation and voting system certification has fallen significantly behind schedule. The project timeline called for completion of this work for Commissioner review by the end of May. This work is perhaps 50% complete at this point. In addition, as we have more fully researched this topic we have become aware that this effort requires technical expertise and specialized knowledge not available on our staff. The Commission has committed to Congress that EAC will assume laboratory accreditation and system certification responsibility from NASED in FY05. Since public notice and comment will be required before this transition can occur, these materials need to be completed by early July at the latest to meet this commitment.

In early April, we requested assistance from NIST, but they have not been forthcoming with meaningful help. They provided a point of contact who identified and passed along considerable reference material, but is no longer available for further assistance due to a family medical issue. NIST has not been able to identify a replacement.

In an attempt to identify other potential sources of assistance for this highly specialized subject matter, I contacted several nationally recognized authorities on voting system certification and quality conformance processes. As a result of this inquiry, TEM Consulting was identified as uniquely qualified to assist the EAC.

Stephen Berger is the President of this small consulting firm. Mr. Berger has significant experience with IEEE standards development activities and served as the Chair of the IEEE Committee on voting equipment standards. He is the IEEE representative on the Technical Guidelines Development Committee and an ex-officio member of the NASED Voting Systems Standards Board. He also is the Co-chair of the U.S. Access Board's telecommunications compliance sub-committee. His resumé is attached.

Mr. Berger has identified two other consultants who will assist in this effort. Donald Heirman is past president and now a member of the Board of Directors of the National

Cooperation for Laboratory Accreditation, which recognizes the competency of testing accreditation bodies in the U.S. through the application of International Standards Organization guides. He chairs, or is a principal technical expert to, several U.S. and international standards organizations. He is also President of the IEEE Standards Association. His resume is attached.

Daniel Hoolihan specializes in laboratory evaluations and the accreditation of certification bodies. He is a consultant to NIST in the area of Telecommunications Certification Body and Conformity Assessment Body evaluations. (When EAC assumes the responsibility for laboratory accreditation and voting system certification, EAC will become a Certification and Conformity Assessment Body.) He is also an assessor for the NIST National Voluntary Laboratory Accreditation Program. He has been actively involved with ANSI standards committee work for 20 years. He is also an active member of the U.S. Technical Advisory Group on Industrial, Scientific and Medical Equipment. His resume is attached.

RECOMMENDATION:

The Commission should approve a consulting contract with TEM Consulting to assist EAC staff in completing the laboratory accreditation and system certification work. The period of performance would be from June 6 through July 15, 2005. The contract value will be \$25,000. A brief Statement of Work is attached.



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

OFFICE OF THE CHAIR

BEFORE THE ELECTION ASSISTANCE COMMISSION

In the Matter of )  
 )  
 Award of Contract for Technical Assistance to the )  
 EAC for the Collection, Management, Review, and )  
 Response to Public Comments Received on the )  
 Voluntary Voting Systems Guidelines )

CERTIFICATION

I, Gracia M. Hillman., Chair of the Election Assistance Commission, do hereby certify that on July 22, 2004, the Commission decided by a vote of 3 to take the following action(s):

1.

Award of Contract for Technical Assistance to the EAC for the Collection, Management, Review and Response to Public Comments Received on the Voluntary Voting Systems Guidelines.

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

Attest:

22 July 2005  
 \_\_\_\_\_  
 Date

\_\_\_\_\_  
 Gracia M. Hillman  
 Chair



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

TALLY VOTE MATTER

DATE & TIME OF TRANSMITTAL: July 19, 2005, 12:30PM

BALLOT DEADLINE: July 21, 2005, 12:30PM

COMMISSIONERS: DeGREGORIO, HILLMAN, MARTINEZ

SUBJECT: AWARD OF CONTRACT FOR TECHNICAL ASSISTANCE TO THE  
EAC FOR THE COLLECTION, MANAGEMENT, REVIEW, AND  
RESPONSE TO PUBLIC COMMENTS RECEIVED ON THE  
VOLUNTARY VOTING SYSTEM GUIDELINES

- I approve the recommendation.  
 I disapprove the recommendation.  
 I object to the recommendation.  
 I am recused from voting.

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE: 7/19/05

SIGNATURE: Paul DeGregorio

A definite vote is required. All ballots must be signed and dated. Please return ONLY THE BALLOT to the EAC Chair. Please return the ballot no later than date and time shown above.

FROM TOM WILKEY, EXECUTIVE DIRECTOR

018286



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

TALLY VOTE MATTER

DATE & TIME OF TRANSMITTAL: July 19, 2005, 12:30PM

BALLOT DEADLINE: July 21, 2005, 12:30PM

COMMISSIONERS: DeGREGORIO, HILLMAN, MARTINEZ

SUBJECT: AWARD OF CONTRACT FOR TECHNICAL ASSISTANCE TO THE  
EAC FOR THE COLLECTION, MANAGEMENT, REVIEW, AND  
RESPONSE TO PUBLIC COMMENTS RECEIVED ON THE  
VOLUNTARY VOTING SYSTEM GUIDELINES

- I approve the recommendation.
- I disapprove the recommendation.
- I object to the recommendation.
- I am recused from voting.

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE: 7/22/05 SIGNATURE: Ray Martinez

A definite vote is required. All ballots must be signed and dated. Please return ONLY THE BALLOT to the EAC Chair. Please return the ballot no later than date and time shown above.

FROM TOM WILKEY, EXECUTIVE DIRECTOR

018287



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

TALLY VOTE MATTER

DATE & TIME OF TRANSMITTAL: July 19, 2005, 12:30PM

BALLOT DEADLINE: July 21, 2005, 12:30PM

COMMISSIONERS: DEGREGORIO, HILLMAN, MARTINEZ

SUBJECT: AWARD OF CONTRACT FOR TECHNICAL ASSISTANCE TO THE  
EAC FOR THE COLLECTION, MANAGEMENT, REVIEW, AND  
RESPONSE TO PUBLIC COMMENTS RECEIVED ON THE  
VOLUNTARY VOTING SYSTEM GUIDELINES

- I approve the recommendation.  
 I disapprove the recommendation.  
 I object to the recommendation.  
 I am recused from voting.

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE: 12 July 21/05 SIGNATURE: [Signature]

A definite vote is required. All ballots must be signed and dated. Please return ONLY THE BALLOT to the EAC Chair. Please return the ballot no later than date and time shown above.

FROM TOM WILKEY, EXECUTIVE DIRECTOR

018288



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

**TALLY VOTE MATTER**

DATE & TIME OF TRANSMITTAL: July 19, 2005, 12:30PM

BALLOT DEADLINE: July 21, 2005, 12:30PM

COMMISSIONERS: DEGREGORIO, HILLMAN, MARTINEZ

SUBJECT: AWARD OF CONTRACT FOR TECHNICAL ASSISTANCE TO THE  
EAC FOR THE COLLECTION, MANAGEMENT, REVIEW, AND  
RESPONSE TO PUBLIC COMMENTS RECEIVED ON THE  
VOLUNTARY VOTING SYSTEM GUIDELINES

- ( ) I approve the recommendation.  
( ) I disapprove the recommendation.  
( ) I object to the recommendation.  
( ) I am recused from voting.

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_

A definite vote is required. All ballots must be signed and dated. Please return ONLY THE BALLOT to the EAC Chair. Please return the ballot no later than date and time shown above.

FROM TOM WILKEY, EXECUTIVE DIRECTOR

018289

**MEMORANDUM**

July 15, 2005

**TO:** EAC Commissioners

**FROM:** Tom Wilkey, Executive Director

**SUBJECT:** Award of Contract for Technical Assistance to the EAC for the Collection, Management, Review, and Response to Public Comments Received on the Voluntary Voting System Guidelines

On June 29, 2005, EAC formally opened the ninety day public comment period on the Voluntary Voting System Guidelines. In light of our limited staff resources, EAC will require assistance in the review, posting, and analysis of these comments. This work will require personnel who have knowledge and experience with election administration processes and terminology, voting system technology, the testing of voting systems, and the application of standards. It will also require the ability to electronically host the document for public review, as well as the on-line commenting application that has been developed.

Kennesaw State University houses a unique facility, the Center for Election Systems, which possesses all of these capabilities. The Center provides voting system certification and acceptance testing, voting system configuration, election official and poll worker training, ballot generation, election day technical support, and election monitoring for all jurisdictions in the State of Georgia. This is the only institution of its kind in the United States and thus qualifies for FAR Subpart 6.302-1 exception to the requirement for full and open competition. We have been conducting a series of discussions with this institution regarding EAC's requirements in order to arrive at a mutually agreeable statement of work and cost estimate.

The Commissioners have previously reviewed and approved the attached statement of work for this effort. We have reviewed Kennesaw's cost estimate for this effort and find it reasonable for the experience levels and types of personnel needed to perform this work.

**RECOMMENDATION:**

Approve the award of a contract to Kennesaw State University in the amount of \$175,000.

Attachment

018290

CONTRACT FOR TECHNICAL ASSISTANCE TO THE EAC FOR THE  
COLLECTION, MANAGEMENT, REVIEW, AND RESPONSE TO THE PUBLIC  
COMMENTS RECEIVED ON THE VOLUNTARY VOTING SYSTEM GUIDELINES

1.0 Background. On May 9, 2005, the EAC received the initial set of recommendations for the HAVA-mandated Voluntary Voting System Guidelines from the Technical Guidelines Development Committee (TGDC). After performing its due diligence review of this document, the EAC made several changes and published the revised document for a 90 day public comment period. This period began on June 29, with publication of a notice in the Federal Register.

The EAC has established several alternative methods for submitting comments:

- On-line electronic comment form at [www.eac.gov](http://www.eac.gov)
- E-mail to [votingsystemguidelines@eac.gov](mailto:votingsystemguidelines@eac.gov)
- Postal mail to Voting System Guidelines Comments at EAC
- FAX to Voting System Guidelines Comments at 202.566.3127

The on-line comment form is associated with an application developed to assist with the management, tracking, and review of comments. This application will permit the manual entry of comments received from other sources so that all comments will be stored and managed from a single source. All comments will be posted for public review on the EAC website.

All comments will need to be reviewed and categorized into editorial, substantive, and other general categories useful for management purposes. Substantive comments will be assessed to determine if they indicate a need to modify the Guidelines. This may require some research and analysis, including consultation with NIST and/or the TGDC. At the conclusion of the comment period, EAC will be required to summarize the numbers and types of comments received and their disposition.

2.0 Objective. The objective of this contract is for EAC to obtain assistance with the posting and initial analysis and categorization of the comments and to obtain technical assistance in updating the referenced standards and glossary sections.

3.0 Scope. EAC shall provide the contents of the website temporarily hosting the Voluntary Voting System Guidelines, to include the on-line commenting application and database of comments. EAC shall forward all comments received from other sources for timely posting to the comment database by the Contractor. The Contractor shall be responsible for all the research, analysis and support activities necessary to successfully complete the tasks described below.

4.0 Tasks.

1. Host document for public review and post comments received. The Contractor shall host the Voluntary Voting System Guidelines document and commenting

application on their website and make them available for public access from the start of the contract until the close of the comment period (September 26, 2005). This access shall be provided by a hot link from the EAC homepage.

The Contractor shall perform initial screening of comments for profanity or other offensive content. Originators of such comments will be informed that such material cannot be posted for public consumption. These comments will be retained in the database, but not approved for public posting. All other comments will be posted to the website for public review.

The EAC will forward to the Contractor all comments received by other means than the on-line comment form for entry into the comment database for public posting and analysis. The Contractor shall provide appropriate quality control to ensure that all comments are captured correctly. Comments will be entered verbatim as received, with no corrections or excerpting.

Hosting of comments will extend for an estimated 30 days beyond the close of the comment period to allow sufficient time to review and determine their disposition. All comments shall be copied to CDs for transfer and retention by the EAC at the conclusion of the contract.

2. Recommend a comment classification schema and organize comments accordingly. The Contractor shall recommend a classification schema for categorizing comments relative to the degree of analysis required. For example, comments dealing with editorial points, typographical errors, and grammar can be handled very straightforwardly. Comments that are more technical in nature may require considerable analysis and perhaps research in order to make a determination on their disposition. Upon approval of the schema by EAC, the Contractor shall organize comments in this manner and periodically provide reports to the EAC on the number and kinds of comments received, and recommendations for the disposition of substantive comments. Comments shall be mapped to relevant portions of the Guidelines document. Periodic teleconferences will be conducted to review status of work, discuss comments and recommendations, and identify issues that will require consultation with NIST or other sources for resolution.
3. Update standards referenced in Guidelines. There are several places in the Guidelines that refer to standards promulgated by other organizations, e.g., ANSI, IEEE, IEC, MILSTD. The Contractor shall research all standards references to identify the latest version and ensure that this is the version referenced in the Guidelines. All references must include the date and version number, if appropriate. In addition, the Contractor shall research commercial practice and other sources of standards to identify replacements for the MILSTD references no longer maintained by the Department of Defense. The Contractor will edit references to standards in the body of the Guidelines to the title of the standard only and key the entry to the References section. This will facilitate the future

issuance of technical addenda to the References as versions of standards evolve without having to create change notices for the body of the document.

4. Develop a comprehensive Glossary of election terms related to voting systems and certification. The Glossary in the 2005 Guidelines has been expanded from the 2002 Voting Systems Standards. However, it needs further work. All key terms in the body of the document should be included in the Glossary. In addition, some terms are defined somewhat differently by various jurisdictions (e.g., absentee voting). Conversely, some concepts are referred to by different terms in different jurisdictions (e.g., ballot type, ballot style). The Contractor shall make recommendations to EAC for additional terms and additional definitions to be included in the Glossary.
5. Maintain master copy of Guidelines and make revisions as directed by EAC. EAC intends to revise the Guidelines throughout the comment period to expedite the process of issuing the final Guidelines at the end of that period. The Contractor shall maintain the master copy of the Guidelines and make revisions as directed by EAC. The Contractor shall maintain strict configuration management and version control of all changes.
6. Attend EAC meetings with statutory boards. HAVA mandates that all guidance issued by the EAC must be reviewed and commented on by the Board of Advisors and the Standards Board. The Board of Advisors is scheduled to meet in Portland, Oregon, August 3-5. The Standards Board is scheduled to meet in Denver, Colorado, August 24-25. The Contractor shall attend these meetings to maintain awareness of concerns and issues raised by these EAC advisory groups.
7. Attend public hearings on Guidelines. One public hearing was conducted in New York City on June 30. Two additional hearings are planned. One is at Caltech in Pasadena, California, on July 28. The other is scheduled for Denver, Colorado, on August 23. The Contractor shall attend these hearings to maintain awareness of the concerns and issues that members of the election community and the public express regarding the Guidelines.

5.0 Contract Type. The contract type will be Time and Materials in the amount of \$175,000.

6.0 Place of Performance. The principal place of performance will be the Contractor's place of business. Project meetings may occasionally be conducted at EAC offices in Washington, D.C. Some travel will be required to attend EAC public hearings and other meetings related to Guidelines review, which are scheduled for various locations.

7.0 Period of Performance. The period of performance is from date of award until December 30, 2005.

## 8.0 Schedule of Deliverables.

1. Project plan – 5 days after contract award
2. Progress reports – monthly
3. Comment summaries – weekly
4. Comment classification schema – 15 days after contract award
5. Updated standards references – 45 days after contract award
6. Revised Glossary – 60 days after contract award
7. Briefings – as required

9.0 Inspection and Acceptance Criteria. Final inspection and acceptance of all work performed, reports, and other deliverables will be performed at the offices of the EAC. The Contracting Officer's Representative for this effort will be Brian Hancock.

10.0 Invoicing. Invoices may be submitted monthly using Standard Form 1034, Public Voucher for Purchases and Services Other Than Personal. Invoices shall be mailed to the attention of Ms. Diana Scott, Administrative Officer, U.S. Election Assistance Commission, 1225 New York Avenue, N.W., Suite 1100, Washington, D.C. 20005.

11.0 Accounting and Appropriation. Funds in the amount of \$175,000.00 are available for this task order.

## 12.0 General Provisions:

1. *Inspection/Acceptance.* The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The EAC reserves the right to inspect and review any products or services that have been tendered for acceptance. The EAC may require correction or re-performance of nonconforming items at no increase in contract price. The EAC must exercise its post-acceptance rights within ten (10) days after the defect was discovered or should have been discovered.
2. *Contract Terms.* Should there be a conflict between the contract clauses included in this document and the "Purchase Order Terms and Conditions" on the back of GSA Form 300, which is used to record contract financial data, the contract clauses in this document shall take precedence.
3. *Changes.* Changes in the terms and conditions of this Contract may be made only by written agreement signed by authorized representatives of both parties.
4. *Disputes.* This Contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). The Contractor shall proceed diligently with performance of this Contract, pending final resolution of any dispute arising under the Contract.

018294

5. *Excusable Delays.* The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the EAC, in writing, as soon as possible after the beginning of an excusable delay. The Contractor shall explain the basis for the excusable delay, and correct the problem as soon as possible. The Contractor shall notify the EAC, in writing, at the end of the delay.
6. *Other Complications.* The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.
7. *Compliance with laws unique to Government contracts.* The Contractor agrees to comply with 31 U.S.C 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 327 *et seq.*, Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409, relating to whistle blower protections; 49 U.S.C. 40118, Fly American, and 41 U.S.C 423 relating to procurement integrity.
8. *Limitation of Government Liability.* The Contractor is not authorized to make expenditures or incur obligations exceeding the total amount allocated to the contract. The Contractor is required to notify the Contracting Officer's Representative when 75% of funding has been obligated.
9. *Termination for convenience.* The EAC, by written notice, may terminate this contract without fault, in whole or in part, when it is in the best interest of the government. In the event of contract termination for convenience, the Contractor, shall be in accordance with Part 49 of the Federal Acquisition Regulations in effect on the date of this contract.

**ORDER FOR SUPPLIES AND SERVICES**

NOTE: MARK ALL PACKAGES WITH ORDER NUMBER/CONTRACT NUMBER

PAGE 1 OF 1 PAGES

1. DATE OF ORDER 7/22/05	2. ORDER NUMBER	3. CONTRACT NUMBER EAC-0544	4. ACT NUMBER E4019088
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**IMPORTANT:**

- \* This form is not to be used as an invoice. See reverse for invoice requirements and payment information.
- \* The invoice remit to address must be the same as Block 12. Notify the contracting/ordering officer if the information in Block 12 is incorrect.
- \* Failure to show the ACT number (Block 4) on invoice will delay payment and render the invoice improper.
- \* Failure to mail invoice to address in Block 24 will delay payment.
- \* Failure of service contractors to provide information in Block 9A will result in 20% of payment being withheld (26 U.S.C. 3406(a)).

7. TO: CONTRACTOR (Name, address and zip code) Kennesaw State University 1000 Chastain Road, MS #0102 Kennesaw, GA 30144		8. TYPE OF ORDER <input type="checkbox"/> A. PURCHASE <input type="checkbox"/> B. DELIVERY Please furnish the following on the terms specified on both sides of the order and the attached sheets, if any, including: <input type="checkbox"/> C. MODIFICATION NO. AUTHORITY FOR ISSUING	
9A. EMPLOYER'S IDENTIFICATION NUMBER		9B. CHECK, IF APPROPRIATE <input type="checkbox"/> WITHHOLD 20%	
10A. CLASSIFICATION <input type="checkbox"/> A. SMALL BUSINESS <input checked="" type="checkbox"/> B. OTHER THAN SMALL BUSINESS <input type="checkbox"/> C. SMALL DISADVANTAGED <input type="checkbox"/> D. SMALL WOMEN-OWNED		10B. TYPE OF BUSINESS ORGANIZATION <input type="checkbox"/> A. CORPORATION <input type="checkbox"/> B. PARTNER-OWNED <input type="checkbox"/> C. SOLE SHIP	
11. ISSUING OFFICE (Address, zip code and telephone no.) U.S. Election Assistance Commission 1225 New York Avenue, NW, Suite 1100 Washington, DC 20005		12. REMITTANCE ADDRESS (MANDATORY) Remittance via EFT	
14. PLACE OF INSPECTION AND ACCEPTANCE U.S. EAC, 1225 NY Ave., NW, Suite 1100, Wash., DC 20005		16. REQUISITION OFFICE (Name, symbol and telephone no.) U.S. Election Assistance Commission	
16. F.O.B. POINT Destination		18. DELIVERY F.O.B. POINT ON OR BEFORE 7/27/2005	
17. GOVERNMENT B/L NO.		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. To provide technical services to host proposed guidelines and receive comments, and to assist EAC in the review and analysis of comments.				
TOTAL COST OF CONTRACT: \$175,000.00					

21. RECEIVING OFFICE (Name, symbol and telephone no.) U.S. Election Assistance Commission (202) 566-3100		TOTAL FROM 300-A(s)	175,000.00
22. SHIPPING POINT		GRAND TOTAL	175,000.00
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		26A. FOR INQUIRIES REGARDING PAYMENT CONTACT: Diana M. Scott	
		26B. TELEPHONE NO. (202) 566-3100	
		28A. NAME OF CONTRACTING/ORDERING OFFICER (Type) Gracia Hillman, Chair	
		28B. TELEPHONE NO. (202) 566-3100	
		28C. SIGNATURE <i>Gracia Hillman</i>	

GENERAL SERVICES ADMINISTRATION

2. CONTRACTOR'S ORIGINAL

GSA FORM 300 (REV. 2-93)

018296

# PURCHASE ORDER TERMS AND CONDITIONS

## 652.229-70 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.

## 652.210-79 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".

## 62.232-1 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 60 percent of the total contract price.

## 62.232-8 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 62.232-25 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 . . .

## 62.222-40 SERVICE CONTRACT ACT OF 1986, 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 8 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 1986 are contained in 29 CFR Part 4.

## 62.222-41 SERVICE CONTRACT ACT OF 1986, AS AMENDED (MAY 1989)

62.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 1989)  
(62.222-41 and 62.222-42 apply to service contracts when the amount exceeds \$2,500.)

The GSA Form 2168, Service Contract Act of 1986 and Statement of Equivalent Rates for Federal Hires is attached hereto and made a part hereof.

## 62.252-2 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:

62.203-1 Officials Not to Benefit (APR 84)

62.203-3 Gratuities (APR 84)

62.203-5 Covenant Against Contingent Fees (APR 84)

62.203-8 Restriction on Subcontractor Sales to the Government (JUL 86)

62.203-7 Anti-Kickback Procedures (OCT 88)

62.212-9 Variation in Quantity (APR 84)

(In the preceding clause, the permissible variations are stated in the schedule.)

62.222-3 Convict Labor (APR 84)

62.222-28 Equal Opportunity (APR 84) (Applies when amount exceeds \$10,000.)

62.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 84) (Applies when amount exceeds \$10,000.)

62.222-36 Affirmative Action for Handicapped Workers (APR 84) (Applies when amount exceeds \$2,500.)

62.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 88) (Applies whenever clause 62.222-36 is included.)

62.223-6 Drug Free Workplace (JUL 90) (Applies if contract is awarded to an individual.)

62.225-3 Buy American Act - Supplies (JAN 89)

62.225-11 Restrictions on Certain Foreign Purchases (MAY 92)

62.232-25 Prompt Payment (SEP 92)

62.233-1 Disputes (DEC 91)

62.233-3 Protest After Award (AUG 89)

62.248-1 Contractor Inspection Requirements (APR 84)

62.249-8 Default (Fixed-Price Supply and Service) (APR 84)

Applicable to purchase orders for supplies:

62.222-4 Contract Work Hours and Safety Standards Act - Overtime Compensation - (MAR 86) (Applies when amount is between \$2,500 and \$10,000.)

62.222-20 Walsh-Healey Public Contracts Act (APR 84) (Applies when amount exceeds \$10,000.)

62.243-1 Changes - Fixed Price (AUG 87)

62.249-1 Termination for Convenience of the Government (Fixed Price) (Short Form) (APR 84)

Applicable to purchase orders for services:

62.222-4 Contract Work Hours and Safety Standards Act - Overtime Compensation - (MAR 86) (Applies when amount exceeds \$2,500.)

62.243-1 Changes - Fixed Price (APR 84) - Alt. II

62.249-4 Termination for Convenience of the Government (Services) (Short Form) (APR 84)

# ORDER FOR SUPPLIES AND SERVICES - RECEIVING REPORT

PAGE 1 OF 1 PAGES

1. DATE OF ORDER 7/22/05	2. ORDER NUMBER	3. CONTRACT NUMBER EAC-0544	4. ACT NUMBER E4019088
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**IMPORTANT:**

- \* This form must be received in the payment office within 5 workdays of acceptance.
- \* Acceptance must take place within 7 calendar days of delivery or completion of work unless a different inspection/acceptance period is stated in the contract.
- \* Invoices received must be time stamped to indicate the date of receipt. See reverse of this form for detailed instructions.

7. TO: CONTRACTOR (Name, address and zip code)  
**Kennesaw State University**  
 1000 Chastain Road, MS #0102  
 Kennesaw, GA 30144

POC: Mr. Earle Holley, Vice President for Business & Finance  
 Phone: (770) 423-6021 Fax: (770) 423-6794

B. TYPE OF ORDER	REFERENCE YOUR
<input type="checkbox"/> A. PURCHASE	
Please furnish the following on the terms specified on both sides of the order and the attached sheets, if any, including	
<input type="checkbox"/> 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

9B. CHECK, IF APPROPRIATE, FOR WITHHOLDING 20%  
 WITHHOLD 20%

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

<b>MAXIMUM PAYMENT AMOUNT</b>	
<b>LESS DEDUCTION(S) FOR NONPERFORMANCE, ETC.</b> <i>(Explain in remarks)</i>	
<b>MAXIMUM AMOUNT APPROVED FOR PAYMENT</b>	

REMARKS

**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. To provide technical services to host proposed guidelines and receive comments, and to assist EAC in the review and analysis of comments.  TOTAL COST OF CONTRACT: \$175,000.00				

**CERTIFICATION OF RECEIPT/ACCEPTANCE**

I certify that the above supplies and/or services have been:	TYPE OF DELIVERY (Mark "X" in appropriate box)		
	<input type="checkbox"/> A. FULL	<input type="checkbox"/> B. PARTIAL	<input type="checkbox"/> C. FINAL PARTIAL
Received on (Date)	NAME AND TITLE (Type, print or stamp)		OFFICE SYMBOL
			TELEPHONE NO.
and accepted on (Date)	SIGNATURE		DATE SIGNED
			<b>018298</b>

Certifying receipt and processing payments for procurements requiring a written purchase order  
(GSA Form 300 or 300-1).

(1) When supplies or services are received, the contracting/ordering office or designated program office will certify receipt and acceptance and indicate the amount approved for payment on copy 6, Receiving Report, of GSA Form 300 or 300-1. When multiple deliveries/payments are required, additional copies of the receiving report (copy 6) may be reproduced or the GSA Form 3025 or 3025A Receiving Report, used to certify receipt and acceptance. Photocopies signatures will not be accepted on the receiving report.

NOTE: It is important that the date of receipt and the date of acceptance entered in the certification on the receiving report be accurate. Those dates are used to calculate the due date for payments and interest on overdue payments. The contracting/ordering officer or a designated representative should certify receipt and authorize payment by signing the certification on the receiving report.

(2) Invoices received by issuing offices or other designated program offices must be time stamped to indicate the date of receipt, checked to verify the arithmetic accuracy of the invoiced amount, and forwarded, within 5 workdays of receipt, to the appropriate Finance Division for payment. Copy 1 of the GSA Form 300/300-1 and a receiving report (Copy 6 of GSA Form 300/300-1 or GSA 3025/3025A, Receiving Report) should be forwarded with the invoice to finance.

(3) When invoices are submitted directly to the Finance Division, contracting/ordering or other designated program offices will certify receipt and acceptance and authorize payment for supplies or services by completing copy 6 of GSA Form 300/300-1 or the GSA Form 3025/3025A, Receiving Report, in accordance with paragraph (c) (1) above and sending it to the appropriate finance division within 5 workdays after supplies or services are received and accepted.

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COPY

CONTRACT FOR TECHNICAL ASSISTANCE TO THE EAC FOR THE  
COLLECTION, MANAGEMENT, REVIEW, AND RESPONSE TO THE PUBLIC  
COMMENTS RECEIVED ON THE VOLUNTARY VOTING SYSTEM GUIDELINES

1.0 Background. On May 9, 2005, the EAC received the initial set of recommendations for the HAVA-mandated Voluntary Voting System Guidelines from the Technical Guidelines Development Committee (TGDC). After performing its due diligence review of this document, the EAC made several changes and published the revised document for a 90 day public comment period. This period began on June 29, with publication of a notice in the Federal Register.

The EAC has established several alternative methods for submitting comments:

- On-line electronic comment form at [www.eac.gov](http://www.eac.gov)
- E-mail to [votingsystemguidelines@eac.gov](mailto:votingsystemguidelines@eac.gov)
- Postal mail to Voting System Guidelines Comments at EAC
- FAX to Voting System Guidelines Comments at 202.566.3127

The on-line comment form is associated with an application developed to assist with the management, tracking, and review of comments. This application will permit the manual entry of comments received from other sources so that all comments will be stored and managed from a single source. All comments will be posted for public review on the EAC website.

All comments will need to be reviewed and categorized into editorial, substantive, and other general categories useful for management purposes. Substantive comments will be assessed to determine if they indicate a need to modify the Guidelines. This may require some research and analysis, including consultation with NIST and/or the TGDC. At the conclusion of the comment period, EAC will be required to summarize the numbers and types of comments received and their disposition.

2.0 Objective. The objective of this contract is for EAC to obtain assistance with the posting and initial analysis and categorization of the comments and to obtain technical assistance in updating the referenced standards and glossary sections.

3.0 Scope. EAC shall provide the contents of the website temporarily hosting the Voluntary Voting System Guidelines, to include the on-line commenting application and database of comments. EAC shall forward all comments received from other sources for timely posting to the comment database by the Contractor. The Contractor shall be responsible for all the research, analysis and support activities necessary to successfully complete the tasks described below:

4.0 Tasks.

1. Host document for public review and post comments received. The Contractor shall host the Voluntary Voting System Guidelines document and commenting

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application on their website and make them available for public access from the start of the contract until the close of the comment period (September 26, 2005). This access shall be provided by a hot link from the EAC homepage.

The Contractor shall perform initial screening of comments for profanity or other offensive content. Originators of such comments will be informed that such material cannot be posted for public consumption. These comments will be retained in the database, but not approved for public posting. All other comments will be posted to the website for public review.

The EAC will forward to the Contractor all comments received by other means than the on-line comment form for entry into the comment database for public posting and analysis. The Contractor shall provide appropriate quality control to ensure that all comments are captured correctly. Comments will be entered verbatim as received, with no corrections or excerpting.

Hosting of comments will extend for an estimated 30 days beyond the close of the comment period to allow sufficient time to review and determine their disposition. All comments shall be copied to CDs for transfer and retention by the EAC at the conclusion of the contract.

2. Recommend a comment classification schema and organize comments accordingly. The Contractor shall recommend a classification schema for categorizing comments relative to the degree of analysis required. For example, comments dealing with editorial points, typographical errors, and grammar can be handled very straightforwardly. Comments that are more technical in nature may require considerable analysis and perhaps research in order to make a determination on their disposition. Upon approval of the schema by EAC, the Contractor shall organize comments in this manner and periodically provide reports to the EAC on the number and kinds of comments received, and recommendations for the disposition of substantive comments. Comments shall be mapped to relevant portions of the Guidelines document. Periodic teleconferences will be conducted to review status of work, discuss comments and recommendations, and identify issues that will require consultation with NIST or other sources for resolution.
3. Update standards referenced in Guidelines. There are several places in the Guidelines that refer to standards promulgated by other organizations, e.g., ANSI, IEEE, IEC, MILSTD. The Contractor shall research all standards references to identify the latest version and ensure that this is the version referenced in the Guidelines. All references must include the date and version number, if appropriate. In addition, the Contractor shall research commercial practice and other sources of standards to identify replacements for the MILSTD references no longer maintained by the Department of Defense. The Contractor will edit references to standards in the body of the Guidelines to the title of the standard only and key the entry to the References section. This will facilitate the future

issuance of technical addenda to the References as versions of standards evolve without having to create change notices for the body of the document.

4. Develop a comprehensive Glossary of election terms related to voting systems and certification. The Glossary in the 2005 Guidelines has been expanded from the 2002 Voting Systems Standards. However, it needs further work. All key terms in the body of the document should be included in the Glossary. In addition, some terms are defined somewhat differently by various jurisdictions (e.g., absentee voting). Conversely, some concepts are referred to by different terms in different jurisdictions (e.g., ballot type, ballot style). The Contractor shall make recommendations to EAC for additional terms and additional definitions to be included in the Glossary.
5. Maintain master copy of Guidelines and make revisions as directed by EAC. EAC intends to revise the Guidelines throughout the comment period to expedite the process of issuing the final Guidelines at the end of that period. The Contractor shall maintain the master copy of the Guidelines and make revisions as directed by EAC. The Contractor shall maintain strict configuration management and version control of all changes.
6. Attend EAC meetings with statutory boards. HAVA mandates that all guidance issued by the EAC must be reviewed and commented on by the Board of Advisors and the Standards Board. The Board of Advisors is scheduled to meet in Portland, Oregon, August 3-5. The Standards Board is scheduled to meet in Denver, Colorado, August 24-25. The Contractor shall attend these meetings to maintain awareness of concerns and issues raised by these EAC advisory groups.
7. Attend public hearings on Guidelines. One public hearing was conducted in New York City on June 30. Two additional hearings are planned. One is at Caltech in Pasadena, California, on July 28. The other is scheduled for Denver, Colorado, on August 23. The Contractor shall attend these hearings to maintain awareness of the concerns and issues that members of the election community and the public express regarding the Guidelines.

5.0 Contract Type. The contract type will be Time and Materials in the amount of \$175,000.

6.0 Place of Performance. The principal place of performance will be the Contractor's place of business. Project meetings may occasionally be conducted at EAC offices in Washington, D.C. Some travel will be required to attend EAC public hearings and other meetings related to Guidelines review, which are scheduled for various locations.

7.0 Period of Performance. The period of performance is from date of award until December 30, 2005.

## 8.0 Schedule of Deliverables.

1. Project plan – 5 days after contract award
2. Progress reports – monthly
3. Comment summaries – weekly
4. Comment classification schema – 15 days after contract award
5. Updated standards references – 45 days after contract award
6. Revised Glossary – 60 days after contract award
7. Briefings – as required

9.0 Inspection and Acceptance Criteria. Final inspection and acceptance of all work performed, reports, and other deliverables will be performed at the offices of the EAC. The Contracting Officer's Representative for this effort will be Brian Hancock.

10.0 Invoicing. Invoices may be submitted monthly using Standard Form 1034, Public Voucher for Purchases and Services Other Than Personal. Invoices shall be mailed to the attention of Ms. Diana Scott, Administrative Officer, U.S. Election Assistance Commission, 1225 New York Avenue, N.W., Suite 1100, Washington, D.C. 20005.

11.0 Accounting and Appropriation. Funds in the amount of \$175,000.00 are available for this task order.

## 12.0 General Provisions:

1. *Inspection/Acceptance.* The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The EAC reserves the right to inspect and review any products or services that have been tendered for acceptance. The EAC may require correction or re-performance of nonconforming items at no increase in contract price. The EAC must exercise its post-acceptance rights within ten (10) days after the defect was discovered or should have been discovered.
2. *Contract Terms.* Should there be a conflict between the contract clauses included in this document and the "Purchase Order Terms and Conditions" on the back of GSA Form 300, which is used to record contract financial data, the contract clauses in this document shall take precedence.
3. *Changes.* Changes in the terms and conditions of this Contract may be made only by written agreement signed by authorized representatives of both parties.
4. *Disputes.* This Contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). The Contractor shall proceed diligently with performance of this Contract; pending final resolution of any dispute arising under the Contract.

018303

5. *Excusable Delays.* The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the EAC, in writing, as soon as possible after the beginning of an excusable delay. The Contractor shall explain the basis for the excusable delay, and correct the problem as soon as possible. The Contractor shall notify the EAC, in writing, at the end of the delay.
6. *Other Complications.* The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.
7. *Compliance with laws unique to Government contracts.* The Contractor agrees to comply with 31 U.S.C 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 327 *et seq.*, Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409, relating to whistle blower protections; 49 U.S.C. 40118, Fly American, and 41 U.S.C 423 relating to procurement integrity.
8. *Limitation of Government Liability.* The Contractor is not authorized to make expenditures or incur obligations exceeding the total amount allocated to the contract. The Contractor is required to notify the Contracting Officer's Representative when 75% of funding has been obligated.
9. *Termination for convenience.* The EAC, by written notice, may terminate this contract without fault, in whole or in part, when it is in the best interest of the government. In the event of contract termination for convenience, the Contractor, shall be in accordance with Part 49 of the Federal Acquisition Regulations in effect on the date of this contract.

# 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		Kennesaw State University			
Address	1000 Chastain Road				
City	Kennesaw	State	GA	Zip	30144-5591
Taxpayer ID Number (TIN)					

Financial Institution Name		Bank of America			
Financial Institution Phone Number		1-800-333-9473			
Financial Institution Routing Transit Number (RTN)		[REDACTED]			
Depositor Account Title		Kennesaw State College Operating Account			
Depositor Account Number		[REDACTED]			
Account Type	<input checked="" type="checkbox"/> Checking	<input type="checkbox"/> Savings			

Company/Payee Contact Person		Julie Peterson			
Phone	(770) 499-3378				

<b>MUST HAVE SIGNATURE</b>	
Company/Payee Authorized Signature	



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

October 12, 2005

Stephen Berger  
TEM Consulting  
140 River Road  
Georgetown, TX 78628

VIA FACSIMILE 512-869-8709

Dear Mr. Berger:

The U.S. Election Assistance Commission has received a request under the Freedom of Information act (FOIA) for Contract # EAC 05-41 for technical assistance for the definition and documentation of an EAC laboratory accreditation and voting system certification process. Our review of the contract reveals that certain contract data supplied by TEM Consulting may fall within exemption 4 to the FOIA.

Under this exemption the EAC may refuse to disclose trade secrets and commercial or financial information obtained from a source outside the Government and which is privileged or confidential. Commercial or financial information is considered confidential if its disclosure is likely to cause substantial competitive harm to the source of the information.

In order for us to make a determination regarding the release of the contract under consideration the EAC must have a detailed justification of the reasons your firm believes the information requested should not be released under Exemption 4 of the FOIA. We believe that you are in a good position to explain the commercial sensitivity of the information contained in the contract which relates to the confidential information from your proposal.

In this regard please provide the EAC with a specific description concerning how disclosure of confidential information or related information in the contract would cause substantial harm to TEM Consulting's present or future competitive position. Some factors you may wish to describe are: the general custom or usage in your business regarding this type of information, the number and position of persons who have, or have had access to the information, the type and degrees of commercial injury that disclosure would cause and the length of time you feel confidential treatment is warranted. Due to the response time limits imposed on the government in these cases we request that you provide your response by

*4/11/05 9:21  
to confirm  
received*

018306

October 19, 2005. If we have not heard from you by that date we will assume that your firm has no objection to disclosure of the contract in its entirety.

We will carefully consider the justification you provide us and will endeavor to protect your proprietary data to the extent permitted under law. Should the EAC disagree with your position regarding some or all of the information requested, and determine it to be releasable, we will provide you with advance notice of our decision so that you may take whatever steps you consider appropriate to protect your interests.

If you have any questions you may reach me at (202) 566-3116 or gvogel@eac.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Gaylin Vogel". The signature is fluid and cursive, with the first name "Gaylin" written in a larger, more prominent script than the last name "Vogel".

Gaylin Vogel  
Law Clerk  
U.S. Election Assistance Commission

018307



"Stephen Berger"

[Redacted]

11/04/2005 05:12 PM

Please respond to  
stephen.berger@ieee.org

To gvogel@eac.gov

cc

bcc

Subject RE: FOIA

Dear Gaylin,

This note is to further document the reasons for our request that our hourly labor rate be withheld under the FOIA request you have received.

In any competitive bid situation competitive advantage is gained by the ability to deliver higher quality of service at a lower price. It is therefore the combination of quality of service and price that combines to provide a competitive offering. Having full visibility to the quality and price provides a competitor to bid against a known quantity while withholding one of these items assures that competitive bids remain truly competitive. As the seniority of our staff and their quality level is well known the only item that remains unknown to competitors is the price offered. Therefore we believe that the hourly rate offered should be considered a confidential item and withheld from this request.

Best Regards,

Stephen Berger

TEM Consulting, LP

Web Site - [www.temconsulting.com](http://www.temconsulting.com)

E-MAIL - [stephen.berger@ieee.org](mailto:stephen.berger@ieee.org)

Phone - (512) 864-3365

Mobile - (512) 466-0833

FAX - (512) 869-8709

**From:** gvogel@eac.gov [mailto:gvogel@eac.gov]

**Sent:** Monday, October 24, 2005 3:37 PM

**To:** [Redacted]

**Subject:** FOIA

**Importance:** High

Dear Mr. Berger:

On October 12, 2005 you were informed via fax that a third party through the Freedom of Information Act (FOIA) has requested a copy of the contract and corresponding documents with TEM Consulting. The purpose of the letter was to provide you with an opportunity to specify provisions in the responsive documents that you believe are protected from disclosure under FOIA. We required you to identify the specific provisions in the responsive documents and the applicable FOIA exemption. As the EAC did not get such a response, we must assume that you do not have an objection to the disclosure of the contract in its entirety as noted in our initial letter. The EAC is under a tight timeline to respond to FOIA requests. We must respond to this FOIA in the near future. If you believe you have provided specific information, consistent with the above, please let me know immediately.

Thank you,

018308

Gaylin Vogel  
Law Clerk  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
tel:202-566-3116  
<http://www.eac.gov>  
GVogel@eac.gov

018309



Gaylin Vogel/EAC/GOV  
10/14/2005 04:12 PM

To "Merle King" <mking@kennesaw.edu>@GSAEXTERNAL  
cc  
bcc  
Subject Re: Response to FOIA 

Mr. King:

The EAC has received your letter stating that KSU wishes to classify certain contract information as confidential or a trade secret. In order for the EAC to review this request we will need you to identify the specific provisions and connect it to the specific Freedom of Information Act (FOIA) exception (most probable is exception 4 relating to Trade Secrets.) You will also need to justify to the EAC why it should withhold the information.

In order to assist you in your review I have attached the documents that the EAC has identified as responsive to the request involving communications with KSU.

If you have any questions please do not hesitate to contact me. In the event that you need to reach me over the week my cell is 202-491-3998.

Gaylin Vogel  
Law Clerk  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
tel:202-566-3116  
<http://www.eac.gov>



[GVogel@eac.gov](mailto:GVogel@eac.gov) KSU Docs.pdf

018310



**Computer Science and Information Systems Department  
College of Science and Mathematics  
Kennesaw State University**

### Fax Cover Sheet

Date: 10-14-05 Total Number of Pages: 2

To: Gaylin Vogel From: Merle S. King

Fax # 202 566 3127 Fax # 770-423-6731

Message:

Please confirm receipt.

Hard copy to follow.

*Merle S. King*

Phone: 770-423-6005 • Fax: 770-423-6731

1000 Chastain Road • Mail Stop 1101 • Kennesaw, GA 30144-5591

018311



College of Science and Mathematics  
Computer Science and Information Systems

October 14, 2005

Ms. Gaylin Vogel  
U.S. Election Assistance Commission  
1225 New York Ave., NW - Suite 1100  
Washington, DC 20005

Dear Ms. Vogel:

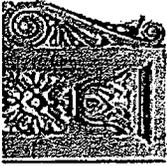
Disclosure of the confidential content of the contract between Kennesaw State University (KSU) and the Election Assistance Commission (EAC) would be detrimental to KSU's current and future competitive position as a contractor. The disclosure of our pricing structure, methods for organizing work, and descriptions of software products designed to support the contract, would place us at a competitive disadvantage in bidding on comparable projects.

We request that information in our contract with the EAC be treated confidentially until such time that the products of our current contract (the public comments database and related documents, including the edited draft of the Voluntary Voting System Guidelines) are no longer in use by the EAC.

Sincerely,

A handwritten signature in black ink that reads "Merle S. King".

Merle S. King  
Chair, CSIS Department



Brian Hancock/EAC/GOV  
11/01/2005 04:15 PM

To Gaylin Vogel/EAC/GOV@EAC  
cc  
bcc  
Subject Re: FOIA Request about TGDC

Gaylin,  
I believe I gave you all the information I had relating to these contracts.

Brian

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

Gaylin Vogel/EAC/GOV  
11/01/2005 03:39 PM

To Bola Olu/EAC/GOV@EAC, Brian Hancock/EAC/GOV@EAC,  
Carol A. Paquette/EAC/GOV@EAC, Diana  
Scott/EAC/GOV@EAC  
cc Gavin S. Gilmour/EAC/GOV@EAC  
Subject FOIA Request about TGDC

Bola, Brian, Carol, and Diana:

I need to get written confirmation from all of you by COB tomorrow (11/2) that you have turned over all the responsive documents to the FOIA request from EPIC dealing with contracts that the EAC has awarded to TGDC members or organizations connected to TGDC members; basically the contracts with TEM Consulting and Kennesaw State University. I sent an e-mail about this on October 11 & 12. If you need me to resend the original message please ask.

Thanks,

Gaylin Vogel  
Law Clerk  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
tel:202-566-3116  
<http://www.eac.gov>  
GVogel@eac.gov

018310

Karen Lynn-Dyson/EAC/GOV  
10/11/2005 04:36 PM

To Gaylin Vogel/EAC/GOV@EAC  
Bola Olu/EAC/GOV@EAC, Brian Hancock/EAC/GOV@EAC,  
cc Carol A. Paquette/EAC/GOV@EAC, Diana  
Scott/EAC/GOV@EAC, Gavin S. Gilmour/EAC/GOV@EAC  
bcc  
Subject Re: FOIA Request - URGENT

Gaylin-

I have checked my records and I have no contracts or relationships with any of the related to the organizations listed below.

Regards-

Karen Lynn-Dyson  
Research Manager  
U.S. Election Assistance Commission  
1225 New York Avenue , NW Suite 1100  
Washington, DC 20005  
tel:202-566-3123

Gaylin Vogel/EAC/GOV

Gaylin Vogel/EAC/GOV  
10/11/2005 04:13 PM

To Carol A. Paquette/EAC/GOV@EAC, Brian  
Hancock/EAC/GOV@EAC, Diana Scott/EAC/GOV@EAC,  
Bola Olu/EAC/GOV@EAC, Karen  
Lynn-Dyson/EAC/GOV@EAC  
cc Gavin S. Gilmour/EAC/GOV@EAC  
Subject FOIA Request - URGENT

Carol, Brian, Diana/Bola, and Karen:

We have a FOIA request for our records (includes e-mails) dealing with Contracts awarded to TGDC members and groups that the TGDC members are associated with and the EAC. Since the documents may contain confidential commercial information the EAC has to inform the submitter of the information that the records have been FOIAed.

From a review of the TGDC list and groups specifically identified in the FOIA request please check your files for any records dealing with a contract to

Kennesaw State University  
OASIS  
Usability Professionals Association  
MIT  
NASED  
TEM Consulting  
IEEE  
Citigroup

018314

We may not have any contracts with all of the groups listed. I do not need any records for contracts that are in negotiation or awaiting signature; but please let me know that you possess such records.

This request is urgent as we are under a deadline. I need the documents by COB tomorrow (Wednesday, October 12). If you can identify the records I am more than willing to make the copies. If you feel inclined to make copies please make them single sided and no staples.

If you do not have any responsive records please send me an e-mail stating that you do not have any of the requested records.

Gaylin Vogel  
Law Clerk  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
tel:202-566-3116  
<http://www.eac.gov>  
[GVogel@eac.gov](mailto:GVogel@eac.gov)

018315

Carol A. Paquette/EAC/GOV  
11/01/2005 07:12 PM

To gvogel@eac.gov@EAC  
cc  
bcc  
Subject Re: FOIA Request about TGDC

Gaylin -

I checked my emails this evening and do not have any regarding these contracts. You already have reviewed the hardcopy files I have. So I believe I have turned over all relevant documents regarding this request.

Carol A. Paquette  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov  
Gaylin Vogel/EAC/GOV

Gaylin Vogel/EAC/GOV  
11/01/2005 03:39 PM

To Bola Olu/EAC/GOV@EAC, Brian Hancock/EAC/GOV@EAC,  
Carol A. Paquette/EAC/GOV@EAC, Diana  
Scott/EAC/GOV@EAC  
cc Gavin S. Gilmour/EAC/GOV@EAC  
Subject FOIA Request about TGDC

Bola, Brian, Carol, and Diana:

I need to get written confirmation from all of you by COB tomorrow (11/2) that you have turned over all the responsive documents to the FOIA request from EPIC dealing with contracts that the EAC has awarded to TGDC members or organizations connected to TGDC members; basically the contracts with TEM Consulting and Kennesaw State University. I sent an e-mail about this on October 11 & 12. If you need me to resend the original message please ask.

Thanks,

Gaylin Vogel  
Law Clerk  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
tel:202-566-3116  
<http://www.eac.gov>  
GVogel@eac.gov

018316

Bola Olu/EAC/GOV  
11/02/2005 08:43 AM

To Gaylin Vogel/EAC/GOV@EAC  
cc Diana Scott/EAC/GOV@EAC, Gavin S.  
Gilmour/EAC/GOV@EAC  
bcc  
Subject Re: FOIA Request about TGDC

Gaylin:

I have nothing to turn over. All my department had to do with TEM consulting was to process their invoice for payment. The same applies to Kennesaw. What exactly are you looking for?

Bola Olu  
Financial Administrative Specialist  
United States Election Assistance Commission  
1225 New York Avenue N.W., Suite - 1100  
Washington, DC 20005  
P:202-566-3124  
F:202/566-3127  
<http://www.eac.gov/>

"Hurry makes you overlook the small details of life"

Gaylin Vogel/EAC/GOV

Gaylin Vogel/EAC/GOV  
11/01/2005 03:39 PM

To Bola Olu/EAC/GOV@EAC, Brian Hancock/EAC/GOV@EAC,  
Carol A. Paquette/EAC/GOV@EAC, Diana  
Scott/EAC/GOV@EAC  
cc Gavin S. Gilmour/EAC/GOV@EAC  
Subject FOIA Request about TGDC

Bola, Brian, Carol, and Diana:

I need to get written confirmation from all of you by COB tomorrow (11/2) that you have turned over all the responsive documents to the FOIA request from EPIC dealing with contracts that the EAC has awarded to TGDC members or organizations connected to TGDC members; basically the contracts with TEM Consulting and Kennesaw State University. I sent an e-mail about this on October 11 & 12. If you need me to resend the original message please ask.

Thanks,

Gaylin Vogel  
Law Clerk  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
tel:202-566-3116  
<http://www.eac.gov>  
GVogel@eac.gov

018317

Diana Scott/EAC/GOV  
11/02/2005 09:33 AM

To Gaylin Vogel/EAC/GOV@EAC  
cc  
bcc  
Subject Re: FOIA Request about TGDC 

There was a "consulting agreement" which was a part of the overall contract with TEM. Did you get that portion. If you did, I have no other docs for either TEM or Kennesaw.

Diana M. Scott  
Administrative Officer  
U.S. Election Assistance Commission  
(202) 566-3100 (office)  
(202) 566-3127 (fax)  
dscott@eac.gov

Gaylin Vogel/EAC/GOV

Gaylin Vogel/EAC/GOV  
11/01/2005 04:46 PM

To Diana Scott/EAC/GOV@EAC  
cc  
Subject Re: FOIA Request about TGDC 

I got copies of the contracts and SOW's from Bola a couple of weeks ago. Do you have any other documents relating to the contracts or just the contracts and SOW's?

Gaylin Vogel  
Law Clerk  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
tel:202-566-3116  
<http://www.eac.gov>  
GVogel@eac.gov  
Diana Scott/EAC/GOV

Diana Scott/EAC/GOV  
11/01/2005 04:42 PM

To Gaylin Vogel/EAC/GOV@EAC  
cc  
Subject Re: FOIA Request about TGDC 

Gaylin,

In terms of TEM and Kennesaw, do you just need copies of the contracts themselves and the respective SOWs? Plz. advise.

018318

Diana M. Scott  
Administrative Officer  
U.S. Election Assistance Commission  
(202) 566-3100 (office)  
(202) 566-3127 (fax)  
dscott@eac.gov

Gaylin Vogel/EAC/GOV

Gaylin Vogel/EAC/GOV

11/01/2005 03:39 PM

To Bola Olu/EAC/GOV@EAC, Brian Hancock/EAC/GOV@EAC,  
Carol A. Paquette/EAC/GOV@EAC, Diana  
Scott/EAC/GOV@EAC  
cc Gavin S. Gilmour/EAC/GOV@EAC  
Subject FOIA Request about TGDC

Bola, Brian, Carol, and Diana:

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Gaylin Vogel  
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U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
tel:202-566-3116  
<http://www.eac.gov>  
GVogel@eac.gov

018319

[Return to Technical Guidelines  
and Development Committee Page](#)

## Technical Guidelines Development Committee

### Chair

Dr. Hratch Semerjian  
Director of the National Institute of Standards and  
Technology (NIST)  
Gaithersburg, MD

Donetta Davidson  
Colorado Secretary of State  
Standards Board ( EAC )  
Denver, CO

Alice Miller  
Director of Elections-District of Columbia  
Standards Board ( EAC )  
Washington, DC

Sharon Turner Buie  
Director of Elections-Kansas City  
Board of Advisors ( EAC )  
Kansas City, MO

Helen Purcell  
Maricopa County Recorder  
Board of Advisors ( EAC )  
Phoenix, AZ

Dr. James ("J.R.") R. Harding  
Architectural and Transportation Barrier  
Compliance Board  
Tallahassee, FL

James Elekes  
Architectural and Transportation Barrier  
Compliance Board  
North Plainfield, NJ

Ann Caldas  
Director Procedures and Standards  
Administration  
American National Standards Institute (ANSI)  
New York, NY

H. Stephen Berger  
TEM Consulting, LP- Chair, IEEE SEC 38 (Voting  
Syst. Stds.)  
Institute of Electrical and Electronics Engineers  
(IEEE)  
Georgetown, TX

Dr. Brittain Williams  
Retired professor- Kennesaw State- University of  
Georgia  
National Association of State Election Directors  
(NASSED)  
Tucker, GA

Paul Craft  
Florida Department of State, Voting Systems  
Division  
National Association of State Election Directors  
(NASSED)  
Tallahassee, FL

Dr. Ronald Rivest  
Professor, MIT-Department of Electrical  
Engineering and Computer Science  
Cambridge, MA

Dr. Daniel Schutzer  
Vice President & Director of External Standards  
and Advanced Technology, e-Citi, CitiGroup  
Stamford, CT

Patrick Gannon  
President and CEO,  
OASIS  
Billerica, MA

Whitney Quesenberg  
President-Usability Professionals' Association  
High Bridge, NJ

018320

ANSI Rep (c)(1)(B)	Mr. David Karmol	No	n/a	ANSI - Washington DC
IEEE Rep (c)(1)(C)	Mr. H. Stephen Berger	Yes	n/a	Headquarters IEEE
NASED Rep (c)(1)(D)	Mr. Paul Craft	Yes	n/a	Florida Dept of State, Voting Systems Division
NASED Rep (c)(1)(D)	Dr. Britain Williams	Yes	n/a	Retired Professor - Kennesaw State-Univ. of Georgia
Mmbrs Arch Trans Bar Bd (c)(1)(a)(iii)	Mr. James Elekes	Yes		Board Member - Access
Mmbrs Arch Trans Bar Bd (c)(1)(a)(iii)	Mr. James R. Harding	Yes		Board Member - Access
Standards Board (c)(1)(a)(i)	Ms. Alice Miller	Yes	n/a	Director of Elections - District of Columbia
Standards Board (c)(1)(a)(i)	Hon. John A. Gale		n/a	Secretary of State - Nebraska
Board of Advisors (c)(1)(a)(ii)	Ms. Sharon Turner-Buie	Yes	n/a	Director of Elections - Kansas City
Board of Advisors (c)(1)(a)(ii)	Ms. Helen Purcell	Yes	n/a	Maricopa County (AZ) Recorder
Other Tech/Sci (c)(1)(E)	Ms. Patrick Gannon	Yes		President & CEO - OASIS
Other Tech/Sci (c)(1)(E)	Ms. Whitney Quesenbery	Yes	450	President - Usability Professionals' Association
Other Tech/Sci (c)(1)(E)	Dr. Ronald Rivest	Yes		Professor of Computer Science & Engineering - MIT
Other Tech/Sci (c)(1)(E)	Dr. Daniel Schutzer	Yes		Vice President & Director of External Standards and Advanced Technology - e- Citi, Citigroup

018321

05-0007



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

November 10, 2005

To: Gavin Gilmour, Associate General Counsel

From: Gaylin Vogel, Law Clerk (AV)

RE: Freedom of Information Act request from the Electronic Privacy Institute on  
September 12, 2005

The memo covers the approach taken to locate the responsive documents, justification for the redaction of certain information contained in the responsive documents, and justification for withholding certain documents.

**Background**

The EAC received a Freedom of Information Act (FOIA) request from the Electronic Privacy Information Center (EPIC) on September 14, 2005; the letter is dated September 12, 2005. EPIC requested all agency records concerning agency contracts awarded between July 9, 2004 and September 12, 2005 with Kennesaw State University (KSU); Stephen Berger; or current or former Technical Guidelines Development Committee (TGDC) members and institutions they were affiliated with within one year of the first TGDC meeting.

**Approach**

In order to locate the responsive documents I sent an e-mail to EAC staffers Karen Lynn-Dyson, Brian Hancock, Bola Olu and Diana Scott; and EAC Contract Employee Carol Paquette. In the e-mail I asked for all documents relating to the formation or modification of any contract or agreement with the entities mentioned above. A list of TGDC members was included in the e-mail. The EAC does not know what groups TGDC members were affiliated within one year of the first TGDC meeting. In order to honor the spirit of the EPIC request I looked at the TGDC membership list which listed current affiliations. The e-mail requesting the responsive documents included a list these affiliated groups.

This process revealed that two contracts that fall within the scope of the request. One was with KSU, the other was with TEM Consulting, Stephen Bergers consulting group.

Bola Olu and Diana Scott turned over copies of the contract and funding documents; Brian Hancock turned over e-mail correspondence; Karen Lynn-Dyson responded that she did not have any records; and Carol Paquette turned over a file on each contract and e-mail correspondence.

On November 1, 2005 via e-mail I confirmed with the Diana Scott, Brian Hancock, Karen Lynn-Dyson, Carol Paquette and Bola Olu that they have searched their files and did not have any additional responsive documents.

### Redaction

The following information was redacted from the responsive documents based on FOIA exemption 6, which covers personal privacy interest. For example any information that "applies to a particular individual" meets the threshold requirement for Exemption 6 protections.<sup>1</sup> Based on a balancing test of the public's right to know against an individual's right to privacy,<sup>2</sup> I have determined that disclosure of the information "would constitute a clearly unwarranted invasion of personal privacy."<sup>3</sup> The core purpose of FOIA is to shed light on the agency's performance of its statutory duties.<sup>4</sup> The following information pertains to personal information of contractors and not to the function or practices of the EAC.:

- The address for TEM Consulting is Stephen Bergers home office. This address was listed numerous times on different documents. In each instance his address was redacted.
- In Stephen Berger's e-mail tag the home phone number and mobile phone number was listed. In each instance his home and mobile phone number was redacted.
- In an e-mail from Merle King of KSU to Carol Paquette (7/12/05 at 6:34 P.M.) he listed the name of his "PM" that he lost when her contract ended. The individuals name was redacted.
- On the Electronic Funds Transfer (EFT) Enrollment Form, KSU's bank account number and the banks routing transit number was redacted.
- NEAR INPUT TRANSMITTAL sheet other transactions relating to personal travel authorizations and reimbursements and vendor payments was redacted. The information relating to TEM Consulting and KSU was not redacted.
- In e-mail from Stephen Berger to Carol Paquette (6/1/05 at 9:45 A.M) TEM Consulting EIN number was redacted.
- The home address listed on Daniel Hoolihan's bio was redacted.
- Through out the responsive documents some personal e-mail addresses were listed. The information following the "@" was redacted for personal e-mail addresses.

The following information was redacted from the responsive documents based on FOIA exemption 4, which covers confidential commercial information. Revealing actual cost information is a court recognized competitive injury because the use of the information by competitors can injure the submitter's competitive position.<sup>5</sup>

- On the KSU budget Merle King's percentage of effort is redacted because it could be used to calculate the University's actual cost. By redacting the percentage the actual

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<sup>1</sup> United States Department of State v. Washington Post Co., 456 U.S. 595 at 602 (1980)

<sup>2</sup> 5 U.S.C. §552(b)(6)

<sup>3</sup> N.Y. Times Co. v. NASA, 920 F.2d 1002 at 1005 (D.C. Cir 1990)

<sup>4</sup> United States Department of Justice v. Reporters Committee for Freedom of the Press, 489 U.S. 749 at 773, (1989)

<sup>5</sup> FOIA Book page 332

costs of the time for his labor cannot be deduced. This approach is consistent with prior court approaches to similar situations where the court disaggregated the requested information, ordering release of the wage rates without the manhour information, because release of one without the other would not cause the company competitive harm.<sup>6</sup>

### **Not Redacted**

I contacted the FOIA help desk at Justice in response to Mr. Berger's request to withhold his discounted hourly rate. I was told it is possible to withhold the information on a discounted rate but if the rate is "loaded" then we must show disclosure is harmful to the competitive process. In the brief conversation the FOIA Counselor stated that this is a high standard and Mr. Berger's ability to negotiate the higher private rate in the private sector was not a competitive process consideration. In a subsequent discussion with Mr. Berger he asked that we redact the rate but understands that the EAC may have to release the rate.

### **Withheld**

The following responsive documents were withheld based on FOIA exemption 5, deliberative process privilege. The privilege is which is designed to "prevent injury to the quality of agency decisions."<sup>7</sup> One of the goals of this exemption is to encourage open, frank discussions on matters of policy between subordinates and superiors.<sup>8</sup> In order for a document to be withheld as predecisional it must be "antecedent to the adoption of an agency policy."<sup>9</sup> It must be "a direct part of the deliberative process in that it makes recommendations or expresses opinions on legal or policy matters."<sup>10</sup> If the material listed below is released it will chill discussions between agency staff and the Commissioners (as the decision makers).

- Draft statement of work for the contract eventually awarded to KSU that has comments written by Chair Hillman to Carol Paquette. The final version is in the documents provided.
- E-mail from Chair Hillman to Carol Paquette, Juliet Thompson, Vice Chairman DeGregorio and Commissioner Martinez (6/1/05 at 3:10 P.M.) discussing what would be covered in a contract.
- E-mail from Carol Paquette to Chair Hillman, Juliet Thompson, Vice Chairman DeGregorio and Commissioner Martinez (6/1/05 at 6:34 P.M.) answering Chair Hillmans question posed in the 6/1/05 at 3:10 P.M. e-mail above.
- E-mail from Carol Paquette to Chair Hillman, Juliet Thompson, Vice Chairman DeGregorio, Commissioner Martinez, Tom Wilkey, Sheila Banks, Adam Ambrogi, Gavin Gilmour and Brian Hancock (6/1/05 at 12:20 P.M.) discussing the approach to finding a consultant to work on the NASED/EAC transition.

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<sup>6</sup> Painters Dist. Council Six v. GSA, No. 85-2971, slip op. at 8 (N.D. Ohio July 23, 1986); see also Lykes, No. 92-2780, slip op. at 15 (D.D.C. Sept. 2, 1993) (submitter failed to show any harm given fact that proposed disclosures would "redact all price terms, financial terms, rates and the like")

<sup>7</sup> NLRB v. Sears, Roebuck & Co., 421 U.S. 132, 151 (1975)

<sup>8</sup> Russell v. Dep't of the Air Force, 682 F.2d 1045, 1048 (D.C. Cir. 1982)

<sup>9</sup> Jordan v. United States Dep't of Justice, 591 F.2d 753, 774 (D.C. Cir. 1978)

<sup>10</sup> Vaughn v. Rosen, 523 F.2d 1136, 1143-44 (D.C. Cir. 1975)

- E-mail from Carol Paquette to Chair Hillman, Juliet Thompson, Vice Chairman DeGregorio and Commissioner Martinez (6/2/05 at 9:21 A.M.) discussing the prudence of Mr. Berger's hourly rate.
- E-mail from Chair Hillman to Carol Paquette, Juliet Thompson, Vice Chairman DeGregorio and Commissioner Martinez (6/1/05 at 8:22 P.M.) discussing the approving on Mr. Berger's hourly rate.

**Recommendation**

The responsive documents identified by Diana Scott, Bola Olu, Brian Hancock, and Carol Paquette should be turned over to EPIC with the recommended redactions; with exception for the documents identified under the deliberative process exception discussed above.

## 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		Kennesaw State University			
Address	1000 Chastain Road				
City	Kennesaw	State	GA	Zip	30144-5591
Taxpayer ID Number (TIN)					

Financial Institution Name		Bank of America			
Financial Institution Phone Number		1-800-333-9473			
Financial Institution Routing Transit Number (RTN)			026009593		
Depositor Account Title		Kennesaw State College Operating Account			
Depositor Account Number		002320738197			
Account Type	<input checked="" type="checkbox"/> Checking	<input type="checkbox"/> Savings			

Company/Payee Contact Person		Julie Peterson			
Phone	(770) 499-3378				

<b>MUST HAVE SIGNATURE</b>	
Company/Payee Authorized Signature	

018326

Budget  
EAC TGDC Comment Review Project

17-Aug-05

**Fixed Costs**

Personnel	July	August	September	October	November	Total
Project Manager (King) 33%	3322	3322	3322	3322	3322	16610
Project Coordinator	4000	4000	4000	4000	4000	20000
Faculty(2) @P-T Rate		6000	6000	6000	6000	24000
Student Asst.		1200	1200	1200	1200	4800
System Admin.	1000	1000	1000	1000	1000	5000
Graduate Students		1000	1000	1000	1000	4000
<b>Total</b>						<b>74410</b>
Indirect (50%)						37205
Fringes (30%)						22323
				<b>Total Personnel</b>		<b>133938</b>
-----						
Consultants		4000	4000	5000	5000	18000
Travel	2400	5000	5000	5000	4200	21600
Supplies/Copies		300	220	600	260	1380
<b>Project Total</b>						<b>174918</b>

018327

NEAR INPUT TRANSMITTAL  
*(Prepare in triplicate. Forward original and one copy to the appropriate Finance Division)*

CHECK APPROPRIATE OFFICE SYMBOL

<input type="checkbox"/>	6BCPG	<input type="checkbox"/>	6BCPF	<input type="checkbox"/>	6BCPM	<input type="checkbox"/>	6BCPI	<input type="checkbox"/>	6BCRG	<input type="checkbox"/>	6BCRF
<input type="checkbox"/>	6BCRC	<input type="checkbox"/>	6BCA	<input type="checkbox"/>	6BCAF	<input type="checkbox"/>	6BCAG	<input type="checkbox"/>	6BCE	<input type="checkbox"/>	6BCC
<input checked="" type="checkbox"/>	6BCEP	<input type="checkbox"/>	6BCY	<input type="checkbox"/>	7BCPL	<input type="checkbox"/>	7BCPP	<input type="checkbox"/>	7BCPC	<input type="checkbox"/>	7BCPK
<input type="checkbox"/>	7BCAX	<input type="checkbox"/>	7BCAP	<input type="checkbox"/>	7BCAK	<input type="checkbox"/>	7BCRK	<input type="checkbox"/>	7BCPR		
<input type="checkbox"/>	OTHER (Specify)										

THE FOLLOWING DOCUMENTS ARE TRANSMITTED HEREWITH:

DATE 8/3/05	SERIAL NUMBER	NUMBER OF DOCUMENTS EXCLUDING SUPPORTING DOCUMENTS
----------------	---------------	--

ACT	LABEL	VENDOR/SOURCE	AMOUNT	EXPLANATION
		CITIBANK	\$41.79	REIMBURSEMENT
		CORTES, EDGARDO		EFT ENROLLMENT FORM
		KENNESAW STATE UNIVERSITY		EFT ENROLLMENT FORM
		TEM CONSULTING, LP		EFT ENROLLMENT FORM
E4019145		OFFICE DEPOT	\$360.90	CERTIFIED INVOICE STAMP
E4019146		STAPLES	\$1,154.72	CERTIFIED INVOICE STAMP
E4019151		FEDEX	\$137.49	CERTIFIED INVOICE STAMP
E4014128A		SNELLING PERSONNEL SERVICES	\$1,085.00	RPR
E4014195		TEM CONSULTING, LP	\$16,056.09	RPR
E4019088		KENNESAW STATE UNIVERSITY	\$175,000.00	GSA FORM 300
AMEND		CALIBER ASSOCIATES, INC.	\$150,000.00	BLANKET PURCHASE AGREEMENT
E4019142		CALIBER ASSOCIATES, INC.	\$75,500.00	GSA FORM 300
E4019153		THE ADAM'S MARK HOTEL	\$39,200.00	GSA FORM 300
E4019049A		DeGREGORIO, PAUL S.	\$1,565.31	TRAVEL AUTHORIZATION
E4019050A		SHERRILL, AMIE J.	\$942.29	TRAVEL AUTHORIZATION
E4019057		FIGUEROA, LUIS	\$647.30	TRAVEL AUTHORIZATION
E4019060		AGUINAGA, ROBERT	\$447.28	TRAVEL AUTHORIZATION
E4019109		WILKEY, THOMAS R.	\$1,519.40	TRAVEL AUTHORIZATION
E4019119		DeGREGORIO, PAUL S.	\$1,796.30	TRAVEL AUTHORIZATION
E4019130		KEH, JULIA	\$250.00	TRAVEL AUTHORIZATION
E4019143		PETERSEN, MARIA T.	\$350.00	TRAVEL AUTHORIZATION
E4019147		CORTES, EDGARDO	\$1,185.40	TRAVEL AUTHORIZATION
E4019152		DAVIDSON, DONETTA	\$920.90	TRAVEL AUTHORIZATION
E4019507		WILKEY, THOMAS R.	\$1,166.40	TRAVEL AUTHORIZATION
E4014182		WILKEY, THOMAS R.	\$1,446.91	TRAVEL VOUCHER
E4019024		DeGREGORIO, PAUL S.	\$183.15	TRAVEL VOUCHER
E4019057		FIGUEROA, LUIS	\$254.39	TRAVEL VOUCHER
E4019061		THOMPSON, JULIET E.	\$259.67	TRAVEL VOUCHER

AUTHORIZED SIGNATURE

DIANA M. SCOTT  
 SERVICE

ELECTION ASSISTANCE COMMISSION  
 SIGNATURE OF RECEIVING OFFICIAL - FINANCE

OFFICE SYMBOL  
 EAC

TITLE

ADMINISTRATIVE OFFICER

TELEPHONE NUMBER

(202) 566-3119

NUMBER DOCUMENTS RECEIVED

DATE RECEIVED

GENERAL SERVICES ADMINISTRATION

Carol A. Paquette/EAC/GOV  
07/12/2005 07:23 PM

To "Merle King" <mking@kennesaw.edu>@GSAEXTERNAL  
cc Thomas R. Wilkey/EAC/GOV@EAC  
bcc  
Subject Re: Good to go. 

Merle -

I'm delighted that you have decided to move ahead with this work. We are really looking forward to working with Kennesaw. We need to make one further adjustment to the Statement of Work, based on feedback from the Commissioners. They have indicated that the Boards have been working out their own processes for reviewing the Guidelines at their meetings, so we will not need facilitation of these discussions by Kennesaw. However, we do still need to have you attend.

We will get the contract prepared and signed as soon as possible. You didn't provide a cost estimate for the document hosting, so I just increased the funding amount to \$175,000. We can do a contract modification later if necessary to further adjust the funding. This will be a cost plus expenses type contract, not fixed price, so there will be no issue regarding adjusting the cost.

In addition to the EFT form we also need the Kennesaw tax ID#. Cannot process contract through Finance without this information. Also need to know your cognizant federal contract audit agency, but that information is not needed to get contract signed. Thanks and I look forward to working with you and the rest of the Kennesaw team!

Carol A. Paquette  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov  
"Merle King" <mking@kennesaw.edu>



"Merle King"  
<mking@kennesaw.edu>  
07/12/2005 06:34 PM

To cpaquette@eac.gov  
cc  
Subject Good to go.

Carol - After some reflection and conversations with the staff here and with Tom on your end, I would like to go forward with the VVSG project.

I have initial edits nearly ready on the glossary. We have the server ready and my guys are looking at the Zone Alarm report to find a work around.

I lost my PM, Carol Julian. Her contract ended on July 1. She may be able to come back as a part-time consultant so all is not lost, and I have identified another candidate for PM.

I have the completed EFT here. I can fax it to you tomorrow or send it surface mail or both. We need to convert the SOW into a contract. From our end that would be as simple as adding a budget and signatory lines to the existing document.

I need to talk with you regarding the CalTech and Portland trips.

018329



"Brit Williams"

06/28/2005 11:33 AM

To "Merle King" <mking@kennesaw.edu>, "Carol Paquette" <cpaquette@eac.gov>

cc

bcc

Subject Re: website

Carol - I am responding to this because I am not at all sure that everyone does know my position on VVPATs.

My position is this:

I have absolutely no objection to VVPATs, but believe that they are not technically necessary. We are entirely capable of building and operating accurate, secure paperless electronic voting systems. Many jurisdictions, including the State of Georgia, are currently conducting accurate, secure elections on pure DRE voting systems.

I fully support the concept of allowing voter's to verify their ballots and have no problem with jurisdictions that wish to use paper for this process.

I look forward to seeing you in New York.

Best regards.

Brit

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

From: "Merle King" <mking@kennesaw.edu>

To: <cpaquette@eac.gov>

Sent: Tuesday, June 28, 2005 9:07 AM

Subject: Re: website

> Carol - The Center staff has never given testimony to the GA  
> Legislature. I have given testimony once, at a NIST meeting, but it was  
> on the topic of functionality, not VVPAT.

>  
> The organization of the full-time staff at the Center is as follows:

>  
> Merle King - Executive Director  
> Ray Cobb - Director  
> Tara Robie - Sr. Project Coordinator  
> Anthony Peel - Sr. Project Coordinator  
> Jessica Bamford - Project Coordinator

>  
> Brit is a contractor with the SOS office and although he spends time at  
> the Center, he is not on the Center budget. He does not report to me.

>  
> The Center is completely funded by the SOS of Ga., as a line item in  
> their budget.

>  
> The Center staff has had private conversations with our vendor  
> regarding VVPAT and I have expressed my opinion to several vendors on  
> the legal and operational issues associated with the concept.

>  
> I have discussed the proposed work for the EAC with the SOS Elections  
> Director and we believe there is not a conflict of interest in the

018330

d. The cataloged comments will be stored on a secure server so that all appropriate EAC-designated individuals can review the comments as needed. Summary reports will be provided to the EAC, as requested.

5. A final, comprehensive Glossary, benchmarked to as many jurisdictions as is practical, will be developed for the next iteration of the Guidelines. This Glossary of terms will attempt to provide jurisdiction-specific versions of commonly used terms in elections management.

Budget

Given the unknown quantity of work involved in the project, it is projected that there will be fixed costs of \$71,100 and variable costs associated with the volume of comments received. The total projected costs are estimated at \$149,050. KSU's indirect rate is 50% of personnel costs.

KSU will invoice the EAC quarterly for the duration of the project.

Budget							3-Jun-05	
EAC TGDC Comment Review Project								
<b>Fixed Costs</b>								
Personnel	June	July	August	September	October	Total		
PM	4000	4000	4000	4000	4000	20000		
Student Asst.		600	600	600	600	2400		
Total						22400		
Consultants								
King (1/3 time)	3500	3500	3500	3500	3500	17500		
Subtotal							39900	
Indirect (50%)							19950	
Fringes (30%) for full-time employees							11250	
							Total Fixed Personnel	71100
<b>Variable Costs</b>								
Graduate Stu. Consultants		800	800	800	800	3200		
		12000	12000	12000		36000		
							39200	
Indirect (50%)							19600	
							Total Variable	58800

018331

Carol A. Paquette/EAC/GOV  
06/01/2005 09:04 AM

To mking@kennesaw.edu

bcc

Subject additional contracting information

Merle -

Need to get revised cost estimate from you to include additional activities outlined in my email of 5/26. Specifically, maintaining the master working copy of the Guidelines and organizing the discussion process for the EAC Boards meeting to comment on Guidelines. I'm assuming that the comment about receiving "white papers" for review and assessment will be subsumed under the existing estimate for processing comments, since that's a very indefinite quantity of work at this point. Just as a point of reference, we received more than 300 comments on our recently published 5-6 page draft guidance document on statewide voter registration lists.

Also, need the following information for contract processing purposes:

1) Name, mailing address for contractor organization, plus appropriate points of contact and their contact information - meaning, if there will be a contract manager apart from the project manager, we would like to have information for both. I think you mentioned that the contract would be with Kennesaw State not with the Center.

2) Tax ID number

3) Classification and type of business

4) Remittance address, including information for electronic funds transfer (form attached)

5) Cognizant federal contract audit agency

We are moving ahead with this, so please provide this information as soon as possible.

Thanks!

Carol A. Paquette  
Interim Executive Director  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov

018332

Draft Budget  
EAC TGDC Comment Review Project

25-May-05

**Fixed Costs**

	June	July	August	September	October	Total
Personnel						
PM	4000	4000	4000	4000	4000	20000
Student Asst.		600	600	600	600	2400
Total						22400

Consultants						
King (1/3 time)	3500	3500	3500	3500	3500	17500

Subtotal 39900

Indirect (50%) 19950

Total Fixed Personnel 59100

**Variable Costs**

Graduate Stu.		800	800	800	800	3200
Consultants		8000	8000	8000		24000
						27200

Indirect (50%) 13600

Total Variable Personnel 40800

Travel 1000 2000 2000 2000 1500 8500

Phone 70 70 70 70 70 350  
Supplies/Copies 200 200 200 200 800

Total Variable Non-personnel 9650

Contract Total 109550

018333

Carol A. Paquette/EAC/GOV  
05/14/2005 11:55 AM

To mking@kennesaw.edu  
cc [REDACTED]  
bcc  
Subject EAC support requirements

Merle -

The EAC needs to get a contract in place as soon as possible for the following three support activities. We are looking for an organization that can provide overall project management and the basic technical capabilities from their own staff as well as being able to pull in additional expertise from other institutions and from the election community. The EAC seeks to have broad-based participation in all its activities to ensure the election community and the general public accept the results as having integrity and validity because all points of view have been considered. The unique capabilities and mission of the Center for Election Systems suggests to me that your organization is ideally suited to support these EAC requirements. I would like to discuss your interest and ability to support these activities at your earliest opportunity. The EAC's goal is to have as many information products available to assist election officials with the 2006 elections as possible.

#### Activity 1: Review and recommend disposition of Voluntary Voting System Guidelines comments

On May 9, the EAC received the initial TGDC recommendations for revised voting system guidelines. We are currently reviewing this document to determine if it is acceptable to publish for public comment as proposed guidelines, or if some modifications might be required. We anticipate completing this review and publishing the resulting proposed guidelines by early June. The EAC is severely under-staffed to appropriately handle the workload of reviewing and determining the disposition of the potentially substantial volume of comments that are expected over the 90 day comment period. We also lack the range of appropriate technical expertise required for this task. The Commissioners have requested that we put together an appropriate review team to assist the EAC with this comment review activity. We envision this process working as follows. We anticipate that most comments will be submitted via the EAC website. We are developing a comment tracking and management application to assist in managing the comments. We will also receive comments from other sources, such as email and paper mail. There will also be two public hearings with panel presentations followed by an open mike public comment period. We plan to review comments on a weekly basis. EAC personnel and members of the review support team would convene a weekly meeting or teleconference to do a first pass review, followed by assigning out of comments requiring additional consideration. Review team members would complete their assigned topics and make disposition recommendations in a subsequent meeting of the review group and the EAC lead staffer. NIST resources will be available to do additional research and/or for consultation, if required.

#### Activity 2: Development of quality control procedures for voting system acceptance by election officials

There are a variety of system acceptance procedures that election officials can employ to promote consistent quality in newly delivered voting systems. The CES has developed a model process for voting system acceptance and configuration management. This methodology and the practical experience acquired from applying it over several years can be drawn on to develop a set of scaled quality assurance recommendations to meet the needs of the variety of election jurisdictions that are purchasing voting equipment this year. The concept is to provide a range of elements and approaches so election officials will have some choices for what might best suit their particular circumstances.

#### Activity 3: Development of Election Management Guidelines or Best Practices

The quality of election management practices has a direct impact on the integrity and overall success of the voting process. There appeared to be only a few instances of significant voting equipment

018334

## CONSULTING AGREEMENT WORK ASSIGNMENT BASED

This Agreement is made effective as of the date of signing by and between the United States Election Assistance Commission, with offices at 1225 New York Avenue N.W., Suite – 1100, Washington, DC 20005, (the "Agency" or "EAC"), and TEM Consulting, LP, with offices at 140 River Road, Georgetown, Texas, 78628 ("Consultant").

The Agency desires to retain Consultant to provide engineering consulting services for the Agency and Consultant is willing to perform such services, on terms set forth more fully below.

In consideration of the mutual covenants and obligations set forth herein, Consultant and the Agency agree as follows:

### 1. SERVICES TO BE RENDERED

- 1.1 Consultant's Services. Consultant agrees to provide for the Agency engineering consulting services as requested by the Agency from time to time (the "Services"). Details of the specifications and requirements for the Services to be performed by Consultant shall be set forth in written work assignments in the form set forth in Schedule B ("**Work Assignments**"). Each such Work Assignment shall be signed by Agency and Consultant. Consultant shall provide the Services described in each such Work Assignment subject to and in accordance with all terms and conditions of this Agreement. Work Assignments may be signed for the Agency by the Authorized Representative of the Agency or other persons acting at the direction of the Authorized Representative of the Agency. For each Work Assignment, the Agency shall identify a contact person who will provide directions to Consultant for each work assignment.
- 1.2 Work Assignments. Consultant agrees to perform for the Agency the Services described in Schedule C as Work Assignment(s), in accordance with this Agreement.
- 1.3 Service Levels. Consultant warrants that the Services shall be performed with care, skill and diligence, consistent with, or above applicable professional standards currently recognized in the profession, and that Consultant shall be responsible for the professional quality, technical accuracy, completeness and coordination of all Services furnished under this Agreement. Services provided by Consultant shall meet or exceed the service levels, if any, specified on the Work Assignments.
- 1.4 Subcontractors. The Consultant may use subcontractors to provide services under this contract. Consultant shall be responsible for any subcontractor put to work to perform any part of this contract and its work assignments, unless the subcontractor is especially requested by the Agency, in which case the Agency assumes responsibility for that particular subcontractor, the quality of that subcontractor's work, any unnecessary expenses that subcontractor may cause and the entire completion of that subcontractor's contract.

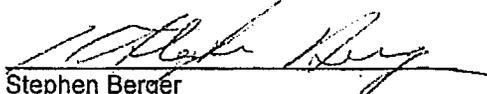
### 2. COMPENSATION

- 2.1 Fees For Services. The Agency shall pay Consultant the compensation in the amounts and upon the terms set forth in each duly executed Work Assignment entered into between Consultant and the Agency.
- 2.2 Fees For Work Assignment(s). As consideration for the performance of the Services of Work Assignment(s), the Agency shall pay Consultant the compensation, including fees and other costs, as set forth on Schedule C.

**TEM Consulting, LP  
STEPHEN BERGER**

140 River Road  
Georgetown, Texas  
USA

Telephone: 512-864-3365  
FAX: 512-869-8709

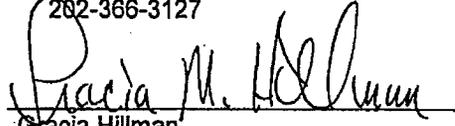
By:   
Stephen Berger  
President of the General Partner  
TEM Consulting

Date: 22 June, 2005

**United States Election Assistance Commission**

1225 New York Avenue N.W., Suite -- 1100  
Washington, DC 20005  
USA

Telephone: 202-566-3100  
FAX: 202-366-3127

By:   
Gracia Hillman  
Chair  
U.S. Election Assistance Commission

Date: 16 June, 2005

One Original Signed to Authorized Representative of the Agency and One Copy to Consultant

TEM Consulting

CONFIDENTIAL

SCHEDULE A  
PROFESSIONAL SERVICE INVOICE FORM

# Invoice

TEM Consulting  
Attn: Stephen Berger  
140 River Rd.  
Georgetown, Tx.

Phone: (512) 657-6147  
(512) 869-8709 (FAX)  
E-Mail: [stephen.berger@ieee.org](mailto:stephen.berger@ieee.org)

INVOICE NUMBER:	1001
INVOICE DATE:	June 1, 2005
CUSTOMER	PO XXXX
REFERENCE:	

**CLIENT:**  
United States Election Assistance Commission

1225 New York Avenue N.W., Suite - 1100  
Washington, DC 20005

Telephone: 202-566-3100  
FAX: 202-366-3127

DATE	HOURS	SERVICE	RATE	AMOUNT

**TOTAL \$**

**MAKE ALL CHECKS PAYABLE TO:**

TEM Consulting, LP.



SCHEDULE B  
WORK ASSIGNMENT NO. \_\_\_\_\_  
Under Consulting Agreement Dated \_\_\_\_\_, 200\_\_  
Between the EAC and TEM Consulting, LP

DESCRIPTION OF SERVICES	COMPENSATION (Not to exceed)
<b>Contact Person:</b>	

This Work Assignment is entered into subject to and is controlled by all terms and conditions of the Consulting Agreement entered into between the parties and dated effective as of \_\_\_\_\_, 200\_\_.

**TEM Consulting**  
**STEPHEN BERGER**

**United States Election Assistance Commission**

140 River Road  
Georgetown, Texas  
USA

1225 New York Avenue N.W., Suite – 1100  
Washington, DC 20005  
USA

Telephone: 512-864-3365  
FAX: 512-869-8709

Telephone: 202-566-3100  
FAX: 202-366-3127

By: \_\_\_\_\_  
Stephen Berger  
President of the General Partner  
TEM Consulting

By: \_\_\_\_\_

Date: \_\_\_\_\_, 200\_\_

Date: \_\_\_\_\_, 200\_\_

One Original Signed to Authorized Representative of the Agency and One Copy to Consultant

**SCHEDULE C  
WORK ASSIGNMENT NO 1  
Under Consulting Agreement Dated June 1, 2005  
Between the EAC and TEM Consulting, LP**

DESCRIPTION OF SERVICES	COMPENSATION (Not to exceed)
Assist in preparing material and procedures for the EAC's voting system certification system. See attached Statement of Work.  Period of performance: June 6 to July 22, 2005.  Total Time and Materials on this work assignment not to exceed: \$25,000.00	Consultant will receive \$135 per hour as compensation for services provided  Travel, conference call and other expenses will be invoiced separately  Each invoice will be marked with the date of the Consulting Agreement and Work Assignment number.
<b>Contact Person(s):</b> Brian Hancock Phone: (202) 566-3122 Fax: (202) 566-3127 E-mail: BHancock@eac.gov	

This Work Assignment is entered into subject to and is controlled by all terms and conditions of the Consulting Agreement entered into between the parties and dated effective as of June 1, 2005.

**TEM Consulting, LP  
STEPHEN BERGER**

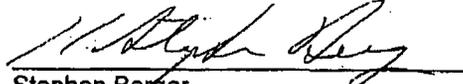
**United States Election Assistance Commission**

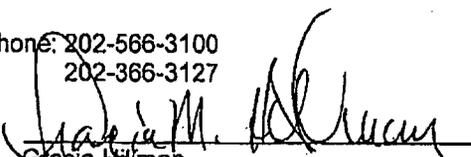
140 River R  
Georgetown, Texas  
USA

1225 New York Avenue N.W., Suite - 1100  
Washington, DC 20005  
USA

Telephone: 512-864-3365  
FAX: 512-869-8709

Telephone: 202-566-3100  
FAX: 202-366-3127

By:   
 Stephen Berger  
 President of the General Partner  
 TEM Consulting

By:   
 Gladia Hillman  
 Chair  
 U.S. Election Assistance Commission

Date: 22 June, 2005

Date: 16 June, 2005

One Original Signed to Authorized Representative of the Agency and One Copy to Consultant

**ORDER FOR SUPPLIES AND SERVICES**

NOTE: MARK ALL PACKAGES WITH ORDER NUMBER/CONTRACT NUMBER

PAGE 1 OF 1 PAGES

1. DATE OF ORDER 06/16/05	2. ORDER NUMBER	3. CONTRACT NUMBER EAC 0541	4. ACT NUMBER E4014195
------------------------------	-----------------	--------------------------------	---------------------------

**IMPORTANT:**

- \* This form is not to be used as an invoice. See reverse for invoice requirements and payment information.
- \* The invoice remit to address must be the same as Block 12. Notify the contracting/ordering officer if the information in Block 12 is incorrect.
- \* Failure to show the ACT number (Block 4) on invoice will delay payment and render the invoice improper.
- \* Failure to mail invoice to address in Block 24 will delay payment.
- \* Failure of service contractors to provide information in Block 9A will result in 20% of payment being withheld (26 U.S.C. 3406(a)).

7. 10: CONTRACTOR (Name, address and zip code)

TEM Consulting  
140 River Road  
Georgetown, TX 78628

Contact: Stephen Berger

*COPY*

B. TYPE OF ORDER	REFERENCE YOUR
<input type="checkbox"/> A. PURCHASE	
Please furnish the following on the terms specified on both sides of the order and the attached sheets, if any, including	
<input checked="" type="checkbox"/> 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 APPROPRIATE  
 WITHHOLD 20%

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

10A. CLASSIFICATION

- A. SMALL BUSINESS     B. OTHER THAN SMALL BUSINESS     C. SMALL DISADVANTAGED     D. SMALL WOMEN-OWNED

10B. TYPE OF BUSINESS ORGANIZATION

- A. CORPORATION     B. PARTNERSHIP     C. SOLE

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

12. REMITTANCE ADDRESS (MANDATORY)  
Remittance via EFT  
See attached form

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

Same as block 11

Election Assistance Commission  
1225 New York Avenue, NW, Suite 1100  
Washington, DC 20005

14. PLACE OF INSPECTION AND ACCEPTANCE

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

EAC, 1225 NY Ave., Suite 1100, Wash., DC 20005

Election Assistance Commission

16. F.O.B. POINT

17. GOVERNMENT B/L NO.

18. DELIVERY F.O.B. POINT ON OR BEFORE  
06/23/05

19. PAYMENT/DISCOUNT TERMS

Destination

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 Election Assistance Commission (EAC). Request to provide technical assistance in defining EAC system certification and lab accreditation processes. See attached consulting agreement.				
	Total Cost of Delivery Order \$25,000.00				

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

Gracia M. Hillman (202) 566-3100

TOTAL FROM 300-A(s)

25,000.00

22. SHIPPING POINT

23. GROSS SHIP WT.

GRAND TOTAL

25,000.00

24. MAIL INVOICE TO: (Include zip code)

General Services Administration (FUND)  
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

28A. NAME OF CONTRACTING/ORDERING OFFICER (Type)

Gracia M. Hillman, Chair

26B. TELEPHONE NO.  
(202) 566-3100

28C. SIGNATURE

*Gracia M. Hillman*

**H. STEPHEN BERGER**  
140 River Rd.  
Georgetown, TX 78628

[stephen.berger@ieee.org](mailto:stephen.berger@ieee.org)

## **PROFILE**

Professional project manager with specialization in:

- ◆ Government and Industry Relations,
- ◆ Advanced technology business planning,
- ◆ Product development and design,
- ◆ Standards development and regulatory management.

25 years of product development and technology planning experience:

- ◆ President of the National Association of Radio and Telecommunications Engineers (NARTE).
- ◆ Former member of the IEEE Standard Board.
- ◆ Chair of the IEEE EMC Society Standards Development Committee.
- ◆ IEEE representative to US Election Assistance Commission Technical Guidelines Committee and chair of IEEE Standards Coordinating Committee 38, voting equipment standards.

Project management experience in Telecommunications, Information Technology and Instrumentation Industries, with strong record, in the areas of EMC (Electromagnetic Compatibility), RF safety and Disability Issues.

## **SELECTED ACCOMPLISHMENTS**

### **GOVERNMENT AND INDUSTRY RELATIONS**

- President of the National Association of Radio and Telecommunications Engineers (NARTE).
- Founded the IEEE Standards Coordinating Committee for voting equipment standards. Representative of the IEEE to both the federal EAC and ex officio member of NASED (National Association of State Election Directors) Voting System Standards Board.
- Member of 2 US Access Board Federal Advisory Committee:
  - Telecommunications Access Advisory Committee (TAAC) and co-chair of the compliance sub-committee (1996-1997)
  - Electronic Information Technology Access Advisory Committee (1998-1999)
- Invited presenter on disability access at EU Ministerial Conference, April 2000 in Lisbon, Portugal

### **EMC AND ENVIRONMENTAL TESTING AND REGULATORY COMPLIANCE**

- Improved test department efficiency by 500%, with no increase in personnel.
- Invented the EHR GTEM, patented, gained FCC approval and implemented its use.

018342

**Donald N. Heirman**  
**Don HEIRMAN Consultants**  
**143 Jumping Brook Road**  
**Lincroft, NJ 07738-1442 USA**  
**Phone: + 1 732-741-7723**  
**FAX: +1 732-530-5695**  
**Email: [d.heirman@ieee.org](mailto:d.heirman@ieee.org)**  
**Web site: <http://www.DonHEIRMAN.com>**

Donald Heirman is president of Don HEIRMAN Consultants, training, standards, and educational electromagnetic compatibility (EMC) consultation corporation founded in 1997. His work includes consulting with a wide range of private and governmental bodies on EMC matters including implementation of state of the art EMC test facilities and evolving standardization, laboratory competency, and measurement aspects of human exposure to radio frequency energy. He provides workshops and tutorials on many of these topics both in the United States and in Europe.

Previously he was with Bell Laboratories for over 30 years in many EMC roles including Manager of Lucent Technologies (Bell Labs) Global Product Compliance Laboratory, which he founded, and where he was in charge of the corporation's major product safety, telecommunications, and EMC regulatory test facility and its participation in ANSI accredited standards committee and international EMC standardization. The laboratory was one of the first EMC testing labs accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) on a wide range of telecommunication products.

He chairs, or is a principal technical expert contributor to, US and international EMC standards organizations including ANSI ASC C63 (committee vice chairman and chairman of its Subcommittee 1 which is responsible for most of the C63 standards on EMC testing, calibration and instrumentation specifications and techniques) and the International Electrotechnical Commission's (IEC) Special International Committee on Radio Interference (CISPR) where he is a member of the CISPR steering committee and chairman of its Subcommittee A (Radio Interference Measurements and Statistical Techniques). Subcommittee A is responsible for CISPR Publication 16 which is the basic set of standards used worldwide for performing radio interference measurements to meet associated national regulatory requirements. He is a member of the IEC's Advisory Committee on EMC (ACEC) and the Technical Management Committee (TMC) of the US National Committee (USNC) of the IEC. In the TMC, he is Group Manager for electromagnetics which is responsible for ensuring appropriate US participation in the IEC on EMC matters and chairs its Coordinating Committee on EMC which helps formulate US EMC positions among the many USNC technical advisory committees (TAGs) with EMC aspects. He is also an active member of the USNC TAGs for CISPR Subcommittee A and Subcommittee I (EMC of Information Technology Equipment, multimedia equipment and receivers).

Mr. Heirman is past president and now member of the Board of Directors (managing business development) of the National Cooperation for Laboratory Accreditation (NACLA) which recognizes the competency of testing and calibration accreditation bodies in the US via the adherence of these accrediting bodies to ISO guides for competency of accrediting bodies and

018348

Daniel D. Hoolihan is currently President of Hoolihan EMC Consulting, Nottingham Court-Box 367, Lindstrom, Minnesota, 55045.

Hoolihan has been consulting in EMC Engineering since January of 2000. He specializes in EMC-Laboratory evaluations, EMC standards, and EMC Education. He is a consultant to the United States Department of Commerce National Institute of Standards and Technology (NIST) in the area of Telecom Certification Body (TCB) and Conformity Assessment Body (CAB) evaluations. He is also an assessor for the NIST National Voluntary Laboratory Accreditation Program (NVLAP).

Previous to consulting, he worked as Vice-President of Minnesota Operations for TUV Product Service from 1994 to 2000. From 1984 to 1994, he was the Co-Founder and Chief Operating Officer of AMADOR Corporation; a small business specializing in EMC testing of electronic products ranging in size from pacemakers to supercomputers. His first employment out of graduate school (in 1969) was with Control Data Corporation in their internal EMC lab.

Hoolihan has been on the Board of Directors of the EMC Society of the IEEE since 1987. He is the past-president of the EMCS (1998-1999) and has held many positions with the EMCS board in his years of service. He most recently served as the Chair of the 2002 IEEE International Symposium on EMC which was held in Minneapolis in August of 2002. He helped found the EMC chapter of the Twin Cities Section in 1985 and has been active in the local chapter since that time.

He has been actively involved with ANSI-Accredited Standards Committee on EMC since 1985. He is presently on the Steering Committee of C63 as well as chairing Subcommittee 6 (SC-6 - Lab Accreditation) and SC-8 (EMC and Medical Devices).

He is also an active member of the United States Technical Advisory Group on CISPR B; Industrial, Scientific and Medical Equipment.

His formal education includes a Bachelors Degree in Physics from Saint John's University (Minnesota), a Masters Degree in Physics from Louisiana State University (Baton Rouge), and a Masters in Business Administration from the University of Minnesota (Minneapolis).

Daniel D. Hoolihan  
651-213-0966  
FAX 651-213-0977  
Cell Phone 651-269-3569

Carol A. Paquette/EAC/GOV  
06/01/2005 11:15 AM

To Gracia Hillman/EAC/GOV, Paul DeGregorio/EAC/GOV,  
Raymundo Martinez/EAC/GOV, Juliet E.  
Thompson/EAC/GOV;twilkey@nycap.rr.com  
cc Sheila A. Banks/EAC/GOV, Adam Ambrogi/EAC/GOV, Gavin  
S. Gilmour/EAC/GOV, Brian Hancock/EAC/GOV  
bcc  
Subject proposed consulting contract to assist with NASED/EAC  
transition work

Commissioners et al. -

The work on developing the EAC processes, documentation, etc., for transitioning lab accreditation and system certification from NASED to EAC has fallen significantly behind schedule. The project timeline called for completion of this work for Commissioner review by the end of May. We are perhaps 50% complete at this point.

We had requested assistance from NIST to work with Brian Hancock on this effort, but they have not been forthcoming with meaningful help. They provided a point of contact who passed on a lot of reference material for Brian to review, but they haven't identified anyone to help with defining the processes and preparing the documentation. The point of contact has since been diverted by some family medical problems, and Lynne Rosenthal hasn't been able to identify another person.

Prior to his departure, Commissioner Soaries encouraged me to find some additional resources to help move this work to completion. The Chair similarly advised me about two weeks ago when I was speaking to her about my concern over the lagging schedule.

In response to this direction to get help, I sent an email to Steve Berger, David Karmol, Paul Craft, Brit Williams, and Michael Shamos, asking if they could identify any individuals or companies we could contract with quickly to get this work done. Steve Berger responded that he could assist. I checked with EAC Counsel's Office to see if there were any issues regarding EAC contracting with a member of the TGDC. Julie and Gavin informed me that there were no problems with this. Steve is very well-qualified by education and experience to assist us in this effort. Paul Craft and Brit Williams concurred that Steve could more than adequately fill the requirement.

Brian and I have had several conversations with Steve and are convinced that his assistance will enable us to move ahead quickly to meet our revised target completion date of June 30. He has worked on defining similar quality conformance programs for other organizations and is knowledgeable of all the relevant standards, etc., and which need to be applied.

Consequently, I am recommending that the EAC enter into a consulting contract with Steve Berger for a not to exceed amount of \$40,000 and a period of performance from June 1 through July 31. The first milestone is to help Brian complete this work for Commission review by June 30. Steve's time in the month of July would be utilized to respond to questions and comments from the Commissioners to complete the work for Commission approval and establishment of a transition date.

I am available to discuss this matter and answer any questions you may have. If you are in agreement with this course of action, I will ask DeAnna to prepare appropriate consensus vote,

Carol A. Paquette  
Interim Executive Director  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov

018345



"Stephen Berger"  
<stephen.berger@ieee.org>

06/01/2005 09:57 AM

Please respond to  
stephen.berger@ieee.org

To bhancock@eac.gov, "Donald Heirman"  
<[REDACTED]>, "Dan Hoolihan"  
<[REDACTED]>

cc cpaquette@eac.gov

bcc

Subject RE: EAC Draft Documents

Brian,

Let me introduce the 3<sup>rd</sup> member of our "work crew" Dan Hoolihan. Dan has a lot of relevant experience to what we are doing. He is a NVLAP accreditor, very active on the FCC's Technical Competent Body Counsel and also works in international lab recognition areas. I know you will find Dan a valuable resource to have involved.

In talking to Dan this morning about our project we found ourselves discussing whether ISO Guide 65 type topics would be in view for this project. Guide 65 deals with vendor related topics, like their quality system, to assure that the manufactured product is the same as the tested product. ISO Guide 17025 focuses by contrast on lab accreditation. I asked Dan to write up a short discussion and forward it to you, to help us all get a clear focus on what we are doing first, what might come later and where we might find helpful guidance in preparing our materials.

Best Regards,

Stephen Berger

TEM Consulting, LP

Web Site - [www.temconsulting.com](http://www.temconsulting.com)

E-MAIL - [stephen.berger@ieee.org](mailto:stephen.berger@ieee.org)

Phone - (512) 864-3365

Mobile - (512) 466-0833

FAX - (512) 869-8709

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

**Sent:** Wednesday, June 01, 2005 8:05 AM

**To:** Donald Heirman; Stephen Berger

**Subject:** EAC Draft Documents

Steve, Don,

Nice talking with you yesterday. Both Carol and I look forward to working with you to move the project towards completion.

Attached are three draft documents that will give you an idea of where we see the program headed. The first document is the letter of certification which we plan on sending initially to the current test labs which we would grandfather until the NVLAP portion of the program produces results.

The second document is a series of flow charts which outline the basic steps of the certification and testing, and laboratory accreditation program. The third document is a draft policy guide on the testing and certification program. The policy guide has some obvious gaps in several sections which I have not yet had time to complete. We value your assessment of these documents and look forward to meeting with you, Steve, next week, and with Don as soon as possible.

Thanks again.

018348



"Stephen Berger"

~~stephen.berger@ieee.org~~  
t.berger

06/01/2005 09:49 AM

Please respond to  
stephen.berger@ieee.org

To cpaquette@eac.gov

cc

bcc

Subject RE: additional contracting information

Carol,

The EIN for TEM Consulting is: 74-2982561

I am attaching our W9 in case you need that in the future.

TEM Consulting is a small business and it is a corporation.

I filled out the EFT form and signed it, the PDF is attached.

Best Regards,

Stephen Berger

**TEM Consulting, LP**

Web Site - [www.temconsulting.com](http://www.temconsulting.com)

E-MAIL - [stephen.berger@ieee.org](mailto:stephen.berger@ieee.org)

Phone - (512) 864-3365

Mobile - (512) 466-0833

FAX - (512) 869-8709

---

**From:** cpaquette@eac.gov [mailto:cpaquette@eac.gov]

**Sent:** Wednesday, June 01, 2005 7:46 AM

**To:** stephen.berger@ieee.org

**Subject:** additional contracting information

Steve -

Need a little more information about your business to complete processing of contract.

1) What is your tax ID # (or SSN, if no tax ID)

2) What is the classification of your business: small; other than small, small disadvantaged, small woman-owned

and the type of business: corporation; partnership; sole proprietorship

Also, if you wish to receive payments electronically you will need to complete the attached EFT authorization form. Thanks!

Carol A. Paquette

018347



"Stephen Berger"

To cpaquette@eac.gov

cc

bcc

05/30/2005 10:04 AM

Please respond to  
stephen.berger@ieee.org

Subject RE: Dates

Carol,

Hope you don't have to work all of memorial day? I wanted to get back with you on a couple of things.

I haven't heard back from Don or Dan yet, but let's tentatively plan on a conference call tomorrow at 1 ET. Do you have a conference number or would you like me to send out the one I use?

SATO is the travel agency that NIST uses when I come to the TGDC meetings. They don't seem to have the problem with last minute fare increases that we get booking directly. Otherwise the cost seems roughly comparable. For example, Southwest or American are the best connections from Austin. Right now, with 1 week notice I can go to BWI for \$109 each way, \$218 plus tax roundtrip. Less than a week and it goes to \$586 plus tax roundtrip.

I can arrive at BWI by 1:30 out of Austin, and be at your office by 3:30.

So for the week of the 6<sup>th</sup>, if it gives us enough time I could come in Monday the 6<sup>th</sup> and coordinate my departure to match your schedule, say leaving late on the 8<sup>th</sup>?

I am putzing around the house and also working today. So feel free to call, it isn't an inconvenience (512-864-3365). To get the lower airfare I should book today.

Best Regards,

Stephen Berger

TEM Consulting, LP

Web Site - [www.temconsulting.com](http://www.temconsulting.com)

E-MAIL - [stephen.berger@ieee.org](mailto:stephen.berger@ieee.org)

Phone - (512) 864-3365

Mobile - (512) 466-0833

FAX - (512) 869-8709

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**From:** cpaquette@eac.gov [mailto:cpaquette@eac.gov]

**Sent:** Friday, May 27, 2005 5:06 PM

**To:** stephen.berger@ieee.org

**Cc:** bhancock@eac.gov

**Subject:** RE: Dates

Steve -

Don't know what SATO stands for, does it mean invitational travel orders (i.e., the government makes your travel arrangements and provides you a ticket)?

Monday is a government holiday which I will be celebrating by trying to complete my review of the Voluntary Voting System Guidelines.

018348

How about a phone call on Tuesday, the 31st? I'm available at 1 or 4:30 Eastern. Wednesday, June 1, is open all day, if that works better for you and your colleagues. Then we could have in person meeting the week of the 6th as you suggest. I'm on leave the 8th to attend an out-of-town graduation.

Carol A. Paquette  
Interim Executive Director  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov

"Stephen Berger" <stephen.berger@cox-internet.com>

05/27/2005 05:00 PM

Tccpaquette@eac.gov

cc

SubjectRE: Dates

Please respond to  
stephen.berger@ieee.org

Carol,

Assuming I can travel under SATO, as when I come to TGDC meetings, we don't need to worry about last minute flight costs.

I am working on a meeting at the FCC for June 13-14 and could extend to work with you, which would save some travel costs. I think though that you will want a first meeting sooner. Would you like to have an initial conference call, including Don Heirman and Dan Hoolihan, on Monday and in in-person meeting sometime the week of June 6? With your statement that the contract looks acceptable I am comfortable with going ahead and getting started. I could also fly up next week, but wonder if we wouldn't accomplish more by having a couple of conference calls and doing some preparatory work on our side?

My thought is after an initial conference call we should see what models and similar documents we can gather from sources we are aware of and adapt to the needs of the EAC. So at a first meeting the following week we potentially would come with some model documents and procedures to consider.

Best Regards,

Stephen Berger

TEM Consulting, LP  
Web Site - [www.temconsulting.com](http://www.temconsulting.com)  
E-MAIL - [stephen.berger@ieee.org](mailto:stephen.berger@ieee.org)  
Phone - (512) 864-3365  
Mobile - (512) 466-0833  
FAX - (512) 869-8709

018349

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**From:** cpaquette@eac.gov [mailto:cpaquette@eac.gov]  
**Sent:** Friday, May 27, 2005 3:43 PM  
**To:** stephen.berger@leee.org  
**Subject:** Re: Air Force Contract

Thanks, Steve. I agree with you that the consulting contract is the better way to go. I have reviewed the agreement you sent and it looks fine to me in terms of having all the appropriate clauses and safeguards. I have passed it to our General Counsel to see if she agrees that it is an acceptable contract document. If she gives me the okay we can probably have this in place by next Wednesday (June 1). We should be working on a date for you to come in so we can review work accomplished and what further remains to be completed.

Carol A. Paquette  
Interim Executive Director  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov

"Stephen Berger" 

05/27/2005 04:04 PM

To "Carol A. Paquette" <cpaquette@eac.gov>  
cc  
Subject Air Force Contract

Please respond to stephen.berger@leee.org
--

Carol,

Attached is my Air Force contract. Besides a lot of boilerplate, the principle different is that this is a firm fixed price contract. You can see that a set of initial deliverables was specified and funded. Options were included that could be exercised at the agencies discretion. We can go that way with your job but I would need a clear set of deliverables to bid on. Of course my bid will be competitive but guarded to be sure that I can provide the deliverables within the bid. I think the work assignment based contract will be both quicker to get in place and provide you a lower final cost. Having a not-to-exceed on the work items should give you the same budget protections that the Air Force is getting with the firm fixed price approach.

Best Regards,

018350



"Stephen Berger"

~~stephen.berger@ieee.org~~  
t.com>

05/27/2005 09:14 AM

Please respond to  
stephen.berger@ieee.org

To cpaquette@eac.gov, stephen.berger@ieee.org

cc bhancock@eac.gov

bcc

Subject RE: Help on establishing equipment certification system

Carol,

I will look forward to talking with you and Brian tomorrow.

Best Regards,

Stephen Berger

TEM Consulting, LP

Web Site - [www.temconsulting.com](http://www.temconsulting.com)

E-MAIL - [stephen.berger@ieee.org](mailto:stephen.berger@ieee.org)

Phone - (512) 864-3365

Mobile - (512) 466-0833

FAX - (512) 869-8709

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**From:** cpaquette@eac.gov [mailto:cpaquette@eac.gov]

**Sent:** Thursday, May 26, 2005 11:28 AM

**To:** stephen.berger@ieee.org

**Cc:** bhancock@eac.gov

**Subject:** RE: Help on establishing equipment certification system

Steve -

1 p.m. tomorrow is good. Brian Hancock will be sitting in on the call. Do you want us to call you or will you call us? My direct dial is 202.566.3125. Thanks!

Carol A. Paquette

Interim Executive Director

U.S. Election Assistance Commission

(202)566-3125 cpaquette@eac.gov

018351



"Stephen Berger"

t.com>

05/27/2005 03:55 PM

Please respond to  
stephen.berger@ieee.org

To "Carol A. Paquette" <cpaquette@eac.gov>

cc

bcc

Subject Draft Contract

Carol,

Attached is the draft work assignment based contract I have been using. So far it has worked very well for the kind of assignment we are discussing.

I will send a copy of the Air Force Contract attached to a separate note for you to consider as an alternative.

I look forward to working with you. Thank you very much for the confidence expressed in making this opportunity available.

Best Regards,

Stephen Berger

**TEM Consulting, LP**

Web Site - [www.temconsulting.com](http://www.temconsulting.com)

E-MAIL - [stephen.berger@ieee.org](mailto:stephen.berger@ieee.org)

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FAX - (512) 869-8709



EAC-TEM - Consulting Contract.doc

018352

If this is going in a direction that interests you I think I would suggest that you and I talk to set things up and then have an introductory call with the team to outline assignments and organize what we would do for you.

As I have thought about what I would do were I in your position I think I would make one of our assignments to go over to the FCC laboratory in Columbia and ask their help, borrowing as much as they may feel comfortable in sharing. I have contract with Rashmi Doshi almost weekly and would assume he would be helpful. The positive is that there may be a lot of workproduct from their system that could be adopted for EAC use. I would also assume that there is a lot of experience that could be gathered in to the benefit of the EAC. I think the principle challenge would be to 'right-size' the system to the EAC and voting equipment vendors. I believe the FCC manages something like 25,000 grants a year and has a system of 500 commercial test labs doing the testing required.

Probably my biggest general worry for the EAC is that it would be easy to create an overly complex system that would not be appropriate for this sector. However, there is a lot of experience out there that could be gathered in.

I will be in meeting from about 2:30 to 6:30 ET, but call me on my mobile before then if you want to talk further. Tomorrow I have an early flight from Tucson but would be available until about 10:30 ET.

Best Regards,

Stephen Berger

**TEM Consulting, LP**

Web Site - [www.temconsulting.com](http://www.temconsulting.com)

E-MAIL - [stephen.berger@ieee.org](mailto:stephen.berger@ieee.org)

Phone - (512) 864-3365

Mobile - (512) 466-0833

FAX - (512) 869-8709

018350

Carol A. Paquette/EAC/GOV  
05/18/2005 03:10 PM

To pcraft@dos.state.fl.us; [REDACTED]; stephen.berger@i  
eee.org; dkarmol@ansi.org; shamos@cs.cmu.edu  
cc  
bcc  
Subject EAC needs technical assistance to define system  
certification process

Gentlemen:

As you may be aware, the EAC is supposed to take over the lab accreditation and voting system certification processes from NASED this fiscal year. Brian Hancock has been working very diligently to get the procedures defined, the forms, etc., designed, report formats specified, etc. Our legal counsel has been working on legal aspects. However, we just do not have adequate numbers of staff personnel to get this work completed in a timely fashion. Neither Brian nor counsel can devote full time to this effort because of the press of other EAC business and our general lack of staff resources.

We are looking for either individual consultants or companies with experience in doing this type of work. Our original completion date was the end of May, which we are not close to meeting. We are now targetting the end of June to complete documentation of the procedures, criteria, forms, etc., so this transition can happen by August. But this date cannot be met without assistance. Please forward any recommendations you might have as soon as possible. Since we have our own procurement authority we can turn around contracts quickly and we have adequate budgetary resources available to cover this work. We just need to identify some qualified sources who can go to work immediately. Thank you for your assistance.

Carol A. Paquette  
Interim Executive Director  
U.S. Election Assistance Commission  
(202)566-3125 cpaquette@eac.gov

018354



"Merle King"  
<mking@kennesaw.edu>  
10/14/2005 11:24 AM

To gvogel@eac.gov  
cc  
bcc  
Subject Reponse to FOIA

Ms. Vogel - Attached is a draft of my response. Please advise if I have adequately justified my University's position on nondisclosure.

I am seeking review by our legal staff and will fax you a copy on letterhead by close of business, today.

Regards,

MSK

Merle S. King  
<http://science.kennesaw.edu/csis>  
Chair, CSIS Department  
Kennesaw State University  
1000 Chastain Road, MB #1101  
Kennesaw, GA 30144-5591  
voice: 770-423-6354; fax: 770-423-6731



EAC\_Contract\_Confidentiality.doc

018358

October 14, 2005

Ms. Gaylin Vogel  
U.S. Election Assistance Commission  
1225 New York Ave., NW – Suite 1100  
Washington, DC 20005

Dear Ms. Vogel:

Disclosure of the confidential content of the contract between Kennesaw State University (KSU) and the Election Assistance Commission (EAC) would be detrimental to KSU's current and future competitive position as a contractor. The disclosure of our pricing structure, methods for organizing work, and descriptions of software products designed to support the contract, would place us at a competitive disadvantage in bidding on comparable projects.

We request that information in our contract with the EAC be treated confidentially until such time that the products of our current contract (the public comments database and related documents, including the edited draft of the Voluntary Voting System Guidelines) are no longer in use by the EAC.

Sincerely,

Merle S. King  
Chair, CSIS Department

018356



"Merle King"  
<mking@kennesaw.edu>  
10/13/2005 09:24 PM

To gvogel@eac.gov  
cc  
bcc  
Subject FOIA Request

Gaylin - I received the fax and will respond, ASAP.

Thanks,

Merle

Merle S. King  
<http://science.kennesaw.edu/csis>  
Chair, CSIS Department  
Kennesaw State University  
1000 Chastain Road, MB #1101  
Kennesaw, GA 30144-5591  
voice: 770-423-6354; fax: 770-423-6731

018357

Gaylin Vogel/EAC/GOV  
10/24/2005 04:34 PM

To mking@kennesaw.edu  
cc  
bcc  
Subject FOIA

Dear Mr. King:

On October 12, 2005 you were informed via fax that a third party through the Freedom of Information Act (FOIA) has requested a copy of the contract and corresponding documents with Kennesaw State University. The purpose of the letter was to provide you with an opportunity to specify provisions in the responsive documents that you believe are protected from disclosure under FOIA. We required you to identify the specific provisions in the responsive documents and the applicable FOIA exemption. As the EAC did not get such a response, we must assume that you do not have an objection to the disclosure of the contract in its entirety as noted in our initial letter. The EAC is under a tight timeline to respond to FOIA requests. We must respond to this FOIA in the near future. If you believe you have provided specific information, consistent with the above, please let me know immediately.

Thank you,

Gaylin Vogel  
Law Clerk  
U.S. Election Assistance Commission  
1225 New York Avenue, NW Suite 1100  
Washington, DC 20005  
tel:202-566-3116  
<http://www.eac.gov>  
[GVogel@eac.gov](mailto:GVogel@eac.gov)

018358



"Stephen Berger"  
<stephen.berger@cox-internet.com>

11/04/2005 05:12 PM

Please respond to  
stephen.berger@ieee.org

To gvogel@eac.gov

cc

bcc

Subject RE: FOIA

Dear Gaylin,

This note is to further document the reasons for our request that our hourly labor rate be withheld under the FOIA request you have received.

In any competitive bid situation competitive advantage is gained by the ability to deliver higher quality of service at a lower price. It is therefore the combination of quality of service and price that combines to provide a competitive offering. Having full visibility to the quality and price provides a competitor to bid against a known quantity while withholding one of these items assures that competitive bids remain truly competitive. As the seniority of our staff and their quality level is well known the only item that remains unknown to competitors is the price offered. Therefore we believe that the hourly rate offered should be considered a confidential item and withheld from this request.

Best Regards,

Stephen Berger

TEM Consulting, LP

Web Site - [www.temconsulting.com](http://www.temconsulting.com)

E-MAIL - [stephen.berger@ieee.org](mailto:stephen.berger@ieee.org)

Phone - (512) 864-3365

Mobile - (512) 466-0833

FAX - (512) 869-8709

---

**From:** gvogel@eac.gov [mailto:gvogel@eac.gov]

**Sent:** Monday, October 24, 2005 3:37 PM

**To:** stephen.berger@cox-internet.com

**Subject:** FOIA

**Importance:** High

Dear Mr. Berger:

On October 12, 2005 you were informed via fax that a third party through the Freedom of Information Act (FOIA) has requested a copy of the contract and corresponding documents with TEM Consulting. The purpose of the letter was to provide you with an opportunity to specify provisions in the responsive documents that you believe are protected from disclosure under FOIA. We required you to identify the specific provisions in the responsive documents and the applicable FOIA exemption. As the EAC did not get such a response, we must assume that you do not have an objection to the disclosure of the contract in its entirety as noted in our initial letter. The EAC is under a tight timeline to respond to FOIA requests. We must respond to this FOIA in the near future. If you believe you have provided specific information, consistent with the above, please let me know immediately.

Thank you,

018359