

## EAC 06-003

### Personal Services Contract for Intermittent Expert Services

#### Background

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

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

#### Nature of the Appointment

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

#### Supervision and Management.

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

#### Period of Appointment.

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

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

### **Compensation**

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

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

### **Travel**

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

### **Release of Information**

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

permission of the EAC.

### **Compensation Procedures**

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

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

### **Duty Location**

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

### **Notices**

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

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

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

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

### **Areas of Responsibility (Statement of Work)**

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

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

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

### **Terms and Conditions**

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

a. Federal Acquisition Regulation Clauses Incorporated by Reference:

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

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

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

b. Federal Acquisition Regulation Clauses in Full Text:

*Contract Termination (FAR 52.249-12)*

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

*Site Visit (FAR 52.237-1)*

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

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

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

*Covenant Against Contingent Fees (FAR 52.203-5)*

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

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

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

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

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

*Disputes (FAR 52.233-1), Alternate I*

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

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

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

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

(2)

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

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

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

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

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

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

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

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

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

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

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

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

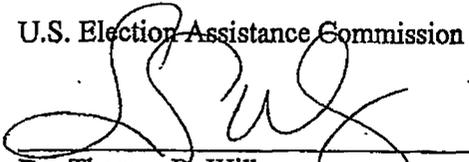
*Availability of Funds for the Next Fiscal Year*

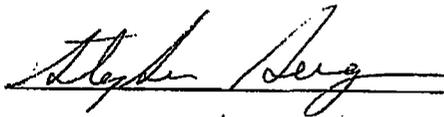
Funds are not presently available for performance under this contract beyond September 30, 2006. The Government's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability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

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

U.S. Election Assistance Commission

Stephen Berger

  
By: Thomas R. Wilkey  
Executive Director & Contracting Officer



Date: 2-1-06

Date: 2/1/06

Location: Washington DC

Location: WASHINGTON, DC

COPY

<b>ORDER FOR SUPPLIES AND SERVICES</b>		IMPORTANT: See instructions in GSAR 553.370-300-4 for distribution	PAGE 1 OF 1 PAGES
1. DATE OF ORDER 11/23/05	2. ORDER NUMBER	3. CONTRACT NUMBER EAC 05-57	4. A E4019688

<b>FOR GOVERNMENT USE ONLY</b>	<b>5. ACCOUNTING CLASSIFICATION</b>				<b>6. FINANCE DIVISION</b>		
	FUND 8035	ORG CODE T2M91100	B/A CODE 10	O/C CODE 25	AC	SS	VENDOR NAME
	FUNC CODE 000	C/E CODE 516	PROJ./PROS. NO.	CC-A	MDL	FI	GA/DEBT
	W/ITEM	CC-B	PRT./CRFT		AI	LC	DISCOUNT

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

**Britain J. Williams III**  
[REDACTED]  
[REDACTED]

Contact: Britain Williams [REDACTED]

B. TYPE OF ORDER REFERENCE YOUR

A. PURCHASE

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

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

C. MODIFICATION NO. AUTHORITY FOR ISSUING

9A. EMPLOYER'S IDENTIFICATION NUMBER [REDACTED]

9B. CHECK, IF APPROP  WITHHOLD 20%

10A. CLASSIFICATION

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

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

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

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

12. REMITTANCE ADDRESS (MANDATORY)

Remittance via EFT

10B. TYPE OF BUSINESS ORGANIZATION

A. CORPORATION     B. PARTNER-SHIP     C. SOLE

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

Same as block 11

14. PLACE OF INSPECTION AND ACCEPTANCE

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

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

Election Assistance Commission

16. F.O.B. POINT Destination

17. GOVERNMENT B/L NO.

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

19. PAYMENT/DISCOUNT TERMS

Net 30

ITEM NO. (A)	SUPPLIES OR SERVICES (B)	QUANTITY ORDERED (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	Under the authority of Public Law 107-252, dated October 29, 2002, establishing the U.S. Election Assistance Commission (EAC). Request to provide the EAC and NASED with project management services in the development of election management guidelines which will update and augment the 2002 Voting Systems Standards for use by state and local election administrators. See the attached personal services contract for a description of the specifics.  COST OF CONTRACT: \$126,000.00				

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

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

22. SHIPPING POINT

23. GROSS SHIP WT.	TOTAL FROM 300-A(s)	\$126,000.00
	GRAND TOTAL	126,000.00

24. MAIL INVOICE TO: (include zip code)

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

25A. FOR INQUIRIES REGARDING PAYMENT CONTACT:

Diana Scott

25B. TELEPHONE NO.  
202-566-3100

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

Gracia Hillman, Chair

26B. TELEPHONE NO.  
202-566-3100

26C. SIGNATURE  
Gracia M. Hillman

# PURCHASE ORDER TERMS AND CONDITIONS

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

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

## 552.210-79 PACKING LIST (DEC 1989)

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

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

## 52.232-1 PAYMENTS (APR 1984)

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

## 52.232-8 DISCOUNTS FOR PROMPT PAYMENT (APR 1989)

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

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

## PROMPT PAYMENT

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

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

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

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

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

(i) Name and address of the Contractor.

(ii) Invoice date.

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

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

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

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

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

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

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

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

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

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

52.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 1989).  
(52.222-41 and 52.222-42 apply to service contracts when the amount exceeds \$2,500).

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

## 52.252-2 CLAUSES INCORPORATED BY REFERENCE (JUN 1988)

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

## FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

Applicable to purchase orders for supplies or services:

- 52.203-1 Officials Not to Benefit (APR 84)
- 52.203-3 Gratuities (APR 84)
- 52.203-5 Covenant Against Contingent Fees (APR 84)
- 52.203-6 Restriction on Subcontractor Sales to the Government (JUL 86)
- 52.203-7 Anti-Kickback Procedures (OCT 88)
- 52.212-9 Variation in Quantity (APR 84)  
(In the preceding clause, the permissible variations are stated in the schedule.)
- 52.222-3 Convict Labor (APR 84)
- 52.222-26 Equal Opportunity (APR 84)(Applies when amount exceeds \$10,000.)
- 52.222-36 Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 84)(Applies when amount exceeds \$10,000.)
- 52.222-36 Affirmative Action for Handicapped Workers (APR 84)(Applies when amount exceeds \$2,500.)
- 52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 88)(Applies whenever clause 52.222-36 is included.)
- 52.223-6 Drug Free Workplace (JUL 90)(Applies if contract is awarded to an individual.)
- 52.225-3 Buy American Act - Supplies (JAN 89)
- 52.225-11 Restrictions on Certain Foreign Purchases (MAY 92)
- 52.232-25 Prompt Payment (SEP 92)
- 52.233-1 Disputes (DEC 91)
- 52.233-3 Protest After Award (AUG 89)
- 52.248-1 Contractor Inspection Requirements (APR 84)
- 52.249-8 Default (Fixed-Price Supply and Service)(APR 84)

Applicable to purchase orders for supplies:

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

Applicable to purchase orders for services:

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

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

DEC 08 2005

OFFICE OF THE CHAIR

November 30, 2005

Dr. Britain J. Williams

Via U.S. Mail and Facsimile Transmission

Dear Dr. Williams:

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

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

We appreciate your work on these important efforts.

Sincerely,

Gracia Hillman  
Chair

Dr. Britain J. Williams

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

TALLY VOTE MEMORANDUM

September 15, 2005

TO: EAC Commissioners

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

SUBJECT: Election Management Guidelines Contracts

BACKGROUND

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

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

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

020559

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

#### ROLES AND RESPONSIBILITIES

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

#### RECOMMENDATION

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

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



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

BEFORE THE ELECTION ASSISTANCE COMMISSION

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

CERTIFICATION

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

1.

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

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

Attest:

11-18-05  
 Date

Gracia M. Hillman  
 Chair



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

**MEMORANDUM FOR THE RECORD**

**Date: November 17, 2005**

**From: Gracia Hillman, Chair**  
**On Behalf of the Commission**

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

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

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

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

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

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

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

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

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

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

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

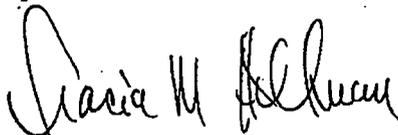
Looking specifically at the requirements for ratification noted in FAR 1.602-3(c) and the facts outlined, above, the Commission finds:

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

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

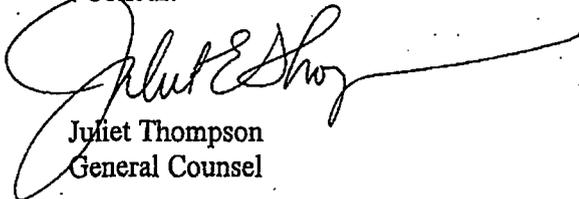
- d. Price Fair and Reasonable. The rate at which this contractor is providing services is within the amount allowable under 5 CFR Part 304.105. In addition, the rate provided in the agreement is lower than his regular rate of billing. (Attachment "2", Administrative Appointment Memorandum).
- e. Payment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

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



Gracia Hillman  
Chair  
On Behalf of the Commission

I Concur.



Juliet Thompson  
General Counsel

020565

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

**Background**

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

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

**Roles and Responsibilities**

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

**Tasks**

1. Develop a comprehensive outline of topics. Drawing on their own knowledge and experience, and in consultation with the NASED Management Guidelines Working Group, the Co-Managers will develop a comprehensive outline for the Management Guidelines document. This outline should appropriately integrate with the 2005 EAC Voluntary Voting System Guidelines. This outline shall be coordinated with the NASED Executive Committee and the approved outline provided to the EAC.

2. Prioritize topics and create work plan. The Co-Managers will prioritize the topics based on degree of perceived existing deficiencies, anticipated high return in administration improvement, and other relevant criteria. The NASED Executive

Attachment 3

020566

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

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

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

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

#### **Period of Performance**

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

#### **Schedule of Deliverables**

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

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

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

#### **Compensation**

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

#### **Invoicing**

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

#### **Contract Termination**

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

020568

NOTES FROM CONFERENCE CALL - September 22, 2005

**EAC VOTING SYSTEMS ADMINISTRATIVE MANAGEMENT GUIDELINES**

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

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

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

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

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

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

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

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

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

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

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

020569



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

**MEMORANDUM FOR THE RECORD**

Date: October 28, 2005

From: Brian Hancock

A handwritten signature in black ink, appearing to be 'B Hancock', written over a horizontal line.

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

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

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

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

Attachment 5

020570

# ELECTRONIC FUNDS TRANSFER (EFT) ENROLLMENT FORM

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

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

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

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

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

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

Print

Account Number: [REDACTED]

To the customer:

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

If you have any questions, please call [REDACTED]

To the Employer, Government Agency, or other Payor:

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

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

Account number: [REDACTED]

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

ABA / Routing & Transit Number: [REDACTED]

Account Type: [REDACTED]

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

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

Name of the Financial Institution:  
[REDACTED]

Questions: Please call [REDACTED]

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

[REDACTED]

[REDACTED]

Viewed as of: September 7, 2005

020572  
9/7/2005

COPY

ORDER FOR SUPPLIES AND SERVICES

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

PAGE 1 OF 1 PAGES

1. DATE OF ORDER 02/27/06	2. ORDER NUMBER	3. CONTRACT NUMBER EAC 06-003	4. AGENCY USE ONLY E4019909
------------------------------	-----------------	----------------------------------	--------------------------------

FOR GOVERNMENT USE ONLY	5. ACCOUNTING CLASSIFICATION				6. FINANCE DIVISION		
	FUND 8036	ORG CODE TZM91100	B/A CODE 10	O/C CODE 25	AC	SS	VENDOR NAME
	FUNC CODE 000	C/E CODE 516	PROJ./PROS. NO.	CC-A	MDL	FI	G/L DEBT
	W/ITEM	CC-B	PRT./CRFT		AI	LC	DISCOUNT

7. TO: CONTRACTOR (Name, address and zip code)  
**Stephen Berger**  
 [REDACTED]

POC: Stephen Berger Phone: [REDACTED]

8. TYPE OF ORDER REFERENCE YOUR

A. PURCHASE

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

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

C. MODIFICATION NO. AUTHORITY FOR ISSUING

9A. EMPLOYER'S IDENTIFICATION NUMBER  
[REDACTED]

9B. CHECK, IF APPROP  
 WITHHOLD 20%

10A. CLASSIFICATION

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

11. ISSUING OFFICE (Address, zip code, and telephone no.)  
 U.S. Election Assistance Commission  
 1225 New York Avenue, NW, Suite 1100  
 Washington, DC 20005

12. REMITTANCE ADDRESS (MANDATORY)  
 Remittance via EFT

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

10B. TYPE OF BUSINESS ORGANIZATION

A. CORPORATION  
 B. PARTNER-SHIP  
 C. SOLE

13. SHIP TO (Consignee address, zip code and telephone no.)  
 Same as block 11

14. PLACE OF INSPECTION AND ACCEPTANCE  
 U.S. EAC, 1225 NY Ave., NW, Suite 1100, Wash., DC 20005

15. REQUISITION OFFICE (Name, symbol and telephone no.)  
 U.S. Election Assistance Commission

16. F.O.B. POINT  
 Destination

17. GOVERNMENT B/L NO.

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

19. PAYMENT/DISCOUNT TERMS  
 Net 30

20. SCHEDULE

ITEM NO. (A)	SUPPLIES OR SERVICES (B)	QUANTITY ORDERED (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	Under the authority of Public Law 107-252, dated October 29, 2002, establishing the U.S. Election Assistance Commission (EAC). Request to provide technical assistance in defining EAC system certification and lab accreditation processes. See attached consulting agreement. FY 2006: Labor: \$80,190.00; Travel: \$6,500.00 FY 2007: Subject to availability of funds Labor: \$35,640.00; Travel: \$1,500.00  TOTAL COST OF CONTRACT: \$123,830.00				

21. RECEIVING OFFICE (Name, symbol and telephone no.)  
 U.S. Election Assistance Commission (202) 566-3100

22. SHIPPING POINT

23. GROSS SHIP WT.

TOTAL FROM 300-A(s) \$123,830.00

GRAND TOTAL 123,830.00

24. MAIL INVOICE TO: (Include zip code)  
 General Services Administration (FUND)  
 U.S. Election Assistance Commission  
 1225 New York Avenue, NW, Suite 1100  
 Washington, DC 20005

25A. FOR INQUIRIES REGARDING PAYMENT CONTACT:  
 Diana M. Scott

25B. TELEPHONE NO.  
 (202) 566-3100

26A. NAME OF CONTRACTING/ORDERING OFFICER (Type)  
 Thomas R. Wilkey, Executive Director

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

26C. SIGNATURE  
 [Signature]

020573

# PURCHASE ORDER TERMS AND CONDITIONS

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

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

## 52.210-79 PACKING LIST (DEC 1989)

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

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

## 52.232-1 PAYMENTS (APR 1984)

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

## 52.232-8 DISCOUNTS FOR PROMPT PAYMENT (APR 1989)

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

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

## PROMPT PAYMENT

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

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

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

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

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

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

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

## 52.222-40 SERVICE CONTRACT ACT OF 1966, AS AMENDED - - CONTRACTS OF \$2,500 OR LESS (MAY 1989)

Except to the extent that an exception, variation, or tolerance would apply if this contract were in excess of \$2,500, the Contractor and any subcontractor shall pay all employees working on the contract not less than the minimum wage specified under Section 6 a) (1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201-208). Regulations and interpretations of the Service Contract Act of 1966 are contained in 29 CFR Part 4.

## 52.222-41 SERVICE CONTRACT ACT OF 1966, AS AMENDED (MAY 1989)

52.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 1989)  
(52.222-41 and 52.222-42 apply to service contracts when the amount exceeds \$2,500.)

The GSA Form 2166, Service Contract Act of 1966 and Statement of Equivalent Rates for Federal Hires is attached hereto and made a part hereof.

## 52.252-2 CLAUSES INCORPORATED BY REFERENCE (JUN 1988)

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

## FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

Applicable to purchase orders for supplies or services:

- 52.203-1 Officials Not to Benefit (APR 84)
- 52.203-3 Gratuities (APR 84)
- 52.203-6 Covenant Against Contingent Fees (APR 84)
- 52.203-8 Restriction on Subcontractor Sales to the Government (JUL 86)
- 52.203-7 Anti-Kickback Procedures (OCT 88)
- 52.212-9 Variation in Quantity (APR 84)  
(In the preceding clause, the permissible variations are stated in the schedule.)
- 52.222-3 Convict Labor (APR 84)
- 52.222-26 Equal Opportunity (APR 84)(Applies when amount exceeds \$10,000.)
- 52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 84)(Applies when amount exceeds \$10,000.)
- 52.222-36 Affirmative Action for Handicapped Workers (APR 84)(Applies when amount exceeds \$2,500.)
- 52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 88)(Applies whenever clause 52.222-35 is included.)
- 52.223-8 Drug Free Workplace (JUL 90)(Applies if contract is awarded to an individual.)
- 52.225-3 Buy American Act - Supplies (JAN 89)
- 52.226-11 Restrictions on Certain Foreign Purchases (MAY 92)
- 52.232-25 Prompt Payment (SEP 92)
- 52.233-1 Disputes (DEC 91)
- 52.233-3 Protest After Award (AUG 89)
- 52.248-1 Contractor Inspection Requirements (APR 84)
- 52.249-8 Default (Fixed-Price Supply and Service)(APR 84)

Applicable to purchase orders for supplies:

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

Applicable to purchase orders for services:

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

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

Background

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

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

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

Qualifications

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

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

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

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

#### Determination that Pay Rate is Fair and Reasonable

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

Conclusion

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

A handwritten signature in cursive script that reads "Gracia M. Hillman".

Gracia Hillman  
Chair

Election Vita for  
Britain J. Williams, III

**Election Activities**

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

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

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

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

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

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

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

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

**Education**

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

**Academic Positions**

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

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

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

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

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

**Administrative Positions (In Education and State Government)**

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

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

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

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

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

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

**Business and Professional Experience**

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

**Membership in Professional and Honor Societies**

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

**Personal Information**

Name: Britain Joel Williams, III

Home Address: [REDACTED]

Business Address: [REDACTED]

SSN: [REDACTED]

Phone: [REDACTED]

E-mail: [REDACTED]



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

BEFORE THE ELECTION ASSISTANCE COMMISSION

In the Matter of )  
 )  
 Management Guidelines )  
 )

CERTIFICATION

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

1.

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

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

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

Attest:

20 September 2005  
 Date

Gracia M. Hillman  
 Chair

Wms

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

**Background**

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

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

**Nature of the Appointment**

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

**Supervision and Management.**

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

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## Areas of Responsibility

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

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

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

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

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

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

submitted for compensation under this agreement.

### **Period of Appointment, Compensation and Travel.**

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

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

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

### **Compensation Procedures**

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

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

### **Project Requirements**

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

### **Contract Termination**

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

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COPY



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

**FILE**

**MEMORANDUM**

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

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

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

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

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

**Background**

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

**Position Description and Qualifications**

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

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

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

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

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

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

### **Selection Process**

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

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

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

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

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

**Determination that Pay Rate is Fair and Reasonable**

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

**Determination of Funds Availability**

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

**Conclusion**

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

Submitted by:

Funding Availability Confirmed by:

*Brian Hancock, by permission*  
\_\_\_\_\_  
Brian Hancock *Julie Thompson*  
Date 1/25/06

*Diana Scott*  
\_\_\_\_\_  
Diana Scott  
Date 1/25/2006

Approved by:

*Thomas R. Wilkey*  
\_\_\_\_\_  
Thomas R. Wilkey, Contracting Officer  
Date 1-31-06



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

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

Diana,

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

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

Stephen's information is:

Stephen Berger



**FILE**

Brian

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

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020590



Brian Hancock/EAC/GOV  
01/25/2006 11:23 AM

To Thomas R. Wilkey/EAC/GOV@EAC  
cc Juliet E. Thompson/EAC/GOV@EAC, Gavin S. Gilmour/EAC/GOV@EAC  
bcc  
Subject Contract with Stephen Berger to complete implementation of EAC testing and certification program

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

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

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

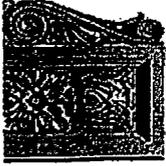
Given the above information, I recommend that we go forward and enter into this contractual agreement with Stephen Berger.

Brian

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

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020591



Brian Hancock/EAC/GOV

01/24/2006 04:44 PM

To [REDACTED]

cc

bcc

Subject Draft EAC contract

Steve,

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

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

See you soon.

Brian



Certification Expert FINAL.doc

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

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020592



"Stephen Berger"

To bhancock@eac.gov

cc

bcc

01/25/2006 09:53 AM

Please respond to

Subject RE: Draft EAC contract

Brian,

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

Best Regards,

Stephen Berger

TEM Consulting, LP

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

E-MAIL -

Phone -

Mobile -

FAX -

---

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

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

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

**Subject:** Draft EAC contract

Steve,

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

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

See you soon.

Brian

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

020593

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020594



Brian Hancock/EAC/GOV

01/30/2006 09:36 AM

To

cc

bcc

Subject Contract update, EAC Meeting

Steve,

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

Brian

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

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020595



[REDACTED]  
09/26/2005 10:17 AM

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

bcc

Subject Re: Project Meeting

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

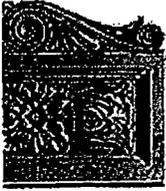
Brit - when you have some time, let's begin discussion on a draft project outline to get the discussion started at our first working group meeting.

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

Connie

---

020596



Brian Hancock/EAC/GOV

09/20/2005 11:32 AM

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

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

cc

bcc

Subject Teleconference for Kickoff of Management Guidelines Contract

Linda, Connie, Brit, Sandy,

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

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

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

Thanks.

Brian

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

020597



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

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

cc

bcc  
Subject Re: Teleconference for Kickoff of Management Guidelines  
Contract

Brian,

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

Thanks..Connie

020598



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

09/20/2005 01:43 PM

To bhancock@eac.gov [redacted]  
sandy@sos.state.ia.us [redacted]  
cc  
bcc

Subject RE: Teleconference for Kickoff of Management Guidelines Contract

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

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

**From:** bhancock@eac.gov [mailto:bhancock@eac.gov]  
**Sent:** Tuesday, September 20, 2005 11:33 AM  
**To:** britw@bellsouth.net; sandy@sos.state.ia.us; Linda Lamone; scjschmidt@aol.com  
**Subject:** Teleconference for Kickoff of Management Guidelines Contract

Linda, Connie, Brit, Sandy,

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

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

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

Thanks.

Brian

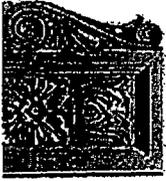
Brian Hancock  
U.S. Election Assistance Commission  
1225 New York Avenue, NW, Ste. 1100  
Washington, DC 20005  
202-566-3100  
www.eac.gov

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

020599



**Brian Hancock/EAC/GOV**

09/21/2005 08:58 AM

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

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

cc

bcc

Subject Thursday Teleconference Kickoff Meeting

All,

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

Thanks.

Brian

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

020600



[REDACTED]  
09/22/2005 01:47 PM

To bhancock@eac.gov, cpaquette@eac.gov,  
[REDACTED] andy@sos.state.la.us,  
LLamone@elections.state.md.us  
cc  
bcc  
Subject Conference Call notes

Everyone,

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



Connie NOTES FROM CONFERENCE CALL.doc

020601



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

May 8, 2007

Ms. Susan Pynchon  
Florida Fair Elections Coalition  
P.O. Box 317  
DeLand, FL 32721

Dear Ms. Pynchon:

This letter is in response to your Freedom of Information Act (FOIA) request received by the U. S. Election Assistance Commission (EAC) on April 11, 2007. The request sought "copies of all letters and/or emails to or from the state of Florida regarding what is available to the state in 2007 through 2008 and beyond for funding for voting systems or voting system components, including but not limited to any voting equipment for disabled voters. These inquiry letters may have been received from the state of Florida in 2006 and/or 2007."

The responsive records are attached. For your information, I have also attached a copy of a letter from EAC to the State of Florida regarding HAVA funds usage that was sent after your request.

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

Sincerely,

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

Attachments:

1. Your Request (received April 11, 2007)
2. Responsive Documents

020602

Thomas R. Wilkey/EAC/GOV  
04/16/2007 01:27 PM

To Juliet E. Hodgkins/EAC/GOV@EAC, Edgardo  
Cortes/EAC/GOV@EAC

cc

bcc

Subject Fw: Florida HAVA Funding

History

This message has been replied to

Thomas R. Wilkey  
Executive Director  
US Election Assistance Commission  
1225 New York Ave, NW - Suite 1100  
Washington, DC 20005  
(202) 566-3109 phone  
TWilkey@eac.gov

— Forwarded by Thomas R. Wilkey/EAC/GOV on 04/16/2007 01:25 PM —



"Woodward, Amy"  
<AWoodward@dos.state.fl.us  
>

04/16/2007 01:18 PM

To twilkey@eac.gov

cc "Browning, Kurt S." <KSBrowning@dos.state.fl.us>

Subject Florida HAVA Funding

*Attached is the information from the conference call this morning.*

*Thank you,*

*Amy Woodward  
Executive Assistant  
Office of the Secretary*



FL. HAVA Funding.pdf

020603

## HAVA FUNDING

May, 2001 Florida Legislature passes the Florida Election Reform Act that required replacement of punchcard or lever voting systems

August, 2001 Contracts sent to counties for partial payment from state general revenue fund to replace or reimburse punchcard and lever voting systems  
Payment formula: \$3750 for large counties, \$7500 for smaller counties (per polling place as reported by counties)  
Total to counties from the state: \$12,046,875.00  
*(See Attachment A for county by county breakdown)*  
*Please note: County contracts to replace punchcard and lever voting systems were well in excess of this state funded formula.*

July, 2002 Contracts sent to counties for partial payment from state general revenue fund to replace or reimburse punchcard and lever voting systems  
Payment formula: \$3750 for large counties, \$7500 for smaller counties (per polling place as reported by counties)  
Total to counties from the state: \$12,046,875.00  
*(See Attachment B for county by county breakdown)*  
*Please note: County contracts to replace punchcard and lever voting systems were well in excess of this state funded formula.*

Total state payout for the replacement of punchcard or lever voting systems: \$24,093,750.00

October, 2002 HAVA is passed by Congress

April, 2003 Receipt of HAVA Funding  
Initial Payment  
101: \$5,000,000.00  
102: \$0  
251: \$0

June, 2003 Receipt of HAVA Funding  
Balance of Section 101  
102 Funds  
101: \$9,447,580.00  
102: \$ 11,581,377.00

July, 2003 Distribution of HAVA funding to the state for section 102 purchases (replacement of punchcard or lever voting systems)  
Total: \$11,500,000.00

020604

Total HAVA funding from section 102 to replace punchcard or lever voting systems: \$11,500,000.00

June, 2004

Receipt of HAVA Funding  
Year 2003 Title II Funding  
251: \$47,416,833.00

September, 2004

Distribution of HAVA funding to counties for compliance with Section 251 (ADA) for accessible machines at polling places  
Grant award to 51 counties to get in to compliance  
Total: \$11,600,000.00 from 251 funding  
*(See Attachment C for county by county breakdown)*

December, 2004

Receipt of HAVA Funding  
Year 2004 Title II Funding  
251: \$85,085,258.00

May, 2006

Final distribution of HAVA funding to counties for compliance with Section 251 (ADA) for accessible machines at polling places  
Grant award to 16 counties that were already in compliance  
Total: \$13,469,378.54 from 251 funding  
*(See Attachment D for county by county breakdown)*

Total distribution for Section 301 purposes for accessible voting systems from Section 251 funding: \$25,069,378.54

April, 2007

Discussion regarding payment of Governor's proposed legislation with HAVA funding

Governor's proposal:

1. Optical scan in all precincts and early voting sites  
Estimated cost to state: \$22,861,850.00
2. One VVPAT at each precinct for ADA purposes  
Estimated cost to state: \$7,511,360.00
3. One VVPAT at each early voting site for ADA purposes  
Estimated cost to state: \$304,850.00
4. Ballot on demand grant to counties that were 100% touchscreen at early voting sites in 2006 general election (to be funded per voter)  
Grant amount: \$5,000,000.00

Total: \$35,678,060.00\*

*\*Please note that counties will have additional costs.*

020605

**FLORIDA DEPARTMENT OF STATE  
DIVISION OF ELECTIONS  
VOTING SYSTEMS AGREEMENTS  
FY 2001-02**

<b>FY 2001-02 Voting Systems Agreements</b>	
<b>County</b>	<b>Amount</b>
Alachua	99,375
Baker	30,000
Bay	88,125
Bradford	75,000
Brevard	331,875
Broward	1,158,750
Calhoun	48,750
Charlotte	118,125
Citrus	65,625
Clay	95,625
Collier	180,000
Columbia	116,250
DeSoto	56,250
Dixie	45,000
Duval	502,500
Escambia	202,500
Flagler	101,250
Franklin	30,000
Gadsden	60,000
Gilchrist	45,000
Glades	48,750
Gulf	52,500
Hamilton	30,000
Hardee	45,000
Hendry	82,500
Hernando	95,625
Highlands	45,000
Hillsborough	600,000
Holmes	60,000
Indian River	71,250
Jackson	101,250
Jefferson	48,750
Lafayette	18,750
Lake	161,250
Lee	281,250
Leon	178,125
Levy	78,750
Liberty	30,000
Madison	41,250
Manatee	253,125

**FLORIDA DEPARTMENT OF STATE  
DIVISION OF ELECTIONS  
VOTING SYSTEMS AGREEMENTS  
FY 2001-02**

<b>FY 2001-02 Voting Systems Agreements</b>	
<b>County</b>	<b>Amount</b>
Marion	180,000
Martin	75,000
Miami-Dade	1,156,875
Monroe	61,875
Nassau	78,750
Okaloosa	90,000
Okeechobee	67,500
Orange	433,125
Osceola	123,750
Palm Beach	995,625
Pasco	247,500
Pinellas	646,875
Polk	305,625
Putnam	187,500
St. Johns	106,875
St. Lucie	146,250
Santa Rosa	67,500
Sarasota	266,250
Seminole	249,375
Sumter	90,000
Suwannee	60,000
Taylor	52,500
Union	41,250
Volusia	322,500
Wakulla	45,000
Walton	120,000
Washington	56,250

**TOTAL** **12,046,875**

**FLORIDA DEPARTMENT OF STATE  
DIVISION OF ELECTIONS  
VOTING SYSTEMS AGREEMENTS  
FY 2002-03**

<b>Voting Systems Agreements</b>	
<b>County</b>	<b>Amount</b>
Alachua	99,375
Baker	30,000
Bay	88,125
Bradford	75,000
Brevard	331,875
Broward	1,158,750
Calhoun	48,750
Charlotte	118,125
Citrus	65,625
Clay	95,625
Collier	180,000
Columbia	116,250
DeSoto	56,250
Dixie	45,000
Duval	502,500
Escambia	202,500
Flagler	101,250
Franklin	30,000
Gadsden	60,000
Gilchrist	45,000
Glades	48,750
Gulf	52,500
Hamilton	30,000
Hardee	45,000
Hendry	82,500
Hernando	95,625
Highlands	45,000
Hillsborough	600,000
Holmes	60,000
Indian River	71,250
Jackson	101,250
Jefferson	48,750
Lafayette	18,750
Lake	161,250
Lee	281,250
Leon	178,125
Levy	78,750
Liberty	30,000
Madison	41,250
Manatee	253,125

**FLORIDA DEPARTMENT OF STATE  
DIVISION OF ELECTIONS  
VOTING SYSTEMS AGREEMENTS  
FY 2002-03**

<b>Voting Systems Agreements</b>	
<b>County</b>	<b>Amount</b>
Marion	180,000
Martin	75,000
Miami-Dade	1,156,875
Monroe	61,875
Nassau	78,750
Okaloosa	90,000
Okeechobee	67,500
Orange	433,125
Osceola	123,750
Palm Beach	995,625
Pasco	247,500
Pinellas	646,875
Polk	305,625
Putnam	187,500
St. Johns	106,875
St. Lucie	146,250
Santa Rosa	67,500
Sarasota	266,250
Seminole	249,375
Sumter	90,000
Suwannee	60,000
Taylor	52,500
Union	41,250
Volusia	322,500
Wakulla	45,000
Walton	120,000
Washington	56,250

**TOTAL** **12,046,875**

**DEPARTMENT OF STATE  
DIVISION OF ELECTIONS  
VOTING SYSTEMS ASSISTANCE GRANT  
FY 2004-05**

COUNTY	POLLING PLACES *	EXISTING SYSTEMS - COMPLIANT	REQUIRED	FUNDING PER COUNTY
Alachua	70	0	70	\$ 316,076.29
Baker	10	0	10	45,153.76
Bay	55	2	53	239,314.91
Bradford	17	2	15	67,730.63
Brevard	139	0	139	627,637.21
Calhoun	12	0	12	54,184.51
Citrus	41	0	41	185,130.40
Clay	59	0	59	266,407.16
Columbia	24	0	24	108,369.02
DeSoto	15	0	15	67,730.63
Dixie	11	0	11	49,669.13
Duval	266	3	263	1,187,543.79
Escambia	85	0	85	383,806.93
Flagler	32	0	32	144,492.02
Franklin	8	1	7	31,607.63
Gadsden	25	0	25	112,884.39
Gilchrist	10	0	10	45,153.76
Glades	12	0	12	54,184.51
Gulf	13	0	13	58,699.88
Hamilton	9	0	9	40,638.38
Hardee	12	0	12	54,184.51
Hendry	22	2	20	90,307.51
Hernando	52	0	52	234,799.53
Holmes	16	0	16	72,246.01
Jackson	27	2	25	112,884.39
Jefferson	15	0	15	67,730.63
Lafayette	6	0	6	27,092.25
Leon	125	0	125	564,421.95
Levy	14	0	14	63,215.26
Liberty	8	1	7	31,607.63
Madison	11	0	11	49,669.13
Manatee	136	0	136	614,091.09
Marion	110	0	110	496,691.32
Monroe	33	0	33	149,007.40
Okaloosa	52	0	52	234,799.53
Okeechobee	17	0	17	76,761.39
Orange	253	0	253	1,142,390.04
Osceola	67	0	67	302,530.17
Polk	148	0	148	668,275.59
Putnam	33	1	32	144,492.02
Santa Rosa	40	0	40	180,615.03
Seminole	99	0	99	447,022.19
St. Johns	57	0	57	257,376.41
St. Lucie	59	0	59	266,407.16
Suwannee	16	0	16	72,246.01

**DEPARTMENT OF STATE  
DIVISION OF ELECTIONS  
VOTING SYSTEMS ASSISTANCE GRANT  
FY 2004-05**

COUNTY	POLLING PLACES *	EXISTING SYSTEMS - COMPLIANT	REQUIRED	FUNDING PER COUNTY
Taylor	14	0	14	63,215.26
Union	11	0	11	49,669.13
Volusia	155	0	155	699,883.22
Wakulla	12	0	12	54,184.51
Walton	32	0	32	144,492.02
Washington	18	0	18	81,276.76
<b>TOTAL</b>	<b>2,583</b>	<b>14</b>	<b>2,569</b>	<b>\$ 11,600,000.00</b>

**FY 2004-05 Appropriation for Voting Systems Assistance** **11,600,000**

**Average cost per machine** **4,515.38**

From funds in Specific Appropriation 28711, \$11,600,000 shall be distributed by the Department of State to county supervisors of elections for the purchase of Direct Recording Equipment (DRE) or other state approved equipment that meets the standards for disability requirements which is accessible to persons with disabilities to ensure that each county has one accessible voting system for each polling place. The funds are to be distributed according to the number of machines that are accessible for persons with disabilities that are needed in order for each county to have one per polling place. No supervisor of elections shall receive any funds until the county supervisor of elections certifies to the Department of State: 1) the number of precincts in the county; 2) the number of polling places in the county; 3) the number of voting machines the county has that meet the disability requirement; 4) the county's plan for purchasing the DRE's; and 5) the date that the county anticipates being in compliance.

The Department of State will determine the number of DRE's needed in each county based on the certifications provided by the supervisors of elections. Any county that receives funds from Specific Appropriation 28711 that is not in compliance with the accessibility requirements in Section 301(a)(3) Title III of the Help America Vote Act by January 1, 2006, shall be required to return those funds to the State.

\*Polling places on Election Day

## Help America Vote Act (HAVA) Voting Systems Assistance Grants

**Reimbursement to counties with  
polling places that were unfunded in FY 2004-05  
due to existing DRE equipment  
FY 05-06**

Bay	\$9,030.76
Bradford	\$9,030.76
Duval	\$13,546.14
Franklin	\$4,515.38
Hendry	\$9,030.76
Jackson	\$9,030.76
Liberty	\$4,515.38
Putnam	<u>\$4,515.38</u>
<b>TOTAL</b>	<b><u>\$63,215.32</u></b>

**Reimbursement to Counties  
With at least one DRE per polling place  
prior to 7-1-2004  
FY 05-06**

Broward	\$2,298,328.42
Charlotte	\$293,499.70
Collier	\$370,261.16
Highlands	\$112,884.50
Hillsborough	\$1,490,075.40
Indian River	\$216,738.24
Lake	\$451,538.00
Lee	\$731,491.56
Martin	\$221,253.62
Miami-Dade	\$2,524,097.42
Nassau	\$99,338.36
Palm Beach	\$1,896,459.60
Pasco	\$645,699.34
Pinellas	\$1,309,460.20
Sarasota	\$605,060.92
Sumter	<u>\$139,976.78</u>
<b>TOTAL</b>	<b><u>\$13,406,163.22</u></b>

<b>GRAND TOTAL</b>	<b><u>\$13,469,378.54</u></b>
--------------------	-------------------------------

Thomas R. Wilkey/EAC/GOV  
04/16/2007 02:25 PM

To Juliet E. Hodgkins/EAC/GOV@EAC  
cc  
bcc  
Subject Fw: Florida HAVA Funding

Thomas R. Wilkey  
Executive Director  
US Election Assistance Commission  
1225 New York Ave, NW - Suite 1100  
Washington, DC 20005  
(202) 566-3109 phone  
TWilkey@eac.gov

— Forwarded by Thomas R. Wilkey/EAC/GOV on 04/16/2007 02:24 PM —



"Tuck, Amy K."  
<AKTuck@dos.state.fl.us>  
04/16/2007 02:23 PM

To twilkey@eac.gov  
cc  
Subject RE: Florida HAVA Funding

Tom,

Here are the counties:

100% Touch Screen

Charlotte  
Collier  
Hillsborough  
Indian River  
Lake  
Lee  
Martin  
Nassau  
Palm Beach  
Pasco  
Pinellas  
Broward  
Miami-Dade  
Sarasota  
Sumter

Let me know if you need anything else.

**Amy K. Tuck, Esq.**  
Director, Division of Elections  
Florida Department of State  
The R.A. Gray Building  
500 South Bronough Street, Room 316

020613

Tallahassee, Florida 32399  
850.245.6200 phone  
850.245.6217 fax

---

**From:** Woodward, Amy  
**Sent:** Monday, April 16, 2007 2:11 PM  
**To:** Kennedy, Jennifer L.  
**Cc:** Tuck, Amy K.  
**Subject:** FW: Florida HAVA Funding

---

**From:** twilkey@eac.gov [mailto:twilkey@eac.gov]  
**Sent:** Monday, April 16, 2007 2:10 PM  
**To:** Woodward, Amy  
**Subject:** Re: Florida HAVA Funding

Amy;  
Thanks for the information.  
We need you to identify which 15 counties have DRE which need to be replaced.  
Thanks  
Tom

Thomas R. Wilkey  
Executive Director  
US Election Assistance Commission  
1225 New York Ave, NW - Suite 1100  
Washington, DC 20005  
(202) 566-3109 phone  
TWilkey@eac.gov

"Woodward, Amy" <AWoodward@dos.state.fl.us>

04/16/2007 01:18 PM

To: twilkey@eac.gov  
CC: "Browning, Kurt S." <KSBrowning@dos.state.fl.us>  
Subject: Florida HAVA Funding

020614

*Attached is the information from the conference call this morning.*

*Thank you,*

*Amy Woodward  
Executive Assistant  
Office of the Secretary*

020615



"Leonard, Barbara M."  
<BMLeonard@dos.state.fl.us>

To ecortes@eac.gov

cc "Tuck, Amy K." <AKTuck@dos.state.fl.us>

bcc

03/30/2007 04:15 PM

Subject Question Regarding Section 101 Funds

History:

✉ This message has been replied to

Hi Edgardo,

Would you please give me a call. We have a question regarding the use of HAVA Section 101 funds.

Thanks,  
Barbara Leonard  
Florida Division of Elections  
850-245-6201

This response is provided for reference only and does not constitute legal advice or representation. As applied to a particular set of facts or circumstances, interested parties should refer to the Florida Statutes and applicable case law, and/or consult a private attorney before drawing any legal conclusions or relying upon the information provided.

Please note: Florida has a very broad public records law. Written communications to or from state officials regarding state business constitute public records and are available to the public and media upon request unless the information is subject to a specific statutory exemption. Therefore, your e-mail message may be subject to public disclosure.

020616



"Leonard, Barbara M."  
<BMLeonard@dos.state.fl.us>

To ecortes@eac.gov

cc

bcc

03/21/2007 08:14 AM

Subject RE: HAVA Funding for Voter Verifiable Paper Audit Records

History:

☞ This message has been replied to!

Edgardo,

The legislative budget issue requesting additional funds for state match was inadvertently scanned twice. It is only one page.

Thanks,  
Barbara

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

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

**Sent:** Tuesday, March 20, 2007 4:03 PM

**To:** Leonard, Barbara M.

**Subject:** RE: HAVA Funding for Voter Verifiable Paper Audit Records

No problem, let me know in the morn. Thanks!

Edgardo Cortés  
Election Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave. NW, Ste. 1100  
Washington, DC 20005  
866-747-1471 toll free  
202-566-3126 direct  
202-566-3127 fax  
ecortes@eac.gov

020617



"Leonard, Barbara M."  
<BMLeonard@dos.state.fl.us>

To ecortes@eac.gov

cc

bcc

03/20/2007 04:01 PM

Subject RE: HAVA Funding for Voter Verifiable Paper Audit Records

History: This message has been replied to.

Edgardo,

The person who forwarded the file to me is not in the office this afternoon. I'll let you know in the morning. Sorry for the confusion.

Barbara

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

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

**Sent:** Tuesday, March 20, 2007 3:24 PM

**To:** Leonard, Barbara M.

**Subject:** RE: HAVA Funding for Voter Verifiable Paper Audit Records

Barbara,

Both pages in the PDF that shows the legislative budget request appear to be the same. Are the pages different or was the same page copied twice?

Edgardo Cortés  
Election Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave. NW, Ste. 1100  
Washington, DC 20005  
866-747-1471 toll free  
202-566-3126 direct  
202-566-3127 fax  
ecortes@eac.gov

"Leonard, Barbara M."  
<BMLeonard@dos.state.fl.us>

03/20/2007 01:40 PM

To ecortes@eac.gov

cc "Tuck, Amy K." <AKTuck@dos.state.fl.us>, "Bradshaw, Sarah"

<SBradshaw@dos.state.fl.us>

Subject RE: HAVA Funding for Voter Verifiable Paper Audit Records

t

020618

Edgardo,

Attached are the following documents providing updated information regarding the findings included in the Florida Auditor General's Operational Audit Report # 2006-194:

Department of State Inspector General's Follow-up Review to Auditor General Report  
Number 2006-194

Letter dated December 13, 2006 from Inspector General to Secretary of State Cobb  
Budget issue included in the FY 2007-08 Legislative Budget Request regarding additional  
funds for State Match

Florida Voting Systems Certification Checklist & Test Record

If you have any questions, please let us know.

Thanks,  
Barbara

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

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

**Sent:** Friday, March 16, 2007 11:36 AM

**To:** Tuck, Amy K.

**Cc:** Leonard, Barbara M.

**Subject:** Re: HAVA Funding for Voter Verifiable Paper Audit Records

Amy and Barbara,

Do you have any additional documentation for the issues identified during your state single audit. I have a copy of your response letter to the state auditor dated June 15, 2006 but many of the items are planned actions. Do you have supporting documentation to show you've completed those things? I am trying to write our audit resolution report and would prefer it show as much completed as possible rather than using the report to ask for this info. Let me know. Thanks.

Edgardo Cortés  
Election Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave. NW, Ste. 1100  
Washington, DC 20005  
866-747-1471 toll free  
202-566-3126 direct  
202-566-3127 fax  
ecortes@eac.gov

020619



"Leonard, Barbara M."  
<BMLEonard@dos.state.fl.us>

03/20/2007 01:40 PM

To ecortes@eac.gov  
cc "Tuck, Amy K." <AKTuck@dos.state.fl.us>, "Bradshaw, Sarah" <SBradshaw@dos.state.fl.us>  
bcc

Subject RE: HAVA Funding for Voter Verifiable Paper Audit Records

History: This message has been replied to

Edgardo,

Attached are the following documents providing updated information regarding the findings included in the Florida Auditor General's Operational Audit Report # 2006-194:

- Department of State Inspector General's Follow-up Review to Auditor General Report Number 2006-194
- Letter dated December 13, 2006 from Inspector General to Secretary of State Cobb
- Budget issue included in the FY 2007-08 Legislative Budget Request regarding additional funds for State Match
- Florida Voting Systems Certification Checklist & Test Record

If you have any questions, please let us know.

Thanks,  
Barbara

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

**From:** ecortes@eac.gov [mailto:ecortes@eac.gov]  
**Sent:** Friday, March 16, 2007 11:36 AM  
**To:** Tuck, Amy K.  
**Cc:** Leonard, Barbara M.  
**Subject:** Re: HAVA Funding for Voter Verifiable Paper Audit Records

Amy and Barbara,  
Do you have any additional documentation for the issues identified during your state single audit. I have a copy of your response letter to the state auditor dated June 15, 2006 but many of the items are planned actions. Do you have supporting documentation to show you've completed those things? I am trying to write our audit resolution report and would prefer it show as much completed as possible rather than using the report to ask for this info. Let me know. Thanks.

Edgardo Cortés  
Election Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave. NW, Ste. 1100  
Washington, DC 20005  
866-747-1471 toll free  
202-566-3126 direct  
202-566-3127 fax



ecortes@eac.gov 2007-005 AG follow up HAVA FVRS dr final.doc 2007-005 Cover Letter HAVA FVRS.doc



BVSC-010 Florida Voting Systems Certification Checklist and Test Record.doc FY 2007-08 LBR HAVA State Match.pdf

020621



"Leonard, Barbara M."  
<BMLeonard@dos.state.fl.us>

03/16/2007 03:35 PM

To ecortes@eac.gov

cc "Tuck, Amy K." <AKTuck@dos.state.fl.us>

bcc

Subject RE: HAVA Funding for Voter Verifiable Paper Audit Records

History:

 This message has been replied to.

Edgardo,

How about Monday about 1:30 pm? I'll give you a call if that time is agreeable.

Barbara

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

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

**Sent:** Friday, March 16, 2007 2:18 PM

**To:** Leonard, Barbara M.

**Subject:** RE: HAVA Funding for Voter Verifiable Paper Audit Records

Great! Can we set up a time to chat on Monday? I'm available anytime after 10am.

Edgardo Cortés  
Election Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave. NW, Ste. 1100  
Washington, DC 20005  
866-747-1471 toll free  
202-566-3126 direct  
202-566-3127 fax  
ecortes@eac.gov

"Leonard, Barbara M."  
<BMLeonard@dos.state.fl.us>

03/16/2007 02:00 PM

To ecortes@eac.gov

cc "Tuck, Amy K." <AKTuck@dos.state.fl.us>

Subject RE: HAVA Funding for Voter Verifiable Paper Audit Records

020622

Edgardo,

We should be able to forward something to you next week to document the steps that have been taken. We'll check with you first to be sure we're getting the information you need for your report.

Thanks,  
Barbara

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

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

**Sent:** Friday, March 16, 2007 11:36 AM

**To:** Tuck, Amy K.

**Cc:** Leonard, Barbara M.

**Subject:** Re: HAVA Funding for Voter Verifiable Paper Audit Records

Amy and Barbara,

Do you have any additional documentation for the issues identified during your state single audit. I have a copy of your response letter to the state auditor dated June 15, 2006 but many of the items are planned actions. Do you have supporting documentation to show you've completed those things? I am trying to write our audit resolution report and would prefer it show as much completed as possible rather than using the report to ask for this info. Let me know. Thanks.

Edgardo Cortés  
Election Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave. NW, Ste. 1100  
Washington, DC 20005  
866-747-1471 toll free  
202-566-3126 direct  
202-566-3127 fax  
ecortes@eac.gov

020623



"Leonard, Barbara M."  
<BMLeonard@dos.state.fl.us>

03/16/2007 02:00 PM

To ecortes@eac.gov

cc "Tuck, Amy K." <AKTuck@dos.state.fl.us>

bcc

Subject RE: HAVA Funding for Voter Verifiable Paper Audit Records

History:

✉ This message has been replied to.

Edgardo,

We should be able to forward something to you next week to document the steps that have been taken. We'll check with you first to be sure we're getting the information you need for your report.

Thanks,  
Barbara

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

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

**Sent:** Friday, March 16, 2007 11:36 AM

**To:** Tuck, Amy K.

**Cc:** Leonard, Barbara M.

**Subject:** Re: HAVA Funding for Voter Verifiable Paper Audit Records

Amy and Barbara,

Do you have any additional documentation for the issues identified during your state single audit. I have a copy of your response letter to the state auditor dated June 15, 2006 but many of the items are planned actions. Do you have supporting documentation to show you've completed those things? I am trying to write our audit resolution report and would prefer it show as much completed as possible rather than using the report to ask for this info. Let me know. Thanks.

Edgardo Cortés  
Election Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave. NW, Ste. 1100  
Washington, DC 20005  
866-747-1471 toll free  
202-566-3126 direct  
202-566-3127 fax  
ecortes@eac.gov

020624



"Leonard, Barbara M."  
<BMLeonard@dos.state.fl.us>

02/16/2007 05:08 PM

To ecortes@eac.gov

cc

bcc

Subject RE: FW: Guidance Regarding Use of HAVA Funds

Edgardo,

Thank you so much for the response. I know you've been very busy and also knew of the bad weather. Hopefully the weather has cleared up a little by now. Have a great week-end.

Thanks,  
Barbara

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

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

**Sent:** Friday, February 16, 2007 4:45 PM

**To:** Leonard, Barbara M.

**Subject:** Re: FW: Guidance Regarding Use of HAVA Funds

Barbara,

Sorry for the delay but I was at the NASS and NASED conference over the weekend and then we had some bad weather that kept me from coming in. In regards to question #2, this is a purchase that is solely related to the statewide voter registration and therefore does not require pre-approval from the EAC. Just make sure to keep the proper records for audit purposes. Hope this helps. Thanks.

Edgardo Cortés  
Election Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave. NW, Ste. 1100  
Washington, DC 20005  
866-747-1471 toll free  
202-566-3126 direct  
202-566-3127 fax  
ecortes@eac.gov

"Leonard, Barbara M." <BMLeonard@dos.state.fl.us>

02/13/2007 02:02 PM

To ecortes@eac.gov

cc

SubjectFW: Guidance Regarding Use of HAVA Funds

020625

Edgardo,

Have you had a chance to review question #2 in our request below regarding the purchase of additional memory for our statewide voter registration system?

Thanks,  
Barbara

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

**From:** Leonard, Barbara M.  
**Sent:** Friday, January 26, 2007 11:48 AM  
**To:** 'ecortes@eac.gov'  
**Cc:** Tuck, Amy K.; Bradshaw, Sarah  
**Subject:** RE: Guidance Regarding Use of HAVA Funds

Edgardo,

I believe that question #3 is related to the state single audit findings. It was included in the Operational Audit conducted by the Florida Auditor General's Office. I will forward you the original request for guidance that we sent to Peggy Sims last summer in case you don't have access to it.

Thanks,  
Barbara

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

**From:** ecortes@eac.gov [mailto:ecortes@eac.gov]  
**Sent:** Friday, January 26, 2007 10:03 AM  
**To:** Leonard, Barbara M.  
**Subject:** Re: Guidance Regarding Use of HAVA Funds

Barbara,

Just a quick question about #3. Is this question related to the state single audit findings? I am working on some audit resolutions and wanted to make sure its the same issue.

Edgardo Cortés  
Election Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave. NW, Ste. 1100  
Washington, DC 20005  
866-747-1471 toll free  
202-566-3126 direct

020626

202-566-3127 fax  
ecortes@eac.gov

"Leonard, Barbara M."  
<BMLeonard@dos.state.fl.us>

01/10/2007 04:08 PM

To ecortes@eac.gov  
cc "Tuck, Amy K." <AKTuck@dos.state.fl.us>, "Bradshaw, Sarah"  
<SBradshaw@dos.state.fl.us>  
Subject Guidance Regarding Use of HAVA Funds

Edgardo,

The Florida Department of State is requesting guidance regarding the use of HAVA funds for several items:

1. The computer equipment used to operate Florida's statewide voter registration system is currently housed in a state-owned facility that is in the process of being sold. As a result, the Department is moving its computer operations to a private facility.

Following our conversation this morning, the Department has determined that State funds will be used to pay for the expenses associated with moving all of the equipment (including the statewide voter registration system equipment) to the new location.

However, after the Department has completed its relocation of the computer room to another facility, it will be necessary to make rental payments to the owner of the building. Is it possible for the Department to use HAVA funds to pay a portion of the rent for the space occupied by computer equipment used to support the statewide voter registration system?

2. The Department needs to purchase additional memory in order to provide an identical back-up computer for the statewide voter registration system in case of a disaster. We have received quotes from three contractors on the State Purchasing Contract with the lowest quote being from

020627

Hewlett Packard at \$81,760. We are requesting EAC approval to use HAVA Section 251 funds for this purchase.

3. During the summer of 2006 the Department requested guidance from the EAC regarding the use of HAVA funds for annual and/or sick leave payments to employees filling HAVA-funded positions who terminated employment with the State. Could you check on the status of a response regarding this issue. If you need additional information, please let us know and we'll forward the original questions.

If you need any additional information regarding these items, please let us know. Thank you very much for your assistance.

Thanks,  
Barbara Leonard  
Florida Division of Elections  
HAVA Unit  
850-245-6201

020628



"Leonard, Barbara M."  
<BMLeonard@dos.state.fl.us>

To ecortes@eac.gov

cc

02/13/2007 02:02 PM

bcc

Subject FW: Guidance Regarding Use of HAVA Funds

History:

✉ This message has been replied to

Edgardo,

Have you had a chance to review question #2 in our request below regarding the purchase of additional memory for our statewide voter registration system?

Thanks,  
Barbara

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

**From:** Leonard, Barbara M.

**Sent:** Friday, January 26, 2007 11:48 AM

**To:** 'ecortes@eac.gov'

**Cc:** Tuck, Amy K.; Bradshaw, Sarah

**Subject:** RE: Guidance Regarding Use of HAVA Funds

Edgardo,

I believe that question #3 is related to the state single audit findings. It was included in the Operational Audit conducted by the Florida Auditor General's Office. I will forward you the original request for guidance that we sent to Peggy Sims last summer in case you don't have access to it.

Thanks,  
Barbara

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

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

**Sent:** Friday, January 26, 2007 10:03 AM

**To:** Leonard, Barbara M.

**Subject:** Re: Guidance Regarding Use of HAVA Funds

Barbara,

Just a quick question about #3. Is this question related to the state single audit findings? I am working on some audit resolutions and wanted to make sure its the same issue.

Edgardo Cortés  
Election Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave. NW, Ste. 1100  
Washington, DC 20005  
866-747-1471 toll free  
202-566-3126 direct  
202-566-3127 fax

020629

ecortes@eac.gov

"Leonard, Barbara M."  
<BMLeonard@dos.state.fl.us>

01/10/2007 04:08 PM

To ecortes@eac.gov  
cc "Tuck, Amy K." <AKTuck@dos.state.fl.us>, "Bradshaw, Sarah"  
<SBradshaw@dos.state.fl.us>  
Subject Guidance Regarding Use of HAVA Funds

Edgardo,

The Florida Department of State is requesting guidance regarding the use of HAVA funds for several items:

1. The computer equipment used to operate Florida's statewide voter registration system is currently housed in a state-owned facility that is in the process of being sold. As a result, the Department is moving its computer operations to a private facility.

Following our conversation this morning, the Department has determined that State funds will be used to pay for the expenses associated with moving all of the equipment (including the statewide voter registration system equipment) to the new location.

However, after the Department has completed its relocation of the computer room to another facility, it will be necessary to make rental payments to the owner of the building. Is it possible for the Department to use HAVA funds to pay a portion of the rent for the space occupied by computer equipment used to support the statewide voter registration system?

2. The Department needs to purchase additional memory in order to provide an identical back-up computer for the statewide voter registration system in case of a disaster. We have received quotes from three contractors on the State Purchasing Contract with the lowest quote being from Hewlett Packard at \$81,760. We are requesting EAC approval to use HAVA Section 251 funds for this purchase.

3. During the summer of 2006 the Department requested guidance from the EAC regarding the use of HAVA funds for annual and/or sick leave payments to employees filling HAVA-funded positions who terminated employment with the State. Could you check on the status of a response regarding this issue. If you need additional information, please let us know and we'll forward the original questions.

020630

If you need any additional information regarding these items, please let us know. Thank you very much for your assistance.

Thanks,  
Barbara Leonard  
Florida Division of Elections  
HAVA Unit  
850-245-6201

020631



"Leonard, Barbara M."  
<BMLeonard@dos.state.fl.us>

01/26/2007 03:04 PM

To ecortes@eac.gov

cc

bcc

Subject RE: Guidance Regarding Use of HAVA Funds

Edgardo,

Thanks for your help with this.

Barbara

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

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

**Sent:** Friday, January 26, 2007 2:31 PM

**To:** Leonard, Barbara M.

**Cc:** Tuck, Amy K.; Bradshaw, Sarah

**Subject:** RE: Guidance Regarding Use of HAVA Funds

Barbara,

This was great information. This is the same issue I am working on in relation to the single audit. Just so you know, this means you will get the answer from me, but then it will also be addressed in an audit resolution report. That resolution report will cover this issue and the other issues identified during the single audit. Since EAC oversees HAVA funds, we are responsible for resolving issues identified during audits conducted by our Inspector General and also single audits conducted by each state. I'll keep you posted as we move forward in that process. Let me know if you have any questions. Thanks.

Edgardo Cortés  
Election Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave. NW, Ste. 1100  
Washington, DC 20005  
866-747-1471 toll free  
202-566-3126 direct  
202-566-3127 fax  
ecortes@eac.gov

"Leonard, Barbara M."  
<BMLeonard@dos.state.fl.us>

01/26/2007 11:48 AM

To ecortes@eac.gov

cc "Tuck, Amy K." <AKTuck@dos.state.fl.us>, "Bradshaw, Sarah"

<SBradshaw@dos.state.fl.us>

Subject RE: Guidance Regarding Use of HAVA Funds

020632

Edgardo,

I believe that question #3 is related to the state single audit findings. It was included in the Operational Audit conducted by the Florida Auditor General's Office. I will forward you the original request for guidance that we sent to Peggy Sims last summer in case you don't have access to it.

Thanks,  
Barbara

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

**From:** ecortes@eac.gov [mailto:ecortes@eac.gov]  
**Sent:** Friday, January 26, 2007 10:03 AM  
**To:** Leonard, Barbara M.  
**Subject:** Re: Guidance Regarding Use of HAVA Funds

Barbara,  
Just a quick question about #3. Is this question related to the state single audit findings? I am working on some audit resolutions and wanted to make sure its the same issue.

Edgardo Cortés  
Election Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave. NW, Ste. 1100  
Washington, DC 20005  
866-747-1471 toll free  
202-566-3126 direct  
202-566-3127 fax  
ecortes@eac.gov

"Leonard, Barbara M."  
<BMLeonard@dos.state.fl.us>

01/10/2007 04:08 PM

To ecortes@eac.gov  
cc "Tuck, Amy K." <AKTuck@dos.state.fl.us>, "Bradshaw, Sarah"  
<SBradshaw@dos.state.fl.us>  
Subject Guidance Regarding Use of HAVA Funds

020633

Edgardo,

The Florida Department of State is requesting guidance regarding the use of HAVA funds for several items:

1. The computer equipment used to operate Florida's statewide voter registration system is currently housed in a state-owned facility that is in the process of being sold. As a result, the Department is moving its computer operations to a private facility.

Following our conversation this morning, the Department has determined that State funds will be used to pay for the expenses associated with moving all of the equipment (including the statewide voter registration system equipment) to the new location.

However, after the Department has completed its relocation of the computer room to another facility, it will be necessary to make rental payments to the owner of the building. Is it possible for the Department to use HAVA funds to pay a portion of the rent for the space occupied by computer equipment used to support the statewide voter registration system?

2. The Department needs to purchase additional memory in order to provide an identical back-up computer for the statewide voter registration system in case of a disaster. We have received quotes from three contractors on the State Purchasing Contract with the lowest quote being from Hewlett Packard at \$81,760. We are requesting EAC approval to use HAVA Section 251 funds for this purchase.

3. During the summer of 2006 the Department requested guidance from the EAC regarding the use of HAVA funds for annual and/or sick leave payments to employees filling HAVA-funded positions who terminated employment with the State. Could you check on the status of a response regarding this issue. If you need additional information, please let us know and we'll forward the original questions.

If you need any additional information regarding these items, please let us know. Thank you very much for your assistance.

Thanks,  
Barbara Leonard

020634

Florida Division of Elections  
HAVA Unit  
850-245-6201

020635



"Leonard, Barbara M."  
<BMLeonard@dos.state.fl.us>

01/26/2007 11:51 AM

To ecortes@eac.gov

cc

bcc

Subject FW: Leave Payments to Terminating Employees

Edgardo,

This is the initial request regarding leave payments to terminating employees.

Thanks,  
Barbara

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

**From:** Leonard, Barbara

**Sent:** Friday, June 23, 2006 9:57 AM

**To:** 'psims@eac.gov'

**Cc:** Roberts, Dawn K.; Bradshaw, Sarah; Gomez, Mike; Durbin, Joyce A.

**Subject:** Leave Payments to Terminating Employees

Peggy,

The Florida Department of State is requesting guidance from the EAC regarding leave payments to employees who have resigned from the Department of State and terminated employment in state government. Upon termination from the Department, these individuals have/will be paid for annual leave hours that were accrued during their tenure as state employees. During their employment with the Department of State, each employee was assigned to a position that worked exclusively on HAVA-related activities and was funded with HAVA dollars.

One individual was employed by the Department of State for eight months. However, he had been in state government for several years and transferred to the Department of State from another state agency. During that time he accrued 386 hours of annual leave. He accrued an additional 83 hours while employed at the Department of State. Upon termination from the Department, he was paid for 470 annual leave hours.

The other employee has been employed by the Department of State since mid-September 2003 and has worked exclusively in a HAVA-funded position during this period. He will be eligible for annual leave payments upon termination from state government at the end of June 2006. All of the annual leave hours were earned while he was working on HAVA activities.

In reviewing the language in federal OMB Circular A-87, it appears that it will be necessary for the Department of State to use state funds rather than HAVA funds for the leave payments to each of these individuals. However, since one individual was employed exclusively in a HAVA-funded position and earned the leave during this time, is it possible to use HAVA funds to pay for the accrued annual leave that will be paid to the individual upon termination from state government?

The situations referenced above relate to accrued annual leave. However, the same questions will apply when an employee filling a HAVA-funded position terminates from state government and is eligible to receive payment for sick leave.

We appreciate your assistance in determining the appropriate funding source when processing leave payments to individuals who worked in a HAVA-funded position at the time of termination from state

020636

government.

Thanks,  
Barbara Leonard  
Florida Division of Elections  
850-245-6201

020637



"Leonard, Barbara M."  
<BMLeonard@dos.state.fl.us>

01/26/2007 11:48 AM

To ecortes@eac.gov

cc "Tuck, Amy K." <AKTuck@dos.state.fl.us>, "Bradshaw, Sarah" <SBradshaw@dos.state.fl.us>

bcc

Subject RE: Guidance Regarding Use of HAVA Funds

History This message has been replied to

Edgardo,

I believe that question #3 is related to the state single audit findings. It was included in the Operational Audit conducted by the Florida Auditor General's Office. I will forward you the original request for guidance that we sent to Peggy Sims last summer in case you don't have access to it.

Thanks,  
Barbara

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

**From:** ecortes@eac.gov [mailto:ecortes@eac.gov]  
**Sent:** Friday, January 26, 2007 10:03 AM  
**To:** Leonard, Barbara M.  
**Subject:** Re: Guidance Regarding Use of HAVA Funds

Barbara,

Just a quick question about #3. Is this question related to the state single audit findings? I am working on some audit resolutions and wanted to make sure its the same issue.

Edgardo Cortés  
Election Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave. NW, Ste. 1100  
Washington, DC 20005  
866-747-1471 toll free  
202-566-3126 direct  
202-566-3127 fax  
ecortes@eac.gov

"Leonard, Barbara M."  
<BMLeonard@dos.state.fl.us>

01/10/2007 04:08 PM

To ecortes@eac.gov  
cc "Tuck, Amy K." <AKTuck@dos.state.fl.us>, "Bradshaw, Sarah" <SBradshaw@dos.state.fl.us>  
Subject Guidance Regarding Use of HAVA Funds

020638

Edgardo,

The Florida Department of State is requesting guidance regarding the use of HAVA funds for several items:

1. The computer equipment used to operate Florida's statewide voter registration system is currently housed in a state-owned facility that is in the process of being sold. As a result, the Department is moving its computer operations to a private facility.

Following our conversation this morning, the Department has determined that State funds will be used to pay for the expenses associated with moving all of the equipment (including the statewide voter registration system equipment) to the new location.

However, after the Department has completed its relocation of the computer room to another facility, it will be necessary to make rental payments to the owner of the building. Is it possible for the Department to use HAVA funds to pay a portion of the rent for the space occupied by computer equipment used to support the statewide voter registration system?

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3. During the summer of 2006 the Department requested guidance from the EAC regarding the use of HAVA funds for annual and/or sick leave payments to employees filling HAVA-funded positions who terminated employment with the State. Could you check on the status of a response regarding this issue. If you need additional information, please let us know and we'll forward the original questions.

If you need any additional information regarding these items, please let us know. Thank you very much for your assistance.

Thanks,  
Barbara Leonard  
Florida Division of Elections  
HAVA Unit  
850-245-6201

020639



"Leonard, Barbara M."  
<BMLeonard@dos.state.fl.us>

01/10/2007 04:08 PM

To ecortes@eac.gov

cc "Tuck, Amy K." <AKTuck@dos.state.fl.us>, "Bradshaw, Sarah" <SBradshaw@dos.state.fl.us>

bcc

Subject Guidance Regarding Use of HAVA Funds

History:

This message has been replied to and forwarded

Edgardo,

The Florida Department of State is requesting guidance regarding the use of HAVA funds for several items:

1. The computer equipment used to operate Florida's statewide voter registration system is currently housed in a state-owned facility that is in the process of being sold. As a result, the Department is moving its computer operations to a private facility.

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3. During the summer of 2006 the Department requested guidance from the EAC regarding the use of HAVA funds for annual and/or sick leave payments to employees filling HAVA-funded positions who terminated employment with the State. Could you check on the status of a response regarding this issue. If you need additional information, please let us know and we'll forward the original questions.

If you need any additional information regarding these items, please let us know. Thank you very much for your assistance.

Thanks,  
Barbara Leonard  
Florida Division of Elections  
HAVA Unit  
850-245-6201

020640



"Tuck, Amy K."  
<AKTuck@dos.state.fl.us>  
04/05/2007 06:11 PM

To ecortes@eac.gov, "Leonard, Barbara M."  
<BMLeonard@dos.state.fl.us>  
cc "Browning, Kurt S." <KSBrowning@dos.state.fl.us>,  
"Kennedy, Jennifer L." <JLKennedy@dos.state.fl.us>,  
twilkey@eac.gov

bcc

Subject RE: Question Regarding Section 101 Funds

History

 This message has been replied to

Edgardo,

It is the same question that I posed before regarding moving to optical scan systems and voter verifiable paper audit records. This also includes using ballot on demand and Automark. Jennifer Kennedy (Deputy Secretary of State) spoke with Tom Wilkey on Tuesday and I spoke with him on Tuesday as well. From what I understand, the decision that you previously gave me stands. However, we need something more formal in writing. As you know, we are in legislative session and this is a request not only from us, but from both of our legislative houses. I would really appreciate getting it as soon as possible.

Thank you again for all your help on this. I know you guys are busy. Please let me know if there is anything I can do to help.

Amy Tuck

---

**From:** ecortes@eac.gov [mailto:ecortes@eac.gov]  
**Sent:** Thursday, April 05, 2007 4:16 PM  
**To:** Leonard, Barbara M.  
**Cc:** Tuck, Amy K.  
**Subject:** Re: Question Regarding Section 101 Funds

Barbara,

Sorry for the delay in getting back to you - we have been swamped this week. I won't be in the office tomorrow but if you can email me the question, I can work on it over the weekend to get you a response for Monday. Thanks.

Edgardo Cortés  
Election Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave. NW, Ste. 1100  
Washington, DC 20005  
866-747-1471 toll free  
202-566-3126 direct  
202-566-3127 fax  
ecortes@eac.gov

"Leonard, Barbara M." <BMLeonard@dos.state.fl.us>

03/30/2007 04:15 PM

To ecortes@eac.gov

020641

CC: "Tuck, Amy K." <AKTuck@dos.state.fl.us>  
Subject: Question Regarding Section 101 Funds

Hi Edgardo,

Would you please give me a call. We have a question regarding the use of HAVA Section 101 funds.

Thanks,  
Barbara Leonard  
Florida Division of Elections  
850-245-6201

This response is provided for reference only and does not constitute legal advice or representation. As applied to a particular set of facts or circumstances, interested parties should refer to the Florida Statutes and applicable case law, and/or consult a private attorney before drawing any legal conclusions or relying upon the information provided.

Please note: Florida has a very broad public records law. Written communications to or from state officials regarding state business constitute public records and are available to the public and media upon request unless the information is subject to a specific statutory exemption. Therefore, your e-mail message may be subject to public disclosure.

020642



"Tuck, Amy K."  
<AKTuck@dos.state.fl.us>  
03/21/2007 11:12 AM

To ecortes@eac.gov  
cc  
bcc  
Subject RE: HAVA Funding

Edgardo,

Again, thanks for your quick response on all of this. One more question... If counties used a ballot on demand system, which is basically just a ballot "printing" service at the early voting sites, could HAVA funding be used? Let me know if you need me to call or explain further.

Thank you,  
Amy

---

**From:** ecortes@eac.gov [mailto:ecortes@eac.gov]  
**Sent:** Wednesday, March 14, 2007 4:54 PM  
**To:** Tuck, Amy K.  
**Cc:** jhodgkins@eac.gov  
**Subject:** RE: HAVA Funding

Amy,

Sorry for the longer response on this email. Its been a pretty busy day.

With question 1, I forgot that Florida did file a certification under HAVA section 251(b)(2)(A). This means you are correct, Florida can use any remaining requirements payments for the improvement of administration of elections for federal office. No additional certification is needed. VVPAR would fall under this category. Section 101 funds can be used for this purpose without any certification.

With #2, you are correct. Replacement of newly purchased equipment that is HAVA compliant and in good working order does not appear to meet the test of reasonableness for using federal funds. Our initial take on the automark system is that it would fall into this category because you would be replacing the current DREs with a new system.

Again, this is our general take on this without having reviewed any detailed information about Florida's particular situation. Let me know if you need any more info. Thanks.

Edgardo Cortés  
Election Research Specialist  
U.S. Election Assistance Commission  
1225 New York Ave. NW, Ste. 1100  
Washington, DC 20005  
866-747-1471 toll free  
202-566-3126 direct  
202-566-3127 fax  
ecortes@eac.gov

"Tuck, Amy K." <AKTuck@dos.state.fl.us>

03/14/2007 11:30 AM

To ecortes@eac.gov

020643

cc

SubjectRE: HAVA Funding

Sorry – one more issue. There is some consideration of using an “AutoMARK” system instead of the VVPAR. I would assume this would follow along the same lines as the considerations for the VVPAR. Let me know if you need more information on that before responding.

Thanks again.

---

**From:** Tuck, Amy K.  
**Sent:** Wednesday, March 14, 2007 11:25 AM  
**To:** ecortes@eac.gov  
**Subject:** HAVA Funding  
**Importance:** High

Edgardo,

I wanted to summarize our earlier conversation to make sure I am clear on how to proceed on this issue.

1. VVPAR (Voter verifiable paper audit record)

These can be paid for from HAVA funding under certain circumstances although this is not a requirement in HAVA and does not meet Title 3 requirements.

Section 251 funding can be used for Title 3 activities or for improving the administration of elections for federal office. Under this guideline, Florida can do the following:

- a. Certify that we have met the requirements of Title 3 and use the remaining 251 funds for improving federal elections.
- b. Or if we have not met the requirements for Title 3, we can certify that we will not use more than the minimum payment (est. 11.6m) for “non-Title 3” activities.

As a state, we did certify in August, 2006 that we have met the requirements for Title 3, so we would be in position a. (above). I would assume that we could then use the Section 251 funds to provide voter verifiable paper audit record devices for touchscreens under the argument that it is to improve federal elections.

020644

Section 101 funding can be used to improve administration of elections for federal office. If Florida decided to use this funding, we would not have to certify to the EAC.

2. Optical Scan

If the touchscreens that are being replaced were purchased with HAVA funding, then further HAVA funding may not be used for this purpose. If the touchscreens were purchased from state funding, then HAVA funding could be used for this purpose. I would assume we would follow the same guidelines in #1 concerning both the 251 and 101 funding.

And, of course, we are free to use state funding (or funding from the purchase of the systems) to upgrade as long as we remain in compliance with federal and state guidelines.

Thank you (and Julie) for taking the time to speak with me today. I appreciate the time and quick response. I look forward to hearing back from you.

Sincerely,

**Amy K. Tuck, Esq.**

Director, Division of Elections  
Florida Department of State  
The R.A. Gray Building  
500 South Bronough Street, Room 316  
Tallahassee, Florida 32399  
850.245.6200 phone  
850.245.6217 fax

020645



"Tuck, Amy K."  
<AKTuck@dos.state.fl.us>  
03/14/2007 10:04 PM

To ecortes@eac.gov  
cc  
bcc  
Subject RE: HAVA Funding

Thank you for the response. We might have some additional questions. But, again, thank you for taking the time. I appreciate it. Amy

---

**From:** ecortes@eac.gov [mailto:ecortes@eac.gov]  
**Sent:** Wednesday, March 14, 2007 4:54 PM  
**To:** Tuck, Amy K.  
**Cc:** jhodgkins@eac.gov  
**Subject:** RE: HAVA Funding

Amy,

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Edgardo Cortés  
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ecortes@eac.gov

"Tuck, Amy K." <AKTuck@dos.state.fl.us>

03/14/2007 11:30 AM

To ecortes@eac.gov  
cc  
Subject RE: HAVA Funding

020646

Sorry – one more issue. There is some consideration of using an “AutoMARK” system instead of the VVPAR. I would assume this would follow along the same lines as the considerations for the VVPAR. Let me know if you need more information on that before responding.

Thanks again.

---

**From:** Tuck, Amy K.  
**Sent:** Wednesday, March 14, 2007 11:25 AM  
**To:** ecortes@eac.gov  
**Subject:** HAVA Funding  
**Importance:** High

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Section 101 funding can be used to improve administration of elections for federal office. If Florida decided to use this funding, we would not have to certify to the EAC.

2. Optical Scan

020647