

MEMORANDUM

July 15, 2005

TO: EAC Commissioners

FROM: Tom Wilkey, Executive Director

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

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

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

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

RECOMMENDATION:

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

Attachment

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

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

The EAC has established several alternative methods for submitting comments:

- On-line electronic comment form at www.eac.gov
- E-mail to votingsystemguidelines@eac.gov
- Postal mail to Voting System Guidelines Comments at EAC
- FAX to Voting System Guidelines Comments at 202.566.3127

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

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

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

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

4.0 Tasks.

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

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

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

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

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

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

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

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

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

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

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

8.0 Schedule of Deliverables.

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

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

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

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

12.0 General Provisions:

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

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

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7/8/2005

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

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