Form No. DMB 234 (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract will not be executed unless form is filed

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
PURCHASING OPERATIONS
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

CONTRACT NO. 071B6200250
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR	TELEPHONE: Matthew Nelson
Election Systems and Software **11208 John Galt Blvd.** **Omaha, NE 68137**	**1-800-247-8683** **Fax: 402-970-1282**
	VENDOR NUMBER/MAIL CODE **(2) 47-0617567 (001)**
	BUYER/CA (517) 373-1455 **Laura Gyorkos**

Contract Compliance Inspector: Tom Luitje 241-2541
Accessible Voting System for Voter with Disabilities – Department of State

CONTRACT PERIOD:	From: **May 3, 2006**	To: **May 3, 2009**
TERMS **See Section 1.6**	SHIPMENT **N/A**	
F.O.B. **Delivered**	SHIPPED FROM **N/A**	

MINIMUM DELIVERY REQUIREMENTS
N/A

MISCELLANEOUS INFORMATION:
The terms and conditions of this Contract are those of ITB #071I6200053 this Contract Agreement and the vendor's quote dated January 1, 2006. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.

Estimated Contract Value: $34,000,000.00

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No.071I6200053. Orders for delivery of equipment will be issued directly by the Department of State through the issuance of a Purchase Order Form.

All terms and conditions of the invitation to bid are made a part hereof.

FOR THE VENDOR:	**FOR THE STATE:**
Election Systems and Software Firm Name	Signature
Authorized Agent Signature	**Sean Carlson, Chief Purchasing Officer** Name/Title
Authorized Agent (Print or Type)	**Purchasing Operations** Division
Date	Date

STATE OF MICHIGAN
Department of Management and Budget
Acquisition Services

Contract No. 071B6200250

ACCESSIBLE VOTING SYSTEM FOR VOTERS WITH DISABILITIES

Buyer Name: Laura Gyorkos
Telephone Number: 517-373-1455
E-Mail Address: GyorkosL@michigan.gov

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ELECTION SYSTEMS & SOFTWARE, INC. 37
THIS STANDARD SOFTWARE LICENSE/MAINTENANCE AND SUPPORT AGREEMENT ("Agreement") is made effective as of the date set forth below, by and between Election Systems & Software, Inc., a Delaware corporation ("Contractor") and _____ (Licensee). Capitalized terms used in this Agreement and not otherwise defined shall have the same meanings ascribed to them in the State's Master Contract No. 071B6200250 between the State and Contractor, dated this ___ day of _____, 2006 (the "Master Contract"). 37
RECITALS: 37
A. The Licensee desires to license certain of Contractor's proprietary software and to obtain maintenance and support services for the Software. This Agreement covers the ES&S AutoMARK firmware and AutoMARK Information Management Software ("AIMS") (collectively, the ES&S AutoMARK firmware and AIMS are referred to herein as the "Software"). 37
B. The Contractor has agreed to provide such license and services, subject to the terms and conditions of this Agreement, the Purchase Order executed by the Licensee, and the Master Contract (#071B6200250) 37
NOW, THEREFORE, in consideration of the foregoing recitals (which is specifically incorporated herein by this reference) and the mutual representations, warranties, covenants and agreements set forth below, the parties hereby agree as follows: 37
ARTICLE 1 LICENSE OF SOFTWARE 37
a. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the Software; 37
b. Cause or permit any change to be made to the Software without Contractor's prior written consent. 37
1.2 Delivery; Risk of Loss. Delivery; Risk of Loss is provided for in the Licensee's purchase order with Contractor, which incorporates by reference the Master Contract (#071B6200250). 38
1.3 Term of License. The license granted in Section 1.1 shall commence upon delivery, and shall continue until the first to occur of the following: (a) the Licensee ceases to use the Software; (b) the Licensee breaches any material provision of this Article 1. Upon the termination of the license, the Licensee shall immediately return the Software and Documentation (including any and all copies thereof) to Contractor, or (if requested by Contractor) destroy the Software and Documentation and certify in writing to Contractor that such destruction has occurred. 38
1.4 Warranty. Nothing in this section shall be construed to limit the warranties provided under the Master Contract (#071B6200250). Contractor warrants that for the period that covers the first two even-numbered election calendar years in which and/or after delivery of the Software to the Licensee, (the "Warranty Period"), it will repair or replace any component of the Software which, while under normal use and service: (a) fails to perform in accordance with its Documentation in all material respects, or (b) is defective in material or workmanship. The Warranty Period will commence on the date of delivery of the Software. Any repaired or replaced Software shall be warranted only for the unexpired term of the original Warranty Period. This warranty is effective provided that (i) the Licensee promptly notifies Contractor of the failure of performance or defect and is otherwise in compliance with its obligations hereunder, (ii) the Software to be repaired or replaced has not been repaired, changed, modified or altered except as authorized or approved by Contractor, (iii) the Software to be repaired or replaced is not damaged due to theft, vandalism, neglect, abuse, or use which is not in accordance with instructions or specifications furnished by Contractor, and (iv) the Licensee has installed and is using the most recent Update (as defined below), or the second most recent Update, provided to it by Contractor, provided that, with respect to this subsection (iv), Contractor has made all reasonable efforts to timely inform Licensee in writing of the release of Updates and appropriate instructions on the proper installation of the Update. CONTRACTOR'S OBLIGATIONS, AS DESCRIBED IN THIS SECTION 1.4, ARE THE LICENSEE'S SOLE AND EXCLUSIVE REMEDIES FOR A BREACH OF THE ABOVE-

DESCRIBED WARRANTY. CONTRACTOR EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHICH ARE NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.....38

1.5 Updates. During the Warranty Period, Contractor may provide new releases, upgrades or maintenance patches to the Software, along with appropriate Documentation ("Updates"), on a schedule defined by Contractor. The Licensee is responsible for obtaining any upgrades or purchases of third party hardware or software required to operate the Updates. All Updates shall be deemed to be "Software", and shall be subject to the terms and conditions of Contractor's license of the Software, upon delivery. The Licensee may install Updates in accordance with Contractor's recommended instructions or may request that the Contractor install the Updates. Contractor may charge the Licensee at its then-current rates to (a) install Updates, (b) provide maintenance and support which is required as a result of the Licensee's failure to timely install an Update, and (c) provide any necessary training to the Licensee's personnel on the operation and use of such Updates. The Licensee shall be responsible for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee which is caused by the Licensee's failure to install and use the most recent Update, or the second most recent Update, provided to it by Contractor, provided that, Contractor has made all reasonable efforts to timely inform Licensee in writing of the release of Updates and appropriate instructions on the proper installation of the Update. If the Licensee proposes changes in the Software to Contractor, such proposals will become Contractor's property. The Contractor represents to the Licensee that the Updates will comply with all applicable state law requirements at the time of delivery. Upon the termination of the Warranty Period, the Licensee shall be entitled to receive the Software Maintenance and Support described in Article II below. All Upgrades, new releases and maintenance patches for Contractor's Software that result from changes in Federal or State law will be provided to Licensee in accordance with the provisions of Section 1.104(F) of the Master Contract (#071B6200250). All other Upgrades, new releases and maintenance patches for Contractor's Software shall be provided to Licensee without additional charge during the Warranty Period. ...38

1.6 Year 2000 Software Compliance. Year 2000 Software Compliance is provided for in the Licensee's purchase order with Contractor, which incorporates by reference the Master Contract (#071B6200250). 39

1.7 Source Code. Use of the Software is limited to the rights granted to Licensee in Section 1.1. Contractor shall place the source code for the Software and any updates to, or new releases of, the Software, in escrow as more fully described in Section 1.702 of the Master Contract (#071B6200250). 39

ARTICLE 2 SOFTWARE MAINTENANCE AND SUPPORT 39

2.1 Term; Termination. Subject to the Licensee's timely payment of Software Maintenance Fees in accordance with Section 2.6 below, Software Maintenance and Support (as defined below) will be provided to the Licensee for a one year period beginning on the date of the expiration of the applicable Warranty Period (the "Software Maintenance Term"). The Software Maintenance Term shall automatically renew for an unlimited number of successive one year periods until terminated as follows: 39

a. By the Licensee: Termination is limited to that provided for in the Licensee's purchase order with the Contractor, which incorporates by reference Section 2.701 of the Master Contract (#071B6200250).....39

b. By the Contractor: In the event the Licensee fails to pay Contractor any amount due under this Agreement by a date which is 45 days after the due date of such amount, this Agreement may be terminated and the Licensee will be expected to remit payment of all amounts due and owing to Contractor as of the date of termination.39

2.2 Services. Contractor shall provide maintenance and support services for the Software ("Software Maintenance and Support") (a) to enable the Software to perform in all material respects in accordance with its Documentation, and (b) to cure any defect in material or workmanship. 39

2.3 Updates. During the Software Maintenance Term and any renewal thereof, Contractor shall continue to provide Updates in the manner described in, and subject to the terms and conditions of, Section 1.5 above.....39

2.4 Reinstatement of Software Maintenance and Support. If the Software Maintenance Term or any renewal thereof expires without being renewed, the Licensee may thereafter resume receiving Software Maintenance and Support upon (a) notification to Contractor, (b) payment of all fees which would have been due to Contractor had the Software Maintenance Term not expired, and (c) the granting to Contractor of access to the Software, so that Contractor may analyze it and perform such maintenance as may be necessary before resuming the Software Maintenance and Support. 39
2.5 Conditions. Contractor shall not be obligated to provide Software Maintenance and Support for any item of Software if such item requires such services due to (a) repairs, changes, modifications or alterations not authorized or approved by Contractor, (b) accident, theft, vandalism, neglect, abuse or use which is not in accordance with instructions or specifications furnished by Contractor, (c) causes beyond the reasonable control of Contractor or the Licensee, including natural disaster, fire, flood, unusually severe weather or Acts of God, or (d) the Licensee failure to install and use the most recent Update, or the second most recent Update, provided to it by Contractor. Contractor shall likewise not be obligated to provide Software Maintenance and Support if any Licensee does not timely notify Contractor after it knows of the need for such services or is otherwise not in compliance with its obligations under this Agreement. 39
2.6 Fees. In consideration for Contractor's agreement to provide Software Maintenance and Support under this Agreement, the Licensee shall pay to the Contractor a Software Maintenance Fee, as set forth in Appendix D of the Master Contract, for the initial Software Maintenance Term and each annual renewal period. The Software Maintenance Fee for the AIMS software is referred to in Appendix D as "Annual Maintenance Price per Accessible Voting System (Software)". The Software Maintenance Fee for the ES&S firmware is included in the "Annual maintenance price per Accessible Voting System (Hardware)" in Appendix D. The Software Maintenance Fee shall be in addition to any fees or charges separately referred to in any Section of this Agreement. The Software Maintenance Fee is due on the first day of each applicable year of the Software Maintenance Term. Following the expiration of the Optional Post Warranty Maintenance schedule set forth in Appendix D of the Master Contract, the Software Maintenance Fee for each subsequent annual renewal period shall be agreed to between Contractor and Licensee. 40
2.7 Proprietary Rights. The proprietary rights granted to Contractor in all corrections, programs, information and work product conceived, created or developed, alone or with the Licensee as a result of, or related to, the performance of the Software Maintenance and Support shall be as set forth in Section 2.313 of the Master Contract (#071B6200250). Subject to the payment of the Software Maintenance Fee, Contractor hereby grants to the Licensee a non-exclusive, royalty-free, site-wide, irrevocable, perpetual, transferable license to use that portion of such corrections, programs, information and work product that Contractor actually delivers to the Licensee pursuant to this Agreement. All licensed items shall be deemed to be "Software", and shall be subject to all the terms and conditions of Contractor's license of the Software, upon delivery. 40
ARTICLE 3 MISCELLANEOUS 40
3.1 Taxes; Interest. For purchases made directly by the Licensee, the Licensee is exempt from State and Local Sales Tax. Prices shall not include such taxes. Exemption Certificates for State Sales Tax will be furnished upon request. The Licensee may be exempt for Federal Excise Tax, or such taxes may be reimbursable, if articles purchased under this Agreement are used for the Licensee's exclusive use. Certificates of exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent to Contractor upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, prices shall not include the Federal Excise Tax. 40
3.2 Failure to Install Updates or Subscribe for Maintenance. Contractor will not be liable under this Agreement for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee which is caused by (a) the Licensee's failure to install and use the most recent Update, or the second most recent update, provided to it by Contractor, provided that, Contractor has made all reasonable efforts to timely inform Licensee in writing of the release of Updates and appropriate instructions on the proper installation of the Update, or (b) the Licensee's election not to receive, or to terminate, the Software Maintenance and Support. 40

3.3 Excusable Nonperformance. Excusable Non performance is limited to that provided for in the Licensee's purchase order with the Contractor, which incorporates by reference Section 2.603 of the Master Contract (#071B6200250).....40
3.4 Notice. All notices under this Agreement shall be delivered personally, sent by confirmed facsimile transmission, sent by nationally recognized express courier or sent by certified or registered U.S. mail, return receipt requested, to the address shown below or such other address as may be specified by either party to the other in compliance with this Section. Notices shall be deemed effective on personal receipt, receipt of such electronic facsimile confirmation, two days after such delivery by courier and four days after such mailing by U.S. mail.....40
3.5 Entire Agreement. This Agreement and the purchase order, which incorporates the terms and conditions of the Master Contract (#071B6200250) constitutes the complete and final expression of the parties' agreement concerning its subject matter and supersedes all prior or contemporaneous agreements or statements, written or oral, concerning such subject matter. Furthermore, provisions in this Agreement may be amended during the term of the Master Contract in accordance with Section 2.803 of the Master Contract (#071B6200250) provided that such amendments do not contradict or supercede any current provision of this Agreement. Following the expiration of the term of the Master Contract, The Licensee and the Contractor may modify this Agreement through a mutually agreed-upon written amendment. 41
3.6 Survival. The provisions of Sections 1.4, 1.5, 1.7, 1.9, 2.1, 2.3, 2.7, 3.1, 3.2, and 3.5 shall survive the termination of this Agreement, to the extent applicable.....41
IN WITNESS WHEREOF, this Agreement has been executed effective as of the date it is signed by the last of the parties hereto.....42

Items marked "RESERVED" do not apply to this document.

Appendices

Appendix A - Excerpts from Help America Vote Act of 2002 (HAVA) and Election Assistance Commission (EAC) Advisory 2005-004

Appendix B: Excerpts from the 2002 FEC Voting System Standards

Appendix C: Applicable Michigan Compiled Law Statutes and Promulgated Rules

Appendix D: Cost Proposal Form

Appendix E: Unit Price Breakdown Form

Appendix F: Training, Implementation and Staffing Matrix: State Level

Appendix G: Training, Implementation and Staffing Matrix: County Level

Appendix H: Training, Implementation and Staffing Matrix: Jurisdiction Level, 600 precincts

Appendix I: Training, Implementation and Staffing Matrix: Jurisdiction Level, 100 precincts

Appendix J: Training, Implementation and Staffing Matrix: Jurisdiction Level, 5 precincts

Appendix K: Training and Implementation Matrix: Poll worker Training

Appendix L: Training Matrix, Additional Questions

Appendix M: Implementation Matrix, Staffing

Appendix N: Technical Evaluation Clarification Questions and Answers

Appendix O: Price and Term Clarification Questions and Answers

Appendix P: Price Scenarios

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Appendix Q: Optional Training Courses

Exhibits

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Exhibit A: Software License Agreement

Exhibit B: ES&S Purchase Order Form

ARTICLE 1 – STATEMENT OF WORK (SOW)

1.0 PROJECT IDENTIFICATION

1.001 Project Request

This contract is for an accessible voting system solution for the State of Michigan. The Contractor will supply all necessary equipment, hardware, software and all other related services to allow individuals with disabilities to vote independently and privately, as required under the Help America Vote Act of 2002 (HAVA, Public Law 107-252). This contract is for a full voting system solution that can fulfill the HAVA requirement statewide, and to provide a minimum of one accessible voting system for every polling place and one for each county in the State of Michigan (approximately 4,200 locations). The Department of State, Bureau of Elections requires three units free of charge for internal use, testing and training. The exact quantity will be determined at time of purchase. The Contractor is not guaranteed a specific and/or minimum number of orders.

1.002 Background

HAVA provided incentive funds to replace punch card and mechanical lever voting systems in the State of Michigan. Michigan Public Act 91 of 2002 mandated a uniform method of voting throughout the State. The optical scan voting system was chosen as the uniform system. Three vendors were awarded contracts to provide certified optical scan voting systems on a countywide basis. The conversion of all jurisdictions in Michigan to an optical scan voting system took place over a two-year period and is completed.

Currently, individuals with disabilities may be required to vote with assistance in the polling place and/or by absentee ballot. Title III of HAVA, Uniform and Non-Discriminatory Election Technology and Administration Requirements, mandates that an election system be instituted that accommodates voters with disabilities, allowing them to vote in a manner consistent with other voters in the precinct.

HAVA Title III, Section 301 reads in part:

(3) Accessibility for individuals with disabilities. The voting system shall:

(A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters;

(B) satisfy the requirement of subparagraph (A) through the use of at least 1 direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place: and;

(C) if purchased with funds made available under Title II on or after January 1, 2007, meet the voting system standards for disability access as (outlined in this paragraph).

Optical scan voting systems, as they exist today, do not satisfy the requirements of HAVA Section 301(3). HAVA mandates compliance with Section 301 for all federal elections in 2006 and beyond. The full text of HAVA Title III Section 301, as well as the July 2005 Election Assistance Commission (EAC) Advisory Number 2005-004 can be found in Appendix A. EAC Advisory 2005-004 provides guidance on the interpretation of Section 301.

Deleted: Memo to Vendors Re: Board of State Canvassers' Approval of Voting Systems…….149
Section Break (Next Page)

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Deleted: e purpose of this ITB is to obtain bids from qualified vendors to supply

Deleted: qualified vendors

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Deleted: Based upon response and evaluation, the State may choose to award a contract to one or multiple vendors for a single or multiple solutions. For the purposes of this bid solicitation, the projected quantity needed is approximately 4,000 units.

Deleted: expected to be completed by January 2006.??

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Deleted:

Deleted: Bidders shall use these documents as reference in preparing their bids and ensuring full HAVA compliance.

1.1 SCOPE OF WORK AND DELIVERABLES

1.101 In Scope

A. General Requirements

The Department of State's required solution is for the Contractor to provide a single accessible voting system that will interact seamlessly with all optical scan tabulators approved for sale in the State under current contracts with Diebold Election Systems Inc., Election Systems and Software (ES&S) and Sequoia Voting Systems Inc. In addition, the Department of State requires a solution that allows voters with disabilities, including visually impaired voters, to mark a standard optical scan ballot. Employing a single method of voting within each precinct simplifies the voting instructions provided to voters. In addition, the use of the same type of ballot by all voters within a precinct ensures consistency at recounts and serves to protect the secrecy of each ballot cast.

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Further, the Department of State may consider interim solutions (such as the short term rental of HAVA compliant systems) to bridge the gap between the 2006 HAVA mandated deadline and the Department of State's requirement for Federal Election Commission (FEC) Voting System Standards, Independent Testing Authority (ITA) certification and Board of State Canvasser's approval of new voting systems.

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The ES&S AutoMARK terminal has been selected for a statewide purchase. This system was designed to provide voters with disabilities the opportunity to cast ballots privately, without assistance from poll workers. To accomplish this goal, the terminal is equipped with an audio ballot mode and Braille embossed keypad for voters with low vision, full support for use of sip-n-puff devices, foot pedals, or other two-position switch devices for voters with mobility issues, and a zoom ballot display with high contrast settings for voters with color blindness or other vision issues.

The ES&S AutoMARK records voter selections and marks the same paper ballot as all voters in the precinct for tabulation at the jurisdiction's polling place or central tabulator. The ES&S AutoMARK terminal was designed as an assistive device and does not record or tabulate ballot selections. The terminal relies on the customer's existing tabulation equipment to produce results.

The ES&S AutoMARK™ Ballot Marking enables all voters – disabled and non-disabled – to use the same, auditable paper ballot. The ES&S AutoMARK was designed to provide HAVA-compliance and full accessibility for all voters, while preserving a single, paper ballot environment for convenient election administration, reporting, and audit tracking.

The terminal generates a ballot summary for the touch screen and audio ballot after the voter selects ballot options for each contest included on the ballot but before the terminal marks the paper ballot for casting. The ballot summary allows the voters to review and edit selections before marking a final ballot. Voters who use the ES&S AutoMARK's visual ballot features mark ballots behind a standard privacy screen to prevent other individuals at the polling place from viewing the ballot display.

The ES&S AutoMARK's DRE style touch screen includes a zoom and high contrast feature to provide full assistance for voters with low vision impairments. Voters can touch the ZOOM In / Out button on any screen to increase and decrease the size of the displayed text. Voters can select the HIGH CONTRAST option on any screen to switch between high contrast – Black & White – and normal contrast – color – display modes.

The ES&S AutoMARK touch screen and navigational keypad buttons are interconnected and can be used to complete all required operations. On the touch screen interface, various colors and effects have been selected to prompt and guide the voter. These digital buttons meet all applicable usability guidelines regarding size and readability. The navigational keypad has been tested and modified through consultation with special needs groups. The keys are arranged to allow for an intuitive voting session.

Each key has both Braille and printed text labels designed to indicate function and a related shape to help the voter determine its use. Arrow keys are used to indicate up, down, left, and right. The square key serves as an 'enter' key. The diamond-shaped key allows for the screen to be turned on or off. The round key is used to repeat audio instructions. Two sets of long oval keys are used to vary the volume and tempo of audio instructions. Regardless whether the voter uses the touch screen or audio interface, changes can easily be made throughout the voting process by simply navigating back to the appropriate screen and selecting the change.

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Below is a chart depicting AutoMARK's functionality and the benefits.

Features	Functionality	Benefits

HAVA-COMPLIANT OPTICAL SCAN VOTING	• Multiple user interfaces including touch screen, Braille-embossed keypad, sip-and-puff tube, foot pedal, or other 2-way switch;
	• Audio ballots:
	  • Text-to-speech or WAV files
	  • Voter selected speed, tone, and volume of synthesized speech; and
	• High-visibility on-screen ballots
	• Voter-selected font size and contrast settings.
		• The ES&S AutoMARK allows blind, low-vision, limited-dexterity, and learning disabled voters to privately listen to instructions and ballot choices in a volume, tone, and speed level comfortable to them, able to cast their vote unassisted, thereby maintaining their privacy and anonymity.

REAL-TIME PAPER TRAIL	• Marks conventional optical scan paper ballots; and • Processes ballots cast by disabled voters at the same time and in the same manner as all other ballots cast on Election Day.	• The ES&S AutoMARK is the only voting system available in today's market that allows jurisdictions to maintain hard copies of ballots voted on ADA compliant systems while using the same preprinted paper ballot.
PRIVACY AND ACCURACY	• Multiple user interfaces — including visual, audible, tactile-touch and sip-and-puff — allow a disabled voter to make ballot selections unassisted; and • Allows blind and low-vision voters to re-insert ballots prior to casting for confirmation that choices were marked as they intended to vote.	• The ES&S AutoMARK ensures accessibility for all voters, and that blind or low-vision voters can vote with complete privacy and anonymity.

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Features	Functionality	Benefits
SUMMARY PAGE VERIFICATION PROCESS	• Presents voters with the option to review choices, modify / change selections, or fill in any skipped races prior to the ballot printing; and • Unique software applications ensure that only the proper number of candidates is chosen for each race.	• The ES&S AutoMARK reduces the risk of undervoting and prevents overvoting, marginally marked, and incorrectly marked ballots.
MULTILINGUAL CAPABILITY	• Multiple languages can be stored on a single machine for use with both audio and visual ballots.	• The ES&S AutoMARK ensures that all citizens in a diverse population exercise their privilege to vote unassisted in their native language.
ABSENTEE, EARLY AND PROVISIONAL VOTING	• Contains all ballots within a jurisdiction; • Provisional voting is supported; and • Absentee voters can use ES&S AutoMARK VAT at pre-determined locations.	• The ES&S AutoMARK simplifies the process of providing ADA compliant advance, absentee, and provisional voting jurisdiction-wide without changing existing optical scan equipment or processes.
PRE-ELECTION SETUP AND TESTING	• Uses custom management software; • Imports from the Unity suite of software; • Preview on-screen and setup audio ballots; • Ensures machine is set up correctly; and • Single memory card contains all ballots for an election.	• The ES&S AutoMARK integrates closely with elections management software and optical scan hardware, thereby streamlining the setup and testing process before an election.
POLL OPENING AND CLOSING	• No special procedures required for opening or closing polls; and • Audit logs provide operational information and time / date stamps for printed ballots.	• The ES&S AutoMARK makes it easy for poll workers to set up an ADA-compliant voting station for limited vision or dexterity voters.

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Guaranteeing Voter Privacy and Anonymity

ES&S AutoMARK voters are provided the same privacy and security as voters who mark and cast paper ballots. Voters who use the ES&S AutoMARK's visual ballot features mark ballots behind a standard privacy screen. The audio ballot is transmitted over a pair of standard headphones eliminating the possibility of a bystander overhearing a voter's selections. For additional security, voters with low vision can press the ES&S AutoMARK's diamond shaped, SCREEN key at the top right of the terminal's control panel to black out the LCD screen during voting. The ES&S AutoMARK only marks valid response areas on the ballot and does not print additional codes or markings that may be used to identify the voter.

ES&S AutoMARK Equipment Set Up

The ES&S AutoMARK integrates closely with elections management software and optical scan hardware, streamlining the setup and testing process before an election. The ES&S AutoMARK makes it easy for poll workers to securely set up an ADA-compliant voting station for limited-vision or limited-dexterity voters.

Poll Opening and Closing

- The device will go through testing procedure to ensure the device is marking the ballot correctly.
- No special procedures for opening and closing polls; and
- Audit logs provide operational information and time / date stamps for printed ballots.
- The ES&S AutoMARK is not a ballot counting device, therefore zero reports and total reports do not apply.

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The Voting Process

The following are steps taken to successfully vote on the ES&S AutoMARK and have the ballot tabulated on an ES&S Model 100 Precinct Ballot Counter or the Jurisdiction's existing system. Basic procedures for using the ES&S AutoMARK with any precinct based paper tabulator will be similar to the workflow described below.

The voter arrives at the registration desk, picks up a paper ballot, and is directed toward the accessible voting station; The voter takes the ballot – assisted – with the ballot in a secrecy sleeve – or unassisted – and feeds it into the ES&S AutoMARK; After marking the ballot, the voter takes the ballot – assisted or unassisted – to the Model 100 or jurisdiction's existing ballot tabulation system and inserts the ballot into the system's feed tray for tabulation.

Navigating the Ballot

The ES&S AutoMARK's easy to follow on-screen or audible instructions ensure that ballot navigation remains a simple process for all voters. The ES&S AutoMARK terminal presents contests and candidates in the same order that information appears on the paper ballot. Each terminal is equipped with a standard stereo headphone jack and a headset.

The touch screen and navigational keypad buttons are interconnected and can be used to complete all required operations. On the touch screen interface, various colors and effects have been chosen to prompt and guide the voter. These digital buttons meet all applicable guidelines regarding size and readability. The navigational keypad has been tested and modified through consultation with special needs groups and are arranged to allow for an intuitive voting session.
Regardless of whether the voter uses the touch screen or audio interface, changes can be easily made throughout the voting process by simply navigating back to the appropriate screen and selecting the change.

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The ES&S AutoMARK Ballot Summary

After the voter completes all ballot selections, the ES&S AutoMARK generates an audible or visual ballot summary, which a voter must approve before the terminal marks the paper ballot. After the terminal marks the ballot, the voter can re-insert the ballot for audible or visual confirmation that candidates and/or proposals were marked as the voter intended before the voter officially casts the ballot.

Confirming Ballot Selections

After a voter approves the ballot summary, the ES& S AutoMARK generates a screen or audio message informing the voter that the ballot is about to be marked and presents the voter with a final opportunity to return to the ballot and edit selections.

Support for Multiple Ballot Languages
Multiple languages can be stored on a single terminal for use with both audible and visual ballots. Translated from English ballot text, real voice files may be recorded in an unlimited number of languages. The system's software will translate ballot information directly from the English ballot files into the other additional synthesized language options – Spanish, Chinese, Korean, and Japanese. At the beginning of the ballot, multiple language choices are listed on screen or by audio reading, and the voter selects the appropriate language.

Future Modifications
Currently, there are no major AutoMARK modifications relevant to Michigan in the development queue. The AutoMARK was designed from the beginning to support all Federal, and targeted State requirements. The Contractor always looks at potential system improvements, and welcomes requests for enhancements from their customers. These requests are submitted to the Contractor's Product Management department for the appropriate feasibility study.

Interaction with Existing Optical Scan Systems
The ES&S AutoMARK is currently certified at the Federal level for use with ES&S and Optech paper ballot tabulators and can also mark ballots formatted for Diebold® Optical scan devices. AIMS software can import election data coded with ES&S Unity election management software or the Diebold GEMS® software to generate AutoMARK terminal election programs without the need for extensive data re-entry. The software may also be used to generate terminal programs based on a jurisdiction's formatted paper ballot.

The ES&S AutoMARK does not tabulate ballot entries or calculate election results. All reporting functions must be carried out using the purchasing jurisdiction's existing ballot tabulation equipment and reporting software. No additional hardware or software is required to accumulate results or generate election reports.

After contract execution, the Contractor will submit a timeline and detailed project plan for meeting the state's projected HAVA compliance deadline. The Contractor does not expect the state to require interim products during the implementation process. Should the State require an emergency solution prior to the implementation deadline specified due to an emergency change in the election schedule or other unforeseen event, the Contractor will work with the State and make every effort to meet any new requirements.

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Compliance with Federal and State Standards

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Prior to purchase, all systems presented for consideration must:

1) Comply with 2002 Federal Election Commission (FEC) Voting System Standards;

2) Be ITA certified;

3) Be approved by the Board of State Canvassers. Any system(s) selected as a result of this ITB will be required to comply with future standards within timeframes established by the Department of State.

The ES&S AutoMARK – version 1.0 and AIMS – version 1.1.10 – have successfully completed ITA testing to meet 2002 Federal voting system standards, and were CERTIFIED for use under NASED number N-1-16-22-22-001 on October 24, 2005. This system was also granted Board of State Canvasser approval on April 11, 2006.

The Contractor's proprietary hardware and software, as well as any services or activities performed, will comply with applicable requirements of Federal, state and local laws, regulations, and certification requirements pertaining to elections at the time of delivery.

B. Specific Requirements

The voting system shall comply with the guidelines for accessibility set forth in the 2002 FEC Voting System Standards (Sections 2.2.7, 2.4.3.1 and 3.4.9, see Appendix B.). A complete listing of the standards can be accessed at www.eac.gov/election_resources/vss.html. "Voting system" is a term used to describe the overall solution, which may include the accessible voting device interacting with existing optical scan voting systems.

The ES&S AutoMARK Voter Assist Terminal (VAT)™ and all related system hardware and software fully comply with the Voting System Performance and Test Standards (VSS) developed by the Federal Election Commission and provides a HAVA-compliant ballot marking system for voting environments that use existing optical scan paper ballot technology.

1. a. Programming

All programming for voting systems shall be written to facilitate the accurate tabulation of the votes cast for each candidate, office and ballot question for which the voter is lawfully entitled to vote, in conformity with the provisions of Michigan election law sections 168.794, 168.795, 168.795a, 168.795b, 168.795c and 168.797c (See Appendix C) and Electronic Voting Systems – Promulgated Rules R 168.773, Rule 3.

All software and other tools required to ensure proper system functionality for a particular election must be included with each product offered. Programming must be possible at the local level. Preparation of programming by third parties must be allowed. Third parties are defined as Contractors hired by the software licensee, who do not represent the software vendor or jurisdictional clerks to prepare equipment programming.

The Contractor's voting system programming for the AutoMARK Information Management Software (AIMS) is written to ensure accurate tabulation of every vote cast, regardless of classification – candidate, office, question, issue, referendum, and so on. This accuracy conforms to Michigan election law, as required.

It is important to note that the ES&S AutoMARK VAT was not designed to tabulate the number of voters by precinct and ballot style that use the system. This task must be performed using the jurisdiction's existing paper ballot tabulation equipment. Jurisdiction staff can use AutoMARK Information Management Software (AIMS) to program ballot definitions for the ES&S AutoMARK.

ES&S' AutoMARK Information Management System Software (AIMS) is included in this contract to ensure "proper system functionality" for every election in which the voting system is employed.

AIMS

AIMS is a WINDOWS PC-based application software that manages all of the information required by the AutoMARK (VAT) for an election. The Contractor supplies an installer for all election software required for the AIMS system to function smoothly. The system performs a wide range of tasks that record and protect all election information. The AIMS process starts with printed optical scan ballots formatted for the election. In addition to the printed ballot, files produced by compatible election management software may be imported into AIMS for ease in loading data into the ES&S AutoMARK Election Database. In lieu of the import procedure, data may be manually entered into AIMS. Election specific information including precincts, splits, races and candidates is maintained by AIMS. After previewing and verifying all election data, AIMS writes the election database to a secure compact flash memory card (FMC). The FMC supplies ballot content information to the AutoMARK VAT.

Deleted: Proposals for products not currently compliant with FEC standards, ITA certified and/or approved by the Board of State Canvassers *may* be considered. However, the bidder must submit a detailed plan and timeline within their proposal for securing the required certification and approval. Refer to Appendix B for these guidelines. The Department of State will determine overall compliance with these requirements based upon the bidder's plan and/or documentation provided by bidders as well as other sources.¶ Given the short timeframe involved, all proposals must include a detailed plan for meeting the 2006 HAVA compliance implementation deadline (i.e., equipment in place for use in the first Federal election of 2006). If an interim product(s) will be needed to bridge the gap between the 2006 HAVA deadline and the full implementation of the permanent solution, that need must be clearly defined in the timeline.¶
In addition, bidders shall provide the following with each proposal: ¶
1. Evidence that the voting system(s) has been demonstrated to one or more locally or nationally recognized disability advocacy groups representing a wide range of disability concerns.¶
2. A summary of the disability advocacy groups' evaluation of the system including:¶
a. All key discussion and reaction points, both positive and negative. ¶
b. An explanation regarding the manner in which concerns raised by the advocacy groups will be, or have been, addressed through procedural and/or hardware/firmware changes.¶
3. The actual written evaluation of the system from all locally and/or nationally recognized advocacy group(s), representing a wide range of disability concerns that have evaluated the system.¶
It is recognized that both DRE voting systems and voting systems utilizing a physical ballot present challenges to voters with physical disabilities, particularly voters having upper mobility limitations. Bidders should take these challenges into account when presenting their products by offering hardware and procedu ... [1]

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For any and all proposed products: ¶

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AIMS software retains all election information entered into the software's database and may be used as standalone configuration software for the ES&S AutoMARK. AIMS automatically lays out the ballot format for the ES&S AutoMARK but does not produce layouts for paper ballots. Jurisdictions must use their existing paper ballot layout software to generate paper copies of sample and Election Day ballots.

The Contractor will provide the software and training required to code the proprietary equipment to a third party service provider on the condition that the provider is properly trained, licensed and certified by the Contractor to code election equipment. Any third party coding provider must receive initial training, attend yearly and version specific refresher training courses and is subject to an annual license renewal fee for as long as the provider codes the Contractor's equipment. In addition, any third party coding provider must sign a nondisclosure agreement with the Contractor and pass the Contractor's standard security audits and background checks. The Contractor, in agreement with the State, reserves the right to revoke the certification of any third party service provider at any time if that provider fails to meet ES&S' standards for qualification and/or performance.

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b. Audit

The voting system shall comply with the guidelines set forth in the 2002 (section 2.2.5.2.1) FEC Voting System Standards. The system shall produce an audit log containing the information necessary to audit all operations related to ballot tabulation, vote totals, vote totals accumulation and system reports. The audit log shall be created and maintained by the system in the sequence in which each operation is performed.

The audit log shall include:

1) Identification of the program and version being run.

2) Identification of the election file being used.

3) Record of all options entered by the operator.

4) Record of all actions.

5) Record of all tabulation and accumulation activities.

Audit capabilities for systems that do not tabulate votes shall include:

6) Identification of the program and version being run.

7) Identification of the election file being used.

8) Record of all options entered by the operator.

9) Number of voters by precinct and ballot style who have used the system.

The ES&S AutoMARK maintains a printable system operations log that tracks all significant operations that occur on the unit. Each event is stamped with the date and time that the event occurred.

The ES&S AutoMARK does not read ballots or store election results. The terminal audit log maintains records for all of the system information required for the State of Michigan including:

Identification of the program and version being run

Identification of the election file being used

Record of all options entered by the operator

The ES&S AutoMARK was not designed to tabulate the number of voters by precinct and ballot style that use the system. This task must be performed using the jurisdiction's existing paper ballot tabulation equipment.

c. Security

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The system shall:

1) Permit diagnostic testing of all the major components.

The ES&S AutoMARK executes automated diagnostic tests of all system functions and components.

2) Ensure that each voter's ballot is secret and the voter cannot be identified by image, code or other methods.

The terminal only marks valid response areas on the ballot and does not print additional codes or markings that may be used to identify the voter. All tabulation functions are executed with the purchasing jurisdiction's existing paper ballot tabulation equipment.

The ES&S AutoMARK system also comes with a port to allow a voter with an alternate input device - a sip and puff tube or foot switch – to vote in privacy. Increased privacy for voters without use of their hands can be provided by eliminating text from the ballot.

Since the ballot is coded, the ES&S AutoMark will display and read the appropriate ballot to the voter, allow them to make their selections, and mark the ballot. Since no text is on the ballot, privacy is maintained. Use of a secrecy sleeve by the poll worker to receive the ballot, and transport the ballot from the ES&S AutoMark to the precinct optical scanner ensures even greater privacy.

3) Provide for summary reports of votes cast by extracting information from a memory device or a data storage device.

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The ES&S AutoMARK does not tabulate ballots or store election results. All reports that include vote totals must be generated by the purchasing jurisdiction's existing ballot tabulation equipment or election reporting software.

4) Provide records regarding the opening and closing of the polls to include the following:

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a) Identification of the election, including opening and closing date and times.

The ES&S AutoMARK identifies the election and the terminal opening and closing dates and times in the system audit log.

b) Identification of the unit.

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The terminal serial number is included in all system audit reports.

c) Identification of ballot format.

The ES&S AutoMARK's subsystem translates all paper ballot formats created for a State of Michigan jurisdiction's election into audio or visual format on the terminal's touch screen. Because the unit handles all the ballots styles for an election, specific ballot identification is not included in audit reports.

d) Identification of candidate and/or issue, verifying zero start.

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The ES&S AutoMARK does not tabulate ballots or store election results. All pre-election zero reports used to verify that equipment totals have been cleared prior to a live election must be produced with the purchasing jurisdiction's existing tabulation equipment.

e) Prevent printing of summary reports before the sequence of events required for closing of the polls are completed.

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The ES&S AutoMARK does not tabulate ballots or store election results. The terminal cannot generate system audit reports until the proper procedures have been carried out to close the system for voting.

f) Prevent the loss of data during generation of reports.

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The ES&S AutoMARK stores all election and audit data to a removable Flash memory card stored behind a locking panel on the front of the terminal. All data remains secure during report generation.

g) Ensure integrity and security of data maintained according to time frames for Federal, State and local elections.

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The ES&S AutoMARK meets all requirements for data retention and integrity required by the FEC Voting System Standards. The terminal's Flash memory card should be stored along with all paper ballots and election programs for the jurisdiction's existing tabulation equipment should be maintained for a minimum of 22 months to comply with Federal voting system standards.

h) Prevent functions to be initiated out of sequence.

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All setup and calibration functions must follow the logical sequence included in the system operations manual in order to successfully open the terminal for ballot marking. The terminal does not allow functions to be performed out of sequence.

i) Ensure that all security provisions are compatible with administrative set up and operational use.

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The ES&S AutoMARK was designed to integrate with existing paper ballot tabulation equipment to provide a secure voting environment for voters with a wide variety of disabilities. The terminal meets all FEC standards for election and polling place security and does not require special or extraordinary measures to ensure terminal security during set up or use.

j) Provide an environment in which all databases are maintained and all necessary provisions are made for security and access control according to current industry standards.

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AIMS software is fully compatible with standard Windows NT passwords used to prevent unauthorized access to the program. Users should make full use of Windows security features and maintain a secure physical environment for the AIMS PC. Complete security instructions and recommendations are included in ES&S AutoMARK and AIMS system documentation.

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It is the responsibility of the jurisdiction to provide a secure physical and procedural environment for the storage, handling, preparation, and transportation of the system hardware, including ES&S AutoMARK terminals and the computer used to run AIMS software. In addition, the AIMS computer should not be networked with other computers. The AIMS computer should not be used for any other purpose other than running AIMS. The System Administrator should be authorized to perform system administration functions only, such as the initial software load, system upgrades, and system backups.

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k) Allow for extraction of data from memory devices to a central host.

Not Applicable. The ES&S AutoMARK does not read ballots or store election results. All results consolidation, processing and reporting functions are carried out using the purchasing jurisdiction's existing tabulation equipment and election reporting software.

l) Allow for the sealing of the programmable memory device into the tabulator using a seal approved for use by the Department of State.

The ES&S AutoMARK's election configuration is stored to a standard Flash Memory Card that is inserted behind a locking panel on the terminal's control panel opposite. This card is removable, reusable, and interchangeable with other ES&S AutoMARK terminals. The terminal's memory card contains all of the election data – contests, candidates, choices and setup instructions – required to emulate the jurisdiction's ballot either on screen or with terminal audio files. Because the ES&S AutoMARK does not tabulate election totals, no results are stored to the terminal's Flash Memory Card.

d. Alternative Language Accessibility

The voting system must have the capability to provide all information, excluding the names of the candidates, that would otherwise be provided by the voting system in English (whether written or oral) in the language(s) that various jurisdictions are required to provide materials pursuant to the Voting Rights Act of 1965 and related federal regulations.

The ES&S AutoMARK supports real and synthesized voice files. Translated from English ballot text, real voice files may be recorded in an unlimited number of languages. The ES&S AutoMARK uses standard .wav format files for the audio ballot prompts, candidate names, and so on, thereby providing maximum flexibility when preparing sound files. The ES&S AutoMARK's voice synthesis software translates ballot information directly from the English ballot files into any of four synthesized language options – Spanish, Chinese, Korean, and Japanese. At the beginning of the ballot, multiple language choices are listed on screen or by the audio and the voter selects the appropriate language.

e. Error Rates

The voting system error rate must not exceed the allowable error rate established by the 2002 FEC Voting Systems Standards **(See Appendix B, Section 3.2.1).**

The Contractor designs all system hardware and software to meet the FEC's target error rate of no more than one in 10,000,000 ballot positions with a maximum acceptable error rate in the test process of one in 500,000 ballot positions. The ES&S AutoMARK has been extensively tested to meet this error rate by a qualified Independent Testing Authority (ITA) and has been certified to 2002 FEC standards by NASED.

f. System Backup

The back-up system shall:

1) Remain in operation during power surges or other abnormal electrical occurrences.

If electrical power is lost during the voting process, the ES&S AutoMARK VAT automatically switches to battery back-up power, thereby ensuring continued voting can occur.

If power is interrupted during voting, therefore, the terminal's backup subsystem was designed to perform the following functions:

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The unit may be operated from line power with or without a battery installed. Recommended practice, however, is to be sure that a fully charged battery is available, to provide the intended protection against a loss of AC power;The LCD display and backlight will run continuously, with reduced backlight brightness, when on battery backup, to conserve power; and Power to the scanners and printer will be switched on only when needed. The ES&S AutoMARK VAT voting system does not store vote totals or election results; the terminal's election program is stored to an independent, removable flash memory card to prevent data corruption during a power loss.

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2) Engage immediately with no loss of data in the event of disruption of electrical connection.

In the event that power is lost during voting, the ES&S AutoMARK backup system engages immediately with no loss to data or functionality.

3) Power all components of the voting system for a minimum of two hours.

When fully charged, ES&S AutoMARK backup batteries contain enough power to allow the unit to operate continuously for a minimum of two hours.

g. Performance Capabilities

The voting system shall comply with the guidelines for casting a ballot set forth in the 2002 FEC Voting System Standards **(See Appendix B, Section 2.4.3)**.

The ES&S AutoMARK VAT complies with all guidelines for casting a ballot as defined in the 2002 FEC Voting System Standards.

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The following attributes are desired in any voting system offered:

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1) Accurately record or report all selections made by the voter.

Not Applicable. The ES&S AutoMARK does not read ballots or tabulate election results. The terminal reads an inserted paper ballot and translates the ballot contents into display or audio format for voter accessibility. After a voter completes the ballot and confirms his or her selections, the terminal accurately marks the voter's paper ballot and returns the ballot to the voter for tabulation with the jurisdiction's existing paper ballot counting equipment.

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2) Provide a method by which a voter can verify his/her choices prior to the ballot being marked or vote cast, either by print or audio and visual display.

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The ES&S AutoMARK presents voters with a full ballot summary prior to marking the paper ballot. The summary is presented in either display or audio format depending on the type of ballot presentation the voter selected after inserting the paper ballot into the terminal. Voters can edit ballot responses directly from the summary screen.

After the voter uses the terminal to mark the paper ballot, he or she may then review the paper ballot for accuracy. If the voter wishes to make changes to the paper ballot, he or she can return the document to a poll worker who follows the states procedures for spoiling the ballot and giving a replacement ballot to the voter.

3) Provide that each voter's ballot is secret and the voter cannot be identified by image, code or other methods.

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The ES&S AutoMARK terminal only marks valid response areas on the ballot and does not print additional codes or markings that may be used to identify the voter.

Voters may also request a secrecy sleeve upon entering or leaving the booth. The ES&S AutoMARK system also comes with a port to allow a voter with an alternate input device - a sip and puff tube or foot switch – to vote in privacy. Eliminating text from the ballot can provide increased privacy for voters without use of their hands.

Since the ballot is coded, the ES&S AutoMark will display and read the appropriate ballot to the voter, allow them to make their selections, and mark the ballot. Since no text is on the ballot, privacy is maintained. Use of a secrecy sleeve by the voter or poll worker to receive the ballot preceding – and transport the ballot from the ES&S AutoMark to the precinct optical scanner ensures even greater privacy.

4) Present the ballot to the voter in a clear and unambiguous manner.

Contests are presented in the same order on the ES&S AutoMARK ballot as they appear on the paper ballot. The terminal presents voters with easy to follow, on screen instructions that guide the voter through the entire ballot marking process.

5) Provide audio and/or visual instruction on the use of the system.

The ES&S AutoMARK design includes full video and audio instructions and ballot support with a Braille embossed, tactile keypad to provide selection inputs for voters with low vision or no vision. The ES&S AutoMARK supports real and synthesized voice files. Translated from English ballot text, real voice files may be recorded in an unlimited number of languages. The ES&S AutoMARK uses standard .wav format files for the audio ballot prompts, candidate names, and so on, thereby providing maximum flexibility when preparing sound files. The ES&S AutoMARK's voice synthesis software translates ballot information directly from the English ballot files into the other four synthesized language options – Spanish, Chinese, Korean, and Japanese.

The voter uses the navigation keypad to control the audio interface and to increase or decrease volume and speed of the audio. The audio controls are incremental rather than absolute; the voter's preferred settings are stored in system memory for the remainder of their voting session. After each voter has finished voting, the audio settings revert to the default values.

ES&S AutoMARK voters are provided the same privacy and security as voters who mark and cast paper ballots. The audio ballot is transmitted over a pair of standard headphones eliminating the possibility of a bystander overhearing a voter's selections. For additional security, voters with low vision can press the ES&S AutoMARK's diamond shaped, SCREEN key at the top right of the keyboard to black out the terminal's LCD screen.

6) Accommodate voters unable to physically indicate a voting choice by using a pointer, blow tube or other method.

The ES&S AutoMARK terminal was designed to provide voters with a variety of disabilities the opportunity to cast ballots privately, without assistance from poll workers. To accomplish this goal, the Contractor equipped the terminal with an audio ballot mode and Braille embossed keypad for voters with low vision, full support for sip-n-puff, foot pedal, or other two-position switch devices for voters with mobility issues, and a zoom ballot display and high contrast settings for voters with color blindness or other vision issues.

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7) Provide audio and visual verification of vote selections as the voter moves through the ballot.

Each voter selection is repeated by terminal audio files or highlighted on screen immediately after the voter makes a selection. After the voter completes a ballot, the ES&S AutoMARK presents the voter with either an audio or visual ballot summary to provide one final opportunity to edit ballot selections prior to marking the ballot. After the ballot is marked, the voter may then review the paper ballot prior to insertion into the jurisdiction's existing paper ballot tabulator.

8) Provide an ability to program multiple languages into the audio interface.

The ES&S AutoMARK supports real and synthesized voice files. Translated from English ballot text, real voice files may be recorded in an unlimited number of languages. The ES&S AutoMARK uses standard .wav format files for the audio ballot prompts, candidate names, and so on, thereby providing maximum flexibility when preparing sound files. The ES&S AutoMARK's voice synthesis software translates ballot information directly from the English ballot files into the other four synthesized language options: Spanish, Chinese, Korean, and Japanese.

9) Provide a warning if no votes are recorded.

If a voter navigates a contest and selects fewer than the allowed number of ballot selections for a contest, the ES&S AutoMARK issues the undervote warning either on-screen or in audio format.

10) Provide a method for recording write-in votes.

The ES&S AutoMARK does not store election results or tabulate ballot selections. All write-in tabulation is handled by the jurisdiction's existing vote tabulation system. Significantly, however, the terminal allows for the selection of write-in candidates and prints the selected name on the ballot for the voter. When a voter selects a write-in target for the ES&S AutoMARK, the terminal displays an emulated keyboard on the unit's touch screen. Voters use this keyboard to input the name of their selected write-in candidate. The candidate name then appears in place of the write-in line on the selected contest screen and on the ballot summary for the selected contest. When the voter approves the ballot summary and marks the ballot, the ES&S AutoMARK prints the write-in candidate name in the appropriate space on the paper ballot and marks the write-in as voted.

Voters who use the terminal's audio ballot navigate audio files for each letter of the alphabet and press the terminal's diamond SELECT button to input each letter of a write-in candidate's name. After candidate selection is complete, the terminal uses synthesized or real audio files to spell back the name of the write-in candidate to the voter. The voter may then approve the selection, edit the input name, or cancel the selection and enter a new write-in name.

11) Prohibit overvotes before final vote is cast.

The ES&S AutoMARK terminal allows voters to select only the allowed number of candidates or selection targets for each ballot contest. If a voter attempts to overvote a contest – select more than the allowed number of ballot targets – the terminal generates a warning message and instructs the voter to cancel a previous candidate selection before choosing another candidate.

12) Prohibit crossover votes on a partisan primary ballot.

The ES&S AutoMARK emulates the voter's paper ballot on the terminal's screen or with the unit's audio files. Rejection of prohibited crossover ballots must be handled by the jurisdiction's ballot tabulation equipment.

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13) Have the capability of storing and presenting to the voter any ballot style in use in given jurisdiction.

The terminal can read and present the voter with any paper ballot variation required at the polling place. All contests and candidates appear on the terminal screen in exactly the same order and format as they appear on the inserted paper ballot.

14) Have the ability to maintain multiple ballot combinations on a single voting unit.

Theoretically, there is no limit to the number of ballot style combinations maintained by the ES&S AutoMARK. Since the voting system does not tally or store votes, this requirement is non-applicable to the hardware of the proposed voting system. The terminal simply marks a conventional optical scan paper ballot, which is then cast on the Model 650 Central Count Optical Scanner, the Model 100 Precinct Ballot scanner, or other existing tabulation device.

15) Have the ability to accommodate multi-member districts.

All the Contractor's systems accommodate elections that contain multi-member districts running in the same election. Typically, each member or seat position is set up in the master election database as a separate office.

16) The State's preferred solution will provide a voter verifiable paper audit trail that accurately documents the votes cast for each ballot and can be used for recount purposes.

The ES&S AutoMARK marks the same paper ballots used by every voter at a polling place. This ballot is the paper audit trail for the election process.

In addition to requirements 1-16, the following attributes are desired in an optical scan ballot marking system.

The ES&S AutoMARK does not tabulate election results but does scan paper ballots for redisplay or for audio ballot or on-screen presentation. Some of the following requirements apply to the system.

17) Be easily transportable.

ES&S designed the ES&S AutoMARK terminal to withstand the normal wear and tear associated with frequent transportation to and from polling places. The container is equipped with wheels and a collapsible handle for easy transportation to and from the polling place. The unit's included shipping container provides sufficient padding and protection to permit long-distance transport of the unit via common carrier. When the system is not in use, the ES&S AutoMARK's LCD screen folds down and a hinged cover folds over the screen for protection during transportation and storage.

18) Allow omni-directional feed of the ballot.

Voters can feed ballots into the ES&S AutoMARK in any orientation.

19) Accommodate the visually impaired by magnification of the ballot.

The ES&S AutoMARK provides a screen zoom feature and a high contrast feature. Voters can touch the ZOOM In/Out button on any screen to increase and decrease the size of the displayed text. Voters can select the HIGH CONTRAST option on any screen to switch between high contrast – Black & White – and normal contrast – color – display modes.

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20) Accommodate the visually impaired by audio presentation of the ballot.

The ES&S AutoMARK design includes full audio ballot support and a Braille embossed, tactile keypad to provide ballot marking support for voters with low vision or no vision. The ES&S AutoMARK supports real and synthesized voice files. Translated from English ballot text, real voice files may be recorded in an unlimited number of languages. The ES&S AutoMARK uses standard .wav format files for the audio ballot prompts, candidate names, and so on, thereby providing maximum flexibility when preparing sound files. The ES&S

AutoMARK's voice synthesis software translates ballot information directly from the English ballot files into the other four synthesized language options – Spanish, Chinese, Korean, and Japanese. The voter uses the navigation keypad to control the audio interface and to increase or decrease volume and speed of the audio. The audio controls are incremental rather than absolute; the voter's preferred settings are stored in system memory for the remainder of their voting session. After each voter has finished voting, the audio settings revert to the default values.

ES&S AutoMARK voters are provided the same privacy and security as voters who mark and cast paper ballots. The audio ballot is transmitted over a pair of standard headphones eliminating the possibility of a bystander overhearing a voter's selections. For additional security, voters with low vision can press the ES&S AutoMARK's diamond shaped, SCREEN key at the top right of the keyboard to black out the terminal's LCD screen.

21) Allow replacement of paper, ink cartridges, batteries, etc. with off-the-shelf products.

The ES&S AutoMARK prints all reports on blank ballot code stock and does not require an external printer with special paper requirements. ES&S AutoMARK replacement batteries should be ordered through the Contractor.

22) Allow for high contrast visual display.

The ES&S AutoMARK terminal can display all ballot information and instructions in full color or high-contrast black and white. Voters simply touch the HIGH CONTRAST option on the terminal's touch screen to change the display format.

C. Major Tasks

The following is a preliminary analysis of the major tasks involved in developing a final implementation plan for this project. The Contractor must provide a plan for supplying all polling places in the State of Michigan with a minimum of one accessible voting system that complies with all applicable HAVA Title III requirements. The Contractor must supply the accessible voting system and all relevant software, hardware, related components, programming for jurisdictions with ES&S optical scan equipment, and services (i.e., everything needed to allow for full functionality of the equipment in an election) and documentation directly to the local units of government. The Contractor shall also provide training and all related materials including voter education programs, overall knowledge transfer to State and local election officials, and pre and post delivery, administrative and technical support.

Upon contract award, the Contractor shall submit a timeline and detailed project plan for meeting the State's projected HAVA compliance deadline in this contract. This plan includes provisions for all tasks outlined in Section 1.101C of the State's ITB.

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1. The Scope of Work includes:

a. Development and delivery of an implementation plan for all polling locations within each county.

The assigned Contractor's Account Manager will deliver comprehensive system implementation plans for all polling locations within each jurisdiction. Included in this plan will be a team with experience in successfully installing state and countywide election solutions.

Upon award, the Contractor will coordinate with the State and purchasing jurisdictions to generate these implementation plans to include all required tasks.

b. Equipment delivery, installation and acceptance testing.

Employing best practice approaches and experiential studies, equipment delivery, installation, and acceptance testing is conducted with a successful Election always in view. Upon delivery, the Contractor will assist State and/or local personnel with accurate equipment installations and the application of stringent acceptance testing criteria designed to inspect each delivered item for physical damage and test the functionality of all equipment and software delivered to the State and its Jurisdictions.

c. Training election officials.

Clear product understanding is critical to Michigan's ongoing election successes. Election Officials are trained in all product, application, and use approaches necessary to ensure successful elections. Upon award, the Contractor will work with State and local election officials to develop a training plan that meets the needs of all purchasing jurisdictions. For a fully detailed description of the Contractor's training approach, class offerings, and methodology, please refer to Appendix J – Training.

d. Providing training materials for voters and election officials.

ES&S provides full training materials for voters and election officials upon commencement of system training. Available materials may – upon selection by the State and its Jurisdictions – span a range from hard copy manuals, workbooks, and checklists, to electronic files, CD-ROMS, and other media tools.

e. Pre and post delivery administrative and technical support.

During the warranty period and while the State and/or Jurisdiction continues to pay for and receive software maintenance and support, the Contractor will provide upgrades, new releases and maintenance patches for the Contractor's proprietary software without additional charge (except for upgrades or new releases that are required due to changes in law that constitute a material change and/or require a substantial amount of time to complete).

Customer Service and Technical Support Representatives are available to provide assistance via telephone. The dedicated Customer Service telephone number is 877-ESS-VOTE (877-377-8683). Customer Support Representatives (CSRs) monitor this dedicated line from 8 a.m. to 5 p.m. (CST), Monday through Friday. These hours are extended to provide clients 24-hour support during peak election periods. ES&S will respond to telephone calls placed to our service center within two hours of placing the call and replace any accessible voting system that cannot be repaired within one hour of a service technician's arrival on site.

ES&S has included pricing for one ES&S support representative in each Michigan County on Election Day. Optional, on-site election support may be requested by a jurisdiction and is subject to the pricing, terms and conditions of the agreement in place at the time the request is made.

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2. Time line

Equipment delivery, installation, acceptance testing and detailed user training must be completed no later than thirty days (Saturday, July 8, 2006) prior to the first election of use in 2006. Coordination between the Contractor and the jurisdictions in this regard will be critical.

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1.102 Out Of Scope

Training on election law, forms and procedures are outside the scope of this contract. Training election officials to assist voters with disabilities is outside the scope of this contract.

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1.103 Environment

These are the current voting system environments in the State of Michigan:

- Diebold Accuvote-OS
- ES&S M100
- Sequoia Optech Insight

The Department of State intends that the voting system included on this contract will allow for interaction with current systems for the purpose of overall vote accumulation in each jurisdiction.

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The Contractor designed the ES&S AutoMARK to mark ballots formatted for ES&S, Sequoia Optech and Diebold® ballot scanning equipment. The AutoMARK is currently ITA certified for use with all ES&S paper ballots.

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AutoMARK Information Management System (AIMS) software can import election information from compatible election management systems, eliminating the need for duplicate data entry. The program may also be used as a standalone system to code ES&S AutoMARK terminals based on the jurisdiction's formatted paper ballots.

ES&S AutoMARK/AIMS System Compatibility

Company	Ballot Marking Compatibility	Software Integration Data Entry	Software Integration Reporting	Federal Certification Status	MI Certification Status
ES&S Model 100	Yes	Unity	Yes	Completed ITA Testing 10/24/05 NASED # N-1-16-22-22-001	Completed April 11, 2006
Diebold® Accuvote-OS	Yes	GEMS® Customer Responsibility	Yes Customer Responsibility	N/A*	Bureau of Elections completed April 11, 2006
Sequoia® Optech Insight	Yes	EMS Customer Responsibility	Yes Customer Responsibility	N/A*	Bureau of Elections completed April 11, 2006

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The ES&S AutoMARK is compatible with all of the voting systems currently in use in the State of Michigan. The system requires electronic ballot files from each system, but does not require copies of the other vendor's software products.

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1.104 Work and Deliverables

The Contractor shall provide Deliverables/Services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

A. Development of Implementation Plan for each County.

Purchases will be coordinated at the county level. The Contractor is required to work within established State of Michigan purchasing processes and deadlines (as communicated by the Department of State), and to work with the Department of State and each County Clerk in developing a documented and agreed-upon implementation plan for all jurisdictions in each county. The Contractor will develop these plans for all counties in the State.

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Upon contract award, the Contractor will work with the State of Michigan and its local jurisdictions to provide final scheduling for all implementation tasks on an implementation plan based on the customer requirements. Final implementation dates and tasks will be dependent upon the quantities purchased and the specific needs of the purchasing jurisdiction. Additionally, the Contractor's implementation plan shall coincide with the implementation and training matrices in Appendices F-M.

Project Approach Overview and Major Milestone Schedule
Understanding logistical requirements, deadlines, contingency planning, risk management, and quality controls, the Contractor will work to ensure the delivery schedules are met, installations are conducted as mutually agreed-upon, and testing is completed well in advance of Election Day performance.

Many elements and election professionals must work together to contribute to the State of Michigan's successful delivery, setup, and testing. Following, these elements and professional roles are described in greater detail.

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Account Management Approach and Team

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The Contractor's Account Management (AM) approach includes a process where they communicate with the Michigan DOS to clarify their understanding of the State's requirements and the Contractor's commitments at the front end. This begins with a straightforward review of the Contractor's implementation plans.

This review includes -

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• Confirmation and further development of the project timeline;
• Establishment of roles and responsibilities including all scope of work;
• Establishment of an agreeable acceptance checklist; and
• Master Milestone review.

The Contractor bases scheduled milestones upon -

Delivery;
Acceptance testing;
Training; and
First equipment use.

Following the implementation review, the Contractor finalizes the assignment of key associates to the MDOS service team. This guarantees that Contractor not only provides the best system solution, but also provides services that are in-line with the client's requirements. Through this process – and of utmost importance to the State - the MDOS team will have only one point of contact – the assigned Account Manager (AM).

The Contractor's Account Management methodology consists of the following:
• Highly trained and experienced election-specific AMs and staff;
• Clear roles and responsibilities between the Contractor and the customer;
• Written Statement of Work Plan;
• Project status reporting on weekly basis and communication process;
• Communication plan, between the Contractor and the State, including issue resolution plan;
• Internal quality control process and milestone roadmap;
• Signoff procedures on deliverable/milestone completion;
• Problem identification/resolution approach and procedure; and
• Conduct Post Mortem assessment

Deliverables, Milestones, and Signoff Procedures
Elections conducted in a technologically driven environment require a higher degree of planning, communication, resource allocation, and discipline. The Contractor believes it is imperative to implement the common best practices inherent in any project management endeavor. The Contractor has taken an approach, therefore, that builds on these best practices.

The Contractor treats the implementation as a joint venture, where every task is addressed by the State and Jurisdiction's election staff and the Contractor's Project Team. Timelines are kept, and regularly scheduled meetings are held with key individuals to help keep the Elections Staff and the Contractor's Project Team informed – on track, on time, and on budget.

The project organization takes into account the key stakeholders associated with the implementation and provides for a direct reporting structure to the Contractor's AM and includes oversight by Al Benek, Vice President of Professional Services. Major tasks and milestones are determined by the Scope of Work, which is used by the project management team to create a working project timeline.

Project Timeline
Upon contract award and the agreement with the State of Michigan and the Contractor on the scope of services and major elements of the project plan, the Contractor will develop a project plan timeline. The timeline features deliverables and scope of services that will provide an initial base-reporting environment.

Summary
A strong Account Management team and process involves many factors. Listening, communicating consistently and effectively, applying sound diagnostic approaches, delivering timely resolutions, applying innovate solutions, accurate delivery, and consistent follow-up each contribute to this success.

B. Delivery, Installation and Acceptance Testing of the Accessible Voting System.

To confirm successful delivery, installation and acceptance testing of all accessible voting systems, the Contractor will:

1. Comply with all delivery and set-up dates detailed in **Section 1.101C, Major Tasks**.

2. Conduct acceptance testing jointly between the Contractor and the local jurisdictions. Acceptance testing will include at a minimum:

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a. Hardware testing against a State provided checklist.

Logic and accuracy testing for the ES&S AutoMARK VAT is performed to test mark accuracy and the terminal's election programming. Results for these tests do not affect stored vote totals for the jurisdiction. Every ES&S product has specific tests – to verify correctness of the ballot and the equipment. The Contractor recommends running three tests -

1. Internal 'readiness' test to ensure the election definition is correct and all of the equipment is working properly;
2. Public logic and accuracy test to prove to the voting public that the equipment is working properly; and
3. Post-election test to confirm that the equipment worked properly.

The Contractor's Account Services Team will guide the State/Jurisdictions through these procedures and provide checklist and plans during the implementation phase. The AM team also tests against the State provided checklist and in the presence of State appointed representatives.

a. Functional testing. (Sample ballots will be provided by the Department of State.) To complete the tests, the Contractor shall provide the necessary programming and test ballots.)

Functional testing is critical to ensuring a successful Election Day. The Contractor typically conducts this testing – using sample ballots provided by the State to prepare programming and test decks – well in advance of first equipment use.

1) For ballot marking systems a demonstration that the accessible voting system works with the appropriate optical scan tabulator.

The Contractor routinely provides in-depth demonstrations of their voting equipment. Included in this demonstration for the State of Michigan and its Jurisdictions will be the ES&S AutoMARK VAT with AIMS election system and the AccuVote, Optech Insight, and Model 100 Optical Scan tabulators.

Ensure submission of a completed receipt of delivery/acceptance form (to be provided by the Department of State) signed by a duly authorized local representative attesting to the successful installation and acceptance testing of the equipment delivered to each local jurisdiction.

The Contractor will provide a completed receipt of delivery and acceptance form – as provided by the Department of State and signed by an authorized local representative – attesting to the successful installation and acceptance testing of equipment delivered to each local Michigan Jurisdiction.

C. Training and User Information.

The Contractor's training approach anticipates the wide-range of skills that must be developed to carry out a trouble-free election. From effective warehouse management, to the programming and operation of voting equipment, and reporting results – the training program covers all of the bases. The Contractor's training approach is flexible to accommodate the specific laws, regulations, and procedures in a jurisdiction. From the outset of every implementation, the Contractor identifies a training coordinator who is responsible for packaging and delivering a customized training program that best meets the State's needs.

The Contractor's training approach involves courses that are tailored to specific audiences, increasing the relevancy of every minute any election worker spends in the classroom. In addition, the Contractor will pair the right instructors with the curriculum, and offer guidance on selecting students who are most likely to succeed –

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1) For DREs, logic and accuracy testing on a minimum of one tabulator as prescribed under the Electronic Voting System – Promulgated Rules, for both primary and general elections.¶
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As a new voting system implementation partner, the contractor understands that a successful transition depends on more than executing a logistics plan. A key element to success is the contractor ensuring that the State is empowered with the knowledge to administer the new system, and carry out a trouble-free election. Therefore, the contractor considers training to be a critical component of their overall implementation plan. Their goal is to achieve a strong level of comfort and competency among all who will be responsible for managing the election process.¶
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in the training and on Election Day. The Contractor's training approach places a premium on 'real-world' experience. They will incorporate a high-degree of hands-on instruction to simulate as much as possible the election process.

Training is not a one-time event. The Contractor offers a long-term commitment to the State and election personnel to ensure that every Election Day is a success. They offer refresher training after the first use, and evaluate the effectiveness of every class to continually refine and improve the customized training program.

The Contractor has selected their training staff to provide the very best training experience for the State and it's election workers. The Contractor requires all of their personnel to become qualified as trainers through at least two years of instruction and experience in a technical field. In addition, each of the instructors – and the individuals who oversee the training program – has personal experience in carrying out elections, on the Contractor's voting equipment.

The Contractor is committed to maintaining a flexible approach for providing the right mix of products, training, support and service to the State of Michigan. The Contractor is willing to tailor its approach to meet unique State or Jurisdiction requirements. To that end, the Contractor offers Training Program options for Michigan's Jurisdictions.

By-Mail, Early In-Person, and Election Day Training

When processing all types of voters – from absentee and early to split precinct and provisional – the full course of Unity training identifies and trains the State of Michigan's Jurisdiction personnel in these processes.

During training, written manuals, checklists, and other tools are provided to ensure 'refresher' materials are always at hand. For a complete list of all training courses available to the State of Michigan and its Jurisdictions, please refer to Appendix Q.

Customization and Integration

While the Contractor has developed a standard curriculum approach, they customize and integrate into their training the laws, regulations, and procedures unique to the State and its Jurisdictions. The Contractor will work with State election staff to develop a training product that is current and relevant to the State of Michigan.

Training of All Election-Related Functions

The Contractor will assist the State in the development of systematic instructional training manuals for all Election Support staff. The Account Manager assigned to this Contractor will meet with key staff to review existing procedures and processes with a plan for revising them based on each Jurisdiction's new Election System.

For training offerings - including the course name, a description of the class content, prerequisites, duration, and recommended class size, please refer to Appendix Q.

1. Within 5 business days after the execution of a contract, the Contractor shall provide the Department of State (Bureau of Elections) with the final version of all training materials that will be utilized during the contract period, along with step-by-step procedures for use of the accessible voting system.

2. Training materials, once approved by the State, shall be provided to local jurisdictions at the time of delivery of equipment.

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3. Within 5 business days after the execution of a contract, the Contractor shall provide a training program outline and an implementation schedule for the training of State and local election officials.

The Contractor will make every effort to provide a training program outline and schedule within a reasonable timeframe. Depending on the type of rollout required for the State, the equipment delivery schedule and the availability of regional training facilities, the Contractor may require more than five days, but may not exceed 15 days, to formulate a final training schedule to the State.

4. Extensive training on all aspects of the accessible voting system shall be provided for local election officials at a time jointly agreed upon by the Contractor and the Department of State, but no later than 30 days prior to the first use in an election in 2006. The training shall provide local election officials with the ability to operate the accessible voting system without continuous support by the Contractor. The Contractor may provide training on a regional basis with the written approval of the Department of State in consultation with each county clerk involved.

The Contractor uses industry best practices when delivering professional training to State-designated election officials. Part of this process is in ensuring the official is comfortable operating the voting system without continual support by the Contractor. The Contractor will work with Michigan election personnel to schedule mutually agreeable times for equipment and software training, based on the election official's availability and election schedule.

5. Extensive training on all aspects of the accessible voting system shall be provided for State election officials at a time jointly agreed upon by the Contractor and the Department of State. The training shall provide State election officials with the ability to operate the accessible voting system without continuous support by the Contractor.

The Bureau of Elections will coordinate training programs for local election officials addressing issues related to interacting with and assisting voters with disabilities in order to ensure that voters are not disenfranchised and that each individuals' rights are protected in the voting process. The Bureau of Elections expects Contractor training to focus on the technical use of the equipment.

Employing best practices to ensure knowledge transfer, participant competency, and comfort levels when unassisted provides the best method for training Election Officials.

The Contractor's training provides the successful participant with the knowledge and skills required to assist voters with disabilities and consequently ensuring all voters' rights to privacy, security, ease-of-use, and accuracy.

6. The Contractor's proposed training plan shall include, but shall not be limited to, the following topics:

Multiple Training Areas
Numerous areas are covered during one or more of the Contractor's training courses. Appropriate manuals, checklists, and other materials are provided to each participant upon attending the required training.

a. Programming the accessible voting system.

Programming Units
Successful understanding and expertise is gained in the full Unity Suite training course.

b. Setting up the accessible voting system.

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Polling Place Preparation
The Contractor's approach to training election staff centers around complete equipment operations, specific to the piece of equipment the staff member – election official, team member, poll worker, election official, and so on – will be using. During the training phase, the provided pre-election checklist covers the preparation of the polling place at the highest levels.

c. Election Day operations from the opening to the closing of the polls.

Accurate Precinct Results
Ensuring accurate precinct results is and integral component in all training modules.

Audit Procedures
The Election Reporting Manager (ERM) module of the Unity training course covers the reporting aspect of these procedures; the State of Michigan-defined and regulated processes can be incorporated into this knowledge transfer.

Conducting a Contest
Open-to-close operations are trained in courses specific to the equipment being used on Election Day.

Records Preservation
The Election Reporting Manager (ERM) of the Unity training course covers the reporting aspect of this process; State of Michigan-defined and regulated processes can be incorporated into this knowledge transfer.

Election Reports
The Election Reporting Manger (ERM) module of the Unity training course covers this procedure.

Electronic Election Results Transmission
The Data Acquisition Manager (DAM) and Election Reporting Manager (ERM) modules of the Unity training course cover this procedure.

Results Tabulation
The Election Reporting Manager (ERM) module of the Unity training course covers this procedure.

d. Troubleshooting to solve temporary problems.

Troubleshooting
The product training specific to the equipment in use covers these procedures.

e. Hot points for system errors.

f. Safeguards to prevent and detect tampering.

System Security
The product training specific to the equipment in use covers these procedures.

g How and when to place service calls.

7. The Contractor will assist county and local election officials (if requested) in conducting comprehensive training for election inspectors for their various precincts prior to the primary and general elections in the first year of use.

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Upon contract award, ES&S'the contractor's training specialists arrive in the State of Michigan with one purpose in mind – *train Stateyour personnel in election support and processes.* Whether election personnel are supporting early voting by mail, early walk-in voting, or Election Day poll voting, the end result is the same – preparing the State of Michigan in processes and procedures to ensure accuracy and independent operations in the future. ¶
¶
When processing all types of voters – from absentee and early to split precinct and provisional – the full course of Unity training identifies and trains the State of Michigan's Jurisdiction personnel in these processes.
¶
During training, written manuals, checklists, and other tools are provided to ensure 'refresher' materials are always at hand. For a complete list of all ES&S training courses available to the State of Michigan and its Jurisdictions, please refer to Matrix J.1, following. **B of E – Do we want to include this? They are optional.**¶
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Customization and Integration¶
While ES&S the contractor has developed a standard curriculum approach, wethey believe a key element in a successful implementation is the appropriate customization and integration of theirour training to incorporate the laws, regulations, and procedures unique to the State and its Jurisdictions. ES&SThe contractor will work with Stateyour election staff to develop a training product that is current and relevant to the State of Michigan. From Jurisdiction-wide training to a Train-the-Trainer solution, ES&Sthe contractor enters each client's environment with a desire to train in a manner that works for the Stateyou.¶ ... [2]

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Polling Place Preparation¶
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Training Election Officials and Clerks

The Contractor's approach to training election staff centers around complete equipment operations, specific to the piece of equipment the staff member – election officials and clerks – will be using. Model 100 Precinct Ballot Counter, ES&S AutoMARK, and Unity training courses are available. For a comprehensive matrix of all available training, please refer to Appendix Q.

The Contractor has included initial pricing for equipment training days based on a projected attendance estimate of two officials per jurisdiction with a maximum class size of 20 participants. Jurisdictions may purchase additional training days from the Contractor as needed.

8. Within fifteen days of contract award, the Contactor will provide a training video to the __Department of State. A copy of the above referenced video shall be delivered to the ___clerk of each jurisdiction (DVD, CD or VHS, at the option of each jurisdiction) in ___conjunction with the delivery of equipment. The video will provide basic instruction on __the preparation, set up and use of the accessible voting system. The video shall be __suitable for use as part of a training program for election officials. The video shall be closed-captioned and audio described.

The Contractor will provide the requested material for the State in accordance with the requirements listed above.

9. The Contractor shall provide materials suitable for voter education programs. All materials shall be provided in formats that are accessible to individuals with a wide range of disabilities.

Voter Education and Community Awareness Programs

The Contractor takes a careful measure of the State of Michigan and its Jurisdictions' needs, abilities, and resources when making outreach recommendations. The State of Michigan's vision for the final result, cost allocations, manpower, resources, and future planning must also be carefully woven into the successful election process.

The Contractor's Voter Outreach programs –

Raise awareness and understanding before Election Day;
Generate excitement about voting on the new system;
Demonstrate the thoughtfully planned enhanced accessibility for disabled and elderly voters; and
Maximize voter participation.

The Contractor's Voter Outreach services, consultations, template sharing, and specific issue guidance can direct the State of Michigan and its Jurisdictions' appointed staff in designing and developing their own materials and programs.

In addition to the no-charge services and templates automatically provided, the Contractor maintains a wide array of materials, services, and programs from which the State of Michigan and its Jurisdictions can choose.

Following is a detailed breakdown of the Voter Outreach programs, services, and materials:

Immediately Upon Election System Choice

The State of Michigan will announce the choice of a new, easy-to-use voting system through the development of press releases, signs, radio and television Public Service Announcements (PSAs), and so on; Assess voter's needs and core groups; Identify potential outlets and partners in the effort – for example, a community book-lover's group could work in conjunction with the Jurisdiction to provide a voter outreach initiative at the local public library; Prioritize the Jurisdiction's use of resources – does the customer want to mail individual pieces to all registered voters? Conduct roadshows? Hold public demonstrations? And Develop the State's unique outreach plan. In this step – and as part of the system

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ES&S serves [jurisdiction]'s vision when planning appropriate Voter Outreach programs *that get results*.¶
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With ES&S' Voter Outreach approach – employing our reliable and proven processes and materials – the voter arrives at the polling location with confidence and anticipation, leaving with a sense of accomplishment and pride.¶
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purchase – the Contractor provides proven materials, templates, and direction to help the State of Michigan and its Jurisdictions prepare the signs, flyers, and so on. The State of Michigan or individual Jurisdiction would be responsible for the costs of printing, postage, advertising, and demonstrations.

From Three (3) to Six (6) Months Before the Election
Select all materials, customize them, and print them;
Prepare and deliver a brief demonstration with community leaders;
Begin the media outreach process;
Begin holding community meetings; and
Create Internet-based information sites.
In this step – and as part of the system purchase – the Contractor provides ongoing direction to help prepare the signs, flyers, and so on.
The State of Michigan or individual Jurisdiction would be responsible for the costs of printing, postage, advertising, meetings, and web site hosting services.

From Four (4) to Six (6) Weeks Before the Election
Conduct 'hands-on' demonstrations;
Conduct 'media days' informational and 'hands-on' demonstrations;
Print ads, inserts, and PSAs;
Deliver 2-3 voter mailers;
Place informational printed materials in public locations – supermarkets, libraries, colleges, shopping malls, and so on; and
Hold community meetings.
In this step – and as part of the system purchase – the Contractor provides ongoing direction to help prepare the signs, flyers, ads, and so on.
The State of Michigan or individual Jurisdiction would be responsible for the costs of printing, postage, advertising, air-time, and demonstrations.

The Day Before and Day of Election Day
Run 'Remember to Vote' and 'Where to Vote' ads and PSAs;
Distribute 'How To' palm cards and posters to all polling locations; and
Continue effective media outreach efforts.
In this step – and as part of the system purchase – the Contractor provides proven direction to help prepare the palm cards, posters, and so on.
The State of Michigan or individual Jurisdiction would be responsible for the costs of printing, advertising, air-time, and demonstrations.

The State of Michigan and its Jurisdictions Choices
The Contractor can provide –
Professional services and experience;
An onsite partnership when developing an effective plan;
Standard outreach design compositions and web site content;
General or custom 'how-to-vote' materials;
Professional design and multi-media services to customize materials and content;
Support and talent for community demonstrations and meetings; and
Media relations outreach and resources.
In this step the Contractor is able to provide everything needed to prepare Michigan voters for a safe, easy-to-use, and trouble free election.

Following are examples of several of the Contractor's efficient voter outreach materials.

'1,2,3,Vote!' Posters
The Optical Scan Ballot Voting Voter Outreach Posters and Mini-Posters guide the voter through the steps of paper ballot voting and are available in a variety of languages.

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Deleted: As your chosen election partner, ES&S makes the Voter Outreach process as seamless as possible and offers materials, services, support, and other aspects of a successful campaign available to you.¶
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As you can see from this response, Election Systems & Software understands the need for an effective Voter Outreach plan and works to be your 'one-stop' provider of all tools, services, or resources which the State of Michigan and its Jurisdictions may desire in enjoying such success.¶
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The choice is easy; all choice is yours.¶
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'1,2,3,Vote!' Palm Cards
The 4" x 6" laminated '1,2,3,Vote!' Palm Cards provide a quick and handy reference tool that can be placed in voting booths for quick access by the voter. The four voting steps are summarized and illustrated in a variety of languages.

Voter Outreach Demonstration Invitations
The Contractor can create the right Voter Outreach Flyers and Demonstration Invitations to assist in reaching both individuals and community groups.

Voter Outreach Promotional Items
As part of the State's Voter Outreach initiative, promotional items such as pens, stickers, and door magnets may be provided.

Voter Outreach Print & Venue Ads
Whether it is a reminder to 'Register & Vote' or an invitation to public voting equipment demonstrations, the Contractor will work with State of Michigan and / or individual Jurisdiction to create the perfect message – selecting the ideal venues to increase voter turnout and awareness. The Contractor's custom-designed Print Ads are tailored to deliver the desired message to the right voter segment.

Voter Outreach Direct Mail Pieces
Direct Mail pieces are one of the most effective means of informing voters on new voting systems, and a useful tool in reaching new and non-registered voters. The Contractor will work with the State of Michigan and its Jurisdictions to build custom mail pieces and coordinate their distribution.

Media Kit
The Contractor will work with the State of Michigan or individual Jurisdictions to develop Media Kits that include such items as boilerplate media releases, basic information on voting equipment, an election event calendar, key contacts, and the importance of voter participation in the election process.

Video News Release
Video News Releases are an invaluable source of providing visual support for State of Michigan Voter Outreach efforts. Video News Releases may be used as a collateral presentation tool for community and event outreach initiatives, and have been used very effectively in a TV media format.

Mock Elections
The public is naturally interested in their voting equipment. The Contractor provides the necessary equipment, software, and support to assist in providing a mock election – if desired. Personnel can walk voters through the essentials of voting and live demonstrations at public venues.

Media
The Contractor's media relations staff and a team of expert consultants from their public relations firm, Fleishman-Hillard®, will be available to work with the State of Michigan, its Jurisdictions, and members of the media to provide product knowledge, respond to written or verbal questions, and issue letters or statements regarding voting systems.

D. Warranty and Maintenance.

1. **The Contractor shall provide:**

   a. A warranty on all parts, labor, and equipment. The warranty shall, at a minimum, be in effect from the time of purchase through the first two even numbered year election cycles in which the equipment is used.

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The Contractor will provide a 3-year warranty on their proprietary equipment and software. Such warranty provides that the Contractor will repair or replace any component of their proprietary equipment or software which, while under normal use and service, (a) fails to perform in accordance with its documentation in all material respects, or (b) is defective in material or workmanship. The Contractor will also warrant that their proprietary equipment and software will operate in conjunction with all third party equipment and software that meets the Contractor's specifications, provided elsewhere in this contract. This warranty will be provided subject to certain conditions, including without limitation a requirement that the jurisdictions promptly notify the Contractor of any failure of performance or defect.

After the warranty period, the Contractor offers hardware maintenance and software maintenance and support for successive one-year periods until such maintenance services are terminated. The terms and conditions under which such services are provided are set forth in the software agreement as Exhibit A. The optional maintenance includes both remedial and preventive maintenance services, including all labor and parts (except consumables such as printer ribbons, paper rolls, batteries, removable memory packs, cancellation stamps, ink pads or red stripe pens).

b. All hardware and software patches to repair defects in the system at no charge to the using entity throughout the term of this contract and the duration of the warranty.

During the warranty period and while the State continues to pay for and receive software maintenance and support, the Contractor will provide upgrades, new releases and maintenance patches for the Contractor's proprietary software without additional charge (except for upgrades or new releases that are required due to changes in law that constitute a material change and/or require a substantial amount of time to complete). The warranty coverage includes patches to the Contractor's software as well as the proprietary firmware for the ES&S AutoMARK terminal.

c. One complete set of user and technical documentation for all hardware and components required to operate each system for the Department of State and each local election official, in both a printed and electronic format. The information must also be available in formats that are accessible to individuals with a wide range of disabilities. New documentation should be provided when any changes to the user interface occur.

The Contractor provides full user documentation - including illustrated setup and operating instructions – with the purchase of each ES&S AutoMARK unit.

The Contractor is in the development phases of preparing materials for individuals with disabilities – Braille materials for the blind, picture-based materials for the voter with low literacy, and so on. When major user interface changes occur, the Contractor provides easy-to-understand documentation, thereby ensuring continued comfort levels for all users.

d. Well-trained support personnel for all activities that are the Contractor's responsibility.

All Contractor service and support personnel undergo rigorous training and certification programs in order to qualify as support specialists for the Contractor's equipment and software.

2. All service technicians shall:

a. Be well trained and experienced in the maintenance and repair of the accessible voting system, and capable of replacing malfunctioning equipment in the polling place.

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The Contractor certifies that all maintenance technicians are well trained, have reliable transportation, will respond to service calls within the time agreed upon, will maintain a sufficient supply of replacement parts and equipment, and have a means of real time communication compliant with the terms of the contract.

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b. Have reliable dedicated transportation of sufficient size to accommodate the transport of voting equipment.

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The Contractor's service technicians are supplied with transportation able to accommodate the transport of voting equipment.

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c. Respond to calls placed on Election Day within two hours of receipt of the call, unless an earlier response time is provided for under the terms of the warranty or post warranty maintenance agreement.

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The Contractor maintains election service technicians in various areas of the state to meet the State's maintenance needs. During election periods, the Contractor supplies toll free telephone support and strives to provide rapid response times, thereby ensuring successful elections. ES&S will respond to telephone calls placed to our service center within two hours of placing the call and replace any accessible voting system that cannot be repaired within one hour of a service technician's arrival on site.

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d. Replace an accessible voting system on Election Day that cannot be repaired within one hour following arrival at the polling location at which the equipment is used.

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During election periods, the Contractor supplies toll free telephone support with rapid response times. The Contractor will replace defective equipment with a spare unit if the terminal cannot be repaired within as quickly as possible after a technician's arrival on site. The Contractor encourages all client jurisdictions to purchase at least one backup terminal in the event that a terminal is damaged beyond repair during transit to the polling place. ES&S will respond to telephone calls placed to our service center within two hours of placing the call and replace any accessible voting system that cannot be repaired within one hour of a service technician's arrival on site.

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e. Maintain a reasonable supply of spare parts and components necessary to repair malfunctioning equipment and return it to service on Election Day.

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The Contractor's technicians are equipped with all commonly required spare parts when responding to Election Day service calls.

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g. Have cellular telephones or other means of real time communication on election day so that service technicians may be dispatched to polling locations that are experiencing system problems.

All Contractor service technicians and Account Management personnel are outfitted with cellular phones to facilitate communication on Election Day.

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E. Election Administrative Support.

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1. The Contractor shall provide:

a. A Project Manager who will serve as the principal point of contact for the Contractor with the Department of State.

Wil Wesley, the Contractor's Area Director for the State of Michigan will serve as the principle point of contact for the Department of State.

b. A staff (minimum of one) and office in Michigan as long as the Contractor is fulfilling contract requirements unless otherwise approved in writing by the Department of State

Three of the Contractor's area representatives maintain permanent home offices in Michigan; Wil Wesley, Area Director for the State of Michigan; Gene Seets, Regional Manager; and Dick Fox, Vice President of Sales, Eastern Region.

c. A plan designed to provide state and local users with the training, technical support and election day support necessary to administer elections from the time of purchase through the first two even-numbered year election cycles in which the equipment is used, including odd year elections. Support costs shall be included in the unit price and will cover training and assistance on the following:

1) Pre-election programming set-up.

2) Pre-election logic and accuracy testing.

3) Election Day support during entire time the polls are open.

Following is a summary of this plan –

Training
In-depth classroom training designed to ensure Election Officials and staff are knowledgeable, comfortable, and informed in all support tools available.

Technical Support
Telephone, email, web-based contact forms, facsimile access, and onsite support are made available, as needed or desired.

Election Day Support
Initial implementation onsite Election Day support – with additional onsite support available, as needed.

Upon award, the Contractor will work with the State and each purchasing Jurisdiction to identify unique requirements and provide full implementation planning and support for the State's first two even numbered year election cycles.

Account Manager
On an initial system installation, the Contractor's Account Manager operates as a single point of contact. This person is accountable for coordinating all of the State's implementation and election requirements from software, hardware, ballots, coding and / or programming, networking, shipments, deliveries, election supplies, and other related tasks.

Election Day and Night Support
Initial implementations involve the presence of fully qualified Contractor support staff for Election Day and Night support. This level of onsite support can be negotiated throughout the life of the equipment, as desired by the State or Jurisdiction. Ongoing support involves numerous avenues for contact and resolution of questions, issues, and suggestions. Following is a description of this ongoing support and tier escalation procedure.

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Details may be found in Section L – Election Administrative Support¶

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Please see Section J - Training of this proposal for ES&S responses to Michigan training requirements.¶

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All service calls are addressed immediately by a qualified Associate of the Contractor. The Contractor's ongoing support is provided via toll-free Customer Support Line. The toll-free line is answered 24 hours a day during Election Day and Night. The Support Line provides for direct assistance from a Customer Support Representative for both Hardware and Software products. In the event that an issue cannot be resolved over the telephone or by shipping the affected equipment to the Contractor, a technician will be dispatched to the customer's location. During peak election periods, the Contractor will make every effort to respond within a timeframe intended to minimize the impact of the issue on the preparation for, or conduct of, the election. For those jurisdictions in remote locations, the response time will be longer, but usually within a timeframe that enables resolution within an acceptable period of time. During off-peak periods, Contractor personnel will respond within 48 hours of receiving notice from the customer.

ES&S will respond to telephone calls placed to our service center within two hours of placing the call and replace any accessible voting system that cannot be repaired within one hour of a service technician's arrival on site as well as timeframes listed in the following chart titled "Call Escalation Priorities".

Issue Management/Resolution Approach

The Contractor's Account Team stays in constant communication internally and with the customer. Weekly meetings / conference calls are pre-scheduled so progress can be shared and challenges proactively avoided. The Contractor incorporates a multi-tiered response process to manage maintenance issues and hardware or software enhancement / defect submittals. Incidents and service requests are escalated to the appropriate resource based on the level of support required. As part of their Account Management Approach, the Contractor will develop a tailored support process for Michigan.

The Contractor will work to minimize downtime for reported critical problems. During the mission critical times, the Contractor works to resolve issues within 24 hours. Following are descriptions of each support level.

- Tier 1 incidents / requests
  - normally resolved by the Contractor's customer service representative. Occasionally, coordination with other Contractor's departments is necessary.
- Tier 2 incidents / requests
  - require resolution by a dedicated Michigan Customer Account Specialist experienced in troubleshooting software and hardware issues.
- Tier 3 incidents
  - require support from senior network or application software engineers and / or skilled database administrators.

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Call Escalation Priorities
Priority 1 – CRITICAL IMPACT Users are experiencing urgent / severe software or hardware technical failure inhibiting the ability to perform election-critical functions. (Priority 1 typically indicates an entire system failure and all users have no capabilities). Priority 1 calls are returned within 30 minutes and resolved as quickly as possible. In order to decrease downtime, workarounds may be necessary. **During peak election periods (14 days prior and 14 days following), incidents submitted to the helpdesk take first priority.**
Priority 2 – SEVERE Users are experiencing serious software or hardware technical failure, causing loss of productivity during election-critical periods. One or more systems affected but not all systems. Priority 2 calls are returned within one hour. On-Site response is assigned a high priority status.
Priority 3 – MINOR Users are experiencing a minor software or hardware technical problem that is causing losses in productivity during non-election periods. Priority 3 calls are returned within 2-hours. On-Site response within 48 hours.
Priority 4 – GENERAL QUESTION Users have questions related to software or hardware technical function. Priority 4 calls are returned within two-hours.
Priority 5 – ENHANCEMENT/SYSTEM UPGRADES Michigan State Official or county submits an enhancement for a future software release. A report is run and presented to the DOS listing all requested system upgrades per county. Priority 5 calls are returned within one business day.

The Contractor recommends the use of the most current version of pcAnywhere. If the Tier II representative is unable to resolve the incident, it is escalated to Tier III where software development technicians thoroughly troubleshoot the problem and determine if systemic changes are required to the application to prevent reoccurrence.

On an initial TEAM Services system installation, the assigned Account Manager operates as the single point of contact. This person is accountable for coordinating all of the implementation and election requirements from software, hardware, ballots, coding / programming, networking, shipments, deliveries, election supplies, and other related tasks.

The Contractor offers multiple support channels to assist customers with issues and concerns ranging from simple how-to questions to more complex functional inquiries. Customers can call, fax, or email a Customer Service Representative (CSR) using any one of the dedicated communication modes. It is the Contractor's practice to respond to a customer request as quickly as possible during business hours or immediately during election night support.

Toll-Free Support

Customer Service and Technical Support Representatives (CSRs) are available to provide assistance via telephone. The dedicated toll-free Customer Service telephone number is 877-ESS-VOTE (877-377-8683). CSRs monitor this dedicated line from 7 a.m. to 7 p.m. (CST) or 8 a.m. to 8 p.m. EST Monday through Friday. The toll-free line is answered 24 hours a day during Election Day and Night. The toll-free line provides direct assistance from dedicated Customer Service Representatives who have extensive product knowledge. A CSR requests preliminary information including the jurisdiction

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name, name of person calling, telephone number, type of system in use, description of the problem, questions and / or concerns, and so on. The CSRs are trained to address concerns regarding basic system troubleshooting, system implementation, testing, operations, status of production or orders received, and on-site election and preventative maintenance support.

FAX Support
Facsimile support is available through a dedicated customer service facsimile at (402) 970-1232. A toll free facsimile is also available to the Contractor's customers at (402) 593-8107, Attention: Customer Service. In both cases, the request or inquiry will be distributed to the dedicated CSR or the appropriate office within the Contractor for immediate response.

Email Support
A general email address for the Customer Service group is customerservice@essvote.com. In addition, each CSR has a dedicated email address that will be provided to upon request.

F. Modification Requirements.

1. The U.S. Election Assistance Commission (EAC) is currently in the process of adopting new Voluntary Voting System Guidelines. The Public Comment period is closed; the Commission is taking final steps to adopt the draft Guidelines. New Federal voting system guidelines will result and will take effect 24 months after final adoption by the EAC. The voting system shall be in compliance with the 2005 federal guidelines by the effective date established by the EAC. If the system is not compliant by the effective date, the Contractor may be considered in breach of contract.

   The cost of making the required changes shall be itemized in the Cost Matrix, Appendix D. The currently proposed Voting System Guidelines can be accessed on the Internet at http://guidelines.kennesaw.edu/vvsg/intro.asp.

The Contractor Shall:

a. Make system modifications to comply with new requirements.

b. Obtain re-certification from the appropriate ITA as needed.

c. Obtain Board of State Canvassers' approval in time to comply with the requirements of Federal law and/or guidelines.

Updates or changes to the Voluntary Voting System Standards recently adopted by the Election Assistance Commission ("EAC") in the form of Voluntary Voting System Guidelines ("VVSG") will take effect December 2007. The Contractor will review and evaluate the same and expects to establish a plan to meet compliance with the VVSG as well as determine the costs associated with upgrading and/or modifying the Contractor's proprietary hardware and software in order to comply with the new guidelines. The Contractor expects to provide any software changes or modifications necessary as a result of a change in the VVSG at no additional cost to the State so long as the State is receiving the Contractor's software maintenance and support. Depending on the extent to which the Final VVSG may require any material modification to, or replacement of, the voting system hardware, the Contractor will perform such modifications in order to comply with the VVSG at terms and pricing to be mutually agreed upon by the parties.

2. During the contract and warranty period, if changes occur in *Federal* voting systems guidelines beyond those anticipated in 1. above requiring modifications to hardware, software or components, such changes will be accepted through the change notice process and included in the Contract as described in Section 1.403, Change Management.

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The Contractor shall:

a. Make system modifications to comply with new requirements.

b. Obtain re-certification from the appropriate ITA as needed.

c. Obtain Board of State Canvassers' approval in time to comply with the requirements of Federal law and/or guidelines.

During the warranty period and thereafter so long as the State is receiving the Contractor's software maintenance and support, the Contractor's proprietary software shall be maintained or upgraded by the Contractor in such a way as to remain compliant with all applicable federal and state election laws and regulations that are mandatory and in effect, including all current and future requirements necessary to remain certified for use in the State. For the purposes of the immediately preceding sentence, "maintained or upgraded" shall mean such changes to individual items of the Contractor's proprietary software as are technologically feasible and commercially reasonable.

Since changes in federal and state laws, regulations and certification requirements are difficult to predict and are not always applicable to other customers of the Contractor, updates that are required due to a change in such laws and regulations shall be provided at an additional fee to be mutually agreed upon by the parties if they constitute a material change to the Contractor's proprietary software and/or require a substantial amount of time by the Contractor to complete for the State. Software modifications due to changes in laws, regulations or certification requirements that are routine or can be reasonably anticipated, or that do not require a substantial amount of time for the Contractor to complete for the State, shall be provided at no additional charge. If a change in applicable federal or state election laws or regulations or certification standards necessitates a modification, retrofit or replacement of any of the Contractor's proprietary hardware, to the extent such modifications, retrofits or replacements are technologically feasible within the then existing hardware configuration, the Contractor shall develop, manufacture and certify such changes on a timeline to be agreed upon by the parties and at the State's sole cost and expense.

3. During the contract and warranty period, if changes occur in *Michigan's* voting systems guidelines requiring modifications to hardware, software or components, such changes will be accepted through the change notice process and included in the Contract as described in **Section 1.403, Change Management.**

The Contractor shall:

a. Provide a cost proposal for implementing required changes on a statewide basis. Any proposed costs associated with implementing required changes shall be negotiated through the State of Michigan's procurement process.

b. Make system modifications to comply with new requirements.

c. Obtain re-certification from the appropriate ITA as needed.

d. Obtain Board of State Canvasser approval in time to comply with the requirements of State law.

e. Make the changes available for local jurisdictions to purchase based on statewide pricing as negotiated with the Department of State.

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As stated above, during the warranty period and thereafter so long as the State is receiving the Contractor's software maintenance and support, the Contractor's proprietary software shall be maintained or upgraded by the Contractor in such a way as to remain compliant with all applicable federal and state election laws and regulations that are mandatory and in effect, including all current and future requirements necessary to remain certified for use in the State. For the purposes of the immediately preceding sentence, "maintained or upgraded" shall mean such changes to individual items of the Contractor's proprietary software as are technologically feasible and commercially reasonable.

4. The Department of State requests that any modifications needed after delivery due to changes in federal and/or state laws occurring during the contract and warranty period be provided at no additional cost as long as such modifications are both technically feasible and commercially reasonable to perform.

In the event that the required modifications are not technically feasible, commercially reasonable, or require a hardware change, the Contractor and the Department of State will jointly review and agree upon the scope of, and cost for, any modifications required by such changes in federal and/or state law.

As stated above, during the warranty period and thereafter so long as the State is receiving the Contractor's software maintenance and support, the Contractor's proprietary software shall be maintained or upgraded by the Contractor in such a way as to remain compliant with all applicable federal and state election laws and regulations that are mandatory and in effect, including all current and future requirements necessary to remain certified for use in the State. For the purposes of the immediately preceding sentence, "maintained or upgraded" shall mean such changes to individual items of the Contractor's proprietary software as are technologically feasible and commercially reasonable.

Since changes in federal and state laws, regulations and certification requirements are difficult to predict and are not always applicable to other customers of the Contractor, updates that are required due to a change in such laws and regulations shall be provided at an additional fee to be mutually agreed upon by the parties if they constitute a material change to the Contractor's proprietary software and/or require a substantial amount of time by the Contractor to complete for the State. Software modifications due to changes in laws, regulations or certification requirements that are routine or can be reasonably anticipated, or that do not require a substantial amount of time for the Contractor to complete for the State, shall be provided at no additional charge. If a change in applicable federal or state election laws or regulations or certification standards necessitates a modification, retrofit or replacement of any of the Contractor's proprietary hardware, to the extent such modifications, retrofits or replacements are technologically feasible within the then existing hardware configuration, the Contractor shall develop, manufacture and certify such changes on a timeline to be agreed upon by the parties and at the State's sole cost and expense.

G. Delivery Requirements

The Contractor shall deliver system equipment, hardware, software, and necessary components and perform as necessary to successfully implement the accessible voting systems in accordance with the timeline dates listed in **Section 1.101C.1, Scope of Work.**

The Department of State shall determine the quantities of State provided equipment to be delivered within each county. The quantities will be listed on each county purchase order. Purchase orders will be initiated by the Department of State on a county-by-county basis. Unless otherwise requested, the deliverables shall be shipped directly to each jurisdiction at the location specified in the purchase order. If a regional delivery and

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testing approach is used, the contractor is responsible for final delivery to all jurisdictions. The Contractor is responsible for unloading all deliverables and removing products from their packaging. The Contractor will also be required to dispose of the packaging.

The Contractor shall establish a means to track delivery and shall communicate this information to the Department of State Contract Compliance Inspector in compliance with provisions of **Section 1.302, Reports**.

1.2 ROLES AND RESPONSIBILITIES

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1.201 Contractor Staff, Roles, And Responsibilities

The Department of State reserves the right to approve the Contractor's assignment of Key Personnel to this project and to recommend reassignment of personnel deemed unsatisfactory by the Department of State.

The Contractor shall not change the Project Manager during the first 180 days of the Contract. After the first 180 days of the Contract, the Contractor shall not remove or reassign Key Personnel without the Department of State's prior written approval. In addition, Key Personnel shall not be removed or reassigned until they have completed all of their planned and assigned responsibilities in connection with performance of the Contractor's obligations under this Contract. The Contractor agrees that the continuity of Key Personnel is critical and agrees to the continuity of Key Personnel. Removal of Key Personnel without the written consent of the Department of State may be considered by the Department of State to be a material breach of this Contract. The prohibition against removal or reassignment shall not apply where Key Personnel shall be replaced for reasons beyond the reasonable control of the Contractor including but not limited to illness, disability, resignation or termination of the Key Personnel's employment.

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The Contractor may also avoid a material breach if it removes Key Personnel with the approval of the Contract Compliance Inspector and have the Contract Compliance Inspector's approval of replacement Key Personnel. Assignment of new Key Personnel without prior approval of the Contract Compliance Inspector will still be deemed unsatisfactory and subject to contract cancellation. The Department of State, in its sole discretion, may require the Contractor to provide documentation on such removal of Key Personnel, and such documentation may be posted on the program Web page to provide other counties with due warning of such events.

The Contractor shall maintain a staff and office in Michigan as long as the Contractor is fulfilling contract requirements unless otherwise approved in writing by the Department of State.

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The Department of State and the Contractor agree that the following personnel are Key Personnel for purposes of this Contract:

Name: Wil Wesley Title: Project Manager

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Wil Wesley, Area Director for the State of Michigan, Gene Seets, Regional Manager for the State and Dick Fox, Vice President of Eastern Region Sales maintain permanent residential offices in the State of Michigan and are available to provide full support to the Department of State. Wil will oversee all implementation tasks within the State and will be the single point of contact for the Michigan Department of State.

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1.202 State Staff, Roles, And Responsibilities

The Bureau of Elections will facilitate the purchasing process throughout the State. The single point of contact for the Bureau of Elections with respect to contract issues is:

Contract Compliance Inspector: Tom Luitje, Department Analyst
Department of State
Bureau of Elections
430 W. Allegan St, 1st Floor
Lansing, MI 48918
Phone: (517) 241-2541
Email: LuitjeT@michigan.gov

1.203 Other Roles And Responsibilities

The Department of State will coordinate planning with the Contractor in regard to purchases. Additional Department of State contact information will be provided to the Contractor after the final contract has been executed. The participation of the disabilities community is desired in conducting training programs described above. The Bureau of Elections will solicit the involvement of the disabilities community as training programs are developed.

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1.3 PROJECT PLAN

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Project Plan Overview

Preliminary Implementation Plan and Schedules
The Contractor's Account Services team will develop an implementation plan for ES&S AutoMARK Implementation in the State of Michigan.

Following is the breakdown of expected tasks –

Project Kick-off
Initiation and Planning
Installation, Training, and Outreach

August 2006 Election
Pre-Election Preparation
Programming for Opt-in ES&S jurisdiction
Pre-Election Testing
Early Voting Setup and Support
Election Day Setup and Support
Post Election Support
Project Review with Next Cycle Planning

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¶
Submit brief written monthly progress summaries; ¶
Submit our work plan to the State Contract Compliance Inspector for final approval within the first month following contract execution;¶
Follow the State's prescribed reporting and complaint resolution process; and¶
Provide Business Reports, as appropriate and available.¶
¶
Preliminary Account Management Timeline and Project Management¶
Project activities, milestones, detailed implementation schedules, equipment installation schedules, State and local responsibilities and timeframes, and known contingencies are detailed in the Preliminary Account Management Timeline provided in Section H.1 – ES&S Sample Implementation Plan, of this response.¶
¶
The ES&S Account Management Team maintains constant communication with State and local officials. Weekly meetings and / or conference calls are pre-scheduled so progress is shared and challenges proactively avoided. .
¶
The Account Manager supplies the State of Michigan with weekly implementation progress reports in a Microsoft Project document. These reports detail the work completed, scheduled tasks, milestones, and other related progress reports.

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1.301 Project Plan Management

The Contractor will carry out this project under the supervision of the Department of State through the Contract Compliance Inspector.

A. Although there will be continuous liaison with the Contractor team, the Contract Compliance Inspector will meet as required with the Contractor's project manager for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems which arise.

B. The Contractor will submit brief written **monthly** summaries of progress which 1) outlines the work accomplished during the reporting period; 2) outlines work to be accomplished during the subsequent reporting period; 3) lists problems, real or anticipated, which should be brought to the attention of the Department of State's project director and 4) notifies the Department of State of any significant deviation from previously agreed-upon work plans.

C. Within fifteen days following execution of the contract each qualified Contractor will submit a work plan to the Department of State Contract Compliance Inspector for final approval. The final plan shall include the following:

1. The Contractor's organizational structure for this project.

2. The Contractor's staffing table with names and title of personnel assigned to the project as detailed in Section 1.201, Contractor Staff, Roles and Responsibilities.

The Contractor understands the role of the Contract Compliance Inspector and will –

Submit brief written monthly progress summaries;
Submit a work plan to the State Contract Compliance Inspector for final approval within the first month following contract execution;
Follow the State's prescribed reporting and complaint resolution process; and
Provide Business Reports, as appropriate and available.

Preliminary Account Management Timeline and Project Management
Project activities, milestones, detailed implementation schedules, equipment installation schedules, State and local responsibilities and timeframes, and known contingencies are detailed in the Preliminary Account Management Timeline will be provided the Contractor's implementation plan. The Contractor's Account Management Team maintains constant communication with State and local officials. Weekly meetings and / or conference calls are pre-scheduled so progress is shared and challenges proactively avoided.

The Account Manager supplies the State of Michigan with weekly implementation progress reports in a Microsoft Project document. These reports detail the work completed, scheduled tasks, milestones, and other related progress reports.

1.302 Reports

A. Reporting and Complaint Resolution

The Contractor shall inform the Department of State Contract Compliance Inspector on a per occurrence basis of any hardware or software system error occurrences resulting from design or manufacturing defects in any jurisdiction outside of Michigan in which the voting system is being used. All such errors shall be fully analyzed and documented as to their cause and remedy.

In the event an error occurs in the use of the voting system, the Contractor agrees to promptly notify the State and jurisdiction. In this regard, it will be appropriate to structure guidelines on what constitutes an 'error'. The Contractor will agree that there will be no charge to the State or individual jurisdictions for remedying the 'error' so long as its cause was not due to the act, error, omission, or negligent act by, or on behalf of, the State of individual jurisdiction, their employees, agents, or representatives.

The Contractor shall ensure continuous and immediate access to its project manager for the purpose of receiving and resolving complaints from the using entities. Such access shall be by the manner described in the Contractor's proposal or as may subsequently be agreed to in writing by the Department of State.

Upon award, the Contractor's assigned Project Manager shall maintain continuous communications with Michigan's State and local elections officials during the implementation period and throughout the term of the contract.

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For the period covered by the warranty, the Contractor shall develop a complaint resolution tracking process that will be submitted for the Department of State Contract Compliance Inspector's approval within 20 working days after the contract start date.

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The Contractor shall provide a monthly Summary Complaint Report to the Contract Compliance Inspector. However, during July, August, October, and November of 2006 and 2008, these reports will be required on a weekly basis. If there are no complaints, the Contractor shall provide a statement to that effect.

The summary report shall include:

1. The name of the person issuing the complaint.
2. The using entity represented by the person.
3. Complaint type.
4. Complaint resolution.
5. Pending and unresolved complaints.
6. Other information specified by the Department of State.

It is the Contractor's standard practice to hold meetings with the State's project staff and provide hard copy status reports for review and discussion. These reports can be made available in electronic format, as desired. The standard software environment includes the use of Microsoft® Project, Excel, and Word.

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Support Infrastructure

The Contractor's Total Election Administration and Management (TEAM) program is structured to properly set priorities, establish categories, assign responsibility, and automatically escalate issues if necessary. Each of their Account Managers is assigned an internal Customer Service Representative. All open issues are reviewed each morning by the Contractor's Operational Support Team – led by the Contractor's Vice President of Customer Support. The Contractor uses a centralized customer service team located at their corporate headquarters in Omaha, Nebraska. An experienced and dedicated Customer Service Representative (CSR) is assigned to each account and is available to address inquiries from customers and the Michigan Account Manager via telephone, fax, and email from 7 a.m. to 7 p.m. (CST). Each CSR receives extensive product and customer care training, thereby enabling them to respond to a variety of requests and inquiries.

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Examples of the services provided include –

Primary point of contact for customers and Account Managers;
Maintenance of customer contact information and election history;
Basic hardware and software troubleshooting;
Technical and procedural phone support during elections;
Order fulfillment for products and supplies;

Billing inquiries;
Customer assistance with support requests – onsite support, training, and preventive maintenance;
Customer election information communication to other Contractor departments for processing; and
Status tracking of customer requests, inquiries, and election material production.

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Customer Service Response Process

The Contractor employs a multi-tiered response process to manage complaint and malfunction resolution and customer inquiries. Incidents and service requests are escalated to the appropriate tier-level based on the level of support required.

Tier I Incidents and Requests

Typically resolved by the Contractor's Customer Service group with proper coordination from other Contractor departments.

Tier II Incidents and Requests

Typically require resolution by hardware and software experts based in the Contractor's Technical Support divisions.

Tier III Incidents and Enhancement Requests

Typically resolved by the Contractor's Software division.

Tier Resolution Overview

When Michigan contacts the Contractor's centralized Customer Service group to report a problem or request information, the following process occurs –

The Tier I CSR enters the incident or request into the Contractor's proprietary system, including a description of the customer's problem or request;

The CSR researches a resolution to the problem or request and resolves the incident – typically within a 24-hour timeframe from the initial communication with the Jurisdiction. If the issue cannot be resolved at the Tier I level, the CSR immediately escalates the call to the Tier II team;

When escalated to the Tier II team, a Technical Support representative further researches the issue and contacts the customer to discuss steps for resolution. In some cases, the Technical Support representative accesses the customer's system through PCAnywhere® - off-the-shelf software which allows immediate access to the customer's data and network system from a remote location – to gain insight into the issue and offer precise solutions. If the issue is satisfactorily resolved at this level, the incident is closed and properly documented; and if the Tier II specialist if unable to resolve the incident, the issue is escalated to the Tier III department where software development specialists thoroughly troubleshoot the issue to determine if systemic changes are required to the application to prevent recurrence.

Multi-Channel Support

The Contractor offers multiple support channels to assist customers with issues and concerns ranging from simple how-to questions to more complex functional inquiries. Michigan can call, fax, or email a CSR using their choice of dedicated communication modes. It is the Contractor's practice to respond to a customer request as quickly as possible during normal business hours and immediately during Election Night support.

Telephone Support

Customer Service and Technical Support Representatives are available to provide Michigan with assistance via telephone. The Contractor's dedicated toll-free Customer Service telephone number is 877-ESS-VOTE (877-377-8683). This toll-free line provides direct assistance from dedicated CSRs with extensive product knowledge. A CSR requests preliminary information including the jurisdiction name, name of person calling, telephone number, type of system in use, problem description, questions, concerns, suggestions, and so on.

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Facsimile Support

Facsimile (FAX) support is available through a dedicated Customer Service fax line – (402) 970-1232. A toll-free fax line is also available to customers – (402) 593-8107, Attention: Customer Service. In both cases, the request or inquiry will be distributed to a dedicated CSR or the appropriate Contractor's office for immediate review and response.

Email Support

A general email address for the Customer Service group is provided – customerservice@essvote.com. Additionally, each CSR has a dedicated email address, which can be provided to Michigan upon request.

B. Business Reports

To ensure the lowest possible price, approved Contractors shall provide a list of customers and sale prices of equipment (that match or are equivalent to equipment sold to the State) sold outside the State during the term of this contract. This list shall be provided to the Contract Compliance Inspector on a quarterly basis.

If, during the term of the Agreement, the Contractor enters into a contract with any other customer for substantially the same quantity and configuration of equipment, software and services and under terms and conditions similar as that provided to the State under this Agreement, and such customer pays to the Contractor a lower amount than the State is required to pay to the Contractor under this Agreement, the Contractor agrees that this Agreement will be deemed appropriately amended to provide such terms on a prospective basis for future purchases made by the State.

1.4 PROJECT MANAGEMENT

Project Management Overview

Account Management methodology is structured on

- Highly trained and experienced Michigan election-specific account managers and staff;
- Clear roles and responsibilities between the Contractor and the Jurisdiction;
- A Written Statement of Work Plan;
- Project status reporting on weekly basis and communication process;
- A communication plan, between the Contractor and the Jurisdiction, including issue resolution plan;
- Internal quality control processes and milestone roadmaps;
- Signoff procedures on deliverable and milestone completion;
- Problem identification / resolution approach and procedure; and
- Conducting a Post Implementation Review

Objectives

The objectives of the Account Management approach are clear -

- Execute a timely, trouble-free voting system implementation – including first use
- Ensure that a successful implementation is sustainable over time
- Transfer knowledge and skills to their customers

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Deleted: Implementing new voting equipment is a challenge for any jurisdiction, of any size. It's natural to be anxious about the change. "Will our voting equipment get here in time?" "Will we be able to run the new machines?" "On Election Day, can we be confident the equipment will run well?" In response to each of these very important questions, effective Account Management means the difference between success and failure. At Election Systems & Software (ES&S), we've taken the guesswork out of new system implementation. Our Account Management approach – which we have honed through decades of experience in executing complex installations – anticipates every possible scenario, and mitigates the inherent risks of introducing a new voting system. ¶
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Through this approach, ES&S delivers on the promise of a successful transition.
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Fundamental Concepts

To accomplish these objectives, the Contractor has developed an Account Management approach based upon several fundamental concepts –

Partnership

The Contractor's Account Management approach depends on a close partnership between the customer and their implementation team. Introducing a new voting system is not something they do to a jurisdiction; it is something they do with a jurisdiction.

Planning

The Contractor's Account Management approach involves detailed planning and preparation. For every project, they execute against a customized implementation roadmap that clearly defines roles and responsibilities, deliverables, milestones, and timetables.

Prediction

The Contractor's Account Management approach ensures they will predict the potential implementation pitfalls, and avoid them. It also allows the Contractor to predict the implications of any necessary changes along the way and continue to manage the project for success.

Problem Resolution

The Contractor's Account Management approach allows them to identify, isolate, and resolve problems quickly and efficiently. The Contractor has very specific processes and procedures in place to assign ownership, track progress, and report back to the customer that the issue has been resolved.

Performance

The Contractor's Account Management approach has built-in accountability to demonstrate they are performing – as promised. The Contractor maintains regular communication with their customer, and can provide real-time snapshots of the status of any element of their implementation plan.

Key Steps

Ultimately, the measure of success in a new voting system implementation is a trouble-free election. Therefore, in developing the proven Account Management approach, the Contractor has kept two very important goals in mind: continually instilling in their customers the confidence that the Contractor is prepared for Election Day; and, providing tools and training to ensure the customer is prepared for Election Day. Though no two new system implementations are exactly alike, all of the Contractor's projects involve several key steps that they must manage, well.

Step 1: Initiating the Project

Every implementation begins with a responsibility on the Contractor's part to demonstrate that that the Contractor understands their customers' unique and specific needs, and that they are prepared to deliver against it.

Step 2: Planning the Project

Next, the Contractor will formalize a project-specific work plan. In every work plan, the Contractor details how they will execute logistics, training, testing, and Election-Day support. They will also propose a communications structure and recommendations for keeping the lines of communication open and clear. Importantly, in every work plan, they lay out clear responsibility for every task. Once the Contractor gains approval of the formal work plan, they hold a critical kick-off meeting with all key implementation personnel to review the details and solidify the partnership going forward.

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Step 3: Executing the Project

The best of plans can fail if follow through is not conducted with precision. From the moment the Contractor begins an implementation, their Account Management team is keeping an eye on the details - and methodically carrying out the formal work plan.

Key milestones include: delivery of the new voting equipment; acceptance testing; installation of any necessary software and / or IT networks; training election personnel on all facets of system operation; and supporting the logistics of a trouble-free election day – Logic & Accuracy (L&A) testing, managing the transfer of equipment from warehouse to polling place, and so on. Throughout the process, the Contractor's implementation team and customer support is accessible 24 hours a day, 7 days a week.

Step 4: Controlling the Project

The Contractor uses leading-edge project management software solutions and industry best practices to keep a new system implementation on track, and manage change along the way. The Contractor can customize reports – at any time during an implementation – to demonstrate their progress, or pinpoint any issues that need to be addressed. It is this reliable and detailed tracking mechanism that mitigates risk and that forms the basis for reporting and communication with the customer.

Step 5: Closing the Project

After a successful implementation – resulting in a successful election – the Contractor works closely with the customer to review all upfront commitments made, and ensure each of them has been fulfilled. They also transition ongoing service and support from their Account Management team to the Contractor's Customer Service personnel.

1.401 Issue Management

The following issues will have an impact on the successful completion of this project:

A. The timeline for equipment delivery, installation and final training is dependent on when jurisdictions hold elections in 2006.

B. The ability of the Contractor to produce the required number of accessible voting systems given the level of demand nationally in a short period of time.

C. Given the short rollout time frame, the complexity of the new equipment, and the high level of national demand, being able to perform all tasks, especially training in a timely manner.

Following are several key areas in which issue management is addressed and measured by the Contractor's Account Managers.

The Client Relationship Manager

The Contractor ensures that there will be a single point of contact to manage the relationship over time. Typically, this point of contact – or Client Relationship Manager – is the Regional Sales Manager, Gene Seets. The Client Relationship Manager ensures that there is an ongoing dialog concerning the customer's needs, the Contractor's solutions, and the ways they continue to provide the customer with improved solutions.

Account Manager

To execute the major effort involved in a new system implementation, the Contractor assigns an Account Manager to Michigan. During the initial phases, they work carefully to ensure the right fit of experience for Michigan's size and the selected solution configuration. The Contractor's Account Manager works with Michigan's internal Project Manager in a one-on-one relationship; communicating with Michigan and the Contractor on a regular basis.

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Performance Review Meetings

The Contractor's Account Managers have written and verbal weekly reporting requirements to Michigan and the Contractor. Teams participate in weekly Professional Service conference calls and meetings and conference calls with the installation and service teams. Performance reviews are conducted during these meetings and conference calls to ensure the Client communication plan – established during the project kick-off meetings – is intact and adhered to.

Status Reporting and Contract Management

The Account Manager is responsible for ensuring that Michigan receives all goods and services to which were agreed. The Account Manager prepares status reports on the consumption of these resources – in hardcopy, electronic format, or both as the Jurisdiction desires – on a regular basis, typically monthly.

The AM further manages the communication and agreement to any changes to the requested scope of services or products – communicating these to the appropriate departments within the Contractor's organization for authorization and approval. All changes in scope are provided through concrete documentation to avoid miscommunication and unnecessary delays.

Audits

The Contractor views the auditing of any project to be the responsibility of both the Contractor's Account Managers and Michigan. The Account Managers do not leave the audit process to the end of the project; each continuously audits the day-to-day processes and all items pertinent to a successful implementation.

Planning

Planning is a joint effort between the Contractor's Account Manager and Michigan. This process is thoroughly documented in the project plan upon which both teams agree.

Setting Priorities

The Contractor's certified Account Managers are trained in priority recognition, management, and delivery. Identified priorities are agreed upon by Michigan and the Contractor's Account Manager and are thoroughly documented in the project plan.

Handling Service Requests

Any necessary service request – whether within or outside the contract's scope – is discussed between Michigan and the Account Manager.

Managing Michigan-Specific Issues

Delivery Timeline

The Contractor will develop an implementation timeline targeted to the statewide Michigan primary scheduled for August 8, 2006. If a Jurisdiction requires implementation prior to the August 8 target date, the Contractor will make every reasonable effort to adjust the delivery and/or training schedule to accommodate the needs of that jurisdiction or formulate an emergency implementation plan to meet the needs of local customers.

Manufacturing Capacity

As the largest elections only company in the world, the Contractor is able to significantly increase their production rates if external demand requires them to due so. Typically, they produce their custom products to a Sales forecast since most of their customer's procurement decisions are inside the total manufacturing lead-time. Depending on the type of system selected, their production rate can be increased approximately to 10,000 per month for DRE products and 6,000 per month for OMR precinct based tabulation system. OMR is an abbreviation for Optical Mark Reader, which is the industry designation for ES&S optical scan ballot tabulation equipment. The 6,000 units indicated in the

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requirement is the maximum production capacity for optical scan devices. Maximum production capacity for the ES&S AutoMARK is 5,400 terminals per month.

The Contractor has carefully examined Michigan's requirements and is confident that they can deliver and install the required number of systems prior to the first use target date of August 8, 2006.

Rollout

The Contractor employs more than 350 dedicated election - only professionals. The Contractor is applying their expertise to the complex demands of integrated HAVA-compliant systems. The successful delivery of these projects considers each jurisdiction's legacy equipment environment interwoven with the appropriate architecture, infrastructure, and planning activities required for the success of a large system integration project. The Contractor recognizes that time is of the essence when providing and maintaining an election system and they are committed to performing their obligations in accordance with the timetable agreed upon by the parties.

1.402 Risk Management

The following risks may have an impact on the successful completion of this project:

A. Ongoing changes may be instituted in the Voluntary Voting System Guidelines issued by the EAC.

B. Individual disability advocacy groups may differ in their support and opposition to specific types of voting systems proposed and eventually selected.

C. Delays in the contract and purchase processes may call for contingency plans for meeting HAVA deadlines for federal elections in 2006.

The Contractor's issue and risk management process provides guidance on issue tracking, risk planning and risk control. Risk management applies to all phases of the project life cycle. Issue/risk management and mitigation is a daily topic of discussion between the Account Manager and the Michigan Project Manager. It is also documented, monitored, and measured through well-established reporting mechanisms.

The Contractor's system for risk issue tracking will be put in place, and risk status reviewed at both the functional and the project levels. Of course, each project is unique and therefore has its own risk profile. The Contractor reviews the specific risks with the State that are inherent in the implementation as part of the initiation of the project. The Contractor's goal is not to simply identify risks, but also to proactively manage them to an acceptably low level.

Managing Michigan-Specific Risks

EAC Guidelines

The Contractor currently certifies all voting systems to the mandatory 2002 Voting System Standards published by the Federal Election Commission. Any updates or changes to the Voluntary Voting System Standards currently proposed by the Election Assistance Commission ("EAC") in the form of Voluntary Voting System Guidelines ("VVSG") have not yet been finalized.

Once the EAC has completed its process and approved and submitted a final version of the VVSG to the Contractor, the Contractor will review and evaluate the same and would expect to meet compliance with the VVSG as set forth above in the immediately preceding response. The Contractor will provide any software changes or modifications necessary as a result of a change in the VVSG at no additional cost to the State so long as the State is receiving the Contractor's software maintenance and support. Depending on the extent to which the Final VVSG may require any material modification to, or replacement of, the ES&S AutoMARK, the Contractor will perform such modifications in order to comply with the VVSG at terms to be mutually agreed upon by the parties.

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Deleted: ¶ ES&S'highly trained associates are dedicated solely to the business of elections. With more statewide implementation expertise than any other vendor, our associates are experienced with an implementation the size and complexity of Michigan. ¶
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During the warranty period and thereafter so long as the State is receiving the Contractor's hardware maintenance services and software maintenance and support, the Contractor's proprietary hardware and software shall be maintained or upgraded by the Contractor in such a way as to remain compliant with all applicable federal and state election laws and regulations, including all current and future requirements necessary to remain certified for use in the State.
For the purposes of the immediately preceding sentence," maintained or upgraded" shall mean such changes to individual items of the Contractor's proprietary hardware and software as are technologically feasible and commercially reasonable.

Advocacy Group
The ES&S AutoMARK has been endorsed by the National Federation for the Blind and has received numerous recommendations from State and local election officials across the United States. At the State's request, the Contractor will be happy to demonstrate the ES&S AutoMARK to local advocacy groups and address any questions or concerns regarding their products or services.

1.403 Change Management

Any proposed changes to this contract must receive the State's Project Manager's written approval and submitted and issued through the DMB change notice process.

1.5 ACCEPTANCE

1.501 Criteria

The following criteria will be used by the Department of State to determine Acceptance of the Services and/or Deliverables provided under this SOW.

The Department of State will work with county and local jurisdiction election officials to confirm that all delivery, installation, testing, training and all other required deliverables have been completed in accordance with agreed upon county plans and contractual terms. This confirmation will be obtained in writing from the Department of State, county and local officials via a receipt/acceptance form prepared by the Department of State.

Acceptance testing of hardware and software will be performed as detailed in **Section 1.104B, Delivery, Installation and Acceptance Testing of the Accessible Voting System**.

Upon delivery, the Contractor will assist state personnel with stringent acceptance testing designed to inspect each delivered item for physical damage and test the functionality of all equipment and software delivered to the State and Counties.

1.502 Final Acceptance

A. Final acceptance will take place:

1. When all accessible voting systems are delivered and accepted by the local jurisdictions.
2. When all training has been delivered to local and State election officials.
3. When all responsibilities to maintain the accessible voting systems have been completed through the warranty period.

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1.6 COMPENSATION AND PAYMENT

This document is the "master contract" between the Contractor and the Department of State that secures pricing for the distribution of accessible voting equipment to local jurisdictions.

The Contractor will be required to enter into a contractual "purchase agreement" with each local jurisdiction. Typically, this document is the purchase agreement provided by the Contractor. Each Contractor's purchase agreement will be used for this purpose, and will be reviewed and accepted by the Department of State before the execution of the master contract. The terms and conditions of this agreement shall not contradict the master contract. The terms of the master contract will supercede any conflicting terms in the purchase agreement.

The Department of State will enter into a "grant agreement" with every local jurisdiction that will authorize distribution of approved equipment. This grant agreement will state that ownership of all equipment and components lies with the local jurisdiction. The grant will also prescribe receipt and acceptance test procedures that must be followed by the local jurisdiction. This grant agreement shall not contradict any terms in the master contract. The terms of the master contract supercede any conflicting terms in the grant agreement.

The Department of State will facilitate purchase orders for the jurisdictions within each county based upon a statewide implementation schedule. The Department of State will issue the purchase order directly to the Contractor on behalf of each jurisdiction within each county. Purchase orders will include the shipping address, billing address, and items specified for each jurisdiction. No partial shipments are to be made unless approved in writing by the Department of State.

The Contractor will work with the county and the local jurisdictions within each county to make delivery arrangements. The Contractor is responsible for invoicing the Department of State directly for each county after delivery and acceptance testing is complete for all jurisdictions within the county. The invoice will include the total number of voting systems delivered and tested to each jurisdiction within the county and be itemized by jurisdiction. The Contractor will reference the original Purchase Order Number on all invoices for payment. All invoices will be sent directly to the Department of State and shall reflect actual work completed.

Every accessible voting system must successfully complete acceptance testing before payment is made to the Contractor. Acceptance testing must be completed by each local jurisdiction within 10 days after delivery and will consist of tests prescribed by the Department of State. (To complete the tests, the Contractor shall provide the necessary programming and test ballots. Sample ballots will be provided by the Department of State.) Acceptance testing can be performed in a central location if approved by the local jurisdictions involved, but the Contractor must make final delivery to the counties and local jurisdictions. Each jurisdiction shall forward certification of the successful completion of acceptance testing to the Department of State within 10 days of delivery.

The Department of State will authorize and release the first phase of payment (85%) for each county purchase order once all county receipt/acceptance forms and the county invoices are received and verified.

The pricing appendices must identify and itemize all costs involved in fulfilling all deliverables and included a per unit voting system price. See **Section 2.93, Pricing** and **Appendices D and E** for more information.

Payment Disbursement Agreement:

Invoicing Milestone #1: Completion of AutoMARK Acceptance Testing

- 85% of the Purchase Order Total (as per Section T) shall be payable to ES&S within thirty (30) calendar days after receipt of complete invoice. Invoicing will occur as individual county purchase orders are fulfilled.

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Invoicing Milestone #2: Certification of the November 2006 Election Results

- 15% of the Purchase Order Total (as per Section T) shall be payable to ES&S within thirty (30) calendar days after receipt of complete invoice.

Payments shall be made to ES&S via Electronic Funds Transfer (EFT). All invoices must be submitted by County and include the original purchase order number issued by the State.

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1.7 ADDITIONAL TERMS AND CONDITIONS SPECIFIC TO THIS SOW

1.701 Reserved

1.702 Source Code Escrow

(a) Definition. "Source Code Escrow Package" shall mean:

(i) A complete copy in machine-readable form of the source code and executable code of the Licensed Software, including any updates or new releases of the product;
(ii) A complete copy of any existing design documentation and user documentation, including any updates or revisions; and/or
(iii) Complete instructions for compiling and linking every part of the source code into executable code for purposes of enabling verification of the completeness of the source code as provided below. Such instructions shall include precise identification of all compilers, library packages, and linkers used to generate executable code.

(b) Delivery of Source Code into Escrow. Vendor shall deliver a Source Code Escrow Package to the Escrow Agent, pursuant to the Escrow Contract, which shall be entered into on commercially reasonable terms subject to the provisions of this Contract within thirty (30) days of the execution of this Contract.

(c) Delivery of New Source Code into Escrow. If at anytime during the term of this Contract, the Vendor provides a maintenance release or upgrade version of the Licensed Software, Vendor shall within ten (10) days deposit with the Escrow Agent, in accordance with the Escrow Contract, a Source Code Escrow Package for the maintenance release or upgrade version, and provide the State with notice of the delivery.

(d) Verification. The State reserves the right at any time, but not more than once a year, either itself or through a third party Contractor, upon thirty (30) days written notice, to seek verification of the Source Code Escrow Package.

(e) Escrow Fees. All fees and expenses charged by the Escrow Agent will be paid by the Vendor.

(f) Release Events. The Source Code Escrow Package may be released from escrow to the State, temporarily or permanently, upon the occurrence of one or more of the following:

(i) The Vendor becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under bankruptcy or insolvency law, whether domestic or foreign;
(ii) The Vendor has wound up or liquidated its business voluntarily or otherwise and the State has reason to believe that such events will cause the Vendor to fail to meet its warranties and maintenance obligations in the foreseeable future;
(iii) The Vendor voluntarily or otherwise discontinues support of the provided products or fails to support the products in accordance with its maintenance obligations and warranties.
(iv) The Department of State or an authorized agent of the Department of State shall be able to obtain the software for purposes of analyzing and testing the software.

(g) Release Event Procedures. If the State desires to obtain the Source Code Escrow Package from the Escrow Agent upon the occurrence of an Event in Section I-SS, then:

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(i) The State shall comply with all procedures in the Escrow Contract;
(ii) The State shall maintain all materials and information comprising the Source Code Escrow Package in confidence in accordance with this Contract and MCL 168.797c;
(iii) If the release is a temporary one, then the State shall promptly return all released materials to Vendor when the circumstances leading to the release are no longer in effect.

(h) License. Upon release from the Escrow Agent pursuant to an event described in Section (f)(i)(ii) and (iii), the Vendor automatically grants the State a non-exclusive, irrevocable license to use, reproduce, modify, maintain, support, update, have made, and create Derivative Works. Further, the State shall have the right to use the Source Code Escrow Package in order to maintain and support the Licensed Software so that it can be used by the State as set forth in this Contract.

(i) Derivative Works. Any Derivative Works to the source code released from escrow which are made by or on behalf of the State shall be the sole property of the State. The State acknowledges that its ownership rights are limited solely to the Derivative Works and do not include any ownership rights in the underlying source code.

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REQUIRED VENDOR INFORMATION¶
Please provide the following required Vendor information. Failure to respond to each requirement may disqualify the Vendor from further participation in this ITB.¶
¶
1B.100 Vendor Information¶
1B.101 Vendor Name and Address¶
Name, address, principle place of business, and telephone number of legal entity with whom contract is to be written.¶
Name: _____¶
Address: _____¶
City, State, Zip: _____¶
Phone: (_____)_____¶
Web Page: _____¶
¶
1B.102 Location Address¶
Address: _____¶
City, State, Zip _____¶
¶
1B.103 Organization and Year¶
Legal status and business structure (corporation, partnership, sole proprietorship, etc.) of the Vendor and the year entity was established.¶
Status: _____¶
In addition, please provide:¶
(a) Company Sales Volume for the last five (5) years.¶
(b) Size and location of facilities that will be involved in any resulting contract.¶
¶
1B.104 ITB Contact¶
Name, title, address, email, phone and fax numbers for Vendor's ITB Contact.¶
Name: _____¶
Address: _____¶
City, State, Zip: _____¶
Phone: (_____)_____¶
Fax: (_____)_____¶
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ARTICLE 2 – GENERAL TERMS AND CONDITIONS

2.0 Introduction

2.001 GENERAL PURPOSE

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The Contract is for an Accessible Voting Systems for the State of Michigan. Exact quantities to be purchased are approximately 4,300 however, the Contractor will be required to furnish all such materials and services as may be ordered during the contract period. Quantities specified if any, are estimates based on prior purchases, and the State is not obligated to purchase in these or any other quantities. Orders for delivery will be forwarded directly to the Contractor by the Department of State on behalf of the local units of government on the Purchase Order Contract Release Form.

2.002 ISSUING OFFICE AND CONTRACT ADMINISTRATOR

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The Contract is issued by Acquisition Services, State of Michigan, Department of Management and Budget, hereinafter known as Acquisition Services. Where actions are a combination of those of Acquisition Services and the State agencies, the authority will be known as the State.

Acquisition Services is the sole point of contact in the State with regard to all procurement and contractual matters relating to the commodities and/or services described herein. Acquisition Services is the only office authorized to negotiate, change, modify, amend, alter, clarify, etc., the specifications, terms, and conditions of the Contract. Acquisition Services will remain the SOLE POINT OF CONTACT throughout the procurement process.

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Contractor proceeds at its own risk if it takes negotiation, changes, modification, alterations, amendments, clarification, etc., of the specifications, terms, or conditions of the contract from any individual or office other than Acquisition Services and the listed contract administrator.

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All communications covering this procurement must be addressed to contract administrator indicated below:

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Michigan Department of Management and Budget
Acquisition Services
Attn: **Laura Gyorkos**
Mason Building
530 W. Allegan St.
Lansing, MI 48909
Email: GyorkosL@michigan.gov

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2.003 NOTICE

Any notice given to a party under this Contract must be written and shall be deemed effective, if addressed to such party as addressed below upon (i) delivery, if hand delivered; (ii) receipt of a confirmed transmission by facsimile if a copy of the notice is sent by another means specified in this section; (iii) the third (3rd) Business Day after being sent by U.S. mail, postage pre-paid, return receipt requested; or (iv) the next Business Day after being sent by a nationally recognized overnight express courier with a reliable tracking system.

2.004 CONTRACT TERM

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The term of this Contract will be for three (3) years and will commence with the issuance of a Contract. This will be approximately 05/03/2006 through 05/03/2009.
Contract issuance is contingent upon State and Federal appropriations and approval by the State Administrative Board, pursuant to the DMB Act, 1984 Public Act 431.

2.005 GOVERNING LAW

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The Contract shall in all respects be governed by, and construed in accordance with, the laws of the State of Michigan. By signing this agreement, vendor consents to personal jurisdiction in the state of Michigan. Any dispute arising herein shall be resolved in the State of Michigan.

2.006 APPLICABLE STATUTES

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The following statutes, rules, and laws are applicable to the performance of this contract; some statutes are reflected in the clauses of this contract. This list is NOT exhaustive.

MI Uniform Commercial Code (MIUCC) MCL 440. (All sections unless otherwise altered by agreement)

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MI OSHA MCL §§ 408.1001 – 408.1094
Freedom of Information Act (FIOA) MCL §§ 15.231, et seq.
Natural Resources and Environmental Protection Act MCL §§ 324.101, et seq.
MI Consumer Protection Act MCL §§ 445.901 – 445.922
Laws relating to wages, payments of wages, and fringe benefits on state projects MCL §§ 408.551 – 408.558, 408.471 – 408.490, 1965 PA 390.
Department of Civil Service Rules and regulations
Elliot Larsen Civil Rights Act MCL §§ 37.2201, et seq.
Persons with disabilities Civil Rights Act MCL §§ 37.1101, et seq.
MCL §§ 423.321, et seq.
MCL § 18.1264 (law regarding debarment)
Davis-Bacon Act (DBA) 40 USCU §§ 276(a), et seq.
Contract Work Hours and Safety Standards Act (CWHSAA) 40 USCS § 327, et seq.
Business Opportunity Act for Persons with Disabilities MCL §§ 450.791 – 450.795
Rules and regulations of the Environmental Protection Agency
Internal Revenue Code
Rules and regulations of the Equal Employment Opportunity Commission (EEOC)
The Civil Rights Act of 1964, USCS Chapter 42
Title VII, 42 USCS §§ 2000e et seq.
The Americans with Disabilities Act (ADA), 42 USCS §§ 12101 et seq.
The Age Discrimination in Employment Act of 1967 (ADEA), 29 USCS §§ 621, 623 et seq.
The Old Workers Benefit and Protection Act of 1990 (OWBPA), 29 USCS §§ 626, et seq.
The Family Medical Leave Act of 1993 (FMLA), 29 USC §§ 651 et seq.
The Fair Labor Standards Act (FLSA), 29 USC §§ 201 et seq.
Pollution Prevention Act of 1990 (PPA) 42 U.S.C. §13106
Sherman Act, 15 U.S.C.S. § 1 et seq.
Robinson-Patman Act, 15 U.S.C.S. § 13 et. seq.
Clayton Act, 15 U.S.C.S. § 14 et seq.

2.007 RELATIONSHIP OF THE PARTIES

The relationship between the State and the Contractor is that of client and independent Contractor. No agent, employee, or servant of the Contractor or any of its subContractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subContractors during the performance of this Contract.

2.008 HEADINGS

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Captions and headings used in the Contract are for information and organization purposes. Captions and headings, including inaccurate references, do not, in any way, define or limit the requirements or terms and conditions of this Contract.

2.009 MERGER

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This document, with all enclosures and attachments as listed herein, constitutes the complete, exclusive, final and entire agreement between the parties with regard to this transaction and may be amended only in writing and executed in the same manner as this document was originally executed.

2.010 SEVERABILITY

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Each provision of the Contract shall be deemed to be severable from all other provisions of the Contract and, if one or more of the provisions of the Contract shall be declared invalid, the remaining provisions of the Contract shall remain in full force and effect.

2.011 SURVIVORSHIP

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Any provisions of the Contract that impose continuing obligations on the parties including, but not limited to the Contractor's indemnity and other obligations shall survive the expiration or cancellation of the Contract for any reason.

2.012 NO WAIVER OF DEFAULT

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The failure of a party to insist upon strict adherence to any term of the Contract shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term or any other term of the Contract.

2.013 PURCHASE ORDERS

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Orders for delivery of commodities and/or services may be forwarded by the Department of State on behalf of local units of government through the issuance of a Purchase Order Form referencing this Contract (Blanket Purchase Order) agreement and the terms and conditions contained herein. Contractor is asked to reference the Purchase Order Number on all invoices for payment.

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2.1 Vendor/Contractor Obligations

2.101 ACCOUNTING RECORDS

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The Contractor and all subcontractors shall maintain all pertinent financial and accounting records and evidence pertaining to the Contract in accordance with generally accepted principles of accounting and other procedures specified by the State of Michigan. Financial and accounting records shall be made available, upon request, to the State of Michigan, its designees, or the Michigan Auditor General at any time during the Contract period and any extension thereof, and for three years from expiration date and final payment on the Contract or extension thereof.

2.102 NOTIFICATION OF OWNERSHIP

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The Contractor shall make the following notifications in writing:

1. When the Contractor becomes aware that a change in its ownership or officers has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify Acquisition Services within 30 days.
2. The Contractor shall also notify the Acquisition Services within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.

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The Contractor shall:

1. Maintain current, accurate, and complete inventory records of assets and their costs;
2. Provide Acquisition Services or designated representative ready access to the records upon request;
3. Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership or officer changes; and
4. Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership or officer change.

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2.103 SOFTWARE COMPLIANCE

The vendor warrants that all software for which the vendor either sells or licenses to the State of Michigan and/or local units of government and used prior to, during or after the calendar year 2000, includes or shall include, at no added cost, design and performance so neither the State nor local units of government experience software abnormality and/or the generation of incorrect results from the software, due to date oriented processing, in the operation of the business of the State of Michigan.

The software design, to insure year 2000 compatibility, shall include, but is not limited to: data structures (databases, data files, etc.) that provide 4-digit date century; stored data that contain date century recognition, including, but not limited to, data stored in databases and hardware device internal system dates; calculations and program logic (e.g., sort algorithms, calendar generation, event recognition, and all processing actions that use or produce date values) that accommodates same century and multi-century formulas and date values; interfaces that supply data to and receive data from other systems or organizations that prevent non-compliant dates and data from entering any State system; user interfaces (i.e., screens, reports, etc.) that accurately show 4 digit years; and assurance that the year 2000 shall be correctly treated as a leap year within all calculation and calendar logic.

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2.104 IT STANDARDS

1. EXISTING TECHNOLOGY STANDARDS. The Contractor will adhere to all existing standards as described within the comprehensive listing of the State's existing technology standards at http://michigan.gov/dit.
2. PM METHODOLOGY STANDARDS. The State has adopted a standard documented Project Management Methodology (PMM) for use on all Information Technology (IT) based projects. This policy is referenced in the document titled "Project Management Methodology" – DMB Administrative Guide Procedure 1380.02 issued June 2000. Vendors may obtain a copy of this procedure, as well as the State of Michigan Project Management Methodology, from the Department of Information Technology's website at http://www.michigan.gov/projectmanagement.

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The Contractor shall use the State's PPM to manage State of Michigan Information Technology (IT) based projects. The Requesting agency will provide the applicable documentation and internal agency processes for the methodology. If the vendor requires training on the methodology, those costs shall be the responsibility of the vendor, unless otherwise stated.

3. ADHERENCE TO PORTAL TECHNOLOGY TOOLS. The State of Michigan, Department of Information Technology, has adopted the following tools as its Portal Technology development efforts:

- Vignette Content Management and personalization Tool
- Inktomi Search Engine
- E-Pay Payment Processing Module
- Websphere Commerce Suite for e-Store applications

Vendors must use the Portal Technology Tools to implement web content management and deployment efforts for agencies. Tools used for web-based application development must work in conjunction with Vignette and Inktomi. The interaction with Vignette and Inktomi must be coordinated with the Department of Information Technology, Enterprise Application Services Office, e-Michigan Web Development team.

Under special circumstances vendors that are compelled to use alternate tools must submit an exception request to the Department of Information Technology, Enterprise Application Services Office, e-Michigan Web Development team, for evaluation and approval of each alternate tool prior to proposal evaluation by the State.

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2.105 PERFORMANCE AND RELIABILITY EVALUATION (PARE)

RESERVED

2.106 PREVAILING WAGE

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RESERVED

2.107 PAYROLL AND BASIC RECORDS

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Payrolls and basic records relating to the performance of this contract shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

The Contractor shall submit a copy of all payrolls to the Contract Administrator upon request. The payrolls submitted shall set out accurately and completely all of the information required to be maintained as indicated above.

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The Prime Contractor is responsible for the submission of copies of payrolls by all subContractors upon request from the Contract Administrator. The Contractor or subContractor shall permit the

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Contract Administrator or representatives of the Contract Administrator or the State of Michigan to interview employees during working hours on the job.

If the Contractor or subContractor fails to submit required records or to make them available, the Contract Administrator may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment.

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2.108 COMPETITION IN SUB-CONTRACTING

The Contractor shall select subContractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.

2.109 CALL CENTER DISCLOSURE

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Vendor and/or all subContractors involved in the performance of this contract providing call or contact center services to the State of Michigan must disclose the location of its call or contact center services to inbound callers. Failure to disclose this information shall be a material breach of this agreement.

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2.2 Contract Performance

2.201 TIME IS OF THE ESSENCE

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Contractor/Vendor is on notice that time is of the essence in the performance of this contract. Late performance will be considered a material breach of this contract, giving the State and/or local units of government a right to invoke all remedies available to it under the master contract and/or subsequent contracts.

2.202 CONTRACT PAYMENT SCHEDULE

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The specific payment schedule for this Contract is detailed in Section 1.6. The schedule should show payment amount and should reflect actual work done by the payment dates, less any penalty cost charges accrued by those dates. As a general policy statements shall be forwarded to the designated representative by the 15th day of the following month.

2.203 POSSIBLE PROGRESS PAYMENTS

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2.204 POSSIBLE PERFORMANCE-BASED PAYMENTS (Actual performance rendered)

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Reserved

2.205 ELECTRONIC PAYMENT AVAILABILITY

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Electronic transfer of funds is required on this Contract. Vendor is required to register with the State of Michigan Office of Financial Management so the State can make payments related to this Contract electronically a www.cpexpress.state.mi.us.

2.206 PERFORMANCE OF WORK BY CONTRACTOR

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2.3 Contract Rights and Obligations

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2.301 INCURRING COSTS

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The State of Michigan is not liable for any cost incurred by the Contractor prior to signing of the Contract. The State fiscal year is October 1st through September 30th. The Contractor(s) should realize that payments in any given fiscal year are contingent upon State and Federal appropriations. Total liability of the State is limited to terms and conditions of the Contract.

2.302 CONTRACTOR RESPONSIBILITIES

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The Contractor will be required to assume responsibility for all contractual activities, whether or not that Contractor performs them. Further, the State will consider the Contractor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the anticipated Contract. If any part of the work is to be subcontracted, the Contract must include a list of subcontractors, including firm name and address, contact person and a complete description of work to be subcontracted. The State reserves the right to approve subContractors and to require the Contractor to replace subContractors found to be unacceptable. The Contractor is totally responsible for adherence by the subContractor to all provisions of the Contract. Any change in subContractors must be approved by the State, in writing, prior to such change.

2.303 ASSIGNMENT AND DELEGATION

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The Contractor shall not have the right to assign this Contract or to assign or delegate any of its duties or obligations under this Contract to any other party (whether by operation of law or otherwise), without the prior written consent of the State. Any purported assignment in violation of this section shall be null and void. Further, the Contractor may not assign the right to receive money due under the Contract without the prior written consent of the Director of Acquisition Services.

The Contractor shall not delegate any duties or obligations under this Contract to a subContractor other than a subContractor named in the contract unless the Director of Acquisition Services has given written consent to the delegation.

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2.304 TAXES

Sales Tax: For purchases made directly by the State of Michigan and local units of government, the State and local units of government are exempt from State and Local Sales Tax. Prices shall not include such taxes. Exemption Certificates for State Sales Tax will be furnished upon request.

Federal Excise Tax: The State of Michigan and local units of government may be exempt for Federal Excise Tax, or such taxes may be reimbursable, if articles purchased under this Contract are used for the State and local units of government's exclusive use. Certificates exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent to the Contractor upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, prices shall not include the Federal Excise Tax.

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The State's Tax Exempt Certification is available for vendor viewing upon request to the Contract Administrator.

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2.305 INDEMNIFICATION

1. General Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents, from and against all losses, liabilities, penalties, fines, damages and claims (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties), arising from or in connection with any of the following:

a. any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from (1) the product provided or (2) performance of the work, duties, responsibilities, actions or omissions of the Contractor or any of its subContractors under this Contract;

b. any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from a breach by the Contractor of any representation or warranty made by the Contractor in the Contract;

c. any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or related to occurrences that the Contractor is required to insure against as provided for in this Contract;

d. any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, in connection with the performance of services by the Contractor, by any of its subContractors, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable; provided, however, that this indemnification obligation shall not apply to the extent, if any, that such death, bodily injury or property damage is caused solely by the negligence or reckless or intentional wrongful conduct of the State;

e. any claim, demand, action, citation or legal proceeding against the State, its employees and agents which results from an act or omission of the Contractor or any of its subContractors in its or their capacity as an employer of a person.

2. Patent/Copyright Infringement Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State, its employees and agents from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Contractor or its subContractors, or the operation of such equipment, software, commodity or service, or the use or reproduction of any documentation provided with such equipment, software, commodity or service infringes any United States or foreign patent, copyright, trade secret or other proprietary right of any person or entity, which right is enforceable under the laws of the United States. In addition, should the equipment, software, commodity, or service, or the operation thereof, become or in the Contractor's opinion be likely to become the subject of a claim of infringement, the Contractor shall at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the Contractor, (ii) replace or modify the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if such option is not reasonably available to Contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

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3. Indemnification Obligation Not Limited

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In any and all claims against the State of Michigan, or any of its agents or employees, by any employee of the Contractor or any of its subContractors, the indemnification obligation under the Contract shall not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Contractor or any of its subContractors under worker's disability compensation acts, disability benefits acts, or other employee benefits acts. This indemnification clause is intended to be comprehensive. Any overlap in subclauses, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other subclause.

4. Continuation of Indemnification Obligation

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The duty to indemnify will continue in full force and affect not withstanding the expiration or early termination of the Contract with respect to any claims based on facts or conditions, which occurred prior to termination.

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2.306 LIMITATION OF LIABILITY

Except as set forth herein, neither the Contractor nor the State shall be liable to the other party for indirect or consequential damages, even if such party has been advised of the possibility of such damages. Such limitation as to indirect or consequential damages shall not apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; to Contractor's indemnification obligations (2.305); or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

ES&S' total liability to the State, and the State's total liability to Contractor, shall be limited to the total amount to be paid by the State under this contract

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2.307 CONTRACT DISTRIBUTION

Acquisition Services shall retain the sole right of Contract distribution to all State agencies and local units of government unless other arrangements are authorized by Acquisition Services.

2.308 FORM, FUNCTION, AND UTILITY

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If the Contract is for use of more than one State agency and if the good or service provided under this Contract do not the meet the form, function, and utility required by a State agency, that agency may, subject to State purchasing policies, procure the good or service from another source.

2.309 ASSIGNMENT OF ANTITRUST CAUSE OF ACTION

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For and in consideration of the opportunity to submit a quotation and other good and valuable consideration, the Contractor hereby assigns, sells and transfers to the State of Michigan all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of payment and which relate solely to the particular goods, commodities, or services purchased or procured by this State pursuant to this transaction.

2.310 PURCHASING FROM OTHER STATE AGENCIES

Reserved

2.311 TRANSITION ASSISTANCE

Reserved

2.312 WORK PRODUCT

Software: All copies of data, materials, documentation and other things not including software prepared or acquired by the Contractor and delivered to the State or counties shall be non-exclusively licensed to the State or county. In addition to being non-exclusive, the licenses are also site-wide, irrevocable, and royalty-free. The State and counties may use copies, including intellectual property rights therein, consistent with the rights of a non-exclusive licensee. All rights in software, if any, shall be governed by the applicable license agreement, which cannot contradict the terms of this contract.

Software Prepared by the Contractor Licensed to the State or counties: Contractor grants to the State and counties a non-exclusive, royalty-free, site-wide, irrevocable, transferable license to use any custom developed software and related documentation according to the terms and conditions of this Contract. For the purposes of this license, "site-wide" includes the State or any county regardless of its physical location.

The State or county may modify the Software and may combine such with other programs or materials to form a derivative work. The State or county will own and hold all copyright, trademark, patent and other intellectual property rights in any derivative work, excluding any rights or interest in Software other than those granted in this Contract.

The State and county may copy each item of Software to multiple hard drives or networks. The State and county will make and maintain no more than one archival copy of each item of Software, and each copy will contain all legends and notices and will be subject to the same conditions and restrictions as the original. The State and counties may also make copies of the Software in the course of routine backups of hard drive(s) for the purpose of recovery of hard drive contents.

In the event that the Contractor shall, for any reason, cease to conduct business, or cease to support the Software, the State shall have the right to convert these licenses into perpetual licenses, with rights of quiet enjoyment. The AIMS license fee to the State, counties, and local jurisdictions shall be $0 and the license shall be perpetual. AIMS maintenance fees will apply to county only; not to those jurisdictions designated by the State to receive EMS. There will be no "double dip" on AIMS post warranty maintenance costs. The counties are responsible for optional post warranty costs. The State cannot mandate the county to use EMS or pay for post warranty maintenance costs. The Contractor will allow jurisdictions to contract with outside individuals or firms to program using the EMS system. The outside individual Contractors will exclude individuals currently employed by the other election system vendors.

Equipment: All equipment shall be titled in the name of the State, counties, cities and townships. Notwithstanding any provision of this Contract to the contrary, any preexisting work or materials including, but not limited to, any routines, libraries, tools, methodologies, processes or technologies (collectively, the "Development Tools") created, adapted or used by the Contractor in its business generally, including any and all associated intellectual property rights, shall be and remain the sole property of the Contractor, the State, counties, cities, and townships shall have no interest in or claim to such preexisting work, materials or Development Tools, except as necessary to exercise its rights in the Work Product. Such rights belonging to the State, counties, cities, and townships shall

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include, but not be limited to, the right to use, execute, reproduce, display, perform and distribute copies of and prepare derivative works based upon the Work Product, and the right to authorize others to do any of the foregoing, irrespective of the existence therein of preexisting work, materials and Development Tools, except as specifically limited herein.

The Contractor and its subContractor shall be free to use and employ their general skills, knowledge and expertise, and to use, disclose, and employ any generalized ideas, concepts, knowledge, methods, techniques or skills gained or learned during the course of performing the services under this Contract, so long as the Contractor or its subContractor acquire and apply such information without disclosure of any confidential or proprietary information of the State, counties, cities, or townships and without any unauthorized use or disclosure of any Work Product resulting from this Contract.

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2.313 PROPRIETARY RIGHTS

Rights in Data

(a) The State will be and remain the owner of all data made available by the State to Contractor or its agents, SubContractors or representatives pursuant to the Contract. Contractor will not use the State's data for any purpose without prior approval from the State. Contractor will not possess or assert any lien or other right against the State's data. Without limiting the generality of this Section, Contractor shall only use personally identifiable information as strictly necessary to provide the Services and shall disclose such information only to its employees who have a strict need to know such information. Contractor shall comply at all times with all laws and regulations applicable to such personally identifiable information.

(b) The State is and shall remain the owner of all State-specific data pursuant to the Contract. The State may use the data provided by the Contractor for any purpose. The State will not possess or assert any lien or other right against the Contractor's data. Without limiting the generality of this Section, the State shall only use personally identifiable information as strictly necessary to utilize the Services and shall disclose such information only to its employees who have a strict need to know such information, except as provided by law. The State shall comply at all times with all laws and regulations applicable to such personally identifiable information.

Ownership of Materials

State and Contractor will continue to own their respective proprietary technologies developed before entering into the Contract. Any hardware bought through the Contractor by the State, and paid for by the State, will be owned by the State.

2.314 WEBSITE INCORPORATION

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State expressly states that it will not be bound by any content on the Contractor's website, even if the Contractor's documentation specifically referenced that content and attempts to incorporate it into any other communication, unless the State has actual knowledge of such content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representation of the State.

2.3 Contract Review and Evaluation

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2.401 CONTRACT COMPLIANCE INSPECTOR

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Upon receipt at Acquisition Services of the properly executed Contract Agreement(s), the person named below will be allowed to oversee the Contract performance on a day-to-day basis during the term of the Contract. However, overseeing the Contract implies **no authority to negotiate, change, modify, clarify, amend, or otherwise alter the terms, conditions, and specifications of such Contract(s). That authority is retained by Acquisition Services**. The Contract Compliance Inspector for this project is:

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Tom Luitje, Department Analyst
Department of State
Bureau of Elections
430 W. Allegan St, 1st Floor
Lansing, MI 48918
Phone: (517) 241-2541
Email: LuitjeT@michigan.gov

2.402 PERFORMANCE REVIEWS

Acquisition Services in conjunction with various state agencies may review with the Contractor their performance under the Contract. Performance reviews shall be conducted quarterly, semi-annually or annually depending on Contractor's past performance with the State. Performance reviews shall include, but not limited to, quality of products/services being delivered and provided, timeliness of delivery, percentage of completion of orders, the amount of back orders, status of such orders, accuracy of billings, customer service, completion and submission of required paperwork, the number of substitutions and the reasons for substitutions, and other requirements of the Contract.

Upon a finding of poor performance, which has been documented by Acquisition Services, the Contractor shall be given an opportunity to respond and take corrective action. If corrective action is not taken in a reasonable amount of time as determined by Acquisition Services, the Contract may be canceled for default. Delivery by the Contractor of unsafe and/or adulterated or off-condition products to any State agency is considered a material breach of Contract subject to the cancellation provisions contained herein.

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2.403 AUDIT OF CONTRACT COMPLIANCE/ RECORDS AND INSPECTIONS

The Contractor agrees that the State may, upon 24-hour notice, perform an audit at Contractor's location(s) to determine if the Contractor is complying with the requirements of the Contract. The Contractor agrees to cooperate with the State during the audit and produce all records and documentation that verifies compliance with the Contract requirements.

2.5 Quality and Warranties

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2.501 PROHIBITED PRODUCTS

The State will not accept salvage, distressed, outdated, discontinued or refurbished merchandise. Shipping of such merchandise to the State and/or local units of government, as a result of an order placed under the Contract, shall be considered default by the Contractor of the terms and conditions of the Contract and may result in cancellation of the Contract. The brand and product number offered for all items shall remain consistent for the term of the Contract, unless Acquisition Services has approved a change.

2.502 QUALITY ASSURANCE

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The State reserves the right to periodically test products, which have been received to verify compliance with specifications. If laboratory analysis shows that the product does not meet specifications or fails to perform satisfactorily at any time, the Contractor shall be responsible for:

1. All costs of testing and laboratory analysis.
2. Disposal and/or replacement of all products which fail to meet specifications.
3. All costs of repair and/or replacement of equipment deemed to have been damaged by substandard products as determined by the State.

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2.503 INSPECTION

All goods are subject to inspection and testing. In the event goods are defective in material or workmanship, or otherwise fail to meet the requirements of the Contract, the State shall have the right to reject the goods or retain the goods and correct the defects. The Contractor shall pay the State for expenses incurred in correcting defects. Rejected goods will be held for 45 days after delivery. The Contractor must arrange for the return of said goods, including paying for handling, packing, and transportation costs. The State has the authority to dispose of the goods without further liability to the State in the event the Contractor fails to make arrangements within the specified time period.

2.504 GENERAL WARRANTIES (goods)

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Warranty of Merchantability – The accessible voting system provided by vendor under this agreement shall be of commercially acceptable quality and comply with the 2002 Federal Election Commission Voluntary Voting System Standards and the requirements listed in **Section 1.1 SCOPE OF WORK AND DELIVERABLES** of this Contract. All goods provided under this contract shall be of good quality within the description given by the State in **Section 1.1 SCOPE OF WORK AND DELIVERABLES**, shall be fit for their ordinary purpose, shall be adequately contained and packaged within the description given by the State, shall conform to the agreed upon specifications, and shall conform to the affirmations of fact made by the vendor or on the container or label.

Deleted: Warranty of Merchantability – Goods provided by vendor under this agreement shall be merchantable. All goods provided under this contract shall be of good quality within the description given by the State, shall be fit for their ordinary purpose, shall be adequately contained and packaged within the description given by the State, shall conform to the agreed upon specifications, and shall conform to the affirmations of fact made by the vendor or on the container or label. ¶ Suggested language from ES&S with SOM edits¶

Warranty of fitness for a particular purpose – When vendor actually knows of any particular purpose for which the goods are required, and the State is relying on the vendor's skill or judgment to select or furnish suitable goods to fulfill such purpose, there is a warranty that the goods are fit for such purpose as stated in **Section 1.1 SCOPE OF WORK AND DELIVERABLES**.

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Warranty of title – Vendor shall, in providing goods to the State, convey good title in those goods, whose transfer is right and lawful. All goods provided by vendor shall be delivered free from any security interest, lien, or encumbrance of which the State, at the time of contracting, has no knowledge. Goods provided by vendor, under this agreement, shall be delivered free of any rightful claim of any third person by of infringement or the like.

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2.505 CONTRACTOR WARRANTIES

The Contract will contain customary representations and warranties by the Contractor, including, without limitation, the following:

1. The Contractor will perform all services in accordance with high professional standards in the industry;
2. The Contractor will use adequate numbers of qualified individuals with suitable training, education, experience and skill to perform the services;
3. The Contractor will use its best efforts to use efficiently any resources or services necessary to provide the services that are separately chargeable to the State;
4. The Contractor will use its best efforts to perform the services in the most cost effective manner consistent with the required level of quality and performance;
5. The Contractor will perform the services in a manner that does not infringe the proprietary rights of any third party;
6. The Contractor will perform the services in a manner that complies with all applicable laws and regulations;
7. The Contractor has duly authorized the execution, delivery and performance of the Contract;
8. The Contractor is capable in all respects of fulfilling and shall fulfill all of its obligations under this contract.
9. The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter this contract, on behalf of Contractor.
10. The Contractor is qualified and registered to transact business in all locations where required.
11. Neither the Contractor nor any Affiliates, nor any employee of either, has, shall have, or shall acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor shall notify the State within two (2) days of any such interest that may be incompatible with the interests of the State.

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2.506 STAFF

The State, in its reasonable discretion, reserves the right to approve the Contractor's assignment of Key Personnel to this project and to recommend reassignment of personnel reasonably deemed unsatisfactory by the State. The Contractor shall certify that their Project Manager shall not change during the first 180 days of the Contract. After the first 180 days of the Contract, the Contractor shall not remove or reassign, without the State's prior written approval, which approval shall not be unreasonably withheld or conditioned, nor unduly delayed, Key Personnel until such time as the Key Personnel have completed all of their planned and assigned responsibilities in connection with performance of the Contractor's obligations under this Contract. The Contractor agrees that the continuity of Key Personnel is critical and agrees to the continuity of Key Personnel. Removal of Key Personnel without the written consent of the State may be considered by the State to be a material breach of this Contract. The prohibition against removal or reassignment shall not apply where Key Personnel shall be replaced for reasons beyond the reasonable control of the Contractor including but not limited to illness, disability, resignation or termination of the Key Personnel's employment.

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The Contractor may also avoid a material breach if it removes Key Personnel with the approval of the Contract Administrator and has the Contract Administrator's approval of replacement Key Personnel. The State acknowledges and agrees that such approval shall not be unreasonably withheld. Assignment of new Key Personnel with out prior approval of the Contract Administrator will still be deemed unsatisfactory and subject to contract cancellation. The State, in its sole

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discretion, may require the Contractor to provide documentation on such removal of key personnel, and such documentation may be posted on the program Web page to provide other counties with due warning of such events. Contractor(s) shall maintain a staff and office in Michigan as long as the Contractor is fulfilling contract requirements unless otherwise approved in writing by DOS.

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The State and the Contractor agree that the following personnel are Key Personnel for purposes of this Contract:

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Name: Willie G. Wesley, Jr.
Title: Area Director

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The Contractor certifies that Willie G. Wesley, Jr., Michigan State Area Director, will oversee implementation progress of the State of Michigan voting system implementation during the first 180 days of the Contract. Mr. Wesley is a resident of the State of Michigan and maintains a home office within the state. Mr. Wesley will manage a Project Manager and other personnel assigned to implement this project as well as the implementation progress. The Project Manager, acting as the primary day-to-day interface partner, assumes responsibility for the execution of all Contractor duties under this agreement. The Project Manager also identifies any necessary changes to the Project Plan, and communicates with the State and internally with the Contractor.

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2.507 SOFTWARE WARRANTIES

(a) Performance Warranty

The Contractor represents and warrants that Deliverables, after Final Acceptance, will perform and operate in compliance with the requirements and other standards of performance contained in this Contract (including all descriptions, specifications and drawings made a part of the Contract) for a period of ninety (90) days. In the event of a breach of this warranty, Contractor will promptly correct the affected Deliverable(s) at no charge to the State.

(b) No Surreptitious Code Warranty

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The Contractor represents and warrants that no copy of licensed Software provided to the State contains or will contain in any Self-Help Code or any Unauthorized Code as defined below. This warranty is referred to in this Contract as the "No Surreptitious Code Warranty."

As used in this Contract, "Self-Help Code" means any back door, time bomb, drop dead device, or other software routine designed to disable a computer program automatically with the passage of time or under the positive control of a person other than the licensee of the software. Self-Help Code does not include Software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee's computer system(s) (e.g. remote access via modem) for purposes of maintenance or technical support.

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As used in this Contract, "Unauthorized Code" means any virus, Trojan horse, spyware, worm or other Software routines or components designed to permit unauthorized access to disable, erase, or otherwise harm software, equipment, or data; or to perform any other such actions. The term Unauthorized Code does not include Self-Help Code.

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In addition, Contractor will use up-to-date commercial virus detection software to detect and remove any viruses from any software prior to delivering it to the State.

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(c) Calendar Warranty

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The Contractor represents and warrants that all software for which the Contractor either sells or licenses to the State of Michigan and used by the State prior to, during or after the calendar year 2000, includes or shall include, at no added cost to the State, design and performance so the State shall not experience software abnormality and/or the generation of incorrect results from the software, due to date oriented processing, in the operation of the business of the State of Michigan.

The software design, to insure calendar year rollover compatibility, shall include, but is not limited to: data structures (databases, data files, etc.) that provide 4-digit date century; stored data that contain date century recognition, including, but not limited to, data stored in databases and hardware device internal system dates; calculations and program logic (e.g., sort algorithms, calendar generation, event recognition, and all processing actions that use or produce date values) that accommodates same century and multi-century formulas and date values; interfaces that supply data to and receive data from other systems or organizations that prevent non-compliant dates and data from entering any State system; user interfaces (i.e., screens, reports, etc.) that accurately show 4 digit years; and assurance that the year 2000 shall be correctly treated as a leap year within all calculation and calendar logic.

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(d) Third-party Software Warranty

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The Contractor represents and warrants that it will disclose the use or incorporation of any third-party software into the Deliverables. At the time of Delivery, the Contractor shall provide in writing the name and use of any Third-party Software, including information regarding the Contractor's authorization to include and utilize such software. The notice shall include a copy of any ownership agreement or license that authorizes the Contractor to use the Third-party Software.

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2.508 EQUIPMENT WARRANTY

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To the extent Contractor is responsible under this Contract for maintaining equipment/system(s), Contractor represents and warrants that it will maintain such equipment/system(s) in good operating condition and will undertake all repairs and preventive maintenance in accordance with the applicable manufacturer's recommendations for the period specified in this Contract.

The Contractor represents and warrants that the equipment/system(s) shall be in good operating condition and shall operate and perform to the requirements and other standards of performance contained in this Contract, when installed, at the time of Final Acceptance by the local units of government, and for a period of one (1) year commencing upon the first day following Final Acceptance.

Except for Election Day **(see Section 1.104D)**, the Contractor shall adjust, repair or replace all equipment that is defective or not performing in compliance with the Contract within 10 business days of notification from the State. The Contractor shall assume all costs for replacing parts or units and their installation including transportation and delivery fees, if any. "Election Day" is defined as any day on which an election is held.

The Contractor shall provide a toll-free telephone number to allow the State to report equipment failures and problems to be remedied by the Contractor.

The Contractor agrees that all warranty service it provides under this Contract shall be performed by original equipment manufacturer (OEM) trained, certified and authorized technicians.

The Contractor shall act as the sole point of contact for warranty service. The Contractor warrants that it shall pass through to the State and local units of government any and all warranties obtained or available from the original equipment manufacturer, including any replacement, upgraded, or additional equipment warranties.

Refer to **Section 1.104.D Work and Deliverables, Warranty and Maintenance** for additional information regarding warranty requirements.

2.509 PHYSICAL MEDIA WARRANTY

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Contractor represents and warrants that each licensed copy of the Software provided by the Contractor is free from physical defects in the media that tangibly embodies the copy. This warranty does not apply to defects discovered more than thirty (30) days after that date of Final Acceptance of the Software by the State. This warranty does not apply to defects arising from acts of Excusable Failure. If the Contractor breaches this warranty, then the State shall be entitled to replacement of the non-compliant copy by Contractor, at Contractor's expense (including shipping and handling).

2.5 Breach of Contract

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2.601 BREACH DEFINED

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Failure to comply with articles, sections, or subsections of this agreement, or making any false statement in this agreement will be considered a material breach of this agreement giving the state authority to invoke any and all remedies available to it under this agreement.
In addition to any remedies available in law and by the terms of this contract, if the Contractor breaches Sections 2.508, 2.509, or 2.510, such a breach may be considered as a default in the performance of a material obligation of this contract.

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2.602 NOTICE AND THE RIGHT TO CURE

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In the event of a curable breach by the Contractor, the State shall provide the Contractor written notice of the breach and a time period to cure of 30 days. This section requiring notice and an opportunity to cure shall not be applicable in the event of successive or repeated breaches of the same nature or if the State determines in its sole discretion that the breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage or destruction of any real or tangible personal property.

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2.603 EXCUSABLE FAILURE

1. Neither party shall be liable for any default or delay in the performance of its obligations under the Contract if and to the extent such default or delay is caused, directly or indirectly, by: fire, flood, earthquake, elements of nature or acts of God; riots, civil disorders, rebellions or revolutions in any country; the failure of the other party to perform its material responsibilities under the Contract (either itself or through another Contractor); injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused); or any other cause beyond the reasonable control of such party; provided the non-performing party and its subContractors are without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means,

including disaster recovery plans. In such event, the non-performing party will be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such party continues to use its best efforts to recommence performance or observance whenever and to whatever extent possible without delay provided such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation.

2. If any of the above enumerated circumstances substantially prevent, hinder, or delay performance of the services necessary for the performance of the State's functions for more than 14 consecutive days, and the State determines that performance is not likely to be resumed within a period of time that is satisfactory to the State in its reasonable discretion, then at the State's option: (a) the State may procure the affected services from an alternate source, and the State shall not be liable for payments for the unperformed services under the Contract for so long as the delay in performance shall continue; (b) the State may cancel any portions of the Contract so affected and the charges payable hereunder shall be equitably adjusted to reflect those services canceled; or (c) the Contract will be canceled without liability of the State to the Contractor as of the date specified by the State in a written notice of cancellation to the Contractor. The Contractor will not have the right to any additional payments from the State as a result of any excusable failure occurrence or to payments for services not rendered as a result of the excusable failure condition. Defaults or delays in performance by the Contractor which are caused by acts or omissions of its subContractors will not relieve the Contractor of its obligations under the Contract except to the extent that a subContractor is itself subject to any excusable failure condition described above and the Contractor cannot reasonably circumvent the effect of the subContractor's default or delay in performance through the use of alternate sources, workaround plans or other means.

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2.7 Remedies

2.701 CANCELLATION

The State may cancel this Contract without further liability or penalty to the State, its departments, divisions, agencies, offices, commissions, officers, agents and employees for any of the following reasons:

1. Material Breach by the Contractor. In the event that the Contractor breaches any of its material duties or obligations under the Contract, which are either not capable of or subject to being cured, or are not cured within the time period specified in the written notice of breach provided by the State, or pose a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the State may, having provided written notice of cancellation to the Contractor, cancel this Contract in whole or in part, for cause, as of the date specified in the notice of cancellation.

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____In the event that this Contract is cancelled for cause, in addition to any legal remedies otherwise available to the State by law or equity, the Contractor shall be ____responsible for all costs incurred by the State in canceling the Contract, including but not limited to, State administrative costs, attorneys fees and court costs, and _____any additional costs the State may incur to procure the services required by this Contract from other sources. All excess reprocurement costs and damages shall not be considered by the parties to be consequential, indirect or incidental, and _____shall not be excluded by any other terms otherwise included in the Contract.

____In the event the State chooses to partially cancel this Contract for cause charges payable under this Contract will be equitably adjusted to reflect those services that are cancelled.

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In the event this Contract is cancelled for cause pursuant to this section, and it is therefore determined, for any reason, that the Contractor was not in breach of contract pursuant to the provisions of this section, that cancellation for cause shall be deemed to have been a cancellation for convenience, effective as of the same date, and the rights and obligations of the parties shall be limited to that otherwise provided in the Contract for a cancellation for convenience.

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2. Cancellation For Convenience By the State. (The State may cancel this Contract for its convenience, in whole or part, if the State determines that such a cancellation is in the State's best interest). Reasons for such cancellation shall be left to the sole discretion of the State and may include, but not limited to (a) the State no longer needs the services or products specified in the Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of the Contract services no longer practical or feasible, and (c) unacceptable prices for additional services requested by the State. The State may cancel the Contract for its convenience, in whole or in part, by giving the Contractor written notice 30 days prior to the date of cancellation. If the State chooses to cancel this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those services that are cancelled.

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3. Non-Appropriation. In the event that funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available. The Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this project. If funds are not appropriated or otherwise made available, the State shall have the right to cancel this Contract at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of cancellation to the Contractor. The State shall give the Contractor written notice of such non-appropriation or unavailability within 30 days after it receives notice of such non-appropriation or unavailability.

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4. Criminal Conviction. In the event the Contractor, an officer of the Contractor, or an owner of a 25% or greater share of the Contractor, is convicted of a criminal offense incident to the application for or performance of a State, public or private Contract or subcontract; or convicted of a criminal offense including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or Federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State, reflects upon the Contractor's business integrity.

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5. Approvals Rescinded. The State may terminate this Contract without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, section 5, and Civil Service Rule 4-6. Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in such written notice.

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2.702 RIGHTS UPON CANCELLATION

1. If the Contract is canceled by the State for any reason, the Contractor shall, (a) stop all work as specified in the notice of cancellation, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Work Product or other property derived or resulting from the Contract that may be in the Contractor's possession, (c) return all materials and property provided directly or indirectly to the Contractor by any entity, agent or employee of the State, (d) transfer title and deliver to the State, unless otherwise directed by the Contract Administrator or his or her designee, all Work Product resulting from the Contract, and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or cancellation settlement costs, to the maximum practical extent, including, but not limited to, canceling or limiting as otherwise applicable, those subcontracts, and outstanding orders for material and supplies resulting from the canceled Contract.

2. In the event the State cancels this Contract prior to its expiration for its own convenience, the State shall pay the Contractor for all charges due for services provided prior to the date of cancellation and if applicable as a separate item of payment pursuant to the Contract, for partially completed Work Product, on a percentage of completion basis. In the event of a cancellation for cause, or any other reason under the Contract, the State will pay, if applicable, as a separate item of payment pursuant to the Contract, for all partially completed Work Products, to the extent that the State requires the Contractor to submit to the State any such deliverables, and for all charges due under the Contract for any cancelled services provided by the Contractor prior to the cancellation date. All completed or partially completed Work Product prepared by the Contractor pursuant to this Contract shall, at the option of the State, become the State's property, and the Contractor shall be entitled to receive just and fair compensation for such Work Product. Regardless of the basis for the cancellation, the State shall not be obligated to pay, or otherwise compensate, the Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.

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3. If any such cancellation by the State is for cause, the State shall have the right to set-off against any amounts due the Contractor, the amount of any damages for which the Contractor is liable to the State under this Contract or pursuant to law and equity.

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Upon a good faith cancellation, the State shall have the right to assume, at its option, any and all subcontracts and agreements for services and materials provided under this Contract, and may further pursue completion of the Work Product under this Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

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2.703 LIQUIDATED DAMAGES

RESERVED

2.704 STOP WORK

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1. The State may, at any time, by written stop work order to the Contractor, require that the Contractor stop all, or any part, of the work called for by this Contract for a period of up to 90 days after the stop work order is delivered to the Contractor, and for any further period to which the parties may agree. The stop work order shall be specifically identified as such and shall indicate that it is issued under this section. Upon receipt of the stop work order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work order, the State shall either:

a. Cancel the stop work order; or
b. Cancel the work covered by the stop work order as provided in the cancellation section of this Contract.

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2. If a stop work order issued under this section is canceled or the period of the stop work order or any extension thereof expires, the Contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the contract price, or both, and the Contract shall be modified, in writing, accordingly, if:

a. The stop work order results in an increase in the time required for, or in the Contractor's costs properly allocable to the performance of any part of this Contract; and
b. The Contractor asserts its right to an equitable adjustment within 30 days after the end of the period of work stoppage; provided, that if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Contract.

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3. If the stop work order is not canceled and the work covered by the stop work order is canceled for reasons other than material breach, the State shall allow reasonable costs resulting from the stop work order in arriving at the cancellation settlement.
4. If a stop work order is not canceled and the work covered by the stop work order is canceled for material breach, the State shall not allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop work order.

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5. An appropriate equitable adjustment may be made in any related contract of the Contractor that provides for adjustment and is affected by any stop work order under this section. The State shall not be liable to the Contractor for loss of profits because of a stop work order issued under this section.

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2.705 SUSPENSION OF WORK

Reserved

2.6 Changes, Modifications, and Amendments

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2.801 APPROVALS

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The Contract may not be modified, amended, extended, or augmented except by a writing executed by the parties hereto, and any breach or default by a party shall not be waived or released other than in writing signed by the other party.

2.802 TIME EXTENTIONS

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Time extensions for contract changes will depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of performance as described in the statement of work. The change order granting the time extension may provide that the contract completion date will be extended only for those specific elements related to the changed work and that the remaining contract completion dates for all other portions of the work will not be altered. The change order also may provide an equitable readjustment of liquidated damages under the new completion schedule.

2.803 MODIFICATION

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Acquisition Services reserves the right to modify this contract at any time during the contract term. Such modification may include changing the locations to be serviced, additional locations to be serviced, method or manner of performance of the work, number of days service is to be

performed, addition or deletion of tasks to be performed, addition or deletion of items, and/or any other modifications deemed necessary. Any changes in pricing proposed by the Contractor resulting from the proposed changes are subject to acceptance by the State. Changes may be increases or decreases. IN THE EVENT PRICES ARE NOT ACCEPTABLE TO THE STATE, THE CONTRACT SHALL BE SUBJECT TO COMPETITIVE BIDDING BASED UPON THE NEW SPECIFICATION.

The State reserves the right to add an item(s) that is not described on the item listing and is available from the Contract vendor. The item(s) may be included on the Contract, only if prior written approval has been granted by Acquisition Services.

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2.804 AUDIT AND RECORDS UPON MODIFICATION

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DEFINITION: records includes books, documents, accounting procedures and practices, and other data, regardless of whether such items are in written form, electronic form, or in any other form Contractor shall be required to submit cost or pricing data with the pricing of any modification of this contract to the Contract Administrator in Acquisition Services. Data may include accounting records, payroll records, employee time sheets, and other information the state deems necessary to perform a fair evaluation of the modification proposal. Contract Administrator or authorized representative of the state shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to:

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1. The proposal for modification;
2. The discussions conducted on the proposal, including those related to negotiation;
3. Pricing of the modification; or
4. Performance of the modification.

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Contractor shall make available at its office at all reasonable times the materials described in the paragraphs above. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement.

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2.805 CHANGES

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(a) The Contract Administrator may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes:

(1) In the specifications (including drawings and designs);
(2) In the method or manner of performance of the work;
(3) In the Government-furnished facilities, equipment, materials, services, or site; or
(4) Directing acceleration in the performance of the work.

(a) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contract Administrator that causes a change shall be treated as a change order under this clause; Provided, that the Contractor gives the Contract Administrator written notice stating:

(1) The date, circumstances, and source of the order; and
(2) That the Contractor regards the order as a change order.

(b) Except as provided in this clause, no order, statement, or conduct of the Contract Administrator shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

2.90 WORKPLACE DISCRIMINATION

The Contractor represents and warrants that in performing services for the State pursuant to this Contract, the Contractor agrees not to discriminate against any employee or applicant for employment, with respect to their hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental handicap or disability. The Contractor further agrees that every subcontract entered into for the performance of any Contract or purchase order resulting here from will contain a provision requiring non-discrimination in employment, as herein specified, binding upon each subContractor. This covenant is required pursuant to the Elliott-Larsen Civil Rights Act, 1976 Public Act 453, as amended, MCL 37.2201, et seq., and the Persons With Disabilities Civil Rights Act, 1976 Public Act 220, as amended, MCL 37.1101, et seq., and any breach thereof may be regarded as a material breach of the Contract or purchase order.

Vendor hereby represents that in performing this contract it will not violate The Civil Rights Act of 1964, USCS Chapter 42, including, but not limited to, Title VII, 42 USCS §§ 2000e et seq.; the Americans with Disabilities Act (ADA), 42 USCS §§ 12101 et seq.; or The Age Discrimination in Employment Act of 1967 (ADEA), 29 USCS §§ 621, 623 et seq.; the Old Workers Benefit and Protection Act of 1990 (OWBPA), 29 USCS §§ 626 et seq.; the Family Medical Leave Act of 1993 (FMLA), 29 USC §§ 651 et seq.; or the Fair Labor Standards Act (FLSA), 29 USC §§ 201 et seq.

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2.91 LABOR RELATIONS

Pursuant to 1980 Public Act 278, as amended, MCL 423.231, et seq., the State shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an **unfair labor practice** compiled pursuant to Section 2 of the Act. A Contractor of the State, in relation to the Contract, shall not enter into a Contract with a subContractor, manufacturer, or supplier whose name appears in this register. Pursuant to Section 4 of 1980 Public Act 278, MCL 423.324, the State may void any Contract if, subsequent to award of the Contract, the name of the Contractor as an employer, or the name of the subContractor, manufacturer or supplier of the Contractor appears in the register.

The Contractor represents and warrants that the company does not appear in the current register of employers failing to correct an unfair labor practice.

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2.92 LIABILITY INSURANCE

A. <u>Insurance</u>

The Contractor is required to provide proof of the minimum levels of insurance coverage as indicated below. The purpose of this coverage shall be to protect the State from claims which may arise out of or result from the Contractor's performance of services under the terms of this Contract, whether such services are performed by the Contractor, or by any subContractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.

The Contractor waives all rights against the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents for recovery of damages to the extent these damages are covered by the insurance policies the Contractor is required to maintain pursuant to this Contract.

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All insurance coverage provided relative to this Contract/Purchase Order is PRIMARY and NON-CONTRIBUTING to any comparable liability insurance (including self-insurances) carried by the State.

The insurance shall be written for not less than any minimum coverage specified in this Contract or required by law, whichever is greater.

The insurers selected by Contractor shall have an A.M. Best rating of A or better, or as otherwise approved in writing by the State, or if such ratings are no longer available, with a comparable rating from a recognized insurance rating agency. Companies that have been approved to do business in the State shall issue all policies of insurance required in this Contract.

See www.michigan.gov/cis

Where specific limits are shown, they are the minimum acceptable limits. If Contractor's policy contains higher limits, the State shall be entitled to coverage to the extent of such higher limits.

Before both parties sign the Contract or before the purchase order is issued by the State, the Contractor must furnish to the Director of Acquisition Services, certificate(s) of insurance verifying insurance coverage ("Certificates"). The Certificate must be on the standard "accord" form or equivalent. **THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING.** All Certificate(s) are to be prepared and submitted by the Insurance Provider. All Certificate(s) shall contain a provision indicating that coverage afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without THIRTY (30) days prior written notice, except for ten (10) days for non-payment of premium, having been given to the Director of Acquisition Services, Department of Management and Budget. The notice must include the Contract or Purchase Order number affected and be mailed to: Director, Acquisition Services, Department of Management and Budget, P.O. Box 30026, Lansing, Michigan 48909. Failure to provide evidence of coverage, may, at the State's sole option, result in this Contract's termination.

The Contractor is required to pay for and provide the type and amount of insurance checked **below**:

☑ 1. Commercial General Liability with the following minimum coverage:

$2,000,000	General Aggregate Limit other than Products/Completed Operations
$2,000,000	Products/Completed Operations Aggregate Limit
$1,000,000	Personal & Advertising Injury Limit
$1,000,000	Each Occurrence Limit
$500,000	Fire Damage Limit (any one fire)

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the Commercial General Liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

☑ 2. If a motor vehicle is used to provide services or products under this Contract, the Contractor must have vehicle liability insurance on any auto including owned, hired and non-owned vehicles used in Contractor's business for bodily injury and property damage as required by law.

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the vehicle liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

☑ 3. Workers' compensation coverage must be provided in accordance with applicable laws governing the employees and employers work activities in the state of the Contractor's domicile. If a self-insurer provides the applicable coverage, proof must be provided of approved self-insured authority by the jurisdiction of domicile. For employees working outside of the state of qualification, Contractor must provide appropriate certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

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Any certificates of insurance received must also provide a list of states where the coverage is applicable.

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The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company. This provision shall not be applicable where prohibited or limited by the laws of the jurisdiction in which the work is to be performed.

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☑ 4. Employers liability insurance with the following minimum limits:

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$100,000	each accident
$100,000	each employee by disease
$500,000	aggregate disease

☑ 5. Employee Fidelity, including Computer Crimes, insurance naming the State as a loss payee, providing coverage for direct loss to the State and any legal liability of the State arising out of or related to fraudulent or dishonest acts committed by the employees of Contractor or its SubContractors, acting alone or in collusion with others, in a minimum amount of one million dollars ($1,000,000.00) with a maximum deductible of fifty thousand dollars ($50,000.00).

☑ 6. Umbrella or Excess Liability Insurance in a minimum amount of ten million dollars ($10,000,000.00), which shall apply, at a minimum, to the insurance required in Subsection 1 (Commercial General Liability) above.

☑ 7. Professional Liability (Errors and Omissions) Insurance with the following minimum coverage: three million dollars ($3,000,000.00) each occurrence and three million dollars ($3,000,000.00) annual aggregate.

☑ 8. Fire and Personal Property Insurance covering against any loss or damage to the office space used by Contractor for any reason under this Contract, and the equipment, software and other contents of such office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to the replacement value thereof, where such office space and its contents are under the care, custody and control of Contractor. Such policy shall cover all risks of direct physical loss or damage, including without limitation, flood and earthquake coverage and coverage for computer hardware and software. The State shall be endorsed on the policy as a loss payee as its interests appear.

B. <u>SubContractors</u>

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor shall require all of its SubContractors under this Contract to purchase and maintain the insurance coverage as described in this Section for the Contractor in connection with the performance of work by those SubContractors. Alternatively, Contractor may include any SubContractors under Contractor's insurance on the coverage required in this Section. SubContractor(s) shall fully comply with the insurance coverage required in this Section. Failure of SubContractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

C. Certificates of Insurance and Other Requirements

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Contractor shall furnish to the Office of Acquisition Services certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor shall provide evidence that the State and its agents, officers and employees are listed as additional insureds, but only to the extent of liabilities assumed by Contractor as set forth in Indemnification Section of this Contract, under each commercial general liability and commercial automobile liability policy. In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

Contractor shall maintain all required insurance coverage throughout the term of the Contract and any extensions thereto and, in the case of claims-made Commercial General Liability policies, shall secure tail coverage for at least three (3) years following the expiration or termination for any reason of this Contract. The minimum limits of coverage specified above are not intended, and shall not be construed, to limit any liability or indemnity of Contractor under this Contract to any indemnified party or other persons. Contractor shall be responsible for all deductibles with regard to such insurance. If Contractor fails to pay any premium for required insurance as specified in this Contract, or if any insurer cancels or significantly reduces any required insurance as specified in this Contract without the State's written consent, at the State's election (but without any obligation to do so) after the State has given Contractor at least thirty (30) days written notice, the State may pay such premium or procure similar insurance coverage from another company or companies; and at the State's election, the State may deduct the entire cost (or part thereof) from any payment due Contractor, or Contractor shall pay the entire cost (or any part thereof) upon demand by the State.

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2.93 PRICING

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1. Prices/rates quoted in APPENDIX D Cost Form for all items are the maximum for the duration of the Contract and shall be no higher than the prices charged to any non-Federal government purchaser during the last six (6) months. The prices quoted shall be firm for the duration of the contract.

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2. The Contractor shall guarantee that, for the term of the contract, the prices quoted in APPENDIX D Cost Form for all items shall be no higher than the prices that are charged to any customer other than the Federal Government. If at any time after the commencement of this contract, the Contractor charges any lower price(s) to any other non-Federal customer for the same or equivalent item(s), it shall adjust its Michigan price(s) for the same item(s) purchased thereafter to no more than the price(s) charged to any other non-Federal customer.

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3. All pricing in this contract shall include all costs (separate provisions for staffing, training, delivery, project management, travel, etc are not accepted).

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4. The unit price (APPENDIX D, Cost Form) listed shall include all equipment and supplies necessary to operate the voting system. The unit price shall not include the cost of a standard personal computer and/or commercially available software programs needed to operate the voting system.

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5. The per unit cost for implementing new FEC Voting System Guidelines (APPENDIX D, Cost Form) listed shall include all costs (if any) associated with modifications necessary to comply with new FEC Voting System Guidelines.

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6. In addition to the information provided in APPENDIX D Cost Form, a breakdown of unit costs is specified in APPENDIX E Unit Price Breakdown. The sum of the categories shall equal the unit cost in Appendix D.

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7. The Contractor shall guarantee that, for the term of the contract, ALL prices quoted in APPENDICES D and E represent the maximum amounts that will be charged.

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8. Software Programming costs shall be based on the primary and general election ballots used during Oral Presentations. This information will be used by counties and local jurisdictions when requesting programming services from the Contractor.

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2.94 NEWS RELEASES

News releases (including promotional literature and commercial advertisements) pertaining to the RFP and any resulting Contract or the project to which it relates shall not be made without prior written State approval, and then only in accordance with the explicit written instructions from the State. No results of the activities associated with the RFP and any resulting Contract are to be released without prior written approval of the State and then only to persons designated.

ARTICLE 3 – CERTIFICATIONS AND REPRESENTATIONS

Please see contract file for the hard copy submitted by the bidder. All terms and conditions listed in Article 3 shall remain in effect for the duration of the contract.

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APPENDIX A
EXCERPTS FROM HELP AMERICA VOTE ACT OF 2002 (HAVA) AND ELECTION ASSISTANCE COMMISSION (EAC) ADVISORY 2005-004

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TITLE III--UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS

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SEC. 301. <<NOTE: 42 USC 15481.>> VOTING SYSTEMS STANDARDS.

a. Requirements.--Each voting system used in an election for Federal office shall meet the following requirements:

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1. In general.--
   - A. Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall--
     - i. permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted;
     - ii. provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and
     - iii. if the voter selects votes for more than one candidate for a single office--
       - I. notify the voter that the voter has selected more than one candidate for a single office on the ballot;
       - II. notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and
       - III. provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.
   - B. A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by--
     - i. establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and
     - ii. providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error).
   - C. The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot.

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2. Audit capacity.--
   - A. In general.--The voting system shall produce a record with an audit capacity for such system.
   - B. Manual audit capacity.--
     - . The voting system shall produce a permanent paper record with a manual audit capacity for such system.
     - i. The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced.
     - ii. The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used.
3. Accessibility for individuals with disabilities.--The voting system shall--
   - A. be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters;
   - B. satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and
   - C. if purchased with funds made available under title II on or after January 1, 2007, meet the voting system standards for disability access (as outlined in this paragraph).
4. Alternative language accessibility.--The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a).

5. Error rates.--The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act.
6. Uniform definition of what constitutes a vote.--Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State.

b. Voting System Defined.--In this section, the term ``voting system'' means--

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1. the total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used--
   A. to define ballots;
   B. to cast and count votes;
   C. to report or display election results; and
   D. to maintain and produce any audit trail information; and
2. the practices and associated documentation used--
   A. to identify system components and versions of such components;
   B. to test the system during its development and maintenance;
   C. to maintain records of system errors and defects;
   D. to determine specific system changes to be made to a system after the initial qualification of the system; and
   E. to make available any materials to the voter (such as notices, instructions, forms, or paper ballots).

c. Construction.--

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1. In general.--Nothing in this section shall be construed to prohibit a State or jurisdiction which used a particular type of voting system in the elections for Federal office held in November 2000 from using the same type of system after the effective date of this section, so long as the system meets or is modified to meet the requirements of this section.
2. Protection of paper ballot voting systems.--For purposes of subsection (a)(1)(A)(i), the term ``verify'' may not be defined in a manner that makes it impossible for a paper ballot voting system to meet the requirements of such subsection or to be modified to meet such requirements.

d. Effective Date.--Each State and jurisdiction shall be required to comply with the requirements of this section on and after January 1, 2006.

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United States Election Assistance Commission
1225 New York Avenue N.W.
Washington, DC 20005

July 20, 2005

EAC Advisory 2005-004: How to determine if a voting system is compliant with Section 301(a) – a gap analysis between 2002 Voting System Standards and the requirements of Section 301(a)

The United States Election Assistance Commission (EAC) has received a number of inquiries from several states as to whether one or more particular voting systems comply with Section 301(a) of the Help America Vote Act of 2002 (HAVA). In addition, in one of its recent public meetings, EAC was asked to conduct an analysis to identify the gaps between the 2002 Voting System Standards adopted by the Federal Election Commission (FEC) and the requirements for voting systems under Section 301(a) of HAVA. EAC is not required by HAVA to preclear or approve voting systems purchased by states and local election jurisdictions. Furthermore, EAC does not believe that it was the intention of Congress or HAVA for EAC to assume this role. However, it is evident that states and local election jurisdictions as well as testing laboratories are in need of information that will help in determining whether a voting system meets the threshold requirements of Section 301(a). Thus, EAC offers the following analysis of Section 301(a) in light of the 2002 Voting System Standards.

Title III of HAVA, entitled "Uniform and Nondiscriminatory Election Technology and Administration Requirements," imposes certain requirements upon states and local jurisdictions conducting federal elections. Section 301(a) sets forth the standards that voting systems must meet after January 1, 2006. Those requirements include functions and features that, among other things: (1) allow the voter to review his or her selections privately and independently prior to casting a ballot; (2) allow the voter to change his or her selections privately and independently prior to casting a ballot; (3) notify the voter when he or she has made more selections in a single race than are permitted (overvote); (4) provide for the production of a permanent paper record suitable to be used in a manual recount; (5) provide voters with disabilities, including visual disabilities, the same opportunity for access and participation (including privacy and independence) as for other voters; (6) provide accessibility in minority languages for voters with limited English proficiency as required by the Voting Rights Act of 1965; and (7) provide for an error rate in operating the voting system that is no greater than the error rate set forth in Section 3.2.1 of the 2002 Voting System Standards adopted by the Federal Election Commission (FEC).

Although the 2002 Voting System Standards set forth measurable standards that predict compliance with some of the Section 301(a) requirements, those standards do not provide sufficient and adequate guidance as to what is required to meet the accessibility requirements of Section 301(a)(3); do not prescribe testable measures for language accessibility required by Section 301(a)(4) of HAVA; and do not prescribe standards that adequately explain the requirements for overvote notification required by Section 301(a)(1) of HAVA. As such, EAC issues the following policy statement to identify the gaps between the 2002 Voting System Standards and the requirements set forth under Section 301(a) of HAVA and to explain what is needed to meet the requirements of Section 301(a) above and beyond the testing requirements established in the 2002 Voting System Standards.

Section 301(a)(1):

The requirements of Section 301(a)(1) of HAVA are met if the voting system (1) conforms and complies with Section 2.4.3.3 of the 2002 Voting System Standards and (2) notifies the voter through a visual and/or audio message prior to casting the ballot when the voter makes more selections than are legally allowed in a single race or contest (overvote):

(a) that an overvote has occurred and

(b) the effect of overvoting.

Following that notification, the voting system must allow the voter to change his or her selection(s), if so desired. Voting systems that preclude and prohibit overvoting meet this requirement. Notwithstanding the above, certain paper ballot voting systems may meet the overvote requirements of Section 301(a)(1)(A)(iii) of HAVA by meeting the requirements set forth in Section 301(a)(1)(B).

Section 301(a)(2):

The requirements of Section 301(a)(2) of HAVA are met if the voting system conforms and complies with Sections 2.2.5.2.1 and 2.5.3.1 of the 2002 Voting System Standards.

Section 301(a)(3):

Section 301(a)(3) of HAVA requires that by January 1, 2006, at least one voting system in each polling place be accessible to persons with disabilities such that the voting system allows an individual with a disability the same access and opportunity to vote privately and independently as is afforded a non-disabled voter. Compliance with Section 301(a)(3) requires that the voting system is accessible to persons with disabilities as defined by the Americans with Disabilities Act, including physical, visual, and cognitive disabilities, such that the disabled individual can privately and independently receive instruction, make selections, and cast a ballot. However, accessibility involves more than the technical features of the voting system. The accessible voting system also must be used in a manner that is consistent with providing access for disabled voters (e.g., the accessible voting system must be set up for use in a space that is accessible to a disabled voter who uses a wheelchair).

Conformance with Section 301(a)(3) is a complex matter, which must take into account the disability of the voter, the advancement of technology and its availability, and the efforts of the elections officials to make the voting process accessible to disabled voters in a private and independent manner. The following are some factors that must be considered in determining accessibility in conformance with Section 301(a)(3) of HAVA:

(1) Section 2.2.7 of the 2002 Voting System Standards;

(2) Section 2.4.3.1 (a) of the 2002 Voting System Standards;

(3) Section 3.4.9 (a-e) of the 2002 Voting System Standards;

(4) The voting system must afford a disabled voter the ability to perform the same functions (e.g., receiving and reading the ballot, making selections, reviewing selections, changing selections, and casting the final ballot) as are afforded to a non-disabled voter. These functions may be provided to the disabled voter through features of the voting system that are different than those used by non-disabled voters. The disabled voter need not and in many cases cannot have an identical voting experience as a non-disabled voter (e.g., a voter with a visual disability is afforded the same access to reading the ballot as a sighted voter when the ballot is read to the visually disabled voter using an audio component of the voting system).

(5) Accessibility of the voting system to the voter includes accessibility to all equipment needed to cast and count ballots. Many jurisdictions use a paper ballot voting system that requires the voter to submit his or her own ballot after casting for purposes of ballot counting. Where such voting systems are in use, such jurisdictions must to the extent reasonably and technologically possible afford a disabled voter the same ability to submit his or her own ballot, in a private and independent manner, as is afforded a non-disabled voter. In this example, visually disabled voters must be allowed to submit the ballot independently, as the disability is one that is capable of being accommodated, and technology and practice provide a means that can be used to allow the visually disabled voter to submit a ballot with the same degree of privacy and independence afforded to a sighted voter (e.g., a privacy sleeve).

(6) There may be certain disabled voters whose disabilities prevent them from voting independently (i.e., without assistance from a person of their choosing or a poll worker). While HAVA requires voting systems to allow independence and privacy, it does not preclude a disabled voter from requesting and obtaining the assistance of

another person as provided in Section 208 of the Voting Rights Act of 1965.

(7) Section 301(a)(3)(B) contemplates that an accessible voting system can include a direct recording electronic (DRE) voting system or other voting system equipped for individuals with disabilities. This advisory should not be read to preclude the innovation and use of accessible voting systems other than DREs for purposes of meeting this requirement.

Section 301(a)(4):

The minority language requirements of Section 301(a)(4) are met if the voting system complies with the minority language requirements of the Voting Rights Act of 1965 (contained in Section 203 as well as Section 4(f)(4)) and the implementing regulations found at 28 C.F.R. Part 55 and 67 F.R. 48871 (July 26, 2002). The voting system must provide all information, excluding the names of the candidates, that would otherwise be provided by the voting system in English (whether written or oral) in the language(s) that the voting jurisdiction is required to provide materials pursuant to the Voting Rights Act of 1965 and its regulations as referenced above.

Section 301(a)(5):

The requirements of Section 301(a)(5) are met if the voting system error rate does not exceed that established in Section 3.2.1 of the 2002 Voting System Standards.

Gracia Hillman, Chair

Paul DeGregorio, Vice Chairman

Ray Martinez III , Commissioner

<>

APPENDIX B

EXCERPTS FROM the

2002 FEC VOTING SYSTEM STANDARDS

NOTE: References to Appendices as used in this section refer to the 2002 FEC Voting System Standards, not the Appendices contained within this contract. For more detailed information, refer to the complete listing of standards at www.eac.gov/election_resources/vss.html.

2.2.5.2.1 Time, Sequence, and Preservation of Audit Records

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The timing and sequence of audit record entries is as important as the data contained in the record. All voting systems shall meet the following requirements for time, sequence and preservation of audit records:

a. Except where noted, systems shall provide the capability to create and maintain a real-time audit record. This capability records and provides the operator or precinct official with continuous updates on machine status. This information allows effective operator identification of an error condition requiring intervention, and contributes to the reconstruction of election-related events necessary for recounts or litigation.

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b. All systems shall include a real-time clock as part of the system's hardware. The system shall maintain an absolute record of the time and date or a record relative to some event whose time and data are known and recorded.

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c. All audit record entries shall include the time-and-date stamp.

d. The audit record shall be active whenever the system is in an operating mode. This record shall be available at all times, though it need not be continually visible.

e. The generation of audit record entries shall not be terminated or altered by program control, or by the intervention of any person. The physical security and integrity of the record shall be maintained at all times.

f. Once the system has been activated for any function, the system shall preserve the contents of the audit record during any interruption of power to the system until processing and data reporting have been completed.

g. The system shall be capable of printing a copy of the audit record. A separate printer is not required for the audit record, and the record may be produced on the standard system printer if all the following conditions are met:

1) The generation of audit trail records does not interfere with the production of output reports;

2) The entries can be identified so as to facilitate their recognition, segregation, and retention; and

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The audit record entries are kept physically secure.

2.2.7 Accessibility

The Standards provide requirements for voting systems to meet the accessibility needs of a broad range of voters with disabilities. To do so, it is anticipated that a vendor will have to either configure all of the system's voting stations to meet the accessibility specifications or will have to design a unique station that conforms to the accessibility requirements and is part of the overall voting system configuration. Efforts to meet the accessibility requirements shall not violate the privacy, secrecy, and integrity demands of the Standards.

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2.2.71 Common Standards

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To facilitate accessibility, all voting systems shall be capable of meeting the following conditions, as illustrated in Figures 2-1 through 2-4:

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a. Where clear floor space only allows forward approach to an object, the maximum high forward reach allowed shall be 48inches. The minimum low forward reach is 15 inches.

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b. Where forward reach is over an obstruction with knee space below, the maximum level forward reach is 25 inches. When the obstruction is less than 20 inches deep, the maximum high forward reach is 48 inches. When the obstruction projects 20 to 25 inches, the maximum high forward reach is 44 inches.
c. The position of any operable control is determined with respect to a vertical plane that is 48 inches in length, centered on the operable control, and at the maximum protrusion of the product within the 48-inch length;
d. Where any operable control is 10 inches or less behind the reference plane, have a height that is between 15 inches and 54 inches above the floor;
e. Where any operable control is more than 10 inches and not more than 24 inches behind the reference plane, have a height between 15 inches and 46 inches above the floor; and
f. Have operable controls that are not more than 24 inches behind the reference plane.

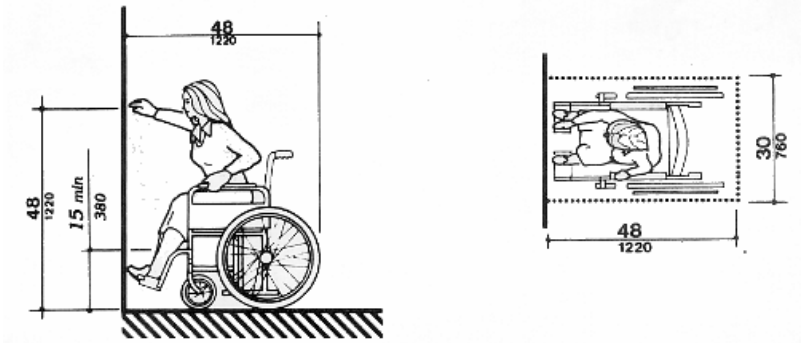
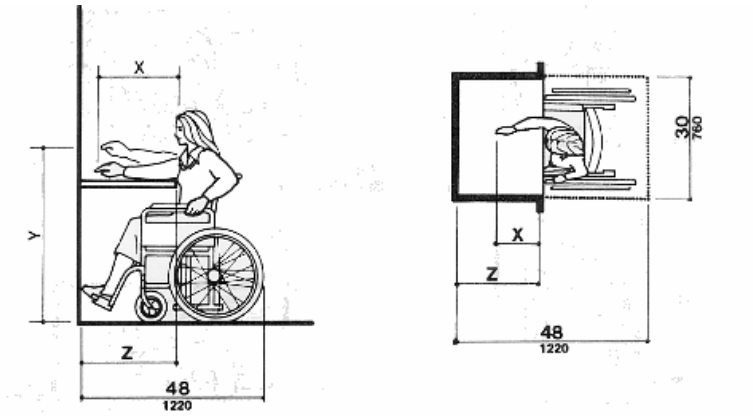


Figure 2-1



NOTE: x shall be ≤ 25 in (635 mm); z shall be ≥ x. When x < 20 in (510 mm), then y shall be 48 in (1220 mm) maximum. When x is 20 to 25 in (510 to 635 mm), then y shall be 44 in (1120 mm) maximum.

Figure 2-2

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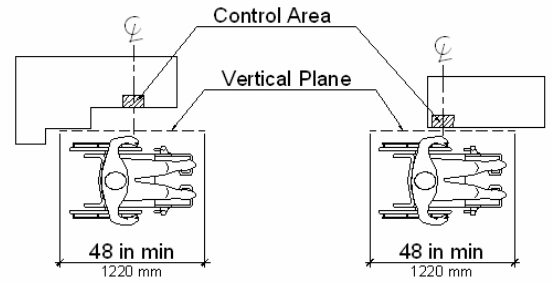
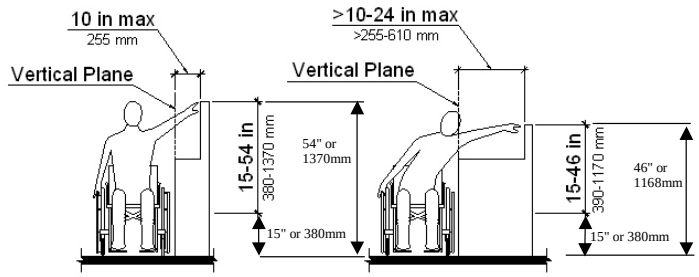


Vertical Plane Relative to the Operable Control

Figure 2-3



Height of Operable Control Relative to the Vertical Plane

Figure 2-4

2.2.7.2 DRE Standards

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DRE voting systems shall provide, as part of their configuration, the capability to provide access to voters with a broad range of disabilities. This capability shall:

a. Not require, the voter to bring their own assistive technology to a polling place;
b. Provide audio information and stimulus that:
    1) Communicates to the voter the complete content of the ballot;
    2) Provides instruction to the voter in operation of the voting device;
    3) Provides instruction so that the voter has the same vote capabilities and options as those provided by the system to individuals who are not using audio technology;
    4) For a system that supports write-in voting, enables the voter to review the voter's write-in input, edit that input, and confirm that the edits meet the voter's intent;
    5) Enables the voter to request repetition of any information provided by the system;
    6) Supports the use of headphones provided by the system that may be discarded after each use;
    7) Provides the audio signal through an industry standard connector for private listening using a 1/8 inch stereo headphone jack to allow individual voters to supply personal headsets; and
    8) Provides a volume control with an adjustable amplification up to a maximum of 105 dB that automatically resets to the default for each voter;
c. Provide, in conformance with FCC Part 68, a wireless coupling for assistive devices used by people who are hard of hearing when a system utilizes a telephone style handset to provide audio information;
d. Meet the requirements of ANSI C63.19-2001 Category 4 to avoid electromagnetic interference with assistive hearing devices;
e. For electronic image displays, permit the voter to:
    1) Adjust the contrast settings;

2) Adjust color settings, when color is used; and
3) Adjust the size of the text so that the height of capital letters varies over a range of 3 to 6.3 millimeters;

f. For a device with touchscreen or contact-sensitive controls, provide an input method using mechanically operated controls or keys that shall:
   1) Be tactilely discernible without activating the controls or keys;
   2) Be operatable with one hand and not require tight grasping, pinching, or twisting of the wrist;
   3) Require a force less than 5 lbs (22.2 N) to operate; and
   4) Provide no key repeat function;

g. For a system that requires a response by a voter in a specific period of time, alert the voter before this time period has expired and allow the voter additional time to indicate that more time is needed;

h. For a system that provides sound cues as a method to alert the voter about a certain condition, such as the occurrence of an error, or a confirmation, the tone shall be accompanied by a visual cue for users who cannot hear the audio prompt; and

i. Provide a secondary means of voter identification or authentication when the primary means of doing so uses biometric measures that require a voter to possess particular biological characteristics.

2.4.3 Casting a Ballot

Some required capabilities for casting a ballot are common to all systems. Others are specific to individual voting technologies or intended use. Systems must provide additional functional capabilities that enable accessibility to disabled voters as defined in Section 2.2.7 of the Standards.

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2.4.3.1 Common Standards

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To facilitate casting a ballot, all systems shall:

a. Provide text that is at least 3 millimeters high and provide the capability to adjust or magnify the text to an apparent size of 6.3 millimeters;

b. Protect the secrecy of the vote such that the system cannot reveal any information about how a particular voter voted, except as otherwise required by individual State law;

c. Record the selection and non-selection of individual vote choices for each contest and ballot measure;

d. Record the voter's selection of candidates whose names do not appear on the ballot, if permitted under State law, and record as many write-in votes as the number of candidates the voter is allowed to select;

e. In the event of a failure of the main power supply external to the voting system, provide the capability for any voter who is voting at the time to complete casting a ballot, allow for the graceful shutdown of the voting system without loss or degradation of the voting and audit data, and allow voters to resume voting once the voting system has reverted to back-up power; and

f. Provide the capability for voters to continue casting ballots in the event of a failure of a telecommunications connection within the polling place or between the polling place and any other location.

2.4.3.2 Paper-Based Systems Standards

The standards for casting a ballot for paper-based systems consist of common standards and additional standards that apply to precinct count paper-based systems.

2.4.3.2.1 All Paper-Based Systems

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All paper-based systems shall:

a. Allow the voter to easily identify the voting field that is associated with each candidate or ballot measure response;

b. Allow the voter to punch or mark the ballot to register a vote;

c. Allow either the voter or the appropriate election official to place the voted ballot into the ballot counting device (for precinct count systems) or into a secure receptacle (for central count systems); and

d. Protect the secrecy of the vote throughout the process.

2.4.3.2.2 Precinct Count Paper-Based Systems

In addition to the above requirements, all paper-based precinct count systems shall:

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a. Provide feedback to the voter that identifies specific contests or ballot issues for which an overvote or undervote is detected;

b. Allow the voter, at the voter's choice, to vote a new ballot or submit the ballot 'as is' without correction; and

c. Allow an authorized election official to turn off the capabilities defined in 'a' and 'b' above.

2.4.3.3. DRE Systems Standards

In addition to the above common requirements, DRE systems shall:

a. Prohibit the voter from accessing or viewing any information on the display screen that has not been authorized by election officials and preprogrammed into the voting system (i.e., no potential for display of external information or linking to other information sources);

b. Enable the voter to easily identify the selection button or switch, or the active area of the ballot display that is associated with each candidate or ballot measure response;

c. Allow the voter to select his or her preferences on the ballot in any legal number and combination;

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d. Indicate that a selection has been made or canceled;

e. Indicate to the voter when no selection, or an insufficient number of selections, has been made in a contest;

f. Prevent the voter from overvoting;

g. Notify the voter when the selection of candidates and measures is completed;

h. Allow the voter, before the ballot is cast, to review his or her choices and, if the voter desires, to delete or change his or her choices before the ballot is cast;

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i. For electronic image displays, prompt the voter to confirm the voter's choices before casting his or her ballot, signifying to the voter that casting the ballot is irrevocable and directing the voter to confirm the voter's intention to cast the ballot;

j. Notify the voter after the vote has been stored successfully that the ballot has been cast;

k. Notify the voter that the ballot has not been cast successfully if it is not stored successfully, including storage of the ballot image, and provide clear instruction as to the steps the voter should take to cast his or her ballot should this event occur;

l. Provide sufficient computational performance to provide responses back to each voter entry in no more than three seconds;

m. Ensure that the votes stored accurately represent the actual votes cast;

n. Prevent modification of the voter's vote after the ballot is cast;

o. Provide a capability to retrieve ballot images in a form readable by humans (in accordance with the requirements of Section 2.2.2.2 and 2.2.4.2);

p. Increment the proper ballot position registers or counters;

q. Protect the secrecy of the vote throughout the voting process;

r. Prohibit access to voted ballots until after the close of polls;

s. Provide the ability for election officials to submit test ballots for use in verifying the end-to-end integrity of the system; and

t. Isolate test ballots such that they are accounted for accurately in vote counts and are not reflect in official vote counts for specific candidates or measures.

3.2.1 Accuracy Requirements

Voting system accuracy addresses the accuracy of data for each of the individual ballot positions that could be selected by a voter, including the positions that are not selected. For a voting system, accuracy is defined as the ability of the system to capture, record, store, consolidate and report the specific selections and absence of selections, made by the voter for each ballot position without error. Required accuracy is defined in terms of an error rate that for testing purposes represents the maximum number of errors allowed while processing a specified volume of data. This rate is set at a sufficiently stringent level such that the likelihood of voting system errors affecting the outcome of an election is exceptionally remote even in the closest of elections.

The error rate is defined using a convention that recognizes differences in how vote data is processed by different types of voting systems. Paper-based and DRE systems have different processing steps. Some differences also exist between precinct count and central count systems. Therefore, the acceptable error rate applies separately and distinctly to each of the following functions:

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a. For all paper-based systems:

Deleted: ¶

1) Scanning ballot positions on paper ballots to detect selections for individual candidates and contests;

2) Conversion of selections detected on paper ballots into digital data;

b. For all DRE systems:

1) Recording the voter selections of candidates and contests into voting data storage; and

2) Independently from voting data storage, recording voter selections of candidates and contests into ballot image storage.

c. For precinct-count systems (paper-based and DRE):

Consolidation of vote selection data from multiple precinct-based systems to generate jurisdiction-wide vote counts, including storage and reporting of the consolidated vote data; and

d. For central-count systems (paper-based and DRE):

Consolidation of vote selection data from multiple counting devices to generate jurisdiction-wide vote counts, including storage and reporting of the consolidated vote data.

For testing purposes, the acceptable error rate is defined using two parameters: the desired error rate to be achieved, and the maximum error rate that should be accepted by the test process.

For each processing function indicated above, the system shall achieve a target error rate of no more than one in 10,000,000 ballot positions, with a maximum acceptable error rate in the test process of one in 500,000 ballot positions.

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3.4.9 Human Engineering—Controls and Displays

All voting systems and components shall be designed and constructed so as to simplify and facilitate the functions required, and to eliminate the likelihood of erroneous stimuli and responses on the part of the voter or operator. Other specific requirements for controls and displays are described below. In addition, specific functional requirements for system use by voters with disabilities are described in Section 2.2.7 of the Standards. Appendix C provides additional advisory guidance on the application of human engineering principles to the interface between the voter and the voting system.

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All voting systems shall meet the following requirements for controls and displays:

a. In all systems, controls used by the voter or equipment operator shall be conveniently located, shall use designs that are consistent with their functions, and shall be clearly labeled. Instruction plates shall be provided, if they are necessary to avoid ambiguity or incorrect actuation;

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b. Information or data displays shall be large enough to be readable by voters and operators with no disabilities and by voters with disabilities consistent with the requirements defined is Section 2.2.7 of the Standards;

c. Status displays shall meet the same requirements as data displays, and they shall also follow conventional industrial practice with respect to color:

    1) Green, blue, or white displays shall be used for indications of normal status;

    2) Amber indicators shall be used to indicate warnings or marginal status; and

    3) Red indicators shall be used to indicate error conditions or equipment states that may result in damage, or in hazards to personnel; and unless the equipment is designed to halt under conditions of incipient damage or hazard, an audible alarm shall also be provided.

d. Color coding shall be selected so as to assure correct perception by voters and operators with color blindness; and shall not be used as the only means of conveying information, indicating an action, prompting a response, or distinguishing a visual element (see Appendix B for suggested references); and

e. The system's display shall not use flashing or blinking text objects, or other elements having a flash or blink frequency, greater than 2 Hz and lower than 55 Hz.

APPENDIX C

APPLICABLE MICHIGAN COMPILED LAW STATUTES and PROMULGATED RULES

ELECTRONIC VOTING SYSTEMS – PROMULGATED RULES

R 168.773. Preparation of Program

Rule 3. (1) A program shall be written so as to accurately tabulate a voter's choices for each candidate, office, and measure for which the voter is lawfully entitled to vote, in conformity with the act and these rules.

(2) A program shall include an instruction requiring that 2 identical header cards precede the deck of ballot cards for each precinct. The program shall provide that if 2 identical header cards do not appear in front of the ballot cards of a precinct, the counting of ballots for that precinct shall not take place. In programs to be used on a specialized computer, 1 header card is required, unless the function of the header card is performed by the program.

(3) An end card shall follow the ballots of each precinct. The program may provide that if a header card contains instructions to the computer that all ballots of the preceding precinct have been counted, a separate end card is not required. In a program to be used in a specialized computer, an end card is not required.

(4) A program may be maintained by a generally accepted method, within the computer industry, of input or output or a combination of methods.

(5) Two edit listings shall be prepared and, not less than 3 days before the preliminary accuracy test, shall be delivered to the election commission responsible for supplying the program.

(6) The election commission responsible for supplying the program shall provide necessary information to the person or company designated to write or prepare the program.

(7) The program for an election and a duplicate copy shall be completed and delivered to the election commission responsible for supplying the program not less than 3 days before the preliminary accuracy test. A duplicate is not required where a specialized computer is used.

(8) If a program is written to be used on a general purpose computer, the person or company providing the program shall, at the time the program is delivered, submit to the election commission a certificate stating that the program was prepared from all relevant input data, describing the procedures which were used to determine its accuracy, and stating that the program has been written pursuant to the act and these rules.

(9) The person preparing the program shall submit to the election commission responsible for supplying the program instructions containing the information and procedures required to operate the program. The election commission shall make the instructions available to the computer operators.

(10) The vote tabulation portion of the program shall be written:

(a) To reflect the rotation sequence of the candidates' names and ballot position numbers as they appear on the ballot labels in the various precincts.

(b) To count valid votes cast by a voter for candidates for an office.

(c) To count valid votes cast by a voter for or against any question.

(d) So as not to count votes cast by a voter for an office or question if the number of votes cast by a voter exceeds the number which the voter is entitled to vote for on that office or question.

(e) To ignore punches in a ballot card in positions where a candidate's name or questions do not appear on the official ballot. These punches shall not have effect on the ballot.

(f) So that the partisan, nonpartisan, and proposal sections of the ballot are considered separate sections of the ballot. The action of a voter in 1 section of the ballot shall not affect the voter's action on another section of the ballot.

(11) For a partisan primary election, the vote tabulation section of the program shall be written:

(a) To determine if a voter has cast votes for candidates of more than 1 political party

(b) To determine if a voter has cast votes for candidates of more than 1 political party and a vote in the "party qualification section" of the ballot.

(c) To count the votes when they are recorded by a voter for candidates of 1 political party only where a vote is not recorded in the "party qualification section" of the ballot; or to count the vote when it is recorded by the voter for 1 selection only in the "party qualification section" of the ballot and where a vote is not recorded for 1 or more partisan candidates, as in examples 1, 2, 3, and 4.

Example 1: Count a vote for candidates A and D.

Example 2: Count a vote for candidates F and G.

Example 3: Count a vote for party 4.
Example 4: Count a vote for candidate D.

(1)

PRIMARY FOR PARTY 1		
OFFICE 1	CANDIDATE A	X
VOTE FOR NOT MORE THAN 1	CANDIDATE B	
OFFICE 2	CANDIDATE C	
VOTE FOR NOT MORE THAN 1	CANDIDATE D	X

PRIMARY FOR PARTY 2		
OFFICE 1	CANDIDATE E	
VOTE FOR NOT MORE THAN 1	CANDIDATE F	
OFFICE 2	CANDIDATE G	
VOTE FOR NOT MORE THAN 1	CANDIDATE H	

PARTY QUALIFICATION SECTION		
VOTE FOR NOT MORE THAN 1 PARTY	PARTY 3	
	PARTY 4	
	PARTY 5	

(2)

PRIMARY FOR PARTY 1		
OFFICE 1	CANDIDATE A	
VOTE FOR NOT MORE THAN 1	CANDIDATE B	
OFFICE 2	CANDIDATE C	
VOTE FOR NOT MORE THAN 1	CANDIDATE D	

PRIMARY FOR PARTY 2		
OFFICE 1	CANDIDATE E	
VOTE FOR NOT MORE THAN 1	CANDIDATE F	X
OFFICE 2	CANDIDATE G	X
VOTE FOR NOT MORE THAN 1	CANDIDATE H	

PARTY QUALIFICATION SECTION		
VOTE FOR NOT MORE THAN 1 PARTY	PARTY 3	
	PARTY 4	
	PARTY 5	

(3)

PRIMARY FOR PARTY 1		
OFFICE 1	CANDIDATE A	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE B	☐
OFFICE 2	CANDIDATE C	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE D	☐

PRIMARY FOR PARTY 2		
OFFICE 1	CANDIDATE E	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE F	☐
OFFICE 2	CANDIDATE G	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE H	☐

PARTY QUALIFICATION SECTION		
VOTE FOR NOT MORE THAN 1 PARTY	PARTY 3	☐
	PARTY 4	☒
	PARTY 5	☐

(4)

PRIMARY FOR PARTY 1		
OFFICE 1	CANDIDATE A	☒
VOTE FOR NOT MORE THAN 1	CANDIDATE B	☒
OFFICE 2	CANDIDATE C	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE D	☒

PRIMARY FOR PARTY 2		
OFFICE 1	CANDIDATE E	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE F	☐
OFFICE 2	CANDIDATE G	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE H	☐

PARTY QUALIFICATION SECTION		
VOTE FOR NOT MORE THAN 1 PARTY	PARTY 3	☐
	PARTY 4	☐
	PARTY 5	☐

(d) To reject all votes cast in the partisan section of the ballot and the "party qualification section" of the ballot if votes are cast for candidates of more than 1 political party; or if votes are cast for candidates of 1 or more political parties and 1 or more votes are cast in the "party qualification section" of the ballot; or if more than 1 vote is cast in the "party qualification section" of the ballot, as in examples 5, 6, 7, 8, and 9.

(5)

PRIMARY FOR PARTY 1		
OFFICE 1	CANDIDATE A	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE B	☒
OFFICE 2	CANDIDATE C	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE D	☐

PRIMARY FOR PARTY 2		
OFFICE 1	CANDIDATE E	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE F	☐
OFFICE 2	CANDIDATE G	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE H	☒

PARTY QUALIFICATION SECTION		
VOTE FOR NOT MORE THAN 1 PARTY	PARTY 3	☐
	PARTY 4	☐
	PARTY 5	☐

(6)

PRIMARY FOR PARTY 1		
OFFICE 1	CANDIDATE A	☒
VOTE FOR NOT MORE THAN 1	CANDIDATE B	☐
OFFICE 2	CANDIDATE C	☒
VOTE FOR NOT MORE THAN 1	CANDIDATE D	☐

PRIMARY FOR PARTY 2		
OFFICE 1	CANDIDATE E	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE F	☐
OFFICE 2	CANDIDATE G	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE H	☐

PARTY QUALIFICATION SECTION		
VOTE FOR NOT MORE THAN 1 PARTY	PARTY 3	☒
	PARTY 4	☐
	PARTY 5	☐

(7)

PRIMARY FOR PARTY 1		
OFFICE 1	CANDIDATE A	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE B	☐
OFFICE 2	CANDIDATE C	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE D	☐

PRIMARY FOR PARTY 2		
OFFICE 1	CANDIDATE E	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE F	☐
OFFICE 2	CANDIDATE G	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE H	☐

PARTY QUALIFICATION SECTION		
VOTE FOR NOT MORE THAN 1 PARTY	PARTY 3	☒
	PARTY 4	☒
	PARTY 5	☐

(8)

PRIMARY FOR PARTY 1		
OFFICE 1	CANDIDATE A	☒
VOTE FOR NOT MORE THAN 1	CANDIDATE B	☒
OFFICE 2	CANDIDATE C	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE D	☐

PRIMARY FOR PARTY 2		
OFFICE 1	CANDIDATE E	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE F	☐
OFFICE 2	CANDIDATE G	☒
VOTE FOR NOT MORE THAN 1	CANDIDATE H	☐

PARTY QUALIFICATION SECTION		
VOTE FOR NOT MORE THAN 1 PARTY	PARTY 3	☐
	PARTY 4	☐
	PARTY 5	☐

(9)

PRIMARY FOR PARTY 1		
OFFICE 1	CANDIDATE A	☒
VOTE FOR NOT MORE THAN 1	CANDIDATE B	☐
OFFICE 2	CANDIDATE C	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE D	☐

PRIMARY FOR PARTY 2		
OFFICE 1	CANDIDATE E	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE F	☐
OFFICE 2	CANDIDATE G	☐
VOTE FOR NOT MORE THAN 1	CANDIDATE H	☐

PARTY QUALIFICATION SECTION		
VOTE FOR NOT MORE THAN 1 PARTY	PARTY 3	☒
	PARTY 4	☒
	PARTY 5	☐

Example 5: Count no votes.
Example 6: Count no votes.
Example 7: Count no votes.
Example 8: Count no votes.
Example 9: Count no votes.

(12) For a partisan general election, the vote tabulation section of the program shall be written as follows:

(a) A vote shall be counted for each candidate of the political party indicated by the voter's straight ticket vote, if any other vote does not appear on the partisan portion of the ballot, as in example 10.

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(10)

STRAIGHT PARTY TICKET		
VOTE FOR NOT MORE THAN 1	PARTY 1	☒
	PARTY 2	☐
	PARTY 3	☐

OFFICE VOTE FOR NOT MORE THAN 1	PARTY 1—CANDIDATE A	☐
	PARTY 2—CANDIDATE B	☐
	PARTY 3—CANDIDATE C	☐
OFFICE VOTE FOR NOT MORE THAN 1	PARTY 1—CANDIDATE D	☐
	PARTY 2—CANDIDATE E	☐
	PARTY 3—CANDIDATE F	☐

Example 10: Count a vote for candidates A and D.

(b) A vote shall not be counted if the voter has voted more than 1 straight ticket vote and another vote does not appear on the partisan section of the ballot, as in example 11.

(11)

STRAIGHT PARTY TICKET		
VOTE FOR NOT MORE THAN 1	PARTY 1	☒
	PARTY 2	☒
	PARTY 3	☐

OFFICE VOTE FOR NOT MORE THAN 1	PARTY 1—CANDIDATE A	☐
	PARTY 2—CANDIDATE B	☐
	PARTY 3—CANDIDATE C	☐
OFFICE VOTE FOR NOT MORE THAN 1	PARTY 1—CANDIDATE D	☐
	PARTY 2—CANDIDATE E	☐
	PARTY 3—CANDIDATE F	☐

Example 11: Do not count a vote for candidates of any party.

(c) When only 1 candidate is to be elected to an office and the voter has voted a straight party ticket and voted for individual candidates, a vote shall be counted for each of the individual candidates voted for, and for each candidate of the party for which the straight party vote was voted and individual votes for candidates of other parties were not voted, as in examples 12 and 13.

Example 12: Count a vote for candidates B and E.

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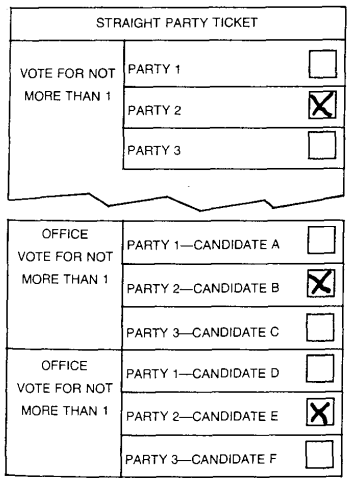
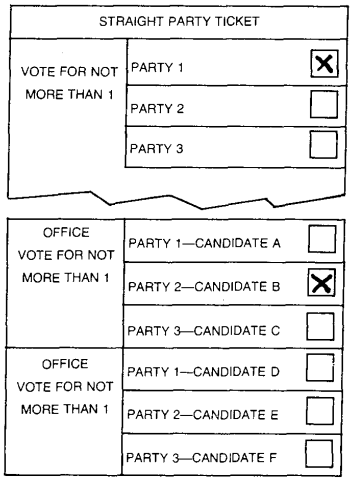
(12)



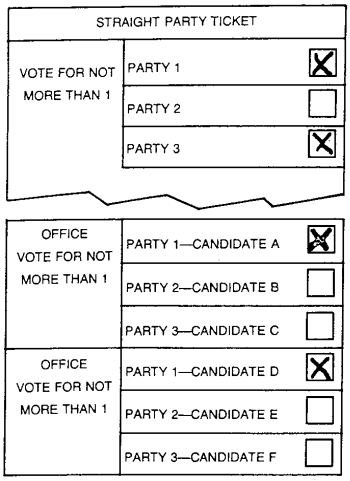
(13)



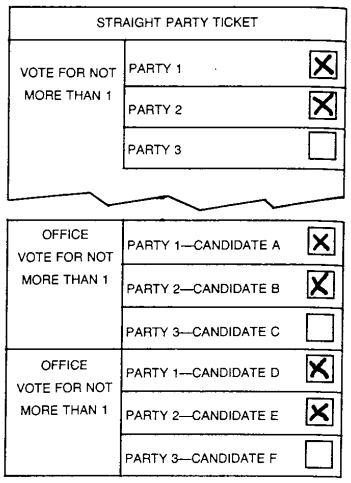
Example 13: Count a vote for candidates B and D.

(d) When 1 or more candidates are to be elected to an office and the voter has voted 2 or more straight party tickets and the individual votes for partisan candidates, a vote shall be counted for each individual candidate voted for when the number of votes for that office does not exceed the number for which the voter is entitled to vote, as in examples 14, 15, and 16.

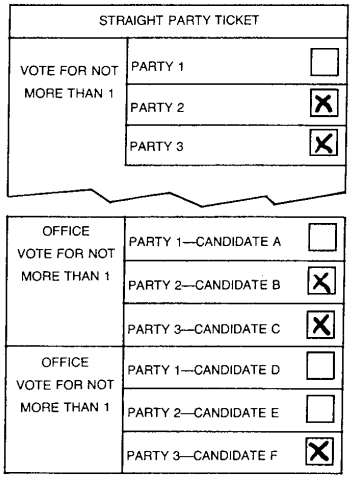
(14)



(15)



(16)



Example 14: Count a vote for candidates A and D.
Example 15: Do not count a vote for candidates of any party
Example 16: Count a vote for candidate F

(e) When 2 partisan candidates are to be elected to the same office and the voter has voted a straight party ticket for 1 political party and has voted individually for 2 candidates of a different political party for that office, a vote shall be counted for each of the candidates for whom the individual votes were voted, but votes shall not be counted for the candidates of the party indicated by the voter's straight party selection for that office, as in examples 17, 18, and 19.

(17)

STRAIGHT PARTY TICKET		
VOTE FOR NOT MORE THAN 1	PARTY 1	X
	PARTY 2	
	PARTY 3	

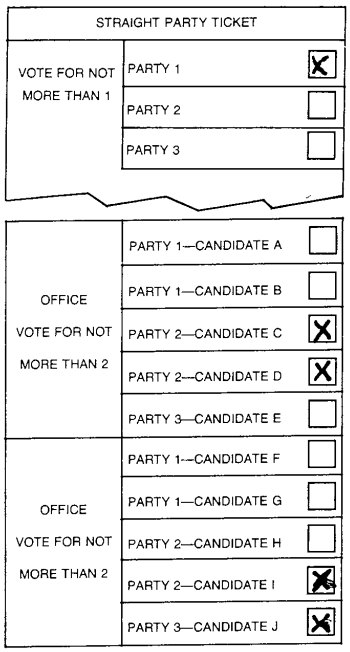
OFFICE VOTE FOR NOT MORE THAN 2	PARTY 1—CANDIDATE A	
	PARTY 1—CANDIDATE B	
	PARTY 2—CANDIDATE C	
	PARTY 2—CANDIDATE D	
	PARTY 3—CANDIDATE E	
OFFICE VOTE FOR NOT MORE THAN 2	PARTY 1—CANDIDATE F	
	PARTY 1—CANDIDATE G	
	PARTY 2—CANDIDATE H	X
	PARTY 2—CANDIDATE I	X
	PARTY 3—CANDIDATE J	

(18)

STRAIGHT PARTY TICKET		
VOTE FOR NOT MORE THAN 1	PARTY 1	X
	PARTY 2	
	PARTY 3	

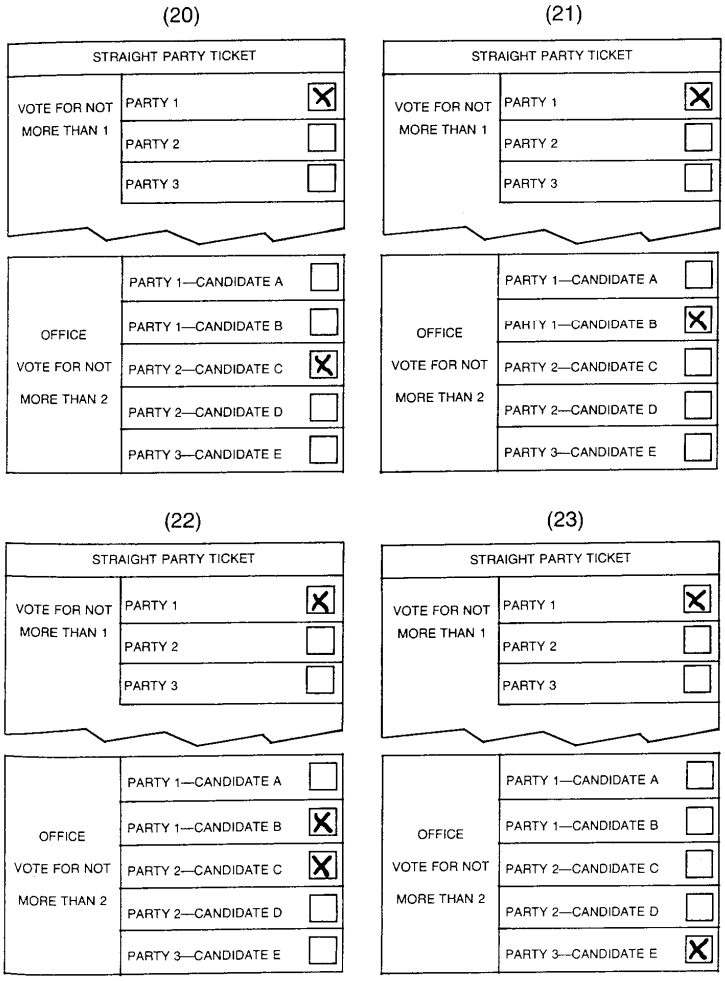
OFFICE VOTE FOR NOT MORE THAN 2	PARTY 1—CANDIDATE A	
	PARTY 1—CANDIDATE B	
	PARTY 2—CANDIDATE C	
	PARTY 2—CANDIDATE D	X
	PARTY 3—CANDIDATE E	X
OFFICE VOTE FOR NOT MORE THAN 2	PARTY 1—CANDIDATE F	
	PARTY 1—CANDIDATE G	
	PARTY 2—CANDIDATE H	
	PARTY 2—CANDIDATE I	
	PARTY 3—CANDIDATE J	

(19)



Example 17: Count a vote for candidates A, B, H, and I.
Example 18: Count a vote for candidates D, E, F, and G.
Example 19: Count a vote for candidates C, D, I, and J.

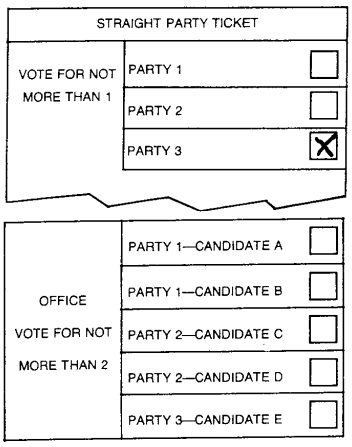
(f) When 2 partisan candidates are to be elected to the same office and the voter has voted a straight party ticket for 1 political party and that party has 2 candidates for that office, and the voter has voted an individual vote for 1 candidate for that office in a different political party, a vote shall be counted only for the candidate for whom the individual vote was made. Under these conditions, a vote shall not be counted for a candidate for that office by virtue of the voter's straight party selection, as in examples 20, 21, 22, and 23.



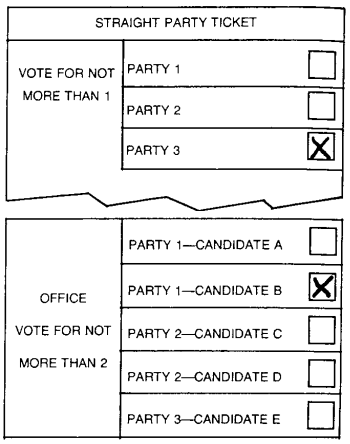
Example 20: Count a vote for candidate C only.
Example 21: Count a vote for candidates A and B.
Example 22: Count a vote for candidates B and C.
Example 23: Count a vote for candidate E only.

(g) When 2 partisan candidates are to be elected to the same office and the voter has voted a straight party ticket for 1 political party and that party has only 1 candidate for that office, a vote shall be counted for the party candidate for that office as in example 24, and if the voter has voted for a candidate of a different political party for that office, that vote shall be counted, as in example 25.

(24)



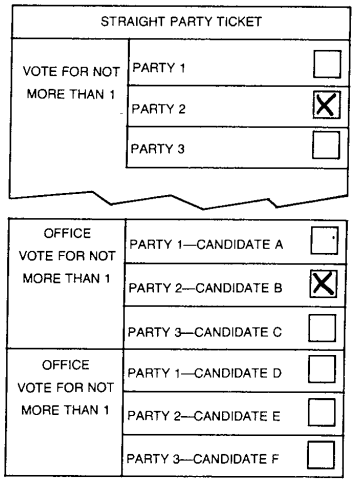
(25)



Example 24: Count a vote for candidate E.
Example 25: Count a vote for candidates B and E.

(h) When a voter has voted a straight party ticket for a political party and has voted individual votes for members of that party only, a vote shall be counted for each candidate of that party. These conditions do not constitute an overvote, as in Example 26.

(26)



Example 26: Count a vote for B and E.

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APPENDIX C (continued)

APPLICABLE MICHIGAN COMPILED LAW STATUTES

168.794 Definitions used in SS **168.794 to 168.799a.**

Sec. 794. As used in sections 794 to 799a:
(a) "Audit trail" means a record of the votes cast by each voter that can be printed, recorded, or visually reviewed after the polls are closed. The record shall not allow for the identification of the voter.

(b) "Ballot" means a card, ballot label, paper ballot, envelope, or any medium through which votes are recorded.

(c) "Ballot label" means the display or material containing the names of offices and candidates or the questions to be voted on.
(d) "Counting center" means 1 or more locations selected by the board of election commissioners of the city, county, township, village, or school district at which ballots are counted by means of electronic tabulating equipment or vote totals are electronically received from electronic tabulating equipment and electronically compiled.
(e) "Electronic tabulating equipment" means an apparatus that electronically examines and counts votes recorded on ballots and tabulates the results.

(f) "Electronic voting system" means a system in which votes are recorded and counted by electronic tabulating equipment.

(g) "Escrow account" means a third party approved by the secretary of state for the purpose of taking custody of all source codes, including all revisions or modifications of source codes.

(h) "Source code" means the assembly language or high level language used to program the electronic voting system.

(i) "Voting device" means an apparatus that contains the ballot label and allows the voter to record his or her vote. (j) "Voting station" means an enclosure provided to ensure ballot secrecy during the voting of the ballot. (k) "Memory device" means a method or device used to store electronic data.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;--Am. 1990, Act 109, Imd. Eff. June 18, 1990;--Am. 1992,
Act 8, Imd. Eff. Mar. 10, 1992.

Deleted: ¶

168.795 Electronic voting system; requirements; method for rendering electronic tabulating equipment inoperable.

Sec. 795. (1) An electronic voting system acquired or used pursuant to sections 794 to 799a shall meet all of the following requirements:
(a) Provide for voting in secrecy, except in the case of voters who receive assistance as provided by this act.
(b) Permit each elector to vote at an election for all persons and offices for whom and for which the elector is lawfully entitled to vote; to vote for as many persons for an office as the elector is entitled to vote for; and to vote for or against any question upon which the elector is entitled to vote. Except as otherwise provided in this subdivision, the electronic tabulating equipment shall reject all choices recorded on the elector's ballot for an office or a question if the number of choices exceeds the number that the elector is entitled to vote for on that office or question. Electronic tabulating equipment that can detect and inform an elector voting in person that the choices recorded on the elector's ballot for an office or a question exceeds the number that the elector is entitled to vote for on that office or question shall offer the elector an opportunity to correct the error before rejecting the choices recorded on the elector's ballot.

(c) Permit an elector, at a presidential election, by a single selection to vote for the candidates of a party for president, vice-president, and presidential electors.

(d) Permit an elector at other than a primary election to vote for all of the candidates of a political party by a single selection or to vote a split or mixed ticket.

(e) Permit an elector in a primary election to vote for the candidates in the party primary of the elector's

choice. Except as otherwise provided in this subdivision, the electronic tabulating equipment shall reject each ballot on which votes are cast for candidates of more than 1 political party. Electronic tabulating equipment that can detect and inform an elector voting in person that the elector has voted for candidates of more than 1 political party shall offer the elector an opportunity to correct the error before rejecting the elector's ballot.

(f) Prevent an elector from voting for the same person more than once for the same office.

(g) Be suitably designed for the purpose used; be durably constructed; and be designed to provide for safety, accuracy, and efficiency.

(h) Beginning June 18, 1990, be designed to accommodate the needs of an elderly voter or a person with 1 or more disabilities.

(i) Record correctly and count accurately each vote properly cast.

(j) Provide an audit trail.

(k) Provide an acceptable method for an elector to vote for a person whose name does not appear on the ballot.

(1) Allow for accumulation of vote totals from the precincts in the jurisdiction. The accumulation software must meet specifications prescribed by the secretary of state and must be certified by the secretary of state as meeting these specifications.

(2) Electronic tabulating equipment that counts votes at the precinct before the close of the polls shall provide a method for rendering the equipment inoperable if vote totals are revealed before the close of the polls.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;--Am. 1990, Act 109, Imd. Eff. June 18, 1990;--Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992;--Am. 1998, Act 21, Imd. Eff. Mar. 12, 1998;--Am. 1999, Act 218, Eff. Mar. 10, 2000.

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168.795a Electronic voting system; approval by board of state canvassers; conditions; approval of improvement or change; inapplicability of subsection (1); intent to purchase statement; instruction in operation and use; disapproval.

Sec. 795a. (1) An electronic voting system shall not be used in an election unless it is approved by the board of state canvassers as meeting the requirements of sections 794 and 795 and instructions regarding recounts of ballots cast on that electronic voting system that have been issued by the secretary of state, unless section 797c has been complied with, and unless it meets 1 of the following conditions:

(a) Is certified by an independent testing authority accredited by the national association of state election directors and by the board of state canvassers.

(b) In the absence of an accredited independent testing authority, is certified by the manufacturer of the voting system as meeting or exceeding the performance and test standards referenced in subdivision (a) in a manner prescribed by the board of state canvassers.

(2) The vendor or representative seeking approval of an electronic voting system shall do all of the following:

(a) Deposit with the secretary of state a nonrefundable application fee of $1,500.00 for a new voting system and a fee of $500.00 for an upgrade to any existing system.

(b) File with the secretary of state a list of all states in which the voting system has been approved for use. This list shall state how long the system has been used in the state and shall disclose any reports compiled by any state or local government concerning the performance of the system. The vendor shall remain responsible for filing this information on an ongoing basis.

(c) File with the secretary of state copies of all standard contracts and maintenance agreements used in connection with the sale of the voting system. All changes to standard contracts and maintenance agreements shall be filed with the secretary of state.

(d) Pay the cost for any field test required by the board of state canvassers.

(e) State the number of voters each component of the voting system can process per hour under each of the following circumstances:

(i) An election in which there are 10 or fewer items to be voted on the ballot by each voter.

(ii) An election in which the ballot consists of the number of items typically voted on at a presidential general election in this state.

(3) The board of state canvassers shall conduct a field test of all new voting systems as part of the certification

process. The field test shall involve Michigan electors and election officials in simulated election day conditions. The test shall be designed to gauge voter reaction to the system, problems that voters have with the system, and the number of voting stations required for the efficient operation of an election based upon the vendor's statement provided under subsection (2)(e).
(4) The board of state canvassers shall approve an electronic voting system for use in this state only if it meets the conditions of subsection (1) except that in an emergency situation that threatens the ability of a county, city, or township to conduct a scheduled election, the board of state canvassers may approve a correction of software or firmware after testing the software or firmware performance.
(5) If an electronic voting system is approved for use before January 1, 1997 by the board of state canvassers, it may be used in an election. However, if the electronic voting system has its software or firmware improved or changed, the system shall comply with the requirements of subsection (1).
(6) After an electronic voting system is approved, an improvement or change in the electronic voting system shall be submitted to the board of state canvassers for approval pursuant to this section. This subsection does not apply to the technical capability of a general purpose computer, reader, or printer to electronically record and count votes.
(7) A county, city, township, village, or school district shall file "an intent to purchase statement" with the secretary of state 30 days before any purchase agreement is made to purchase a new voting system. The secretary of state shall provide all information concerning the operation of the voting system in Michigan or any other state to the local unit of government within 25 days after receiving the "intent to purchase statement".
(8) The secretary of state shall instruct local election officials regarding the operation and use of an approved electronic voting system in order to carry out the purposes of sections 794 to 799a and the rules promulgated pursuant to sections 794 to 799a.
(9) If the board of state canvassers determines that an electronic voting system that was approved under subsection (1) no longer meets the requirements described in that subsection, the board of state canvassers may disapprove that voting system. An electronic voting system that has been disapproved by the board of state canvassers under this subsection shall not be used in an election, unless it is reapproved by the board of state canvassers under subsection (1).
History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;--Am. 1990, Act 109, Imd. Eff. June 18, 1990;--Am. 1992, Act 8, Imd. Eff. Mar. 10, 1992;--Am. 1995, Act 261, Eff. Mar. 28,1996;--Am. 1996, Act 583, Eff. Mar. 31, 1997;-Am. 1998, Act 215, Imd. Eff. July 1, 1998.
Administrative rules: R 168.771 et seq. of the Michigan Administrative Code.

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168.795b Printing or displaying ballot labels, questions, office titles, and names of candidates; columns, pages, and directional signs; ballot stub.
Sec. 795b. (1) Ballot labels shall be printed or displayed in plain, clear, black type on white surface. Questions may be printed or displayed on red tinted surface and the names of candidates for nonpartisan offices on blue tinted surface. County questions may be printed or displayed on green tinted surface and local questions may be printed or displayed on buff surface. In a primary election to identify each political party, the titles of offices and the names of candidates may be arranged in vertical columns or in a series of separate pages or displays. The office title with a statement of the number of candidates to be voted for shall be printed or displayed above or at the side of the names of the candidates for that office. The offices and candidates shall be printed or displayed in the order provided by law, or if no such provision is made, in the order prescribed by the board of election commissioners of the county, city, village, township, or school district. If there are more candidates for an office than can be printed or displayed in 1 column or on 1 page or display, the ballot label shall be clearly marked that the list of candidates is continued on the following column, page, or display, and so far as possible, the same number of names shall be printed or displayed on each column, page, or display. Arrows or other directional signs may be used to indicate the place to vote for each candidate or question.
(2) Ballots that are processed through electronic tabulating equipment after the elector has voted shall have an attached, numbered, perforated stub.
History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;--Am. 1990, Act 109, Imd. Eff. June 18, 1990.

168.795c Indicating different parts of ballot on ballot label; placement of parts; 2 or more elections on same day; partisan elections; voting split or mixed ticket.

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Sec. 795c. The different parts of the ballot, such as partisan, nonpartisan, and questions, shall be prominently indicated on the ballot label, and, if practicable, each part may be placed on a separate page, column, or display. If 2 or more elections are held on the same day, the ballot label shall be clearly marked to indicate the ballot for each election. In partisan elections the ballot label shall include a position by which the voter may by a single selection record a straight party ticket vote for all the candidates of 1 party. The voter may vote a split or mixed ticket.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967;--Am. 1990, Act 109, Imd. Eff. June 18, 1990.

168.797c Computer program; disposition and use of source code.

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Sec. 797c. A person or company providing a computer program that examines, counts, tabulates, and prints results of the votes cast by a voter on an electronic voting system shall place in an escrow account a copy of the source code of the program and any subsequent revisions or modifications of the source code. The secretary of state or an authorized agent of the secretary of state shall agree to use the information contained in the source code solely for the purpose of analyzing and testing the software and shall not disclose proprietary information to any other person or agency without the prior written consent of the vendor.

History: Add. 1967, Act 155, Imd. Eff. June 30, 1967; --Am. 1990, Act 109, Imd. Eff. June 18, 1990.

APPENDIX D
COST PROPOSAL FORM

Price Breakdown – Mandatory Items	Model/Version	Per Unit Price
Accessible Voting System	ES&S AutoMARK Voter Assist Terminal with Transport Case, internal battery, Ink Cartridge, 256mb Flashcard, Headset, Two Ballot Secrecy Sleeves (one with Braille), Battery Charger (one for every ten units ordered) 3-Year Warranty (2006-2008), Installation, and Shipping, and Services as set forth in the Unit Price Breakdown Section (Version 1.0)	$6,467
Programming Software	AutoMARK Information Management Software (Version 1.1.10)	Included Above
Total		$6,467

Per Unit Cost for Implementing New FEC Voting System Guidelines	To Be Determined

APPENDIX D
COST PROPOSAL FORM

Optional Items – Items which jurisdictions may want to purchase extra, on their own, as back ups or to speed the processing of voters. List all items that can be purchased separately.

Price Breakdown	Model/Version	Unit Price (ea.)
Extra Accessible Voting Systems (includes accessories, warranty and shipping only)	ES&S AutoMARK Voter Assist Terminal with Transport Case, internal battery, Ink Cartridge, 256mb Flashcard, Headset, Two Ballot Secrecy Sleeves (one with Braille), 3-Year Warranty (2006-2008), Installation, and Shipping (Version 1.0)	$5,717
AutoMARK Table with Straight Legs		$325.00
Ink Cartridge (Model 100)		$30.00
Ink Cartridge (All Other Equipment)		$45.00
Flashcard (256mb)		$75.00
Lithium Battery		$9.75
AutoMARK Lithium Ion Battery		$105.00
ADA Stylus Ball		$3.80
Stylus		$1.10
Secrecy Sleeve (Plastic)		$8.00
Hygienic Ear Piece Cover		$0.15
*ES&S AutoMARK Battery Charger		$35.00
Rocker Paddle		$155.00
Sip and Puff instrument		$300.00
Braille Secrecy Sleeve		$10.50
Compact Flash Reader/Writer		$30.00

Note: All items, except the ES&S AutoMARK Voter Assist Terminal, do not include shipping, which will be billed as incurred.

*Battery chargers will be included on a county-wide basis. Once charger will be allocated for every 10 AutoMARK units purchased at the county level.

Post Warranty Maintenance	2006	2007	2008	2009	2010	2011	2012	2013
Annual maintenance price per Accessible Voting System (Hardware) – Gold Package	Covered in purchase price	Covered in purchase price	Covered in purchase price	$335	$348	$362	$376	$391
Annual maintenance price per Accessible Voting System (Hardware) – Silver Package	Same As Gold Package	Same As Gold Package	Same As Gold Package	$189	$196	$204	$212	$220
Annual Maintenance per Accessible Voting System (Software)	Covered in purchase price	Covered in purchase price	Covered in purchase price	$38	$39	$41	$43	$45

Gold Package:
Our pricing reflects the following extended warranty and post-warranty maintenance program:

- On-Site Annual Routine Maintenance Services: Includes cleaning, lubrication and calibration services.

- On-Site Remedial Maintenance Services: If a defect or malfunction occurs in any Product while it is under normal use and service, Customer shall promptly notify ES&S, and ES&S shall use reasonable efforts to restore the Product to Normal Working Condition as soon as practicable. The Remedial Maintenance Extended Warranty provides that ES&S will repair or replace any component of our proprietary equipment which, while under normal use and service, (a) fails to perform in accordance with its documentation in all material respects, or (b) is defective in material or workmanship.

Silver Package:
An Even –Year Only extended warranty and post-warranty maintenance program is available to the State. This alternative program provides the same benefits as the Gold Package priced above except On-Site Routine Maintenance Services are performed during the even-year only.

APPENDIX D

COST PROPOSAL FORM

Programming and Voice File Charges for the AutoMARK:

Fees – Scenario 1: This fee structure applies to the following situations:

1. The jurisdiction is an ES&S customer with an ES&S M100 tabulator, and ES&S performs the tabulator programming for this jurisdiction; or
2. The jurisdiction is not an ES&S customer, but the election definition information is electronically entered into AIMS.

Fees – Scenario 2: This fee structure applies to the following situation:
The jurisdiction is not an ES&S customer and the election definition information must be hand-keyed by ES&S into AIMS.

The charges listed in Fee Scenario 2 are listed for reference only at this time.

Programming Charges:	**2006**			**2008**	
	Fee – Scenario 1	**Fee – Scenario 2**		**Fee – Scenario 1**	**Fee – Scenario 2**
Base Charge (AutoMARK)	N/A	$370.00		N/A	$390.00
Base Charge for additional Languages	N/A	$370.00		N/A	$390.00
Base Charge for ERM file set-up (if used, one per election)	N/A	$370.00		N/A	$390.00
Rotations (if used, one charge per election)	N/A	$55.00		N/A	$60.00
Ballot types (opened primary or multiple-page ballots)	N/A	$55.00		N/A	$60.00
Precincts (every precinct in the election)	N/A	$5.00		N/A	$6.00
Splits (every separate split in every precinct in the election)	N/A	$5.00		N/A	$6.00
Ballot faces (every different style in the election)	N/A	$10.00		N/A	$11.00
Contests / Issues (total number of contests, referenda, questions / propositions and statistical offices in the election)	N/A	$15.00		N/A	$16.00
Candidate / Responses (total number of candidates & / or responses, including referenda and write-ins in the election)	N/A	$5.00		N/A	$6.00
Polling Places (multiple precincts within one polling place)	N/A	$10.00		N/A	$11.00
Media burn (ES&S burns hardware media {PCMCIA, Flashcard, Zip Disk, Other} for the election. No charge if you burn your own.)	$10.00	$10.00		$11.00	$11.00
Electronic transfer files (one charge per election)	N/A	$20.00		N/A	$21.00
Reburns	$105.00	$105.00		$110.00	$110.00
Back-Up / SOS Media	N/A	$40.00		N/A	$42.00

Programming Charges:	2006			2008	
	Fee – Scenario 1	Fee – Scenario 2		Fee – Scenario 1	Fee – Scenario 2
ADA Voice Files - AutoMARK					
Language Base Charge (English)					
Language Setup Charge	$265.00	$265.00		$280.00	$280.00
Ballot Styles (total number of style in the election)	$10.00	$10.00		$11.00	$11.00
Contests / Issues	$10.00	$10.00		$11.00	$11.00
Candidates / Yes-No Responses	$7.00	$7.00		$8.00	$8.00
Propositions / Amendments / Instructions	$15.00	$15.00		$16.00	$16.00
Price per word in excess of 1200 total words (Instructions / Propositions / Amendments)	$0.15	$0.15		$0.17	$0.17
Non-English Language Base Charge					
Spanish Language Base Charge	Rate = Language Base Charge (English)				
Non-Spanish Language Base Charge	Rate = 150% of Language Base Charge				
Additional Charges for Changes / Corrections Requested by, or Attributed to Client					
Resubmission (PYO Accounts Only) = additional 60% of Language Base Charge Sub-Total(s)	60%	60%		60%	60%
Language Setup Charge(s)	$265.00	$265.00		$280.00	$280.00
Change Political Parties	$5.00	$5.00		$6.00	$6.00
Change Ballot Styles (every different style in the election)	$10.00	$10.00		$11.00	$11.00
Change Contests / Issues	$10.00	$10.00		$11.00	$11.00
Change Candidates / Yes-No Responses	$7.00	$7.00		$8.00	$8.00
Change Propositions / Amendments / Instructions	$15.00	$15.00		$16.00	$16.00
Ballot Layout-$10 per Style/Precinct, whichever is greater					
1 to 100 Styles / Precincts	N/A	$10.00		N/A	$11.00
101 to 500 Styles / Precincts (10% discount)	N/A	$9.00		N/A	$9.90
501 or greater Styles / Precincts (7% discount)	N/A	$7.00		N/A	$7.70
Charges for Language other than English/Spanish					
1 to 100 Styles / Precincts = $500 per language	N/A	$525.00		N/A	$550.00
101 to 500 Styles / Precincts = $1000 per language	N/A	$1,050.00		N/A	$1,105.00
501 or greater Styles / Precincts = $1500 per language	N/A	$1,575.00		N/A	$1,655.00
Base Charge for Ballot On Demand, if applicable	$370.00	$370.00		$390.00	$390.00

APPENDIX E
UNIT PRICE BREAKDOWN

Item	Sub Item	Potential Quantity	Price Breakdown	Unit Price
Accessible voting system	**Model/Version**	4000	$25,868,000	$6,467
	Initial Acquisition Cost			
	Administrative Overhead			
	Contractor		N/A	N/A
	SubContractor (s)		N/A	N/A
	Hardware			
	Device		$19,400,000	$4,850
	Peripherals (List each separately) - 256mb Flashcard - Ink Cartridge - Head Set - Two (2) Ballot Secrecy Sleeves		All Included	All Included
	Software			
	Firmware		Included	Included
	Programming (AutoMARK Information Management Software – one time, perpetual license fee)		$768,000	$192
	Warranty (Through 12/31/2008)		$2,808,000	$702
	Documentation		N/A	N/A
	Training		$400,000	$100
	Implementation Cost			
	Project Management		$1,184,000	$296
	Logistics		Included as Part of Project Management	

Item	Sub Item	Price Breakdown	Unit Price
	Transportation	$220,000	$55
	Receiving	Included in Configuration	
	Unpacking	Included in Configuration	
	Removal of Packaging	$20,000	$5
	Configuration	Included in Installation	
	Testing	Included in Installation	
	Installation	$420,000	$105
	Contractor Training Time & Travel	Included	Included
	Other		
	Pre-Election Logic and Accuracy Testing (See Pricing Footnote 1)	$236,000	$59
	Election Day Support (See Pricing Footnote 1)	$712,000	$178
	Discount		$(75)
Total Unit Costs			$6,467
Total State Costs		$25,868,000	

Total Unit Costs equals the **Price Breakdown** for all of the sub-items listed and should equal the **Unit Price in Appendix D**.

Total State Cost **equals the** Unit Price **times 4000.**

Pricing Footnotes:

1. The above pricing includes election support services through the end of the second even numbered election year ending December 31, 2008, or a total of 10 elections as follows:
   a. 2006: August Primary and November General Elections.
   b. 2007: Up To Four (4) Elections per ES&S AutoMARK Customer (February, May, August, September and November).
   c. 2008: February, May, August Primary, and November General Elections.
   d. Additional election service days will be charged at ES&S's then current rates.

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2. Any applicable (City & State) sales taxes have not been included in our pricing and are the responsibility of the Customer.

3. Counties, at their option, may distribute copies of the AIMS software to jurisdictions within the county. ES&S acknowledges and agrees to this, and further acknowledges that there will be no additional charge to the County or respective jurisdiction for such distribution.

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APPENDIX F

TRAINING MATRIX

This matrix represents the minimum guarantees for training provided to the State and jurisdictions. There are six tables to be completed, to show the varying levels of staff training involved (State; County; Local—Small, Medium, and Large; and Poll worker). All training costs related to these minimum guarantees shall be included in the Cost Matrix, Appendix E. Refer to **Section 1.104 Work and Deliverables, C. Training and User Information** for additional information on training requirements.

State Level

Category	Number of Sessions	Number of Contractor staff hours per session. (Length of session)	Maximum number of participants per session.	Is a train the trainer format available? If so, indicate hours per session, maximum number of participants per session, and staff hours allocated (length of session).	Is 1 on 1 training available?	List examples of tests given to measure proficiency once training is completed.	Is Election Day troubleshooting training included?
ACCESSIBLE VOTING SYSTEM-- Initial Technical Training	1	8 hours	20	Yes – 16 hours			
ACCESSIBLE VOTING SYSTEM-- Election Day Training Procedural	N/A						
***Programming Software: Initial Training**	1	16 hours	10	No			
Programming Software: Election Day Training	N/A						

*This training may include programming guidance as fully described in Appendix O Item 9.b.

APPENDIX G

TRAINING MATRIX

County Level							
Category	**Number of Sessions**	**Number of Contractor staff hours per session. (Length of session)**	**Maximum number of participants per session.**	**Is a train the trainer format available? If so, indicate hours per session, maximum number of participants per session, and staff hours allocated (length of session).**	**Is 1 on 1 training available?**	**List examples of tests given to measure proficiency once training is completed.**	**Is Election Day troubleshooting training included?**
ACCESSIBLE VOTING SYSTEM-- Initial Technical Training	Varies by county	8 hours	20	Yes – additional 16 hour course			Yes
ACCESSIBLE VOTING SYSTEM-- Election Day Training Procedural	N/A Included with initial training						
Programming Software: Initial Training	Varies by County purchase of AIMS	16 hours	10	No			No
Programming Software: Election Day Training	N/A Included with initial training						

*****This training may include programming guidance as fully described in Appendix O Item 9.b.

APPENDIX H

TRAINING MATRIX

Jurisdiction level 600 precincts

Category	Number of Sessions	Number of Contractor staff hours per session. (Length of session)	Maximum number of participants per session.	Is a train the trainer format available? If so, indicate hours per session, maximum number of participants per session, and staff hours allocated (length of session).	Is 1 on 1 training available?	List examples of tests given to measure proficiency once training is completed.	Is Election Day troubleshooting training included?
ACCESSIBLE VOTING SYSTEM--Initial Technical Training	Refer to County level plan						
ACCESSIBLE VOTING SYSTEM--Election Day Training Procedural	N/A						
*Programming Software: Initial Training	Refer to County level plan						
Programming Software: Election Day Training	N/A						

*This training may include programming guidance as fully described in Appendix O Item 9.b.

APPENDIX I

TRAINING MATRIX

Jurisdiction Level 100 Precincts							
Category	Number of Sessions	Number of Contractor staff hours per session. (Length of session)	Maximum number of participants per session.	Is a train the trainer format available? If so, indicate hours per session, maximum number of participants per session, and staff hours allocated (length of session).	Is 1 on 1 training available?	List examples of tests given to measure proficiency once training is completed.	Is Election Day troubleshooting training included?
ACCESSIBLE VOTING SYSTEM--Initial Technical Training	Refer to County level plan						
ACCESSIBLE VOTING SYSTEM--Election Day Training Procedural	N/A						
*Programming Software: Initial Training	Refer to County level plan						
Programming Software: Election Day Training	N/A						

*This training may include programming guidance as fully described in Appendix O Item 9.b.

APPENDIX J

TRAINING MATRIX

Jurisdiction Level 5 precincts							
Category	**Number of Sessions**	**Number of Contractor staff hours per session. (Length of session)**	**Maximum number of participants per session.**	**Is a train the trainer format available? If so, indicate hours per session, maximum number of participants per session, and staff hours allocated (length of session).**	**Is 1 on 1 training available?**	**List examples of tests given to measure proficiency once training is completed.**	**Is Election Day troubleshooting training included?**
ACCESSIBLE VOTING SYSTEM-- Initial Technical Training	Refer to County level plan						
ACCESSIBLE VOTING SYSTEM-- Election Day Training Procedural	N/A						
***Programming Software: Initial Training**	Refer to County level plan						
Programming Software: Election Day Training	N/A						

*This training may include programming guidance as fully described in Appendix O Item 9.b.

APPENDIX K

TRAINING MATRIX

Poll worker Training

Category	Number of Sessions	Number of Contractor staff hours per session. (Length of session)	Maximum number of participants per session.	Is a train the trainer format available? If so, indicate hours per session, maximum number of participants per session, and staff hours allocated (length of session).	Is 1 on 1 training available ?	List examples of tests given to measure proficiency once training is completed.	Is Election Day troubleshooting training included?
ACCESSIBLE VOTING SYSTEM-- Initial Technical Training	Refer to County level plan						
ACCESSIBLE VOTING SYSTEM-- Election Day Training Procedural	N/A						
Programming Software: Initial Training	N/A						
Programming Software: Election Day Training	N/A						

APPENDIX L
TRAINING MATRIX

Additional Questions	
1. Describe your plans for assisting local and county election officials in the training for election inspectors within 20 days prior to an election pursuant to Michigan Election Law.	The training and service days detailed in our plan may be used by local jurisdictions for whatever tasks the jurisdiction requires with additional days available at the daily rates stated in the pricing Appendices.
2. Describe your plans for providing post delivery training referenced in "**Section 1.104C Training and User Information**" required within 30 days following delivery.	All training of election officials is scheduled for completion 30 days prior to the Statewide primary election on August 8, 2006.
3. Describe the types of voter education training materials that you will provide as required in "**Section1.104C Training and User Information"** in the ITB. Please indicate when these materials will be provided.	The Contractor will work with individual counties to determine voter education requirements and a schedule for providing materials.

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APPENDIX M
IMPLEMENTATION MATRIX

The State presumes implementation resources will differ based on the size of county. Complete this matrix showing minimum staff commitments for the following county examples.

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PROJECT MANAGEMENT PROJECTION

County Size	Minimum number of Contractor staff hours	Minimum number of Contractor staff persons (FTE's)	Time Lapse of initial implementation project plan (Start date – end date)
Small County (Example – Schoolcraft Co.)	6 Days/48 Hours	1 for the time allotted	60 to 90 minimum for any project
Medium County (Example – Ingham Co.)	75 Days/600 hours total	1 for the time allotted	75 to 90 days for this size of project
Large County (Example – Oakland Co.)	230 Days/1840 hours total	1 for the time allotted	90 to 100 days for this size of project

Please note that the information above is for the project management services only, and reflects the project management services associated with the implementation of the equipment and election support. Other services being provided to the State (acceptance testing, training, election support) are not included in the information above.

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APPENDIX M
IMPLEMENTATION MATRIX

ACCEPTANCE TESTING

County Size	Minimum number of Contractor staff hours	Minimum number of Contractor staff persons (FTE's)	
Small County (Example – Schoolcraft Co.)	8 Days/64 Hours	4 for the time allotted	
Medium County (Example – Ingham Co.)	12 Days/96 hours total	4 for the time allotted	
Large County (Example – Oakland Co.)	32 Days/256 hours total	4 for the time allotted	

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PRE & POST DELIVERY ADMIN & TECHNICAL SUPPORT

County Size	Minimum number of Contractor staff hours	Minimum number of Contractor staff persons (FTE's)	
Small County (Example – Schoolcraft Co.)	9 Days/72Hours	1 for the time allotted	
Medium County (Example – Ingham Co.)	24 Days/192 hours total	1 for the time allotted	
Large County (Example – Oakland Co.)	48 Days/384 hours total	1 for the time allotted	

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County Size ... [24]

APPENDIX N

Technical Evaluation Clarification Questions and Answers

A. Product Summary:

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1. Q: It appears there are no privacy shields or table/stand- Please clarify how your system ensures privacy during voting?

   A: The ES&S AutoMARK is equipped with an accessible voting table and privacy shield. These items do not appear in the photographs in this section to ensure that the unit remains clearly visible in our proposal.

2. 2. Q: The keys are all one color. This may be problematic for voters with learning disabilities in distinguishing different functions. Has E S & S considered making changes, such as changing the "select" button to a different color?

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   A: There are no current plans to differentiate ES&S AutoMARK buttons by color. The design of the ES&S AutoMARK keypad was developed with significant input from disability groups and extensively tested for compliance with FEC and HAVA requirements. ES&S has found the current design of the keypad -with each button on the control panel assigned a unique shape – to provide an effective means for differentiating functionality for both sighted voters and voters who select ballot options by touch.

3. Q: Has E S & S considered incremental zoom function as opposed to only one level of "zoom"?

   A: ES&S considered adding an incremental zoom feature during the initial development of the ES&S AutoMARK but after careful research, decided not to implement this functionality in order to maximize unit performance and preserve system resources for audio voting and election definition storage.

   The ES&S AutoMARK's current zoom feature enlarges ballot text to a size that is fully compliant with HAVA regulations.

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4. 4. Q: Bid proposal states the keyboard is in "QWERTY" format; however, pictures display an alpha order keyboard. Please clarify.

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   A: The screenshot is correct. The ES&S AutoMARK displays the write-in keypad in alphabetical format not in QWERTY format.

5. 5. Q: Has ES&S considered Braille display technology? If not, would it be possible to retrofit the device in the future?

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   A: There are no current plans to adapt the ES&S AutoMARK for Braille display but _____ES&S may consider this feature for future versions of the device.

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C. Summary of Disability Advocacy Group's Evaluation

1. Q: Have advocacy groups expressed concern over privacy with the AutoMark system? Please describe and explain any plans you have for system modifications (if any) resulting from concerns expressed by these groups.

   A: Advocacy groups have not expressed privacy concerns regarding the ES&S AutoMARK. With the ability to blank the terminal screen during audio voting, the inclusion of a privacy shield for display voting and a secrecy sleeve for transporting the marked ballot from the ES&S AutoMARK

terminal to the precinct scanner or ballot box, the ES&S AutoMARK provides the same level of privacy accorded to voters who vote paper ballots by hand.

2. 2. Q: Please clarify how you are working with NIST on development of testing standards.

   A: ES&S has provided NIST with multiple demonstrations of the ES&S AutoMARK's ballot marking capabilities and has assisted in defining the ballot marking device category for future standards.

3. 3. Q: Please provide a list of all Michigan groups to which you have demonstrated this product.

   A: ES&S has demonstrated ES&S AutoMARK ballot marking terminals for the Michigan Commission for the Blind – Pat Cannon, Executive Director - and the Michigan Council _for the Blind and Visually Impaired – Casey Dutmer, Legislative Chairman.

4. 4. Q: What is the most common negative comment you have received from disability advocacy groups, and how have you addressed this concern?

   A: The most common question expressed by ES&S AutoMARK users has been a concern regarding how the system ensures privacy as the voter transports the ballot from the ballot-marking terminal to a ballot box or ballot precinct counter. We believe we have addressed this concern with an optional secrecy sleeve that obscures the voter's ballot selections during transport of the paper ballot.

D. Physical Interaction with the system:

1. Q: Is the sip and puff attachment supplied to the voter?

   A: Due to health concerns, voters who regularly use sip and puff devices generally prefer to supply their own devices. ES&S can supply pricing for additional devices on request.

2. 2. Q: Has E S & S considered providing secrecy sleeves that provide Braille instructions?

   A: Yes, ballot secrecy sleeves with Braille instructions are now available. ES&S will provide pricing for this item on request.

3. 3. Q: How does a deaf/blind person interact with the AutoMark system?

   A: The ES&S AutoMARK is equipped with an audio ballot and Braille embossed keypad to accommodate voters with low vision and a display ballot with zoom and high contrast functionality for voters with hearing disabilities.

   Voters with both sight and hearing disabilities will continue to require assistance with casting a ballot.

E. Interaction with Existing Optical Scan Systems:

1. Q: Is ES&S pursuing ITA certification with the use of other vendor's optical scan systems? If not, why?

   A: Certifying the ES&S AutoMARK with ballot scanning equipment produced by other election vendors requires extensive cooperation from those vendors, which ES&S cannot secure without a strong push for approval by State and local governments.

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Because the ES&S AutoMARK is an accessory system that does not read ballots or generate election results, the decision to use the marking system with third party tabulation equipment lies with the State. The ES&S AutoMARK was successfully used with the Diebold Accuvote during the 2005 General Election in Massachusetts and has been certified with the Diebold scanner in Illinois.

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2. 2. Q: Please clarify what will be needed to enable the AutoMark system to fully interact with Diebold AccuVote and Sequoia Insight systems, including ballot creation, programming, vote tabulation and accumulation.

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A: The ES&S AutoMARK can be fully configured for use with the Diebold AccuVote and Sequoia Insight systems by to generating an ES&S AutoMARK election definition based on those systems' final paper ballot layouts with AIMS software. Adding the ES&S AutoMARK to your polling places requires no changes to existing procedures for ballot creation, programming, tabulation and reporting tasks.

3. 3. Q: Will it be possible for AutoMark systems to interact seamlessly with Diebold and Sequoia systems for the 2006 election cycle?

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A: Yes. The ES&S AutoMARK was successfully used with Diebold Accuvote voting equipment during the 2005 General Election in Massachusetts. Interaction with the Diebold and Sequoia systems depends on the version of firmware used in each Michigan jurisdiction and may be limited by changes in competitors' products.

4. 4. Q: Please clarify anticipated timelines for determining system modifications and associated costs needed to comply with 2005 Voting System Standards.

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A: ES&S is currently reviewing the final, recently approved version of the 2005 Voting System Standards and formulating a development plan to meet those standards. Until the scope of work for meeting the standards has been clearly defined by ES&S and the EAC, ES&S cannot commit to a firm timeline for development.

F. Plan for Meeting 2006 HAVA Compliance Implementation Plan

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1. Q: If awarded a statewide contract, would E S & S be able to produce and deliver approximately 4,000 AutoMark systems in time for the 2006 election cycle? (That is, all equipment delivered and training completed 30 days prior to the August primary.) In the alternative, would a contingency plan be needed?

A: Based on our estimates, we believe that we have the resources in place to meet the State of Michigan's implementation deadline. ES&S will make every effort to meet the expectations of Michigan's counties for a timely and quality implementation. We will work to establish project milestone deliverables that will fully prepare each for the newsystems.

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G. Specific Requirements

1. Q: The proposal indicates that the ballot has no text- how is that possible with a pre-printed ballot?

A: The requirement referenced above questions whether the ballot marking system prints marks on the ballot that may be used to identify a specific voter. The intent of ES&S' response was to indicate that the ES&S AutoMARK does not print additional text or codes on the ballot that may be used to identify a voter. The pre-printed paper ballot inserted into the ES&S AutoMARK is a standard ballot that contains all normal contest candidate and referendum text.

2. 2. Q: Please clarify the life expectancy of ink cartridges? Where can ink cartridges be purchased? Is there a warning when the ink is low?

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A: The ES&S AutoMARK ink cartridge contains more than enough ink to accommodate voters for a single election but should be replaced prior to each election to prevent the ink from drying or clogging in the unit. ES&S AutoMARK ink is a standard HP cartridge that should be available at from any commercial computer or electronics store and is also available for order from ES&S.

An ink level indicator appears on the lower left portion of the touch screen when an operator enables the terminal's test mode.

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3. Q: Your response seems to indicate that cross-over votes are possible on the AutoMark unit, and that these situations would be caught at the tabulator. Please confirm that the AutoMark unit does not prohibit cross-over votes on a partisan primary ballot.

A: The ES&S AutoMARK prevents cross-over voting on a partisan primary ballot. The system requires a voter to pick a party before casting votes and only displays candidates for the selected party.

4. 4. Q: Regarding multiple ballot combinations, your response to item 14 states this requirement is "not applicable" to the AutoMark system. However, it later states that the number of ballots it can store is unlimited. Please clarify.

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A: A single ES&S AutoMARK can be programmed with a theoretically unlimited number of ballot formats for the purpose of marking ballots. The terminal, however, is not classified as a 'voting unit' as indicated in the requirement. The ES&S AutoMARK is a ballot-marking device that does not scan ballots or tabulate election results.

5. 5. Q: The ITB requires sealing of the programmable memory unit into the AutoMark using a seal approved for use by the Department of State. Please clarify how this seal is attached with your proposed system.

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A: The locking panel at the front of the ES&S AutoMARK terminal has a hole near the top for a security seal. Election officials can thread a security seal through this hole and an eyelet on the terminal case to secure the unit's election program.

6. 6. Q: Why do replacement batteries have to be ordered through E S & S?

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A: Changing the ES&S AutoMARK backup battery requires maintenance personnel to access the terminal's internal circuitry. ES&S requires jurisdictions to purchase backup batteries directly from ES&S to ensure that only trained maintenance personnel handle battery replacement.

7. 7. Q: How do you accommodate deaf/blind voters?

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A: The ES&S AutoMARK is equipped with an audio ballot and Braille embossed keypad to accommodate voters with low vision and a display ballot with zoom and high contrast functionality for voters with hearing disabilities.

Voters with both sight and hearing disabilities will continue to require assistance withcasting a ballot.

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H. Implementation Plan for each county

1. Q: Proposal states: Small County 60-90 days; Medium County 75-90 days; Large County 90-100 days. Is ES&S capable of supplying whole state within these timeframes?

   A: Based on our estimates, we believe that we have the resources in place to meet the State of Michigan's implementation deadline. ES&S will make every effort to meet the expectations of Michigan's counties for a timely and quality implementation. We will work to establish project milestone deliverables that will fully prepare each for the new systems.

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J. Training

1. Q: Are the Public Service Announcements (PSA) available in closed caption or accessible formats?

   A: ES&S will provide generic print ad and radio/television PSA templates to Michigan counties, for use across the State. Customization of a PSA – and the associated production and advertising expenses – would be covered by the Counties.

2. 2. Q: Are optional training courses an additional cost? Or is the bidder suggesting that repeat training is additional cost?

   A: ES&S has included pricing for a number of training days based on the scope estimates included in Michigan's ITB. Should the state require more than the estimated number of days specified in ES&S' response, additional pricing does apply.

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3. Q: Please clarify on what training is exactly provided for poll workers and local election officials.

   A: ES&S provides election officials complete operations training and training documentation that include instruction on all terminal functions, instruction for testing and configuring the equipment prior to Election Day and general maintenance procedures.

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Poll worker training is limited to terminal operations that may be encountered on Election Day and general maintenance procedures, such as changing the ink cartridge that may be required during the course of voting.

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K. Warranty and Maintenance

1. Q: In your response to item 1.a., it says that the State will be required to notify E S & S of performance problems or defects. Note that this will be the responsibility of local jurisdictions.

   Acknowledged

2. Q: In your response to item 1.b., hardware is not addressed. Please confirm that hardware patches are covered at no cost.

   A: Yes, the response to question 1.b includes patches to ES&S software as well as the proprietary firmware for the ES&S AutoMARK terminal.

L. Election Administrative Support:

1. Q: Please clarify the response times and equipment replacement time guarantees for election-day administrative support.

A: ES&S will respond to telephone calls placed to our service center within two hours of placing the call and replace any accessible voting system that cannot be repaired within one hour of a service technician's arrival on site.

2. 2. Q: Please provide more detail on how you use PCAnywhere to "log into" systems? Please identify security measures in place for this process.

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A: ES&S uses PCAnywhere for software support calls that cannot be resolved over the telephone. ES&S technicians can use PCAnywhere to view a client computer, assess the exact situation that caused a software issue and to view data files. pcAnywhere, by default, uses a proprietary encryption algorithm for the data stream between a host and remote. For users who require more rigorous encryption, pcAnywhere supports using Microsoft symmetric encryption and public/private key encryption. Encryption is engaged immediately upon connection and prior to any data transactions (including authentication). If the remote is not using encryption or is using a lower encryption level than the host, the host can be configured to reject the connection from the remote. ES&S support technicians log onto client computers as a remote user, allowing our clients total discretion in allowing access to files and functionality.

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3. 3. Q: Please clarify how many support staff will be available in Michigan on Election Day.

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A: ES&S has included pricing for one ES&S support representative in each Michigan County on Election Day.

N. Project Plan

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1. Q: Please clarify what you would consider an "error" for reporting purposes.

A: ES&S defines an error as any malfunction caused by a defect in design or execution of system hardware or firmware. For the purposes of reporting, an error does not include any situation caused by or exasperated by user actions, any situation that occurs if the system is used for purposes other than intended or if the system is operated under conditions outside of recommended environmental or functional parameters.

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O. Project Management

1. Q: In page O-7 of your proposal, you mention that 6,000 OMR units can be produced per month. What is OMR? How many AutoMark units can be produced per month?

A: OMR is an abbreviation for Optical Mark Reader, which is the industry designation for ES&S optical scan ballot tabulation equipment. The 6,000 units indicated in the requirement is the maximum production capacity for optical scan devices. Maximum production capacity for the ES&S AutoMARK is 5,400 terminals per month.

2. 2. Q: Who produces AutoMark systems and where does production take place?

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A: ES&S AutoMARK terminals are manufactured by Ricoh in Irvine California. Software and firmware development for the system is handled by AutoMARK Technical Systems (ATS) in Lombard, Illinois.

3. 3. Q: What is the quality control process for units as they are produced and before they are shipped?

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A: Hardware quality control begins with the inspection of upcoming parts to ensure they meet ES&S specifications. Quality Control continues at the sub-assembly level with both scheduled and non-scheduled "spot" checks. Final Quality Control includes firmware version checks and a complete Logic and Accuracy test on each appliance.

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OTHER QUESTIONS

1. Q: Have outside security experts tested your voting system for vulnerabilities?

   a. If so, please list?

   b. What are their security credentials?

   c. Do their areas of expertise cover a wide range of specialties covering cryptography and computer security exploits?

   d. Can we see a summary of their findings?

   A: The ES&S AutoMARK meets and has been certified to all security requirements included in the 2002 FEC Voting System Guidelines. Testing for these requirements was completed by the Federal approved Independent Testing Authorities SysTest Labs and Ciber.

2. 2. Q: Do you allow the public to review the security and reliability of your voting system's source code?

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   a. Is the security of your system dependent on the secrecy of your code?

   b. If so, how do you handle the issue of source code being obtained by the public?

   A: All proposed ES&S software and firmware are proprietary. As a standard practice, ES&S maintains in escrow with Iron Mountain Intellectual Property Management, Inc., a copy of all program source code developed and used for our proprietary software and firmware, as well as any changes, modifications or updates to the source code. Should ES&S cease operations and become unable to maintain and support our proprietary software and firmware while under an obligation to do so, the County shall have the right to obtain the source code to the extent necessary to enable the County to use ES&S' proprietary software and firmware in accordance with the terms of the final contract.

   Because the source code is key to the continued operation of ES&S' business and constitutes a trade secret, ES&S cannot otherwise agree to a release of the source code to the State, unless otherwise required by law. However, should the State request that a third party evaluator examine its source code, ES&S would request that said third party evaluator be subject to a mutually agreeable non-disclosure agreement between all applicable parties. Otherwise, the source code will remain the property of ES&S and may not otherwise be used by the State.

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   ES&S maintains strict controls over the distribution and dissemination of system source code.

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   c. And how do you address the concern that a source code attack could be perpetrated from an insider?

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   A: ES&S follows industry best practices for system security including background checks for all prospective employees and extensive peer-review and quality assurance testing for all finished code. In addition, ES&S code is thoroughly reviewed by third party Independent Testing Agencies (ITA) as part of the Federal certification process.

3. Q: Would you be willing to have security experts review the source code for your system?

   a. If not, why?

   A: Should the State request that a third party evaluator examine its source code,ES&S would request that said third party evaluator be subject to a mutually agreeable non-disclosure agreement between all applicable parties. Otherwise, the source code will remain the property of ES&S and may not otherwise be used by the State.

4. 4. Q: Who developed the source code currently used in your voting systems?

   A: AutoMARK Technical Systems (ATS) in Lombard, Illinois is the source code ____developer for the ES&S AutoMARK.

   a. Do their skill cover a wide range of security topics in cryptography and computer security?

   b. What security training have they had?

   c. Have these developers worked on cryptography and computer security in other systems outside of voting software?

   A: Programmers from AutoMARK Technical Systems adhere to industry best practices for ensuring data and code security. The ES&S AutoMARK has been rigorously tested against the security requirements of the 2002 FEC Voting System Standards by third party testing agencies and certified to those standards by NASED.

   The ES&S AutoMARK was designed to minimize exposure to data security concerns. The terminal does not scan ballots, tabulate election results or utilize any data that can affect the outcome of an election.

5. 5. Q: How confident are you in the security and reliability of your voting system product?

   A: ES&S has full confidence in the reliability and security of this and all its products.

   What would you do if somebody purchases your equipment and later find that it is vulnerable to certain types of attacks?

   A: ES&S uses a technical bulletin system to notify its clients of any issues that are identified in its products. These bulletins give our clients instructions how to protect against the issue during any interim period while the permanent solution to it is processed through the required certification processes.

   a. What would you do if after an election it is determined that your machines reported an inaccurate total (attack or a system glitch)?

   A: In the event of an actual attack on an election system, ES&S would fully investigate the incident to determine the cause and to help identify the attacker and his/her prosecution. We would fully partner with you, our client, in this pursuit. Any attack on the ES&S AutoMARK would have no impact on final election totals or ballot reading. The system was designed exclusively for ballot marking.

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6. Q: What steps if any, have you taken to address security concerns regarding memory card tampering or pre loaded vote totals?

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A: The ES&S AutoMARK includes hash codes to validate the memory card content prior to allowing its use by the machine into which it has been placed. We encrypt the contents so that they cannot be tampered with while in-transit.

7. 7. Q: How confident are you in the security of your voting systems regarding central tabulator and remote access attacks?

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A: The ES&S AutoMARK does not connect to a network preventing any possibility of a remote access attack.

a. Have these topics been addressed by security experts?

If not, why?

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A: Yes. ES&S has certified security professionals on staff and involved in the system development and evaluation.

8. 8. Q: How will you prevent uncertified ITA versions of software and firmware from being installed?

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A: ES&S has a configuration management process that validates only certified software is released for shipment to any client.

Appendix O
ITB# 071I6200053
Accessible Voting Systems
Pricing Clarifications for ES&S
April 20, 2006 – Final Response from State

1. On page 1 of Section T, for the AutoMARK device, can you list all items that come with the device or is it the same as listed for the "extra" devices on page 2?
   ES&S Response: It is the same as listed for the "extra" devices on page 2, with the exception of the battery charger; see Item 2 below.
   SOM Response: Please add items accordingly to page 1 of Section T. In addition, for AIMS please add version number 1.1.10.
   ES&S Response: Done

2. On page 2 of Section T, can you describe the ES&S AutoMARK battery charger? Does it come with the device?
   ES&S Response: One battery charger for every 10 units in included in our $6,467 AutoMARK price. We have not included it in the $5,717 price for extra units.

   Additional chargers may be bought by the State / County for $35 apiece.

   These battery chargers allow the jurisdiction to charge the AutoMARKs while they are in their case.
   SOM Response: One battery charger for every 10 units will not work in the jurisdictions that only have one precinct with only one device. Those jurisdictions will require a minimum of 1 battery charger.
   ES&S Response: In these circumstances, our position on this is that the county can easily remove the AutoMARK from its case and charge the unit. For those jurisdictions that have 10 or more, removing the units becomes more impractical, and the external charger is a more appropriate and efficient way to charge the unit.
   SOM Response: For those jurisdictions with less than 10 precincts, the State is requesting 1 charger for every 10 in the county. That way if one is needed the county would be able to provide it where it's needed.
   4/17/06 ES&S Response: Based on the information provided by the State, which lists a total of 4,068 AutoMARKs, ES&S will provide 412 battery chargers. I have added a column to the equipment allocation listing so you can see how the chargers are being allocated. We understand that an additional 135 units may be purchased, and where these are allocated will dictate the number of additional battery chargers.
   SOM Response: Agreed.

3. On page 3 of Section T, the State would prefer to keep the warranty as stated in the ITB (the "Gold" package), but for years 2009 and on, would like to offer locals both the annual and even-year only maintenance. Please list the cost for both the annual as well as the even-year only maintenance in the actual table so it is easily understood that there are two options. I.e. $335 or $189 keeping the explanation below.

ES&S Response: Page 3 has been updated, and a revised Section T accompanies this response.
SOM Response: Agreed.

4. On page 3 of Section T, can you list everything that is needed on a standard PC in order to use AIMS and AutoMARK? I.e. Adobe Acrobat Reader, Visio, the flashcard reader.
ES&S Response: A desktop (not a laptop) PC owned by the jurisdiction must be configured as follows in order to use AIMS:
 - 2.2 GHz Pentium 4 minimum
 - 256 MB memory minimum
 - 20 GB hard drive minimum
 - CD-ROM
 - USB port
 - Flash Memory Card drive
 - Microsoft Windows XP Professional
 - Compact Flash Reader/Writer

SOM Response: What are the minimum requirements?
ES&S Response: These are the minimum requirements
SOM Response: Agreed.

5. Please delete the programming costs for Optical Scan equipment since these do not apply to this contract.
ES&S Response: In the most recent Section T I sent you, I already deleted it.
SOM Response: Agreed.

6. On the "Programming" page of Section T, please list all the prices the same for "all customers". There should be one price per category i.e. programming charges, ADA Voice Files, etc. We didn't discuss this in detail at the meeting since we were not sure how these charges would be handled for non-ES&S customers. Since ES&S demonstrated the level of effort is the same whether it was a Diebold or ES&S file, then the costs should be the same for all customers. If ES&S disagrees, the State is requiring a quantifiable explanation as to why there should be two sets of costs when the effort is basically the same.
SOM Response: This item is still open for ES&S. The State is looking for a "ceiling charge" for each category, not a la carte pricing.
ES&S Response: For the same reasons we are unable to provide a ceiling charge for our M100 programming, we are unable to provide a flat ceiling charge for this service. In general, there are just too many variables in the election definition to consider.
We have revised this table to better reflect the charges that would apply for those jurisdictions with a non-ES&S tabulator.
SOM Response: In order to better understand the link between the pricing scenario and Section T, we are requesting that ES&S modify the pricing scenarios to include **two** tables for both the primary and general elections for 2006:
1) One table labeled "*Fee Scenario 1"* that ties to the prices listed in Section T. This would be for current ES&S customers so the programming costs can be listed.

2) A second table labeled "*Fee Scenario 2"* that ties to the prices listed in Section T. This would be for non-ES&S customers so the programming costs should be deleted from this scenario.
4/17/06 ES&S Response: I have updated the programming cost scenarios. They are attached for your review.
SOM Response: Agreed.

7. On page 5 of Section T, in the pricing footnotes, please amend the following:
   Letter a, please add September to the elections listed.
   Letter c, please delete Village and School and add September to the elections listed.

   Per our 3/30/06 conference call, the State is reviewing this matter. We will hold any response until we hear from you.
   SOM Response: In Section T, page 5, pricing footnotes, item #1, letter b., delete "city" and on letter c. delete "village" and "school".
   ES&S Response: Done
   SOM Response: For letter b. "city" still needs to be deleted. For letter c. delete "and" after August and delete "primary" after September. Also in that same section, #3 needs to be deleted since these prices will remain firm for the duration of the contract.
   4/17/06 ES&S Response: These correction have been made in Section T.
   SOM Response: Agreed.

8. In order to better understand the programming costs and how they apply, the State is requiring a "pricing scenario" based on the primary and general election ballots that were provided by the State. A pricing scenario will be applied to three counties varying in size. The counties are:

   Wayne County = 1,175 precincts
   Kalamazoo County = 112 precincts
   Schoolcraft County = 12 precincts

   a) Please provide all programming costs for these three sizes of jurisdictions.
   b) For purposes of this request, please disregard which vendor optical scan systems are currently in place.

   ES&S Response: The programming cost scenarios are attached. Please understand that these are estimates based on the ballot information you have provided us and other assumptions we made in regard to the election definition.
   SOM Response: What type of voice file is ES&S using for the attached programming charges? If ES&S is intending on using synthesized voice files, will ES&S sign-off on the accuracy of local pronunciations?
   ES&S Response: A synthesized voice file is used. By way of background, as part of our voice file work, we always request a pronunciation guide from the jurisdiction. We use this guide as we edit the clarity of the voice files. So, under this process, ES&S would stand behind the accuracy of local pronunciations; provided, however, that both parties acknowledge and agree that synthesized voice files do have some pronunciation limitations.
   SOM Response: Agreed. See response to #6 for revised scenarios.

9. Third party programming: The State is very concerned with how programming will be executed on a Statewide level. It is the State's preference to have AutoMark Technical Services be a subContractor to ES&S to provide this service for this contract.
ES&S Response: AutoMARK Technical Services ("ATS") has informed me that they are agreeable to supporting the layout, coding and voice file services for non-ES&S tabulator counties. ATS will not be a subContractor to ES&S.
We understand that, due to your procurement requirements, contracting directly with ATS may not be possible. Therefore, we suggest that ATS work directly with the counties and the State work with the counties on cost reimbursement.
I will arrange to have a representative from ATS contact you to discuss this further.
SOM Response: The State is currently checking on options for executing this procurement. Please have a representative from ATS contact Laura Gyorkos at (517) 373-1455 or gyorkosl@michigan.gov as soon as possible so we can proceed or provide the name and phone number of the ATS representative.
ES&S Response: The contact is Joe Vanek. His phone number is 312-984-0144. He will be expecting your call.
SOM Response: We will contact him.

It is the State's preference to execute the programming with two options. Both options would be available to counties, who would choose one of the two approaches for handling their jurisdictions' programming:

a) Option 1: Full programming completed by ES&S (for current ES&S customers or AutoMARK and their sub-Contractors (for current Diebold/Sequoia customers) on a statewide basis. A regionalized approach is acceptable to the State.

   ES&S Response: We understand this option to mean that ES&S provide programming services for the entire state. Given our response to Item 9, we are unable to support this request for 2006.

   SOM Response: We are pursuing other options. We need to discuss with ATS as soon as possible.
   ES&S Response: Acknowledged; see contact information above.

b) Option 2: Since election official training is already covered in the contract, ES&S or AutoMARK will provide programming guidance for counties and local jurisdictions that wish to complete their own programming. This programming guidance would be part of the planned training, and actual AIMS programming would be completed by the election officials for both the August primary and November general elections via these sessions.
   ES&S Response: We would be agreeable to this.

10. Comments on Terms and Conditions

Section 1.701 Costs Associated with Non-Performance
ES&S Response:

Section 1.701: Chris did not want to have to wait until we were "clearly unable" to perform. We agreed to this, but need to have a reasonableness standard applied to this right. See attached T&C document for suggested language.

SOM Response: See inserted language below in red text in addition to ES&S change.

~~If, after written notice from the State and expiration of an agreed upon cure period determined at that time, the Contractor is unable to provide compliant equipment to the State, county, or local units of government within required timeframes **(refer to Section 1.101C.2, Major Tasks, Timeline)**, forcing certain jurisdictions to rent or otherwise procure compliant equipment for an election or elections, the Contractor shall be required to reimburse all costs incurred as a result of the non-performance. Reimbursement costs may include all costs related to the rental/procurement for the affected election(s), including but not limited to equipment, hardware, software, delivery, training, personnel/staffing, set-up, testing and any needed supplies.~~

ES&S Response: We are ok with this.

SOM Response: In exchange for accepting the language below in Limitation of Liability, 1.701 is deleted from the contract which eliminates the risk of ES&S having to pay for the rental of machines in case of non-performance.

4/17/06 ES&S Response: We are ok with deleting Section 1.701 from the Agreement.

Section 2.009: We are ok with you removing our response.

Section 2.305: We are ok with this provision

Section 2.306: After reading this provision more closely, we have a couple of comments / concerns:

a. The section limits indirect and consequential damages to the value of the purchase order agreement with the local jurisdiction; however, it does not limit direct damages to the value of the purchase order agreement with the local jurisdiction; therefore, this provision needs to be amended to reflect this. In short, we believe our response should be incorporated into this section.
b. The reference to Section I-K needs to be updated

See attached T&C document for suggested language.

SOM Response: Since we eliminated the risk of ES&S having to pay for rentals in case of non-performance, I inserted the original language in your bid response as a compromise. Just a reminder --that ES&S will be receiving orders for ALL jurisdictions in Michigan approx. $26 million in sales and the liability needs to be the same in order to protect the State. This is our final response on this- we need to move forward so we can have accessible voting equipment for this year's election.

~~Except as otherwise set forth herein, ES&S' total liability to the State, and the State's total liability to Contractor, shall be limited to the total amount to be paid by the State under this contract. With respect to any indirect or consequential damages that may be incurred by the Contractor, the State, or any local jurisdiction as a result of performing under any purchase order agreement, none~~

~~of the parties shall be liable to any other party for indirect or consequential damages exceeding the value of the purchase order agreement with such local jurisdiction, even if such party has been advised of the possibility of such damages. Such limitation as to indirect or consequential damages shall not be applicable for claims arising out of gross negligence, willful misconduct, or Contractor's indemnification responsibilities to the State as set forth in Section 2.305 with respect to third party claims, action and proceeding brought against the State.~~

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SOM Response on 4/20:
See proposed language below. I have eliminated the liability on the Contractor and the State for indirect and consequential damages since the State does not agree to that type of liability.

> Except as set forth herein, neither the Contractor nor the State shall be liable to the other party for indirect or consequential damages, even if such party has been advised of the possibility of such damages. Such limitation as to indirect or consequential damages shall not apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; to Contractor's indemnification obligations (2.305); or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.
>
> ~~The State's liability for damages to the Contractor shall be limited to the value of the Contract.~~
> ES&S' total liability to the State, and the State's total liability to Contractor, shall be limited to the total amount to be paid by the State under this contract

ES&S Response: We believe limiting the liability to the value of the jurisdiction's purchase order is reasonable, and consistent with the limitation for indirect and consequential damages. We do not understand why two different caps would apply. Further, a limitation that is tied to the master contract seems to disrupt the risk / benefit relationship. Put another way, why would a vendor accept a liability exposure of $26m in exchange for the benefit selling 12 AutoMARKs to Schoolcraft County?

SOM Response: See our response above.

4/17/06 ES&S Response: Overall, we are in agreement with your concept. Our suggested redline changes above are for the purpose of improving the clarity of how this provision will apply.
SOM Response on 4/20:
See proposed language above. I have eliminated the liability on the Contractor and the State for indirect and consequential damages since the State does not agree to that type of liability.

Section 2.312: We are ok with this.

Section 2.504: After further discussion with Legal, we will not agree to a warranty for fitness for a particular purpose or merchantability. Therefore, we recommend these be deleted.

SOM Response: Tom I inserted more specific language. If this is not sufficient, please insert some suggested language.

ES&S Response: See our edits below

Warranty of Merchantability – The accessible voting system provided by vendor under this agreement shall be of commercially acceptable quality and comply with the 2002 Federal Election Commission Voluntary Voting System Standards and the requirements listed in **Section 1.1 SCOPE OF WORK AND DELIVERABLES** of this Contract. All goods provided under this contract shall be of good quality within the description given by the State in **Section 1.1 SCOPE OF WORK AND DELIVERABLES**, shall be fit for their ordinary purpose, shall be adequately contained and packaged within the description given by the State, shall conform to the agreed upon specifications, and shall conform to the affirmations of fact made by the vendor or on the container or label.

Warranty of fitness for a particular purpose – When vendor actually knows of any particular purpose for which the goods are required, and the State is relying on the vendor's skill or judgment to select or furnish suitable goods to fulfill such purpose, there is a warranty that the goods are fit for such purpose as stated in **Section 1.1 SCOPE OF WORK AND DELIVERABLES**.

SOM Response: We are working with our AG on this but we cannot agree to adding the specific reference to 2002 FEC standards since they are already included in Section 1.1 under "Compliance with Federal and State Standards", item #1".

SOM Response 4/13: The State can accept both warranty provisions as stated above.

4/17/06 ES&S Response: We have accepted your changes and agree to both provisions as they are written above.

Section 2.506: We cannot agree to this as it is currently drafted, and would like to propose some revisions. See attached T&C document for suggested language.
SOM Response: Agreed.

Section 2.508: We are ok with this.

Section 2.602: We are agreeable to this as long as the cure period is 30 days.
SOM Response: Agreed. The State will change the language.

Section 2.603: We are ok with this.

Section 2.701: We are ok with this.

Section 2.702: We are ok with this.

Section 2.704: We are ok with this.

Section 2.705: We are agreeable to this provided that we add language that permits ES&S, under an unreasonable delay, to reallocate product, Key Personnel, and other resources to other ES&S customers. However, this section has been deleted from the document you sent me.
SOM Response: The State has decided to remove this provision since the "Stop Work" provision is included.
ES&S Response: We are ok with this.

Section 2.93: We agreed to adjust the time period to 6 months.
SOM Response: Agreed. The State will change the language.

11. Payment Terms

ES&S Response: At our March 17, 2006 meeting, we discussed a payment plan that, among other things, had a payment tied to receipt of a county order. We understand that the State is either reluctant or unable to make an advance payment upon contract signing. As a result, ES&S is willing to offer the following alternative payment terms:

Invoicing Milestone #1: Completion of AutoMARK Acceptance Testing

- 85% of the Purchase Order Total (as per Section T) shall be payable to ES&S within thirty (30) calendar days after receipt of complete invoice. Invoicing will occur as individual county purchase orders are fulfilled.

Invoicing Milestone #2: Certification of the November 2006 Election Results

- 15% of the Purchase Order Total (as per Section T) shall be payable to ES&S within thirty (30) calendar days after receipt of complete invoice.

  Payments shall be made to ES&S via Electronic Funds Transfer (EFT).

  SOM: The State cannot pay invoices via wire transfer, just EFT. Please note the above changes. These payment terms are final. This is as far as we'll go.

  4/17/06 ES&S Response: Payment by EFT is fine with us. Please see our tweaks to the payment terms above.
  While we do not disagree that 85% ($22 million) is a lot of money, holding back over $4 million is a lot of money as well, particularly when all units will have been used already in the Primary election. I see your statement that "this is as far as we will go", but given the use of the equipment in the August primary, I would respectfully request you re-consider the 90% / 10% split. This still entitles the State to hold back $2.7 million tied to the November General.
  SOM Response: The State cannot offer 90/10 due to the fact that we have severely compromised for ES&S since -1) We have come up to 85/15 when we originally discussed 75/25 and 2) The State needs to hold back at least 15% for assurance of a successful General election.

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Deleted: be apportioned as acceptance is completed. SOM: Please clarify what this means. We are requesting 85% and 30 days since it is extremely difficult to process an invoice within 15 days. This is still a large amount of money to have upfront - 85% is 22,100,000.

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12. SOM Question: On the pricing scenarios, what is the political party set-up? Isn't this a function that is completed in the programming of the optical scan tabulator?
    ES&S Response: After further discussions with our Election Services group, we will remove this charge.

13. SOM Question: In the pricing Section T, in the post warranty maintenance table, please define: "Annual Maintenance per Accessible Voting System (software)". What exactly is this charge?
    ES&S Response: This is the software maintenance and support fee for AIMS. The RFP required us to express this fee on a "per unit" basis.
    SOM Response: Agreed.

14. ES&S Question: How many AutoMARKs will the State be buying?
    SOM Response: The State has not yet determined a final number of Automark devices needed and we expect to have this finalized next week.

    4/17/06 ES&S Response: Based on recent correspondence, it appears the total number of units will be at or close to 4,203.
    SOM Response: Yes, the current estimate is 4,203 with the possibility of ordering around 200 additional units.

    Other Open Items:

15. **Purchase order form:** Please add the table to the line items, so the State can order those for each jurisdiction.

    4/17/06 ES&S Response: Please see revised order form attached. We need the State to review the address information for the proper contact name and address.

    SOM Response 4/20: The State has entered a line for the table since they will be ordered with the equipment. ES&S needs to provide a description for this table to enter on the order form.

16. Delivery Timeframes:
    The State intends to begin placing orders as soon as possible after the contract is executed (expected to be in early May). Up-front preparation is beginning now to prepare grants and other supporting documentation with the local jurisdictions that will have to be completed before orders are placed. We would also like to begin discussions with the E S & S project manager very soon on production timeframes, a centralized delivery/training plan, and overall estimated timeframes. Our overall goal is to have all units delivered throughout the month of June. Can E S & S provide contact information now, and do these plans sound achievable at this time?

    4/17/06 ES&S Response: Deliveries in June are achievable. I would encourage you to contact Wil Wesley at your convenience to discuss implementation issues.

    SOM Response 4/20: Agreed.

ES&S' OPTIONAL TRAINING COURSES

APPENDIX Q, **FOLLOWING, ILLUSTRATES A SET OF TRAINING COURSES OFFERED BY ES&S. THE COURSES OFFERED TO MICHIGAN JURISDICTIONS WILL DEPEND ON THE PRODUCT ALTERNATIVE SELECTED.**

Course Name	Description	Audience	Prerequisites	Duration	Class Size
ES&S AutoMARK Operations	This training course introduces **Election Personnel** to the ES&S AutoMARK voting system. Successful participants gain the knowledge, skills, and abilities to operate ES&S AutoMARK voting system. Covered topics include: • An in-depth overview of the ES&S AutoMARK's ballot generating capabilities; • Pre-Election Day preparation requirements; and • Election Day operations and troubleshooting. **Note:** This course is typically bundled with Model 100 Operation courses	• Election Officials • State, County, and Precinct Voting System Techs • Training Consultants	None	1 Day	1-20
ES&S AutoMARK Poll Worker Training	This training course introduces **Poll Workers** to the ES&S AutoMARK voting system. Successful participants gain the knowledge, skills, and abilities to operate Election Systems & Software's iVotronic Touch Screen voting system. Covered topics include: • In-depth overview of the ES&S AutoMARK system; • Election Day operations – including poll opening / closing and voting procedures; and • Troubleshooting procedures.	• Election Officials • State, County, and Poll Workers • Voting System Technicians	None	1 Day	1-20
ES&S AutoMARK Train the Trainer	This training course introduces **Election Personnel** to the training techniques supporting the ES&S AutoMARK voting system. Successful participants gain the knowledge, skills, and abilities to train others on operating ES&S AutoMARK voting system. Covered topics include: • Optimal adult training methods; • Pre-training preparation; • Overview of the ES&S AutoMARK system; • Election Day operations – including poll opening / closing and voting procedures; • Troubleshooting procedures; and • Training simulation and practice.	• Election Officials • State, County and Precinct Trainers • Training Consultants	**ES&S AUTOMARK OPERATIONS**	2 Days	1-20
Basics of AutoMARK Information Management System (AIMS) Course	This training course introduces **Election Officials** to the AIMS sofware application. This software supports the election coding necessary for ES&S AutoMARK hardware. Successful participants gain the knowledge, skills, and abilities to define elections for ES&S AutoMARK hardware.	• Election Officials • State and County Workers • Voting System Technicians	None	5 Days	1-10

EXHIBIT A

ELECTION SYSTEMS & SOFTWARE, INC.

STANDARD SOFTWARE LICENSE/MAINTENANCE AND SUPPORT AGREEMENT

This license is only for the use for those purchases acquired for HAVA Compliance under #071B6200250.

THIS STANDARD SOFTWARE LICENSE/MAINTENANCE AND SUPPORT AGREEMENT ("Agreement") is made effective as of the date set forth below, by and between Election Systems & Software, Inc., a Delaware corporation ("Contractor") and _____ (Licensee). Capitalized terms used in this Agreement and not otherwise defined shall have the same meanings ascribed to them in the State's Master Contract No. 071B6200250 between the State and Contractor, dated this ___ day of _____, 2006 (the "Master Contract").

RECITALS:

A. The Licensee desires to license certain of Contractor's proprietary software and to obtain maintenance and support services for the Software. This Agreement covers the ES&S AutoMARK firmware and AutoMARK Information Management Software ("AIMS") (collectively, the ES&S AutoMARK firmware and AIMS are referred to herein as the "Software").

B. The Contractor has agreed to provide such license and services, subject to the terms and conditions of this Agreement, the Purchase Order executed by the Licensee, and the Master Contract (#071B6200250)

NOW, THEREFORE, in consideration of the foregoing recitals (which is specifically incorporated herein by this reference) and the mutual representations, warranties, covenants and agreements set forth below, the parties hereby agree as follows:

ARTICLE 1

LICENSE OF SOFTWARE

1.1 **Grant of License.** Subject to the terms and conditions of this Agreement, the Contractor hereby grants to the Licensee a non-exclusive, royalty-free, site-wide, irrevocable, perpetual, transferable license to use the Software and all related operating instructions, user manuals and training materials supplied by Contractor (collectively the "Documentation"). For the purposes of this license, "site-wide" includes the Licensee regardless of its physical location. The Licensee may modify the Software and may combine such with other programs or materials to form a derivative work. The Licensee will own and hold all copyright, trademark, patent and other intellectual property rights in any derivative work, excluding any rights or interest in Software other than those granted in this Agreement. The Licensee may copy each item of Software to multiple hard drives or networks. The Licensee will make and maintain no more than one archival copy of each item of Software, and each copy will contain all legends and notices and will be subject to the same conditions and restrictions as the original. The Licensee may also make copies of the Software in the course of routine backups of hard drive(s) for the purpose of recovery of hard drive contents. In the event that Contractor shall, for any reason, cease to conduct business, or cease to support the Software, the Licensee shall have the right to convert these licenses into perpetual licenses, with rights of quiet enjoyment. The AIMS license fee is as identified in Appendix D of the Master Contract (#071B6200250). Contractor will allow the Licensee to contract with outside individuals or firms to program using the AIMS software. The license allows the Licensee to use and copy the Software (in object code only) and the Documentation, solely for the purposes of defining an election, tabulating, programming, and reporting election results in the Jurisdictions. This license allows licensee to distribute AIMS software to any or all city and township clerks within their county. City and township clerks will have the same rights and responsibilities as the licensee. The license does not permit the Licensee to take any of the following actions:

a. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the Software;

b. Cause or permit any change to be made to the Software without Contractor's prior written consent.

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1.2 **Delivery; Risk of Loss.** Delivery; Risk of Loss is provided for in the Licensee's purchase order with Contractor, which incorporates by reference the Master Contract (#071B6200250).

1.3 **Term of License**. The license granted in Section 1.1 shall commence upon delivery, and shall continue until the first to occur of the following: (a) the Licensee ceases to use the Software; (b) the Licensee breaches any material provision of this Article 1. Upon the termination of the license, the Licensee shall immediately return the Software and Documentation (including any and all copies thereof) to Contractor, or (if requested by Contractor) destroy the Software and Documentation and certify in writing to Contractor that such destruction has occurred.

1.4 **Warranty.** Nothing in this section shall be construed to limit the warranties provided under the Master Contract (#071B6200250). Contractor warrants that for the period that covers the first two even-numbered election calendar years in which and/or after delivery of the Software to the Licensee, (the "Warranty Period"), it will repair or replace any component of the Software which, while under normal use and service: (a) fails to perform in accordance with its Documentation in all material respects, or (b) is defective in material or workmanship. The Warranty Period will commence on the date of delivery of the Software**.** Any repaired or replaced Software shall be warranted only for the unexpired term of the original Warranty Period. This warranty is effective provided that (i) the Licensee promptly notifies Contractor of the failure of performance or defect and is otherwise in compliance with its obligations hereunder, (ii) the Software to be repaired or replaced has not been repaired, changed, modified or altered except as authorized or approved by Contractor, (iii) the Software to be repaired or replaced is not damaged due to theft, vandalism, neglect, abuse, or use which is not in accordance with instructions or specifications furnished by Contractor, and (iv) the Licensee has installed and is using the most recent Update (as defined below), or the second most recent Update, provided to it by Contractor, provided that, with respect to this subsection (iv), Contractor has made all reasonable efforts to timely inform Licensee in writing of the release of Updates and appropriate instructions on the proper installation of the Update. **CONTRACTOR'S OBLIGATIONS, AS DESCRIBED IN THIS SECTION 1.4, ARE THE LICENSEE'S SOLE AND EXCLUSIVE REMEDIES FOR A BREACH OF THE ABOVE-DESCRIBED WARRANTY. CONTRACTOR EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHICH ARE NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

1.5 **Updates.** During the Warranty Period, Contractor may provide new releases, upgrades or maintenance patches to the Software, along with appropriate Documentation ("Updates"), on a schedule defined by Contractor. The Licensee is responsible for obtaining any upgrades or purchases of third party hardware or software required to operate the Updates. All Updates shall be deemed to be "Software", and shall be subject to the terms and conditions of Contractor's license of the Software, upon delivery. The Licensee may install Updates in accordance with Contractor's recommended instructions or may request that the Contractor install the Updates. Contractor may charge the Licensee at its then-current rates to (a) install Updates, (b) provide maintenance and support which is required as a result of the Licensee's failure to timely install an Update, and (c) provide any necessary training to the Licensee's personnel on the operation and use of such Updates. The Licensee shall be responsible for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee which is caused by the Licensee's failure to install and use the most recent Update, or the second most recent Update, provided to it by Contractor, provided that, Contractor has made all reasonable efforts to timely inform Licensee in writing of the release of Updates and appropriate instructions on the proper installation of the Update. If the Licensee proposes changes in the Software to Contractor, such proposals will become Contractor's property. The Contractor represents to the Licensee that the Updates will comply with all applicable state law requirements at the time of delivery. Upon the termination of the Warranty Period, the Licensee shall be entitled to receive the Software Maintenance and Support described in Article II below. All Upgrades, new releases and maintenance patches for Contractor's Software that result from changes in Federal or State law will be provided to Licensee in accordance with the provisions of Section 1.104(F) of the Master Contract (#071B6200250). All other Upgrades,

new releases and maintenance patches for Contractor's Software shall be provided to Licensee without additional charge during the Warranty Period.

1.6 **Year 2000 Software Compliance.** Year 2000 Software Compliance is provided for in the Licensee's purchase order with Contractor, which incorporates by reference the Master Contract (#071B6200250).

1.7 **Source Code.** Use of the Software is limited to the rights granted to Licensee in Section 1.1. Contractor shall place the source code for the Software and any updates to, or new releases of, the Software, in escrow as more fully described in Section 1.702 of the Master Contract (#071B6200250).

1.8 **Indemnification For Intellectual Property Infringement.** Indemnification and Intellectual Property is provided for in the Licensee's purchase order with the Contractor, which incorporates by reference Section 2.305 of the Master Contract (#071B6200250).

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1.9 **Limitation of Liability**. Limitation of Liability is provided for in the Licensee's purchase order with the Contractor, which incorporates by reference Section 2.306 of the Master Contract (#071B6200250).

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ARTICLE 2
SOFTWARE MAINTENANCE AND SUPPORT

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2.1 **Term; Termination**. Subject to the Licensee's timely payment of Software Maintenance Fees in accordance with Section 2.6 below, Software Maintenance and Support (as defined below) will be provided to the Licensee for a one year period beginning on the date of the expiration of the applicable Warranty Period (the "Software Maintenance Term"). The Software Maintenance Term shall automatically renew for an unlimited number of successive one year periods until terminated as follows:

a. By the Licensee: Termination is limited to that provided for in the Licensee's purchase order with the Contractor, which incorporates by reference Section 2.701 of the Master Contract (#071B6200250).

b. By the Contractor: In the event the Licensee fails to pay Contractor any amount due under this Agreement by a date which is 45 days after the due date of such amount, this Agreement may be terminated and the Licensee will be expected to remit payment of all amounts due and owing to Contractor as of the date of termination.

2.2 **Services**. Contractor shall provide maintenance and support services for the Software ("Software Maintenance and Support") (a) to enable the Software to perform in all material respects in accordance with its Documentation, and (b) to cure any defect in material or workmanship.

2.3 **Updates.** During the Software Maintenance Term and any renewal thereof, Contractor shall continue to provide Updates in the manner described in, and subject to the terms and conditions of, Section 1.5 above.

2.4 **Reinstatement of Software Maintenance and Support**. If the Software Maintenance Term or any renewal thereof expires without being renewed, the Licensee may thereafter resume receiving Software Maintenance and Support upon (a) notification to Contractor, (b) payment of all fees which would have been due to Contractor had the Software Maintenance Term not expired, and (c) the granting to Contractor of access to the Software, so that Contractor may analyze it and perform such maintenance as may be necessary before resuming the Software Maintenance and Support.

2.5 **Conditions**. Contractor shall not be obligated to provide Software Maintenance and Support for any item of Software if such item requires such services due to (a) repairs, changes, modifications or alterations not authorized or approved by Contractor, (b) accident, theft, vandalism, neglect, abuse or use which is not in accordance with instructions or specifications furnished by Contractor,

(c) causes beyond the reasonable control of Contractor or the Licensee, including natural disaster, fire, flood, unusually severe weather or Acts of God, or (d) the Licensee failure to install and use the most recent Update, or the second most recent Update, provided to it by Contractor. Contractor shall likewise not be obligated to provide Software Maintenance and Support if any Licensee does not timely notify Contractor after it knows of the need for such services or is otherwise not in compliance with its obligations under this Agreement.

2.6 **Fees**. In consideration for Contractor's agreement to provide Software Maintenance and Support under this Agreement, the Licensee shall pay to the Contractor a Software Maintenance Fee, as set forth in Appendix D of the Master Contract, for the initial Software Maintenance Term and each annual renewal period. The Software Maintenance Fee for the AIMS software is referred to in Appendix D as "Annual Maintenance Price per Accessible Voting System (Software)". The Software Maintenance Fee for the ES&S firmware is included in the "Annual maintenance price per Accessible Voting System (Hardware)" in Appendix D. The Software Maintenance Fee shall be in addition to any fees or charges separately referred to in any Section of this Agreement. The Software Maintenance Fee is due on the first day of each applicable year of the Software Maintenance Term. Following the expiration of the Optional Post Warranty Maintenance schedule set forth in Appendix D of the Master Contract, the Software Maintenance Fee for each subsequent annual renewal period shall be agreed to between Contractor and Licensee.

2.7 **Proprietary Rights**. The proprietary rights granted to Contractor in all corrections, programs, information and work product conceived, created or developed, alone or with the Licensee as a result of, or related to, the performance of the Software Maintenance and Support shall be as set forth in Section 2.313 of the Master Contract (#071B6200250). Subject to the payment of the Software Maintenance Fee, Contractor hereby grants to the Licensee a non-exclusive, royalty-free, site-wide, irrevocable, perpetual, transferable license to use that portion of such corrections, programs, information and work product that Contractor actually delivers to the Licensee pursuant to this Agreement. All licensed items shall be deemed to be "Software", and shall be subject to all the terms and conditions of Contractor's license of the Software, upon delivery.

ARTICLE 3
MISCELLANEOUS

3.1 **Taxes; Interest**. For purchases made directly by the Licensee, the Licensee is exempt from State and Local Sales Tax. Prices shall not include such taxes. Exemption Certificates for State Sales Tax will be furnished upon request. The Licensee may be exempt for Federal Excise Tax, or such taxes may be reimbursable, if articles purchased under this Agreement are used for the Licensee's exclusive use. Certificates of exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent to Contractor upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, prices shall not include the Federal Excise Tax.

3.2 **Failure to Install Updates or Subscribe for Maintenance.** Contractor will not be liable under this Agreement for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee which is caused by (a) the Licensee's failure to install and use the most recent Update, or the second most recent update, provided to it by Contractor, provided that, Contractor has made all reasonable efforts to timely inform Licensee in writing of the release of Updates and appropriate instructions on the proper installation of the Update, or (b) the Licensee's election not to receive, or to terminate, the Software Maintenance and Support.

3.3 **Excusable Nonperformance**. Excusable Non performance is limited to that provided for in the Licensee's purchase order with the Contractor, which incorporates by reference Section 2.603 of the Master Contract (#071B6200250).

3.4 **Notice.** All notices under this Agreement shall be delivered personally, sent by confirmed facsimile transmission, sent by nationally recognized express courier or sent by certified or registered U.S. mail, return receipt requested, to the address shown below or such other address

as may be specified by either party to the other in compliance with this Section. Notices shall be deemed effective on personal receipt, receipt of such electronic facsimile confirmation, two days after such delivery by courier and four days after such mailing by U.S. mail

If to ES&S:	If to Licensee:
Election Systems and Software, Inc 11208 John Galt Blvd. Omaha, NE 68137 Attention: Eric Anderson	**[_____]** **[ADDRESS]** **[ADDRESS]** **[ATTN.]**
With a copy to: Election Systems and Software, Inc 11208 John Galt Blvd. Omaha, NE 68137 Attention: Tom O'Brien	With a copy to:

3.5 **Entire Agreement.** This Agreement and the purchase order, which incorporates the terms and conditions of the Master Contract (#071B6200250) constitutes the complete and final expression of the parties' agreement concerning its subject matter and supersedes all prior or contemporaneous agreements or statements, written or oral, concerning such subject matter. Furthermore, provisions in this Agreement may be amended during the term of the Master Contract in accordance with Section 2.803 of the Master Contract (#071B6200250) provided that such amendments do not contradict or supercede any current provision of this Agreement. Following the expiration of the term of the Master Contract, The Licensee and the Contractor may modify this Agreement through a mutually agreed-upon written amendment.

3.5 **Counterparts; Execution By Facsimile**. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument. The parties may execute this Agreement and exchange counterparts of the signature pages by means of facsimile transmission, and the receipt of such executed counterparts by facsimile transmission shall be binding on the parties. Following such exchange, the parties shall promptly exchange original versions of such signature pages.

3.6 **Survival**. The provisions of Sections 1.4, 1.5, 1.7, 1.9, 2.1, 2.3, 2.7, 3.1, 3.2, and 3.5 shall survive the termination of this Agreement, to the extent applicable.

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IN WITNESS WHEREOF, this Agreement has been executed effective as of the date it is signed by the last of the parties hereto.

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ELECTION SYSTEMS & SOFTWARE, INC. 11208 John Galt Boulevard Omaha, NE 68137 Fax No.: (402) 970-1291	LICENSEE _____ _____ Fax No.: _____
_____ Signature	_____ Signature
_____ Name (Printed or Typed)	_____ Name (Printed or Typed)
_____ Title	_____ Title
_____ Date Date	_____

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Exhibit B

11208 JOHN GALT BLVD
OMAHA, NE 68137-2364
(402) 593-0101
Proven Solutions for the World of Elections

Customer #: _____ SO #: _____ Order #: _____

2006 Contracted Purchase Order for use by the Counties and Local Units of Government in the State of Michigan that have elected to acquire ES&S equipment under Master Contract #071B6200250

Customer P.O. #: _____
1st Election Date: 8/8/2006
Required Delivery Date: _____
Phone Number: _____
Fax Number: _____

Customer Contact, Title: _____
County/City/Township Name: _____

Type of Sale: ☑ NEW
Type of Equip: ☑ NEW

Bill To: Bureau of Elections, Attention: Julia Wakley
Richard A. Austin Bldg, 1st Floor
430 West Allegan
Lansing, MI 48918

Ship To: _____

Item #	Description/ Comments	Qty	Unit Price	Total
ES&S AutoMARK Voter Assist Terminal	ES&S AutoMARK Voter Assist Terminal with Transport Case, Ink Cartridge, 256mb Flashcard, Headset, Two Ballot Secrecy Sleeves (one in Braille), Installation and Shipping. Includes 3-Year Warranty (2006-2008), AutoMARK Information Management Software (AIMS--one copy per county), Battery Chargers (one for every 10 units ordered), Operations Training, and Implementation Project Management. Election Day Support Is Available For Up To Ten (10) Elections, or Through December 31, 2008, For Those Elections Described In The Master Contract.		$ 6,467.00	$ -
Extra ES&S AutoMARK Voter Assist Terminal	ES&S AutoMARK Voter Assist Terminal with Transport Case, Ink Cartridge, 256mb Flashcard, Headset, Two Ballot Secrecy Sleeves (one in Braille), 3-Year Warranty (2006-2008), Installation, and Shipping		$ 5,717.00	
AutoMARK Table with Straight Legs			$ 325.00	$ -
ORDER TOTAL FOR THE STATE OF MICHIGAN				$ -

Shipping Instructions: _____

Payment Terms: See Section 1.6 of the State Master Contract #071B6200250

Warranty Period: Three Years (2006 to 2008)

ELECTION SYSTEMS AND SOFTWARE, INC.	COUNTY OR LOCAL UNIT OF GOVERNMENT
_____ Authorized Signature	_____ Authorized Signature
Richard J. Jablonski Printed Name	_____ Printed Name
Vice President - Finance Title	_____ Title
_____ Date	_____ Date

This Purchase Order is submitted by the County or Local Unit of Government pursuant to that certain Contract No. 071B6200250 between The State of Michigan and ES&S, dated May 3, 2006 ("Master Contract"). The Deliverables ordered under this Purchase Order and all rights and obligations of ES&S and the Local Unit of Government shall be governed by the terms and conditions of the Master Contract # 071B6200250.

This contracted purchase order incorporates by reference the entire Master Contract #071B6200250, including all terms and conditions. Pricing is as established in Appendices D & E to the State's Master Contract #071B6200250.

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Proposals for products not currently compliant with FEC standards, ITA certified and/or approved by the Board of State Canvassers *may* be considered. However, the bidder must submit a detailed plan and timeline within their proposal for securing the required certification and approval. Refer to Appendix B for these guidelines. The Department of State will determine overall compliance with these requirements based upon the bidder's plan and/or documentation provided by bidders as well as other sources.

Given the short timeframe involved, all proposals must include a detailed plan for meeting the 2006 HAVA compliance implementation deadline (i.e., equipment in place for use in the first Federal election of 2006). If an interim product(s) will be needed to bridge the gap between the 2006 HAVA deadline and the full implementation of the permanent solution, that need must be clearly defined in the timeline.

In addition, bidders shall provide the following with each proposal:

1. Evidence that the voting system(s) has been demonstrated to one or more locally or nationally recognized disability advocacy groups representing a wide range of disability concerns.

2. A summary of the disability advocacy groups' evaluation of the system including:

    a. All key discussion and reaction points, both positive and negative.

    b. An explanation regarding the manner in which concerns raised by the advocacy groups will be, or have been, addressed through procedural and/or hardware/firmware changes.

3. The actual written evaluation of the system from all locally and/or nationally recognized advocacy group(s), representing a wide range of disability concerns that have evaluated the system.

It is recognized that both DRE voting systems and voting systems utilizing a physical ballot present challenges to voters with physical disabilities, particularly voters having upper mobility limitations. Bidders should take these challenges into account when presenting their products by offering hardware and procedural solutions designed to 1) address these challenges and 2) guarantee the secrecy of the ballot for all voters to the greatest extent possible. Bidders are required to discuss in their proposal how their systems address items 1 and 2 listed above. Any system modifications planned for implementation in the next year must also be described along with estimated timeframes for availability.

Additionally, the proposal must explain in detail how the accessible voting system can be employed in precincts which use optical scan products purchased from other vendors. Bidders must describe how the system can be integrated with EMS software purchased from other vendors to accomplish vote accumulation at the precinct, jurisdiction and county level. In instances where additional hardware or software is required to perform vote accumulation functions, a complete list of the additional products and a summary of all additional costs must be included.

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By-Mail, Early In-Person, and Election Day Training

Upon contract award, ES&S'the contractor's training specialists arrive in the State of Michigan with one purpose in mind – *train Stateyour personnel in election support and processes.* Whether election personnel are supporting early voting by mail, early walk-in voting, or Election Day poll voting, the end result is the same – preparing the State of Michigan in processes and procedures to ensure accuracy and independent operations in the future.

When processing all types of voters – from absentee and early to split precinct and provisional – the full course of Unity training identifies and trains the State of Michigan's Jurisdiction personnel in these processes.

During training, written manuals, checklists, and other tools are provided to ensure 'refresher' materials are always at hand. For a complete list of all ES&S training courses available to the State of Michigan and its Jurisdictions, please refer to Matrix J.1, following. **B of E – Do we want to include this? They are optional.**

Customization and Integration

While ES&S the contractor has developed a standard curriculum approach, wethey believe a key element in a successful implementation is the appropriate customization and integration of theirour training to incorporate the laws, regulations, and procedures unique to the State and its Jurisdictions. ES&SThe contractor will work with Stateyour election staff to develop a training product that is current and relevant to the State of Michigan. From Jurisdiction-wide training to a Train-the-Trainer solution, ES&Sthe contractor enters each client's environment with a desire to train in a manner that works for the Stateyou.

At ES&S, we know the sSuccessful implementation and continuous operation of any new voting system directly hinges on an effective training program for election personnel and voters.
Knowing that training stands as *the most* critical component of any installation and support plan for the election system, ES&S takes great pride in providing our clients with extensive, world-class voter system training programs.

Training of All Election-Related Functions

ES&SThe contractor will assist the State in the development of systematic instructional training manuals for all Election Support staff. The Account Manager assigned to your project will meet with key staff to review existing procedures and processes with a plan for revising them based on each Jurisdiction's new Election System.

For **training offerings** - including the course name, a description of the class content, prerequisites, duration, and recommended class size, please refer to **Matrix J.1**, following. This matrix includes the proposed set of training courses offered in alignment with our recommended solution. Ultimately, the selected training courses for the State of Michigan will be based on the chosen product solution.

Multiple Training Areas

Numerous areas are covered during one or more of the ES&Scontractor's training courses. Appropriate manuals, checklists, and other materials are provided to each participant upon attending the required training.

Programming Units

Successful understanding and expertise is gained in the full Unity Suite training course.

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Polling Place Preparation

ES&S'The contractor's approach to training election staff centers around complete equipment operations, specific to the piece of equipment the staff member – election official, team member, poll worker, election official, and so on – will be using. Understanding polling location setup, equipment setup, poll opening, poll closing, and the like are each integral to the concept of proper training supported by the ES&S professional training team.

During the training phase, the provided pre-election checklist covers the preparation of the polling place at the highest levels.

Electronic Election Results Transmission
The Data Acquisition Manager (DAM) and Election Reporting Manager (ERM) modules of the Unity training course cover this procedure.

Results Tabulation
The Election Reporting Manager (ERM) module of the Unity training course covers this procedure.

Training Election Judges and Clerks
ES&S'The contractor's approach to training election staff centers around complete equipment operations, specific to the piece of equipment the staff member – election judges and clerks – will be using. Model 100 Precinct Ballot Counter, ES&S AutoMARK, and Unity training courses are available. For a comprehensive matrix of all available ES&S training, please refer to **Matrix J.1**, following.

Accurate Precinct Results
Every ES&S training course revolves around accurate, secure, and easy-to-use election processes and systems. Ensuring accurate precinct results is and integral component in all trainingES&S modules.

Audit Procedures
The Election Reporting Manager (ERM) module of the Unity training course covers the reporting aspect of these procedures; the State of Michigan-defined and regulated processes can be incorporated into this knowledge transfer.

Conducting a Contest
Open-to-close operations are trained in courses specific to the equipment being used on Election Day.

Records Preservation
The Election Reporting Manager (ERM) of the Unity training course covers the reporting aspect of this process; State of Michigan-defined and regulated processes can be incorporated into this knowledge transfer.

Election Reports
The Election Reporting Manger (ERM) module of the Unity training course covers this procedure.

Troubleshooting
The product training specific to the equipment in use covers these procedures.

System Security
The product training specific to the equipment in use covers these procedures.

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ES&S serves [jurisdiction]'s vision when planning appropriate Voter Outreach programs *that get results*.

With ES&S' Voter Outreach approach – employing our reliable and proven processes and materials – the voter arrives at the polling location with confidence and anticipation, leaving with a sense of accomplishment and pride.

Every State of Michigan Jurisdiction wants the maximum number of voters to cast their vote in each election.

In light of this naturally occurring desire,

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from which Michigan's voters can benefit and which we are prepared and willing to offer.

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This proposal response is one important step in the process. Should you select us as your implementation partner, we will work together quickly to fine-tune our thinking and lay out contract terms that define what you can expect throughout the process.	
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At ES&S, we see a new voting system implementation as a first-step in an important and long-term partnership with our customer.

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The ES&S Difference: Our People

Our people make ES&S uniquely qualified to serve as your project implementation partner. Our Account Managers are experienced election-only professionals, who bring to any new voting system implementation a solid track record of success. Further, many of our Account Managers are certified through the Project Management Institute (PMI), an internationally recognized leader in cultivating best of breed project execution. With a commitment to certify all of our Account Managers by the end of 2007, ES&S is demonstrating to our customers how seriously we take our implementation responsibility.

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Throughout our more than 35 years in the elections business, ES&S has carried out more than 1,700 installations – encompassing projects of every size and complexity – in nearly every state in the union. Written plans and execution tools are important pieces of a successful implementation equation. There is nothing more important, however, than Account Management know-how, and Account Managers who instinctively understand what must be done to achieve a trouble-free election.

This sets the ES&S Account Management approach apart from the rest.

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Bidder should propose a standard issue management process as part of its bid response, including the above mentioned items specifically.

ES&S Account Managers take a proactive approach to issue management; an issue resolution plan is implemented very early in the relationship with the State of Michigan and its Jurisdictions.

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The assigned Michigan Account Manager – Wil Wesley – will represent ES&S to the Commission. Regular communication is key to a successful implementation. ES&S' Account Managers adhere to defined processes wherein communication is the cornerstone to the project.

ES&S values the long-term nature of our relationships in the elections industry. Over the years, we have built many successful relationships with jurisdictions both large and small through an approach *tailored to their needs.*

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More than merely a sales manager, ES&S'

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Bidder should propose a standard risk management process as part of its bid response, including the above mentioned items specifically.
Every project is inherently risky. Within the election environment, which is particularly unforgiving, these risks are magnified. We believe this environment makes it increasingly important to select a vendor with a proven track record of successfully managing such risky endeavors to completion.

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It is important to note that our

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REQUIRED VENDOR INFORMATION

Please provide the following required Vendor information. Failure to respond to each requirement may disqualify the Vendor from further participation in this ITB.

1B.100 Vendor Information

1B.101 Vendor Name and Address

Name, address, principle place of business, and telephone number of legal entity with whom contract is to be written.

Name: _____

Address: _____

City, State, Zip: _____

Phone: (_____)_____

Web Page: _____

1B.102Location Address

Address: _____

City, State, Zip _____

1B.103Organization and Year

Legal status and business structure (corporation, partnership, sole proprietorship, etc.) of the Vendor and the year entity was established.

Status: _____

In addition, please provide:

(a) Company Sales Volume for the last five (5) years.

(b) Size and location of facilities that will be involved in any resulting contract.

1B.104ITB Contact

Name, title, address, email, phone and fax numbers for Vendor's ITB Contact.

Name: _____

Address: _____

City, State, Zip: _____

Phone: (_____)_____

Fax: (_____)_____

Email: _____

Note: Person named above will be sole contact for your company to receive the Contract.

Include the name and telephone number of person(s) in your company authorized to expedite any proposed contract with the Department of State.

1B.200Qualifications

1B.201Prior Experience

Indicate the prior experience of your firm that you consider relevant to your ability to successfully manage a contract for the commodity or service defined by this Invitation to Bid. Include sufficient detail to demonstrate the relevance of this experience. Letters or other documentation regarding the usability of the voting system from recognized disability advocacy organizations are desirable. Proposals submitted should include, in this section, descriptions of qualifying experience to include project descriptions, costs, and starting and completion dates of projects successfully completed. Also, include the name, address, and phone number of the responsible official of the customer organization who may be contacted. To insure a quality bid result, and fair evaluation, it is important that the information requested in these sections is appropriate and relevant to the project being bid.

Bidders shall provide 3 (three) specific references with their proposal.

1B.202 Staffing

The written proposal should indicate the competence of personnel whom the Vendor intends to assign to the project as specified Section 1.2. Qualifications will be measured by education and /or experience, with particular reference to experience on projects similar to that described in the ITB. Emphasis will be placed upon the qualifications of Vendor's Project Manager and the Manager's dedicated management time as well as that of other Key Personnel working on this project. To insure a quality bid result, and fair evaluation, it is important that the information requested in these sections is appropriate and relevant to the project being bid.

For all personnel identified in Section 1.2, Vendor must provide resumes, which shall include detailed, chronological work experience. To insure a quality bid result, and fair evaluation, it is important that the information requested in these sections is appropriate and relevant to the project being bid.

Vendor must provide a list of all subcontractors, including firm name, address, contact person, and a complete description of the work to be contracted. Include descriptive information concerning subcontractor's organization and abilities. Emphasis may be given to vendors demonstrating experience with staffing that includes individuals with disabilities and/or individuals trained in areas involving disability issues and techniques.

1B.203 Past Performance

Please list any contracts that you have had with the State of Michigan in the last ten (10) years.

1B.204 Contract Performance

Indicate if the Vendor has had a contract terminated for default in the last three (3) years. Termination for default is defined as notice to stop performance which was delivered to the Vendor due to the Vendor's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Vendor, or (b) litigated and determined that the Vendor was in default.

If no such terminations exist, the Vendor must affirmatively state this.

Note: If the Vendor has had a contract terminated for default in this period, the Vendor shall submit full details including the other party's name, address, and phone number Acquisition Services will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of past experience.

Termination

Reason: _____

_____

_____

_____

1B.300 Disclosures

1B.301 Disclosure of Litigation

(a) Disclosure. Vendor must disclose any material criminal litigation, investigations or proceedings involving the Vendor (and each Subcontractor) or any of its officers or directors or any litigation, investigations or proceedings under the Sarbanes-Oxley Act. In addition, each Vendor (and each Subcontractor) must disclose to the State any material civil litigation, arbitration or proceeding to which Vendor (or, to the extent Vendor is aware, any Subcontractor hereunder) is a party, and which involves: (i) disputes that might reasonably be expected to adversely affect the viability or financial stability of Vendor or any Subcontractor hereunder; or (ii) a claim or written allegation of fraud against Vendor or, to the extent Vendor is aware, any Subcontractor hereunder by a governmental or public entity arising out of their business dealings with governmental or public entities. Any such litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") must be disclosed in a written statement in Vendor's bid response. Details of settlements which are prevented from disclosure by the terms of the settlement may be annotated as such. Information provided to the Department of State from Vendor's publicly filed documents referencing its material litigation will be deemed to satisfy the requirements of this Section.

1B.302 Disclosure of ITB Assistance

The Vendor shall notify the Department of State in its bid proposal, if it, or any of its subcontractors, or its officers or directors have assisted with the drafting of this ITB, either in whole, or in part. This includes the conducting or drafting of surveys designed to establish a system inventory, and/or arrive at an estimate for the value of the solicitation.

The Vendor shall provide a listing of all materials provided to the Department of State by the Contractor, or by the Department of State to the Contractor, containing information relevant to this ITB, including, but not limited to: questionnaires, requirements lists, budgetary figures, assessments, white papers, presentations, ITB draft documents. The Vendor shall provide a list of all individuals within the State with whom any of their personnel, and/or subcontractors' personnel has discussed this ITB or any portion of this ITB.

The following constitutes a list of actions that would preclude the developer/co-developer of an Invitation to Bid from bidding on an ITB. This list is not comprehensive, and the Department of State reserves the right to disqualify any Vendor, if the Department of State determines that the Vendor has used its position (whether as an incumbent Vendor, or as a Contractor hired to assist with the ITB development, or as a Vendor offering assistance gratis), to gain a leading edge on the competitive solicitation:

The ITB development results in a "unique solution," having proprietary influence for the benefit of the developer, or a very limited source list. The resulting ITB must be of a nature that displays neutrality and fairness; any implication of impropriety will preclude the developer from participating in the ensuing bid process.

Retaining information assembled or compiled for the development of the ITB by the developer. The Contractor must share all pertinent information assembled for the ITB development, by making such information equally and fully available to all potential bidders, via the DMB Acquisition Services Buyer.

The use of information assembled that would lead to an early response to the ITB by the ITB developer. This includes, but is not limited to: assessments, surveys, white papers, ITB draft documents, questionnaires, requirements lists, budgetary figures, presentations, notes from conversations with State personnel, and any other form of information resulting in a competitive advantage.

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y Size	**Minimum number of contractor staff hours**	**Minimum number of contractor staff persons (FTE's)**	**Time Lapse of ini implementation project plan (Star date - end date)**
County (Example - Schoolcraft Co.)			
m County (Example - Ingham Co.)			
County - (Example - Oakland Co.)			