

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA,
NORTHERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:06-cv-392-WKW
)	
THE STATE OF ALABAMA and)	
NANCY L. WORLEY, Secretary of State,)	
in her official capacity,)	
)	
Defendants.)	

**SPECIAL MASTER'S RESPONSE
TO ORDER ISSUED BY JUDGE WATKINS ON OCTOBER 6, 2006**

Comes now the Special Master, Governor Bob Riley, by and through his attorney of record, Kenneth D. Wallis, II, in response to this Honorable Court's Order issued on October 6, 2006 (Doc. 74), and in response to the submission of the Defendants State of Alabama and Nancy L. Worley in her official capacity, and in response to the letter submission of the Secretary of State, say and show as follows:

(1) Subsequent to the Court's Order of October 6, 2006, the Special Master received, on October 12, 2006, an additional box of requested HAVA documents. The box included primarily RFP responses from a number of vendors, for RFP response or back-up information from these vendors. Some of this information was duplicate information, being identical information previously produced. The produced documents included four proposal documents from vendors which had not been previously delivered to the Special Master. The production included duplicate proposals from two vendors, Maximus and NTS, and the proposal included five books that can be

reasonably described as back-up or supplemental information furnished by Diebold in support of their RFP proposal. Production included a draft of the original RFP and two copies of the original RFP issued on August 12, 2003. Production included three or four other items of correspondence from or to vendors.

(2) Noticeably absent from the Secretary of State's production are the following items which the Special Master believes would be valuable to him and his Implementation Committee in its efforts to implement the Court-ordered registration list and system within the time frames allowed by the Court. Based upon information and belief, each of these items were in the possession of the Secretary of State previously. These items are as follows:

- (a) All draft documents related to the creation of the original RFP.
- (b) Trey Granger's electronic and paper files involving the original RFP.
- (c) All communications, written or otherwise to and/or from Worley and staff, regarding implementation of the RFP and Voter Registration System.
- (d) All scoring sheets and other review-related documentation from review committee that scored the original RFP.
- (e) All sheets, documents, and related information from election officials used in evaluating the various vendor proposals.
- (f) All work product used in negotiations with Diebold.
- (g) All documentation and/or correspondence issued to/from Secretary of State's Office regarding RFP award.
- (h) All documents and other instruments regarding amendment to RFP. All electronic files maintained by Secretary of State, Trey Granger, and other staff members regarding procurement of Voter Registration System.

(i) All e-mails and related documentation from members of the Board of Registrars and Probate Judges to Secretary of State regarding procurement.

(3) The Special Master, through his attorney, has made a request for some of these items specifically since the Court Order of October 6, 2006. The Special Master believes that these items are all covered by the general request for information originally communicated to the Secretary of State.

(4) A specific response to the Secretary of State's letter of October 12, 2006, to the Honorable Judge Keith Watkins, in particular in response to the second paragraph thereof, as attorney for the Special Master I have attempted to be polite, amicable, and cooperative with the Secretary of State. In our discussion which she references, I did express to her that her production to date was very, very inadequate and incomplete. She assured me that she and her secretary would re-double their efforts and make a further search to determine if any other information was available. I requested of her that if she could not find the additional HAVA documentation and that if it met with her approval, I would volunteer to come to her office along with Trey Granger, one of the four members of the Special Master's Implementation Committee, and a former employee in her office, who could perhaps provide significant assistance in locating or pointing out possible locations of additional information. At that time she agreed that she would allow this to take place and would welcome any assistance that could be provided. Subsequently, I have been informed that Mr. Granger would not be welcome in her office.

(5) The Special Master believes that any part of all of the above-referenced non-produced documentation would be helpful and/or

valuable in the Special Master's efforts and the efforts of his Implementation Committee to expeditiously accomplish the task before them.

Done this 16th day of October 2006.

Respectfully submitted,



/s/ **Kenneth D. Wallis, II**
Kenneth D. Wallis, II
Chief Legal Advisor
Office of the Governor

ADDRESS OF COUNSEL:

Office of the Governor
State Capitol, Suite NB-05
600 Dexter Avenue
Montgomery, Alabama 36130
(334) 242-7120 Phone
(334) 242-2335 Fax

CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Algert S. Agricola, Jr.

Shannon Lynn Holliday

James Harold Anderson

Christy A. McCormick

Terry G. Davis

R. Randolph Neeley

Frank Corley Ellis, Jr.

Donald Palmer

Misty S. Fairbanks

Robert D. Popper

Margaret L. Fleming

Michael W. Robinson

Winfield J. Sinclair

Gary R. Trawick

Edward Still

Dorman Walker

And I hereby certify that I have mailed by United States Postal Service the foregoing document to the following non-CM/ECF participants:

John K. Tanner
U.S. Department of Justice
Chief, Voting Section
Civil Rights Division
Room 7254-NWB
950 Pennsylvania Avenue NW
Washington, DC 20530

Wan J. Kim
U.S. Department of Justice
Voting Section
Civil Rights Division
Room 7254-NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

/s/ Kenneth D. Wallis, II
Kenneth D. Wallis, II
Chief Legal Advisor
Office of the Governor