

**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 20, 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 20, 2006 (Doc. 77), and provides the following documents:

- (1) The “Request for Information” referenced in paragraph C¹ of the Special Master’s Second Interim Report.
- (2) Written request to the Secretary of State dated September 15, 2006, referenced in paragraph F of the Special Master’s Second Interim Report.
- (3) Written response from the Secretary of State dated September 19, 2006, referenced in paragraph F of the Special Master’s Second Interim Report.

¹ Although item 1 in the Court’s Order references paragraph B, the Special Master’s reference to Request for Information was actually documented in paragraph C.

(4) Correspondence from the Special Master dated September 21, 2006, to the Secretary of State referenced in paragraph G of the Special Master's Second Interim Report.

(5) Correspondence dated September 22, 2006; October 2, 2006; October 12, 2006; and October 18, 2006, relating to the Secretary of State's production of documents to the Special Master.

(6) All other correspondence between the Secretary of State and the Special Master.

Done this 23rd 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 23, 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.

R. Randolph Neeley

James Harold Anderson

Donald Palmer

Terry G. Davis

Robert D. Popper

Frank Corley Ellis, Jr.

Michael W. Robinson

Misty S. Fairbanks

Winfield J. Sinclair

Margaret L. Fleming

Edward Still

Shannon Lynn Holliday

Gary R. Trawick

Christy A. McCormick

Dorman Walker

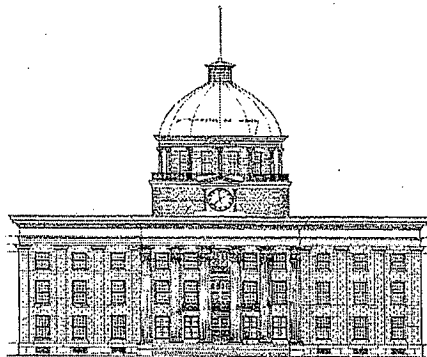
And I hereby certify that I have mailed by United States Postal Service the foregoing document to the following non-CM/ECF participants:

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



Alabama HAVA Implementation Commission

Sid McDonald, Chairman · Judge Richard “Rip” Proctor · Jim Bennett · Trey Granger

**Request for Information (RFI) and Notice of Public Hearing
Implementation of Alabama Voter Registration System**

The HAVA Implementation Commission, in preparation for implementation of a new statewide, centralized, uniform Voter Registration System hereby issues a Request for Information and provides notice of a scheduled public hearing. The Commission seeks review, comment and analysis of the Request for Proposal (RFP/1) drafted on August 12, 2003, by the Alabama Secretary of State’s Office. An electronic copy of the referenced RFP is available at www.governor.alabama.gov. Those who choose to participate in the current Request for Information should outline in written form those aspects of RFP/1 that merit consideration, amendment, reconfiguration, and/or substitution.

The written comments herein solicited and those comments, recommendations, ideas and concerns offered at the public hearing on October 17, 2006, shall be utilized in drafting the Request for Proposal (RFP/2) that shall be issued by this Commission to comply with the Order of Judge Keith Watkins in fulfillment of the duties of Governor Bob Riley, as Special Master.

A public hearing on this matter will be convened at 10:00 A.M. on Tuesday, October 17, 2006, in the Old House Chamber located on the 2nd floor of the Alabama State Capitol, 600 Dexter Avenue. This request and notice is being provided to members of the Alabama Probate Judges Association, Alabama Association of County Commissioners, Alabama Registrars Association, Alabama Association of Circuit Clerks, Alabama Sheriffs Association, election/computer vendors registered with the Alabama Department of Finance, media representatives, and to the public at large.

Please direct all written documentation requested in this RFI, questions or comments to Trey Granger, as Secretariat of the Commission, who can be contacted at The Montgomery County Election Center, 125 Washington Avenue, Montgomery, Alabama 36104, [telephone (334) 832-7744], [facsimile (334) 832-7131], or electronically to treygranger@mc-ala.org. Pursuant to this RFI, related written documentation will be accepted until 5:00 p.m. on October 17, 2006, and may be provided to the Commission at the hearing on October 17, 2006.



BERT ESTES
CHIEF CLERK

MICHAEL L. WASHINGTON
ASSISTANT CHIEF CLERK

REESE MCKINNEY, JR.

JUDGE OF PROBATE

Montgomery County

September 15, 2006

WILL O'REAR
LEGAL COUNSEL

TREY GRANGER
DIRECTOR OF ELECTIONS

Via Hand Delivery

The Honorable Nancy L. Worley
Office of the Secretary of State
Alabama State Capitol
Montgomery, Alabama 36103

Dear Secretary Worley:

Pursuant to recent Orders of Judge Keith Watkins in United States v. The State of Alabama and Nancy L. Worley (Case No. 2:06-cv-392-WKW) and on behalf of the Alabama Help America Vote Act Implementation Commission, I am writing to request that you make available any and all documents, written or electronic, or other such items or instruments that relate to the procurement of a Voter Registration System for the State of Alabama. Governor Riley has appointed a four member Commission to assist him, as Special Master, in the implementation of Alabama's new statewide, centralized, uniform Voter Registration System as mandated by the Help America Vote Act of 2002.

Since time is of the essence in this process, we, as members of the Commission, ask that you make these records and all related documentation available for our review and retrieval on or before noon on Wednesday, September 20, 2006. I contacted your office by telephone yesterday and spoke with Virginia Bunn regarding this request. Thank you in advance for your prompt attention to this matter. Should you have any question regarding this request, please do not hesitate to contact us.

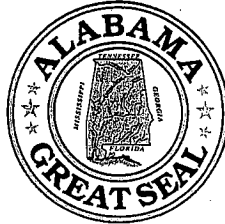
Sincerely,

Trey Granger
For the Commission

CC: The Honorable Bob Riley
Mr. Sid McDonald, Chairman
The Honorable Richard "Rip" Proctor
Commissioner Jim Bennett
Mr. Ken Wallis, Esquire



NANCY L. WORLEY
SECRETARY OF STATE



First Floor, State Capitol
Suite S-105
600 Dexter Avenue
P.O. Box 5616
Montgomery, Alabama 36103-5616

State of Alabama

September 19, 2006

Mr. Trey Granger
Montgomery County Probate Office
P. O. Box 1667
Montgomery, AL 36102-1667

Dear Mr. Granger:

I have received your letter requesting HAVA Voter Registration System documents. I will be happy to provide these to the Special Master, Governor Bob Riley, at a mutually agreed upon time.

Since you were involved with the three-months of negotiations which broke down and the multitude of discussions (pre and post RFP) which occurred with vendors and representatives, you had a full set of all documents concerning the RFP. You may still have some of these materials in your personal files; however, I shall gladly work with the special master to provide duplicate copies of the requested materials.

Sincerely,

A handwritten signature in cursive script that reads "Nancy L. Worley".

Nancy L. Worley
Secretary of State

OFFICE OF THE GOVERNOR

BOB RILEY
GOVERNOR



STATE CAPITOL
MONTGOMERY, ALABAMA 36130

(334) 242-7100
FAX: (334) 242-0937

STATE OF ALABAMA

September 21, 2006

The Honorable Nancy L. Worley
Office of the Secretary of State
Alabama State Capitol
Montgomery, Alabama 36103

Dear Madam Secretary:

I have appointed an implementation committee, as contemplated by the Federal Court Order of Judge Watkins. This committee consists of Sid McDonald, Jim Bennett, Probate Judge Rip Proctor and Trey Granger. My Chief Legal Advisor, Ken Wallis and his Deputy Legal Advisor, Scott Rouse, will be working for me, directly with the committee. Please give each and every one of these six individuals your full and prompt assistance, cooperation and consideration, as though their requests were coming from me directly. They each have my full authority to act on all HAVA implementation matters and issues. I need your full, prompt and responsive cooperation in these regards--it is definitely required and expected under the Court Order.

Thank you in advance for your positive response to this important and necessary request.

Sincerely,

A handwritten signature in black ink, appearing to read "BR", with a large flourish extending to the right.

Bob Riley

cc: The Honorable Sid McDonald
The Honorable Rip Proctor
Commissioner Jim Bennett
Mr. Trey Granger, Esq.
Mr. Win Sinclair, Esq.
Ms. Misty Fairbanks, Esq.

NANCY L. WORLEY
SECRETARY OF STATE



First Floor, State Capitol
Suite S-105
600 Dexter Avenue
P.O. Box 5616
Montgomery, Alabama 36103-5616

State of Alabama

September 22, 2006

To: Governor Bob Riley
Special Master
HAVA Voter Registration Committee
State Capitol

From: Nancy L. Worley *Nancy L. Worley*
Secretary of State

RE: Submission of Materials for HAVA Voter Registration Implementation Committee

The following materials are submitted on Friday, September 22, 2006 to Governor Bob Riley in response to a request for these materials. Other documents will be submitted to the Special Master when and if found:

1. NTS Data Services RFP – submitted Sept. 26, 2003
2. Diebold Election Systems RFP – submitted Sept. 26, 2003
3. UNISYS/ES&S RFP – submitted Sept. 26, 2003
4. MAXIMUS/HART Intercivic RFP – submitted 26, 2003

Received by: *Kathleen Faulk*
Signature

Date: *9/22/06 (5:15 pm)*



NANCY L. WORLEY
SECRETARY OF STATE

First Floor, State Capitol
Suite S-105
600 Dexter Avenue
P.O. Box 5616
Montgomery, Alabama 36103-5616

State of Alabama

October 2, 2006

To: Governor Bob Riley
Special Master
HAVA Voter Registration Committee
State Capitol

From: Nancy L. Worley *Nancy L. Worley*
Secretary of State

RE: Submission of Materials for HAVA Voter Registration Implementation
Committee

The following materials are submitted on Monday, October 02, 2006, to Governor Bob Riley: **HAVA Negotiation Notebook**

We are looking in additional boxes and will forward anything we find to you as soon as we find it.

.....
Received by: *Kathy Faulk*
Date: *10/2/06* *10:15 Am*

NANCY L. WORLEY
SECRETARY OF STATE



First Floor, State Capitol
Suite S-105
600 Dexter Avenue
P.O. Box 5616
Montgomery, Alabama 36103-5616

State of Alabama

October 12, 2006

To: Governor Bob Riley
Special Master
HAVA Voter Registration Committee
State Capitol

From: Nancy L. Worley *NLW*
Secretary of State



RE: Submission of Materials for HAVA Voter Registration Implementation Committee

The following materials, some of which are duplicate files from the first submission, are submitted on Thursday, October 12, 2006, to Governor Bob Riley:

1. Alpha Data Services, Inc. RFP
2. Diebold – HELP File Documentation (2 copies)
3. Diebold – Management System Inc. Proposal
4. Diebold – Pre-Contract Kick-Off (2 copies)
5. GROUP 1 Software – RFP Response
6. Maximus - Proposal
7. NIS Data Services, Inc. - Statewide Voter Registration System
8. Quest Information Systems, Inc. – RFP
9. Sequoia Voter System – Administrative Documents & Technical Proposal
10. Trey Granger’s former “My Documents” file of Voter Registration System documents self-entitled:
 - a. RFP letter.doc 7/3/2003
 - b. RFP.Memo.doc 8/7/2003
 - c. Vendor.letter.rfp 7/25/2003
 - d. Voter.registration 8/1/2003
 - e. vrs.rfp.mon.aug 8/8/2003
 - f. rfp.questions.2.doc

We are continuing to look for additional materials and will forward anything we find to you as soon as we find it.

Received by: *D. Granger*
Date: 10/12/06



STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

TROY KING
ATTORNEY GENERAL

October 18, 2006

ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, AL 36130
(334) 242-7300
WWW.AGO.STATE.AL.US

Honorable Kenneth D. Wallis II
Chief Legal Advisor to the Governor
Alabama State Capitol
Montgomery, Alabama 36130

Re: United States v. State of Alabama,
Civil Action No. 2:06-CV-00392-WKW-SRW (M.D. Ala., 2006)

Dear Mr. Wallis:

On October 16, 2006, you filed the Special Master's Response to Order Issued by Judge Watkins on October 6, 2006. In that Response, you indicated that the HAVA Implementation Committee is seeking various, delineated kinds of documents. This Office continues to want the Special Master to succeed in the task set for it by the federal court, and continues with its willingness to be helpful in any appropriate manner. Enclosed, therefore, please find the following four binders:

- Binder 1 contains copies of the documents produced to this Office by the Office of the Secretary of State on May 23, 2006. While most of these documents are public, they were produced for use in litigation, and this Office does not waive any privilege that pertains. These are the documents which this Office previously offered to produce *via* our October 9, 2006 e-mail.
- Binder 2 contains copies of Exhibits A through Q attached by the Department of Justice to its Memorandum of Law in Support of United States' Motion for a Preliminary Injunction. These documents were filed with the Court, and are provided for your convenience.
- Binder 3 contains copies of the Defendants' First Evidentiary Submission, including Exhibits 1 through 16. These documents were also filed with the Court and are printed for your convenience. As to Exhibit 16, these documents, while filed, were not admitted into evidence. Moreover, we have received responses from other States since this document was filed. Upon your request, we would be happy to search our files for those additional responses and provide them to you.
- Binder 4 consists of various documents that pertain to the original Request for Proposal and the HAVA voter registration system. These documents, which are responsive to your request, were taken from the Secretary of State's website, and are provided for your convenience.

Letter to Ken Wallis
October 18, 2006
Page 2

Assistant Attorney General Sinclair contacted Mr. Robert Popper, counsel for the United States in this matter. Mr. Popper has stated that he does not need copies of any of these documents at this time. If he should come to need copies, he can contact us and we will provide them to him.

Mr. Wallis, we hope that the HAVA Implementation Committee will find these documents helpful. If you have any questions, please do not hesitate to contact us.

Sincerely,



Winfield J. Sinclair
Assistant Attorney General



Misty S. Fairbanks
Assistant Attorney General

cc (w/o encl): Hon. Robert Popper, Counsel for the United States of America
Hon. Nancy L. Worley, Secretary of State



BERT ESTES
CHIEF CLERK
MICHAEL L. WASHINGTON
ASSISTANT CHIEF CLERK

REESE MCKINNEY, JR.
JUDGE OF PROBATE
Montgomery County

WILL O'REAR
LEGAL COUNSEL
TREY GRANGER
DIRECTOR OF ELECTIONS

September 21, 2006

Via Hand Delivery

The Honorable Nancy L. Worley
Office of Secretary of State
Alabama State Capitol
Montgomery, Alabama 36103

Dear Secretary Worley:

I received the correspondence dated September 19, 2006, you forwarded by Mr. Bernard McCaster to my office yesterday at 11:00 A.M. On behalf of Governor Riley, the HAVA Implementation Commission had requested that all documentation be available for our review and/or retrieval by noon yesterday. Regrettably, you chose to ignore our request for documents relating to the procurement of a voter registration system for the State of Alabama. I am confident that you are familiar with all aspects of Judge Watkins recent Orders. I would specifically call your attention to § Six (6) of the Order entitled Memorandum Opinion and Order dated August 8, 2006. Section six (6) of the order provides:

By previous Order, the Secretary has been directed to "compile, organize, and identify all HAVA records relating to development of the statewide voter list." (Doc. #38 at 6.) The Special Master or his designees shall have full access to these records, and to other HAVA-related records in the possession of Alabama counties and other political subdivisions, except those records in the possession of the Alabama Office of the Attorney General which are subject to a claim of either attorney work product or attorney-client privilege.

Time is of the essence in this matter, as the HAVA Implementation Commission intends to meet the deadlines for compliance articulated by Judge Watkins. In an effort to effectuate the timetable of Judge Watkins and Governor Riley, your corporation with the Commission is imperative.


Governor Riley has assembled the HAVA Implementation Commission for the sole purpose of providing a timely and effective solution for Alabama's comprehensive compliance with the designated aspects of the Help America Vote Act (HAVA). My fellow Commissioners and I respectfully request that you reconsider your position and make the requested documentation and other items available to us by 2:00 P.M. tomorrow, September 22, 2006. Should you choose to ignore our court approved request; we will have no other course than to recommend that contempt proceedings be sought against you. I truly hope and trust that such action will not be necessary. We want to work with you in a spirit of good faith and hope that you will extend to us that same professional courtesy.

Your correspondence suggested that I had a "full set of all documents concerning the RFP". Unquestionably, those documents were housed in my office in Suite S-105 and were both catalogued and maintained inviolate in that office when I left to become the Director of Elections for Montgomery County in August of 2005. For the record, I do not have any such materials in my "personal files."

Our request is based upon our clear right and responsibility to retrieve necessary documents, materials and other electronic and printed items relevant to the matter at hand. I encourage you to review the attached Order establishing the same.

We look forward to hearing from you on this most urgent matter.

Sincerely,



Trey Granger
For the Commission

CC: ✓ The Honorable Bob Riley
The Honorable Sid McDonald
The Honorable Rip Proctor
Mr. Jim Bennett
Mr. Ken Wallis, Esquire

OFFICE OF THE GOVERNOR



STATE CAPITOL
MONTGOMERY, ALABAMA 36130

BOB RILEY
GOVERNOR

(334) 242-7100
FAX: (334) 242-0937

STATE OF ALABAMA

October 12, 2006

Misty S. Fairbanks, Esquire
Win Sinclair, Esquire
Office of the Attorney General
Constitutional Defense Division
11 South Union Street, 3d Floor
Montgomery, AL 36130-0152

Dear Ms. Fairbanks and Mr. Sinclair:

RE: Funding Available for HAVA
Voter Registration Fund

Pursuant to our conference call of yesterday, I submit to you that it is my understanding that a total of \$12,142,839.17 is available for development and implementation of the Voter Registration System and is summarized below:

\$12,000,000.00	Appropriated by Congress
+ 420,932.38	Accrued Interest
- <u>278,093.21</u>	Spent by Secretary of State
\$ 12, 142, 839.17	Funds Remaining

I was originally given an incorrect balance amount, but I am now satisfied that this is the correct figure. I take no position on the propriety of the expenditures made by the Secretary of the State.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Wallis".

Ken Wallis
Chief Legal Advisor

KW/rdg

cc: Robert D. Popper, USDOJ
HAVA Implementation Committee