



P.O. Box 400
Austin, TX 78767-0400
800.695.2919 | 512.467.0222 | Fax: 800.211.5454
buyboard.com

July 27, 2017

Welcome to BuyBoard!

Re: *Notice of The Local Government Purchasing Cooperative Award*

Proposal Name and Number: Election Voting Systems Equipment and Supplies, Proposal Number 542-17

Congratulations, The Local Government Purchasing Cooperative (Cooperative) has awarded your company a BuyBoard® contract based on the above-referenced Proposal. The contract is effective 9/1/2017 through 8/31/2018, with two possible one-year renewals. The contract documents are those identified in Section 3 of the General Terms and Conditions of the specifications.

To view the items your company has been awarded, please review the proposal tabulation No. 542-17 on the following web-site: www.buyboard.com/vendor. Only items marked as awarded to your company can be sold through the BuyBoard contract. In addition, on this website you will find the membership list which will provide you with the names of all entities with membership in our purchasing cooperative.

Enclosed with this letter you will find the following documents:

1. Vendor Quick Reference Sheet
2. Vendor Billing Procedures

You are advised that receipt of a purchase order directly from a Cooperative member is not within the guidelines of the Cooperative. Accepting purchase orders directly from Cooperative members may result in a violation of the State of Texas competitive bid statute and termination of this Cooperative BuyBoard contract. **Therefore, all purchase orders must be processed through the BuyBoard in order to comply.** Please forward by fax (1-800-211-5454) any order received directly from a Cooperative member. If you inadvertently process a purchase order sent directly to you by a Cooperative member, please fax the order to the above number and note it as **RECORD ONLY** to prevent duplication.

On behalf of the Texas Association of School Boards, we appreciate your interest in the Cooperative and we are looking forward to your participation in the program. If you have any questions, please contact **Cooperative Procurement Staff** at 800-695-2919.

Sincerely,

Arturo Salinas
Department Director, Cooperative Procurement
v.6.5



The Local Government Purchasing Cooperative is endorsed by the Texas Association of School Boards, Texas Municipal League, Texas Association of Counties, and the Texas Association of School Administrators.



PROPOSER'S AGREEMENT AND SIGNATURE

Proposal Name: Election Voting Systems
Equipment and Supplies

Proposal Due Date/Opening Date and Time:
March 23, 2017 at 2:00 PM

Proposal Number: 542-17

Location of Proposal Opening:
Texas Association of School Boards, Inc.
BuyBoard Department
12007 Research Blvd.
Austin, TX 78759

Contract Time Period: October 1, 2017 through
September 30, 2018 with two (2) possible one-year
renewals.

Anticipated Cooperative Board Meeting Date:
July 2017

Election Systems & Software, LLC

Name of Proposing Company

03/20/2017

Date

11208 John Galt Blvd

Street Address

Digitally signed
by Richard J.
Jablonski
DN: cn=Richard J.
Jablonski, o=BuyBoard,
ou=BuyBoard, email=Richard.J.
Jablonski@buyboard.com, c=US

Signature of Authorized Company Official

Omaha, NE 68137

City, State, Zip

Richard J. Jablonski

Printed Name of Authorized Company Official

(800) 247-8683

Telephone Number of Authorized Company Official

VP of Finance

Position or Title of Authorized Company Official

(402) 970-1276

Fax Number of Authorized Company Official

47-0617567

Federal ID Number



VENDOR CONTACT INFORMATION

Company: Election Systems & Software, LLC

Vendor Contact Name and Mailing Address for Notices: Chris Moody, Director of Sales & 11208 John Galt Blvd Omaha, NE 68137

Company Website: www.essvote.com

Purchase Orders: Purchase orders from Cooperative members will be available through the Internet or by facsimile.

Option 1: Internet. Vendors need Internet access and at least one e-mail address so that notification of new orders can be sent to the Internet contact when a new purchase order arrives. An information guide will be provided to vendors that choose this option to assist them with retrieving their orders.

Option 2: Fax. Vendors need a designated fax line available at all times to receive purchase orders.

Please choose only one (1) of the following options for receipt of purchase orders and provide the requested information:

I will use the **INTERNET** to receive purchase orders.
E-mail Address: orders@essvote.com
Internet Contact: Customer Service Phone: (877) 377-8683 (Option 1)
Alternate E-mail Address: N/A
Alternate Internet Contact: N/A Phone: N/A

I will receive purchase orders via **FAX**.
Fax Number: _____
Fax Contact: _____ Phone: _____

Request for Quotes ("RFQ"): Cooperative members will send RFQs to you by e-mail. Please provide e-mail addresses for the receipt of RFQs:

E-mail Address: chris.moody@essvote.com
Alternate E-mail Address: matt.kunz@essvote.com



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Invoices: Your company will be billed monthly for the service fee due under a contract awarded under this Proposal Invitation. **All invoices are available on the BuyBoard website and e-mail notifications will be sent when they are ready to be retrieved.** Please provide the following address, contact and e-mail information for receipt of service fee invoices and related communications:

Mailing address: 11208 John Galt Blvd **Department:** Finance

City: Omaha **State:** NE **Zip Code:** 68137

Contact Name: Debbie Andrews **Phone:** (402) 970-1201

Fax: (402) 970-1276 **E-mail Address:** debbie.andrews@essvote.com

Alternative E-mail Address: N/A



FELONY CONVICTION DISCLOSURE AND DEBARMENT CERTIFICATION

FELONY CONVICTION DISCLOSURE

Subsection (a) of Section 44.034 of the Texas Education Code (Notification of Criminal History of Contractor) states: "A person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony."

Section 44.034 further states in Subsection (b): "A school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract."

Please check (✓) one of the following:

- My company is a publicly-held corporation. (Advance notice requirement does not apply to publicly-held corporation.)
- My company is not owned or operated by anyone who has been convicted of a felony.
- My company is owned/operated by the following individual(s) who has/have been convicted of a felony:

Name of Felon(s): N/A

Details of Conviction(s): N/A

By signature below, I certify that the above information is true, complete and accurate and that I am authorized by my company to make this certification.

Election Systems & Software, LLC

Company Name

Richard J. Jablonski Digitally signed by Richard J. Jablonski
Date: 2017.03.20 10:42:01 -05'00'

Signature of Authorized Company Official

Richard J. Jablonski

Printed Name

DEBARMENT CERTIFICATION

Neither my company nor an owner or principal of my company has been debarred, suspended or otherwise made ineligible for participation in Federal Assistance programs under Executive Order 12549, "Debarment and Suspension," as described in the Federal Register and Rules and Regulations. Neither my company nor an owner or principal of my company is currently listed on the government-wide exclusions in SAM, debarred, suspended, or otherwise excluded by agencies or declared ineligible under any statutory or regulatory authority. My company agrees to immediately notify the Cooperative and all Cooperative members with pending purchases or seeking to purchase from my company if my company or an owner or principal is later listed on the government-wide exclusions in SAM, or is debarred, suspended, or otherwise excluded by agencies or declared ineligible under any statutory or regulatory authority.

By signature below, I certify that the above is true, complete and accurate and that I am authorized by my company to make this certification.

Election Systems & Software, LLC

Company Name

Richard J. Jablonski Digitally signed by Richard J. Jablonski
Date: 2017.03.20 10:42:25 -05'00'

Signature of Authorized Company Official

Richard J. Jablonski

Printed Name



RESIDENT / NONRESIDENT CERTIFICATION

Chapter 2252, Subchapter A, of the Texas Government Code establishes certain requirements applicable to proposers who are not Texas residents. Under the statute, a "resident" proposer is a person whose principal place of business is in Texas, including a contractor whose ultimate parent company or majority owner has its principal place of business in Texas. A "nonresident" proposer is a person who is not a Texas resident. Please indicate the status of your company as a "resident" proposer or a "nonresident" proposer under these definitions.

Please check (√) one of the following:

- I certify that my company is a **Resident Proposer.**
- I certify that my company is a **Nonresident Proposer.**

If your company is a Nonresident Proposer, you must provide the following information for your resident state (the state in which your company's principal place of business is located):

<u>Election Systems & Software, LLC</u>	<u>11208 John Galt Blvd</u>	
Company Name	Address	
<u>Omaha</u>	<u>NE</u>	<u>68137</u>
City	State	Zip Code

- A. Does your resident state require a proposer whose principal place of business is in Texas to under-price proposers whose resident state is the same as yours by a prescribed amount or percentage to receive a comparable contract?
 Yes No
- B. What is the prescribed amount or percentage? \$ N/A or N/A %

VENDOR EMPLOYMENT CERTIFICATION

Section 44.031(b) of the Texas Education Code establishes certain criteria that a school district must consider when determining to whom to award a contract. Among the criteria for certain contracts is whether the vendor or the vendor's ultimate parent or majority owner (i) has its principal place of business in Texas; or (ii) employs at least 500 people in Texas.

If neither your company nor the ultimate parent company or majority owner has its principal place of business in Texas, does your company, ultimate parent company, or majority owner employ at least 500 people in Texas?

Please check (√) one of the following:

- Yes No

By signature below, I certify that the information in Sections 1 (*Resident/Nonresident Certification*) and 2 (*Vendor Employment Certification*) above is true, complete and accurate and that I am authorized by my company to make this certification.

Election Systems & Software, LLC
 Company Name

Richard J. Jablonski Digitally signed by Richard J. Jablonski
Date: 2017.03.20 10:43:58 -05'00'
 Signature of Authorized Company Official

Richard J. Jablonski
 Printed Name



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HISTORICALLY UNDERUTILIZED BUSINESS CERTIFICATION

A proposer that has been certified as a Historically Underutilized Business (also known as a Minority/Women Business Enterprise or "MWBE" and all referred to in this form as a "HUB") is encouraged to indicate its HUB certification status when responding to this Proposal Invitation. The electronic catalogs will indicate HUB certifications for vendors that properly indicate and document their HUB certification on this form.

Please check (✓) all that apply:

- I certify that my company has been certified as a HUB in the following categories:
 - Minority Owned Business**
 - Women Owned Business**
 - Service-Disabled Veteran Owned Business (veteran defined by 38 U.S.C. §101(2), who has a service-connected disability as defined by 38 U.S.C. § 101(16), and who has a disability rating of 20% or more as determined by the U. S. Department of Veterans Affairs or Department of Defense)**

Certification Number:

Name of Certifying Agency:

- My company has **NOT** been certified as a HUB.

By signature below, I certify that the above is true, complete and accurate and that I am authorized by my company to make this certification.

Election Systems & Software, LLC

Company Name

Richard J. Jablonski

Printed Name

Richard J. Jablonski
Signature of Authorized Company Official



CONSTRUCTION-RELATED GOODS AND SERVICES AFFIRMATION

A contract awarded under this Proposal Invitation covers only the specific goods and services awarded by the BuyBoard. As explained in the BuyBoard Procurement and Construction Related Goods and Services Advisory for Texas Members ("Advisory"), **Texas law prohibits the procurement of architecture or engineering services through a purchasing cooperative. This BuyBoard contract does not include such services. Architecture or engineering services must be procured by a Cooperative member separately, in accordance with the Professional Services Procurement Act (Chapter 2254 of the Texas Government Code) and other applicable law and local policy.**

The Advisory, available at <https://www.buyboard.com/Vendor/Resources.aspx>, provides an overview of certain legal requirements that are potentially relevant to a Cooperative member's procurement of construction or construction-related goods and services, including those for projects that may involve or require architecture, engineering or independent testing services. A copy of the Advisory can also be provided upon request.

By signature below, the undersigned affirms that Proposer has obtained a copy of the Advisory, has read and understands the Advisory, and is authorized by Proposer to make this affirmation. If Proposer sells construction-related goods or services to a Cooperative member under a BuyBoard contract awarded under this Proposal Invitation, Proposer will comply with the Advisory and applicable legal requirements, make a good faith effort to make its Cooperative member customers or potential Cooperative member customers aware of such requirements, and provide a Cooperative member with a copy of the Advisory before executing a Member Construction Contract with the member or accepting the member's purchase order for construction-related goods or services, whichever comes first.

Election Systems & Software, LLC

Company Name

Richard J. Jablonski

Digitally signed by Richard J. Jablonski
Date: 2017.03.20 11:13:25 -05'00'

Signature of Authorized Company Official

Richard J. Jablonski

Printed Name

03/20/2017

Date



DEVIATION AND COMPLIANCE

If your company intends to deviate from the General Terms and Conditions, Proposal Specifications or other requirements associated with this Proposal Invitation, you MUST list all such deviations on this form, and provide complete and detailed information regarding the deviations on this form or an attachment to this form. The Cooperative will consider any deviations in its contract award decision, and reserves the right to accept or reject a proposal based upon any submitted deviation.

In the absence of any deviation identified and described in accordance with the above, your company must fully comply with the General Terms and Conditions, Proposal Specifications and all other requirements associated with this Proposal Invitation if awarded a contract under this Proposal Invitation. A deviation will not be effective unless accepted by the Cooperative. The Cooperative may, in its sole discretion, seek clarification from and/or communicate with Proposer(s) regarding any submitted deviation, consistent with general procurement principles of fair competition. The Cooperative reserves the right to accept or reject a proposal based upon any submitted deviation.

Please check (✓) one of the following:

- No;** Deviations
- Yes;** Deviations

List and fully explain any deviations you are submitting:

Please see ES&S' Legal Responses, attached hereto, for complete and detailed information regarding our deviations.

PLEASE PROVIDE THE FOLLOWING INFORMATION:

1. Shipping Via: Common Carrier Company Truck Prepaid and Add to Invoice Other:

Small package UPS Air

2. Payment Terms: Net 30 days 1% in 10/Net 30 days Other:

3. Number of Days for Delivery: ^{(3) to (4) days} ARO

4. Vendor Reference/Quote Number: TBD

5. State your return policy: See Appendix A for our complete return policy.

6. Are electronic payments acceptable? Yes No

7. Are credit card payments acceptable? Yes No

Election Systems & Software, LLC

Company Name

Signature of Authorized Company Official

Richard J. Jablonski

Printed Name

From: Arturo Salinas
To: ["Boyce, Danielle"](#)
Cc: [Ava Benford-Clay](#); [Jablonski, Dick J.](#); [Moody, Chris](#); [Kunz, Matt](#)
Subject: RE: Deviations - 542-17 Election Voting Systems Equipment & Supplies
Date: Wednesday, May 10, 2017 4:17:00 PM

Ms. Boyce,

Thank you for responding in a timely manner to our request. We will incorporate this message as part of the proposal response from ES&S.

Please contact me at the BuyBoard should you need any further information regarding this matter.

ARTURO SALINAS

DIRECTOR OF COOPERATIVE PROCUREMENT
Texas Association of School Boards
P.O. Box 400 • Austin, Texas 78767-0400
12007 Research Blvd. • Austin, Texas 78759-2439
Phone: 512.483.7101 • 800.580.8272
Fax: 800-211-5454
arturo.salinas@tasb.org



From: Boyce, Danielle [mailto:danielle.boyce@essvote.com]
Sent: Wednesday, May 10, 2017 3:28 PM
To: Arturo Salinas <Arturo.Salinas@tasb.org>
Cc: Ava Benford-Clay <Ava.Benford-Clay@tasb.org>; Jablonski, Dick J. <djjablonski@essvote.com>;
Moody, Chris <cdmoody@essvote.com>; Kunz, Matt <matt.kunz@essvote.com>
Subject: RE: Deviations - 542-17 Election Voting Systems Equipment & Supplies

Thank you, again, for your prompt response. After careful review and consideration, we have made the decision to agree to remove the deviations we submitted in our response to the BuyBoard's Proposal No. 542-17 Election Voting Systems Equipment & Supplies.

Please confirm receipt of ES&S' agreement to remove its deviations from its proposal. In addition, please let me know if you have any questions or need any additional information.

Best Regards,

Danielle Boyce | Proposal Coordinator
Election Systems & Software, LLC | 11208 John Galt Blvd. Omaha, NE 68137
O: 402.938.1491 | C: 402.540.1018 | danielle.boyce@essvote.com | www.essvote.com
[Bid Initiation Checklist](#) | [Product Advisory Request](#) | [Tech Doc Request](#)



From: Arturo Salinas [<mailto:Arturo.Salinas@tasb.org>]
Sent: Wednesday, May 10, 2017 10:43 AM
To: Boyce, Danielle <danielle.boyce@essvote.com>
Cc: Ava Benford-Clay <Ava.Benford-Clay@tasb.org>
Subject: FW: Deviations - 542-17 Election Voting Systems Equipment & Supplies

Good Morning Ms. Boyce,

Thank you for your consideration of BuyBoard Proposal No. Proposal No. 542-17 for Election Voting Systems Equipment and Supplies.

In regards to the questions below and at this time, the only deviations we will discuss with your company are those specifically submitted by Election Systems & Software, LLC. Nevertheless, I will note that as a cooperative the terms and conditions provided with each solicitation of proposals are applied to all vendors.

Secondly, there is no specific section in the terms and conditions that addresses limitation of liability for a vendor.

Finally, although we understand the example provided Section 18 provides for the following, *"the defaulting party is given at least ten (10) business days prior written notice of the default and intent to terminate (delivered by certified mail, return receipt requested, or other method that similarly documents receipt), and a ten (10) business day opportunity to remedy the default to the satisfaction of the terminating party.* In essence, this meets the requested cure period and we do not modify this section since it will not be in accordance with our cooperative policy.

As requested, please respond no later than **Thursday, May 11, 2017**, whether or not your company will remove the deviations.

Please contact me at the BuyBoard should you need any further information regarding this matter.

ARTURO SALINAS

DIRECTOR OF COOPERATIVE PROCUREMENT

Texas Association of School Boards

P.O. Box 400 • Austin, Texas 78767-0400

12007 Research Blvd. • Austin, Texas 78759-2439

Phone: 512.483.7101 • 800.580.8272

Fax: 800-211-5454

arturo.salinas@tasb.org



From: Ava Benford-Clay
Sent: Tuesday, May 09, 2017 4:20 PM
To: Arturo Salinas <Arturo.Salinas@tasb.org>
Subject: FW: Deviations - 542-17 Election Voting Systems Equipment & Supplies

From: Boyce, Danielle [<mailto:danielle.boyce@essvote.com>]
Sent: Tuesday, May 9, 2017 4:18 PM
To: Ava Benford-Clay <Ava.Benford-Clay@tasb.org>
Cc: Moody, Chris <cdmoody@essvote.com>; Kunz, Matt <matt.kunz@essvote.com>; Jablonski, Dick J. <djjablonski@essvote.com>
Subject: FW: Deviations - 542-17 Election Voting Systems Equipment & Supplies

Attention: Ms. Ava Benford-Clay

RE: Deviations - 542-17 Election Voting Systems Equipment & Supplies

Company Name: Election Systems & Software, LLC

Thank you for your email regarding our proposed deviations we submitted in response to the BuyBoard Proposal No. 542-17 Election Voting Systems Equipment & Supplies. We are in the process of reviewing our deviations to determine if we will agree to remove our deviations as requested in your email. In the meantime, we would like to confirm one item with the BuyBoard as well as pose a couple of questions regarding the Proposal as it relates to our proposed deviations.

First, will you please confirm that all vendors who are currently subject to the BuyBoard or who will be added to the BuyBoard will be subject to the same terms and conditions? Please confirm that no vendor will have more favorable terms than any other vendor.

Second, we have the following questions, which relate to our proposed deviations:

1. We understand that the Cooperative and TASB have limited their liability under Section 13(E.) of the General Terms and Conditions. However, there is currently no terms limiting the Vendor's liability. Can you please point us to the section that addresses the limitation of liability for the vendor?
2. With respect to our proposed changes to Section 18(E.) of the General Terms and Conditions, we included a thirty (30) day cure period in the event of a default by the Vendor. Please note that there may be instances where a ten (10) day cure period will not provide a Vendor with enough time to cure a default under the Agreement. For instance, if a Vendor's software needs to be changed to correct a deficiency, such software change will require not only the fix to the software, but will also require certification of the

modification both at the Federal and State level. This will greatly exceed the ten (10) day cure period. Can you please help us understand what remedies are available to a vendor if more time is needed to cure a default under the BuyBoard Agreement?

Thank you and we look forward to your response.

Danielle

Danielle Boyce | Proposal Coordinator

Election Systems & Software, LLC | 11208 John Galt Blvd. Omaha, NE 68137

O: 402.938.1491 | C: 402.540.1018 | danielle.boyce@essvote.com | www.essvote.com

[Bid Initiation Checklist](#) | [Product Advisory Request](#) | [Tech Doc Request](#)

Begin forwarded message:

From: Ava Benford-Clay <Ava.Benford-Clay@tasb.org>

Date: May 4, 2017 at 3:46:00 PM CDT

To: "'richard.jablonski@essvote.com'" <richard.jablonski@essvote.com>

Cc: "'matt.kunz@essvote.com'" <matt.kunz@essvote.com>,

"'chris.moody@essvote.com'" <chris.moody@essvote.com>

Subject: Deviations - 542-17 Election Voting Systems Equipment & Supplies

Good Afternoon Richard,

Election Systems & Software, LLC response to BuyBoard **Proposal No. 542-17 Election Voting Systems Equipment & Supplies** which included multiple deviation(s) to the terms and conditions of the proposal. Unfortunately, the deviation(s) submitted are not acceptable or beneficial to the Cooperative.

As noted on Form G-Deviation and Compliance Signature Form of this proposal, the Cooperative reserves the right to accept or reject a proposal based upon any submitted deviation. Therefore, unless your company considers the removal of these deviations the Cooperative may recommend to not award your company the proposal.

Please respond no later than **Thursday, May 11, 2017**, and feel free to contact me at the BuyBoard should you need any further information regarding this matter.

Thanks

Ava BENFORD-CLAY
BUYBOARD BID ANALYST
Texas Association of School Boards
Phone: 512.467.0222, ext. 7188 • 800.695.2919
Fax: 800-211-5454
ava.benford@tasb.org





DEALERSHIP LISTINGS

If you have more than one location that will service a contract awarded under this Proposal Invitation, please list each location below. If additional sheets are required, please duplicate this form as necessary. NOTE: Awarded Vendors shall remain responsible for the Contract and the performance of all dealers under and in accordance with the Contract.

Election Systems & Software, LLC

Company Name

704 Central Parkway East Ste 1214

Address

Plano

TX

75074

City

State

Zip

(800) 433-8683

(214) 383-1596

Phone Number

Fax Number

Ariela Matravers, Election Services Representative

Contact Person

Election Systems & Software, LLC

Company Name

11208 John Galt Blvd

Address

Omaha

NE

68137

City

State

Zip

(800) 247-8683

(402) 970-1282

Phone Number

Fax Number

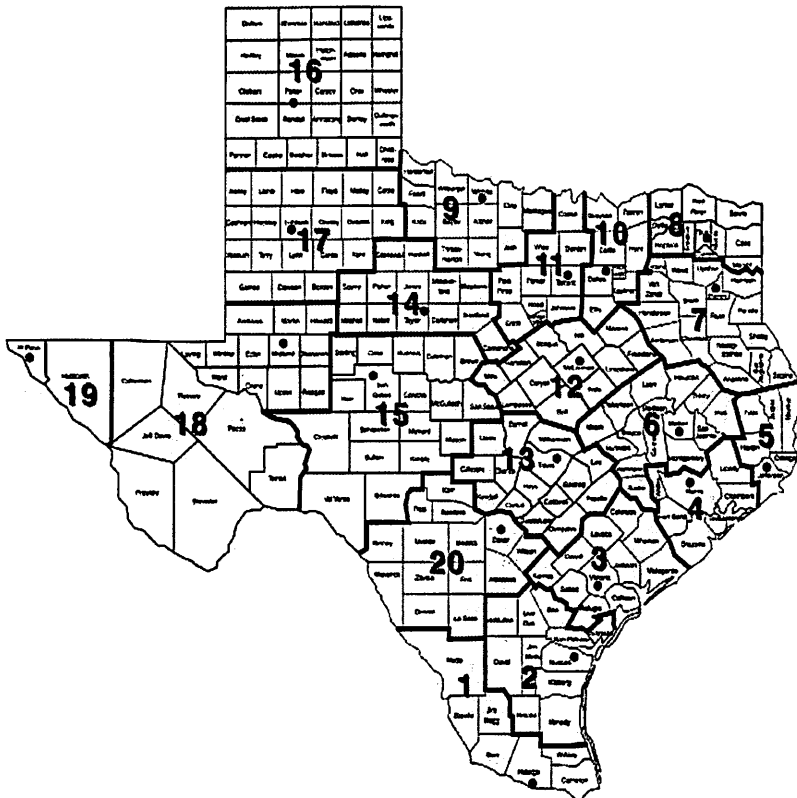
Richard J. Jablonski, VP of Finance

Contact Person

TEXAS REGIONAL SERVICE DESIGNATION

The Cooperative (referred to as "Texas Cooperative" in this form and in the State Service Designation form) offers vendors the opportunity to service its members throughout the entire State of Texas. If you do not plan to service all Texas Cooperative members statewide, you **must** indicate the specific regions you will service on this form. ***If you propose to serve different regions for different products or services included in your proposal, you must complete and submit a separate Texas Regional Service Designation form for each group of products and clearly indicate the products or services to which the designation applies in the space provided at the end of this form. By designating a region or regions, you are certifying that you are authorized and willing to provide the proposed products and services in those regions. Designating regions in which you are either unable or unwilling to provide the specified products and services shall be grounds for either rejection of your proposal or, if awarded, termination of your Contract.*** Additionally, if you do not plan to service Texas Cooperative members (i.e., if you will service only states other than Texas), you must so indicate on this form.

Regional Education Service Centers



- I will service Texas Cooperative members statewide.
- I will not service Texas Cooperative members statewide. I will only service members in the regions checked below:

Region Headquarters

- 1 Edinburg
- 2 Corpus Christi
- 3 Victoria
- 4 Houston
- 5 Beaumont
- 6 Huntsville
- 7 Kilgore
- 8 Mount Pleasant
- 9 Wichita Falls
- 10 Richardson
- 11 Fort Worth
- 12 Waco
- 13 Austin
- 14 Abilene
- 15 San Angelo
- 16 Amarillo
- 17 Lubbock
- 18 Midland
- 19 El Paso
- 20 San Antonio

Election Systems & Software, LLC

Company Name

Richard J. Jablonski Digitally signed by Richard J. Jablonski
Date: 2017.03.20 11:19:12 -05'00'

Signature of Authorized Company Official

Richard J. Jablonski

Printed Name

- I will not service members of the Texas Cooperative.



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If this Texas Regional Service Designation form applies to only one or some of the products and services proposed by Vendor, list the products and services to which this form applies here:

N/A



STATE SERVICE DESIGNATION

The Cooperative offers vendors the opportunity to service other governmental entities in the United States, including intergovernmental purchasing cooperatives such as the National Purchasing Cooperative BuyBoard. You must complete this form if you plan to service the entire United States, or will service only the specific states indicated. (Note: If you plan to service Texas Cooperative members, be sure that you complete the Texas Regional Service Designation form.)

If you serve different states for different products or services included in your proposal, you must complete and submit a separate State Service Designation form for each group of products and clearly indicate the products or services to which the designation applies in the space provided at the end of this form. By designating a state or states, you are certifying that you are authorized and willing to provide the proposed products and services in those states. Designating states in which you are either unable or unwilling to provide the specified products and services shall be grounds for either rejection of your proposal or, if awarded, termination of your Contract.

Please check (✓) all that apply:

I will service all states in the United States.

I will not service all states in the United States. I will service only the states checked below:

- | | |
|--|---|
| <input type="checkbox"/> Alabama | <input type="checkbox"/> Nebraska |
| <input type="checkbox"/> Alaska | <input type="checkbox"/> Nevada |
| <input type="checkbox"/> Arizona | <input type="checkbox"/> New Hampshire |
| <input type="checkbox"/> Arkansas | <input type="checkbox"/> New Jersey |
| <input type="checkbox"/> California (Public Contract Code 20118 & 20652) | <input type="checkbox"/> New Mexico |
| <input type="checkbox"/> Colorado | <input type="checkbox"/> New York |
| <input type="checkbox"/> Connecticut | <input type="checkbox"/> North Carolina |
| <input type="checkbox"/> Delaware | <input type="checkbox"/> North Dakota |
| <input type="checkbox"/> District of Columbia | <input type="checkbox"/> Ohio |
| <input type="checkbox"/> Florida | <input type="checkbox"/> Oklahoma |
| <input type="checkbox"/> Georgia | <input type="checkbox"/> Oregon |
| <input type="checkbox"/> Hawaii | <input type="checkbox"/> Pennsylvania |
| <input type="checkbox"/> Idaho | <input type="checkbox"/> Rhode Island |
| <input type="checkbox"/> Illinois | <input type="checkbox"/> South Carolina |
| <input type="checkbox"/> Indiana | <input type="checkbox"/> South Dakota |
| <input type="checkbox"/> Iowa | <input type="checkbox"/> Tennessee |
| <input type="checkbox"/> Kansas | <input checked="" type="checkbox"/> Texas |
| <input type="checkbox"/> Kentucky | <input type="checkbox"/> Utah |
| <input type="checkbox"/> Louisiana | <input type="checkbox"/> Vermont |
| <input type="checkbox"/> Maine | <input type="checkbox"/> Virginia |
| <input type="checkbox"/> Maryland | <input type="checkbox"/> Washington |
| <input type="checkbox"/> Massachusetts | <input type="checkbox"/> West Virginia |
| <input type="checkbox"/> Michigan | <input type="checkbox"/> Wisconsin |
| <input type="checkbox"/> Minnesota | <input type="checkbox"/> Wyoming |
| <input type="checkbox"/> Mississippi | |
| <input type="checkbox"/> Missouri | |
| <input type="checkbox"/> Montana | |



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This form will be used to ensure that you can service other governmental entities throughout the United States as indicated. Your signature below confirms that you understand your service commitments during the term of a contract awarded under this proposal.

Election Systems & Software LLC

Company Name

Richard J. Jablonski Digitally signed by Richard J. Jablonski
Date: 2017.03.20 11:20:12 -05'00'

Richard J. Jablonski

Signature of Authorized Company Official

Printed Name

If this State Service Designation form applies to only one or some of the products and services proposed by Vendor, list the products and services to which this form applies here:



NATIONAL PURCHASING COOPERATIVE VENDOR AWARD AGREEMENT

In accordance with the Terms and Conditions associated with this Proposal Invitation, a contract awarded under this Proposal Invitation may be "piggy-backed" by another governmental entity. The National Purchasing Cooperative is an intergovernmental purchasing cooperative formed by certain school districts outside of Texas to serve its members throughout the United States. If you agree to be considered for a piggy-back award by the National Purchasing Cooperative, you agree to the following terms and agree to serve National Purchasing Cooperative members in the states you have indicated on the State Service Designation form, in your Proposal.

By signing this form, Proposer (referred to in this Agreement as "Vendor") agrees as follows:

1. Vendor acknowledges that if The Local Government Purchasing Cooperative ("Texas Cooperative") awards Vendor a contract under this Proposal Invitation ("Underlying Award"), the National Purchasing Cooperative ("National Cooperative") may - but is not required to - "piggy-back" on or re-award all or a portion of that Underlying Award ("Piggy-Back Award"). By signing this National Cooperative Vendor Award Agreement ("Agreement"), Vendor accepts and agrees to be bound by any such Piggy-Back Award as provided for herein.
2. In the event National Cooperative awards Vendor a Piggy-Back Award, the National Cooperative Administrator ("BuyBoard Administrator") will notify Vendor in writing of such Piggy-Back Award, which award shall commence on the effective date stated in the Notice and end on the expiration date of the Underlying Award, subject to annual renewals as authorized in writing by the BuyBoard Administrator. Vendor agrees that no further signature or other action is required of Vendor in order for the Piggy-Back Award and this Agreement to be binding upon Vendor. Vendor further agrees that no interlineations or changes to this Agreement by Vendor will be binding on National Cooperative, unless such changes are agreed to by its BuyBoard Administrator in writing.
3. Vendor agrees that it shall offer its goods and services to National Cooperative members at the same unit pricing and same general terms and conditions, subject to applicable state laws in the state of purchase, as required by the Underlying Award. However, nothing in this Agreement prevents Vendor from offering National Cooperative members better (i.e., lower) competitive pricing and more favorable terms and conditions than those in the Underlying Award.
4. Vendor hereby agrees and confirms that it will serve those states it has designated on the State Service Designation Form of this Proposal Invitation. Any changes to the states designated on the State Service Designation Form must be approved in writing by the BuyBoard Administrator.
5. Vendor agrees to pay National Cooperative the service fee provided for in the Underlying Award based on the amount of purchases generated from National Cooperative members through the Piggy-Back Award. Vendor shall remit payment to National Cooperative on such schedule as it specifies (which shall not be more often than monthly). Further, upon request, Vendor shall provide National Cooperative with copies of all purchase orders generated from National Cooperative members for purposes of reviewing and verifying purchase activity. Vendor further agrees that National Cooperative shall have the right, upon reasonable written notice, to review Vendor's records pertaining to purchases made by National Cooperative members in order to verify the accuracy of service fees.
6. Vendor agrees that the Underlying Award, including its General Terms and Conditions, are adopted by reference to the fullest extent such provisions can reasonably apply to the post-proposal/contract award phase. The rights and responsibilities that would ordinarily inure to the Texas Cooperative pursuant to the Underlying Award shall inure to National Cooperative; and, conversely, the rights and responsibilities that would ordinarily inure to Vendor in the Underlying Award shall inure to Vendor in this Agreement. Vendor recognizes and agrees that Vendor and National Cooperative are the only parties to this Agreement, and that nothing in this Agreement has application to other third parties, including the Texas Cooperative. In the event of conflict between this Agreement and the terms of the Underlying Award, the terms of this Agreement shall control, and then only to the extent necessary to reconcile the conflict.



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7. This Agreement shall be governed and construed in accordance with the laws of the State of Rhode Island and venue for any dispute shall lie in the federal district court of Alexandria, Virginia.

8. Vendor acknowledges and agrees that the award of a Piggy-Back Award is within the sole discretion of National Cooperative, and that this Agreement does not take effect unless and until National Cooperative awards Vendor a Piggy-Back Award and the BuyBoard Administrator notifies Vendor in writing of such Piggy-Back Award as provided for herein.

WHEREFORE, by signing below Vendor agrees to the foregoing and warrants that it has the authority to enter into this Agreement.

Election Systems & Software, LLC

Name of Vendor

Richard J. Jablonski Digitally signed by Richard J. Jablonski
Date: 2017.03.20 12:22:19 -05'00'

Signature of Authorized Company Official

542-17

Proposal Invitation Number

Richard J. Jablonski

Printed Name of Authorized Company Official

03/20/2017

Date

Footnote: ES&S does not want to be considered for a piggy-back award as part of this National Purchasing Cooperative Vendor Award Agreement. As a result, per the Q&A/Addenda, ES&S has chosen not to sign this National Purchasing Cooperative Vendor Award Agreement form.



FEDERAL AND STATE/PURCHASING COOPERATIVE EXPERIENCE

The Cooperative strives to provide its members with the best services and products at the best prices available from vendors with the technical resources and ability to serve Cooperative members. Please respond to the following questions.

1. Provide the dollar value of sales to or through purchasing cooperatives at or based on an established catalog or market price during the previous 12-month period or the last fiscal year: \$ 3,238,637.74. (The period of the 12 month period is January 1, 2016 / December 31, 2016). In the event that a dollar value is not an appropriate measure of the sales, provide and describe your own measure of the sales of the item(s).
2. By submitting a proposal, you agree that, based on your written discounting policies, the discounts you offer the Cooperative are equal to or better than the best price you offer other purchasing cooperatives for the same items under equivalent circumstances.
3. Provide the information requested below for other purchasing cooperatives for which Proposer currently serves, or in the past has served, as an awarded vendor. Rows should be added to accommodate as many purchasing cooperatives as required.

PURCHASING GROUP	CURRENT VENDOR? (Y/N)	FORMER VENDOR (Y/N)? – IF YES, LIST YEARS AS VENDOR	AWARDED COMMODITY CATEGORY(IES)
1. Federal General Services Administration	N	N	N/A
2. T-PASS (State of Texas)	N	N	N/A
3. U.S. Communities Purchasing Alliance	N	N	N/A
4. National IPA/TCPN	N	N	N/A
5. Houston-Galveston Area Council (HGAC)	N	N	N/A
6. National Joint Powers Alliance (NJPA)	N	N	N/A
7. E&I Cooperative	N	N	N/A
8. The Interlocal Purchasing System (TIPS)	N	N	N/A
9. Other	continued below	continued below	continued below

MY COMPANY DOES NOT CURRENTLY HAVE ANY OF THE ABOVE OR SIMILAR TYPE CONTRACTS.

CURRENT BUYBOARD VENDORS

If you are a current BuyBoard vendor in the same contract category as proposed in this Proposal Invitation, indicate the discount for your current BuyBoard contract and the proposed discount in this Proposal. Explain any difference between your current and proposed discounts.

Current Discount (%): N/A

Proposed Discount (%): 0.00

Explanation: _____



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By signature below, I certify that the above is true, complete and accurate and that I am authorized by my company to make this certification.

Election Systems & Software, LLC

Company Name

Richard J. Jablonski Digitally signed by Richard J. Jablonski
Date: 2017.03.20 11:22:09 -05'00'

Richard J. Jablonski

Signature of Authorized Company Official

Printed Name

PURCHASING GROUP	CURRENT VENDOR? (Y/N)	FORMER VENDOR (Y/N)? – IF YES, LIST YEARS AS VENDOR	AWARDED COMMODITY CATEGORY(IES)
<i>CONTINUED....</i> 9. Commonwealth of Pennsylvania – Department of General Services – COSTARS Program	Y	N	Voting systems and services



GOVERNMENTAL REFERENCES

For your Proposal to be considered, you must supply a minimum of five (5) individual governmental entity references. The Cooperative may contact any and all references provided as part of the Proposal evaluation. Provide the information requested below, including the existing price/discounts you offer each customer. The Cooperative may determine whether prices/discounts are fair and reasonable by comparing prices/discounts stated in your Proposal with the prices/discounts you offer other governmental customers. Attach additional pages if necessary.

Entity Name	Contact	Phone#	Email Address	Discount	Quantity/ Volume
1. Wilson County, Tennessee	Mr. Phillip Warren	(615) 444-0314	pwarren@wilsonelections.com	0.00%	(40) DS200s & (200) ExpressVotes
2. Monongalia County, West Virginia	Ms. Carye Blaney	(304) 291-7230	cblaney@monongaliacountyclerk.com	0.00%	(60) DS200s, (291) ExpressVotes, (120) Pollbooks & (1) MBV
3. Hennepin County, Minnesota	Ms. Ginny Gelms	(612) 348-9289	virginia.gelms@co.hennepin.mn.us	0.00%	(28) DS200s & (7) DS850s
4. Sedgwick County, Kansas	Ms. Sandra Gritz	(316) 660-7122	sandra.gritz@sedgwick.gov	0.00%	(200) DS200s, (1) DS850 & (900) ExpressVotes
5. Orange County, Florida	Mr. Luis Torres	(407) 254-6532	Luis@ocfelections.com	0.00%	(321) DS200s, (5) DS850, (260) ExpressVotes & (19) MBVs

Do you ever modify your written policies or standard governmental sales practices as identified in the above chart to give better discounts (lower prices) than indicated? **YES** **NO** If YES, please explain:

ES&S maintains consistent pricing for its products throughout the nation. Some discounts are applied based on specific circumstances to the opportunity (ie. quantity discounts, upgrades versus new sales, and trade in allowances)

By signature below, I certify that the above is true and correct and that I am authorized by my company to make this certification.

Election Systems & Software, LLC

Company Name

Richard J. Jablonski Digitally signed by Richard J. Jablonski
Date: 2017.03.20 11:22:58 -05'00'

Signature of Authorized Company Official

Richard J. Jablonski

Printed Name

Footnote: For more information, see the following appendices, which are attached hereto:

- 1) Appendix B: Enhancing Wilson County TN Elections
- 2) Appendix C: Reference Letter Monongalia County
- 3) Appendix D: ExpressVote Gets Put to the Test



MARKETING STRATEGY

For your Proposal to be considered, you must submit the Marketing Strategy you will use if the Cooperative accepts all or part of your Proposal. *(Example: Explain how your company will initially inform Cooperative members of your BuyBoard contract, and how you will continue to support the BuyBoard for the duration of the contract period.)*

Attach additional pages if necessary.

If the cooperative accepts all or part of our proposal, ES&S' marketing strategy will include emails to counties, fliers and signage at conferences, and business cards to promote the Buy Board once permission to use the Buy Board logo is obtained.

Election Systems & Software, LLC

Company Name

Richard J. Jablonski Digitally signed by Richard J. Jablonski
Date: 2017.03.20 11:23:59 -05'00'

Signature of Authorized Company Official

Richard J. Jablonski

Printed Name



CONFIDENTIAL/PROPRIETARY INFORMATION

A. Public Disclosure Laws

All Proposals, forms, documentation, or other materials submitted by Vendor to the Cooperative in response to this Proposal Invitation, including catalogs and pricelists, may be subject to the disclosure requirements of the Texas Public Information Act (Texas Government Code chapter 552.001, *et. seq.*) or similar disclosure law. Proposer must clearly identify on this form any information in its Proposal (including forms, documentation, or other materials submitted with the Proposal) that Proposer considers proprietary or confidential. If Proposer fails to properly identify the information, the Cooperative shall have no obligation to notify Vendor or seek protection of such information from public disclosure should a member of the public or other third party request access to the information under the Texas Public Information Act or similar disclosure law. Proposer will be notified of any third party request for information in a Proposal that Proposer has identified in this form as proprietary or confidential.

Does your Proposal (including forms, documentation, or other materials submitted with the Proposal) contain information which Vendor considers proprietary or confidential?

Please check (✓) one of the following:

NO, I certify that none of the information included with this Proposal is considered confidential or proprietary.

YES, I certify that this Proposal contains information considered confidential or proprietary and all such information is specifically identified on this form.

If you responded "YES", you must identify below the specific information you consider confidential or proprietary. List each page number, form number, or other information sufficient to make the information readily identifiable. The Cooperative and its Administrator will not be responsible for a Proposer's failure to clearly identify information considered confidential or proprietary. Further, by submitting a Proposal, Proposer acknowledges that the Cooperative and its Administrator will disclose information when required by law, even if such information has been identified herein as information the vendor considers confidential or proprietary.

Confidential / Proprietary Information:

1) Original Bid Document - Page(s) 23 & 24 of 61 - Federal and State Purchasing Cooperative Experience form, Item #1 - ES&S' "dollar value of sales"

2) Original Bid Document - Page 25 of 61 - ES&S' Governmental References

3) Original Bid Document - Page 34 of 61 - Proposal Invitation Questionnaire - Response to Item #3 (and correlating appendices)

(Attach additional sheets if needed.)



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B. Copyright Information

Does your Proposal (including forms, documentation, or other materials submitted with the Proposal) contain copyright information?

Please check (✓) one of the following:

- NO**, Proposal (including forms, documentation, or other materials submitted with the Proposal) does not contain copyright information.
- YES**, Proposal (including forms, documentation, or other materials submitted with the Proposal) does contain copyright information.

If you responded "YES", identify below the specific documents or pages containing copyright information.

Copyright Information: N/A

(Attach additional sheets if needed.)

C. Consent to Release Confidential/Proprietary/Copyright Information to BuyBoard Members

BuyBoard members (Cooperative and nonprofit members) seeking to make purchases through the BuyBoard may wish to view information included in the Proposals of awarded Vendors. If you identified information on this form as confidential, proprietary, or subject to copyright, and you are awarded a BuyBoard contract, your acceptance of the BuyBoard contract award constitutes your consent to the disclosure of such information to BuyBoard members, including posting of such information on the secure BuyBoard website for members. Note: Neither the Cooperative nor its Administrator will be responsible for the use or distribution of information by BuyBoard members or any other party.

D. Consent to Release Proposal Tabulation

Notwithstanding anything in this Confidential/Proprietary Information form to the contrary, by submitting a Proposal, Vendor consents and agrees that, upon Contract award, the Cooperative may publically release, including posting on the public BuyBoard website, a copy of the proposal tabulation for the Contract including Vendor name; proposed catalog/pricelist name(s); proposed percentage discount(s), hourly labor rate(s), or other specified pricing; and Vendor award or non-award information.

By signature below, I certify that the information in this form is true, complete, and accurate and that I am authorized by my company to make this certification and all consents and agreements contained herein.

Election Systems & Software, LLC

Company Name

Richard J. Jablonski Digitally signed by Richard J. Jablonski
Date: 2017.03.20 11:25:07 -05'00'

Signature of Authorized Company Official

Richard J. Jablonski

Printed Name

03/20/2017

Date



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VENDOR BUSINESS NAME

By submitting a Proposal, Proposer is seeking to enter into a legal contract with the Cooperative. As such, a Proposer must be an individual or legal business entity capable of entering into a binding contract. Proposers, must completely and accurately provide the information requested below or your Proposal may be deemed non-responsive.

Name of Proposing Company: Election Systems & Software, LLC

*(List the **legal** name of the company seeking to contract with the Cooperative. Do **NOT** list an assumed name, dba, aka, etc. here. Such information may be provided below. If you are submitting a joint proposal with another entity to provide the same proposed goods or services, each submitting entity should complete a separate vendor information form. Separately operating legal business entities, even if affiliated entities, which propose to provide goods or services separately must submit their own Proposals.)*

Please check (✓) one of the following:

Type of Business:

- Individual/Sole Proprietor _____
- Corporation _____
- Limited Liability Company _____
- Partnership _____
- Other _____

If other, identify _____

State of Incorporation (if applicable): Delaware

Federal Employer Identification Number: 47-0617567

*(Vendor must include a completed **IRS W-9** form with their proposal)*

List the Name(s) by which Vendor, if awarded, wishes to be identified on the BuyBoard: *(Note: If different than the Name of Proposing Company listed above, only valid trade names (dba, aka, etc.) of the Proposing Company may be used and a copy of your Assumed Name Certificate(s), if applicable, must be attached.)*

N/A

ES&S Footnote: See **Appendix E** for a completed IRS W-9 form.

Request for Taxpayer Identification Number and Certification

**Give Form to the
requester. Do not
send to the IRS.**

Print or type See Specific Instructions on page 2.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. Election Systems & Software, LLC		
	2 Business name/disregarded entity name, if different from above		
	3 Check appropriate box for federal tax classification; check only one of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input checked="" type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____		4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
	5 Address (number, street, and apt. or suite no.) 11208 John Galt Blvd		Requester's name and address (optional)
	6 City, state, and ZIP code Omaha, NE 68137		
	7 List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number										
or										
Employer identification number										
4	7		-	0	6	1	7	5	6	7

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here	Signature of U.S. person ▶	Date ▶ <u>3/2/2017</u>
------------------	----------------------------	------------------------

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.



EDGAR VENDOR CERTIFICATION **(2 CFR Part 200 and Appendix II)**

When a Cooperative member seeks to procure goods and services using funds under a federal grant or contract, specific federal laws, regulations, and requirements may apply in addition to those under state law. This includes, but is not limited to, the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR 200 (sometimes referred to as the "Uniform Guidance" or new "EDGAR"). All Vendors submitting proposals must complete this EDGAR Certification Form regarding Vendor's willingness and ability to comply with certain requirements which *may* be applicable to specific Cooperative member purchases using federal grant funds. This completed form will be made available to Cooperative members for their use while considering their purchasing options when using federal grant funds. Cooperative members may also require Vendors to enter into ancillary agreements, in addition to the BuyBoard contract's general terms and conditions, to address the member's specific contractual needs, including contract requirements for a procurement using federal grants or contracts.

For each of the Items below, Vendor should certify Vendor's agreement and ability to comply, where applicable, by having Vendor's authorized representative complete and initial the applicable boxes and sign the acknowledgment at the end of this form. If you fail to complete any item in this form, the Cooperative will consider and may list the Vendor's response on the BuyBoard as "NO," the Vendor is unable or unwilling to comply. A "NO" response to any of the items may, if applicable, impact the ability of a Cooperative member to purchase from the Vendor using federal funds.

1. Vendor Violation or Breach of Contract Terms:

Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 USC 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Provisions regarding Vendor default are included in the BuyBoard General Terms and Conditions, including Section E.18, Remedies for Default and Termination of Contract. Any Contract award will be subject to such BuyBoard General Terms and Conditions, as well as any additional terms and conditions in any Purchase Order, Cooperative member ancillary contract, or Member Construction Contract agreed upon by Vendor and the Cooperative member which must be consistent with and protect the Cooperative member at least to the same extent as the BuyBoard Terms and Conditions.

The remedies under the Contract are in addition to any other remedies that may be available under law or in equity. By submitting a Proposal, you agree to these Vendor violation and breach of contract terms.

2. Termination for Cause or Convenience:

For any Cooperative member purchase or contract in excess of \$10,000 made using federal funds, you agree that the following term and condition shall apply:

The Cooperative member may terminate or cancel any purchase order under this Contract at any time, with or without cause, by providing seven (7) business days advance written notice to the Vendor. If this Agreement is terminated in accordance with this Paragraph, the Cooperative member shall only be required to pay Vendor for goods or services delivered to the Cooperative member prior to the termination and not otherwise returned in accordance with Vendor's return policy. If the Cooperative member has paid Vendor for goods or services not yet provided as of the date of termination, Vendor shall immediately refund such payment(s).

If an alternate provision for termination of a Cooperative member purchase for cause and convenience, including the manner by which it will be effected and the basis for settlement, is included in the Cooperative member's purchase order, ancillary agreement, or Member Construction Contract agreed to by the Vendor, the Cooperative member's provision shall control.



3. Equal Employment Opportunity:

Except as otherwise provided under 41 CFR Part 60, all Cooperative member purchases or contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 shall be deemed to include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

The equal opportunity clause provided under 41 CFR 60-1.4(b) is hereby incorporated by reference. Vendor agrees that such provision applies to any Cooperative member purchase or contract that meets the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 and Vendor agrees that it shall comply with such provision.

4. Davis-Bacon Act:

When required by Federal program legislation, Vendor agrees that, for all Cooperative member prime construction contracts/purchases in excess of \$2,000, Vendor shall comply with the Davis-Bacon Act (40 USC 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, Vendor is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determinate made by the Secretary of Labor. In addition, Vendor shall pay wages not less than once a week.

Current prevailing wage determinations issued by the Department of Labor are available at www.wdol.gov. Vendor agrees that, for any purchase to which this requirement applies, the award of the purchase to the Vendor is conditioned upon Vendor's acceptance of the wage determination.

Vendor further agrees that it shall also comply with the Copeland "Anti-Kickback" Act (40 USC 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

5. Contract Work Hours and Safety Standards Act:

Where applicable, for all Cooperative member contracts or purchases in excess of \$100,000 that involve the employment of mechanics or laborers, Vendor agrees to comply with 40 USC 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 USC 3702 of the Act, Vendor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 USC 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

6. Right to Inventions Made Under a Contract or Agreement:

If the Cooperative member's Federal award meets the definition of "funding agreement" under 37 CFR 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance or experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Vendor agrees to comply with the above requirements when applicable.



7. Clean Air Act and Federal Water Pollution Control Act:

Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act (33 USC 1251-1387), as amended – Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act, as amended (33 USC 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

When required, Vendor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act.

8. Debarment and Suspension:

Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1966 Comp. p. 189) and 12689 (3 CFR Part 1989 Comp. p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Vendor certifies that Vendor is not currently listed on the government-wide exclusions in SAM, is not debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory authority other than Executive Order 12549. Vendor further agrees to immediately notify the Cooperative and all Cooperative members with pending purchases or seeking to purchase from Vendor if Vendor is later listed on the government-wide exclusions in SAM, or is debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory authority other than Executive Order 12549.

9. Byrd Anti-Lobbying Amendment:

Byrd Anti-Lobbying Amendment (31 USC 1352) -- Vendors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. As applicable, Vendor agrees to file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 USC 1352).

10. Procurement of Recovered Materials:

For Cooperative member purchases utilizing Federal funds, Vendor agrees to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act where applicable and provide such information and certifications as a Cooperative member may require to confirm estimates and otherwise comply. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery, and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

11. Profit as a Separate Element of Price:

For purchases using federal funds in excess of \$150,000, a Cooperative member may be required to negotiate profit as a separate element of the price. See, 2 CFR 200.323(b). When required by a Cooperative member, Vendor agrees to provide information and negotiate with the Cooperative member regarding profit as a separate element of the price for a particular purchase. However, Vendor agrees that the total price, including profit, charged by Vendor to the Cooperative member shall not exceed the awarded pricing, including any applicable discount, under Vendor's Cooperative Contract.



12. General Compliance and Cooperation with Cooperative Members:

In addition to the foregoing specific requirements, Vendor agrees, in accepting any Purchase Order from a Cooperative member, it shall make a good faith effort to work with Cooperative members to provide such information and to satisfy such requirements as may apply to a particular Cooperative member purchase or purchases including, but not limited to, applicable recordkeeping and record retention requirements.

Vendor Certification Item No.	Vendor Certification: YES, I agree or NO, I do NOT agree	Initial
1. Vendor Violation or Breach of Contract Terms	YES	RJJ
2. Termination for Cause or Convenience	YES	RJJ
3. Equal Employment Opportunity	YES	RJJ
4. Davis-Bacon Act	YES	RJJ
5. Contract Work Hours and Safety Standards Act	YES	RJJ
6. Right to Inventions Made Under a Contract or Agreement	YES	RJJ
7. Clean Air Act and Federal Water Pollution Control Act	YES	RJJ
8. Debarment and Suspension	YES	RJJ
9. Byrd Anti-Lobbying Amendment	YES	RJJ
10. Procurement of Recovered Materials	YES	RJJ
11. Profit as a Separate Element of Price	YES	RJJ
12. General Compliance and Cooperation with Cooperative Members	YES	RJJ

By signature below, I certify that the information in this form is true, complete, and accurate and that I am authorized by my company to make this certification and all consents and agreements contained herein.

Election Systems & Software, LLC

Company Name

Richard J. Jablonski Digitally signed by Richard J. Jablonski
Date: 2017.03.20 11:28:28 -05'00'

Signature of Authorized Company Official

Richard J. Jablonski

Printed Name



PROPOSAL INVITATION QUESTIONNAIRE

The Cooperative will use your responses to the questions below in evaluating your Proposal and technical and financial resources to provide the goods and perform the services ("Work") under the BuyBoard contract contemplated by this Proposal Invitation ("Contract"). Proposers must fully answer each question, numbering your responses to correspond to the questions/numbers below. Proposers must complete below or attach your responses to this questionnaire, sign where indicated below, and submit the signed questionnaire and your responses to all questions in one document with your Proposal. **You must submit the signed questionnaire and responses with your Proposal or the Proposal will not be considered.**

1. List the number of years Proposer has been in business and former business names (if applicable). Note whether your company is currently for sale or involved in any transaction that would significantly alter its business or result in acquisition by another entity.

ES&S has been in business nearly 40 years. ES&S' former business name(s) include
Election Systems & Software, Inc. ES&S is not for sale or involved in any
transaction that would significantly alter its business or result in acquisition
by another entity.

2. Describe the resources Proposer has to manage staff and successfully perform the Work contemplated under this Contract. State the number and summarize the experience of company personnel who may be utilized for the Work, including those who will be available to Cooperative members for assistance with project development, technical issues, and product selection for Work associated with this Contract.

ES&S staffs 13 operating locations in the U.S. With proven leadership and approximately 450 election professionals, ES&S has the resources and financial strength to provide an outstanding implementation.

ES&S has performed 18 statewide implementations. In 2016, ES&S served 104 million voters and 40 states with 15 statewide accounts. Our project management team methodically carries out the formal work plan to achieve successful

implementation. Project team members, who also are available to Cooperative members, are: VP of Corporate Sales (24 years); TX Dir. of Sales (19 years); Regional Sales Mgr. (2 years); Account Mgr. (1 year);

BOD Sales Mgr. (5 years); Dir. of Account Mngmt. (21 years); Project Mgr. (3 years); Natl. Sales Mgr. for Pollbook (24 years); Lead Trainer (8 years); Regional Mgr.-Field Svcs. (7 years); and seven (7) Field Svc. Techs (54 years combined).

3. Describe Proposer's financial capability to perform the Contract. State or describe the firm's financial strength and rating, bonding capacity, and insurance coverage limits. State whether the firm, or any of the firm's past or present owners, principal shareholders or stockholders, or officers, have been a debtor party to a bankruptcy, receivership, or insolvency proceeding in the last 7 years, and identify any such debtor party by name and relationship to or position with your firm.

ES&S has included its audited financial statements, attached hereto as Appendix F: Evidence of Financial Stability, which depict the financial strength of the company and a clean rating. By all measures,

ES&S has consistently shown financial results favorable to the marketplace and those results have advantaged and enhanced ES&S's ability to gain access to bonding consistent with all customer requests large or small.

ES&S would be happy to discuss any financial or bonding matters with the Cooperative should the Cooperative have any additional questions. Please also see Appendix G: ESS Evidence of Coverage for insurance coverage limits.

Neither the firm, the firm's past/present owners, principal shareholders/stockholders, or officers have been a debtor party to a bankruptcy, receivership, or insolvency proceeding in the last seven (7) years.



12007 Research Boulevard • Austin, Texas 78759-2439 • PH: 800-695-2919 • FAX: 800-211-5454 • www.buyboard.com

4. Does your company have any outstanding financial judgments and/or is it currently in default on any loan or financing agreement? If so, provide detailed information on the nature of such items and prospects for resolution.

N/A

5. List all contracts, if any, in the last 10 years on which Proposer has defaulted, failed to complete or deliver the work, or that have been terminated for any reason. For each such contract, provide the project name, scope, value and date and the name of the procuring entity. Fully explain the circumstances of the default, failure to complete or deliver the work, or termination.

N/A

6. List all litigation or other legal proceedings (including arbitration proceedings), if any, in the last 10 years brought against your firm, or any of the firm's past or present owners, principal shareholders or stockholders, officers, agents or employees, that relates to or arises from a contract similar to this Contract or the work contemplated under this Contract. Provide the style of the lawsuit or proceeding (name of parties and court or tribunal in which filed), nature of the claim, and resolution or current status.

N/A

Richard J. Jablonski

Digitally signed by Richard J. Jablonski
Date: 2017.03.20 11:29:22 -05'00'

By signature below, I certify that the information contained in and/or attached to this Proposal Invitation Questionnaire in response to the above questions is true and correct and that I am authorized by my company to make this certification.

Election Systems & Software, LLC

Company Name

Richard J. Jablonski

Digitally signed by Richard J. Jablonski
Date: 2017.03.20 11:29:38 -05'00'

Signature of Authorized Company Official



REQUIRED FORMS CHECKLIST

(Please check (✓) the following)

- Completed: **Proposer's Agreement and Signature**
- Completed: **Vendor Contact Information**
- Completed: **Felony Conviction Disclosure and Debarment Certification**
- Completed: **Resident/Nonresident Certification**
- Completed: **Historically Underutilized Business (HUB) Certification**
- Completed: **Construction Related Goods and Services Affirmation**
- Completed: **Deviation/Compliance**
- Completed: **Dealership Listings**
- Completed: **Texas Regional Service Designation**
- Completed: **State Service Designation**
- Completed: **National Purchasing Cooperative Vendor Award Agreement**
- Completed: **Federal and State/Purchasing Cooperative Experience**
- Completed: **Governmental References**
- Completed: **Marketing Strategy**
- Completed: **Confidential/Proprietary Information**
- Completed: **Vendor Business Name with IRS Form W-9**
- Completed: **EDGAR Vendor Certification**
- Completed: **Proposal Invitation Questionnaire**
- Completed: **Required Forms Checklist**
- Completed: **Proposal Specification Form with Catalogs/Pricelists and Certification Statement From Secretary of State**

**Catalogs/Pricelists must be submitted with proposal response or response will not be considered.*

ES&S Footnote:

See the appendices A-K, attached hereto, for additional information.



Proposal Invitation No. 542-17-Election Voting Systems Equipment and Supplies

(Catalogs/Pricelists must be submitted with Proposal or Proposal will not be considered¹.)

NOTE: Vendors proposing various manufacturer product lines per line item on the Proposal Specification Form must submit the information as follows or proposal may not be considered:

Manufacturers shall be listed in alphabetical order

Vendor's must list one specific percentage discount for each Manufacturer listed.

If a vendor's response to Proposal Specification Form states "please see attachment sheet," all manufacturers listed on the attachment sheet must indicate per manufacturer the line item that correlates to Proposal Specification Form or Vendor's proposal may not be considered.

NOTE 2: Voting system must be approved by the Secretary of State with respect to compliance of the voting system and voting system equipment with applicable state requirements. Proposer's responding to this Proposal Invitation should submit Certification Statement From Secretary of State.

Item No.	Short Description	Full Description	State Percent (%) of Discount off Catalog/Pricelist ¹	State Name of Catalog/Pricelist ¹	Exceptions to Discount
Section I: Equipment, Products, and Supplies					
1	Discount (%) Off Catalog/Pricelist for Election Voting Systems Equipment	Please state the discount (%) off catalog/pricelist for Election Voting Systems Equipment. Catalog/Pricelist MUST be included or proposal will not be considered.	0%	Texas Product Catalog	Buyers should contact the Texas-based ES&S sales representative for available discounting, trade-in allowances, and financing options.
2	Discount (%) Off Catalog/Pricelist for Election Voting Systems Supplies	Please state the discount (%) off catalog/pricelist for Election Voting Systems Supplies. Catalog/Pricelist MUST be included or proposal will not be considered.	0%	Texas Product Catalog	Buyers should contact the Texas-based ES&S sales representative for available discounting, trade-in allowances, and financing options.
3	Discount (%) Off Catalog/Pricelist for Election Voting Systems Software	Please state the discount (%) off catalog/pricelist for Election Voting Systems Software.	0%	Texas Product Catalog	Buyers should contact the Texas-based ES&S sales representative for available discounting, trade-in allowances, and financing options.

PROPOSAL NOTE

1. Catalogs/Pricelists are required to be submitted with Proposal



Item No.	Short Description	Full Description	State Percent (%) of Discount off Catalog/Pricelist ¹	State Name of Catalog/Pricelist ¹	Exceptions to Discount
4	Discount (%) Off Catalog/Pricelist for Election Voting Services	Please state the discount (%) off catalog/pricelist for Election Voting Services (All types of services-Training New Staff, Operational Training, Ballot Production Services, Preventative Maintenance, and related services). Catalog/Pricelist MUST be included or proposal will not be considered.	0%	Texas Product Catalog	Buyers should contact the Texas-based ES&S sales representative for available discounting, trade-in allowances, and financing options.
5	Discount (%) Off Catalog/Pricelist for All Other Election Voting Systems Related Products	Please state the discount (%) off catalog/pricelist for All Other Election Voting Systems Related Products . Catalog/Pricelist MUST be included or proposal will not be considered.	0%	Texas Product Catalog	Buyers should contact the Texas-based ES&S sales representative for available discounting, trade-in allowances, and financing options.
Section II: Installation and Repair Service			Not to Exceed Hourly Labor Rate	Detailed Information on Hourly Labor Rate	Exceptions to Hourly Labor Rate
6	Not to Exceed Hourly Labor Rate for Installation/Repair Service and of Equipment and Products	Hourly Labor Rate for Installation/Repair of Election Voting Equipment and Products -- State the Not to Exceed hourly labor rate for Installation/Repair Service of Election Voting Equipment and Products.	\$ 445.00/ Hour	Hourly rate is per tech and includes travel costs.	8-hour day rates are billed at \$1,775.00 per tech and include travel costs.

ES&S FOOTNOTES

1. ES&S does not propose any other manufacturer product lines.
2. For more information, see the following appendices attached hereto: **Appendix H:** Certification Statement from SOS; **Appendix I:** Texas Product Catalog; and **Appendix J:** Pricelist.

PROPOSAL NOTE

1. Catalogs/Pricelists are required to be submitted with Proposal

The State of Texas



Elections Division
P.O. Box 12060
Austin, Texas 78711-2060
www.sos.state.tx.us

Phone: 512-463-5650
Fax: 512-475-2811
Dial 7-1-1 For Relay Services
(800) 252-VOTE (8683)

Carlos H. Cascos
Secretary of State

December 15, 2016

Brooke Thernes
State Certification Manager
Election Systems and Software
11208 John Galt Blvd.
Omaha, Nebraska 68137

Dear Ms. Thernes:

This letter is to inform you that pursuant to Chapter 122 of the Texas Election Code, the Secretary of State has approved EVS 5.2.1.0, ExpressVote and AutoMARK Voting Systems for use in Texas elections with some conditions. Enclosed please find the signed certification with conditions.

If you have any questions, please contact our office toll-free at 1-800-252-VOTE (8683).

Sincerely,

A handwritten signature in blue ink, appearing to read "KI", written over the printed name of Keith Ingram.

Keith Ingram
Director of Elections

KI:AF

GENERAL TERMS

1. **Purchase/License Terms.** Subject to the terms and conditions of this Agreement, ES&S agrees to sell and/or license, and Customer agrees to purchase and/or license, the ES&S Equipment, ES&S Software and ES&S Firmware described on the reverse side. The ES&S Firmware and ES&S Software are collectively referred to hereinafter as the "ES&S Software." The payment terms for the ES&S Equipment and ES&S Software are set forth on the reverse side. Title to the ES&S Equipment shall pass to Customer when Customer has paid ES&S the total amount set forth on the reverse side for the ES&S Equipment. The consideration for ES&S' grant of the license during the Initial Term for the ES&S Firmware is included in the cost of the ES&S Equipment.

2. **Grant of Licenses.** Subject to the terms and conditions of this Agreement, ES&S hereby grants to Customer nonexclusive, nontransferable licenses for its bona fide full time employees to use the ES&S Software and related Documentation in the Jurisdiction while Customer is using the ES&S Equipment and timely pays the applicable annual ES&S Software License, Maintenance and Support Fees set forth on Schedule A1. The licenses allow such bona fide employees to use and copy the ES&S Software (in object code only) and the Documentation, in the course of operating the ES&S Equipment and solely for the purposes of defining and conducting elections and tabulating and reporting election results in Customer's jurisdiction. The licenses granted in this Section 2 do not permit Customer to access or in any way use the source code for the ES&S Software.

3. **Prohibited Uses.** Customer shall not take any of the following actions with respect to the ES&S Software or the Documentation:

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 ES&S Software;

b. Cause or permit any use, display, loan, publication, transfer of possession, sublicensing or other dissemination of the ES&S Software or Documentation, in whole or in part, to or by any third party without ES&S' prior written consent; or

c. Cause or permit any change to be made to the ES&S Software without ES&S' prior written consent; or

d. Allow a third party to cause or permit any copying, reproduction or printing of any output generated by the ES&S Software in which ES&S owns or claims any proprietary intellectual property rights (e.g., copyright, trademark, patent pending or patent), including, but not limited to, any ballot shells or ballot code stock.

4. **Term of Licenses.** The licenses granted in Section 2 shall commence upon the delivery of the ES&S Software described in Section 2 and shall continue for a one-year period (the "Initial License Term"). Upon expiration of the Initial License Term, the licenses shall automatically renew for an unlimited number of successive one-year periods (each a "License Renewal Term") upon the payment by Customer of the annual software license and software maintenance and support fee as set forth on the reverse side. ES&S may terminate either license if Customer fails to pay the consideration due for, or breaches Sections 2, 3, or 9 with respect to, such license. Upon the termination of either of the licenses granted in Section 2 for ES&S Software or upon Customer's discontinuance of the use of any ES&S Software, Customer shall immediately return such ES&S Software and the related Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

5. **Updates.** During the Initial License Term or any License Renewal Term, ES&S may provide new releases, upgrades or maintenance patches to the ES&S Software, together with appropriate Documentation ("Updates"), on a schedule defined by ES&S. Customer is responsible for obtaining any upgrades or purchases of Third Party Items required to operate the Updates. All Updates shall be deemed to be ES&S Software for purposes of this Agreement upon delivery. Customer may install the Updates in accordance with ES&S' recommended instructions or may request that ES&S install the Updates. ES&S may charge Customer at its then-current rates to (i) deliver the Updates to the Customer, (ii) train Customer on Updates, if such training is requested by Customer; (iii) install the Updates or (iv) provide maintenance and support on the ES&S Software that is required as a result of Customer's failure to timely or properly install an Update. Customer shall be responsible for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee which is caused by Customer's failure to install and use the most recent Update provided to it by ES&S. If Customer proposes changes in the ES&S Software to ES&S, such proposals will become ES&S' property. ES&S may, in its sole discretion, elect to make or not to make such changes without reference or compensation to Customer or any third party. ES&S represents to Customer that the Updates will comply with all applicable state law requirements at the time of delivery. Customer shall be responsible to ensure that it has installed and is using only certified versions of ES&S Software in accordance with applicable law. Customer shall pay ES&S for any Update which is required due to a change in state or local law.

6. **Delivery; Risk of Loss.** The Estimated Delivery Dates set forth on the reverse side are merely estimates and may be revised by ES&S because of delays in executing this Agreement, changes requested by Customer and other events. ES&S will notify Customer of revisions to the Estimated Delivery Dates as soon as ES&S becomes aware of such revisions. Risk of loss for the ES&S Equipment and ES&S Software shall pass to Customer when such items are delivered to Customer's designated location. Upon transfer of risk of loss to Customer, Customer shall be responsible for obtaining and maintaining sufficient casualty insurance on the ES&S Equipment and ES&S Software and shall name ES&S as an additional insured thereunder until all amounts payable to ES&S under this Agreement have been paid by Customer.

7. **Warranty.**

a. **ES&S Equipment/ES&S Software.** ES&S warrants that for a 1-year period (the "Warranty Period"), it will repair or replace any component of the ES&S Equipment or ES&S Software which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. The Warranty Period will commence upon delivery. The Warranty shall not include the repair or replacement of any ES&S Equipment components that are consumed in the normal course of operating the ES&S Equipment, including printer ribbons, printer cartridges, paper rolls, batteries, removable media storage devices, PCMCIA cards or marking devices. Any repaired or replaced item of ES&S Equipment or ES&S Software shall be warranted only for the unexpired term of the Warranty Period. All replaced components of the ES&S Equipment or ES&S Software will become the property of ES&S. This warranty is effective provided that (I) Customer promptly notifies ES&S of the failure of performance or defect and is otherwise in compliance with its obligations hereunder, (II) the ES&S Equipment or ES&S Software to be repaired or replaced has not been repaired, changed, modified or altered except as authorized or approved by ES&S, (III) the ES&S Equipment or ES&S Software to be repaired or replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, use which is not in accordance with instructions or specifications furnished by ES&S or causes beyond

the reasonable control of ES&S or Customer, including acts of God, fire, riots, acts of war, terrorism or insurrection, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, and (IV) Customer has installed and is using the most recent update, or the second most recent update, provided to it by ES&S. This warranty is void for any units of equipment which: (i) have not been stored or operated in a temperature range according their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product. The terms of post-warranty license, maintenance and support are set forth on Exhibit A

b. **Exclusive Remedies/Disclaimer.** IN THE EVENT OF A BREACH OF SUBSECTION 7(a), ES&S' OBLIGATIONS, AS DESCRIBED IN SUCH SUBSECTION, ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES. ES&S 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. FURTHER, IN THE EVENT CUSTOMER DECLINES ES&S' INSTALLATION AND ACCEPTANCE TESTING SERVICES OR IN ANY WAY AT ANY TIME ALTERS, MODIFIES OR CHANGES ANY EQUIPMENT, SOFTWARE, THIRD PARTY ITEMS AND/OR NETWORK (COLLECTIVELY "SYSTEM") CONFIGURATIONS WHICH HAVE BEEN PREVIOUSLY INSTALLED BY ES&S OR WHICH ARE OTHERWISE REQUIRED IN ACCORDANCE WITH THE CERTIFIED VOTING SYSTEM CONFIGURATION, ALL WARRANTIES OTHERWISE PROVIDED HEREUNDER WITH RESPECT TO THE SYSTEM PURCHASED, LEASED, RENTED AND/OR LICENSED UNDER THIS AGREEMENT SHALL BE VOID AND OF NO FURTHER FORCE AND EFFECT.

8. **Limitation Of Liability.** Neither party shall be liable for any indirect, incidental, punitive, exemplary, special or consequential damages of any kind whatsoever arising out of or relating to this Agreement. Neither party shall be liable for the other party's negligent or willful misconduct. ES&S' total liability to Customer arising out of or relating to this Agreement shall not exceed the aggregate amount to be paid to ES&S hereunder. By entering into this Agreement, Customer agrees to accept responsibility for (a) the selection of the ES&S Equipment and ES&S Software to achieve Customer's intended results; (b) the use of the ES&S Equipment and ES&S Software; (c) the results obtained from the use of the ES&S Equipment and ES&S Software; (d) the selection of, use of and results obtained from any equipment, software or services not provided by ES&S and used with the ES&S Equipment or ES&S Software; or (e) user errors, voter errors or problems encountered by any individual in voting that are not otherwise a result of the failure of ES&S to perform. ES&S shall not be liable under this Agreement for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee that is caused by (y) Customer's failure to timely or properly install and use the most recent update, or the second most recent update, provided to it by ES&S or (z) Customer's election not to receive, or to terminate, the Hardware Maintenance Services or the ES&S Software Maintenance and Support.

9. **Proprietary Rights.** Customer acknowledges and agrees as follows:

ES&S owns the ES&S Software, all Documentation and training materials provided by ES&S, the design and configuration of the ES&S Equipment and the format, layout, measurements, design and all other technical information associated with the ballots to be used with the ES&S Equipment. Customer has the right to use the aforementioned items to the extent specified in this Agreement. ES&S also owns all patents, trademarks, copyrights, trade names and other proprietary or intellectual property in, or used in connection with, the aforementioned items. The aforementioned items also contain confidential and proprietary trade secrets of ES&S that are protected by law and are of substantial value to ES&S. Customer shall keep the ES&S Software and related Documentation free and clear of all claims, liens and encumbrances and shall maintain all copyright, trademark, patent or other intellectual or proprietary rights notices that are set forth on the ES&S Equipment, the ES&S Software, the Documentation, training materials and ballots that are provided, and all permitted copies of the foregoing.

10. **Indemnification.** To the fullest extent permitted under applicable law, Customer shall indemnify and hold harmless ES&S from and against any and all claims, damages, amounts paid in settlement and reasonable fees and costs (including reasonable attorneys' fees) (collectively "Adverse Consequences") arising out of or relating to the following:

a. Any claim that any of the ES&S Equipment or ES&S Software infringes upon any third party's copyright, trademark or patent existing as of the date hereof (a "Third Party Infringement Claim") resulting from (i) Customer's failure to timely or properly install and use any Update provided to it by ES&S; (ii) the use of any ES&S Equipment or ES&S Software in combination with other equipment, hardware or software not meeting ES&S' specifications for use with such ES&S Equipment or ES&S Software; or (iii) Customer's modification or alteration of any item of ES&S Equipment or ES&S Software without the prior written consent of ES&S;

b. Any claims by third parties arising out of or relating to the use or misuse by Customer, its employees and any other persons under its authority or control ("Customer's Representatives") of any third party items;

c. Personal injury (including death) or property damage that is caused by any negligent or willful act, error or omission of one or more of Customer's Representatives; and

d. Customer's election not to receive, or to terminate, Hardware Maintenance Services or ES&S Software Maintenance and Support.

ES&S shall notify Customer immediately if it becomes aware of any claim for which it may be entitled to indemnification under this Section 10, and hereby gives Customer full and complete authority, and shall provide such information and assistance as is necessary (at Customer's expense with respect to reasonable out-of-pocket costs), to enable Customer to defend, compromise or settle any such claim.

11. **Termination.** This Agreement may be terminated, in writing, at any time by either party if the other party breaches any material provision hereof and does not cure such breach within 30 days after it receives written notification thereof from the non-breaching party.

12. **Disputes.**

a. **Payment of Undisputed Amounts.** In the event of a dispute between the parties regarding (1) a product or service for which payment has not yet been made to ES&S, (2) the amount due ES&S for any product or service, or (3) the due date of any payment, Customer shall nevertheless pay to ES&S when due all undisputed amounts. Such payment shall not constitute a waiver by Customer or ES&S of any of its rights and remedies against the other party.

b. **Remedies for Past Due Undisputed Payments.** If any undisputed payment to ES&S is past due more than 30 days, ES&S may suspend performance under this Agreement until such amount is paid. If Customer's payment is past due for more than 60 days and is undisputed, ES&S may declare the total amount remaining due under this Agreement to be immediately due and

payable, enter the premises where the ES&S Equipment is located and remove it. Any disputed or undisputed payment not paid by Customer to ES&S when due shall bear interest from the due date at a rate equal to the lesser of one and one-half percent per month or the maximum amount permitted by applicable law for each month or portion thereof during which it remains unpaid.

13. **Assignment.** Except in the case of a sale, transfer or assignment of all or substantially all of the assets of ES&S to a successor who has asserted its intent to continue the business of ES&S, neither party may assign or transfer this Agreement or assign, subcontract or delegate any of its rights, duties or obligations hereunder without the prior written consent of the other party hereto, such consent not to be unreasonably withheld or conditioned, nor unduly delayed. ES&S may assign its right to receive payments under this Agreement to such third party(ies) as ES&S may desire without the prior consent of Customer, provided that ES&S provides written notice (including evidence of such assignment) to Customer thirty (30) days in advance of any payment(s) so assigned.

14. **Compliance with Laws.** In performing its obligations or enjoying its rights under this Agreement, each party shall comply with all applicable laws and regulations. In addition, ES&S warrants to Customer that, at the time of delivery, the ES&S Equipment and ES&S Software sold and licensed under this Agreement will comply with all applicable requirements of state election laws and regulations that are mandatory and effective as of the Effective Date and will have been certified by the appropriate state authorities for use in Customer's state.

15. **State Recertifications.** In the event that any future state certifications or recertifications are required that are not otherwise required as a result of any changes or modifications voluntarily made by ES&S to the ES&S Software and/or ES&S Equipment licensed and sold hereunder, Customer shall be responsible for:

- (i) the total cost of any third party items that are required in order for the ES&S Equipment and/or ES&S Software to remain certified;
- (ii) Customer's pro-rata share of such future state certification or recertification costs; and
- (iii) Customer's pro-rata share of the costs of designing, developing, manufacturing and/or certification by applicable federal and state authorities of any mandated modifications to the ES&S Equipment and/or ES&S Software that may result from such future state certifications or recertifications.

Customer's pro-rata share of the costs included under subsections 15(ii) and 15(iii) above shall be determined at the time by dividing the number of registered voters in Customer's jurisdiction by the total number of registered voters in all counties in Customer's state to which ES&S has sold and/or licensed the ES&S Equipment and/or ES&S Software purchased and licensed by Customer under this Agreement.

16. **Entire Agreement.** This Agreement, including all exhibits hereto, shall be binding upon and inure to the benefit of the parties and their respective representatives, successors and assigns. This Agreement, including all Exhibits hereto, contains the entire agreement of the parties with respect to the subject matter hereof and shall supersede and replace any and all other prior or contemporaneous discussions, negotiations, agreements or understandings between the parties, whether written or oral, regarding the subject matter hereof. Any provision of any purchase order, form or other agreement which conflicts with or is in addition to the provisions of this Agreement shall be of no force or effect. In the event of any conflict between a provision contained in an Exhibit to this Agreement and these General Terms, the provision contained in the Exhibit shall control. No waiver, amendment or modification of any provision of this Agreement shall be effective unless in writing and signed by the party against whom such waiver, amendment or modification is sought to be enforced. No consent by either party to, or waiver of, a breach by either party shall constitute a consent to or waiver of any other different or subsequent breach by either party. This Agreement shall be governed by and construed in accordance with the laws of the State in which the Customer resides, without regard to its conflicts of laws principles. The parties agree that venue for any dispute or cause of action arising out of or related to this Agreement shall be in the state and federal courts of the United States located in the State in which the Customer resides. ES&S is providing equipment, software and services to Customer as an independent contractor, and shall not be deemed to be a "state actor" for purposes of 42 U.S.C. § 1983. ES&S may engage subcontractors to provide certain of the equipment, software or services, but shall remain fully responsible for such performance. The provisions of Sections 1-5, 7(b), 8-10, 12(b), 13-16 these General Terms shall survive the termination of this Agreement, to the extent applicable.

EXHIBIT A
HARDWARE MAINTENANCE AND SOFTWARE LICENSE, MAINTENANCE AND SUPPORT SERVICES
(POST-WARRANTY PERIOD)

ARTICLE I
GENERAL

1. **Term; Termination.** This Exhibit A for Hardware Maintenance and Software License, Maintenance and Support Services shall be in effect for the coverage period as described in Schedule A1 (the "Initial Term"). Upon expiration of the Initial Term, this Exhibit A shall automatically renew for an unlimited number of successive **One-Year Periods** (each a "Renewal Period") until this Exhibit A is terminated by the first to occur of (a) either party's written election not to renew, which shall be delivered to the other party at least thirty (30) days prior to the end of the Initial Term or any Renewal Period, as applicable, (b) the date which is thirty (30) days after either party notifies the other that it has materially breached this Exhibit A, if the breaching party fails to cure such breach (except for a breach pursuant to subsection (e), which will require no notice), (c) the date which is thirty (30) days after ES&S notifies Customer that it is no longer able to procure replacement parts that may be needed in order to perform the Hardware Maintenance Services contemplated hereunder, (d) the date on which the Equipment or firmware installed thereon is no longer certified by federal and/or state authorities for use in Customer's jurisdiction, or (e) the date which is thirty (30) days after Customer fails to pay any amount due to ES&S under this Exhibit A. The termination of this Exhibit A shall not relieve Customer of its liability to pay any amounts due to ES&S hereunder and shall only entitle Customer to a prorated refund of any fees already paid to ES&S in the event that this is Exhibit A is terminated pursuant to subsection 1(c) or 1(d) above.

2. **Fees.** In consideration for ES&S' agreement to provide Hardware Maintenance and Software License, Maintenance and Support Services under this Exhibit A, Customer shall pay to ES&S the Hardware Maintenance and Software License, Maintenance and Support Fees set forth on Schedule A1 for the Initial Term. The Hardware Maintenance and Software License, Maintenance and Support Fees for the Initial Term are due as set forth on Schedule A1. ES&S may increase the Hardware Maintenance and Software License, Maintenance and Support Fees for a Renewal Period by not more than 5% of the amount of the most recent Fees paid by Customer. All fees for any Renewal Period shall be due and payable no later than thirty (30) days prior to the beginning of such Renewal Period. The Software License, Maintenance and Support Fee shall be comprised of (i) a fee for the Software License, Maintenance and Support provided for the ES&S Firmware, and (ii) a fee for the Software License, Maintenance and Support provided for all other ES&S Software, and shall be in addition to any fees or charges separately referred to in any Section of this Exhibit A. If Customer elects to receive Software License, Maintenance and Support for an Add-On or New Product during the Initial Term or any Renewal Period thereof, ES&S will charge an incremental Software License, Maintenance and Support Fee for such services. In the event Customer terminates this Exhibit A through no fault of ES&S and later desires to subscribe for a Hardware Maintenance and Software License, Maintenance and Support plan, or otherwise changes its Hardware Maintenance and Software License, Maintenance and Support plan with ES&S during the Initial Term or any Renewal Period thereof, ES&S will charge the Customer its then current contract administration fee in order to process such new subscription for, or change in, Hardware Maintenance and Software License, Maintenance and Support plan coverage.

ARTICLE II
HARDWARE

1. **Maintenance Services.** The Hardware Maintenance Services to be provided to Customer under this Agreement for the ES&S equipment set forth on Schedule A1 (the "Products") shall be subject to the following terms and conditions:

a. **Routine Maintenance Services.** An ES&S Representative shall provide such services as may be necessary to keep the Products working in accordance with their Documentation, normal wear and tear excepted ("Normal Working Condition"). The services provided by ES&S pursuant to this Subsection 1(a) are referred to herein as "Routine Maintenance Services. Routine

Maintenance Services shall be provided once each **Twelve (12) Months** during the Initial Term or any Renewal Period thereof. Generally, Routine Maintenance Services shall include cleaning, lubrication, diagnostic check, and calibration services. The Routine Maintenance Services shall not include the repair or replacement of any ES&S Equipment components that are consumed in the normal course of operating the Equipment, including, but not limited to, printer ribbons, printer cartridges, paper rolls, batteries, removable media storage devices, PCMCIA cards or marking devices. Customer may request that Routine Maintenance Services be performed more than once during the Initial Term or any Renewal Period. Any such request shall be made at least sixty (60) days before the Routine Maintenance Services are desired. The per-unit fee for such additional Routine Maintenance Services is set forth on Schedule A1 and shall be due within thirty (30) days after invoice date. At the request of Customer, ES&S shall provide a reasonably detailed record of all Routine Maintenance Services performed with respect to the Products. ES&S will schedule the Routine Maintenance Services with Customer. The Routine Maintenance Services will be provided at Customer's Designated Location. Customer's "Designated Location" shall mean Customer's owned or leased facility at which Customer desires ES&S to perform the Hardware Maintenance Services.

b. **Repair Services.**

i. **Defects Under Normal Use and Service.** 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 item to Normal Working Condition as soon as practicable. The services provided by ES&S pursuant to this Subsection 1(b)(i) are referred to herein as "Repair Services". ES&S will perform Repair Services in conjunction with a Routine Maintenance Service event at the Customer's Designated Location.

ii. **Defects Due to Customer Actions or Omissions.** If a defect or malfunction occurs in any Product as a result of (1) repairs, changes, modifications or alterations not authorized or approved by ES&S, (2) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S or (3) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, flooding, riots, acts of war, terrorism or insurrection, labor disputes, transportation delays, governmental regulations, and utility or communication interruptions, rodent infestation, or if Customer does not notify ES&S within 72 hours after it knows of the defect or malfunction or is otherwise not in compliance with its obligations hereunder, Customer shall pay ES&S for the Repair Services at ES&S' then-current rates, as well as for the cost of all parts used in connection with such Repair Services.

iii. **Timing.** The date(s) on which any Repair Services shall be provided shall be mutually agreed upon by ES&S and Customer. If Customer requires ES&S to provide "emergency" Repair Services (which shall be defined as Repair Services that are provided by ES&S within 48 hours after Customer notifies ES&S of the need therefore), and such emergency Repair Services are not needed as a result of an action, error or omission by ES&S, Customer shall pay a surcharge, as set forth on Schedule A1.

iv. **Loaner Unit.** At Customer's request and if such product is available, ES&S shall use reasonable efforts to promptly make available to Customer a product that is the same as, or substantially similar to, the Product for which Repair Services are being performed (a "Loaner Unit"). If the Repair Services are being performed pursuant to Subsection 1(b)(ii) above, Customer shall pay ES&S for the use of the Loaner Unit at ES&S' then-current rates including the cost of shipping.

c. **Exclusions.** ES&S has no obligation under this Agreement to (i) assume the obligations under any existing or expired warranty for a Third Party Item; (ii) repair or replace Product components that are consumed in the normal course of operating the Product, including, but not limited to, printer ribbons, printer cartridges, paper rolls, batteries, removable media storage devices, PCMCIA cards or marking devices, or (iii) repair any Product from which the serial number has been

removed or altered. In addition, ES&S may, at any time in its discretion, determine that any Product is no longer fit for Hardware Maintenance Services because it is in such poor condition that it cannot practically be restored to Normal Working Condition, or cannot be restored to Normal Working Condition at an expense that is less than the then-current value of the Product. If such a determination is made, ES&S shall no longer be required to provide Hardware Maintenance Services for such Product. ES&S shall also refund to Customer an amount equal to (1) that portion of the most recent fee paid for Hardware Maintenance Services that is attributable to such Product, multiplied by (2) a fraction, the numerator of which is the remaining number of days in the respective period within the Initial Term or Renewal Period for which such fee was paid and the denominator of which is the total number of days in the respective period within such Initial Term or Renewal Period.

d. **Sole Provider; Access.** Customer shall not permit any individual other than an ES&S Representative to provide maintenance or repairs with respect to the Products for so long as the Initial Term or any Renewal Period is in effect. Customer shall provide ES&S Representatives with all information necessary to enable them to provide Hardware Maintenance Services. Customer shall likewise provide full access to the Products and adequate working space for all Hardware Maintenance Services performed at its Designated Location, including sufficient heat, lights, ventilation, electric current and outlets.

e. **Storage.** When not in use, Products should be stored in a clean, secure environment. During operation of the Products, the facility temperature range should be 50° to 104° and the moisture range should be 10% to 50% relative humidity.

f. **Reinstatement of Hardware Maintenance Services; Inspection.** If the Initial Term or any Renewal Period thereof expires without being renewed, Customer may thereafter resume receiving Hardware Maintenance Services upon (a) notification to ES&S and (b) the granting to ES&S of access to the Products. ES&S requires Customer to allow it to inspect such Products before it provides any Hardware Maintenance Services. The purpose of such inspection shall be to determine whether or not the Products are in Normal Working Condition. The cost of such inspection will be at ES&S' then current rates and shall be due from Customer within thirty (30) days of its receipt of ES&S' invoice therefore. If any of the Products is not in Normal Working Condition, ES&S, at the option of Customer, (i) shall provide such repairs and replacements as it deems reasonable and necessary to restore such item to Normal Working Condition, at Customer's expense with respect to the cost of any labor (charged at ES&S' then current rates) and parts used in such repairs or replacements, or (ii) shall not provide any Hardware Maintenance Services with respect to such Product(s).

ARTICLE III

SOFTWARE LICENSE, MAINTENANCE AND SUPPORT SERVICES

1. **License and Services Provided.** ES&S shall provide license, maintenance and support services ("Software License, Maintenance and Support") for the ES&S Software and ES&S Firmware (collectively, "ES&S Software"), to allow Customer to continue to license and use the software in accordance with the license terms set forth in Sections 2-4 of the General Terms as well as to enable it to perform in accordance with its Documentation in all material respects, and to cure any defect in material or workmanship. The specific Software License, Maintenance and Support services provided by ES&S and each party's obligations with respect to such services are set forth on Schedule A1.

2. **Updates.** During the Initial Term and any Renewal Period thereof, ES&S may continue to provide Updates in accordance with the terms of Section 5 of the General Terms.

3. **Conditions.** ES&S shall not provide Software License, Maintenance and Support for any item of ES&S Software if such item requires such services as a result of (a) repairs, changes, modifications or alterations not authorized or approved by ES&S, (b) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S, (c) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, riots, acts of war, terrorism or insurrection, labor disputes,

transportation delays, governmental regulations and utility or communication interruptions, (d) Customer's failure to timely and properly install and use the most recent update provided to it by ES&S, (e) Customer's failure to notify ES&S within three (3) business days after Customer knows of the need for such services, or (f) if Customer is otherwise not in compliance with its obligations under this Exhibit A. Any such Software License, Maintenance and Support shall be provided at the fees to be agreed upon by the parties if and when the need for such Software License, Maintenance and Support arises. Replacement versions of Software requested by Customer as a result of items set forth in this Section 3 or as a result of Customer's actions or inactions shall be billable to Customer at ES&S' then current rates.

4. **Proprietary Rights.** ES&S shall own the entire right, title and interest in and to all corrections, programs, information and work product conceived, created or developed, alone or with Customer or others, as a result of or related to the performance of this Exhibit A, including all proprietary rights therein or based thereon. Subject to the payment of all Software License, Maintenance and Support Fees, ES&S hereby grants to Customer a non-exclusive license to use that portion of such corrections, programs, information and work product that ES&S actually delivers to Customer pursuant to this Exhibit A. All licensed items shall be deemed to be ES&S Software for purposes of this Exhibit A. Except and to the extent expressly provided herein, ES&S does not grant to Customer any right, license, or other proprietary right, express or implied, in or to any corrections, programs, information, or work product covered by this Exhibit A.

5. **Reinstatement of Software License, Maintenance and Support.** If the Initial Term or any Renewal Period thereof expires without being renewed, Customer may thereafter receive a Software License and resume receiving Software Maintenance and Support upon (a) notification to ES&S, (b) payment of all fees, including a reinstatement charge, which would have been due to ES&S had the Initial Term or any Renewal Period not expired, and (c) the granting to ES&S of access to the ES&S Software, so that ES&S may analyze it and perform such maintenance as may be necessary before resuming the Software License, Maintenance and Support services.

Schedule A1
Pricing Summary

<u>Summary:</u>		
Description	Refer To	Amount
ES&S Hardware Maintenance Fees	ES&S Hardware Maintenance Description and Fees Below	\$
ES&S Software License, Maintenance and Support Fees	ES&S Software License, Maintenance and Support Description and Fees Below	\$
ES&S Firmware License, Maintenance and Support Fees	ES&S Firmware License, Maintenance and Support Description and Fees Below	\$
Total Maintenance Fees for the Initial Term:		\$
<u>Terms & Conditions:</u>		
Note 1: Any applicable state and local taxes are not included, and are the responsibility of Customer.		
Note 2: In the event the Customer subsequently acquires any ES&S Equipment and or ES&S Software, the post warranty maintenance and support periods will be adjusted to synchronize the dates in order to conform with the current term.		

ES&S HARDWARE MAINTENANCE DESCRIPTION AND FEES

Initial Term: Expiration of the Warranty Period through the ***** anniversary thereof

Qty	Description	Coverage Period	Annual Maintenance Fee Per Unit	Maintenance Fee In Total
			\$	\$
			\$	\$
			\$	\$
Total Maintenance Fees for the Coverage Period ***** through ***** or Year 1				\$
			\$	\$
			\$	\$
			\$	\$
Total Maintenance Fees for the Coverage Period ***** through ***** or Year 2				\$
			\$	\$
			\$	\$
			\$	\$
Total Maintenance Fees for the Coverage Period ***** through ***** or Year 3				\$
			\$	\$
			\$	\$
			\$	\$
Total Maintenance Fees for the Coverage Period ***** through ***** or Year 4				\$
Total Hardware Maintenance Fees for the Initial Term				\$

Note 1: The Per-Unit Fees if Customer requests more than one Routine Maintenance visit in a 12-month period shall be 55% of the then current maintenance fee per unit.

Note 2: Surcharge for Emergency Repair Services shall be the daily maintenance service rate in effect at the time such service is requested.

Note 3: Customer's Designated Location:

Note 4: The Per Unit Surcharge for performance of Routine Maintenance visit at more than one Customer Designated Location shall be \$25.00 per unit for all units located at second or more locations.

Note 5: Upon expiration of the Initial Term, this Schedule A1 shall automatically renew as set forth in Article I, Section 1.

Hardware Maintenance Services Provided by ES&S Under this Schedule A1

1. Telephone Support.
2. Issue Resolution.
3. Technical Bulletins will be available through Customer's ES&S Web-based portal.
4. Routine Maintenance Services.
 - Onsite scheduled maintenance inspection per Article II, Section 1(a). The Inspection includes:
 - Service performed by an ES&S trained and certified technician.
 - Performance of factory approved diagnostics on the unit, identifying and making adjustments where necessary as indicated by the testing.
 - Replacement of worn or defective parts with new or remanufactured federally and state certified parts.
 - Conducting a final test to verify that the unit is working according to manufacturer's specifications.
 - Use of a checklist tailored for each piece of ES&S Equipment.
 - Update of maintenance records which are kept by serial number and available to the Customer through the Customer's ES&S Web-based portal.
5. Repair Services.
 - Customer will receive coverage for interim repair calls.
 - Interim repair calls may be provided during a scheduled Routine Maintenance Services event or scheduled in conjunction with other service work being performed in close proximity to Customer's location if such repairs are not election critical.
 - A Product may be sent to ES&S' Depot location for repairs at a time to be mutually agreed upon by ES&S and Customer.
6. Priority Services.
 - Customer has access to the ES&S Help Desk for assistance.
 - The customer receives priority on service calls.
 - The customer receives priority on response time.
 - The customer receives priority on certified ES&S parts inventory.

Note: Except for those Hardware Maintenance Services specifically set forth herein, ES&S is under no obligation and shall not provide other Hardware Maintenance Services to the Customer unless previously agreed upon in writing by the parties.

**ES&S SOFTWARE LICENSE, MAINTENANCE AND SUPPORT DESCRIPTION AND FEES
ELECTIONWARE SOFTWARE**

Initial License and Maintenance Term: Expiration of the Warranty Period through the ***** anniversary thereof

Listed below is the Software and Fees for which Software License, Maintenance and Support will be provided:

Qty	Description	Coverage Period	Software License, Maintenance and Support Fee In Total
			\$
			\$
Total License, Maintenance and Support Fees for the Coverage Period ***** through ***** or Year 1			\$
			\$
			\$
Total License, Maintenance and Support Fees for the Coverage Period ***** through ***** or Year 2			\$
			\$
			\$
Total License, Maintenance and Support Fees for the Coverage Period ***** through ***** or Year 3			\$
			\$
			\$
Total License, Maintenance and Support Fees for the Coverage Period ***** through ***** or Year 4			\$
Total Software License, Maintenance and Support Fees for the Initial Term			\$

**ES&S SOFTWARE LICENSE, MAINTENANCE AND SUPPORT DESCRIPTION AND FEES
FIRMWARE**

Initial License and Maintenance Term: Expiration of the Warranty Period through the ***** anniversary thereof

Listed below are the Hardware Products and Fees for which Firmware License, Maintenance and Support will be provided:

Qty	Description	Coverage Period	Annual Firmware License, Maintenance and Support Fee Per Unit	Firmware License, Maintenance and Support Fee In Total
			\$	\$
			\$	\$
			\$	\$
Total License, Maintenance and Support Fees for the Coverage Period ***** through ***** or Year 1				\$
			\$	\$
			\$	\$
			\$	\$
Total License, Maintenance and Support Fees for the Coverage Period ***** through ***** or Year 2				\$
			\$	\$
			\$	\$
			\$	\$
Total License, Maintenance and Support Fees for the Coverage Period ***** through ***** or Year 3				\$
			\$	\$
			\$	\$
			\$	\$
Total License, Maintenance and Support Fees for the Coverage Period ***** through ***** or Year 4				\$
Total Firmware License, Maintenance and Support Fees for the Initial Term				\$

Software License, Maintenance and Support Services Provided by ES&S under the Agreement

1. Telephone Support.
2. Issue Resolution.
3. Technical Bulletins will be available through Customer's ES&S Web-based portal.

Note: Except for those Software License, Maintenance and Support services specifically set forth herein, ES&S is under no obligation and shall not provide other Software License, Maintenance and Support services to the Customer unless previously agreed upon by the parties.

Software License, Maintenance and Support and Hardware Maintenance and Support Services – Customer Responsibilities

1. Customer shall have completed a full software training session for each product selected.
 - Customer shall have completed training at a proficiency level to successfully use the hardware (firmware) and software products.
 - Customer shall have the ability to install firmware and application software and make changes to date and time settings.
 - Customer shall have the ability to change consumable items. Any other changes made by the customer must be pre-approved in writing by ES&S.
 - Customer shall store the Equipment in accordance with ES&S requirements set forth herein.
2. Customer shall have reviewed a complete set of User Manuals.
3. Customer shall have reviewed Training Checklists.
4. Customer shall be responsible for the installation and integration of any third party hardware or software application or system purchased by the customer, unless otherwise agreed upon, in writing, by the parties.
5. Customer shall be responsible for data extraction from Customer voter registration system.
6. Customer shall be responsible for implementation of any security protocols physical, network or otherwise which are necessary for the proper operation of the ES&S Equipment and ES&S Software.
7. Customer shall be responsible for the acceptance of the Equipment and Software, unless otherwise agreed upon, in writing, by the parties.
8. Customer shall be responsible for the design, layout, set up, administration, maintenance or connectivity of the Customer's network.
9. Customer shall be responsible for the resolution of any errors associated with the Customer's network or other hardware and software not purchased or recommended by ES&S and not otherwise identified in the User Guides as part of ES&S' Equipment and Software.
10. Customer shall be responsible for all costs associated with diagnosing ballot printing problems resulting from the use of non-ES&S Ballot Partner Printers ballots.
11. Customer shall be responsible for the payment of additional or replacement Software CDs or DVDs requested by Customer. The price for such additional or replacement Software CDs or DVDs shall be at ES&S' then current rates.