

**Performance Update and Further
Inquiry Report**

**COMMISSION
For The
DEAF AND HARD-OF-HEARING**

**The Commission Has Entered Into An
Unnecessary and Vague Consulting Contract**



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John Sylvia
Director

November 19, 2002

The Honorable Edwin J. Bowman
State Senate
129 West Circle Drive
Weirton, West Virginia 26062

The Honorable Vicki V. Douglas
House of Delegates
Building 1, Room F-213
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a *Performance Update and Further Inquiry Report of the Commission for the Deaf and Hard-of-Hearing*, which will be presented to the Joint Committee on Government Operations on Tuesday, November 19, 2002. The issue covered herein is "The Commission Has Entered Into An Unnecessary and Vague Consulting Contract."

We transmitted a draft copy of the report to the Commission for the Deaf and Hard-of-Hearing on October 31, 2002. We held an Exit Conference with the Commission on November 7, 2002. We received the agency response on November 13, 2002.

Let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

JS/wsc

Joint Committee on Government and Finance

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Executive Summary

Issue 1: The Commission has Entered into an Unnecessary and Vague Consulting Contract.

The Department of Health and Human Resources (DHHR) and the Commission entered into a \$179,765 contract with a consulting firm in June 2002, with the intent to fulfill the recommendations of a 1998 performance evaluation. A review of this contract by the Legislative Auditor resulted in the following concerns:

1. Attachment I of the contract, which is an outline of the work to be produced, is a vague and brief two-page document. Attachment I gives no detailed understanding of what the Consultant is to accomplish.

2. The contract requires that the Consultant's first quarterly report discuss the completion of the first of four focus areas. However, the quarterly report did not discuss completion of any of the focus areas; instead it discussed an *action plan* for future work. The Consultant appears to be working from a different time line than the contract dictates. The Consultant's time line includes 10 deliverables, instead of the four deliverables discussed in the contract. This change to the contract has not been included in the legal document, such as a change order with the Purchasing Division of the Department of Administration.

3. Attachment I of the contract, the first quarterly report, and other documents the Consultant has produced do not appear to accomplish three statutory requirements that have not been met since the Commission was created. These mandates are to maintain a register and census of the hearing-impaired, and investigate the condition of the hearing-impaired. Instead, the Consultant appears to be focusing on the services provided to the deaf and hard-of-hearing in four other states. The Commission should meet its mandates to identify and become more knowledgeable about the deaf and hard-of-hearing population in West Virginia before gathering information about other states.

The DHHR originally did not feel that the first quarterly report was as complete as expected. Consequently, the DHHR indicated that the first installment payment (\$44,941) would be withheld from the Consultant. However, in the November 7th Commission Meeting, the Commission voted to pay the Consultant. The terms of the contract state, *“The services to be provided the client may be terminated by the Agency at any time upon thirty (30) days advance written notice.”* **Given the vagueness of the contract and the Legislative Auditor's concern that the State may spend nearly \$180,000 for an inadequate or unnecessary product, the Legislative Auditor recommends that the Commission discontinue the consulting contract.**

Recommendations

1. *The Legislative Auditor recommends that the Department of Health and Human Resources, and the Commission for the Deaf and Hard of Hearing discontinue the current contract by exercising the 30-day notice provision.*
2. *The Commission should give more resources and priority to achieve the statutory requirements of maintaining a register, census and evaluating the condition of the deaf and hard-of-hearing population.*

Review Objective, Scope and Methodology

This preliminary performance further inquiry update of the Commission for the Deaf and Hard-of-Hearing is required and authorized by the West Virginia Sunset Law, Chapter 4, Article 10, Section 11a of the West Virginia *Code*, as amended. The purpose of this further inquiry update is to examine an aspect of the operation of the Commission for the Deaf and Hard-of-Hearing (Commission) not reviewed in the 1998 performance evaluation.

Objective

The objective of this further inquiry update is to determine whether the \$179,765 consulting contract the Commission entered into in June 2002 meets stated objectives, is necessary, and whether the consultant's first quarterly installment meets the contract's terms.

Scope

This performance evaluation covers the period from June 2002 to November 2002. The review was limited by the vagueness of the contract outline and a limited work product by the consultant.

Methodology

The information contained within this report has been acquired through interviews and review of Commission documents. Every aspect of this review complied with Generally Accepted Government Auditing Standards (GAGAS).

Issue 1

The Commission has Entered into an Unnecessary and Vague Consulting Contract.

The Commission for the Deaf and Hard-of-Hearing was created in 1989 to identify services needed by the hearing-impaired population in West Virginia. The Department of Health and Human Resources (DHHR) and the Commission entered into a \$179,765 contract with a consulting firm in June 2002, with the intent to fulfill the recommendations of a 1998 performance evaluation. A review of this contract by the Legislative Auditor resulted in the following concerns:

1. Attachment I of the contract, which is an outline of the work to be produced, is a vague and brief two-page document. Attachment I gives no detailed understanding of what the Consultant is to accomplish.

2. The contract requires that the Consultant's first quarterly report discuss the completion of the first of four focus areas. However, the quarterly report did not discuss completion of *any* of the focus areas; instead it discussed an *action plan* for future work. The Consultant appears to be working from a different time line than the contract dictates. The Consultant's time line includes 10 deliverables, instead of the four deliverables discussed in the contract. This change to the contract has not been included in the legal document, such as a change order with the Purchasing Division of the Department of Administration.

3. Attachment I of the contract, the first quarterly report, and other documents the Consultant has produced do not appear to accomplish three statutory requirements that have not been met since the Commission was created. These mandates are to maintain a register and census of the hearing-impaired, and investigate the condition of the hearing-impaired. Instead, the Consultant appears to be focusing on the services provided to the deaf and hard-of-hearing in four other states. The Commission should meet its mandates to identify and become more knowledgeable about the deaf and hard-of-hearing population in West Virginia before gathering information about other states.

The DHHR originally did not feel that the first quarterly report was as complete as expected. Consequently, the DHHR indicated that the first installment payment (\$44,941) would be withheld from the Consultant. However, in the November 7th Commission Meeting, the Commission voted to pay the Consultant. The terms of the contract state, *“The services to be provided the client may be terminated by the Agency at any time upon thirty (30) days advance written notice.”* **Given the vagueness of the contract and the Legislative Auditor's concern that the State may spend nearly**

\$180,000 for an inadequate or unnecessary product, the Legislative Auditor recommends that the Commission discontinue the consulting contract.

The Contract and First Quarterly Report of the Consultant are Vague

Attachment I of the contract details the work to be produced by the Consultant in a vague, two page outline (see Appendix B). A partial example of the outline is shown below:

- A. *Education*
 - 1. *Early Intervention (0-3)*
 - 2. *Ages 3-21*
 - 3. *Adult Literacy*
 - 4. *Public Education*

The above gives no detail as to what will be done on *Education* or how those items will be completed. As a result of this vagueness, it is difficult to determine the overall outcome expected of the Consultant. Some additional information on the contract is provided in the Consultant's first quarterly report. However, since the quarterly report did not even discuss the completion of the *Education* phase, as required in the contract, **it is still unclear what the Consultant intends to accomplish.**

In September 2002, the Consultant submitted the first of four quarterly reports required by the contract (see Appendix C). It is the opinion of the Legislative Auditor that this first installment did not meet the contract's outline. For example, the contract outline (see Appendix B) requires the Consultant to submit quarterly reports upon completion of each of the following four main focus areas:

- 1. Educational Services
- 2. Technology
- 3. Human Services
- 4. Clearing House Responsibilities

In the first quarterly report, not one of the four focus areas was discussed in detail. Instead, the report focused on *gathering preliminary information regarding existing services available to the deaf and hard-of-hearing citizens in West Virginia.*

In addition, the first quarterly report makes reference to an *action plan*,

which was agreed to by former employees of the Commission. It is of concern that this report focuses on the *action plan*, and makes no mention of the completion of the phases mentioned in the contract. These inconsistencies could be the first indication of further discrepancies between the contract and the work product.

The Commission and DHHR also seemed to be struggling with the vagueness of the first quarterly report. The Commission requested the consultant to attend its November 7th meeting. Until this meeting, DHHR and the Commission had decided to withhold the first \$44,941 payment to the Consultant due to dissatisfaction with the first quarterly report. In the November 7th meeting, the Consultant outlined a time table that differed from the legal contract. This time table included 10 deliverables, instead of the four deliverables included in the legal contract. **Furthermore, the Purchasing Division of the Department of Administration had no record of the Consultant's new outline, or any change orders to the contract.**

The Contract, First Quarterly Report, and Other Documents Do Not Appear to Assist the Commission in Meeting its Mandates.

The 1998 evaluation of the agency found that the Commission was not maintaining a register and census of the hearing-impaired population, and that the Commission was not investigating the condition of the deaf and hard-of-hearing. These items are required statutory mandates. Based on preliminary work performed by the Legislative Auditor to update the 1998 evaluation, the same statutory requirements have not been fully met.

As can be seen in Attachment I of the contract in Appendix B, the consulting contract does not appear to address the Commission's statutory requirements to maintain a register and census and to investigate the condition of the deaf and hard-of-hearing. For example, the first mandate of the Commission is detailed in part in §5-14-5 of the *West Virginia Code* as the following:

The commission shall maintain a complete register of persons who are deaf or hard-of-hearing in the state. For each hearing impaired person, the register shall describe the condition and cause of the hearing problem, the person's capacity for education and industrial training and any other facts the commission considers valuable.

To date, the Commission does not maintain a complete register of the

hearing-impaired population within West Virginia. The contract also does not indicate the collection of any data on individuals who are hearing-impaired in the State. In addition, the Consultant's first quarterly report makes no mention of gathering the information necessary for a register or a census. Instead, the Consultants appear to be focusing on the services provided to the deaf and hard-of-hearing in four other states. **The Commission should meet its mandates to identify and become more knowledgeable about the deaf and hard-of-hearing population in West Virginia before gathering information about other states.**

Conclusion

The Commission has entered into a contract that is brief and vague. Furthermore, the Consultant's first quarterly report does not discuss the completion of one of the four focus areas as required by the contract. Instead, the Consultant appears to be working from a different time line than the legal contract. The Consultant's time line has not been incorporated into a contract maintained at the Purchasing Division of the Department of Administration. Another concern is that the contract and the Consultant's initial work products do not appear to accomplish three statutory requirements that have not been met since the Commission was created. The Commission should meet its mandates to identify and become more knowledgeable about the deaf and hard-of-hearing population in West Virginia before gathering information about other states. The Legislative Auditor is concerned that the State may spend nearly \$180,000 for a disappointing or unnecessary product. The Legislative Auditor concludes that the contract should be discontinued.

Recommendations

- 1. The Legislative Auditor recommends that the Department of Health and Human Resources, and the Commission for the Deaf and Hard of Hearing discontinue the current contract by exercising the 30-day notice provision.*
- 2. The Commission should give more resources and priority to achieve the statutory requirements of maintaining a register, census and evaluating the condition of the deaf and hard-of-hearing population.*

APPENDIX A: Transmittal Letter to Agency

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

October 31, 2002

Doug Godfrey, Chair
Commission for the Deaf and Hard-of-Hearing
P.O. Box 1764
Martinsburg, WV 25402-1764

Dear Mr. Godfrey:

This letter transmits a draft copy of the Preliminary Performance Further Inquiry Update of the Commission for the Deaf and Hard-of-Hearing. This report is scheduled to be presented at the Sunday, November 17, 2002 interim meeting of the Joint Committee on Government Operations. It is expected that a representative from your agency be present at the meeting to respond to the report and answer any questions the committee may have.

As discussed, the exit conference is planned to occur on November 7, 2002, following the Commission meeting, to discuss any concerns you may have with the report. The Commission meeting will be held in Building 3 of the Capitol Complex at 1:00 p.m. Please notify us if the time and location of the Commission meeting should change. In addition, we need your written response to this report by noon on November 13, 2002 in order for it to be included in the final report.

We request that your personnel treat the draft report as confidential and request that it not be disclosed to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

Handwritten signature of John Sylvia in cursive script.
John Sylvia

C: Paul L. Nusbaum, Cabinet Secretary
Department of Health and Human Resources

Shana Phares, Assistant to the Secretary
Department of Health and Human Resources

Barbara Kemp, Deaf, Hearing Impaired & Independent Living Services
Division of Rehabilitation Services

Joint Committee on Government and Finance

Appendix B: Consulting Contract

The image shows a document with a header section containing a logo on the left and several columns of text on the right. Below the header is a large table with multiple columns and rows. The text within the table is extremely blurry and difficult to read, but some words like "MICROFILM" are visible in one of the cells. At the bottom of the page, there is a footer section with text that is also illegible due to the low resolution.

CONTRACT

This contract is between the West Virginia Department of Health and Human Resources, West Virginia Commission for the Deaf and Hard of Hearing (Agency); and, Rice Consulting, LLC (Vendor).

Part 1 Purpose:

The purpose of this contract is to retain consultant services to generate a comprehensive study and report to be used as a guide for the West Virginia Commission for the Deaf and Hard of Hearing Task Force Committee. This study will address in specific detail, the key strengths and weaknesses of the West Virginia Commission for the Deaf and Hard of Hearing while incorporating information specific to West Virginia. The report will make recommendations and propose realistic goals for the West Virginia Commission for the Deaf and Hard of Hearing Task Force, with regard to delivering services to the hearing impaired citizens of West Virginia.

Part 2 Contract Term:

This contract is for a twelve (12) month period, beginning June 7, 2002 and extending until June 6, 2003. This contract may be renewed upon written agreement by the Agency and the vendor.

Part 3 Scope of Work:

The scope of work for this agreement shall adhere to the following outline developed by the West Virginia Commission for the Deaf and Hard of Hearing Task Force Committee. (See Attachment I)

Part 4 Agreement Terms and Conditions:

1. **Confidentiality:** Vendor will hold confidential all information obtained from Agency, not otherwise previously known by vendor or in the public domain, unless such information comes into the public domain through no fault of vendor, or is also furnished to vendor by a third party who is under no obligation to keep such information confidential.
2. **Best Efforts:** Vendor undertakes all assignments for Agency on a best efforts basis. Vendor findings and recommendations will reflect vendors best judgment based on the information available to us.
3. **Independent Consultant:** Vendor services will be rendered as an independent consultant and not as an employee, agent, partner or joint venturer of Agency. As a matter of practice, Vendor seeks input regarding work in progress. As products are provided, clients have five (5) working days to review and provide comments except as otherwise provided in writing.

Contract PO# HHR20062
 West Virginia Commission for the Deaf and Hard of Hearing
 and Rice Consulting LLC

Part 4 Agreement Terms and Conditions: (Continued)

4. **Use of Vendor Name:** Agency may not use or refer to Vendor in any advertisement or public announcement or otherwise without the express written consent of an officer of Vendor firm.
5. **Legal Proceedings:** If as a consequence of performing an assignment, we are requested by the Agency, or required pursuant to judicial or administrative process, to participate, appear or testify in any judicial or administrative action or proceeding, the Agency shall pay, in addition to our fee for performing the assignment, for the professional time expended in complying with such request or process. This clause is not applicable to any legal proceeding between Agency and Vendor.
6. **Fee:** Vendor bills are payable within thirty (30) days of the billing date. Vendor is retained to provide independent and objective professional judgement and recommendations.
7. **Termination:** The services to be provided the client may be terminated by the Agency at any time upon thirty (30) days advance written notice. Upon such termination, Vendor will deliver to the client all work products then completed, and shall be paid for all professional fees and expenses incurred in performance of services up to the time of termination.
8. **Excusable Delay:** Neither Agency or Vendor shall be liable or deemed to have breached any agreement for interruption of services, if any such delay, failure or interruption results directly or indirectly from causes beyond the reasonable control of either the Agency or the Vendor. Such causes include, but are not limited to, adverse weather conditions, strikes, riots, epidemics, war, governmental regulations subsequently imposed, fire, transportation or communication delays, acts of God or the public enemy, machine or equipment failures, earthquakes, or other natural disasters.
9. **Fees, Payment Schedule and Expenses:** The Vendor agrees that successful completion of the scope of work described in **Attachment I** can be accomplished for a Firm Fixed Price (FFP) of \$179,765.00

Upon completion of each of the four (4) main focus areas described in **Attachment I** a quarterly report will be generated by the Vendor. Upon approval of each quarterly report by the West Virginia Commission for the Deaf and Hard of Hearing Task Force Review Committee, Rice Consulting shall be paid a quarterly sum of \$44,941.25.

10. Additional terms and conditions of this agreement are contained in **Attachment II (WV-96 Agreement Addendum)**.



ATTACHMENT I

West Virginia Commission for the Deaf and Hard of Hearing TASK FORCE OUTLINE

1. Educational Services
 2. Technology
 3. Human Services
 4. Clearing House Responsibilities
- I. Educational Services
- A. Education
 1. Early Intervention (0-3)
 2. Ages 3 - 21
 3. Adult Literacy
 4. Public Education
 - B. Training Programs
 1. ADA Training
 2. Deaf Empowerment Training
 3. Interpreter Training Program (Statewide)
 4. Interpreter Code of Ethics/Responsibilities
- II. Technology
- A. Emergency Response System (911, E-911)
 - B. Disaster/Emergency Services (FEMA)
- III. Human Services
- A. Creation of Satellite Offices
 - B. Access to mental health programs
 - C. Access to Welfare Programs (Food stamps, SSD, SSI)
 - D. Hospital/Medical Center Access (Interpreters)
 - E. Law Enforcement

ATTACHMENT I (Continued)
West Virginia Commission for the Deaf and Hard of Hearing
TASK FORCE OUTLINE

- IV. Clearinghouse Responsibilities (WVCDHH)
- A. Review of Any Pending Legislative Bills which may impact on Deaf /Hard of Hearing Population
 - B. Advocacy/Legislative Aide - Focus on Passing Bills
 - C. Advocacy - Community
 - D. Establishing Rating System/Certification and Certification Maintenance (Interpreters)
 - E. ADA Training
 - F. Community Collaboration
 - G. TTY Access in Public Places
 - H. Separate line items funds for Miscellaneous Accommodation Costs
 - I. Public Relations/Outreach
 - J. Awareness for Deafness and Hearing Loss

Attachment II

AGREEMENT ADDENDUM

WV-06
Rev. 3/04

In the event of conflict between this addendum and the agreement, this addendum shall control.

- 1. JURISDICTION** - Any reference to arbitration contained in the agreement are hereby deleted. Disputes arising out of the agreement shall be processed in the West Virginia Court of Claims.
- 2. FORCE MAJEURE** - Any clause relieving the Agency to indemnify or hold harmless any party is hereby deleted in its entirety.
- 3. GOVERNING LAW** - The agreement shall be governed by the laws of the State of West Virginia. This provision replaces any reference in any other clause governing law.
- 4. TAXES** - Provisions in the agreement requiring the Agency to pay taxes are deleted. As a State entity, the Agency is exempt from Federal, State, and local taxes and will not pay taxes for any Vendor including individuals, nor will the Agency file any tax returns or reports on behalf of Vendor or any other party.
- 5. PAYMENT** - Any reference to payments are deleted. Payment will be in cash.
- 6. INTEREST** - Should the agreement include a provision for interest on late payments, the Agency agrees to pay the maximum legal rate under West Virginia law. All other references to interest or late charges are deleted.
- 7. RECOURSE** - Any language in the agreement limiting the Agency's right to set-off, counterclaim, recoupment, or other defenses is hereby deleted.
- 8. FUNDING SOURCE** - Services provided under the agreement may be considered in succeeding fiscal years for the term of the agreement. Contingent upon funds being appropriated by the Legislature or otherwise being available for this service. In the event funds are not appropriated or otherwise available for this service, the agreement shall terminate without penalty on June 30. After that date, the agreement becomes of no effect and is null and void. However, the Agency agrees to pay all late charges under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.
- 9. SEVERABILITY** - Any clause limiting the form to which the Agency may bring suit against the Vendor, be it, individual, or any other party, are deleted.
- 10. TITLE AND SERVICES** - Any provision limiting the Agency's right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted.
- 11. AGENCY FEES** - The Agency recognizes an obligation to pay agency's food or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void.
- 12. ASSIGNMENT** - Notwithstanding any clause to the contrary, the Agency reserves the right to assign the agreement to another State of West Virginia agency. Vendor's consent is not required (30) days written notice to the Vendor and Vendor shall obtain the written consent of Agency prior to assigning the agreement.
- 13. LIMITATION OF LIABILITY** - The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor's liability for direct damages or limiting the Vendor's liability under a warranty to a certain dollar amount or to the amount of the agreement is hereby deleted. In addition, any limitation is null and void to the extent that it excludes any action for injury to persons or for damages to personal property.
- 14. RIGHT TO TERMINATE** - Agency shall have the right to terminate the agreement upon thirty (30) days written notice to Vendor.
- 15. TERMINATION DAMAGES** - Any provision requiring the Agency to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. The Agency may only agree to reimburse a Vendor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by the Agency prior to the end of any current agreement term.
- 16. RETENTION** - Any reference to automatic renewal is hereby deleted. The agreement may be renewed only upon mutual written agreement of the parties.
- 17. INSURANCE** - Any provision requiring the Agency to insure equipment or property of any kind and name the Vendor as beneficiary is an additional insured is hereby deleted.
- 18. RIGHT TO NOTICE** - Any provision for repossession of equipment without notice is hereby deleted. However, the Agency does maintain a right of repossession with notice.
- 19. ACCELERATION** - Any reference to acceleration of payments in the event of default or non-funding is hereby deleted.
- 20. AMENDMENTS** - All amendments, modifications, alterations or changes to the agreement shall be in writing and signed by both parties. No amendment, modification, alteration or change may be made to this addendum without the express written approval of the Purchasing Division and the Attorney General.

ACCEPTED BY
STATE OF WEST VIRGINIA

Spending Unit: DHHR

Signed: [Signature]

Title: Program Supervisor

Date: 5/17/02

VENDOR

Company Name: RICE CONSULTING LLC

Signed: [Signature]

Title: PRESIDENT

Date: 5/17/2002

AFFIDAVIT**West Virginia Code §5A-3-10a states:**

No contract or renewal of any contract may be awarded under this article to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor as defined in this section and the debt owed is an amount greater than five thousand dollars in the aggregate.

Definitions:

"Debt" means any assessment, penalty, fine, tax or other amount of money owed to the state because of a judgement, fine, permit violation, license assessment, penalty or other assessment presently due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon;

"Debtor" means any individual, corporation, partnership, association, limited liability company or any other form of business association owing a debt to the state or any of its political subdivisions;

"Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form of business association or other entity whatsoever related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor, so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

Exception:

The prohibition does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the West Virginia Code, worker's compensation premium, permit fee or environmental fee or assessment, and the matter has not become final, or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

Under penalty of law for false swearing (West Virginia Code §81-5-3), it is hereby certified that the bidder and all related parties do not owe any debts or, if a debt is owed, that the provisions of the exception clause (above) apply.

Vendor's Name: RICE CONSULTING LLC
 Authorized Signature: Robert W Rice Date: 05-17-2002

No Debt Affidavit
 July 30, 2001

Appendix C: First Quarterly Report of Consultant

BAYFIRST SOLUTIONS LLC
1819 CORCORAN ST, NW
SUITE B
WASHINGTON, DC 20009

ROBERT W. RICE
MANAGING PARTNER

September 15, 2002

Charity Reedy, Executive Director
West Virginia Commission for the Deaf and Hard of Hearing (WVCDHH)
P.O. Box 1755
475 Depot Street
Romney, West Virginia 26757

Subject: First Quarterly Report for Period Ending September 3, 2002

Dear Ms. Reedy:

Since commencement of the WVDCHH Task Force Study on June 3, 2002, BayFirst Solutions has worked diligently with members of the WVDCHH team to conduct a study of existing versus desired services targeting Deaf and Hard of Hearing individuals in the State of West Virginia. Additionally, benchmark information from other rural states is being collected. A set of recommendations information will be provided to the WVDCHH Task Force and the Governor of the State of West Virginia.

As agreed to by the submitted Action Plan, the first quarter of the Study was focused on gathering preliminary information regarding existing services available to the deaf and hard-of-hearing citizens in West Virginia.

The following is a list of completed activities since project inception. A review of completed activities was presented to the WVDCHH Board on September 5, 2002 during their Board meeting in Charleston, WV. Detailed information regarding these activities can be provided upon request:

- Two out of three full-day awareness sessions were completed on June 26, 2002 and July 30, 2002 at WVDCHH in Romney, WV. Attendees included Charity Reedy, WVDCHH Executive Director and Alex Young, WVDCHH Deputy Director. Terri Richardson of WVDCHH provided input at both of these sessions. Ms. Reedy and Mr. Young have proved to be extremely valuable informational resources regarding products and services available to deaf and hard-of-hearing West Virginians. The third awareness session is tentatively scheduled for October

16-17 with individuals from the Department of Rehabilitative Services, Education and Vocational Rehabilitation.

- Project goals, objectives and requirements were identified and agreed upon during awareness sessions with Charity Reedy and Alex Young of WVCDHH. They are as follows:
 - Educational Services: Study and report on the strengths and weaknesses of educational programs (Early Intervention (Ages 0-3), Ages 3-21, Adult Literacy and Public Education), training programs (ADA Training, Deaf Empowerment Training, Interpreter Training Program (ITP) and relevant code of ethics/responsibilities, their guidelines, implementation issues and evaluation
 - Technology: With regard to technology, determine whether specific demographics have knowledge of available technologies and relevant programs. Technologies include the emergency response system (911, E-911) and disaster/emergency services available via FEMA.
 - Human Services: Focus on known strengths and weaknesses, knowledge of mental health, welfare and law enforcement programs and their accessibility, legislative compliance and sensitivity towards cultural and communication needs; determine feasibility of satellite offices, access to medical interpreting
 - Clearinghouse Responsibilities: Review pending legislative bills that have impact on the deaf/hard-of-hearing population, existing community and legislative advocacy; review interpreting rating system and availability of ADA training; determine level of TTY access in public facilities and locations, review separate line items for miscellaneous accommodation costs; review existing public relations, outreach and awareness for people with deafness or hearing loss.
- An action plan was agreed on by Charity Reedy and Alex Young of WVCDHH and BayFirst. See attached timeline and expected deliverables.
- Substantial literature and supplemental materials in the form of past reports, meeting minutes and correspondence were identified and provided to BayFirst Solutions by WVCDHH. Review and analysis of these materials are still underway.
- WVCDHH has provided extensive documentation regarding past, existing and desired service and technology options. Review and analysis of these materials are still underway.
- Extensive online communications between WVCDHH and BayFirst Solutions have taken place via electronic mediums including email and instant messenger programs.
- BayFirst Solutions and WVCDHH have identified four rural states to collect benchmarking information from and have agreed on the expectations of the benchmark report. These states are Kentucky, Tennessee, Wyoming and California (much of CA is rural). The report is currently being developed and delivery is anticipated in early October. The report will outline the current provision, service levels and evaluation of products and services pertaining to deaf and hard-of-hearing individuals in their states, relevant statistics, successes,

failures and overall effectiveness. Information regarding independent task force studies in these states will be provided.

- To finalize definition of WVCDHH's desired operational environment, meetings are needed with WVCDHH, certain WVCDHH Board members and representatives from PSC and AT&T Relay. BayFirst is working with WVCDHH to schedule these meetings no later than October 31, 2002.
- Preliminary interviews have been scheduled with members of the Departments of Rehabilitative Services, Education and Vocational Rehabilitation, the WV School for the Deaf and Blind and other WVCDHH members. These interviews are tentatively scheduled to take place on October 16-17, 2002 in Charleston and October 21, 2002 in Romney, WV.
- Data collection with various individuals and constituencies has commenced. Data will include but not be limited to the provision, delivery and evaluation of services to deaf and hard-of-hearing citizens in West Virginia and their effectiveness.

The focus for the second quarter will be conducting extensive interviews with individuals in the State of West Virginia. Information collected will be analyzed against benchmark data collected information from other states. Examples include interviews with members from the WV Department of Rehabilitative Services, WV Department of Education and the WV School for the Deaf and Blind. Key second quarter deliverables will include the benchmark report along with a Gap Analysis Report (to be submitted in mid-December and shortly after submission of the 2nd Quarterly Report).

Please do not hesitate to contact me with additional questions. I can best be reached via electronic mail at robert.rice@bayfirst.com.

Sincerely,

BAYFIRST SOLUTIONS LLC

cc: Shana Phares, Assistant to the Secretary of WV Department of Health and Human Resources
Doug Godfrey, WVCDHH Board Chair

Appendix D: Agency Response

November 13, 2002

John Sylvia, Director
Performance Evaluation and Research Division
West Virginia Legislature
1900 Kanawha Boulevard, East
Charleston, WV 25305

R E C E I V E D
NOV 13 2002

PERFORMANCE EVALUATION AND
RESEARCH DIVISION

Dear Mr. Sylvia:

The West Virginia Commission for the Deaf and Hard of Hearing accepts the Preliminary Performance Further Inquiry Update of the Commission for the Deaf and Hard of Hearing completed by the Office of the Legislative Auditor. The review process has proven invaluable to the Commission in its effort to improve its performance and reexamine its mandate.

Response to Recommendations

Recommendation #1 - The Legislative Auditor recommends that the Department of Health and Human Resources and the Commission for the Deaf and Hard-of-Hearing discontinue the current contract by exercising the 30-day notice provision.

During the regular quarterly Commission meeting, based upon the presentation of the consultant detailing the work done to date, the Commission established a Technical Committee to guide and oversee the work of the consultant. The Technical Committee includes representatives from the Department of Education, the Office of Maternal, Child and Family Health, and the Division of Rehabilitation Services. Former Executive Director and I will also serve on the committee.

In addition, the Commission voted to review this contract again at the end of the second quarter of the contract period. At that point, the Commission will again evaluate the consultants' performance and decide whether or not to exercise the 30-day notice provision. As shared with your staff, until the consultants' presentation to the Commission, it was the recommendation of the Interim Management Committee that the contract be terminated.

It is clear that in the absence of an Executive Director and Deputy Director to guide the work that the contractor has not been focused upon the work necessary to assist the Commission in meeting its statutory mandate. For that reason, the Commission believes that an improvement period is warranted.

Further, the Commission will pursue issuing a change order to the contract to reflect the additional deliverables and to add specificity to the contract. The Commission will keep your staff apprised of the progress of the contract work and will also share all deliverables as well. The Commission would also give the Committee an update of progress at the December interim meeting in conjunction with the Performance Update report or at any other time the Committee desires.

John Sylvia, Director. PERD
November 13, 2002
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Recommendation #2 - The Commission should give more resources and priority to achieve the statutory requirements of maintaining a register, census and evaluating the condition of the deaf and hard-of-hearing population.

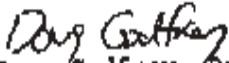
As you may know, the Commission has established a voluntary registry which requests the statutory information and now includes 500 individuals. The Commission has encountered numerous problems in assembling information from agencies who already collect information on the deaf and hard-of-hearing population. The primary issue is that each of these agencies has confidentiality provisions in statute which prevent them from sharing the information with the Commission.

As part of the above mentioned contract, the consultant has been asked to determine how other states establish a census. In addition, the consultant is also asked how other states determine the need of the deaf and hard-of-hearing population. It is not clear that the Commission can meet this statutory mandate. The Commission wishes to work with your staff during the Performance Update to examine this issue more thoroughly.

Conclusion

Again, the Commission appreciates the work of your staff and reiterates that the review process has been very helpful. The Commission looks forward to continue working closely with your office in the upcoming weeks.

Sincerely,


Doug Godfrey, Board Chair
West Virginia Commission for the Deaf and Hard of Hearing