

October 10, 2006

Battelle Proposal No. OP52833

Robert Gulley, Ph.D.
Program Manager
Edwards Aquifer Recovery Implementation Plan
Texas A&M University: Institute of Renewable Natural Resources
3355 Cherry Ridge Dr., Suite 212
San Antonio, Texas 78230

Dear Dr. Gulley:

Response to Request for Proposal: Edwards Aquifer Recovery Implementation Program (EARIP)

Battelle Memorial Institute through its Corporate Operations (Battelle) is pleased to submit this proposal to Texas A&M University in response to the RFP identified above: Edwards Aquifer Recovery Implementation Program (EARIP). The contents of this proposal include the following:

1. Cover Letter
2. Technical Proposal
3. Attachment A (Cost/Price Proposal)
4. Attachment B (Contractual)

This proposal is submitted on a time and material (T&M) basis with a not-to-exceed price of \$51,477. The total estimated price includes Battelle costs of \$22,870 and an estimated cost of \$28,607 for subcontractor peer reviewers. The subcontractor hourly rate for each of the three proposed panelists is estimated as \$200/hour, which is based on past experience. Battelle's actual price may be adjusted if the actual rate for the selected subcontractors is less than or more than \$200/hour. Please see the technical proposal for details on the estimated subcontractor costs. The estimated number of hours by labor category, estimated costs and expenses, and the estimated price are estimates only and may vary. Battelle, in its discretion, may use a greater or lesser number of hours in any labor category, and may incur a greater or lesser amount of costs and expenses, but may not charge more than the total estimated price for all labor unless Texas A&M agrees in writing. Battelle will invoice incurred costs on a monthly basis. Battelle is proposing to perform this work with a period of performance beginning November 16, 2008 through April 30, 2009. This proposal is valid for 60 days from the date of this letter and subject to the assumptions and conditions contained within Attachment B. This proposal is predicated upon reaching mutually acceptable terms and conditions in the resulting subcontract. Battelle reserves the right to negotiate the terms and conditions and the wording of the Statement of Work in any agreement resulting from this proposal.

Please direct questions of a business or contractual nature to Ules Jackson at (614) 424-5447 or jacksonu@battelle.org. Technical questions should be directed to Karen Foster at (561) 656-6304 or foster@battelle.org.

Sincerely,


for Ules Jackson
Contracting Officer

Proposal to Texas A&M University

for



The Edwards Aquifer Recovery Implementation Program Science Subcommittee Study Independent Peer Review

Submitted by

Battelle
505 King Avenue
Columbus, OH 43201

October 10, 2008



The Edwards Aquifer Recovery Implementation Program Science
Subcommittee Study
Independent Peer Review

Submitted To

Robert L. Gulley, Ph.D.
Program Manager
Edwards Aquifer Recovery Implementation Program
Texas A&M University
Institute of Renewable Resources
3355 Cherry Ridge Dr, Suite 212
San Antonio, TX 78230

By

Battelle
505 King Avenue
Columbus, Ohio 43201

October 10, 2008

This proposal includes data that shall not be disclosed outside the client (i.e., Texas A&M University and the Edwards Aquifer Recovery Implementation Program) and shall not be duplicated, used or disclosed – in whole or in part – for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offeror as a result of – or in connection with – the submission of these data, the client shall have the right to duplicate, use or disclose the data to the extent provided in the resulting contract. This restriction does not limit the client's right to use information contained in these data if it is obtained from another source without restriction. The data subject to this restriction are contained on all sheets of this proposal.

Executive Summary

The Edwards Aquifer Recovery Implementation Program (EARIP) has been tasked with developing a plan to protect the federally-listed species potentially affected by the management of the Edwards Aquifer and to contribute to the species' recovery. The recommendations will be in the form of a report, approximately 75 pages in length, which is based on available literature, invited speakers, and discussions among Science Subcommittee members. The EARIP has requested proposals to conduct an independent peer review (IPR) of the EARIP Science Subcommittee study of the initial recommendations regarding the "k" charges. Battelle, as a 501(c)(3) organization, is uniquely qualified to provide independent, objective, scientific and technical IPR support for this important program. Battelle's experience conducting IPRs is based on conducting more than 25 peer reviews since 2005. We have conducted IPRs under very tight time frames and know how to manage the unexpected. Our well-defined IPR process and database of more than 550 candidate peer reviewers will allow us to quickly determine the number of reviewers needed and identify potential candidates, free from conflict of interest, within a few weeks of the notice to proceed. The IPR report that Battelle submits will include a description of the methods (i.e., process to conduct the IPR), summary of the results, and detailed formatted comments from the IPR panel, and biographical information on panel members. Battelle proposes to complete the IPR process including providing responses to the Science Subcommittee questions/comments on the IPR report by March 31, 2009.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	I
1. INTRODUCTION	1
2. BATTELLE EXPERIENCE.....	1
3. APPROACH FOR CONDUCTING THE INDEPENDENT PEER REVIEW	3
3.1. Planning and Schedule.....	5
3.2. Identification and Selection of Independent Peer Reviewers	5
3.2.1. Analyze project requirements to determine qualifications of peer reviewers	5
3.2.2. Identify number of potential reviewers.....	6
3.2.3. Recruit potential IPR panelists.....	6
3.2.4. Evaluate potential conflicts of interest.....	7
3.2.5. Final panel selection	8
3.2.6. Confirm final panel participation and proceed with subcontracting efforts ..	8
3.2.7. Execute contract with panel member.....	8
3.3. Process for Conducting the Independent Peer Review	8
3.4. Independent Peer Review Report.....	9
3.5. EARIP Science Subcommittee Comments and Response to Comments.....	10

TABLES

Table 1. Proposed Schedule.....	5
---------------------------------	---

FIGURES

Figure 1. Battelle General Process for Managing Independent Peer Reviews	4
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1. INTRODUCTION

The Edwards Aquifer is a unique groundwater resource, extending 180 miles from Brackettville in Kinney County to Kyle in Hays County. It serves multiple critical functions for the citizens and the environment. Not only does it serve as the primary source of drinking water for over 2 million people in south central Texas, it is the source of the only two major springs remaining in Texas. In addition, eight federally-listed threatened or endangered species depend directly on water in, or discharged from, the Edwards Aquifer system. The Edwards Aquifer Recovery Implementation Program (EARIP) has been tasked with developing a plan to protect these federally-listed species and to contribute to the species' recovery. The EARIP Science Subcommittee has been required by the Texas Legislature to conduct a study to prepare "initial recommendations" regarding the "k" charges in response to three different scenarios including withdrawals, springflows and pools for the affected species. The recommendations will be in the form of a report, approximately 75 pages in length, which is based on available literature, invited speakers, and discussions among Science Subcommittee members. The EARIP has requested proposals to conduct an independent peer review of the EARIP Science Subcommittee study of the initial recommendations regarding the "k" charges.

Battelle is pleased to submit this proposal to conduct an Independent Peer Review (IPR) of the Edwards Aquifer Recovery Implementation Program (EARIP) Science Subcommittee report. Battelle has significant experience conducting independent peer reviews and will apply this knowledge to this project. Our proposal includes Battelle's experience, the approach for conducting the IPR, proposed staff, and cost.

2. BATTELLE EXPERIENCE

It is important that the organization leading the IPR be well respected as an independent, unbiased organization. It is also important to have well-established relationships with organizations, universities/colleges, and firms that serve as a resource for scientists and engineers with expertise in the required technical disciplines. The organization should also have access to this expertise within its own staff. Experience conducting IPRs for various federal agencies provides a breadth of experience that is required to conduct cost-effective, high-quality, and focused IPRs.

Battelle, which was established in 1925, is the world's largest non-profit independent research and development organization providing innovative solutions to the world's most pressing research and technology needs. As a private, non-profit (501(c)(3)) research and development organization, Battelle is uniquely qualified to provide independent, objective, scientific, and technical independent peer review support along with the high degree of flexibility and responsiveness to meet deadlines and contain costs. Battelle has experience both in participating directly in independent technical/peer reviews, as well as managing and facilitating external peer reviews for numerous federal clients, including the U.S. Army Corps of Engineers and EPA. Battelle is able to quickly access its more than 2300 degreed staff, including numerous PhDs and experts in their field. Many of these experts have interacted with the National Academy of Sciences (NAS) or National Research Council (NRC). For example, Battelle staff have been

invited to participate in workshops, served on peer review panels, authored chapters in NAS reports, and served on standing NAS committees.

In conducting IPRs, Battelle:

- Manages objective peer review, a critical element in ensuring the reliability of scientific analyses, reports, and programs
- Provides the independent scientific credentials and the full suite of contract research capabilities required to manage peer review, particularly when timeliness and rapid response is needed
- Maintains the staffing and infrastructure to support multiple, simultaneous peer reviews
- Uses long-term relationships and reputation to identify peer reviewers at universities, industry and NGOs.

Since 2005, Battelle has conducted more than 25 peer reviews for numerous projects and programs including restoration, navigation, construction, and model certification. During these peer reviews, Battelle has strived to identify the best qualified and available panel members, which has ranged from 3 to 10 panel members for each project, but also identified staff in house with subject matter expertise to understand the critical issues of each project and appropriately guide peer reviews to ensure that the peer review panel produces results that are meaningful, clear, and implementable.

Battelle's success in managing IPRs and delivering a value-added product is focused on the following key elements:

- Responsiveness. Battelle will quickly assemble a team of experts from our extensive support base.
- Independence. Battelle is a non-profit organization that can be an objective, "honest broker" operating at the highest level of integrity.
- Integration into the overall project objectives. Battelle understands the objective of the project and will integrate the expert panelists' comments to provide realistic recommendations that can be implemented.
- Tiered approach. Battelle has determined the most cost effectiveness approach for conducting this specific IPR.
- Adherence to aggressive schedules. Battelle has a track record of meeting aggressive schedules for providing timely IPR reports for the nation's most critical projects.

These elements will be strictly adhered to when conducting the IPR for the EARIP Science Subcommittee report.

3. APPROACH FOR CONDUCTING THE INDEPENDENT PEER REVIEW

In managing IPRs, it is imperative that a defined process be established and implemented to receive and synthesize timely and useful scientific input on reports and programs. Battelle's process which will be used for the proposed project, has been fine-tuned over the last 3 years, and includes the following:

- Schedule and Planning (determining type and scope of review, developing selection criteria of peer reviewers, setting schedule/budget);
- Identifying, assessing, and recruiting peer reviewers;
- Setting up subcontracts quickly;
- Developing a charge and providing guidance to reviewers to ensure useful input;
- Managing the peer review logistics;
- Summarizing comments and preparing a peer review report; and
- Responding to comments on the peer review report.

Battelle's general approach for conducting IPRs is illustrated by the diagram in Figure 1. The illustration provides a detailed description of each of the steps in the process for conducting the peer review and producing the peer review report. Please note the Work Plan (i.e., first step) will not be prepared for this IPR due to the anticipated brevity of the Science Subcommittee Study report (i.e., review document) and the fact that the content of the Work Plan is reflected in the detailed process and schedule provided in the following section. Additionally, several assumptions were made in the costing associated with proposing this effort. These assumptions are:

- Notice to Proceed received no later than November 15, 2008
- Report received no later than January 2, 2009
- The hourly rate for each of the three panelists proposed is \$200/hour, which is based on past experience. Battelle's actual costs may be adjusted if the actual rate for the selected panelists is less than or more than \$200/hour.
- Three panel members will be recruited
- Minimum of 10 charge questions for the IPR panel members
- Comments/Questions from the EARIP Science Subcommittee will be consolidated and conflicting comments resolved prior to providing the comments/questions to Battelle
- Selected IPR panelists available and able to meet proposed schedule
- Pending availability of peer reviewers, the schedule for deliverable of the Final IPR report could be expedited.
- Review document is approximately 75 pages without appendices

- Draft IPR and Final IPR reports will be submitted. The Final IPR report will be similar to the Draft report with the exception of the addition of an appendix that contains the EARIP Science Subcommittee comments/questions and the IPR panelists responses. To maintain the objectivity and independence of this process, no changes will be made to the IPR panelist’s specific comments or overall summary statement provided in the draft report.

Battelle welcomes the opportunity to discuss these assumptions with Texas A&M University and how they may impact the schedule or costs if they are altered.

Figure 1. Battelle General Process for Managing Independent Peer Reviews



3.1. Planning and Schedule

We propose to conduct the IPR in 75 days after receipt of the review document. Table 1 defines the proposed schedule which assumes a notice to proceed (NTP) no later than November 15, 2008, and the Science Subcommittee study report (i.e., review document) to be available on January 2, 2009. An asterisk (*) denotes a deliverable that will be submitted to Texas A&M University. A list of key assumptions for this IPR is presented below Table 1.

Table 1. Proposed Schedule

Task	Action	Completed by Date
Task 1	Finalize Schedule	November 16, 2008
Task 2	Select external IPR panelists Submit list of selected IPR panelists(*) Complete subcontracts for IPR panelists	December 5, 2008 December 5, 2008 December 19, 2008
Task 3	Review document available Submit draft charge(*) Receive comments on draft charge Finalize charge questions	January 2, 2009 January 9, 2009 January 13, 2009 January 14, 2009
Task 4	Report documents and charge sent to IPR panelists Kick off meeting with IPR panelists External peer reviewers complete their review Convene consensus teleconference	January 14, 2009 January 15, 2009 February 2, 2009 February 9, 2009
Task 5	Prepare IPR panelists comments Submit draft IPR report (*)	February 16, 2009 February 27, 2009
Task 6	EARIP Science Subcommittee provides clarifying questions Submit final IPR report, including Subcommittee questions and IPR panelist responses to clarifying questions (*)	March 13, 2009 March 27, 2009
Task 7	Project Closeout (closeout subcontracts, submit final invoice, etc)	April 30, 2009

3.2. Identification and Selection of Independent Peer Reviewers

The following steps will be used to identify IPR panelists and establish subcontracts with each of the panelists.

3.2.1. Analyze project requirements to determine qualifications of peer reviewers

Battelle recommends that the panel expertise include the following technical areas and experience:

- Hydrology
- Karst geology
- Hydrological modeling
- Aquatic biology
- Small aquatic species (endangered and threatened)
- Ecology

Other considerations include active participation in related professional societies, and other technical review panel experience.

Candidate panel members will be considered from the following reviewer categories, and may fit into more than one category, which may include:

- Academic
- Consultant (company-affiliated)
- Consultant (independent)
- Non-governmental organization (NGO)

3.2.2. Identify number of potential reviewers

Based on the RFP and the known information about the project and area, we propose that 3 peer reviewers will be needed for this IPR. The breakdown for the panel will be:

- 2 hydrologist
- 1 biologist

It may be possible to add an additional biologist if the actual rates of the peer reviewers totals a cost that is less than what is proposed here. Based on our past experience, we have proposed an hourly rate for each peer reviewers of \$200 per hour. The actual rate for the peer reviewers will not be determined until Battelle has identified and confirmed the panelists. Battelle will contact Texas A&M University for approval, if it is determined that a 4th peer reviewer can be included without increasing the total proposed costs.

3.2.3. Recruit potential IPR panelists

Peer reviewer recruitment involves the development of selection criteria intended to ensure coverage of key topics, selection of a diverse and balanced review panel, and identification of potential conflict areas. Potential peer reviewers are recruited using a combination of methods: Battelle peer review database, recommendations, Internet research, and personal interviews. Battelle has developed a database of peer reviewers who have been identified, screened, and/or used for the peer reviews that have been conducted by Battelle. Our extensive Peer Reviewer Database of more than 550 potential experts and contains data such as degrees obtained (by year), professional registrations or certifications, a biographical description of reviewer expertise, and resume. It is searchable by discipline and specific expertise areas for entries that have been contacted and responded to other peer review projects conducted by Battelle. This database is updated at the completion of each peer review project.

Potential peer reviewers are contacted via email and/or telephone and asked to respond to an inquiry of interest, which includes a description of the project, duties of the IPR panel, schedule, and conflict of interest (COI) concerns. The responses and discussions from the potential peer reviewers are evaluated for technical requirements and related expertise, availability, hourly rate, and actual or perceived COI.

3.2.4. Evaluate potential conflicts of interest

Battelle carefully follows a two-step screening process to evaluate potential reviewers for COI. During Step 1, or the inquiry of interest contact, a list of COI statements is sent to potential peer reviewers for consideration and response. The following are example exclusion criteria or COI that could be used for this IPR.

- Involvement in any projects related to Edwards Aquifer
- Serving on any committees, panels, etc. related to the Edwards Aquifer and related projects
- Directly impacted by the Edwards Aquifer
- Employed by any agency or organization working on the Edwards Aquifer or related projects
- Any publicly documented statement made by the reviewer or reviewer's firm advocating for or against the subject project;
- Former employee of firm or organization currently working on the Edwards Aquifer and related projects.

If the candidate indicates that he/she has no conflicts based on the screening in Step 1, and they are interested and available, and are ultimately chosen by Battelle during the final selection process (discussed below), the subcontracting process starts. Step 2 is included in the subcontracting process. The Peer Review Conflict of Interest Inquiry includes the COI statements that were provided in the email under Step 1 and also requires that the candidate disclose any existing or potential conflicts by checking the appropriate box, as shown below:

I have no known existing or potential conflicts of interest associated with this task.

I have identified and disclosed in writing all known existing or potential conflicts of interest associated with this task.

To ensure no conflicts of interest compromise the peer review, for Step 2 when the reviewer is placed under subcontract, each is required to sign the Peer Reviewer Conflict Interest Inquiry form certifying that he/she is free of any actual or potential conflicts. If necessary to evaluate potential conflicts of interest further, Battelle will refer to the National Academies' Policy on Committee Composition and Balance and Conflicts of Interest for Committees Used in the Development of Reports, dated May 12, 2003

3.2.5. Final panel selection

A draft list of screened potential peer review candidates who have met the requirements for availability, technical background, and COI will be prepared by Battelle and provided to Texas A&M (and the EARIP if requested) for approval (if necessary), notification, and confirmation that the selected panel has no known conflicts with the project. In selecting final peer reviewers from the list of potential peer review candidates, an effort is also made to select experts who best fit the criteria and factors described above. Battelle will consider concerns expressed by Texas A&M and EARIP, but ultimately the final list of peer reviewers will be determined by Battelle to maintain the independence and objectivity of this IPR.

3.2.6. Confirm final panel participation and proceed with subcontracting efforts

IPR panel members will be notified of their selection and to confirm their availability, hourly rate, and schedule. Battelle anticipates each IPR panel member will have 42 hours to complete their review and includes the following breakdown of hours by task:

- Kick off conference call: 1 hour
- Review of document and respond to charge questions: 20 hours
- Consensus conference call: 3 hours
- Develop final comments: 8 hours
- Review draft and final IPR report: 2 hours
- Respond to Science Subcommittee comments and questions: 8 hours

3.2.7. Execute contract with panel member

Battelle will establish subcontracts with the peer reviewers who had indicated their willingness to participate and confirmed their absence of COI through a signed conflict of interest form. Battelle's subcontracting process enables peer reviewer reimbursement on an hourly or stipend basis. Battelle will also close-out the subcontracts with each of the peer reviewers at the end of the project.

3.3. Process for Conducting the Independent Peer Review

Once the review documents are available, Battelle subject matter experts examine the review document in order to develop charge questions to the reviewers containing questions specific to the material being reviewed and the input being sought. Battelle also prepares clear and explicit guidance to reviewers (to assure timely completion) prior to conducting any peer review activity, whether it be through written comments, conference calls, or in person meeting(s).

After the charge questions have been developed, the formal peer review process will begin. Battelle will distribute the review document, charge questions, and other supporting material (e.g., schedule) to the IPR panelists via email. A kick off meeting with the panelists will be scheduled and conducted. The purpose of the kick off meeting is to introduce the panelists and the Battelle staff roles, describe the project and expectations of the IPR, the schedule, and how communications will be conducted through the project. If appropriate, Texas A&M University may want to participate in the kick-off meeting to provide a brief overview of the program and their expectations of the panel.

The IPR panel will respond to the charge questions electronically in a format designed by Battelle, which has been used for similar IPRs. After receipt of the responses to the charge questions, Battelle will review the responses to identify overall recurring themes, potential areas of conflict, and other impressions of the report. As a result of this review, Battelle will develop a preliminary list of overall comments and discussion points that emerge from the IPR panelists' verbatim comments, including negative and positive comments. In addition, comments that are conflicting among the reviewers will be identified for further discussion between IPR panel members. Each reviewer's responses to the charge questions will be shared with each panelist.

Battelle will facilitate a consensus discussion conference call with the IPR panel on a date to be determined. The purpose of the consensus discussion will allow the exchange of technical information among the panel experts. This information exchange ensures that the IPR report represents the consensus of the panel and avoids isolated or conflicting information and analyses. The main goal of the consensus discussion is to review the overall comments and ascertain and confirm their importance to the IPR panel, remove points having a lack of consensus, identify and add any missing issues of high-level importance to the IPR panel, and finally, reach consensus on the specific final comments to be provided to Texas A&M University (and the EARIP if requested) as part of the IPR report prepared by Battelle.

3.4. Independent Peer Review Report

The Draft IPR Report prepared by Battelle will include a summary of the IPR panelists and their qualifications, the methodology used in conducting the IPR, and a discussion of the results. Specifically, the report will include the following sections:

- Title page
- Executive Summary
- Introduction
- Methods
 - Identification and selection of IPR panel
 - IPR process
- Biographical Information on IPR panelists
- Results
 - Overall summary statement on IPR panel's impression of report
 - Specific comments from IPR panel
- Appendix
 - Charge questions
 - Summary of Consensus Conference Call
 - Table listing IPR panel's specific comments with space for questions/responses from EARIP

3.5. EARIP Science Subcommittee Comments and Response to Comments

Because of the size of the EARIP Science Subcommittee and the potential for hundreds of comments/questions, Battelle proposes that comments from the subcommittee should be handled electronically rather than via a face to face meeting. To facilitate comments on the IPR report, Battelle will number each of the lines of the report and provide a format for the EARIP to submit comments. This will allow the EARIP Science Subcommittee's comments on the report in general and the comments specifically to be tracked in an orderly fashion. The proposed schedule (Table 1) allows for a 2 week review and response from the subcommittee. Battelle is assuming that the comments provided by the EARIP members will be consolidated and reviewed to eliminate redundancies or conflicts prior to returning to Battelle for response. If this cannot be conducted, the time and costs for delivering the Final IPR Report will be in addition to those proposed. Currently, the proposed schedule allows the IPR panel 2 weeks to respond to the subcommittee's questions/comments. All comments and responses will be captured and included as a standalone appendix to the Final IPR Report.

It is assumed that revisions to the main body of the Draft IPR report will be based on clarifications or editorial comments, not the report formatting. The only significant change between the Draft IPR Report and the Final will be the addition of the EARIP Science Subcommittee comments and panelists responses. To maintain the objectivity and independence of the IPR report, the specific comments and overall summary statement on the report will not be changed.

Attachment A
Cost/Price Proposal

PROPOSED LABOR CATEGORIES

	Hourly Rate	Hours	Total
Task 1. Schedule		8	\$1,088
Project Manager	\$165.00	4	\$ 660.00
Assistant Project Manager	\$96.00	2	\$ 192.00
Peer Reviewer Recruitment I	\$118.00	2	\$ 236.00
Task 2. EPR Expert Panel		51	\$5,510
Project Manager	\$165.00	4	\$ 660.00
Assistant Project Manager	\$96.00	2	\$ 192.00
Peer Reviewer Recruitment I	\$118.00	24	\$ 2,832.00
Sub Admin I	\$80.00	8	\$ 640.00
Sub Admin II	\$76.00	4	\$ 304.00
Peer Reviewer Recruitment II	\$98.00	9	\$ 882.00
Task 3. EPR Charge		30	\$3,636
Project Manager	\$165.00	4	\$ 660.00
Assistant Project Manager	\$96.00	10	\$ 960.00
Technical I	\$202.00	4	\$ 808.00
Technical III	\$108.00	8	\$ 864.00
Text Processing	\$86.00	4	\$ 344.00
Task 4. EPR Review		34	\$4,090
Project Manager	\$165.00	10	\$ 1,650.00
Assistant Project Manager	\$96.00	12	\$ 1,152.00
Peer Reviewer Recruitment I	\$118.00	8	\$ 944.00
Text Processing	\$86.00	4	\$ 344.00
Task 5. Draft EPR Report		42	\$4,848
Project Manager	\$165.00	4	\$ 660.00
Assistant Project Manager	\$96.00	12	\$ 1,152.00
Technical II	\$166.00	2	\$ 332.00
Peer Reviewer Recruitment I	\$118.00	20	\$ 2,360.00
Text Processing	\$86.00	4	\$ 344.00
Task 6. EPR Questions		26	\$2,958
Project Manager	\$165.00	6	\$ 990.00
Assistant Project Manager	\$96.00	12	\$ 1,152.00
Peer Reviewer Recruitment I	\$118.00	4	\$ 472.00
Text Processing	\$86.00	4	\$ 344.00
Task 7. Closeout		6	\$740
Project Manager	\$165.00	2	\$ 330.00
Assistant Project Manager	\$96.00	1	\$ 96.00
Peer Reviewer Recruitment I	\$118.00	1	\$ 118.00
Peer Reviewer Recruitment II	\$98.00	2	\$ 196.00
Subcontractors			\$ 28,607.00
Total		197	\$ 51,477

Attachment B

Contractual

Battelle's proposal is predicated on the following provisions which are incorporated into Battelle's proposal as if fully set forth therein:

Battelle takes exception to general contract provisions which are not consistent with the proposed work included in our Technical Proposal, including, without limitation: warranties or guarantees; indemnifications (including without limitation Patent and Copyright Infringement indemnification), contingent payment; set-off; intellectual property clauses; non-Government audit of Battelle's books and records; limitations of future contracting; and clauses stating time-is-of-the-essence, default termination; re-performance and/or re-procurement; and performance guarantees.

Contract award shall constitute approval of lower-tier subcontractors, if any, included in Battelle's proposal.

Neither party shall be liable to the other for special, indirect or consequential damages. Battelle makes no warranty or guarantee, express or implied, including, without limitation, warranties of fitness for a particular purpose or merchantability, for any report, design, item, service, or other result to be delivered under this agreement.

Battelle does not endorse products or services. Therefore, Texas A&M agrees that it will not use or imply Battelle's name, logo, reports or other identifying characteristics for advertising, promotional purposes, raising of capital, recommending investments, or in any way that implies endorsement by Battelle without the prior written approval of an officer of Battelle.

Battelle is an independent contractor and Texas A&M acknowledges that Battelle is a service provider, not a manufacturer or supplier. Texas A&M retains all final decision making authority and all responsibility for the formulation, design, manufacture, assembly, packaging, marketing, and sale of Texas A&M's products, including, without limitation, product labeling, warnings, instructions to users, and for obtaining any governmental or other pre- or postmarket approvals, certifications, registrations, licenses, or permits.