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c/o Herman T. Guerrero
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FROM: Willens/Siemer

MESSAGE: Response to the Request for Proposal re Legal Services
for the Third Constitutional Convention

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April 3, 1995

RESPONSE OF
HOWARD WILLENS AND DEANNE SIEMER

TO THE
NOTIFICATION OF PROPOSED ACTION
WITH RESPECT TO RETAINING PROPOSED LEGAL CONSULTANTS

We thank the Pre-Convention Committee for the opportunity to submit a proposal with respect to the provision of legal services to the Pre-Convention Committee and the Third CNMI Constitutional Convention. We believe that high quality and efficient legal services can be provided for the Pre-Convention and Convention periods for a total of \$48,500. Our proposal is as follows:

1. Names of responsible lawyers

Howard P. Willens and Deanne C. Siemer will be responsible for directing the legal services to be provided to the Pre-Convention Committee and the Convention.

2. Lawyer services requirements of the Convention

a) the Pre-Convention period from April 6, 1995 possibly through June 5, 1995

During the Pre-Convention period, the legal staffing would include the services of two lawyers (Howard Willens and Deanne Siemer) to accomplish the legal aspects of the preparation for the Convention, as directed by the Pre-Convention Committee.

This work would include assistance with preparation of the Rules, assistance to the delegates with proposals, outlines of possible subjects and schedules the Convention may want to consider, preparation of materials for the delegates, identifying experienced candidates for doing a stenographic record of the Convention's plenary sessions, proposing procedures for collecting and archiving the records of the Convention's work, and other work as assigned by the Pre-Convention Committee.

We estimate that up to 200 hours may be required during this period. We believe that two lawyers are sufficient to accomplish this work in a timely and efficient fashion.

b) the Convention period from June 5, 1995 possibly through August 19, 1995

During the Convention period, the legal staffing would include the services of four lawyers, Howard Willens, Deanne Siemer, and two other qualified senior lawyers plus two CNMI law student interns.

The other two lawyers will be EITHER:

. qualified lawyers specified by the Pre-Convention Committee who will be available full time, if the Pre-Convention Committee wishes to make this selection itself; OR

. qualified lawyers supplied by us (and approved by the Pre-Convention Committee) who will work for reimbursement of expenses (and no fees) and be available full time. We have identified candidates locally and from our law firms who can fill these requirements if the Pre-Convention Committee wishes to consider this alternative.

The four senior lawyers would work as a team to staff the requirements of the Convention delegates, the Convention leadership, the Committee of the Whole and the Convention meeting in plenary session, and the substantive Committees and their officers. Each proposal from individual or groups of delegates must be stated clearly and confined to a single subject; possible conflicts with other provisions in the current CNMI Constitution or the Covenant must be identified; and possible litigation problems must be pointed out accurately. A clear explanation must be prepared of any committee action with respect to proposals; constitutional language must be drafted for proposals that are recommended by the Committees; reports from the Committees to the Convention may need to be prepared; and an analysis of amendments adopted by the Convention must be provided. The four senior lawyers would provide the necessary capability with respect to CNMI constitutional law and judicial opinions; U.S. constitutional law and U.S. Supreme Court opinions; constitutional drafting; and related legal topics.

The CNMI law students would be selected from among those who are available in Saipan over the summer. We propose, if the Committee agrees, to send a communication to all CNMI law students soliciting their interest in the two positions. The law students would be paid a normal legal intern or law student stipend for their work for the Convention. The law students would provide research and drafting services, assistance with the daily Journal and committee reports, and other work supervised by the senior lawyers. It may not be possible to recruit CNMI law students at this late date, as many of them may already have arranged summer jobs. In that event, we have made provision in our estimate for part-time assistance from on-island lawyers.

We estimate that more than 1,700 hours of legal work will be needed over the 60-75 days of the Convention to make sure that all the necessary work is done carefully and effectively.

For example, if the Pre-Convention Committee designates three substantive committees to consider delegate proposals, those committees are likely to meet an average of three days each week for an average of four to five hours per meeting. Staffing those meetings with a single lawyer would take about 360 hours of lawyer time over the entire duration of the Convention. Each hour of Committee work generally requires two hours of preparation work for research, drafting of reports, preparation of information papers, and related tasks, which adds up to over 700 hours for that purpose. If the delegates generate 300 proposals, and an average of 1 lawyer hour is spent on assisting the delegate to refine the proposal, and researching and analyzing possible implications for other constitutional provisions, litigation, Covenant limitations, and U.S. constitutional requirements, that would require another 300 hours of lawyer time. The Committee of the Whole and the Convention are likely to meet an average of at least 6 days a week for an average of 2 to 3 hours per day. Staffing those meetings with a single lawyer would require about 150 hours of lawyer time. Each hour of Convention work generally also requires 2 hours of preparation work for assistance to the leadership, support for the Secretary, research on specific questions raised on the floor, and related tasks. That would take up another 300 hours of lawyer time.

These estimates and averages are based on our prior experience on similar assignments and, obviously, could vary depending on the ground rules established for this Convention. We think, however, that these estimates approximate what it will take to do a careful and efficient job for the Convention.

3. The total dollar amount to be paid in compensation for lawyer services

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| a) <u>the Pre-Convention period</u> | \$6,000 |
| \$3,000 per month for reimbursement of out-of-pocket expenses of Howard Willens and Deanne Siemer for the months of April and May, a total of \$6,000. | |
| b) <u>the Convention period</u> | \$42,500 |
| \$3,000 per month for reimbursement of out-of-pocket expenses of Howard Willens and Deanne Siemer for the months of June, July, and half of August, a total of \$7,500 | |
| Reimbursement/per diem for two additional qualified lawyers with constitutional law experience, an estimated total of \$19,000 | |

Compensation for two law student interns, if available, or part-time assistance from on-island lawyers, an estimated range from \$7,000 to \$16,000

4. Possible requirements for legal experts \$0

We do not anticipate the need for legal experts with respect to the issues of U.S. or CNMI constitutional law, international law, statutory law, or U.S. or CNMI common law through judicial decisions. We have the necessary experience to cover these areas, and we have brought with us the software necessary for online legal research.

We believe, however, that if senior members of the CNMI judiciary were to retire and be available for consulting assignments with the Constitutional Convention, a valuable perspective could be added. We would try to meet such consulting payments within our proposed budget but, depending on the fees requested, might have to request supplementary funds.

We have noted below that a valuable contribution might be made to the work of the Convention by non-legal experts.

5. Possible requirements for non-lawyer staff \$30-40,000

Administrative and secretarial support for the legal team will be of critical importance to the smooth functioning of the Convention. The administrative and secretarial personnel supporting the legal team need to be on-site at the Convention working full time on Convention matters. It is generally not feasible to "borrow" these kinds of personnel if they must work in off-site offices or if they are available only part-time. We understand that the Convention has limited funds. We have made extensive efforts to ensure that we could provide high quality but low cost lawyers for the Convention in order to have the necessary funds to pay for high quality, effective administrative and secretarial services.

The legal team needs two secretaries (so that it can operate both a day shift and a night shift), an experienced administrator who is accustomed to working with teams of lawyers, and a clerk. There likely will be a very substantial amount of paperwork involved in the Constitutional Convention. There may be as many as 300 to 500 amendment proposals, each of which must be processed, copied, and distributed to delegates. The record of each proposal considered by the Convention's Committees must be kept accurately and any action by the Convention on proposed amendments must be reflected accurately in the record of the Convention. The secretarial and administrative work is demanding; the materials generated by the legal team must be

processed, copied, and distributed quickly and accurately. To some extent, the support for the Convention Leadership can be done by this secretarial and administrative part of the legal team.

We have identified highly experienced and hard-working candidates for these positions, some of whom are on-island and some of whom would come from off-island. It is difficult to finalize these arrangements until the Pre-Convention Committee has awarded the contract for legal services and, for that reason, we have included an estimated range. The secretarial and administrative personnel need to be in place some days before the Convention begins, and will have work to do for some days after the Convention closes. For that reason, our estimate includes 90 days of work rather than the 60 to 75 days specified for the Convention itself. The total cost for the months of June, July and August would be between \$30,000 to \$40,000.

For the Pre-Convention period, we have identified very capable local secretarial capability that is available for \$15 per hour for any large secretarial tasks that may be generated for the legal team by the Pre-Convention Committee.

6. Possible requirements for equipment \$9,000

The legal team needs dedicated computer, fax, and telephone equipment on site where the Convention is working so that there can be quick turnaround on the documents needed for the Convention.

We have brought our own computer, fax, and portable phone equipment to Saipan for work on our book research, and we would make this equipment available on site for work for the Convention without charge. We have also brought with us the access software for the Westlaw on-line legal research service which we would also make available without charge.

We would need computer equipment and software, portable and fixed telephone equipment, and pagers to support the two other senior lawyers, the two law students or part-time local lawyers, the two secretaries, and the administrator.

If we had to rent this equipment on short notice for the three month term of the Convention, and have it installed, tested and networked, it would cost approximately \$9,000. An early decision by the Pre-Convention Committee should allow us to get a significantly better price for these rentals.

7. Other requirements

There are other requirements not covered by the Committee's Notice that will affect the efficiency of the legal team's work and the number of hours of lawyer time that are needed. They are:

a) Method for recording Convention sessions

The proceedings of the Convention can be recorded by stenographic reporters with computer equipment that produces rough drafts immediately; or by traditional stenographic reporting means that requires manual transcription; or by sound recording that is transcribed by the secretarial personnel. The Convention generally needs to approve its daily record reasonably soon after the proceedings so that corrections can be made appropriately. The daily journal is also useful for the public information officers in dealing with the media. The additional cost of stenographic transcription may be a significant factor in the smooth operation of the Convention.

b) Copiers

The Convention will require copying machines on site where the Convention is meeting. Adequate circulation of information among delegates is at a premium during a Constitutional Convention and, if the copiers are inadequate, there will be delays and difficulties that will impeded the Convention's work.

c) Supplies and services

The legal team will generate requirements for copying paper for fax, copier, and printer equipment; toner for printers and copiers; telephone charges; and other incidental supplies and services that are not included in the budget for legal services. Use of on-line legal research services, if necessary, will generate additional telephone charges.

d) Office furniture and office space

During the Convention the legal team will need 9 desks and chairs, two work tables, and four offices with a capacity for three people in each office.

During the Pre-Convention period, we would use our existing office space, at cost for fax, copying, telephone, equipment and supplies.

e) Non-lawyer experts

There are a few subject matter areas where non-lawyer experts can be helpful to the delegates in understanding the options and longer-term consequences of delegate proposals.

. State constitutional convention experience

A considerable number of proposals to amend the CNMI Constitution will involve topics on which state constitutional experience is relevant. Howard Mantel, from the Institute of Public Administration, located in New York, has worked on state constitutional issues and related public administration problems in many states for the past 40 years. His resume is available. Mr. Mantel was one of the experts who consulted for the First Constitutional Convention.

. Economic, tax, and public finance experience

Some proposals will involve consequences for the economic and tax systems of the Commonwealth stretching into the future. Eric Blankenship, a principal in Economic Analysis Group, located in Washington, D.C., has broad experience in the economics field and in making estimates of the economic consequences of public policy options. Mr. Blankenship's resume is available.

. Budget and public finance experience

Some proposals may involve the budget and public finance systems for the Commonwealth. State constitutional conventions have called upon experts in this field to advise with respect to state experience, the available options, and the expected consequences of various decisions with respect to constitutional provisions. Mr. Mantel and Mr. Blankenship are prepared to identify experts with specialties relevant to particular problems raised by the delegates. These experts normally could be consulted by telephone or fax from their offices.

The Convention can make very efficient use of experts if the Pre-Convention Committee or the Convention leadership, is able to schedule the consideration of amendments to various constitutional articles for specific time periods during the Convention's 60-day duration. That way, outside experts could come to Saipan for 5 to 7 days and accomplish the work necessary to advise the Convention. The Pre-Convention Committee may wish to reserve or request some funds for this purpose in order to ensure that the Constitutional decisions made by the delegates are informed by experts where necessary.

We are pleased to have the opportunity to submit this proposal, and are available to discuss it with the Pre-Convention Committee at your convenience.

Respectfully submitted,

Howard P. Willens
Howard P. Willens,

Deanne C. Siemer
Deanne C. Siemer