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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

2002 NOV 26 P 4: 28

AMERICAN ASSOCIATION OF
PEOPLE WITH DISABILITIES et al.

CLERK OF DISTRICT COURT
JACKSONVILLE, FLORIDA

Plaintiff,

CASE NO. 3:01-CV-1275-J-211 ^{HTS} ~~JJC~~

vs.

JIM SMITH, EDWARD C. KAST, et al.

Defendant.

**DEFENDANTS SMITH AND KAST'S DISPOSITIVE MOTION TO DISMISS
PLAINTIFFS' SECOND AMENDED COMPLAINT OR IN THE ALTERNATIVE
MOTION FOR
SUMMARY JUDGMENT AND MEMORANDUM OF LAW**

Defendants, Jim Smith in his official capacity as Secretary of State for the State of Florida, and Edward C. Kast in his official capacity as Director for the Division of Elections, pursuant to Fed. R. Civ. P. 12(b)(6), move to dismiss the amended complaint for failure to state a claim upon which relief can be granted or in the alternative for summary judgment on the grounds that there are no significant facts in dispute and defendants are entitled to judgment as a matter of law.

I. INTRODUCTION

Now that this Court has ruled that the defendants did not violate Article VI, Section 1, Florida Constitution by certifying voting equipment that does not allow visually and manually impaired voters to vote without assistance, the thrust of plaintiffs' claim appears to focus on allegations that they are being subjected to discrimination by having to vote with assistance. The three

individual plaintiffs allege that because of their visual and manual impairments, they have been unable to use the voting systems utilized by Duval County without third-party assistance and that they have been unable "to cast independently a secret ballot in a manner the same as or similar to that used by non-disabled Duval County voters." These three plaintiffs desire to be able to cast independently a secret ballot in a manner the same as or similar to that used by Duval County voters who are not disabled. (Am. Complaint ¶¶ 5, 6, and 7).

Plaintiffs allege that they are legally entitled to vote without discrimination as non-disabled voters do - in person using voting systems that permit them to cast independent and secret ballots. They further allege that they cannot independently cast a secret ballot with the voting equipment utilized by Duval County, that they must be assisted by a third party, and that as a result their votes are neither independent nor secret, and cannot be cast in a manner the same as or similar to that used by non-disabled voters in Duval County. (Am. Complaint ¶¶ 22, 23, 24, 25, and 26).

Plaintiffs further allege that the defendants have discriminated and continue to discriminate against them on the basis of their disabilities by failing to ensure that such voters can vote under the same or similar conditions as non-disabled persons in Duval County. They allege that the discrimination includes: (a) that the voting equipment in use in Duval County is not readily accessible to plaintiff and others similarly situated; (b) that defendants have

failed to furnish appropriate auxiliary aids necessary to afford plaintiffs an equal opportunity to participate in and enjoy the benefits of the activity of voting; (c) that defendants have failed to give primary consideration to or otherwise honor the requests of the plaintiffs with respect to the type of auxiliary aids and services necessary; and (d) that defendants are subjecting the plaintiffs to discrimination by requiring them to vote in a manner materially different from, and substantially more burdensome than, the manner by which non-disabled voters cast their votes in Duval County. (Am. Complaint ¶ 38).

With respect to defendants Smith and Kast, plaintiffs allege that they have asked Smith and Kast to certify only voting systems that are accessible to persons with visual impairments and manual impairments. Plaintiffs also allege that Smith and Kast have certified voting systems that are not accessible to voters with visual or manual impairments and, thus, have authorized counties to purchase inaccessible voting systems. Plaintiffs then conclude that by certifying inaccessible voting systems, Smith and Kast have denied plaintiffs their right to vote in a manner the same as or similar to that used by non-disabled voters and have therefore discriminated against plaintiffs based on their disabilities. (Am. Complaint ¶¶ 48, 49, and 50).

II. PLAINTIFFS DO NOT HAVE A CAUSE OF ACTION UNDER THE ADA

In Count One, plaintiffs allege that defendants have violated the ADA by discriminating against plaintiffs by failing to provide

voting machines that are readily accessible so that visually impaired and manually impaired voters can vote in the same or similar manner as non-disabled voters. The ADA, 42 U.S.C. §12132, and its implementing regulations at 28 C.F.R. §35.130, contain no such requirement. These defendants have not discriminated against the plaintiffs under the ADA or any other law by having certified voting systems that do not enable plaintiffs to vote without assistance. *Nelson v. Miller*, 170 F.3d 641 (6th Cir. 1999).

The issues addressed in *Nelson* were substantially the same as those raised in this case. In *Nelson*, plaintiffs alleged that the Secretary of State for the State of Michigan refused to implement methods by which the plaintiffs could cast their votes unassisted by another person. They alleged the existence of "inexpensive technologies that are currently in commercial use which permit persons who are blind to read and mark ballots without involving a third party,..." *id.* footnote 1, at pg. 654. They also claimed that the Michigan Constitution provides all Michigan voters with a right to secrecy of the ballot. In affirming the decision of the district court, the appellate court concluded that the plaintiffs were not being denied their state constitutional right to "secrecy of the ballot". The appellate court further concluded that the Secretary of State, by refusing to provide plaintiffs with voting assistance other than that already extended to them under the Michigan statutes, does not discriminate against them in violation of the ADA and/or the Rehabilitation Act (29 U.S.C. §794).

Similarly, this Court, in its Order dated October 16, 2002, held that the Florida Supreme Court would interpret the "direct and secret" language of the Florida Constitution as being satisfied by the assistance provided in Section 101.051, Florida Statutes, and that defendants Smith and Kast and their predecessors did not violate Article VI, Section 1, Florida Constitution by certifying voting equipment that does not allow visually and manually impaired voters to vote without assistance. However, the Order did not determine whether the program, activity, or service provided violates the ADA or the Rehabilitation Act. This point is now addressed below, and supports entry of a summary judgment of dismissal.

Section 101.051(1), Fla. Stat. (2002) provides that any elector who requires assistance to vote by reason of blindness, disability, or inability to read or write may request the assistance of two election officials or some other person of the elector's own choice, other than the elector's employer, an agent of the employer, or an officer or agent of his or her union, to assist the elector in casting his or her vote. The Federal Voting Rights Act of 1965, as amended in 1982, provides substantially the same assistance. 42 U.S.C. §1973aa-6.

The Voting Accessibility for the Elderly and Handicapped Act (VAEH), 42 U.S.C. §1973ee-1(a), requires that, with certain exceptions provided in subsection (b), each political subdivision responsible for conducting elections shall assure that all polling places for Federal elections are accessible to handicapped and

elderly voters. Subsection (b) provides that subsection (a) shall not apply to a polling place if the chief election officer of the State assures that any handicapped or elderly voter assigned to an inaccessible polling place, upon advance request, will be assigned to an accessible polling place, or will be provided with an alternative means for casting a ballot on the day of the election. §1973ee-5 provides that this subchapter shall not be construed to impair any rights guaranteed by the Voting Rights Act of 1965 and §1973ee-6(1) provides that the term "accessible" as used in this subchapter means accessible to handicapped and elderly individuals for the purpose of voting or registration, as determined under guidelines established by the chief election officer of the State involved. It is without question that Florida provides the assistance required by the Voting Rights Act of 1965 and the VAEH. That assistance cannot subject the plaintiffs to discrimination under the ADA unless Congress intended that the ADA displace the Federal Voting Rights Acts.

Congress did not intend that the ADA displace the Voting Rights Act of 1965 and the VAEH. 42 U.S.C. §12201(b) provides:

Nothing in this chapter shall be construed to invalidate or limit the remedies, rights, and procedures of any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this chapter.

The ADA is not an election law. It does not include a single provision specifically governing elections. *Lightbourn v. County of*

El Paso, Tex., 118 F.3d 421, 430 (5th Cir. 1997). Therefore, any rights that plaintiffs may have to enhance their participation in the voting process, arise from the Voting Rights Act, not the ADA. "[W]hen two statutes are capable of co-existence, it is the duty of the courts, absent a clearly expressed congressional intention to the contrary, to regard each as effective." *Morton v. Mancari*, 417 U.S. 535, 551, 94 S.Ct. 2474, 2483, 41 L.Ed.2d 290 (1974) (a provision aimed at furthering Indian self-government by according an employment preference within the Bureau of Indian Affairs for qualified members of the governed group can readily co-exist with a general rule prohibiting employment discrimination on the basis of race). As a result, the defendants herein, by providing the plaintiffs with assistance, are not discriminating against the plaintiffs merely because the statutory type of assistance provided by §101.051, Fla. Stat., does not necessarily allow plaintiffs to independently case their ballot. A contrary interpretation would cause the specific Federal statute (Voting Rights Act) to be controlled or nullified by the general one (ADA). *id.* at 550, 2483.

Plaintiffs allege that the particular discrimination against them manifests itself as follows: (a) being forced to reveal their votes to a third-party; (b) risking having (and actually having) their votes revealed by the third party to other people; (c) risking having (and actually having) the third-party attempt to influence their candidate choice; (d) having to vote in a manner that singles them out in the polling place; (e) having to wait long periods of

time until a third-party is available to assist the voter; (f) having to incur the burden and impediment of traveling to the Office of Elections' headquarters to use the three accessible voting machines, if purchased; and (g) having to suffer embarrassment and distress during the voting process for each of the foregoing reasons. (Am. Complaint ¶82). None of these, as interpreted by the courts, the Department of Justice¹, and the Federal Election Commission², violate 42 U.S.C. §12132 or 28 C.F.R. §35.130.

Plaintiffs allege that 28 C.F.R. §35.151(a) and(b) require that new equipment like voting machines be readily accessible to and useable by people with disabilities. Plaintiffs then claim that defendants Smith and Kast have failed to ensure that Florida's new voting equipment will be readily accessible to plaintiffs because the defendants have certified voting systems that are not designed and constructed to be usable by voters with visual or manual impairments. (Am. Complaint ¶¶84 and 85). Plaintiffs further allege defendants Smith and Kast have failed to only certify voting systems

¹ Exhibit 1 attached hereto is Department of Justice Letter of Finding #99, August 25, 1993, indicating that providing assistance is an effective means of enabling an individual with a vision impairment to cast a ballot. The attached copy was obtained from <<http://www.usdoj.gov/crt/foia/cltr0999.txt>>. The original has been ordered from the DOJ and will be substituted when received.

² Exhibit 2 attached hereto is a copy of page 51, Federal Election Commission, 1996, report that indicates providing someone to assist in the completion of a ballot is an effective means of providing access under the ADA. The entire report is being obtained and will be subsequently filed herein.

that furnish appropriate auxiliary aids so that plaintiffs can vote independently, in violation of 28 C.F.R. §35.160(a)and(b).

The specific issue for purposes of this motion to dismiss is whether the ADA and its various regulations require defendants Smith and Kast to only certify voting systems that will permit plaintiffs to vote independently without assistance. The answer is no.

The term "vote" as used in 42 U.S.C. §1971(a) includes all action necessary to make a vote effective including, but not limited to registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election. See 42 U.S.C. §1971(e). "The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government." *Reynolds v. Sims*, 377 U.S. 533,555, 84 S.Ct. 1362,1378, 12 L.Ed.2d 506(1964). The Voting Rights Act of 1965 was originally aimed at state regulations which had the effect of denying citizens their right to vote because of their race. Moreover, the act gives a broad interpretation of the right to vote, recognizing that voting includes "all action necessary to make a vote effective". *Allen v. State Bd. of Elections*, 393 U.S. 544,565, 89 S.Ct. 817,831, 22 L.Ed.2d 1 (1969).

Then the Voting Rights Act of 1965, as amended in 1982 specifically required that a blind or otherwise disabled person be

provided assistance when voting. Senate Report No. 97-417 accompanying the Act concluded that the right to vote is made meaningful if a blind voter is assisted by someone they can trust. That report demonstrates that Congress believed that voting privacy concerns were met when a voter is allowed to choose an individual to assist them in voting. See, *Nelson v. Miller*, 950 F.Supp 201, 203 (W.D. Mich. 1996) at FN1.

Viewed in this context, plaintiffs allegations that they are unable to communicate their votes as effectively as non-disabled voters is directed to the fact that they need to vote with assistance, not that the outcome of their vote is any less effective. While they speculate that they might have their vote revealed by the third-party or that the third-party might attempt to influence their candidate choice, nowhere do they allege that they have not been able to vote for the candidate of their choice or that their ballot was not counted. Therefore, the proper focus is on the concept of "program accessibility" rather "facilities accessibility".

Under the "program accessibility" standard, the Court must determine whether the Duval County Voting System, when viewed in its entirety, is readily accessible to the plaintiffs. In doing so, the Court is required to look at the accessibility of the system as a whole, not at individual elements. See, *Association for Disabled Americans v. City of Orlando*, 153 F.Supp.2d 1310,1320 (M.D. Fla. 2001) (both the Orlando Arena and the Bob Carr Performing Arts Centre, when viewed in their entirety, are accessible to and usable by

disabled individuals). When determining whether or not the law requires that the facilities be made more accessible, the Court is required to view the programs presented at the facilities in their entirety, rather than focusing on specific inaccessible aspects of the facilities. *id* at 1321.

The fact that the United States Congress and the Florida Legislature have recognized the existence of the problem and have chosen to solve it by mandating assistance in the voting process when requested, distinguishes this case from *Sholtz v. Cates*, 256 F.3d 1077 (11th Cir. 2001) ("If the Courthouse's wheelchair ramps are so steep that they impede a disabled person or if its bathrooms are unfit for the use of a disabled person, then it cannot be said that the **trial** is 'readily accessible,' regardless whether the disabled person manages in some fashion to attend the **trial**). (emphasis added). There is nothing in plaintiffs' complaint to indicate any systematic or continuing impediment to having their vote properly recorded and tabulated. At best, the complaint contains veiled references to either speculation(risking) or isolated (and presumably unreported) incidents of having their votes revealed by the third-party to others or having the third-party attempt to influence their candidate choice. (Am. Complaint ¶82). Any such isolated incidents are addressed by §104.23, Fla. Stat. (2002), which provides that any such disclosure constitutes a 3rd degree felony. The issues that plaintiffs raise were considered by the various lawmakers during the

legislative process when assistance was mandated. Therefore, even though the plaintiffs require assistance to cast their vote, the voting process is accessible to them.

Congress again considered this issue when adopting the Help America Vote Act of 2002. It conditioned the receipt of federal funds upon a State developing and implementing a plan that includes a voting system that is accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters, through the use of at least one (1) direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place. (§§253, 254, 301). However, consistent with the Voting Rights Act of 1965, actions for enforcement by declaratory and injunctive relief are granted to the Attorney General. The Help America Vote Act of 2002, does not provide for a private right of action. *See, Love v. Delta Air Lines*, ___ F.3d ___, 2002 WL 31431583 (11th Cir. October 31, 2002) (NO. 02-10223) (the courts cannot create by implication a private right of action, no matter how socially desirable or otherwise warranted the result may be).

Similarly, the Florida Legislature passed the Electronic Voting Systems Act. Section 101.56062, Fla. Stat.(2002), Standards for accessible voting systems, requires the installation of accessible voter interface devices that allow the voter to operate independently

to cast a ballot without assistance. However, that section only becomes effective "one year after the legislature adopts the general appropriations act specifically appropriating to the Department of State, for distribution to the counties, \$8.7 million or such other amounts as it determines and appropriate for the specific purpose of funding this act." The appropriation has not been adopted.

Plaintiffs, in their Motion for Reconsideration, attached numerous exhibits which demonstrate that the issues raised herein were fully raised and addressed by the Secretary of State's Select Task Force on Voting Accessibility. (See exhibits C, E, F, and H attached to plaintiff's motion). The Final Report containing the findings, recommendations, suggestions for implementation, and funding considerations, was forwarded to the Secretary of State by Representative Crow and Senator Mitchell, the House and Senate sponsors of the companion legislation necessary to implement the recommended statutory changes.(exhibit F to plaintiff's motion). Therefore, it must be presumed that the Florida Legislature was fully apprised of the issues when it enacted the Electronic Voting Systems Act, contingent upon future appropriations.

While both Congress and the Florida Legislature have, in effect, acknowledged that voting systems should be more accessible, the legislation stops short of requiring the State of Florida to make the facilities more accessible. Furthermore, by addressing the existing difficulties for voters with visual or manual disabilities without creating an unfunded entitlement, Congress and the Florida

Legislature have reaffirmed that no such right had been created in previous legislation.

III. PLAINTIFFS HAVE FAILED TO DEMONSTRATE A CASE OR CONTROVERSY.

Article III of the United States Constitution requires parties seeking to invoke the power of the federal courts to allege an actual case or controversy. *O'Shea v. Littleton*, 414 U.S. 488, 94 S.Ct. 669, 38 L.Ed.2d 674 (1974). In order for a case to be ripe, the injury or threat of injury must be "real and immediate" and not "conjectural or hypothetical." *Id.* at 493-94. The ripeness doctrine does not require a litigant to have already suffered harm; however, it is sufficient if there is a reasonable probability of harm. In short, "[r]ipeness is a question of timing." *City Communications, Inc. v. City of Detroit*, 888 F.2d 1081, 1089 (6th Cir. 1989) (quoting *Blanchette v. Connecticut Gen. Ins. Corps.*, 419 U.S. 102 (1974)). "The central concern is whether the case involves uncertain or contingent future events that may not occur as anticipated, or indeed may not occur at all." 13A C. Wright, A. Miller & E. Cooper, *Federal Practice and Procedure* §3532.1 (1984). According to the court in *City Communications*,

The [ripeness] doctrine dictates that courts should decide only existing, substantial controversies, not hypothetical questions or possibilities. [Citation omitted.] Ripeness becomes an issue when a case is anchored in future events that may not occur as anticipated, or at all. *City Communications*, 888 F.2d at 1089

Furthermore, even if a claim does present a case or controversy

within the meaning of Article III, there may be prudential reasons to declare a case unripe. According to the Court in *Brown v. Ferro Corp.*, 763 F.2d 798, 801 (6th Cir. 1985), cert. denied, 474 U.S. 947 (1985), the ripeness doctrine depends not only on the finding of a case or controversy, but also requires that the court exercise its discretion to determine whether judicial resolution would be desirable under all of the circumstances. See also *O'Shea*, 414 U.S. at 493-94. The rationale for the ripeness doctrine is evident.

Defendants . . . may find themselves unable to litigate intelligently if they are forced to grapple with hypothetical possibilities rather than immediate facts. [Furthermore,] unnecessary lawmaking should be avoided, both as a matter of defining the proper role of the judiciary in society and as a matter of reducing the risk that premature litigation will lead to ill-advised adjudication.

C. Wright, A. Miller & E. Cooper, *supra* at §3532.1.

With respect to standing, this requirement is an aspect of the Article III "case or controversy" requirement. To have Article III standing, plaintiff, in seeking declaratory or injunctive relief, must demonstrate a likelihood of suffering future injuries, the likelihood of suffering such injury at the hands of the defendants; and that the relief sought will likely prevent such injury from occurring. In establishing the likelihood of suffering future injury, a plaintiff must present specific and concrete facts showing that the challenged action will result in a demonstrable, particularized injury to plaintiff so that plaintiff personally will

benefit in a tangible way from court action. *Warth v. Seldin*, 422 U.S. 490, 95 S.Ct. 2197, 45 L.Ed.2d 343 (1975). Moreover, the injury must be real and immediate and not conjectural or hypothetical. *City of Los Angeles v. Lyons*, 461 U.S. 95, 103 S.Ct. 1660, 75 L.Ed.2d 675 (1983). Plaintiff must also establish a fairly traceable nexus between the threatened deprivation of the constitutional rights and the action of the defendant. *Allen v. Wright*, 468 U.S. 737, 104 S.Ct. 3315, 82 L.Ed.2d 556 (1984). The injury must be caused by defendant and be remediable by defendant. *Wehunt v. Ledbetter*, 875 F.2d 1558 (11th Cir. 1989), cert. denied, 494 U.S. 1027 (1990).

The particular discrimination alleged by plaintiffs does not meet that standard. (Am. Complaint ¶82). Being forced to reveal their votes to a third-party, risking having (and actually having) their votes revealed by the third-party to other people, and risking having (and actually having) the third-party attempt to influence their candidate choice is mere speculation. To the extent that isolated incidents occur (or have occurred), they cannot be attributed to defendants, Smith and Kast. Additionally, to the extent that plaintiffs may be singled out in the polling place, may have to wait long periods of time for assistance, or may have to travel to the Office of Elections headquarters, plaintiffs cannot hold defendants Smith and Kast liable. Until such time as plaintiffs are able to demonstrate that the Secretary and Division Director, by following the Federal Voting Rights Acts and the Florida Statutes

have threatened to deprive plaintiffs of their constitutional rights, plaintiff's claims are insufficient to demonstrate standing for Article III purposes.

Instead, plaintiffs have alleged that by certifying voting systems that are inaccessible, or not designed and constructed to be readily accessible to and usable by persons with visual impairments and persons with manual impairments, defendants Smith and Kast have not afforded the plaintiffs the opportunity to participate in the voting process in a manner the same as or similar to non-disabled voters. (§§ 48, 49, and 50.). Section 15.13, Fla. Stat. (2002), provides:

The Department of State shall have general supervision and administration of the election laws, corporation laws and such other laws as are placed under it by the Legislature and shall keep records of the same.

The ADA is not an election law. Therefore, the Secretary and the Division Director do not have the duty to comply with plaintiff's request to only certify voting systems that allow them to vote without assistance, nor do they have a duty to "give primary consideration" to the accommodation requested by the plaintiffs pursuant to 28 C.F.R. §35.160(b)(2).

Both Congress and the Florida Legislature have, in effect, decreed that voting with assistance is a reasonable accommodation that does not violate any of plaintiffs' Constitutional or statutory rights. To prevail under the ADA, plaintiffs must show that the accommodations offered by the Florida Legislature are not reasonable,

and that they are unable to participate equally in the voting process. *See, Duvall v. County of Kitsap*, 260 F.3d 1124,1137 (9th Cir. 2001). While these defendants have the discretion to adopt rules which establish minimum standards for electronic and electro mechanical voting systems, which would include plaintiffs' concerns, in the absence of such a duty, they cannot be held responsible for failure to exercise that discretion. *Lightbourn, supra* at pg. 429. Therefore, plaintiffs' claims against these defendants do not demonstrate the existence of a case or controversy.

IV. PLAINTIFFS CANNOT DEMONSTRATE A CLAIM UNDER SECTION 504 OF THE REHABILITATION ACT.

Due to the similarities of the provisions of Title II of the ADA and Section 504 of the Rehabilitation Act, defendants Smith and Kast rely upon the above arguments for dismissal of plaintiffs Rehabilitation Act claims in Count Two of the Amended Complaint, with one addition. The Department of State has not received federal funding for use by the Division of Elections, or use in elections related functions during the various fiscal years dating back to 1997. As of the date of the affidavit of Hal Lench, attached hereto as Exhibit 3, the Division of Elections has not received nor has it benefitted directly from federal financial assistance. Plaintiffs cannot predicate a §504 claim against a state actor on the mere fact that the defendants are instrumentalities of a department of the Florida state government and that department is a recipient of federal financial assistance. To state a §504 claim and to avoid

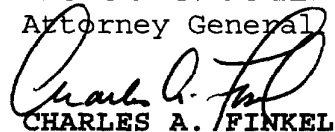
summary judgment, plaintiffs must allege and demonstrate that the specific program or activity with which they are involved receives or directly benefits from federal financial assistance. See, *Lightbourn, supra* at pg. 427.

CONCLUSION

For the reasons set forth above defendants Smith and Kast's Motion to Dismiss/Motion for Summary Judgment should be granted and the plaintiffs' Amended Complaint should be dismissed with prejudice.

Respectfully submitted,

RICHARD E. DORAN
Attorney General



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CERTIFICATE OF SERVICE

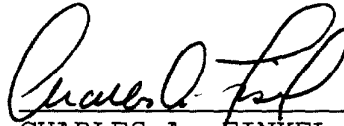
I HEREBY CERTIFY that a true copy of the foregoing has been furnished by facsimile and U.S. Mail to:

J. Douglas Baldrige
Howrey Simon Arnold & White
1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Scott D. Maker
Office of General Counsel
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Jacksonville, FL 32202

Lois G. Williams
Washington Lawyer's Committee
for Civil Rights and Urban
Affairs
11 Dupont Circle NW, Suite 400
Washington, D.C. 20036

on this 20th day of November, 2002.


CHARLES A. FINKEL

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II-7.1000

August 25, 1993

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXX, Florida XXXXX

RE: Complaint Number XXXXXXXXXXXX (formerly XXXXXXXXXXXXXXX)

Dear Ms. XXXXXXX:

This constitutes our Letter of Findings with regard to your complaint against the Supervisor of Elections, Pinellas County, Florida, under title II of the Americans with Disabilities Act (ADA), which prohibits discrimination against qualified individuals with disabilities on the basis of disability by State and local governments. Specifically, you allege that the Supervisor of Elections of Pinellas County does not provide Braille ballots or an electronic system of voting, such as voting by telephone, to blind voters. You further allege that the present system of providing assistance at the polling place does not allow a blind voter to cast a secret ballot.

The Civil Rights Division has completed its investigation of your complaint. Our investigation revealed that the Supervisor of Elections of Pinellas County follows the Florida statute (Chapter 97.061, F.S.), which requires the following provisions for voters with visual impairments: 1) the assistance of any two election officials at the polling place; or 2) the assistance of any one person of the individual's choice. Pinellas County also provides a magnifying lens at polling places. In a telephone conversation with our office, Ms. Dorothy Ruggles, Supervisor of Elections, stated that when a blind person comes to the polling place to vote, the poll workers offer a choice of allowing someone the person knows or two poll officials to assist in casting the ballot.

Legal Requirements

The Department of Justice's regulation implementing title II provides that a public entity must ensure that its communications with individuals with disabilities are as effective as communications with others and must furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity. 28 C.F.R. § 35.160. A public entity is not required to take any steps that would result in a fundamental



alteration in the service, program, or activity or in undue financial and administrative burdens. 28 C.F.R. § 35.164

In determining what type of auxiliary aid or service is necessary, a public entity must give primary consideration to the requests of the individual with a disability, that is, the public entity must provide an opportunity for individuals with disabilities to request the auxiliary aids and services of their choice and must honor that choice unless it can demonstrate that another effective means of communication exists or that provision of the aid or service requested would result in a fundamental alteration or in undue financial and administrative burdens. 28 C.F.R. §§ 35.160(b)(2); 35.164.

Discussion

The Pinellas County Supervisor of Elections provides magnifying lenses and readers for individuals with vision impairments seeking to vote. The election procedures specify that an individual who requests assistance will be assisted by two poll workers, or by one person selected by the voter. Your complaint alleged that the provision of assistance to an individual who is unable to fill out a printed ballot is inadequate because it does not allow a blind voter to cast a secret ballot. A Braille ballot, however, would not meet your objective of keeping your vote secret, because it would have to be counted separately and would be readily identifiable. Also, electronic systems of voting by telephone that meet the security requirements necessary for casting ballots are not currently available.

Although providing assistance to blind voters does not allow the individual to vote without assistance, it is an effective means of enabling an individual with a vision impairment to cast a ballot. Title II requires a public entity to provide equally effective communications to individuals with disabilities, but "equally effective" encompasses the concept of equivalent, as opposed to identical, services. Poll workers who provide assistance to voters are required to respect the confidentiality of the voter's ballot, and the voter has the option of selecting an individual of his or her choice to provide assistance in place of poll workers. The Supervisor of Elections is not, therefore, required to provide Braille ballots or electronic voting in order to enable individuals with vision impairments to vote without assistance.

Based upon the facts and legal requirements discussed above, we have determined that the Pinellas County Supervisor of Elections is not in violation of title II with respect to the issues you have raised. If you are dissatisfied with our determination, you may file a private complaint in the appropriate United States District Court under title II of the ADA.

You should be aware that no one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone who has either taken action or participated in an action to secure rights protected by the ADA. Any individual alleging such harassment or intimidation may file a complaint with the Department of Justice. We would investigate such a complaint if

the situation warrants.

Under the Freedom of Information Act, 5 U.S.C. § 522, we may be required to release this letter and other correspondence and records related to this complaint in response to a request from a third party. Should we receive such a request, we will safeguard, to the extent permitted by the Freedom of Information Act and the Privacy Act, the release of information which could constitute an unwarranted invasion of privacy.

If you have any questions, please contact Linda King at (202) 307-2231.

Sincerely,

Stewart B. Oneglia
Chief
Coordination and Review Section
Civil Rights Division

1 This interpretation is consistent with long-standing interpretation of section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in federally assisted programs and activities. See the discussion of the general prohibitions of discrimination in the preamble to the Department's title II regulation at 56 FR 35,703 and the analysis of the Department of Health, Education, and Welfare's original regulation implementing section 504 (later transferred to the Department of Health and Human Services) at 45 C.F.R. pt. 84, Appendix A.



tabbies
A. J. ...

Innovations in Election Administration 15

**Ensuring the
Accessibility
of the Election
Process**

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EXHIBIT
2



Section 35.164 further provides that the head of the public entity (or a designee) carries the responsibility of proving any such burden in a written statement. And even so, it provides that:

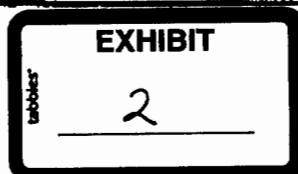
If an action required to comply with this subpart would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits or services provided by the public entity.

These things taken together, it is this Commission's understanding that meeting the requirements of the VAA, of the polling place accessibility criteria recommended by this Commission, and of Section 208 of the Voting Rights Act (VRA) would satisfy the requirements of the ADA with regard to the communication needs of the hearing impaired, of the visually impaired, and, to some extent, of the totally blind. With regard to the totally blind, however, election offices must now provide additional auxiliary services. These services need not necessarily include providing taped, recorded, or braille ballots, registration forms, or other public records or documents if the head of the election office has determined in writing that such services would constitute an undue administrative or financial burden. But services must include, at a minimum, effective means of providing access to the election process such as providing someone qualified to read and to help in the completion of the registration form, to read and to help in the completion of the ballot (should the blind individual not request the assistance of another under Section 208 of the VRA), and to read other public documents.

o Item 4: The application of the self-evaluation requirements imposed on public entities by the ADA.

Subsection 3(c)(1) of the VAA (42 U.S.C. 1973ee-1) provides that:

each State shall report to the Federal Election Commission, in a manner to be determined by the Commission, the number of accessible and inaccessible polling places in such State on the date of the preceding general Federal election, and the reasons for any instance of inaccessibility.



(PAGE 51)

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

AMERICAN ASSOCIATION OF
PEOPLE WITH DISABILITIES et al.

Plaintiff,

CASE NO. 3:0-CV-1275-J-21TJC

vs.

JIM SMITH, EDWARD C. KAST, et al.

Defendants.

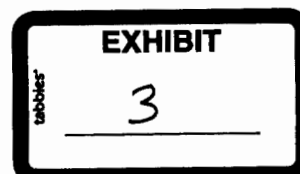
_____ /

AFFIDAVIT OF HAL LENCH

STATE OF FLORIDA)
COUNTY OF LEON)

BEFORE ME the undersigned authority personally appeared Hal Lench, who having been duly sworn, deposes and says:

1. My name is Hal Lench, and I am Director of the Florida Department of State's Division of Administrative Services.
2. I have been informed that the Plaintiffs in this case have filed suit claiming that Defendants Jim Smith and Edward Kast, in their respective official capacities, have violated Section 504 of the Rehabilitation Act of 1973 (hereinafter "Rehabilitation Act" or the "Act").
3. I have also been informed that the Plaintiffs specifically alleged that "Defendants Smith and Kast are instrumentalities of a department of the State of Florida state government



and that department is a recipient of federal financial assistance”. (See allegation number 101 of Plaintiff’s Amended Complaint for Injunctive and Declaratory Relief).

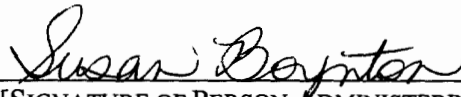
4. After reviewing the pertinent financial documents for the Department of State, I hereby declare that the Department of State for the State of Florida has received federal awards monies for purposes **other than** election related divisions or programs as of the date of this affidavit.
5. As reflected in the attached Schedules of Expenditures of Federal Awards for the Florida Department of State, the Department has received federal awards to be used in other projects such as the National Park Service, Arts in Education, Historic Preservation Fund Grants-in-Aid, and the Museum of Florida History.
6. I further declare that the Department of State has not received federal funding for use by the Division of Elections, or use in elections related functions or services, during the 1997-1998, 1998-1999, 1999-2000, 2000-2001 and 2001-2002 State fiscal years. As of the date of this affidavit, the Division of Elections has not received nor has it benefited directly from federal financial assistance.

I HEREBY AFFIRM AND VERIFY THAT THE FOREGOING STATEMENTS ARE TRUE AND CORRECT. FURTHER AFFIANT SAYETH NAUGHT.



HAL LENCH

SWORN TO AND SUBSCRIBED BEFORE ME this 18th day of November 2002, by Hal Lench of the Florida Department of State's Division of Administrative Services, who is personally known to me or whose identity I proved based upon his Florida's Driver's License.



[SIGNATURE OF PERSON ADMINISTERING OATH]



[PRINT, TYPE OR STAMP NAME OF NOTARY PUBLIC OR NAME AND TITLE OF OTHER OFFICER ADMINISTERING OATH PURSUANT TO § 117.10, FLA. STAT.]

Schedule of Expenditures of Federal Awards
For the Fiscal Year Ended June 30, 1998

Granting Agency/Project Name	CFDA Number	Federal Grant Number	DOE Grant Number	Total Expenditures	Less: Portion of Expenditure	Less: Portion of Expenditures	Less: Portion of Expenditures	Adjusted Federal Share	Amount of Expenditures in column 8 that represent amounts subgranted to subrecipients
				Federal Share 7/1/97-6/30/98	to Other State of Fla Agencies 7/1/97-6/30/98	subgranted to State Universities 7/1/97-6/30/98	subgranted to Community Colleges 7/1/97-6/30/98		
U. S. Department of the Interior									
National Park Service									
Historic Preservation Grants-In-Aid-F7000	15 904	12-97-12011	N/A	\$145,807.14	\$0.00	\$7,875.00	\$0 00	\$137,932.14	\$137,932.14
Historic Preservation Grants-In-Aid-F5000		12-95-10043	N/A	0 00	0 00	0 00	0 00	\$0 00	\$0.00
Historic Preservation Grants-In-Aid-F6000		12-96-11071	N/A	23,576.12	0 00	0 00	0 00	\$23,576.12	\$23,576.12
Historic Preservation Grants-In-Aid-F0098			N/A	16,425 00	0 00	0 00	0 00	\$16,425 00	\$16,425.00
Sub-Total				\$185,808.26	\$0.00	\$7,875 00	\$0 00	\$177,933.26	\$177,933.26
National Foundation on the Arts and the Humanities									
National Endowment for the Arts									
Promotion of the Arts-Grants to Organizations and Individuals 45.024									
1995-96 Grant AIE96		95-5154-0011	N/A	1,149.63	0 00	0 00	0 00	\$1,149.63	\$0.00
1997-98 Grant AIE98			N/A	41,586.18	0 00	0 00	0 00	\$41,586.18	\$35,000 00
1994-95 Grant FFP0R		94-5551-0181	N/A	1,436 00	0 00	0 00	0 00	\$1,436.00	\$0 00
Promotion of the Arts- Partnership Agreements 45.025									
1997-98 Grant BSG98			N/A	321,337 68	0 00	0 00	0 00	\$321,337 68	\$0 00
1996-97 Grant BSG97		96-6141-0042	N/A	16,825 60	0 00	7,875 00	0 00	\$8,950 60	\$10,625 00
Sub-Total				\$382,335 09	\$0 00	\$7,875 00	\$0 00	\$374,460 09	\$45,625 00
U. S. Department of Education									
Office of Educational Research and Improvement									
Library Services (LSCA Title I)(GR001)	45 301	ER034A60018	95E000500	169,705 44	16,817.00	98,203 85	0 00	\$54,684 59	\$0 00
Library Services (LSCA Title I)(GR001)		ER034A70018	95E000500	3,714,461 66	0 00	0 00	0 00	\$3,714,461 66	\$2,880,509 79
Interlibrary Cooperation (LSCA Title III)(GRIII)	45 301	ER035A50018	94E000501	1,142,381 00	121,454.00	42,992 72	0 00	\$977,934 28	\$673,419 57
Interlibrary Cooperation (LSCA Title III)(GRIII)		ER035A60018	95E000501	812,169 21	0 00	0 00	0 00	\$812,169 21	\$812,169.21
Interlibrary Cooperation (LSCA Title III)(GRIII)		ER035A70018	95E000501	0.00	0 00	0 00	0 00	\$0.00	\$0 00
Public Library Construction (Title II)(GR0II)	45 301	ER154A50025	93E000580	308,000 00	0 00	0 00	0 00	\$308,000.00	\$308,000.00
Library Literacy (LSCA Title IV)(GR0IV)	84 167	R167A50130	94E00537	0 00	0 00	0 00	0 00	\$0 00	\$0 00
Sub-Total				\$6,146,717.31	\$138,271 00	\$141,196.57	\$0 00	\$5,867,249.74	\$4,674,098 57

Case 3:01-cv-01275-HLA-HTS Document 55 Filed 11/26/02 Page 32 of 37 PageID 756

Schedule of Expenditures of Federal Awards
For the Fiscal Year Ended June 30, 1998

Granting Agency/Project Name	CFDA	Federal	DOE Grant	Total Expenditures	Less: Portion	Less: Portion	Less: Portion	Adjusted	Amount of Expenditures in column 8 that represent amounts subgranted
					of Expenditure subgranted to Other State	of Expenditures subgranted to State	of Expenditures subgranted to Community	Federal	
U. S. Institute of Museum and Library Services									
Public Library Construction (GR0II)	45.301	LC5002598		120,839.70	0.00	0.00	0 00	\$120,839 70	\$120,839 70
Public Library Construction (GR0II)		LC6001098		0.00	0.00	0.00	0 00	\$0 00	\$0.00
Public Library Construction (GR0II)		LC7002598		0.00	0.00	0.00	0.00	\$0.00	\$0.00
Public Library Construction (GR0II)		LC9000598		0.00	0.00	0.00	0.00	\$0.00	\$0.00
Public Library Construction (GR0II)		860120998		0.00	0.00	0.00	0.00	\$0.00	\$0.00
Public Library Services (LSTA)		LS8002498		0.00	0.00	0.00	0.00	\$0 00	\$0.00
Sub-Total				\$120,839 70	\$0 00	\$0 00	\$0 00	\$120,839 70	\$120,839.70
Total Expenditures				\$6,594,020 96	\$138,271 00	\$156,946 57	\$0 00	\$6,298,803 39	\$4,776,817.13

I hereby certify that the information included herein is accurate and complete to the best of my knowledge.
This includes the Historic Preservation Boards and Ringling Museum of Art


Theresa Coker, Bureau Chief for Human Resources

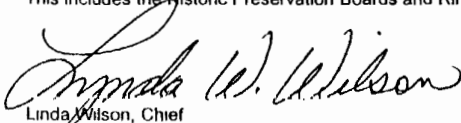
11-9-98
Date

Case 3:01-cv-01275-HLA-HTS Document 55 Filed 11/26/02 Page 33 of 37 PageID 757

Department of State
 Schedule of Expenditures of Federal Awards
 For the Fiscal Year Ended June 30, 1999

Granting Agency/ Project Name	CFDA Number	Federal Grant Number	Total Expenditures Federal Share	Less: Portion of Expenditures Subgranted to Other State of Fla Agencies	Less: Portion of Expenditures Subgranted to State Universities	Less: Portion of Expenditures Subgranted to Community Colleges	Adjusted Federal Share	Amount of Expenditures in column 8 that represent amounts subgranted to other subrecipients
U. S. Department of the Interior								
National Park Service - F7000	15.904	12-97-12011	(32,831.04)	0.00	0 00	0.00	(32,831.04)	(32,831.04)
National Park Service - F0098		12-98-13111	39,850.00	0.00	0 00	0.00	39,850 00	39,850.00
National Park Service - F0099		12-99-14241	18,000 02	0 00	0 00	0 00	18,000 02	18,000.02
		Sub-Total	25,018 98	0.00	0.00	0 00	25,018 98	25,018 98
U.S. Department of Transportation								
Federal Highway Administration - Subgranted from Florida DOT 20.205		99090-1511	168,342 52	0.00	0.00	0 00	168,342 52	0.00
National Foundation on the Arts and the Humanities								
National Endowment for the Arts (Historical Resources)								
NEA Apprenticeship Resources - AP098	45.026	98-5500-6013	3,135.28	0.00	0 00	0 00	3,135 28	0 00
National Endowment Arts - NA099		98-5500-3117	37,949 17	0.00	0 00	0.00	37,949.17	0 00
NEA Folklife Apprenticeship - NEA00		99-5500-6019	1,170.37	0 00	0 00	0 00	1,170.37	0.00
		Sub-Total	42,254.82	0.00	0.00	0.00	42,254.82	0.00
Promotion of the Arts Partnership Agreements (Cultural Affairs)								
Arts in Education - AIE98	45.025	97-6118-2055	413.82	0.00	0.00	0.00	413.82	0 00
Basic State & Unserved Arts Community - BSG98		97-6118-2055	11,546.24	0 00	0 00	0.00	11,546.24	0 00
Unserved Arts Community Assistance Program - UAC98		97-6118-2055	8,836 00	0.00	0 00	0 00	8,836.00	8,836.00
Arts in Education - AIE99		98-6100-2045	57,109 04	0.00	0.00	0.00	57,109.04	44,450 00
Basic State & Unserved Arts Community - BSG99		98-6100-2045	389,610.03	0.00	0.00	0.00	389,610.03	0 00
Unserved Arts Community Assistance Program - UAC99		98-6100-2045	51,100.00	0.00	0 00	0.00	51,100.00	51,100 00
		Sub-Total	518,615 13	0.00	0 00	0 00	518,615.13	104,386.00
U.S. Department of Education								
Public Library Construction - IMLS - GR011	84.154	ER154A50025	406,139.60	0.00	0.00	0.00	406,139.60	406,139.60
U.S. Institute of Museum and Library Services								
Service and Technology - LSTA1	45.310	LS-80024-98	4,508,199.46	187,146.50	0.00	0.00	4,321,052.96	3,839,849.89
Service and Technology - GR001		LS-80024-98	1,263,502.91	0.00	231,275.64	0.00	1,032,227.27	199,880.57
Service and Technology - GR111		LS-80024-98	586,922.72	0.00	230,000.00	0.00	356,922.72	228,026.89
		Sub-Total	6,358,625.09	187,146.50	461,275 64	0.00	5,710,202.95	4,267,757.35
National Historic Publication and Records Commission								
National Archives - GR010	89.003	98-080/98-008	34,337 88	0 00	0 00	0 00	34,337.88	20,100 00

I hereby certify that the information included herein is accurate and complete to the best of my knowledge
 This includes the Historic Preservation Boards and Ringling Museum of Art.

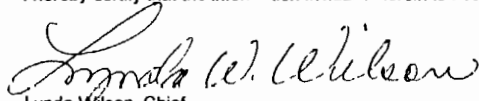

 Linda Wilson, Chief
 Bureau of Budget, Planning, and Financial Services

12/2/99
 Date

Department of State
 Schedule of Expenditures of Federal Awards
 For the Fiscal Year Ended June 30, 2000

Granting Agency/ Project Name	CFDA Number	Federal Grant Number	Total Expenditures Federal Share	Less: Portion of Expenditures to Other State of Fla Agencies	Less: Portion of Expenditures Subgranted to State Universities	Less: Portion of Expenditures Subgranted to Community Colleges	Adjusted Federal Share	Amount of Expenditures in column 8 that represent amounts subgranted to other subrecipients
U.S. Department of the Interior								
National Park Service - F0098	15.904	12-98-13111	19,425.00	0.00	0.00	0.00	19,425.00	19,425.00
National Park Service - F0099		12-99-14241	54,082.75	0.00	0.00	0.00	54,082.75	54,082.75
Sub-Total			73,507.75	0.00	0.00	0.00	73,507.75	73,507.75
U.S. Department of Transportation								
Federal Highway Administration - Subgranted from Florida DOT	20.205	99090-1511	166,503.56	0.00	0.00	0.00	166,503.56	0.00
National Foundation on the Arts and the Humanities								
National Endowment for the Arts (Historical Resources)								
NEA Folklife Apprenticeship - AP098	45.026	98-5500-6013	1,722.00	0.00	0.00	0.00	1,722.00	0.00
NEA Folklife Apprenticeship - A0000		99-5500-6019	6,900.02	0.00	0.00	0.00	6,900.02	0.00
NEA Folklife Apprenticeship - NEA00		99-5500-6019	19,143.78	0.00	0.00	0.00	19,143.78	0.00
NEA Folklife Infrastructure - NA099		98-5500-3117	11,739.26	0.00	0.00	0.00	11,739.26	0.00
NEA Folklife Infrastructure - N0000		99-5500-3084	23,305.68	0.00	0.00	0.00	23,305.68	0.00
Sub-Total			62,810.74	0.00	0.00	0.00	62,810.74	0.00
Promotion of the Arts Partnership Agreements (Cultural Affairs)								
Arts in Education - AIE99	45.025	98-6100-2045	6,510.00	0.00	0.00	0.00	6,510.00	6,510.00
Basic State & Unserved Arts Community - BSG99		98-6100-2045	97,177.37	0.00	0.00	0.00	97,177.37	0.00
Arts in Education - AIE2K		99-6100-2028	66,207.64	0.00	0.00	0.00	66,207.64	47,000.00
Basic State & Unserved Arts Community - BSG2K		99-6100-2028	355,400.75	0.00	0.00	0.00	355,400.75	0.00
Unserved Arts Community Assistance Program - UAC2K		99-6100-2028	51,300.00	0.00	0.00	0.00	51,300.00	51,300.00
Sub-Total			576,595.76	0.00	0.00	0.00	576,595.76	104,810.00
U.S. Department of Education								
Public Library Construction - IMLS - GR011	84.154	ER154A50025	370,623.00	0.00	0.00	0.00	370,623.00	370,623.00
U.S. Institute of Museum and Library Services								
Service and Technology - LSTA1	45.310	LS8002498/LS9000999	7,145,057.39	3,627.00	224,552.85	0.00	6,916,877.54	5,421,967.50
National Historic Publication and Records Commission								
National Archives - GR010	89.003	98-080/98-008	3,090.64	0.00	0.00	0.00	3,090.64	0.00

I hereby certify that the information included herein is accurate and complete to the best of my knowledge.



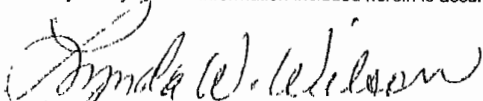
Lynda Wilson, Chief
 Bureau of Budget, Planning, and Financial Services

9/25/00
 Date

Department of State
 Schedule of Expenditures of Federal Awards
 For the Fiscal Year Ended June 30, 2001

Granting Agency/ Project Name	CFDA Number	Federal Grant Number	Total Expenditures Federal Share	Less: Portion of Expenditures Subgranted to Other State of Fla Agencies	Less: Portion of Expenditures Subgranted to State Universities	Less: Portion of Expenditures Subgranted to Community Colleges	Adjusted Federal Share	Amount of Expenditures in column 8 that represent amounts subgranted to other subrecipients
U.S. Department of the Interior								
National Park Service - F0099	15.904	12-99-14241	56,100.52	0.00	0.00	0.00	56,100.52	56,100.52
National Park Service - F2000		12-00-15311	52,000.00	0.00	0.00	0.00	52,000.00	52,000.00
National Park Service - F2001		12-01-16409	10,150.00	0.00	0.00	0.00	10,150.00	10,150.00
		Sub-Total	108,100.52	0.00	0.00	0.00	108,100.52	108,100.52
National Foundation on the Arts and the Humanities								
National Endowment for the Arts (Historical Resources)								
NEA Folklife Apprenticeship - AP000	45.026	99-5500-6019	1,311.86	0.00	0.00	0.00	1,311.86	0.00
NEA Folklife Apprenticeship - AP001		00-5500-6075	21,042.08	0.00	0.00	0.00	21,042.08	0.00
NEA Folklife Infrastructure - NA000		99-5500-3034	16,749.06	0.00	0.00	0.00	16,749.06	0.00
NEA Folklife Infrastructure - NA001		00-5500-3034	26,781.43	0.00	0.00	0.00	26,781.43	0.00
		Sub-Total	65,884.43	0.00	0.00	0.00	65,884.43	0.00
Promotion of the Arts-Partnership Agreements (Cultural Affairs)								
Arts in Education - AIE	45.025	99-6100-2028	21,079.00	0.00	0.00	0.00	21,079.00	21,079.00
Arts in Education - AIE		00-6100-2051	46,900.00	0.00	0.00	0.00	46,900.00	46,900.00
Basic State & Unserved Arts Community - BSG2K		00-6100-2051	371,126.16	0.00	0.00	0.00	371,126.16	0.00
Unserved Arts Community Assistance Program - UAC		00-6100-2051	62,300.00	0.00	0.00	0.00	62,300.00	62,300.00
		Sub-Total	501,405.16	0.00	0.00	0.00	501,405.16	130,279.00
U.S. Department of Education								
Public Library Construction - IMLS - GR011	84.154	ER154A50025	750,000.00	0.00	0.00	0.00	750,000.00	750,000.00
U.S. Institute of Museum and Library Services								
Service and Technology - LSTA1	45.310	LS8002498/LS9000999	7,126,708.24	3,977.76	292,826.95	0.00	6,829,903.53	5,433,390.95

I hereby certify that the information included herein is accurate and complete to the best of my knowledge.

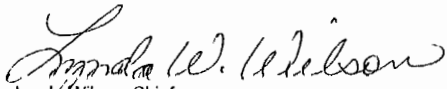

 Lynda Wilson, Chief
 Bureau of Budget, Planning, and Financial Services

Date 9/13/01

Department of State
 Schedule of Expenditures of Federal Awards
 For the Fiscal Year Ended June 30, 2002

Granting Agency/ Program Title	CFDA Number	Federal Grant Number	Total Expenditures Federal Share	Less: Portion of Expenditures Subgranted to Other State of Fla Agencies	Less: Portion of Expenditures Subgranted to State Universities	Less: Portion of Expenditures Subgranted to Community Colleges	Adjusted Federal Share	Amount of Expenditures in column 8 that represent amounts subgranted to other subrecipients
National Park Service, Department of the Interior								
Historic Preservation Fund Grants-in-Aid (Historical Resources)	15.904	12-00-15311/12-01-16409	352,503.25	0.00	90,115.00	0.00	352,503.25	262,388.25
National Endowment for the Arts, National Foundation on the Arts and the Humanities								
Promotion of the Arts - Partnership Agreements (Cultural Affairs)	45.025	00-6100-2051/01-6100-2051	619,339.33	0.00	0.00	0.00	619,339.33	150,180.32
Promotion of the Arts - Leadership Initiatives (Historical Resources)	45.026	01-5500-6032/01-5500-3102	42,016.25	0.00	0.00	0.00	42,016.25	0.00
Institute of Museum and Library Services, National Foundation on the Arts and the Humanities								
Museum of Florida History - General Operating Support (Historical Resources)	45.301	IG-10690-01	42,000.00	0.00	0.00	0.00	42,000.00	0.00
Library Services and Technology Act - (Library and Info. Svcs.)	45.310	LS0000900/LS1001001	7,798,544.22	0.00	300,859.03	0.00	7,497,685.19	5,739,135.94
National Historical Publications and Records Commission								
Historical Publication and Records Grant-(Library and Info. Svcs.)	89.003	2001-017	102,322.10	0.00	13,699.00	0.00	88,623.10	86,301.00

I hereby certify that the information included herein is accurate and complete to the best of my knowledge.


 Lynda Wilson, Chief
 Bureau of Planning, Budget and Financial Services

9/13/02
 Date