

OFFICE OF THE  
CHIEF PROSECUTOR

**DEPARTMENT OF DEFENSE**  
**OFFICE OF MILITARY COMMISSIONS**  
 1600 DEFENSE PENTAGON  
 WASHINGTON, DC 20301-1600

5 January 2011

MEMORANDUM FOR Convening Authority, Office of Military Commissions

FROM: Lt Col Kenneth W. Sachs, USAF, Assistant Trial Counsel

SUBJECT: Revised Request for Funding for Expert Fees, Travel and Other Related Expenses of  
Mr. ██████████ Government Expert Witness – *U.S. v. Noor Uthman Muhammed*

1. In anticipation of receiving a signed pre-trial agreement (PTA) from the Defense and its acceptance by you, pursuant to Rules for Military Commission (R.M.C.) 703(d) and 1001(b)(2) and ¶ 13-7 of the Regulation for Trial by Military Commissions, the Government requests you approve expert witness fees, travel and other related expenses for the previously approved and appointed Government expert consultant Mr. ██████████ in the above captioned case. This request supersedes the Government's 27 December 2010 request. Additionally, the Government is aware this expert witness request for Mr. ██████████ to testify at the sentencing hearing will only go into effect if there is a signed and completed PTA.

2. On 20 April 2010, you approved the employment of Mr. ██████████ as a government expert consultant. On 13 August 2010, you approved the employment of Mr. ██████████ as an expert witness for the Government in this case and approved his travel to Guantanamo Bay, Cuba for a jurisdictional hearing previously set for 20 September 2010. Upon request of both parties, this hearing has been rescheduled to 15 February 2011 and will now consist of a guilty plea and sentencing hearing. As such, the Government requests Mr. ██████████ presence at the sentencing hearing as an expert witness to provide relevant and necessary testimony.

3. The Accused is charged with providing material support for terrorism and conspiracy to commit material support for terrorism and other crimes in violation of the law of war, principally by serving as a trainer and deputy *emir* at the Khalden training camp in Afghanistan and later supporting a terrorist training safehouse in Pakistan, where he was captured along with other coconspirators. In accordance with the PTA, the Accused will plead guilty to both charges. At the sentencing hearing, the Government intends to offer the testimony of Mr. ██████████ as a matter in aggravation pursuant to R.M.C. 1001(b)(2).

4. Specifically, Mr. ██████████ expert testimony is relevant and necessary to provide an overview of the hostilities by Afghanistan-based terrorist organizations, including but not limited to al Qaeda, against the United States during the charged time frame. Mr. ██████████ testimony will also assist the members in understanding the connection between the Khalden training camp and its network to the overall al Qaeda mission, which included specific attacks against the United States that were undertaken by graduates of the Khalden training camp.

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5. Mr. ██████████ is an expert on *jihadist* training camps and organizations in Afghanistan and their related guest houses and other facilities in Afghanistan and Pakistan. Mr. ██████████ expertise in this area extends to the interrelationship of al Qaeda with training camps and organizations not run directly by al Qaeda, including how these various organizations interacted, exchanged trainees, and ultimately supported al Qaeda's overall goals and purposes. He will explain how al Qaeda and other related terrorist organizations like the Khalden group worked together in Afghanistan, Pakistan, and elsewhere in the late 1990s, which will assist the court members in understanding how this relationship supported al Qaeda's goals, purposes, and actions in conducting hostilities against the United States and its coalition partners. He will explain the extent to which al Qaeda and associated terrorist organizations relied on trained *jihadist* recruits, provided by Khalden and other terrorist training camps, who were then put to use in committing such attacks against the United States.

6. These topics are relevant and necessary to provide a full and complete sentencing case against the Accused to members. Mr. ██████████ testimony will assist the members in determining an appropriate sentence in this case. None of the trial counsel possesses the education, expertise, and specialized knowledge required to present the evidence Mr. ██████████ will present.

7. Mr. ██████████ has been qualified as an expert witness and has provided extensive expert testimony in these areas in numerous cases in U.S. federal courts and in three military commissions convened under the Military Commissions Act. His curriculum vitae has been previously provided.

8. For the sentencing hearing, the Government anticipates Mr. ██████████ expert witness fees to be \$27,000 for nine (9) days at Guantanamo Bay, Cuba for the sentencing hearing at \$3,000 per day. Given the fluid nature of travel to and from Guantanamo Bay, the Government will do everything practicable to expedite Mr. ██████████ timely return to the United States in order to minimize the cost to the government. Additionally, Mr. ██████████ is aware that he cannot bill the Government for his travel days. Finally, the Government requests Mr. ██████████ travel and other authorized expenses be paid at the ordinary and customary government rate.

9. Please contact the undersigned with any questions. Thank you for your time and attention to this matter.

//Signed//  
KENNETH W. SACHS, Lt Col, USAF  
Assistant Trial Counsel  
Office of the Chief Prosecutor  
Office of Military Commissions

Copy:  
Defense counsel