

**AGENDA DOCUMENT 04-07
FOR MEETING OF SEPTEMBER 13, 2004**

**BEST PRACTICES REPORT FOR FACILITATING
VOTING BY U.S. CITIZENS COVERED BY THE
UNIFORMED AND OVERSEAS CITIZENS ABSENTEE
VOTING ACT**

EXECUTIVE SUMMARY

The *Help America Vote Act of 2002 (HAVA)* (Public Law 107-252, Section 242, dated October 29, 2002), directs the Election Assistance Commission, in consultation with the Secretary of Defense, to conduct a study on the best practices for facilitating voting by absent Uniformed Services voters (as defined in section 107(1) of the *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)*) and overseas voters (as defined in section 107(5) of such Act). *HAVA* provided a number of issues to consider in conducting the study. Highlights of the areas covered in this report are as follows:

- The *National Defense Authorization Act for Fiscal Year 2002 (NDAA FY-02)* (Public Law 107-107) guarantees state residency for military personnel.
- *UOCAVA* ensures the rights of absent Uniformed Services voters and overseas voters to register to vote and cast absentee ballots for Federal offices. Citizens covered by the *UOCAVA* have the right to a secret ballot through state law.
- *HAVA* amended the *UOCAVA* to prohibit states from refusing to process a registration and/or absentee ballot request from an absent Uniformed Services voter because the form came in too early in an election year.
- Thirty-two states and territories allow for a total of 45 days of transmission time for the absentee ballot and 27 states have a State Write-in Absentee Ballot to help to ensure the voter can cast a ballot in time to meet the state's ballot deadline.
- The Federal Voting Assistance Program's (FVAP's) post-election surveys and the U.S. Postal Service statistics indicate that a 45-day transit time is needed for absentee ballots sent through international mail or the military APO/FPO (overseas) post offices.
- FVAP helps to ensure the timely transmission of balloting materials to absent Uniformed Services voters and overseas voters by monitoring selected counties

in each state prior to an election to help determine whether ballots are mailed in sufficient time according to state law and for the voter to receive, vote and return the ballot by the state deadline for casting votes.

- FVAP has developed a standard oath for state ballot return envelopes as required by the *HAVA*.
- *HAVA* amended the *UOCAVA* to allow for the use of a single application to request ballots through two subsequent general elections for Federal offices for citizens covered by *UOCAVA*.
- *NDAA FY-02* amended the *UOCAVA* to allow for the use of a single application to be used to request voter registration and to request an absentee ballot [see Section 102 (a)(4)].
- Forty-nine states and territories allow the use of facsimile machines to transmit absentee ballot applications.

Many states have developed best practices that enhance and facilitate absentee registration and voting by *UOCAVA* voters. This report serves as a vehicle to share these best practices with other state and local election officials who administer absentee voting programs for these citizens.

RECOMMENDATIONS

After reviewing the studies and best practices above and the information found in the FVAP *HAVA* Interpretive Memo (Exhibit 1), the Election Assistance Commission recommends that each state:

- Mail absentee ballots at least 45 days prior to the deadline for receipt of voted absentee ballots. While many states already do this, a significant number do not mail ballots out until 30 days before the election. If the official ballot is not available by this time, military and overseas voters have a short period of time to receive, vote, and return their absentee ballots in order to be counted in the regular absentee ballot delivery process. Even though electronic transmission of election materials offers an alternative to speed ballot transit time, inadequate ballot transit time through the mail remains the primary obstacle to timely delivery of absentee ballots for those *UOCAVA* citizens who request them.
- Encourage further use of faxing and e-mail in the distribution and return of absentee ballots (see page 9), continue working with local U.S. post offices to expedite ballots, and consider alternative mailing methods such as U.S. Global Priority/Express Mail. *UOCAVA* voters are often in locations around the world that do not have timely or reliable mail delivery. Election officials can work with

the FVAP to explore ballot delivery approaches that address these circumstances. (*HAVA* Title II, Section 241)

- Perform an internal survey of their election jurisdictions to determine compliance with state law for the mailing of absentee ballots to *UOCAVA* citizens. State elections officials are in the best position to help to ensure that sufficient time is allowed for distribution and return of absentee ballots to *UOCAVA* citizens.
- Ensure local election offices are aware of *UOCAVA* issues. Having a designated contact at the local level would simplify the dissemination of *UOCAVA* information and communications for *UOCAVA* voters to help ensure quality information is being provided. This is consistent with the *HAVA* goal of promoting methods of election administration that are convenient, accessible and easy to use for voters. (*HAVA* Title VII, Section 702)
- Prepare a *UOCAVA* voter guide for publication on their website and in hard copy to distribute to voters. This could be as simple as a one page flier such as Minnesota and Nebraska have done, or a more comprehensive booklet such as Indiana's. There is a great deal of information that can be incorporated directly from the FVAP's website and other materials to minimize the amount of effort required. Providing a simple description of the *UOCAVA* process along with local election office contact information provides all the information a voter needs to register and/or make an absentee ballot request. (*HAVA* Title VII, Section 702) Local election offices should link to this state information on *UOCAVA* and should have hard copies for distribution. State and local websites should be made accessible to disabled *UOCAVA* citizens.
- Provide on their elections website procedures for *UOCAVA* citizens to follow pertinent to that state, as illustrated in Exhibit 7, the Texas Secretary of State Elections Division homepage (<http://www.sos.state.tx.us/elections>). Since *UOCAVA* voters are located all over the globe, using the Internet is often the quickest and most convenient method for them to access information. It is important that information be easy to find and concisely presented since many forward deployed military voters, in particular, have limited time slots for Internet usage. (*HAVA* Title VII, Section 702)
- Ensure that election officials throughout the state receive training in the provisions of *UOCAVA*. Citizens covered by *UOCAVA* constitute approximately 3% of the U.S. voting age population. Consequently, some local election officials may not have much experience with this process. Training of local election officials will help ensure better service to this category of voters. FVAP trains local election officials at state conferences, provides a special section for local election officials on their website, and distributes a monthly memo to state and county election officials on *UOCAVA* issues. FVAP also provides policy guidance and recommended practices through interpretive memos, letters to state officials, a newsletter for Voting Assistance Officers and presentations at meetings of

national and international election official organizations. (*UOCAVA* Title I, Section 101)

- Each state that requires postmarking on the ballot return envelope, consider using the date the voter provides on the envelope with his/her signature as evidence of when the voter cast the ballot. This avoids the problem of a ballot return envelope not being properly postmarked or the postmark being difficult to read. As further proof that this is the date the voter cast the ballot, the voter may be required to sign an oath attesting to the truth and accuracy of the information he/she has provided. (*HAVA* Title VII, Section 701)
- Consider changing election dates where necessary to allow sufficient time for local offices to print ballots and for the voter to receive, vote and return the ballot. In some states, primary election dates may be too close to the general election period to allow adequate time for preparing and mailing absentee ballots so they can be received and returned by the voters. (*HAVA* Title II, Section 241; *UOCAVA* Title I, Section 102)
- Provide a State Write-In Absentee Ballot to ensure *UOCAVA* citizens without access to regular mail service can cast a ballot. States should consider automatically mailing such ballots to voters if regular ballots are not available at least 45 days in advance of an election.

CONCLUSION

After the 2002 election, many areas of improvement to the U.S. election system became evident. Through legislation and practical aids, states have improved their processes and procedures. Undoubtedly, this has helped *UOCAVA* voters in exercising their right to vote. However, more can be done to carry out this important responsibility to our Uniformed Services members and our overseas citizens.