

**Department's Statement of Corrective Action(s) Implemented** Employees in the Office of Support Services will, upon receipt of a payment request or invoice, contact the contract manager if required documentation has not been received. Invoices will not be processed for payment until the contract manager certifies to Support Services that the deliverables have been met.

Working with the Office of Support Services, the accounts payable supervisor in the Budget and Financial Services Program checks for a certification that the required milestones and deliverables have been met. A payment will not be vouchered if the required certification is not included.

**Status of Corrective Actions** The Department has implemented the process as stated above to ensure receipt of deliverables and payment authorization.

**Auditor General's Finding No. 9** The Department did not always follow Federal requirements with regards to awards to other State agencies.

**Auditor General's Recommendation** We recommend that the Department take the necessary steps to ensure that the interagency agreements include all applicable Federal information and requirements and that appropriate monitoring is performed.

**Department's Statement of Corrective Action(s) Implemented** All interagency agreements entered into or renewed after July 1, 2006, between the Department of State and governmental agencies such as the Florida Department of Highway Safety and Motor Vehicles or the Florida Department of Law Enforcement as they pertain to HAVA funds for election administration and/or voting purposes shall:

- Include standard provisions relating to federal and state audit, monitoring and reporting requirements.
- Identify, for audit purposes, the title and number of the appropriate type of federal assistance program (known as the Catalog of Federal Domestic Assistance) from which the funds are being made available.
- Condition the receipt and use of HAVA funds on the submission, review, and approval of specified written certifications and plans for use of these funds or the inclusion of comprehensive written specifications or terms in return for receipt and use of the funds, whichever is applicable.
- Require the recipient of HAVA funds to report to the Department of State any change or deviation from any plan originally submitted for review and approval for receipt and use of such funds, or to require the mutual written agreement to modify any material change to written specifications or terms in the agreement.
- Require any governmental official or entity to receive federal HAVA funds to complete federal ED Form GCS-009, 6/88, "Certification Regarding Debarment, Suspension,

Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions” (created pursuant to Executive Order 12549 (46CFR 1183.35). Such form must be completed and submitted prior to the Department entering into or renewing any agreement.

Existing interagency agreements with Florida Department of Law Enforcement and Florida Department of Highway Safety and Motor Vehicles are currently under review and will be revised to include the above-referenced provisions since the Department’s and these agencies’ focus on Florida Voter Registration System has now evolved from development and implementation to operation and maintenance of the system.

**Status of Corrective Actions** As of this report date, the Department has not entered into any new agreements with the Florida Department of Law Enforcement or the Department of Highway Safety and Motor Vehicles. The Department is in the process of reviewing current agreements for appropriate revisions.

**Auditor General’s Finding No. 10** Improvements were needed in the Department’s Information Technology (IT) risk management practices.

**Auditor General’s Recommendation** Upon completion of the FVRS risk assessment, the Department should implement policies and procedures to mitigate identified risks, including ensuring that all access to Department systems is documented in a uniform manner according to policy, maintained in a central location, and periodically reviewed.

**Department’s Statement of Corrective Action(s) Implemented** A baseline Risk Assessment was completed on the FVRS in June 2006. A corrective action plan has been established and is in the execution phase. Additionally, a Department employee has been reassigned to the position of Information Security Administrator and Network Administrator.

IT Security Policies have been updated at the department level and authorization procedures have been updated.

**Status of Corrective Actions** On July 5, 2006, the Department received its final risk assessment report prepared by an independent contractor. Based upon this risk assessment the Department and the State Information Security Office prepared a corrective action plan. As of this date, the Department completed and continues to implement corrective actions identified in the plan. Also, the Department reassigned an employee to the position of Information Security Administrator and Network Administrator in order to enhance improvements needed in the Department’s information risk management practices as identified by the Auditor General. Finally, the Department prepared the FVRS Information Security Plan which is pending final approval from the Department’s senior management.

**Auditor General’s Finding No. 11** The Department had not adopted a governance model addressing the management, use, and operation of FVRS commensurate with its authority and responsibility to ensure the system’s security, uniformity, and integrity.

**Auditor General's Recommendation** The Department should, in coordination with the county Supervisors of Elections, adopt a governance model that includes security measures in support of, and for the protection of, the FVRS business purpose and the confidentiality, availability, and integrity of data contained therein. Specifically, written procedures should be established to address those areas noted above with consistent application to ensure the system's security, uniformity, and integrity.

**Department's Statement of Corrective Action(s) Implemented** The Department has created a System Security Plan (SSP). In addition, a memorandum of understanding regarding information security issues has been executed with each Supervisor of Elections.

The Division of Elections Continuity of Operations Plan is in the final stages of development and includes a regional response plan involving all Supervisors of Elections.

User audit capabilities have been improved and development in this area continues.

Each employee with access to FVRS or access to data of confidentiality has signed a strict standard of conduct regarding the protection and security of that data. The Department is reviewing the duties of positions with access to FVRS to determine which of these positions should be classified as positions of special trust.

**Status of Corrective Actions** The Department created a System Security Plan and executed, with each Supervisor of Elections, a *Memorandum of Agreement For Minimum Security Standards For The Florida Voter Registration System*. The Department is finalizing the *Division of Elections Continuity of Operations (COOP) Plan*, including a *Regional Response Plan* for all Supervisors of Elections. Also, each Department employee with access to FVRS or confidential data executed an acknowledgment statement titled, *Standards of Conduct Governing Access To The Florida Voter Registration System and Other Agency Records*.

**Auditor General's Finding No. 12** Although the Department had put measures in place to help ensure the integrity of data in FVRS, improvements were needed in the processes for identifying duplicate registrations and ineligible voters.

**Auditor General's Recommendation** The Department should implement FVRS matching functionality, as planned, to allow for systematic identification of possible duplicate voters. In addition, the Department should expand, as planned, current systematic felon matching to include matching of all existing registrations against all felony records. The Department should also implement a formalized process to determine if Supervisors of Elections have satisfactorily met certification requirements prescribed by Florida Statutes. Further, the Department should continue to work with agencies that supply the Department with data for matching and verification purposes to increase data reliability, integrity, and timeliness.

**Department's Statement of Corrective Action(s) Implemented** FVRS continues to perform a duplicate matching process on a continual basis which to date has identified 86,008 potential duplicates which have been sent to the counties for evaluation. The Division continues to work with the Supervisors of Elections' vendors of local election administration systems to streamline the duplicate matching process recognizing there will be programming adjustments necessary.

The Department developed a form for Supervisors of Elections to report list maintenance activities. Certifications regarding list maintenance activities have been received from all Supervisors of Elections covering activities between January 1, 2006 and June 30, 2006.

**Status of Corrective Actions** The Department implemented the FVRS matching functionality for systematic identification of possible duplicate voters and continues to work with the Supervisor of Elections to improve the matching process. However, as of this date, the Department has not expanded its current felon matching process to include registered voters prior to January 1, 2006, except for voters that incurred a change in their voter registration after January 1, 2006. The Department has stated its intent to expand its felon matching search based upon resources available. Also, the Department has developed a process to determine and document certification of voter registration activities by the Supervisors of Elections.



**FLORIDA DEPARTMENT *of* STATE**

Division of Elections

**Florida Voting Systems Certification  
Checklist & Test Record**

Ref: Florida Voting System Standards, Form DS-DE 101, Eff. 01/05

021250

# Florida Voting Systems Certification Checklist

## 1.0 Voting System Description:

## 2.0 Certification Procedures

Application for  Certification or  Provisional Certification

### Summary of Certification Milestones

	Acceptance or Completion Date	DOE/BVSC Responsibility
<input type="checkbox"/> 2.1 Application (Final, including amended, if applicable)	_____	_____
<input type="checkbox"/> 2.2 Acceptance of the Application (10 workdays)	_____	_____
<i>Note: BVSC's review and applicant's remedies of deficiencies need not be documented here.</i>		
<input type="checkbox"/> 2.3 Examination of the Voting System	_____	_____
2.4 System Qualification Tests, required?	<input type="checkbox"/> Yes (full)	<input type="checkbox"/> Yes (limited) <input type="checkbox"/> No
<input type="checkbox"/> Phase I Test Plan	_____	_____
<input type="checkbox"/> Phase I Qualification Test	_____	_____
<input type="checkbox"/> Phase I Test Report (10 workdays)	_____	_____
<input type="checkbox"/> Phase II Test Plan (10 workdays)	_____	_____
<input type="checkbox"/> Phase II Qualification Test	_____	_____
<input type="checkbox"/> Phase II Test Report (10 workdays)	_____	_____
<input type="checkbox"/> 2.6 Qualification Test Report (10 workdays)	_____	_____
<input type="checkbox"/> 2.7 Issuance of Certificate	_____	_____
<input type="checkbox"/> 2.8 Retention of Materials	_____	_____

## 3.0 The Standards

### 3.1 Applicability

- Rule 1S-5.001, F.A.C.  
Florida Voting Systems Standards (FVSS), Form DS-DE-101
- Federal Election Commission 1990 Voting System Standards (FEC VSS)
- Federal Election Commission 2002 Voting System Standards (FEC VSS)
- EAC 2005 Voluntary Voting System Guidelines (EAC VVSG)

### 3.2 Acceptance of Independent Test Authority (ITA) Reports (10 workdays)

	Date Accepted	DOS/BVSC Reviewer
<input type="checkbox"/> Hardware/firmware qualification review and Test Report(s)	_____	_____

<input type="checkbox"/> Software/firmware source code review and Test Report(s)	_____	_____
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## Test Record

### 3.3.2 Voting Functions

#### 3.3.2.1 Polling Place Verification

Provides a means for verifying:

- Equipment is installed at the correct polling place
- Equipment is in its initialized state
- Equipment is ready for casting of ballots
- Proper execution is verified by means of an equipment-generated record, retained as part of the audit record

#### 3.3.2.2 Party Selection

- Allows casting for the party of choice in a primary election and for all non-partisan candidates and measures, while preventing voting for a candidate of another party
- Provides a means in a general election to select any candidate and to select any measure on the ballot

#### 3.3.2.3 Ballot Sub-setting

- Provides a means of disabling that portion of a ballot for which the voter is not entitled to vote

#### 3.3.2.4 Enabling the Ballot

- Provides a means for enabling the recording of votes

#### 3.3.2.5 Candidate and Measure Selection

- Method of voting complies with the following sections of 101.5606, F.S.
  - (1) Permits and requires voting in secrecy.
  - (2) Permits each elector to vote at any election for all persons and offices for whom and for which the elector is lawfully entitled to vote, and no others; to vote for as many persons for an office as the elector is entitled to vote for; and to vote for or against any question upon which the elector is entitled to vote.
  - (3) Rejects a ballot where the number of votes for an office or measure exceeds the number which the voter is entitled to cast or where the tabulating equipment reads the ballot as a ballot with no votes cast.
  - (4) Accepts a rejected ballot pursuant to subsection (3) for a marksense ballot, if a voter chooses to cast the ballot, but records no vote for any office that has been overvoted or undervoted.
  - (5) Capable of correctly counting votes.

- (6) Permits each voter at a primary election to vote only for the candidates seeking nomination by the political party in which such voter is registered, for any candidate for nonpartisan office, and for any question upon which the voter is entitled to vote.
- (7) Permits each elector by one operation, to vote for all presidential electors of a party or for all presidential electors of candidates for President and Vice President with no party affiliation.
- (8) Provides a method for write-in voting.
- (9) Capable of accumulating a count of the specific number of ballots tallied for a precinct, accumulating total votes by candidate for each office, and accumulating total votes for and against each question and issue of the ballots tallied for a precinct.
- (10) Capable of tallying votes from ballots of different political parties from the same precinct, in the case of a primary election.
- (11) Capable of automatically producing precinct totals in printed, marked, or punched form, or a combination thereof.
- (12) Permits each voter to change his or her vote for any candidate or upon any question appearing on the official ballot up to the time that the voter takes the final step to register his or her vote and to have the vote computed, if it is of a type which registers votes electronically.
- (13) Capable of providing records from which the operation of the voting system may be audited.
- (14) Uses a precinct-count tabulation system.
- (15) Does not use an apparatus or device for the piercing of ballots by the voter.

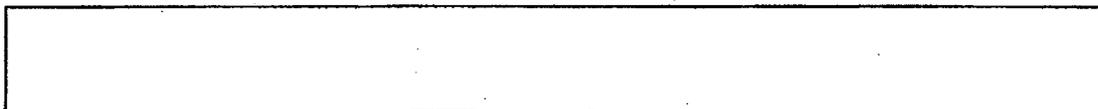


### 3.3.2.6 Standards for Equally Accessible Electronic Voter Interfaces

- Method of voting complies with the following sections of 101.56062, F.S.
  - (1) Has the capability to install accessible voter interface devices in the system configuration which allow the system to meet the following requirements:
    - (a) Provides a tactile input or audio input device, or both.
    - (b) Provides a method by which voters can confirm any tactile or audio input by having the capability of audio output using synthetic or recorded human speech that is reasonable phonetically accurate.
    - (c) Any operable controls on the input device which are needed for voters who are visually impaired must be discernible tactilely without actuating the keys.
    - (d) Audio and visual access approaches must be able to work both separately and simultaneously.
    - (e) If a non-audio access approach is provided, the system may not require color perception. The system must use black text or graphics, or both, on white background or white text or graphics, or both, on black background, unless the office of the Secretary of State approves other high-contrast color combinations that do not require color perception.
    - (f) Any voting system that requires any visual perception must offer the election official who programs the system, prior to its being sent to the polling place, the capability to set the font size, as it appears to the voter, from a minimum of 14 points to a maximum of 24 points.
    - (g) The voting system must provide audio information, including any audio output using synthetic or recorded human speech or any auditory feedback tones that are important for the use of the audio approach, through at least one mode, handset or headset, in enhanced auditory fashion (increased amplification) and must provide incremental volume control with output amplification up to a level of at least 97 dB SPL.
    - (h) For transmitted voice signals to the voter, the voting system must provide a gain adjustable up to a minimum of 20 dB with at least one intermediate step of 12 dB of gain.
    - (i) For the safety of others, if the voting system has the possibility of exceeding 120 dB SPL, then a mechanism must be included to reset the volume automatically to the voting system's default volume level after every use, for example when the handset is

replaced, but not before. Also, universal precautions in the use and sharing of the headsets should be followed.

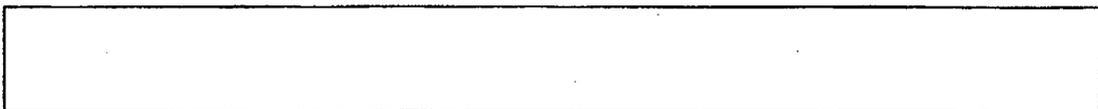
- (j) If sound cues and audible information such as "beeps" are used, there must be simultaneous corresponding visual cues and information.
- (k) Controls and operable mechanisms must be operable with one hand, including operability with a closed fist, and operable without tight grasping, pinching, or twisting of the wrist.
- (l) The force required to operate or activate the controls must be no greater than 5 pounds of force.
- (m) Voting booths must have voting controls at a minimum height of 36 inches above the finished floor with a minimum knee clearance of 27 inches high, 30 inches wide, and 19 inches deep, or the accessible voter interface devices must be designed so as to allow their use on top of a table to meet these requirements. Tabletop installations must include adequate privacy.



### 3.3.2.7 Audio Ballots

*Note: The functionalities required for the audio ballot may be satisfied by either the voting device or by the entire voting system.*

- Complies with standards for electronic voter interfaces
- Controls are discernable tactilely without actuating the controls
- Provide a voter operated volume control
- Method of voting complies with the following subsections of **101.56062(1)(n)**, F.S.
  - (1) After the initial instructions that the system requires election officials to provide to each voter, the voter should be able to independently operate the voter interface through the final step of casting a ballot without assistance.
  - (2) The voter must be able to determine the races that he or she is allowed to vote in and to determine which candidates are available in each race.
  - (3) The voter must be able to determine how many candidates may be selected in each race.
  - (4) The voter must be able to have confidence that the physical or vocal inputs given to the system have selected the candidates that he or she intended to select.
  - (5) The voter must be able to review the candidate selections that he or she has made.
  - (6) Prior to the act of casting the ballot, the voter must be able to change any selections previously made and confirm a new selection.
  - (7) The system must communicate to the voter the fact that the voter has failed to vote in a race or has failed to vote the number of allowable candidates in any race and require the voter to confirm his or her intent to undervote before casting the ballot.
  - (8) The system must prevent the voter from overvoting any race.
  - (9) The voter must be able to input a candidate's name in each race that allows a write-in candidate.
  - (10) The voter must be able to review his or her write-in input to the interface, edit that input, and confirm that the edits meet the voter's intent.
  - (11) There must be a clear, identifiable action that the voter takes to "cast" the ballot. The system must make clear to the voter how to take this action so that the voter has minimal risk of taking the action accidentally but, when the voter intends to cast the ballot, the action can be easily performed.
  - (12) Once the ballot is cast, the system must confirm to the voter that the action has occurred and that the voter's process of voting is complete.
  - (13) Once the ballot is cast, the system must preclude the voter from modifying the ballot cast or voting or casting another ballot.



**Office of Inspector General**  
**Follow-Up Review to Auditor General Report Number 2006-194**  
**Help America Vote Act (HAVA) and the**  
**Florida Voter Registration System (FVRS) - Operational**

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December 13, 2006

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The purpose of this follow up review is to report on the current status of corrective actions taken by the Department of State (Department) in response to the recommendations made by the Auditor General. The Auditor General's operational audit focused on the Department's administration of the Federal Help America Vote Act of 2002 during the period July 1, 2004, through February 28, 2006, and selected actions taken through May 23, 2006. Also, the audit included an evaluation of the effectiveness of selected controls related to the Florida Voter Registration System.

**Auditor General's Finding No. 1** The Department did not have a procedure in place to evidence for the public record that voting systems being certified had met the requirements of Florida law.

**Auditor General's Recommendation** We recommend that the Department finalize the *Checklist* and utilize it to document for the public record that its voting system certification procedures meet the requirements of Florida law.

**Department's Statement of Corrective Action(s) Implemented** The Bureau of Voting Systems Certification has finalized a test record checklist that includes an indication of compliance to the voting system's relevant statutory requirements. The final version of the test record checklist will be used for future certification efforts until the effective date of the 2007 revision to the Florida Voting System Standards. At that time, this checklist will be integrated into a larger certification test record that will track all the requirements of the 2007 Florida Voting System Standards.

**Status of Corrective Actions** The Department's Bureau of Voting Systems Certification has finalized the *Florida Voting Systems Certification Checklist & Test Record* and is utilizing it to evidence that voting systems certified by the Bureau met Florida Law.

**Auditor General's Finding No. 2** The Department's established procedures did not prohibit the Secretary of State and any examiners from having a pecuniary (financial) interest in the examination of and approval of voting equipment.

**Auditor General's Recommendation** We recommend that the Department establish procedures requiring the periodic affirmation of the absence of pecuniary and other conflicts of interests.

**Department's Statement of Corrective Action(s) Implemented** The Department has included a section in the Employee Handbook regarding 'Special Disclosure Requirements for Certain Employees in the Division of Elections, Bureau of Voting Systems Certification' concerning this

issue. Pursuant to the section, employees in the Bureau of Voting Systems Certification are required to certify in writing that they do not have a pecuniary interest in any voting equipment.

The Department has developed a certification statement that employees who are involved in examining voting systems equipment for certification are required to sign. The certification statements are maintained in the Division of Elections.

**Status of Corrective Actions** The Department added a section to its Employee Handbook that prohibits the Secretary of State or any person who examines voting equipment for compliance with Section 101.5606, Florida Statutes, from having a pecuniary interest in such equipment. Also, certified statements applicable to pecuniary interests from the Secretary of State and employees of the Bureau of Voting Systems Certification were reviewed and are on file in the Division of Elections.

**Auditor General's Finding No. 3** The Department did not maintain a current, reliable control listing of voting systems certified and in use by the counties. In addition, the Department did not have a procedure in place to ensure that voting system information was on file with the Department.

**Auditor General's Recommendation** We recommend that the Department develop a current, reliable control listing; establish procedures to ensure that Supervisors of Elections submit all voting system information required by State law [Section 101.5607(1)(a), Florida Statutes]; and periodically confirm the accuracy of its listing with the Supervisors of Elections. Such confirmations should be made in connection with the Department's periodic reconciliation of its control listing to the voting systems information provided and on file at the Department.

**Department's Statement of Corrective Action(s) Implemented** The Bureau of Voting Systems Certification examined the voting system acquisition records for all 67 Florida counties. The Bureau identified the county records that were incomplete and/or obsolete.

In addition, the Bureau initiated an effort to actively pursue obtaining each county's current system acquisition information on a periodic basis. As each county's record became complete relative to the requirements of Section 101.5607(1)(a), Florida Statutes, the Bureau updated the voting system database to reflect this information. The information contained in this database is correct for all 67 counties and is available for public examination on the Division of Elections' website.

During this process, the Bureau created a work instruction to serve as guidance for ascertaining each county's current acquisition status, maintaining this information, and updating the relevant database. The work instruction is still under development.

**Status of Corrective Actions** The Bureau of Voting Systems Certification updated its information and created a control list of voting systems for all 67 counties. Also, the Bureau is drafting working instructions to specific procedures necessary to maintain an accurate and current voting system control list to be completed in the first quarter of 2007.

**Auditor General's Finding No. 4** The Department incorrectly calculated the required maintenance of effort that was included in the State of Florida HAVA Plan and also did not maintain the required level of expenditures for the 2004-05 fiscal year.

**Auditor General's Recommendation** The Department should update the State of Florida HAVA Plan to reflect the revised required MOE amount and ensure that the required MOE level is met each fiscal year in accordance with HAVA requirements.

**Department's Statement of Corrective Action(s) Implemented** The HAVA State Planning Committee held two meetings on September 21, 2006 and October 12, 2006 in order to revise the HAVA State Plan. The updated plan includes the revised maintenance of effort level that the state must maintain as required by HAVA. In addition, the Department conducted a review of FY 2005-06 expenditures and initial calculations indicate that expenditures exceeded the MOE threshold.

**Status of Corrective Actions** The Department has drafted an update to the State of Florida HAVA Plan which includes a section on maintenance of effort. The Department stated that the plan is required to be posted in the Federal Register for 30 days for public comments and anticipates completion in approximately two months.

**Auditor General's Finding No. 5** Salary certifications required for employees who worked solely on the HAVA Program were not maintained. Also, personnel activity reports were not always maintained to support personnel costs charged to the HAVA Program.

**Auditor General's Recommendation** We recommend that the Department's procedures ensure that required documentation supporting charges to the HAVA Program (including certifications and personnel activity reports) is properly and timely prepared and maintained. For any costs improperly charged to the HAVA Program, appropriate corrections should be made.

**Department's Statement of Corrective Action(s) Implemented** Salary Certification statements are obtained every six months from all employees filling a HAVA-funded position. The certifications are maintained in the Division of Elections.

**Status of Corrective Actions** The Division of Elections implemented a control procedure to ensure that all HAVA-funded employees signed salary certification forms.

**Auditor General's Finding No. 6** Contrary to Federal cost principles, payment for unused leave to a terminating employee was charged as a direct cost to the Program instead of being allocated as a general administrative expense to all activities of the governmental unit.

**Auditor General's Recommendation** We recommend that the Department, in compliance with Federal cost principles, allocate as a general administrative expense unused leave payments. We also recommend that, for any costs improperly charged to the HAVA Program, appropriate corrections be made.

**Department's Statement of Corrective Action(s) Implemented** The Department submitted a request for guidance to the U. S. Election Assistance Commission (EAC) regarding leave

payments to terminating employees. Pending receipt of a response from the EAC, all payments for unused leave to employees who have terminated from state government have been transferred from the Grants and Donations Trust Fund to General Revenue.

**Status of Corrective Actions** The Department has requested but not received guidance from the U.S. Election Assistance Commission. All payments made by the Department for leave due terminated employees were transferred to the General Revenue Fund.

**Auditor General's Finding No. 7** Controls to ensure that voter education programs were in compliance with Florida law and Department rule were insufficient.

**Auditor General's Recommendation** We recommend that the Department ensure that all Plans are in compliance with Department rules and *Agreements* and that voter education expenditures correspond with detailed descriptions in the Plans. In addition, we recommend the Department ensure that the matching expenditures are reported separately on the expenditure report.

**Department's Statement of Corrective Action(s) Implemented** The Department is preparing a survey regarding voter education activities that will be sent to all Supervisors of Elections following the 2006 general election. Information from the survey will be used to determine each county's compliance with elements listed in the Department's rule on minimum standards for voter education. The survey is organized so that counties will report voter education expenditures made with HAVA/state funds separately from expenditures made with county funds. As required by Section 98.255, Florida Statutes, the Department will prepare a report that will be available by January 31, 2007, regarding the voter education programs and activities conducted by Supervisors of Elections during the 2006 general election period.

The Department has revised the language in its memorandum of agreement with Supervisors of Elections in order to implement changes regarding voter education plans and reporting requirements.

**Status of Corrective Actions** The Department prepared a survey to obtain information from Supervisors of Elections applicable to voter educational activities and compliance with specific laws, rules, and agreements. The Department intends to compare the survey's information with the Supervisor's approved voter educational plans as part of its compliance monitoring procedures. Also, the Department will use the surveys to obtain the amount of expenditures made from county match and HAVA funds. On November 14, 2006, the Department sent the Supervisors of Elections a new memorandum of agreement that included these new survey procedures. On November 21, 2006, the Department sent the survey to the Supervisors of Elections.

**Auditor General's Finding No. 8** HAVA Program expenditures were not always properly supported.

**Auditor General's Recommendation** We recommend that the Department ensure that required contractual terms are met and services are received prior to payment. In addition, we recommend that the Department only pay contractors in amounts agreed upon by specific contract or purchase order.

**Department's Statement of Corrective Action(s) Implemented** Employees in the Office of Support Services will, upon receipt of a payment request or invoice, contact the contract manager if required documentation has not been received. Invoices will not be processed for payment until the contract manager certifies to Support Services that the deliverables have been met.

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**Status of Corrective Actions** As of this report date, the Department has not entered into any new agreements with the Florida Department of Law Enforcement or the Department of Highway Safety and Motor Vehicles. The Department is in the process of reviewing current agreements for appropriate revisions.

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IT Security Policies have been updated at the department level and authorization procedures have been updated.

**Status of Corrective Actions** On July 5, 2006, the Department received its final risk assessment report prepared by an independent contractor. Based upon this risk assessment the Department and the State Information Security Office prepared a corrective action plan. As of this date, the Department completed and continues to implement corrective actions identified in the plan. Also, the Department reassigned an employee to the position of Information Security Administrator and Network Administrator in order to enhance improvements needed in the Department’s information risk management practices as identified by the Auditor General. Finally, the Department prepared the FVRS Information Security Plan which is pending final approval from the Department’s senior management.

**Auditor General’s Finding No. 11** The Department had not adopted a governance model addressing the management, use, and operation of FVRS commensurate with its authority and responsibility to ensure the system’s security, uniformity, and integrity.

**Auditor General's Recommendation** The Department should, in coordination with the county Supervisors of Elections, adopt a governance model that includes security measures in support of, and for the protection of, the FVRS business purpose and the confidentiality, availability, and integrity of data contained therein. Specifically, written procedures should be established to address those areas noted above with consistent application to ensure the system's security, uniformity, and integrity.

**Department's Statement of Corrective Action(s) Implemented** The Department has created a System Security Plan (SSP). In addition, a memorandum of understanding regarding information security issues has been executed with each Supervisor of Elections.

The Division of Elections Continuity of Operations Plan is in the final stages of development and includes a regional response plan involving all Supervisors of Elections.

User audit capabilities have been improved and development in this area continues.

Each employee with access to FVRS or access to data of confidentiality has signed a strict standard of conduct regarding the protection and security of that data. The Department is reviewing the duties of positions with access to FVRS to determine which of these positions should be classified as positions of special trust.

**Status of Corrective Actions** The Department created a System Security Plan and executed, with each Supervisor of Elections, a *Memorandum of Agreement For Minimum Security Standards For The Florida Voter Registration System*. The Department is finalizing the *Division of Elections Continuity of Operations (COOP) Plan*, including a *Regional Response Plan* for all Supervisors of Elections. Also, each Department employee with access to FVRS or confidential data executed an acknowledgment statement titled, *Standards of Conduct Governing Access To The Florida Voter Registration System and Other Agency Records*.

**Auditor General's Finding No. 12** Although the Department had put measures in place to help ensure the integrity of data in FVRS, improvements were needed in the processes for identifying duplicate registrations and ineligible voters.

**Auditor General's Recommendation** The Department should implement FVRS matching functionality, as planned, to allow for systematic identification of possible duplicate voters. In addition, the Department should expand, as planned, current systematic felon matching to include matching of all existing registrations against all felony records. The Department should also implement a formalized process to determine if Supervisors of Elections have satisfactorily met certification requirements prescribed by Florida Statutes. Further, the Department should continue to work with agencies that supply the Department with data for matching and verification purposes to increase data reliability, integrity, and timeliness.

**Department's Statement of Corrective Action(s) Implemented** FVRS continues to perform a duplicate matching process on a continual basis which to date has identified 86,008 potential duplicates which have been sent to the counties for evaluation. The Division continues to work with the Supervisors of Elections' vendors of local election administration systems to streamline the duplicate matching process recognizing there will be programming adjustments necessary.

The Department developed a form for Supervisors of Elections to report list maintenance activities. Certifications regarding list maintenance activities have been received from all Supervisors of Elections covering activities between January 1, 2006 and June 30, 2006.

**Status of Corrective Actions** The Department implemented the FVRS matching functionality for systematic identification of possible duplicate voters and continues to work with the Supervisor of Elections to improve the matching process. However, as of this date, the Department has not expanded its current felon matching process to include registered voters prior to January 1, 2006, except for voters that incurred a change in their voter registration after January 1, 2006. The Department has stated its intent to expand its felon matching search based upon resources available. Also, the Department has developed a process to determine and document certification of voter registration activities by the Supervisors of Elections.



STATE OF FLORIDA  
DEPARTMENT OF STATE

**JEB BUSH**  
Governor

**SUE M. COBB**  
Secretary of State

December 13, 2006

Sue M. Cobb, Secretary of State  
Florida Department of State  
R.A. Gray Building  
500 South Bronough Street  
Tallahassee, FL 32399-0250

Re: Follow-Up Review Applicable to Auditor General Report #2006-194, *Help America Vote Act (HAVA) and the Florida Voter Registration System (FVRS) – Operational.*

Dear Secretary Cobb:

Pursuant to Section 20.055(5)(g), Florida Statutes, the Office of Inspector General (OIG) conducted a follow-up review applicable to the Auditor General's Report as referenced above. We have attached a copy of our report for your review.

As required by law, we have published our report on the status of the corrective actions taken by the Department and filed a copy of such response with the Legislative Auditing Committee.

If you require additional information on this matter please contact me.

Sincerely,

Kirby J. Mole, CIA  
Inspector General

Att.

cc. Mr. Terry L. Shoffstall, Director, Legislative Auditing Committee  
Thomas Wilkey, Executive Director, U.S. Election Assistance Commission  
Derry Harper, Chief Inspector General, Executive Office of the Governor  
David E. Mann, Assistant Secretary of State  
Heidi Hughes, Chief of Staff/General Counsel  
Dawn Roberts, Director, Division of Elections  
Sarah Smith, Chief Information Officer

**R. A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250**  
**Telephone: (850) 245-6500 • Facsimile: (850) 245-6125 • <http://www.dos.state.fl.us>**

021263



**FLORIDA DEPARTMENT *of* STATE**

Division of Elections

**Florida Voting Systems Certification  
Checklist & Test Record**

Ref: Florida Voting System Standards, Form DS-DE 101, Eff. 01/05

021264

# Florida Voting Systems Certification Checklist

## 1.0 Voting System Description:

## 2.0 Certification Procedures

Application for  Certification or  Provisional Certification

### Summary of Certification Milestones

	Acceptance or Completion Date	DOE/BVSC Responsibility
<input type="checkbox"/> 2.1 Application (Final, including amended, if applicable)	_____	_____
<input type="checkbox"/> 2.2 Acceptance of the Application (10 workdays)	_____	_____
<i>Note: BVSC's review and applicant's remedies of deficiencies need not be documented here.</i>		
<input type="checkbox"/> 2.3 Examination of the Voting System	_____	_____
2.4 System Qualification Tests, required?	<input type="checkbox"/> Yes (full)	<input type="checkbox"/> Yes (limited) <input type="checkbox"/> No
<input type="checkbox"/> Phase I Test Plan	_____	_____
<input type="checkbox"/> Phase I Qualification Test	_____	_____
<input type="checkbox"/> Phase I Test Report (10 workdays)	_____	_____
<input type="checkbox"/> Phase II Test Plan (10 workdays)	_____	_____
<input type="checkbox"/> Phase II Qualification Test	_____	_____
<input type="checkbox"/> Phase II Test Report (10 workdays)	_____	_____
<input type="checkbox"/> 2.6 Qualification Test Report (10 workdays)	_____	_____
<input type="checkbox"/> 2.7 Issuance of Certificate	_____	_____
<input type="checkbox"/> 2.8 Retention of Materials	_____	_____

## 3.0 The Standards

### 3.1 Applicability

- Rule 1S-5.001, F.A.C.  
Florida Voting Systems Standards (FVSS), Form DS-DE-101
- Federal Election Commission 1990 Voting System Standards (FEC VSS)
- Federal Election Commission 2002 Voting System Standards (FEC VSS)
- EAC 2005 Voluntary Voting System Guidelines (EAC VVSG)

### 3.2 Acceptance of Independent Test Authority (ITA) Reports (10 workdays)

	Date Accepted	DOS/BVSC Reviewer
<input type="checkbox"/> Hardware/firmware qualification review and Test Report(s)	_____	_____

<input type="checkbox"/> Software/firmware source code review and Test Report(s)	_____	_____
---	-------	-------

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## Test Record

### 3.3.2 Voting Functions

#### 3.3.2.1 Polling Place Verification

Provides a means for verifying:

- Equipment is installed at the correct polling place
- Equipment is in its initialized state
- Equipment is ready for casting of ballots
- Proper execution is verified by means of an equipment-generated record, retained as part of the audit record

#### 3.3.2.2 Party Selection

- Allows casting for the party of choice in a primary election and for all non-partisan candidates and measures, while preventing voting for a candidate of another party
- Provides a means in a general election to select any candidate and to select any measure on the ballot

#### 3.3.2.3 Ballot Sub-setting

- Provides a means of disabling that portion of a ballot for which the voter is not entitled to vote

#### 3.3.2.4 Enabling the Ballot

- Provides a means for enabling the recording of votes

#### 3.3.2.5 Candidate and Measure Selection

- Method of voting complies with the following sections of **101.5606, F.S.**
  - (1) Permits and requires voting in secrecy.
  - (2) Permits each elector to vote at any election for all persons and offices for whom and for which the elector is lawfully entitled to vote, and no others; to vote for as many persons for an office as the elector is entitled to vote for; and to vote for or against any question upon which the elector is entitled to vote.
  - (3) Rejects a ballot where the number of votes for an office or measure exceeds the number which the voter is entitled to cast or where the tabulating equipment reads the ballot as a ballot with no votes cast.
  - (4) Accepts a rejected ballot pursuant to subsection (3) for a marksense ballot, if a voter chooses to cast the ballot, but records no vote for any office that has been overvoted or undervoted.
  - (5) Capable of correctly counting votes.

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- (6) Permits each voter at a primary election to vote only for the candidates seeking nomination by the political party in which such voter is registered, for any candidate for nonpartisan office, and for any question upon which the voter is entitled to vote.
- (7) Permits each elector by one operation, to vote for all presidential electors of a party or for all presidential electors of candidates for President and Vice President with no party affiliation.
- (8) Provides a method for write-in voting.
- (9) Capable of accumulating a count of the specific number of ballots tallied for a precinct, accumulating total votes by candidate for each office, and accumulating total votes for and against each question and issue of the ballots tallied for a precinct.
- (10) Capable of tallying votes from ballots of different political parties from the same precinct, in the case of a primary election.
- (11) Capable of automatically producing precinct totals in printed, marked, or punched form, or a combination thereof.
- (12) Permits each voter to change his or her vote for any candidate or upon any question appearing on the official ballot up to the time that the voter takes the final step to register his or her vote and to have the vote computed, if it is of a type which registers votes electronically.
- (13) Capable of providing records from which the operation of the voting system may be audited.
- (14) Uses a precinct-count tabulation system.
- (15) Does not use an apparatus or device for the piercing of ballots by the voter.



### 3.3.2.6 Standards for Equally Accessible Electronic Voter Interfaces

- Method of voting complies with the following sections of **101.56062, F.S.**
  - (1) Has the capability to install accessible voter interface devices in the system configuration which allow the system to meet the following requirements:
    - (a) Provides a tactile input or audio input device, or both.
    - (b) Provides a method by which voters can confirm any tactile or audio input by having the capability of audio output using synthetic or recorded human speech that is reasonable phonetically accurate.
    - (c) Any operable controls on the input device which are needed for voters who are visually impaired must be discernible tactilely without actuating the keys.
    - (d) Audio and visual access approaches must be able to work both separately and simultaneously.
    - (e) If a non-audio access approach is provided, the system may not require color perception. The system must use black text or graphics, or both, on white background or white text or graphics, or both, on black background, unless the office of the Secretary of State approves other high-contrast color combinations that do not require color perception.
    - (f) Any voting system that requires any visual perception must offer the election official who programs the system, prior to its being sent to the polling place, the capability to set the font size, as it appears to the voter, from a minimum of 14 points to a maximum of 24 points.
    - (g) The voting system must provide audio information, including any audio output using synthetic or recorded human speech or any auditory feedback tones that are important for the use of the audio approach, through at least one mode, handset or headset, in enhanced auditory fashion (increased amplification) and must provide incremental volume control with output amplification up to a level of at least 97 dB SPL.
    - (h) For transmitted voice signals to the voter, the voting system must provide a gain adjustable up to a minimum of 20 dB with at least one intermediate step of 12 dB of gain.
    - (i) For the safety of others, if the voting system has the possibility of exceeding 120 dB SPL, then a mechanism must be included to reset the volume automatically to the voting system's default volume level after every use, for example when the handset is

replaced, but not before. Also, universal precautions in the use and sharing of the headsets should be followed.

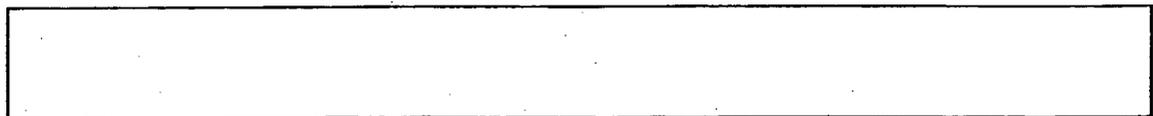
- (j) If sound cues and audible information such as "beeps" are used, there must be simultaneous corresponding visual cues and information.
- (k) Controls and operable mechanisms must be operable with one hand, including operability with a closed fist, and operable without tight grasping, pinching, or twisting of the wrist.
- (l) The force required to operate or activate the controls must be no greater than 5 pounds of force.
- (m) Voting booths must have voting controls at a minimum height of 36 inches above the finished floor with a minimum knee clearance of 27 inches high, 30 inches wide, and 19 inches deep, or the accessible voter interface devices must be designed so as to allow their use on top of a table to meet these requirements. Tabletop installations must include adequate privacy.



### 3.3.2.7 Audio Ballots

*Note: The functionalities required for the audio ballot may be satisfied by either the voting device or by the entire voting system.*

- Complies with standards for electronic voter interfaces
- Controls are discernable tactilely without actuating the controls
- Provide a voter operated volume control
- Method of voting complies with the following subsections of **101.56062(1)(n)**, F.S.
  - (1) After the initial instructions that the system requires election officials to provide to each voter, the voter should be able to independently operate the voter interface through the final step of casting a ballot without assistance.
  - (2) The voter must be able to determine the races that he or she is allowed to vote in and to determine which candidates are available in each race.
  - (3) The voter must be able to determine how many candidates may be selected in each race.
  - (4) The voter must be able to have confidence that the physical or vocal inputs given to the system have selected the candidates that he or she intended to select.
  - (5) The voter must be able to review the candidate selections that he or she has made.
  - (6) Prior to the act of casting the ballot, the voter must be able to change any selections previously made and confirm a new selection.
  - (7) The system must communicate to the voter the fact that the voter has failed to vote in a race or has failed to vote the number of allowable candidates in any race and require the voter to confirm his or her intent to undervote before casting the ballot.
  - (8) The system must prevent the voter from overvoting any race.
  - (9) The voter must be able to input a candidate's name in each race that allows a write-in candidate.
  - (10) The voter must be able to review his or her write-in input to the interface, edit that input, and confirm that the edits meet the voter's intent.
  - (11) There must be a clear, identifiable action that the voter takes to "cast" the ballot. The system must make clear to the voter how to take this action so that the voter has minimal risk of taking the action accidentally but, when the voter intends to cast the ballot, the action can be easily performed.
  - (12) Once the ballot is cast, the system must confirm to the voter that the action has occurred and that the voter's process of voting is complete.
  - (13) Once the ballot is cast, the system must preclude the voter from modifying the ballot cast or voting or casting another ballot.



021283

COL A12	COL A14	COL A15	COL A16	COL A14-A12 AGY AMD REQ FY 2007-08 OVER (UNDER)	AGY FNL REQ FY 2007-08	CODES
AGY FNL REQ FY 2007-08 POS AMOUNT	AGY AMD REQ FY 2007-08 POS AMOUNT	AGY AMD N/R FY 2007-08 POS AMOUNT	AGY AMD ANZ FY 2007-08 POS AMOUNT			
STATE, DEPT OF						45000000
PGM: ELECTIONS						45100000
ELECTIONS						45100200
GOV OPERATIONS/SUPPORT						16
GOVERNMENTAL OPERATIONS						1601.00.00.00
STATE MATCH FOR HELP AMERICA VOTE ACT (HAVA)						4600000
ADDITIONAL STATE MATCH FOR HELP AMERICA VOTE ACT (HAVA)						4600100
SPECIAL CATEGORIES						100000
TR/GRANTS & DONATIONS TF						103954
GENERAL REVENUE FUND	-STATE	375,776	375,776		375,776	1000 1

\*\*\*\*\*

AGENCY ISSUE NARRATIVE:  
 2007-2008 BUDGET YEAR NARRATIVE:

IT COMPONENT? NO

"Amended 2007-08 Narrative after February 2, 2007"

A routine audit by the Auditor General of the State of Florida has determined that the State is short of the required Help America Vote Act (HAVA) state match by the above amount. The State referred to a U.S. Election Assistance Commission Office of the Inspector General Report on the Administration of HAVA payments by the Illinois State Board of Elections. The calculation methodology was different than that used by the State of Florida and included in the HAVA Planning Committee report, leaving the State short of the required match. Florida calculated match based on multiplying the total of HAVA requirements by 5% and matching that amount. Below is a table detailing the correct calculation and showing the shortage.

Section 251 Revenue Received	\$	47,416,833
Section 251 Revenue Received	\$	85,085,258
Subtotal	\$	132,502,091
Multiply by .95	\$	125,876,986
Less 251 Payments	\$	132,502,091
Required 5%	\$	6,625,905
State of Florida Match @ 5% of Sec. 251	\$	6,628,018
Additional Match Required for 251	\$	345,776
<hr/>		
Estimated interest lost	\$	30,000
Total Issue	\$	375,776

"Summary: This is a new issue."

\*\*\*\*\*

021270

COL A12		COL A14		COL A15		COL A16		COL A14-A12		CODES
AGY FNL REQ FY 2007-08 POS	AMOUNT	AGY AMD REQ FY 2007-08 POS	AMOUNT	AGY AMD N/R FY 2007-08 POS	AMOUNT	AGY AMD ANZ FY 2007-08 POS	AMOUNT	AGY AMD REQ FY 2007-08 POS	AMOUNT	
STATE, DEPT OF										45000000
PGM: ELECTIONS										45100000
ELECTIONS										45100200
GOV OPERATIONS/SUPPORT										16
GOVERNMENTAL OPERATIONS										1601.00.00.00
STATE MATCH FOR HELP AMERICA VOTE ACT (HAVA)										4600000
ADDITIONAL STATE MATCH FOR HELP AMERICA VOTE ACT (HAVA)										4600100
SPECIAL CATEGORIES										100000
TR/GRANTS & DONATIONS TF										103954
GENERAL REVENUE FUND										
-STATE			375,776		375,776				375,776	1000 1

\*\*\*\*\*

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Additional Match Required for 251	\$	345,776
<hr/>		
Estimated interest lost	\$	30,000
Total Issue	\$	375,776

"Summary: This is a new issue."

\*\*\*\*\*

RECEIVED  
SEP 07 2004

BY: \_\_\_\_\_

*gw*

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# STATE OF FLORIDA HAVA PLAN

UPDATE JUNE 2004



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*As required by the*

HELP AMERICA VOTE ACT  
OF 2002 (HAVA)

021271

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STATE OF FLORIDA  
DEPARTMENT OF STATE

JEB BUSH  
*Governor*

GLEND A. HOOD  
*Secretary of State*

September 3, 2004

DeForest B. Soaries, Jr., Chairman  
Election Assistance Commission  
1225 New York Avenue, N.W., Suite 1100  
Washington, D.C. 20005

Dear Mr. Soaries:

As Chief Election Officer of the State, I am pleased to present the State of Florida's HAVA Plan which has been revised for FY 2004. As indicated in the initial Plan submitted in 2003, Florida has already succeeded in meeting many of the requirements in HAVA. During Florida's Fiscal Year 2003-04, a number of additional requirements were met including the development of performance goals and measures. These are reflected in the revised Plan.

Florida's revised plan was developed through the Help America Vote Act Planning Committee, a group of dedicated individuals representing various constituency groups throughout the State. This Committee developed Florida's original HAVA Plan and agreed to serve again in 2004. Although the Florida Department of State does not necessarily agree with all of the Committee's recommendations and conclusions, I commend the Committee for its continuing hard work and diligence in developing revisions to the Plan.

The revised Plan recognizes that additional resources are required in order for our Supervisors of Elections to provide continuing voter education to the citizens of the State, to recruit qualified poll workers, and to provide the necessary training for those workers. As chief Election Officer, I am committed to working closely with and supporting our Supervisors as we continue to ensure Florida voters have every confidence that their vote counts.

We have accepted the Committee's work without revision, however, we will revise and update the Plan as necessary to reflect the progress made in implementing HAVA and to chart the future goals and plans for elections. We look forward to continuing our election reform efforts to make this state the model for elections reform throughout the nation.

Sincerely,

A handwritten signature in cursive script that reads "Glenda E. Hood".

Glenda E. Hood

Office of the Secretary

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250  
Telephone: (850) 245-6500 • Facsimile: (850) 245-6125 • WWW: <http://www.dos.state.fl.us>

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**GLEND A. HOOD**  
SECRETARY OF STATE  
STATE OF FLORIDA

STATE OF FLORIDA  
HAVA PLAN UPDATE / 2

## **Introduction**

Since the aftermath of the General Election of 2000, Florida has led the nation in its election reform efforts to ensure that every registered voter should have the opportunity to vote and to ensure that every vote counts.

The goal is perfection. Reaching that goal in an ever changing democracy and within a diverse population is an ongoing task that requires constant experimentation and learning. The people and the leadership of Florida have dedicated themselves to this course of action.

The struggle for improving our election process reveals itself in many ways. Citizens have increased their involvement by serving on local and State election task forces, researching new voting technologies, debating new standards for poll worker training, increasing voter education opportunities, and registering new voters. The people of Florida continue to make election reform a top priority.

The leadership of Florida has also acted decisively. Florida has enacted legislative and local reforms during the last two years that lead the nation. These reforms include cutting-edge voting system standards, millions of dollars for new voting technology, expanded voter education efforts, and thousands of newly trained poll workers. A statewide poll taken the day of the 2002 General Election found that Floridians gave high marks to the election reform changes including a 91% "excellent-good" rating for poll workers and an 88% confidence rating from voters that their votes will count. These results are not "perfect," but Florida is moving in a positive direction to make all facets of the election process better each time an election is held.

With the passage and signing of the Help America Vote Act of 2002 (HAVA) on October 29, 2002, election reform will spread throughout the nation. The new federal law asks States to develop election reform plans that will improve election administration in many areas. Florida embraces the new federal law and hopes that other States will use it as an opportunity to share new election reform ideas and practices with one another.

The people of Florida have learned many things about election reform. Yet, there are enduring principles which are reflected within many recommendations and changes of Florida's election reform efforts. These principles were developed by Florida's first task force in the aftermath of the 2000 General Election:

### **Enduring Principles of Elections**

- **Elections are first and foremost acts of millions of individual people: citizens who register and vote; candidates who offer themselves and their platforms for public judgment; poll workers who put in long days at precincts; and election officials who**

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**GLEND A. HOOD**  
SECRETARY OF STATE  
STATE OF FLORIDA

STATE OF FLORIDA  
HAVA PLAN UPDATE / 3

supervise the process. Honest, responsible, intelligent people will make most technology systems work well.

- Voting should be a simple, convenient and friendly process that encourages each citizen to express his or her choices.
- Voting systems should be designed to determine voter intent, to the extent that is humanly possible.
- Voting methods for statewide and national elections should meet uniform standards and national standards for fairness, reliability and equal protection of voting opportunity.
- Elections must meet two competing objectives: certainty (making every vote count accurately) and finality (ending elections so that governing can begin).
- While voting should be individual and private, procedures for counting and challenging votes should be open, transparent, and easily documented to ensure public confidence in the results.

Fulfilling the promises of these enduring principles will require continued vigilance and action. With this HAVA Plan, Florida continues its journey to mount an increasingly open and fair system of determining the will of the people.

The Help America Vote Act of 2002 requires all States to develop and implement a statewide plan. Listed below are the thirteen primary elements that must be addressed in the plan.

#### **Help America Vote Act of 2002 (HAVA)**

Public Law 107-252 – October 29, 2002

#### **SEC. 254. STATE PLAN.**

(a) **IN GENERAL.**—The State plan shall contain a description of each of the following:

##### **Element 1.**

How the State will use the requirements payment to meet the requirements of Title III, and, if applicable under section 251(a)(2), to carry out other activities to improve the administration of elections.

##### **Element 2.**

How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in paragraph (1), including a description of—

- A) The criteria to be used to determine the eligibility of such units or entities for receiving the payment; and

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**GLEND A. HOOD**  
SECRETARY OF STATE  
STATE OF FLORIDA

STATE OF FLORIDA  
HAVA PLAN UPDATE / 4

- B) The methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under paragraph (8).

**Element 3.**

How the State will provide for programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of Title III.

**Element 4.**

How the State will adopt voting system guidelines and processes which are consistent with the requirements of section 301.

**Element 5.**

How the State will establish a fund described in subsection (b) for purposes of administering the State's activities under this part, including information on fund management.

**Element 6.**

The State's proposed budget for activities under this part, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on —

- A) The costs of the activities required to be carried out to meet the requirements of Title III;
- B) The portion of the requirements payment which will be used to carry out activities to meet such requirements; and
- C) The portion of the requirements payment which will be used to carry out other activities.

**Element 7.**

How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.

**Element 8.**

How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the process used to develop such criteria, and a description of which official is to be held responsible for ensuring that each performance goal is met.

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**GLEND A E. HOOD**  
SECRETARY OF STATE  
STATE OF FLORIDA

STATE OF FLORIDA  
HAVA PLAN UPDATE / 5

**Element 9.**

A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402.

**Element 10.**

If the State received any payment under Title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.

**Element 11.**

How the State will conduct ongoing management of the plan, except that the State may not make any material change in the administration of the plan unless the change —

- A) Is developed and published in the Federal Register in accordance with section 255 in the same manner as the State plan;
- B) Is subject to public notice and comment in accordance with section 256 in the same manner as the State plan; and
- C) Takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register in accordance with subparagraph (A).

**Element 12.**

In the case of a State with a State plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for such previous fiscal year.

**Element 13.**

A description of the committee which participated in the development of the State plan in accordance with section 255 and the procedures followed by the committee under such section and section 256.

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## Element 1. Use of Title III Requirements Payments:

### A. Voting Systems

**How the State will use the requirements payment to meet the requirements of Title III, and, if applicable under section 251(a)(2), to carry out other activities to improve the administration of elections.**

#### **Introduction**

Following the 2000 General Election, the people of Florida made a concerted effort to improve all facets of its election procedures, standards and voting systems. The first major changes were the recommendations advanced by the 2001 Governor's Select Task Force on Election Procedures, Standards and Technology followed by the passage of the Florida Election Reform Act of 2001. A central component of Florida's new election law mandated the replacement of punch card voting systems, lever machines, paper ballots and central count optical scanning systems with precinct tabulated Marksense voting systems or the Direct Recording Electronic voting systems. The new voting systems were put into service to reduce voter error, to improve tabulation accuracy, and to restore voter confidence in Florida's elections.

Florida has adopted voting system standards which meet and exceed standards established by the Federal Election Commission. Florida's voting system standards are reviewed every two years to determine whether they are adequate and effective in carrying out fair and impartial elections. The Bureau of Voting Systems Certification within the Department of State has statutory authority to adopt rules which establish minimum standards for voting systems purchased and used in Florida. Florida's 67 counties have authority to purchase and to maintain the appropriate certified voting system for their registered voters. Since 2001, the State of Florida has provided \$24 million to assist counties in purchasing new certified voting systems.

Only two types of voting systems are certified for use in Florida's 67 counties— Direct Recording Electronic (DRE or "touchscreen") voting systems and Marksense with precinct-based tabulation.

There are three manufacturers who have certified voting systems for use in Florida: Diebold; Elections Systems and Software, Inc. (ES&S); and Sequoia Voting Systems, Inc. (SP). The Diebold system that has been certified by the State of Florida consists of a Global Election Management System Software (GEMS) Voting System consisting of GEMS, Release 1-18-19; one or more AccuVote TS R6 Touch Screen Ballot Station Version 4.3.15D (Windows CE 3.0) devices; one or more AccuVote-OS Optical Scan Tabulators with Firmware Version 1.94w and VLR firmware 13.9; Key Card Tool Version 1.0.1; Voter Card Encoder Version 1.3.2; and optionally one or more AccuFeed units, Revision D or E OS (optical scan) Firmware 1.94w.

The following chart details the types of voting systems used in Florida, the respective manufacturer, and the number of counties using the voting systems.



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**DRE Voting Systems (“touchscreen”)  
 And Number of Florida Counties in Use  
 For Precinct Voting**

<b>DRE VOTING SYSTEM MANUFACTURER</b>	<b>COUNTIES (PRECINCT VOTING)</b>
ES&S Voting System Release 3	6
ES&S Voting System Release 4.2	5
SP AVC Edge Voting System	4
Diebold Election Systems, Inc. 2003 B (Blended) + (Plus Audio)	0
<b>TOTAL</b>	<b>15</b>

**Marksense Voting Systems (“optical scanning”)  
 And Number of Counties in Use  
 For Precinct and Absentee Voting**

<b>MARKSENSE VOTING SYSTEM MANUFACTURER</b>	<b>COUNTIES (PRECINCT VOTING)</b>	<b>COUNTIES (ABSENTEE VOTING)</b>
Diebold AccuVote ES 2001 B	30	30
ES&S Voting System Release 1.1	2	2
ES&S Voting System Release 2.1	1	1
ES&S Voting System Release 3	4	10
ES&S Voting System Release 3.2	1	1
ES&S Voting System Revised Release 3.1	3	3
ES&S Voting System Release 4.2	3	8
ES&S Optech IIP Eagle	2	2
ES&S Optech IIP/Optech IVC	5	5
SP Optech III-P Eagle	1	1
SP AVC Edge Voting System	0	4
<b>TOTAL</b>	<b>52</b>	<b>67</b>

The Help America Vote Act of 2002 (HAVA) establishes new minimum requirements for administering federal elections. These new voting system requirements are found in Title III of the federal law. The new requirements shape the performance and the administration of voting systems. Florida is in compliance with many of these new federal directives and these are addressed in the HAVA State Plan.

Section 301(a) of HAVA requires that Florida’s voting systems meet the following requirements by January 1, 2006. Florida will be in compliance with all of these requirements by the federal deadline of January 1, 2006.



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## Section 301(a) Voting System Standards and Requirements

**Section 301(a)(1)(A)(i): Do Florida's voting systems permit the voter to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted?**

**Yes, and no further actions are required.**

Section 101.5606(1), *Florida Statutes*, states that no voting system in Florida shall be approved by the Department of State unless it "permits and requires voting in secrecy."

Florida Voting System Standards (April 2002) state that "the voter must be able to review the candidate selections, which he or she has made. Prior to the act of casting a ballot, the voter must be able to change any selection previously made and confirm the new selection." (p. 21)

Florida Voting System Standards (April 2002) state that the voting function standards applicable to all Electronic Voter Interfaces must provide "after the initial instructions, which the system requires election officials to provide to each voter, the voter should be able to independently operate the voter interface through the final step of casting a ballot without assistance." (p. 20)

**Section 301(a)(1)(A)(ii): Do Florida's voting systems provide the voter with the opportunity in a private and independent manner to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct the error)?**

**Yes, and no further actions are required.**

Florida Voting System Standards (April 2002) state that "the voter must be able to review the candidate selections, which he or she has made. Prior to the act of casting a ballot, the voter must be able to change any selection previously made and confirm the new selection." (p. 21)

Section 101.5606(12), *Florida Statutes*, requires that electronic voting systems should "permit each voter to change his or her vote for any candidate or upon any question appearing on the official ballot up to the time that the voter takes the final step to register his or her vote and to have the vote computed."

Section 101.5608(2)(b), *Florida Statutes*, requires that "Any voter who spoils his or her ballot or makes an error may return the ballot to the election official and secure another ballot, except that in no case shall a voter be furnished more than three ballots. If the vote tabulation device has rejected the ballot, the ballot shall be considered spoiled and a new ballot shall be provided to the voter unless the voter chooses to cast the rejected ballot. The election official, without examining the original ballot, shall state the possible reasons for the rejection and shall provide

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instruction to the voter pursuant to s. 101.5611. A spoiled ballot shall be preserved, without examination, in an envelope provided for that purpose. The stub shall be removed from the ballot and placed in the envelope.”

Section 101.5611(1), *Florida Statutes*, requires that the “supervisor of elections shall provide instruction on the proper method of casting a ballot for the specific voting system utilized in that jurisdiction. Such instruction shall be provided at a place which voters must pass to reach the official voting booth.”

**Section 301(a)(1)(A)(iii): If the voter selects votes for more than one candidate for a single office, do Florida’s voting systems: (1) notify the voter that the voter has selected more than one candidate for a single office on the ballot; (2) notify the voter before the ballot is cast and counted of the effect of casting the multiple votes for the office; and (3) provide the voter with the opportunity to correct the ballot before the ballot is cast?**

**Yes, and no further actions are required.**

Section 101.5606(3), *Florida Statutes*, requires voting systems to immediately reject “a ballot where the number of votes for an office or measure exceeds the number which the voter is entitled to cast or where the tabulating equipment reads the ballot as a ballot with no votes cast.”

Section 101.5606(4), *Florida Statutes*, requires that systems using paper ballots accept a rejected ballot if the voter chooses to cast the ballot after it has been rejected, but the ballot will record no vote for any office that has been overvoted or undervoted.

Section 101.5608(2)(b), *Florida Statutes*, provides that “Any voter who spoils his or her ballot or makes an error may return the ballot to the election official and secure another ballot, except that in no case shall a voter be furnished more than three ballots. If the vote tabulation device has rejected the ballot, a ballot shall be considered spoiled and a new ballot shall be provided to the voter unless the voter chooses to cast the rejected ballot. The election official, without examining the original ballot, shall state the possible reasons for the rejection and shall provide instruction to the voter pursuant to s. 101.5611. A spoiled ballot shall be preserved, without examination, in an envelope provided for that purpose. The stub shall be removed from the ballot and placed in an envelope.”

Section 101.5611(1), *Florida Statutes*, requires that the “supervisor of elections shall provide instruction on the proper method of casting a ballot for the specific voting system utilized in that jurisdiction. Such instruction shall be provided at a place which voters must pass to reach the official voting booth.”

Florida Voting System Standards (April 2002) state that “the system must prevent the voter from over voting any race.” In addition, “there must be a clear, identifiable action, which the voter takes to ‘cast’ the ballot. The system must make clear to the voter how to take this action, such

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that the voter has minimal risk of taking the action accidentally, but when the voter intends to cast the ballot, the action can be easily performed.” (p. 21)

Florida Voting System Standards (April 2002) state that “Marksense systems shall reject blank ballots and ballots with overvoted races. Electronic voter interfaces shall prevent a voter from overvoting a race, and shall provide a means of indicating, to the voter, any races that may have been undervoted before the last step necessary to cast the ballot.” (p. 22)

**Section 301(a)(1)(B): Does Florida’s mail-in absentee and mail-in ballot process meet the requirements of subparagraph (A)(iii) by: (i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple ballots for an office; and (ii) providing the voter instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error)?**

**Yes, and no further actions are required.**

The Florida Legislature has amended Section 101.65, *Florida Statutes*, to require the instructions for absentee voters to include the following language:

*Mark only the number of candidates or issue choices for a race as indicated on the ballot. If you are allowed to “Vote for One” candidate and you vote for more than one candidate, your vote in that race will not be counted.*

In addition, Rule 1S-2.032, *Florida Administrative Code (F.A.C.)*, (Uniform and General Election Ballot Design) instructs all voters on how to correct their ballots and how to request a replacement ballot if the voter is unable to change or correct the original ballot.

Instructions on how to correct the error through issuance of a replacement ballot are:

*If you make a mistake, don’t hesitate to ask for a new ballot. If you erase or make other marks, your vote may not count.*

The HAVA Planning Committee also suggested that absentee voters should be given clear notification that the deadline for submitting absentee ballots is by 7:00 p.m. of election night and that mailing the ballot may not ensure that it will arrive in time to be counted.

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**Section 301(a)(1)(C): Does Florida's absentee and mail-in ballot process preserve the privacy of the voter and the confidentiality of the ballot?**

**Yes, and no further actions are required.**

Section 101.65, *Florida Statutes*, requires supervisors of elections to enclose with each absentee ballot a separate printed instruction form, a secrecy envelope, a Voter's Certificate and a mailing envelope. The instructions provide the following guidelines:

- Mark your ballot in secret as instructed on the ballot. You must mark your own ballot unless you are unable to do so because of blindness, disability, or inability to read or write.
- Place your ballot in the enclosed secrecy envelope.
- Insert your secrecy envelope into the enclosed mailing envelope which is addressed to the supervisor.

Section 101.68(2)(d), *Florida Statutes*, contains a detailed policy and procedure instructing the local canvassing boards in the manner of handling absentee ballots to ensure that the confidentiality of the ballot is maintained.

**Section 301(a)(2)(A): Do Florida voting systems produce a record for audits?**

**Section 301(a)(2)(B): Do the voting systems produce a permanent paper record with a manual audit capacity?**

**Section 301(a)(2)(C): Is the paper record produced in subparagraph (A) available as an official record for any recount conducted with respect to any election in which the system is used?**

**Yes, and no further actions are required.**

The HAVA Planning Committee determined through research conducted by staff, through testimony offered by Congressional staff, and through testimony given by staff from the Division of Elections that Florida complies with the HAVA audit requirement. Florida voting system standards require DRE machines to maintain a random sorted file of ballot images for every vote cast, and they also have to maintain detailed logs for each election from the time they are first programmed for an election until the results are copied to archival media. Certified voting systems in Florida are required to print out a paper tape of summary totals in each precinct. The paper record is produced to reconcile the consolidated totals for the county in the event of a recount.

Staff from the Division of Elections testified before the HAVA Planning Committee that Florida's State and local security measures make it highly unlikely any tampering could take place with the voting systems. In addition, staff also testified that Florida's certified voting

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systems are tested in public forums for logic and accuracy before the election. There are also thorough procedural and security controls in place at the local level to safeguard against someone tampering with the voting systems. The Division of Elections' staff cited Rule 1S-2.015(5)(m)3.a., *F. A. C.*, relating to minimum election security procedures which requires the "printing of precinct results and results from individual tabulating devices" for every election. In addition, the Florida Legislature has authorized the Department of State to promulgate rules which would require supervisors to check those paper totals against electronic totals during machine recounts. The following statutes and rules lay the groundwork for Florida's ability to comply with the audit requirements of HAVA:

Section 101.015(5)(a), *Florida Statutes*, requires the Department of State to adopt rules which establish standards for voting systems, including audit capabilities.

Section 101.5606(11 & 13), *Florida Statutes*, requires the Department of State to approve only voting systems that are capable of automatically producing precinct totals in printed, marked, or punched form or a combination thereof. The voting systems must be capable of providing records from which the operating system of the voting system may be audited.

Florida Voting System Standards (April 2002) provide general functional requirements of voting systems which "shall include the capability to produce records, generated by the system components, or in some cases, by the system operators from which all operations may be audited. Except for the storage of vote images, which shall be maintained in a random sequence, the records shall be created and maintained in the sequence in which the operations were performed." (pp. 16-17)

Florida Voting System Standards (April 2002) require precinct count systems to provide a means for obtaining a printed report of the votes counted on each voting device, and to provide a means for extracting this information to a transportable memory device or data storage medium. (p. 23)

Florida Voting System Standards (April 2002) require the generation of reports by the system to be performed in a manner which does not erase or destroy any ballot image, parameter, tabulation or audit log data. The system shall provide a means for assuring the maintenance of data integrity and security for a period of at least 22 months after the closing of the polls. (p. 24)

Section 102.166(5)(d), *Florida Statutes*, requires the Department of State to adopt detailed rules prescribing additional manual recount procedures for each certified voting system which shall be uniform to the extent practicable. The rules shall address, at a minimum, the following areas:

- Security of ballots during the recount process
- Time and place of recounts
- Public observance of recounts

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- Objections to ballot determinations
- Record of recount proceedings
- Procedures relating to candidate and petitioner representatives

**Section 301(a)(3)(A): Does Florida have certified voting systems for individuals with disabilities, including non-visual 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?**

**Section 301(a)(3)(B): Does Florida meet the requirement in subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place?**

**Partially meets, and further actions are required.**

In 2001, the Secretary of State appointed a task force to conduct a comprehensive review of Florida's election laws and procedures. The task force recommended legislation to insure that Florida's voters with disabilities could fully exercise their right to a secret ballot, as guaranteed by Florida's Constitution. Many of the recommendations of the task force were passed by the Legislature and signed into law by Governor Bush in 2002 and are found in Chapter 2002-281, *Laws of Florida*. Several sections of the law, including sections setting forth specific standards that voting systems must meet, did not become effective immediately, however. They were made contingent on further appropriations by the Legislature, in expectation of the receipt of federal funding as now provided in HAVA.

HAVA requires that all voting systems be accessible to persons with disabilities by January 1, 2006, but does not specifically define what is required to accomplish this. HAVA's definition of what constitutes a voting system, however, found in Section 301(b), is comprehensive. Florida has already done the difficult and time consuming work of defining what makes a Florida voting system accessible for persons with disabilities and these standards are found in Chapter 2002-281, *Laws of Florida*. However, as noted above, many sections are not currently in effect. Some slight additional changes to Florida law will need to be made to include provisional ballots, which HAVA requires to be accessible, within Florida's accessibility requirements.

Not only has Florida already enacted much of the required accessibility reforms required by HAVA, but the intent of the Legislature to comply fully with Federal requirements is clearly set out in statute. Section 101.56063, *Florida Statutes*, provides that:

It is the intent of the Legislature that this state be eligible for any funds that are available from the Federal Government to assist states in providing or improving accessibility of voting systems and polling places for persons having a disability. Accordingly, all state laws, rules, standards, and codes governing voting systems and polling place accessibility must be maintained to ensure the state's eligibility to receive federal funds. It is the intent

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of the Legislature that all state requirements meet or exceed the minimum federal requirements for voting systems and polling place accessibility.

In addition to the above, Florida must take steps now in the certification and system procurement processes to insure that it is able to meet the HAVA requirements in time. HAVA requires that voting systems themselves, not just Florida law, must meet the accessibility requirements by January 1, 2006. The HAVA Planning Committee heard testimony from Division of Elections' staff who cautioned that Florida cannot compel any voting systems vendor to bring equipment to the State for certification. Staff testimony further noted that the lack of available certifiable equipment has been a significant problem in the past that continues to the present. With the proper incentives for vendors and tools for counties to require compliance with accessibility standards, Florida will be able to comply with HAVA requirements by January 1, 2006.

Accordingly, the HAVA Planning Committee recommends that the Division, beginning immediately, require that all new certified voting systems comply with the requirements of Section 101.56062, *Florida Statutes*. Further, any purchase of a voting system by a governmental entity after July 1, 2004 should be required to include a contract for future upgrades and sufficient equipment to meet the requirements of Section 101.56062 and Section 101.5606, *Florida Statutes*. Finally, all voting systems in use as of January 1, 2006, should be required to be both certified to meet, and be deployed in a configuration that meets, the requirements of Section 101.56062 and Section 101.5606, *Florida Statutes*.

The Florida Legislature during the 2004 Session triggered the accessibility standards found in Chapter 2002-281 by making HAVA funds available to counties through the Department of State. The language is as follows:

From the funds in Specific Appropriation 2871I, \$11,600,000 shall be distributed by the Department of State to county supervisors of elections for the purchase of Direct Recording Equipment (DRE) or other state approved equipment that meets the standards for disability requirements which is accessible to persons with disabilities to ensure that each county has one accessible voting system for each polling place.

The funds are to be distributed according to the number of machines that are accessible for persons with disabilities that are needed in order for each county to have one per polling place. No supervisor of elections shall receive any funds until the county supervisor of elections certifies to the Department of State: 1) the number of precincts in the county; 2) the number of polling places in the county; 3) the number of voting machines the county has that meet the disability requirement; 4) the county's plan for purchasing the DRE's; and 5) the date that the county anticipates being in compliance. The Department of State will determine the number of DRE's needed in each county based on the certifications provided by the supervisors of elections. Any county that receives funds from Specific Appropriation 2871I that is not in compliance with the accessibility requirements in Section 301(a)(3) Title III of the Help America Vote Act by January 1, 2006, shall be required to return those funds to the State.

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The HAVA Planning Committee encourages the Legislature to continue to support accessible voting for persons with disabilities by mandating that provisional ballots for voters with disabilities shall be provided to them by a system that meets the requirements of Section 101.56062, *Florida Statutes*, by January 1, 2006.

The HAVA Planning Committee encourages the Legislature to continue to support accessible voting for persons with disabilities by enacting a HAVA Implementation Bill which immediately requires:

A. All electronic and electromechanical voting systems certified by the State must meet the requirements of Section 101.56062, *Florida Statutes*, (except subsection (1)(d), which is exempted in the statute);

B. Any purchase of a voting system by any county, municipality or by the State must include a contract for future upgrades and sufficient equipment to meet the requirements of Section 101.56062 and Section 101.5606, *Florida Statutes*; and

C. All electronic and electromechanical voting systems in use on or after January 1, 2006 must be certified to meet and be deployed in a configuration which meets the requirements of Section 101.56062 and Section 101.5606, *Florida Statutes*.

The HAVA Planning Committee also discussed polling place accessibility even though this topic is not required to be addressed in the HAVA plan. It was noted that the State of Florida has taken the initiative to contract with the Disability Relations Group to help it comply with HAVA. In addition, the Division of Elections has applied for polling place accessibility funding with the U.S. Department of Health and Human Services. The Division of Elections has been awarded two grants in the amount of \$687,278 and of \$492,941.

Several members of the HAVA Planning Committee also noted there is a sense of urgency to bring polling places into compliance. One Committee member referred to a recent United States Supreme Court decision that requires government to comply with the Americans With Disabilities Act. The HAVA Planning Committee recommended that the State of Florida address the polling place issue quickly by asking the Governor to provide emergency funding to bring polling places into ADA compliance.

**Section 301(a)(3)(C): Will Florida purchase voting systems with funds made available under Title II on or after January 1, 2007, that meet the voting system standards for disability access (as outlined in this paragraph)?**

**Yes, and no further actions are required.**

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Element 1. Use of Title III Requirements Payments:  
B. Provisional Voting and Voting Information

**How the State will use the requirements payment to meet the requirements of Title III, and, if applicable under section 251(a)(2), to carry out other activities to improve the administration of elections.**

**Section 302(a) Provisional Voting Requirements**

The Help America Vote Act of 2002 (HAVA) requirements for provisional voting state that if an individual declares that he or she is a registered voter in the jurisdiction in which they are attempting to vote but their name does not appear on the official list of eligible voters, they are to be permitted to cast a provisional ballot.

**Section 302(a)(1) Do Florida's election laws require election officials at the polling place to notify individuals that they may cast a provisional ballot?**

**Yes, and no further actions are required.**

Section 101.031(2), *Florida Statutes*, states that the supervisor of elections in each county shall have posted at each polling place in the county the Voter's Bill of Rights and Responsibilities. Included in the Voter's Bill of Rights is the right of each registered voter to cast a provisional ballot, if his or her registration is in question.

The Division of Elections' Polling Place Procedures Manual instructs poll workers to read informational signs that appear in print on the walls of the polling place and to offer magnifying sheets for visually impaired voters.

In addition, modifications to Section 101.043(3), *Florida Statutes*, were included in Chapter 2003-415, *Laws of Florida*, which was effective January 1, 2004. This change provided that certain first-time voters would be allowed to vote a provisional ballot.

**Section 302(a)(2) Do Florida's election laws state that any person attempting to vote whose name does not appear on the official list of eligible voters be permitted to cast a provisional ballot at the polling place upon the execution of a written affirmation by the individual that they are: (A) a registered voter in the jurisdiction in which the individual desires to vote; and (B) eligible to vote in that election.**

**Yes, and no further actions are required.**

Section 101.048(1), *Florida Statutes*, states that any voter claiming to be properly registered and eligible to vote, but whose eligibility cannot be determined, will be given a provisional ballot. A Provisional Ballot Voter's Certificate and Affirmation must be completed by the individual casting a provisional ballot indicating that they are registered to vote and are a qualified voter of



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the county in which they are attempting to vote, and that they have not previously voted in the election.

In addition, according to Section 101.048(2), *Florida Statute*, if it is determined that the person voting the provisional ballot was not registered or entitled to vote at the precinct where the person cast a vote in the election, the provisional ballot shall not be counted and the ballot shall remain in the envelope containing the Provisional Ballot Voter's Certificate and Affirmation and the envelope shall be marked "Rejected as Illegal."

Currently, in Florida, in order for provisional ballots to count they must be cast in the precinct in which the voter is registered. This means that votes for President, U.S. Senate or other statewide officials such as Governor and Attorney General, would not be counted if a voter cast a provisional ballot at a wrong precinct.

Under HAVA, Section 302 requires: If an individual states that [s/he] is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place...such individual shall be permitted to cast a provisional ballot...

(2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation ...stating that the individual is—

- (A) a registered voter in the jurisdiction in which the individual desired to vote;
- and
- (B) eligible to vote in that election.

HAVA does not define jurisdiction, but the National Voter Rights Act (NVRA) defines jurisdiction for federal purposes as the largest geographic area governed by a unit of government (municipality or larger) that performs all the functions of a voting registrar. The HAVA Planning Committee concludes that the provisional ballot set forth in HAVA reinforces protections that the NVRA affords voters who move within the registrar's jurisdiction without updating their registration information, the ability to vote. The HAVA Planning Committee would like to offer Florida voters this same certainty and recommends to the Florida Legislature that the meaning of the term "jurisdiction" in Florida Statutes be changed from "precinct" to "county."

**Section 302(a)(3) Do Florida's election laws require a completed provisional ballot be given to an appropriate State or local election official to determine whether the individual is eligible under State law to vote?**

**Yes, and no further actions are required.**

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Section 101.048(1), *Florida Statutes*, states that all provisional ballots are placed in a secrecy envelope and then sealed in a provisional ballot envelope. All provisional ballots shall remain sealed in their envelopes for return to the supervisor of elections.

Section 101.048(2)(a), *Florida Statutes*, states the county canvassing board shall examine each provisional ballot envelope to determine if the person voting that ballot was entitled to vote at the precinct where the person cast a vote in the election and that the person had not already cast a ballot in the election.

**Section 302(a)(4) Is the provisional ballot counted if the appropriate State or local election official determines the individual is eligible under State law to vote?**

**Yes, and no further actions are required.**

Section 101.048(2)(b)1, *Florida Statutes*, states that if it is determined that the person was registered and entitled to vote at the precinct where the person cast a ballot, the canvassing board will compare the signature on the provisional ballot envelope with the signature on the voter's registration record and, if it matches, will count the ballot.

**Section 302(a)(5)(A) Are the individuals who cast a provisional ballot given written information that states that any individual who casts a provisional ballot will be able to ascertain whether the vote was counted and, if not, the reason that the vote was not counted?**

**Yes, and no further actions are required.**

Section 101.048(5)(6), *Florida Statutes*, provides that each person casting a provisional ballot shall be given written instructions and information on how to determine whether their vote was counted.

**Section 302(a)(5)(B) Has the appropriate State or local election official established a free access system to provide this information to individuals casting provisional ballots?**

**Yes, and no further actions are required.**

Section 101.048(5)(6), *Florida Statutes*, requires each supervisor of elections to establish a free access system that allows each person who casts a provisional ballot to determine whether his or her provisional ballot was counted in the final canvass of votes and, if not, the reasons why.

Section 101.048, *Florida Statutes*, states:

(5) Each person casting a provisional ballot shall be given written instructions regarding the free access system established pursuant to subsection (6). The instructions shall contain information

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on how to access the system and the information the voter will need to provide to obtain information on his or her particular ballot. The instructions shall also include the following statement: "If this is a primary election, you should contact the supervisor of elections' office immediately to confirm that you are registered and can vote in the general election."

(6) Each supervisor of elections shall establish a free access system that allows each person who casts a provisional ballot to determine whether his or her provisional ballot was counted in the final canvass of votes and, if not, the reasons why. Information regarding provisional ballots shall be available no later than 30 days following the election. The system established must restrict information regarding an individual ballot to the person who cast the ballot.

It is recommended that each county, as a minimum, provide to voters who cast provisional ballots written notification by mail informing them of whether their ballot was counted and, if not, why it was not counted. Supervisors of elections are also strongly encouraged to develop a toll-free number or access to this information via the Internet.

Each supervisor of elections has established the free access system for their county.

**Section 302(a)(5)(B) Has the appropriate State or local official established procedures to protect the security, confidentiality and integrity of the personal information collected and stored by the free access system, restricting access to the individual who cast the ballot?**

**Yes, and no further actions are required.**

Section 101.048, *Florida Statutes*, requires the free access system established by the supervisors of elections to restrict access to information regarding an individual ballot to the person who cast the ballot.

**Section 302(b) Voting Information Requirements**

HAVA requirements for voting information state that the appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office.

**Section 302(b)(2)(A) Is a sample version of the ballot that will be used for that election posted?**

**Yes, and no further actions are required.**

Section 101.20, *Florida Statutes*, states that two sample ballots shall be furnished to each polling place by the officer whose duty it is to provide official ballots. The sample ballots shall be in the form of the official ballot as it will appear at the polling place on election day. Sample ballots shall be open to inspection by all electors in any election.

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**Section 302(b)(2)(B) Is information regarding the date of the election and the hours during which polling places will be open posted on election day?**

**Yes, and no further actions are required.**

Information such as the hours of operation of polling places and the date of the election are provided on instructional cards and sample ballots. Section 101.031, *Florida Statutes*, requires the Department of State, or in case of municipal elections the governing body of the municipality, to print, in large type on cards, instructions for the electors to use in voting. Each supervisor of elections shall send a sufficient number of these cards to the precincts prior to an election. The election inspectors shall display the cards in the polling places as information for electors. The cards shall contain information about how to vote and such other information as the Department of State may deem necessary.

Currently, all cards that are posted in polling places include the hours the polls will be opened.

Section 101.20(1), *Florida Statutes*, states that two sample ballots shall be furnished to each polling place by the officer whose duty it is to provide official ballots. Sample ballots shall be open to inspection by all electors in any election, and a sufficient number of reduced-size ballots may be furnished to election officials so that one may be given to any elector desiring same.

Currently, all sample ballots posted in polling places include the date of the election.

**Section 302(b)(2)(C) Are instructions on how to vote, including how to cast a vote and how to cast a provisional ballot posted on election day?**

**Yes, and no further actions are required.**

Section 101.031, *Florida Statutes*, states the Department of State, or in case of municipal elections the governing body of the municipality, shall print, in large type on cards, instructions for the electors to use in voting. It shall provide not less than two cards for each voting precinct for each election and furnish such cards to each supervisor upon requisition. Each supervisor of elections shall send a sufficient number of these cards to the precincts prior to an election. The election inspectors shall display the cards in the polling places as information for electors. The cards shall contain information about how to vote and such other information as the Department of State may deem necessary.

In addition, Section 101.5611, *Florida Statutes*, states the supervisor of elections shall provide instruction at each polling place regarding the manner of voting with the system. The supervisor of elections shall provide instruction on the proper method of casting a ballot for the specific voting system utilized in that jurisdiction.



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During the 2002 legislative session, Senate Bill 1350 was passed amending Section 97.026, *Florida Statutes*, and stated that all forms required to be used in chapters 97 through 106 shall be made available upon request, in alternative formats. Although this statute is not in effect during the development of this Plan, the Department produces forms in alternative formats upon request.

The Division of Elections has updated and reprinted the posters that provide instructions to voters which will be displayed at each polling place on election day. These posters have been distributed to all 67 counties. The posters have been updated to inform voters when they would need to vote a provisional ballot as well as providing instructions on how to cast a provisional ballot. A copy of each version of the poster (touch screen and optical scan) in English and Spanish is included in Appendices A-D. In Miami-Dade and Broward counties, the posters are printed in English, Spanish and Creole.

Included in the new instructions: *If you need instructions on how to use the voting equipment ask a poll worker to assist you. After you have been given instructions, the officer assisting you will leave so that you can cast your vote in secret.*

For touch screen systems: *When you are finished voting your ballot, be sure to press the VOTE or CAST BALLOT button to cast your vote.*

For optical scan systems: *When you are finished marking you ballot, take your ballot and put it into the precinct tabulator.*

*If your eligibility is questioned or you are a first-time voter who registered by mail and do not have a photo ID, you will be allowed to vote a provisional ballot. Once you have marked this paper ballot, place it in the envelope provided to you and fill out the Voter's Certificate on the back of the envelope. Your ballot will be presented to the County Canvassing Board for a determination as to whether your ballot will be counted.*

**Section 302(b)(2)(D) Are instructions for mail-in registrants and first-time voters under section 303(b) posted on election day?**

**Yes, and no further actions are required.**

Under Section 101.031(1), *Florida Statutes*, the Department of State is required to print, in large type on cards, instructions for the electors to use in voting. The election inspectors shall display the cards in the polling places as information for electors. The cards shall contain information about how to vote and such other information as the Department of State may deem necessary. The cards must also include the list of rights and responsibilities afforded to Florida voters.

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The Division of Elections has updated and reprinted the posters that provide instructions to voters and are displayed at each polling place on election day. These posters have been distributed to all 67 counties. The posters have been updated to include instructions for mail-in registrants and first-time voters. A copy of each version of the poster (touch screen and optical scan) in English and Spanish is included as Appendices A-D. In Miami-Dade and Broward counties, the posters are printed in English, Spanish and Creole.

The new instructions state: *If you are a first-time voter who registered by mail and have not already provided identification to the supervisor of elections, you must provide a photo ID with signature. If you do not have the proper ID, you are allowed to vote a provisional ballot.*

**Section 302(b)(2)(E) Is general information on voting rights, including information on the right of an individual to cast a provisional ballot posted on election day?**

**Yes, and no further actions are required.**

Section 101.031(2), *Florida Statutes*, requires the supervisor of elections in each county to have posted at each polling place the Voter's Bill of Rights and Responsibilities. The Voter's Bill of Rights states that each registered voter in this State has the right to:

1. Vote and have his or her vote accurately counted.
2. Cast a vote if he or she is in line at the official closing of the polls in that county.
3. Ask for and receive assistance in voting.
4. Receive up to two replacement ballots if he or she makes a mistake prior to the ballot being cast.
5. An explanation if his or her registration is in question.
6. If his or her registration is in question, cast a provisional ballot.
7. Prove his or her identity by signing an affidavit if election officials doubt the voter's identity.
8. Written instructions to use when voting, and, upon request, oral instructions in voting from elections officers.
9. Vote free from coercion or intimidation by elections officers or any other person.
10. Vote on a voting system that is in working condition and that will allow votes to be accurately cast.

**Section 302(b)(2)(E) Is contact information posted for voters who allege their rights have been violated?**

**Yes, and no further actions are required.**

Under Section 101.031(1), *Florida Statutes*, the Department of State is required to print, in large type on cards, instructions for the electors to use in voting. The election inspectors shall display the cards in the polling places as information for electors. The cards shall contain information

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about how to vote and such other information as the Department of State may deem necessary. The cards must also include the list of rights and responsibilities afforded to Florida voters.

The Division of Elections has updated and reprinted the Voter's Bill of Rights posters that provide voters with a list of their rights as registered voters. These posters are displayed at each polling place on election day and have been distributed to all 67 counties. The posters have been updated to provide voters with contact information if they believe their voting rights have been violated. A copy of the poster in English and Spanish is included as Appendices E and F. In Miami-Dade and Broward counties, the posters are printed in English, Spanish and Creole.

The specific instruction states: *You may have other voting rights under state and federal laws. If you believe your voting rights have been violated, please contact Florida Department of State, Division of Elections, 1-877-868-3737.*

In the next reprint of these posters, the Division of Elections will modify the instructions to indicate that the number to call (1-877-868-3737) is a toll-free number.

**Section 302(b)(2)(F) Is information on laws regarding prohibitions on acts of fraud and misrepresentation posted?**

**Yes, and no further actions are required.**

Section 101.5611(2), *Florida Statutes*, requires the supervisor of elections to have posted at each polling place a notice that reads: "A person who commits or attempts to commit any fraud in connection with voting, votes a fraudulent ballot, or votes more than once in an election can be convicted of a felony of the third degree and fined up to \$5,000 and/or imprisoned for up to 5 years."

**Section 302(c) Are individuals who vote in an election as a result of a court order or any other order extending the time established for closing the polls by a State law required to cast a provisional ballot? This provisional ballot must be separated and held apart from other provisional ballots cast by those not affected by the order.**

**Yes, and no further actions are required.**

Section 101.049, *Florida Statutes*, permits, under special circumstances, any person voting in an election after the regular poll-closing time pursuant to a court or other order extending the statutory polling hours to vote a provisional ballot. Once voted, the provisional ballot shall be placed in a secrecy envelope and sealed in a provisional ballot envelope. All such provisional ballots will remain sealed and transmitted to the supervisor of elections separate and apart from all other ballots. The supervisor shall ensure that late-voted provisional ballots are not commingled with other ballots.

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**Section 302(d) The effective date for complying with the Provisional Voting and Voting Information requirements is on and after January 1, 2004.**

The Provisional Voting and Voting Information Requirements was completed as required by HAVA on January 1, 2004.

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## Element 1. Use of Title III Requirements Payments: C. Voter Registration

**How the State will use the requirements payment to meet the requirements of Title III, and, if applicable under section 251(a)(2), to carry out other activities to improve the administration of elections.**

### **Introduction**

The Help America Vote Act of 2002 (HAVA) establishes minimum requirements for a single, centralized, computerized statewide voter registration list and for mail registration as a part of establishing and maintaining such a list.

The effective and efficient administration of elections depends in a major way on the completeness and accuracy of voter registration lists that can be checked quickly and reliably by election workers. Section 303(a) of HAVA establishes minimum requirements for a “single, uniform, official, centralized, interactive, computerized, statewide voter registration list which shall be the single system for storing and managing the list of registered voters throughout the state for the conduct of all federal elections.”

Because many voters register by mail instead of in person, the procedures used for mail registration are an important component of establishing and maintaining a complete and accurate statewide voter registration list. Section 303(b) of HAVA requires that a state’s mail voter registration system be administered in a “uniform and nondiscriminatory manner” and establishes minimum requirements for such a system.

Until recently, Florida’s voters have relied primarily on voter registration lists established and maintained by independent supervisors of elections in each of Florida’s 67 counties.<sup>1</sup> These lists are governed by Florida law that specifies qualifications to register or vote, a registration oath, a uniform statewide voter registration application form, acceptance of applications by supervisors of elections, closing of registration books, late registration, declinations to register, special registration for electors requiring assistance, registration identification card, disposition of applications and procedures for cancellation, notices of changes of address, and operation of registration offices. See Sections 97.032 through 97.055, 97.0585 through 97.105, 98.015 through 98.095, and 98.101 through 98.491, *Florida Statutes*.

Additional requirements for establishing and maintaining voter registration lists were enacted in the Federal Voting Rights Act of 1965 and the National Voter Registration Act of 1993 (“Motor Voter Law”). Sections 97.057 through 97.0583, *Florida Statutes*, and other provisions of Florida

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<sup>1</sup> A permanent single voter registration system for each Florida county, used for all public elections in that county, improved on practices in early Florida history of requiring separate registrations for municipal elections and new registrations for each new election. See Section 97.105, *Florida Statutes*.



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law implemented those Federal laws in the State by providing for registration of voters by the Department of Highway Safety and Motor Vehicles, voter registration agencies,<sup>2</sup> and qualifying educational institutions.

In 1997, the Florida Legislature established a "central voter file" in the Division of Elections that contained voter registration information from all counties. Section 98.097, *Florida Statutes*.

Following the 2000 General Election, the Florida Legislature enacted the Florida Election Reform Act of 2001 that took additional steps to require complete and accurate voter registration lists in the counties and to establish a statewide voter registration database. Sections 98.0977 through 98.0979, *Florida Statutes*, authorized the Department of State to "...analyze, design, develop, operate, and maintain a statewide, on-line voter registration database and associated website, to be fully operational statewide by June 1, 2002. The database shall contain voter registration information from each of the 67 supervisors of elections in this state and shall be accessible through an Internet website. The system shall provide functionality for ensuring that the database is updated on a daily basis to determine if a registered voter is ineligible to vote for any of the following reasons, including, but not limited to:

- (a) The voter is deceased;
- (b) The voter has been convicted of a felony and has not had his or her civil rights restored; or
- (c) The voter has been adjudicated mentally incompetent and his or her mental capacity with respect to voting has not been restored.

The database shall also allow for duplicate voter registrations to be identified."

This statewide database was established in time for use in the 2002 General Elections. Requirements for pre-clearance by the U.S. Department of Justice (DOJ) and negotiations for settlement of a lawsuit by the NAACP delayed use of parts of the database concerning eligibility of voters identified as potentially ineligible because of a felony conviction or adjudication of mental incapacity. With the receipt of DOJ clearance and settlement of the lawsuit now accomplished, the Division of Elections has begun running matches.

<sup>2</sup> A "voter registration agency" is defined by Section 97.012(37), *Florida Statutes*, as "...any office that provides public assistance, any office that serves persons with disabilities, any center for independent living, or any public library."



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## Section 303(a) Computerized Statewide Voter Registration List Requirements

**Section 303(a)(1)(A)(i)-(vii) and 303(a)(2): Does Florida's existing statewide database meet requirements for implementing and maintaining a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State and includes information specified in HAVA?**

**No, and further actions are required.**

Florida has made great strides in recent years in establishing a centralized, computerized statewide voter registration database but that database does not meet the requirements of HAVA Section 303(a)(1)(A) for a **single** statewide voter registration list "...defined, maintained, and administered at the State level...[with] a unique identifier [assigned] to each legally registered voter in the State..." which serves, under HAVA Section 303(a)(1)(A)(vii), as "...the official voter registration list for the conduct of all elections for Federal office in the State." HAVA Section 303(a)(1)(A)(i) further defines this requirement by specifying that "The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State." HAVA Section 303(a)(1)(A) also specifies that the chief State election official (in Florida the Secretary of State) shall implement and maintain the single statewide voter registration list.

Florida currently has 67 official voter registration lists, one established and maintained in each county, that are compiled into the statewide voter registration database required by the Florida Election Reform Act of 2001. The 67 county-based lists, not the statewide database, are the official voter registration lists for voters in Florida. The statewide database is intended primarily to assist supervisors of elections to determine if voters are ineligible to vote (deceased, convicted felons who have not had civil rights restored, or adjudicated as mentally incompetent). It also is intended to identify those voters who are listed more than once. It is not intended to serve as "...the single system for storing and managing the official list of registered voters throughout the State..." as required by HAVA. Information in the statewide database is made available to county supervisors of elections who are responsible for making final determinations of a voter's eligibility and for updating voter registration records.

HAVA's requirement for a single computerized statewide voter registration list cannot be fulfilled quickly. In addition to designing and implementing such a single system that is interactive and assigns unique identifiers to each voter, HAVA requires the system to have adequate technological security measures [HAVA Section 303(a)(3)], meet minimum standards of accuracy and currency [HAVA Section 303(a)(4)], provide for verification with other information such as driver's license numbers and Social Security numbers [HAVA Section 303(a)(5)], and meet other standards. Meeting these requirements and standards will take time, expertise and money.

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The Legislature appropriated \$1.6 million and nine staff positions to create a master design, including a business plan and budget, for a single statewide voter registration system by January 2004. This design permitted the 2004 Legislature to take action to authorize the implementation of a new single computerized statewide voter registration list in time for the 2006 elections. The State of Florida was granted a waiver under HAVA to have a single statewide voter registration system in place by January 1, 2006, instead of the existing deadline of January 1, 2004. (The requirement for a waiver is discussed subsequently.)

Chapter 2003-415, *Laws of Florida*, authorizes the State to request the Federal Election Assistance Commission to grant a waiver from the January 1, 2004, HAVA deadline. The 2003 Appropriations bill authorizes the funding and staffing positions requested by the Division of Elections.

The Division of Elections has been meeting with representatives of the Florida State Association of Supervisors of Elections, the Department of Highway Safety and Motor Vehicles, the Department of Law Enforcement, the Board of Executive Clemency, the State Technology Office and health officials to begin to find ways to coordinate databases maintained by those agencies as part of the single centralized statewide voter registration list. Because HAVA Sections 303(a)(5)(A)(i)(I) and (II) require an applicant for voter registration to provide either a current and valid driver's license number or supply the last four digits of the applicant's Social Security number, HAVA Sections 303(a)(5)(B)(i)-(ii) require that the State enter into agreements to share such information with the Department of Highway Safety and Motor Vehicles and with the Social Security Administration.

HAVA's requirements are minimum requirements. Florida may establish technology and administrative requirements that are stricter than the Federal requirements as long as they are not inconsistent with HAVA's requirements and other laws, such as the Motor Voter Act, or in conflict with the privacy provisions of the Florida Constitution. See HAVA Section 304.

## **Florida Voter Registration System - Proposed System Design and Requirements**

### **Strategy to Develop and Implement**

The Florida Legislature has directed the Department of State to begin development of a statewide voter registration system that meets the requirements of HAVA. Accordingly, the 2003 Legislature provided \$1.6 million to begin implementation of the system. Funds include \$1 million for the Needs Assessment Phase along with nine positions to support design, development and implementation of the HAVA requirements. Of the nine positions, five reside in the Department of State and two each in the Department of Highway Safety and Motor Vehicles and the Florida Department of Law Enforcement.

The Division of Elections has been tasked with the responsibility to develop specifications for design and implementation of the Florida Voter Registration System (FVRS). The Division of

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Elections has allocated one of the five HAVA-funded positions for a project manager tasked with the responsibility to direct and coordinate development of a comprehensive set of functional requirements, design specifications and preparation of progress reports. The Business Owner of the FVRS is the Director of the Division of Elections and the Project Sponsor is the Florida Secretary of State. The Project Director, Project Executive and Project Administrator are all Division of Elections staff.

The project team has taken every effort to identify alternative approaches to development of the FVRS and assess the relative merits of each approach. Visits to, and interviews with, other states with centralized voter registration have provided insight into the technical, administrative and political systems necessary for successful implementation. Interviews with election officials in other states that are in more advanced stages of meeting HAVA requirements have contributed much to identify the best practices approach.

The project team has also relied heavily on input from the supervisors of elections, their staff and vendors of voter registration systems currently in use throughout the State. A committee drawn from the 67 supervisors of elections was appointed to work with the project team. Additionally, a series of technical workgroups was established to identify issues and assess alternatives in a number of specific areas including:

- maintenance of address systems;
- interfacing of local voter registration systems;
- document and contract management;
- petitions;
- polling place activities;
- security; and
- statutory and legal issues.

The table below provides a proposed project schedule.

<b>Estimated Start Date</b>	<b>Project Phase</b>
September 2003	Phase 1 - Planning & Design
March 2004	Phase 2 - Prototyping and Validation of Design
March 2005	Phase 3 - Iterative Business Function and Performance Testing
August 2005	Phase 4 - Training, Education and Final Statewide Implementation and Acceptance
January 2006	Implementation of Florida Voter Registration System
February 2006	Phase 5 - Final Documentation and Transition to Maintenance and Support
March 2006	Project Close

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### **Section 303(d) Deadlines for Computerized Statewide Voter Registration List**

**Section 303(d)(1)(A): Can Florida meet HAVA's requirement to have operational a computerized statewide voter registration list, as defined by HAVA, by January 1, 2004?**

**No, and further actions are required.**

The State practically could not meet the January 1, 2004 deadline. Substantial professional and technical work must be done to design and establish a computerized statewide voter registration list that meets HAVA's standards. Chapter 2003-415, *Laws of Florida*, authorizes the State to seek a waiver from the Federal Election Assistance Commission permitted under HAVA Section 303(d)(1)(B) from January 1, 2004, to January 1, 2006, if the State "...will not meet the deadline...for good cause and includes in the certification the reasons for the failure to meet such deadline...."

The Florida Division of Elections has filed with the Federal Election Assistance Commission the appropriate waiver seeking an extension for the development and implementation of the Computerized Statewide Voter Registration list from January 1, 2004 to January 1, 2006. A copy of this letter is included as Appendix G.

### **Section 303(b) Requirements for Voters Who Register By Mail**

**Section 303(b)(1) through (4): Does Florida meet HAVA's identification requirements for a voter who registers by mail and has not previously voted in an election for Federal office in the State or registers by mail, has not previously voted in the jurisdiction and is in a State that does not have a computerized statewide voter list that meets HAVA's requirements?**

**Yes, and no further actions are required.**

HAVA requires persons who register by mail and have not voted in an election for federal office to provide identification prior to voting. If the State is able to match the voter's driver's license number or Social Security number against an existing State record bearing the same number, name and date of birth, further identification by the voter is not required.

HAVA Sections 303(b)(2)(i) through (ii) require that a first-time voter who votes in person may be identified by a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. A voter who votes by mail may include with the ballot a copy of a current and valid photo identification or a copy of the other documents listed for the voter who appears in person. An exception is made in HAVA Section 303(b)(3) for mail registrants who provide a copy of required identification at the time of registering, mail registrants whose driver's license number or last 4 digits of the Social Security number are matched with an existing State record, and for those who vote under the Uniformed and Overseas Citizens Absentee Voting Act, the

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Voting Accessibility for the Elderly and Handicapped Act, or under some other provision of Federal law (in which case the specific standards of those acts must be met).

Chapter 2003-415, *Laws of Florida*, amends the following sections of Florida law to conform to HAVA's mail registration and other voter registration requirements:

Section 97.052(3)(g), *Florida Statutes*, to require a statement with the uniform statewide voter registration form that informs the applicant that if the form is submitted by mail and the applicant is registering for the first time, the applicant will be required to provide identification prior to voting for the first time.

Section 97.053(5)(a), *Florida Statutes*, that permits the use of a valid Florida driver's license number or the identification number from a Florida identification card issued under Section 322.051, *Florida Statutes*, for purposes of voter registration.

Section 97.0535, *Florida Statutes*, that specifies at length the requirements for identification that a first-time voter can use and that complies with other HAVA requirements outlined previously.

Section 101.043, *Florida Statutes*, (a transfer and renumbering of Section 98.471, *Florida Statutes*) to permit a voter to submit to a poll worker at the time of voting a current and valid picture identification with a signature.

**Section 303(b)(4): Does Florida meet HAVA's requirement for language in the mail voter registration form under Section 6 of the National Voter Registration Act of 1993?**

**Yes, and no further actions are required.**

HAVA requires that mail voter registration forms under Section 6 the National Voter Registration Act shall include the following:

"(i) The question 'Are you a citizen of the United States of America?' and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.

(ii) The question 'Will you be 18 years of age on or before election day?' and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day.

(iii) The statement 'If you checked 'no' in response to either of these questions, do not complete this form.'

(iv) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time."

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Section 97.052(2)(b) and (r), *Florida Statutes*, requires that the uniform statewide voter registration form must be designed to elicit information from the applicant about the applicant's date of birth and whether the applicant is a citizen of the United States. The form itself, available on the Division of Elections' website at <http://election.dos.state.fl.us>, asks for date of birth and asks "Are you a U.S. citizen?" It does not use the specific language required by HAVA.

Chapter 2003-415, *Laws of Florida*, amends Section 97.052, *Florida Statutes*, by adding subsection (g) that requires language about the need for appropriate identification for first time mail applications. It does not require the specific HAVA language about age and citizenship.

The Division of Elections has reviewed this matter orally with Federal legislative and executive representatives and has concluded that the requirement applies only to Federal applications under Section 6 of the National Voter Registration Act. It believes that putting such language on State application forms will confuse voters and discourage first-time registrants. The age question, for instance, does not specify the exact election day to which it is referring and assumes that young voters may be applying to register for a specific election rather than pre-registering as 17 year-olds in order to vote in all elections after they reach the age of 18. The Division notes that the forms used by Florida already elicit the information required by asking for date of birth and citizenship. The forms do not discourage voters by telling them to stop with the application if they must answer "No" to either question. The Division is complying with the substance of HAVA if not with the exact form of the question.

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## Element 2. Local Government Payments and Activities

**How the State will distribute and monitor the distribution of the requirements payments to units of local government or other entities in the State for carrying out the activities described in paragraph (1), including a description of—**

**(A) the criteria to be used to determine the eligibility of such units or entities for receiving the payment; and**

**(B) the methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under paragraph (8).**

### **Introduction**

The Florida Legislature has broad constitutional authority for appropriating federal and State funds annually through the appropriations bill which is eventually signed by the Governor into law. During the annual appropriations process, the Florida Legislature assesses the needs of the State and makes policy and budget decisions which impact every level of government including local government.

The funding of elections in Florida is primarily a local government responsibility since the constitutional authority for running elections rests with the local supervisor of elections. Funding authority for elections resides with the Boards of County Commissioners. Each of Florida's 67 Boards of County Commissioners receives a budget request from the supervisor of elections and then the Board makes policy and budget decisions based upon county priorities.

There has been one major exception to this election funding scenario. Following the controversial 2000 General Election, the Governor and the citizens of Florida asked the Legislature to enact broad election reforms which included providing State financial assistance to local governments. Over a two-year period, the Legislature provided over \$32 million in State funds to supplement local election budgets and to quicken the pace of election reform in Florida. Most of the State funds were appropriated to the Boards of County Commissioners using two different formulas for accomplishing distinct policy goals—to replace voting systems designated to be decertified and to enact comprehensive voter education programs in every county.

The funding formula used to upgrade voting systems had two important policy goals—to provide a minimum voting system standard of precinct-based optical scanning systems throughout Florida and to provide funding assistance to small counties with very small tax bases. The resulting formula achieved that policy goal and was as follows:



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- Small Counties (population 75,000 or below) received \$7,500/precinct
- Large Counties (population 75,001 and above) received \$3,750/precinct

The Legislature used a different formula to provide State funds for voter education and poll worker recruitment and training. This formula was based upon taking available State funds and distributing them on a per registered voter basis per county. The resulting formula was determined by taking approximately \$6,000,000 in available State funds and dividing it by the number of registered voters during the 2000 General Election and appropriating that money on a pro-rata basis to each county. The resulting appropriation provided \$5,949,375 to counties to fund comprehensive voter education programs and poll worker recruitment and training programs. The combined State and local efforts led to greater voter satisfaction during the 2002 General Election.

Pursuant to the appropriation, the Florida Legislature required each county supervisor of elections to submit a detailed description of the plans to be implemented and also a detailed report on the success of the voter education effort. These reports were sent to the Division of Elections and subsequently compiled by the Division into a report sent to the Governor and Florida Legislature.

While the State funds were widely valued, the counties still provided a majority of funding for election reform efforts. According to the 2002 Governor's Select Task Force on Election Procedures, Standards and Technology, a survey of 33 county governments revealed they spent nearly \$110 million toward new voting systems before the 2002 primary and general elections.

**If the Florida Legislature determines that it will provide funding for units of local governments and other entities, then how will the requirements payments be distributed and monitored, including—**

- A. A description of the criteria used to determine the eligibility of such units and entities for receiving payment.**
- B. A description of the methods to be used by Florida to monitor the performance of the units of entities to whom the payments is distributed, consistent with the performance goals and measures adopted under paragraph (8).**

The HAVA Planning Committee clearly recognizes its advisory role in election reform and acknowledges the authority of the Florida Legislature to make funding decisions for Florida. During HAVA Planning Committee discussions, members proposed several recommendations that would provide funding for units of local government. The recommended payments to local government are listed below:

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### **Replacement and Reimbursement for Punch Card And Lever Machines**

The HAVA Planning Committee recommended that the estimated \$11.74 million received pursuant to Section 102 of HAVA be distributed by the Florida Legislature to the State and to the counties on a pro-rated basis for their respective contributions to replace punch cards and lever machines during the 2001-2002 and 2002-2003 fiscal years.<sup>3</sup>

The Florida Legislature acted in 2003 to distribute Section 102 federal funds in the amount of \$11,581,377 to the State of Florida and not the counties. The \$11,581,377 reimbursement is almost one-half the amount the State of Florida invested to replace outdated voting machines between 2001 and 2003.

### **Accessible Voting Systems for Voters with Disabilities**

The HAVA Planning Committee recommended that HAVA funds should be distributed to counties during the 2004-2005 fiscal year to help them meet Section 301 Title III accessibility requirements by the January 1, 2006 deadline. The estimated amount to comply with this requirement is \$11.6 million and the funds would be distributed according to the number of machines accessible for persons with disabilities needed for each county to have one per polling place. The Division of Elections would have the responsibility for determining eligibility of counties receiving HAVA funds.

Secondly, if HAVA funds are available, the HAVA Planning Committee recommends that HAVA funds be distributed as a reimbursement on a pro-rated basis to local governments that purchased accessible voting systems and components during the 2001 and 2002 fiscal years.

The 2004 Legislature provided the following in the 2004 General Appropriations Act: From the funds in Specific Appropriation 2871I, \$11,600,000 shall be distributed by the Department of State to county supervisors of elections for the purchase of Direct Recording Equipment (DRE) or other state approved equipment that meets the standards for disability requirements which is accessible to persons with disabilities to ensure that each county has one accessible voting system for each polling place. The funds are to be distributed according to the number of machines that are accessible for persons with disabilities that are needed in order for each county to have one per polling place.

No supervisor of elections shall receive any funds until the county supervisor of elections certifies to the Department of State:

- 1) the number of precincts in the county;
- 2) the number of polling places in the county;
- 3) the number of voting machines the county has that meet the disability requirement;
- 4) the county's plan for purchasing the DRE's; and
- 5) the date that the county anticipates being in compliance.

<sup>3</sup> The 2003 General Appropriations Act passed by the Legislature required the Department of State to transfer all amounts eligible for reimbursement under Section 102 of HAVA to the State's Working Capital Fund.



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### **Statewide Voter Education Program**

For FY 2003-2004, \$2,976,755 was appropriated and available to each county for voter education programs. From funds in Specific Appropriation 2871I for FY 2004-2005, \$3,000,000 shall be distributed to county supervisors of elections for the following purposes relating to voter education: mailing or publishing sample ballots; conducting activities pursuant to the Standards for Nonpartisan Voter Education as provided in Rule 1S-2.033, F.A.C.; print, radio, or television advertising to voters; and other innovative voter education programs, as approved by the Department of State. No supervisor of elections shall receive any funds until the county supervisor of elections provides to the Department of State a detailed description of the voter-education programs, such as those described above, to be implemented. The HAVA Planning Committee also recommends that local governments receive \$3,000,000 for comprehensive voter education efforts in FY 2005-2006.

In FY 2003-2004, distribution was based on a funding level per individual voter multiplied by the number of registered voters in each county for the 2002 General Election. To determine the funding level per individual voter, the Division of Elections divided the total amount of funds appropriated in FY 2003-2004 by the total number of registered voters in the State of Florida for the 2002 General Election.

In FY 2004-2005, the Department shall distribute an amount to each eligible supervisor of elections equal to the funding level per voter multiplied by the number of registered voters in the county for the 2004 Presidential Preference Primary. The Department shall determine the funding level per voters in the state for the 2004 Presidential Preference Primary.

In order for a county supervisor of elections to be eligible to receive state funding for voter education, the county must certify to the Division of Elections that the county will provide matching funds for voter education in the amount equal to fifteen percent of the amount to be received from the state. Additionally, to be eligible, a county must segregate state voter education distributions and required county matching dollars in a separate account established to hold only such funds. Funds in this account must be used only for the activities for which the funds were received. Any funds remaining in the fund at the end of the fiscal year shall remain in the account to be used for the same purposes for subsequent years or until such funds are expended.

Through the 2005-2006 fiscal years, the HAVA Planning Committee recommends that local governments receive a total of \$9 million dollars (\$3 million each fiscal year) for comprehensive voter education efforts. HAVA funds for voter education should be distributed using a similar formula as used in 2003-2004. The Division of Elections should be responsible for determining eligibility of any county for the receipt of State or federal funds used in HAVA election reform activities.

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The Division of Elections will monitor the performance of the contract agreements entered into between the State and each county, in accordance with State procedures. Each county must meet the contractual requirements before payment is approved.

Standard auditing procedures for monitoring the use of federal funds will be used for the receipt and the distribution of HAVA funds. These standard procedures may include random program audits by the Department of State's Inspector General as well as an annual audit by the Florida Auditor General's office to ensure funds are being expended for the authorized purposes.

Payments to Other State Entities

Through the 2005-2006 fiscal years, the Division of Elections recommends that the Department of Highway Safety and Motor Vehicles and the Florida Department of Law Enforcement receive HAVA funding to assist in the development of the new statewide voter registration system. The Division of Elections will enter into a contractual agreement with these other state-level departments and monitor the contracts in accordance with standard auditing procedures for monitoring the use of federal funds.

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## Element 3. Voter Education, Election Official Education & Training, Poll Worker Training

**How the State will provide for programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of Title III.**

### **Introduction**

A wide array of national and State task force reports have highlighted the need for a more informed electorate. To achieve this goal, voters, election officials, and poll workers must receive better information and training. Florida assigns the primary responsibility for these daunting tasks to the Department of State and the county supervisors of elections. Following election 2000, the Legislature has more clearly delineated the role of each in improving the education of voters, election officials, and poll workers.

The Florida Election Reform Act of 2001 set deadlines, included a wide array of topics to be addressed by State and county election officials, granted rule making authority to the Department of State, and established a procedure for measuring the effectiveness of the programs and making recommendations to the Governor and the State Legislature. Various acts passed during the 2002 legislative session broaden the scope of voter education responsibilities, more definitively spell out voter rights, and ensure that Florida's electoral system conforms to the Americans with Disabilities Act of 1990. Each of these changes has been communicated to election officials at all levels and to the public at-large.

The Election Reform Act of 2001 required all 67 county supervisors of elections to file voter education plans with the Division of Elections in the Department of State in order to qualify for State funds. (The Act appropriated nearly \$6 million for voter education in fiscal year 2001-2002 in addition to \$24 million for purchase of new voting equipment, fiscal years 2001-2003.) The Department of State, as directed by the Legislature, established minimum standards for nonpartisan voter education to be met by each county.

Legislation passed during the 2003 and 2004 sessions also required all 67 county supervisors of elections to file "a detailed description of the voter-education programs" in order to receive state funds in FY 2003-2004 and FY 2004-2005. The legislation spells out four broad categories of voter education for which these funds may be used: mailing or publishing sample ballots; conducting activities described in the Standards for Nonpartisan Voter Education provided in Rule 1S-2.0333, F.A.C.; for print, radio, or television advertising to voters; and for other innovative voter education programs, as approved by the Department of State. An analysis of the FY 2003-2004 county plans shows that most are using their funds for a variety of activities:

Sample Ballots	91%
Nonpartisan Voter Education	82%

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Media Advertising	72%
Innovative Programs Approved by DOS	73%

County voter education plans filed with the Division of Elections in the Secretary of State's office are filled with creative approaches. These outreach mechanisms are designed by the elections supervisors to:

- (1) Better inform their county's residents about registration and voting; and,
- (2) Reduce the levels of voter error and confusion that existed during the 2000 election cycle.

The approaches used by the 67 individual counties vary considerably, reflecting differences in their demographic and socioeconomic composition (e.g., population size, land area, rural-urban location, age, race/ethnicity, education), county funding levels, and media availability.

For example, small counties (under 100,000) are more likely than larger ones to use their FY 2003-2004 voter education funds for the basics--printing and mailing sample ballots, mailing voter guides, and notifying voters of changes in precinct locations. Larger counties (100,000+) are more likely than smaller ones to spend their funds on radio and television advertising, supervisor participation in media programs and events, targeting college students, voter registration workshops, demonstrating voting equipment, and innovative programs.

Significant changes to Florida's election laws and the advent of new voting equipment have made poll worker education a high priority—as recognized in the Florida Election Reform Act of 2001. Florida's counties have restructured their poll worker training programs. State law now requires supervisors of elections to cast their poll worker recruitment nets wider, as the number of poll workers needed escalates in a fast-growing state.

**Section 254(a)(3). How will the State of Florida provide for programs for voter education which will assist the State in meeting the requirements of Title III?**

The State of Florida has adopted extensive voter education requirements and funded county voter education programs (\$6,000,000 in 2001, \$2,976,755 for FY 2003-2004, and \$3,000,000 for FY 2004-2005). The HAVA Planning Committee recommends an additional \$3 million for FY 2005-2006.

**Joint Responsibilities of Department of State and County Supervisors of Elections**

Voter education in Florida is a joint responsibility of the Department of State and the 67 county supervisors of elections. Both levels of government play a role in designing, implementing, and evaluating voter education activities. Both must constantly react to election-related legislation passed by the Florida Legislature.

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Section 98.255(1), *Florida Statutes*, directed the Department of State to “adopt rules prescribing minimum standards for nonpartisan voter education” by March 1, 2002. The standards were to address (but were not limited to):

- (1) voter education;
- (2) balloting procedures for absentee and polling place;
- (3) voter rights and responsibilities;
- (4) distribution of sample ballots; and,
- (5) public service announcements.

In developing the rules, the Department was instructed to “review current voter education programs within each county of the state.” The Department of State adopted Rule 1S-2.033, *F.A.C.*, Standards for Nonpartisan Voter Education on May 30, 2002.

Section 98.255(2), *Florida Statutes*, requires each supervisor of elections to “implement the minimum voter education standards” and “to conduct additional nonpartisan education efforts as necessary to ensure that voters have a working knowledge of the voting process.”

#### **Minimum Nonpartisan Voter Education Standards**

The Department of State’s “Standards for Nonpartisan Voter Education,” Rule 1S-2.033, *F.A.C.*, requires the following voter education practices by county supervisors of elections:

#### Comprehensive Voter Guide: Contents

Department of State Rule 1S-2.033, *F.A.C.*, Standards for Nonpartisan Voter Education, requires supervisors of elections to create a Voter Guide which shall include: how to register to vote; where voter registration applications are available; how to register by mail; dates for upcoming elections; registration deadlines for the next primary and general election; how voters should update their voter registration information such as changes in name, address or party affiliation; information on how to obtain, vote and return an absentee ballot; voters’ rights and responsibilities pursuant to Section 101.031, *Florida Statutes*; polling information including what times the polls are open, what to bring to the polls, list of acceptable IDs, what to expect at the polls; instructions on the county’s particular voting system; supervisor contact information; and any other information the supervisor deems important.

#### Voter Guide: Extensive Distribution

Department of State Rule 1S-2.033(1)(b), *F.A.C.*, requires supervisors of elections to “provide the Voter Guide at as many places as possible within the county including: agencies designated as voter registration sites pursuant to the National Voter Registration Act; the supervisor’s office; public libraries; community centers; post offices; centers for independent living; county governmental offices; and at all registration drives conducted by the supervisor of elections.”

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Voter Guide, Sample Ballot, & Website Consistency Required

Department of State Rule 1S-2.033(2), *F.A.C.*, states that: "If a supervisor has a website, it must take into account all of the information that is required to be included in the Voter Guide. In addition, when a sample ballot is available, the website must provide either information on how to obtain a sample ballot or a direct hyperlink to a sample ballot."

Targeted Voter Education: High School Students

Florida's Department of State Rule 1S-2.033(3), *F.A.C.*, instructs the supervisors of elections to work with county school boards to develop voter education and registration programs for high school students. Specifically, the rule requires that "At least once a year in each public high school in the county, the supervisor shall conduct a high school voter registration/education program. The program must be developed in cooperation with the local school board and be designed for maximum effectiveness in reaching and educating high school students."

Targeted Voter Education: College Students

Florida's Department of State Rule 1S-2.033(4), *F.A.C.*, dictates that "At least once a year on each college campus in the county, the supervisor shall provide a college registration/education program. This program must be designed for maximum effectiveness in reaching and educating college students."

Targeted Voter Education: Senior Citizens and Minority Groups

Department of State Rule 1S-2.033(7), *F.A.C.*, requires supervisors of elections to "conduct demonstrations of the county's voting equipment in community centers, senior citizen residences, and to various community groups, including minority groups." Rule 1S-2.033(8), *F.A.C.*, specifically instructs the supervisors to use minority media outlets to provide more information to voters.

Targeted Voter Education: Individuals and Groups Sponsoring Voter Registration Drives

Department of State Rule 1S-2.033(6), *F.A.C.*, specifically instructs supervisors of elections to "provide, upon reasonable request and notice, voter registration workshops for individuals and organizations sponsoring voter registration drives." Section 98.015(9), *Florida Statutes*, states that "each supervisor must make training in the proper implementation of voter registration procedures available to any individual, group, center for independent living, or public library in the supervisor's county."

Posting of Educational Materials on Voter Rights and Responsibilities

Department of State Rule 1S-2.033(5), *F.A.C.*, requires supervisors of elections to "post the listing of the voters' rights and responsibilities pursuant to Section 101.031, *Florida Statutes*, at the supervisor's office." Section 101.031(2), *Florida Statutes*, spells out the specific format of the Voter's Bill of Rights and Responsibilities to be posted by the supervisor of elections at each polling place. The Department of State, or in the case of municipal elections, the governing body of the municipality, is required "to print, in large type on cards, instructions for electors to use in voting," including the list of rights and responsibilities and other information about how to

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vote deemed necessary by the Department of State—Section 101.031(1), *Florida Statutes*. At least two cards shall be provided to each precinct.

Educating Voters About Polling Place and Precinct Changes, Revised Voter Identification Cards  
Department of State Rule 1S-2.033, *F.A.C.*, mandates that supervisors of elections “shall provide notice of changes of polling places and precincts to all affected registered voters. This notice shall include publication in a newspaper of general circulation as well as posting the changes in at least ten conspicuous places in the county. If the supervisor has a website, the supervisor shall post the changes on the website. The supervisors shall also widely distribute a notice that if a voter does not receive a revised voter identification card within 20 days of the election the voter should contact a specific number at the supervisor’s office to obtain polling place information.”

Voter Education Through the Media

Department of State Rule 1S-2.033(8), *F.A.C.*, requires supervisors of elections to interface with the media to better inform the electorate. Supervisors are to “participate in available radio, television and print programs and interviews, in both general and minority media outlets, to provide voting information.”

Voter Education Includes But is Not Limited to Nonpartisan Voter Education

Beginning in 2003, the State Legislature has expanded its definition of voter education activities for which counties may receive state funds. There are now four broad categories of voter education for which counties may use state funds: mailing or publishing sample ballots; conducting activities described in the Standards for Nonpartisan Voter Education provided in Rule 1S-2.0333, *F.A.C.*; for print, radio, or television advertising to voters; and for other innovative voter education programs, as approved by the Department of State.

County supervisors of elections must constantly update information disseminated to the public, poll workers, and their own staff to conform to state legislative mandates and HAVA requirements. A number of counties have used their FY 2003-2004 state voter education funds to update materials available at the polling place as well as information (brochures, posters, signs, videos, PSAs) distributed throughout the county.

In line with HB 29B (Chapter 2003-415), educational materials must be updated to provide absentee voters with better instructions on how to mark a ballot and how to correct their ballots and how to request a replacement ballot if the voter is unable to change the original ballot. (This was necessary to meet Section 301(a)(1)(B) HAVA requirements.)

HB 29B (Chapter 2003-415) requires the Department of State and the county supervisors of elections to provide more information regarding voter registration procedures and absentee ballot procedures to absent uniformed services voters and overseas voters.

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HB 29B (Chapter 2003-415) requires county supervisors of elections to inform persons registering to vote by mail that if they are registering for the first time, they will be required to provide identification prior to voting the first time.

HB 29B (Chapter 2003-415) requires county supervisors of elections to give written instructions regarding the free access system that allows each person who casts a provisional ballot to determine whether his or her provisional ballot was counted in the final canvass of votes and, if not, the reasons why. This is consistent with Section 302(a)(5)(A)&(B) HAVA requirements.

HB 29B (Chapter 2003-415) makes county supervisors of elections responsible for providing up-to-date information to conform to HAVA voting information requirements—Section 302(b)(2)(A through F): sample ballots at polls; the election date; identification instructions for mail registrants who are first time voters; and information on who to contact if general voting rights under State and federal laws are violated.

Passage of Committee Substitute for Senate Bill No. 2566 (Chapter 2004-232) requires county supervisors of elections to revise the Voter's Certificate and instructions to those voting via an absentee ballot. Under the law, a person casting an absentee ballot is no longer required to have his/her signature witnessed.

Passage of Committee Substitute for Senate Bill Nos. 2346 and 516 (Chapter 2004-252) requires county supervisors of elections to revise Early Voting Voter Certificate information. Under the law, a person casting an Early Vote is no longer required to have his/her signature witnessed.

### **State Role: Disseminating Information to Voters and Election Officials**

#### Voter Education through the Internet

The Division of Elections' website (<http://election.dos.state.fl.us/>) offers extensive information regarding registration, elections (dates, district maps, results, Division reports, forms, publications, press releases, voter turnout, supervisor of elections' contact information), voter fraud, voting systems, laws/opinions/rules, candidates and committees, the initiative petition process, and other helpful government links. Prominently displayed on the Web Site home page is information on: the Voter Assistance Hotline Toll Free Number—for the general public and for people using Text Telephone (TTY); Direct Recording Equipment Voting Systems; the 2004 National Voter Registration Workshops to be held across the state to better inform public officials and the public about the National Voter Registration Act of 1993; a direct link to the Help America Vote Act and the HAVA Planning Committee's activities and recommendations; and the results of an Election Night Voter Report Card (Survey) on the Conduct of Election 2002.

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### Voter Education About Fraud

Section 97.012(12), *Florida Statutes*, requires the Secretary of State to "...provide election fraud education to the public."

### Voter Education Media Campaign: Get Out The Vote Foundation

In FY 2003-2004, the Division of Elections entered into a contract with the Get Out The Vote Foundation, Inc., in the amount of \$247,500. This is a non-profit organization of the Florida State Association of Supervisors of Elections (FSASE). The Foundation has hired two well-known communications firms (Ron Sachs Communications and CoreMessage, Inc.) to produce voter education materials for statewide distribution. The two firms will jointly produce a half-hour television news magazine-type program called "Before You Vote" designed to inform voters about new voting rules and procedures and new electronic voting machines. The program will be distributed to all TV stations and cable companies in Florida for broadcast at two time periods—before both the August primary election and the November general election. Prevention of errors on election day is the primary goal of the program. The bipartisan team will also produce eight 30-second TV public service announcements—four each in English and Spanish. These spots-- "Make Freedom Count"--are designed to encourage voters to vote early or by absentee ballot. An additional contract in the amount of \$24,750 was issued to the Get Out The Vote Foundation to create media kits full of facts and figures for all 67 county supervisors of elections to use as they interface with the media.

### **Procedures for Constant Analysis of Voter Education Effectiveness**

Section 98.255(3)(a), *Florida Statutes*, requires supervisors of elections to file a report by December 15 of each general election year with the Department of State. This report is "a detailed description of the voter education programs implemented and any other information that may be useful in evaluating the effectiveness of voter education efforts."

Section 98.255(3)(b), *Florida Statutes*, requires the Department of State to review the information submitted by the supervisors of elections and "prepare a public report on the effectiveness of voter education programs" and to "submit the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 31 of each year following a general election."

Further, Section 98.255(3)(c), *Florida Statutes*, instructs the Department of State to use "the findings in the report as a basis for adopting modified [voter education] rules that incorporate successful voter education programs and techniques as necessary."

This procedure was first used in the 2002 election cycle. The Division of Elections requested each supervisor of elections to list in detail the voter education programs conducted during the 2002 election cycle and the approximate cost of each program. The supervisors were asked to rank the effectiveness of each program on a scale of 1 to 5, with 5 being the highest possible rank. On January 31, 2003, the Florida Department of State, Division of Elections, submitted its "Report on Voter Education Programs During the 2002 Election Cycle Pursuant to Section

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98.255(3), *Florida Statutes*.” (The Report is posted on the Division of Elections Web Site.) The report concluded that “most supervisors ranked the county voter education programs as 4 or 5 in effectiveness in reaching the target community.” (There were ten broad categories of voter education programs: sample ballots; elementary/middle school/high school/university and community college outreach; websites; miscellaneous promotional materials; public appearances/television and movie theatre advertisements; banners and billboards, radio and public transport advertisements; newspapers and mailers; voting system demonstrations; outreach to minority, disabled and senior communities; and voter registration drives.) The Department of State made three recommendations in its post-election 2002 report:

- (1) The Legislature should provide funding, contingent upon appropriations from Congress through the Help America Vote Act, to the counties for voter education efforts; the State Legislature did this in its FY 2003-2004 and FY 2004-2005 appropriations bills.
- (2) The Legislature should require sample ballots to be mailed to households or voters prior to each Primary and General Election. (It is now an alternative to publishing a sample ballot in a general circulation newspaper.)
- (3) The Division of Elections should provide a list of cost-effective voter education programs used by counties so that all counties can benefit from these ideas. (Pursuant to Section 98.255(3), *Florida Statutes*, the Division has posted its Report on Voter Education Programs during the 2002 Election Cycle on its web site. The Report lists the effectiveness ratings for individual voter education activities as calculated by individual county supervisors of elections.)

(The 2002 Governor’s Select Task Force on Election Procedures, Standards, and Technology report of December 30, 2002 also recommended improving “voter education by requiring all supervisors of elections to mail generic sample ballots to each household with registered voters.”)

Under Section 101.20, *Florida Statutes*, county supervisors of elections may now mail a sample ballot to each registered elector or to each household in which there is a registered voter if done at least seven days prior to any election, rather than publish a sample ballot in a newspaper of general circulation. A high percentage of county supervisors have chosen to use their FY2003-2004 state voter education funds and local matching funds to publish and mail out sample ballots to registered voters. The same law requires two sample ballots be placed at each polling place, along with reduced-size sample ballots to give to any voter desiring one. Some supervisors of elections are using FY 2003-2004 voter education monies to pay for sample ballots to be made available at each precinct.

Section 101.595, *Florida Statutes*, also requires supervisors of elections to submit a report to the Department of State no later than December 15 of each general election year detailing “[t]he total number of overvotes and undervotes in the first race appearing on the ballot pursuant to Section 101.151(2), *Florida Statutes*, along with the likely reasons for such overvotes and undervotes and other information as may be useful in evaluating the performance of the voting

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system and identifying problems with ballot design and instructions which may have contributed to voter confusion.” The Department of State must prepare a report analyzing that information and submit it to the Governor, the President of the Senate, and the Speaker of the House by January 31 of the year following a general election. The report is to include recommendations for correcting any problems with ballot design or instructions to voters.

This procedure was first used in the 2002 election cycle. “Analysis and Report of Overvotes and Undervotes for the 2002 General Election Pursuant to Section 101.595, *Florida Statutes*” found a substantial reduction in the level of overvotes and undervotes in 2002 (compared to 2000) and concluded that new technology and the counties’ voter education efforts were major factors contributing to the reduction in voter error. (The report is posted on the Division of Election’s Web Site.) The report’s recommendations were:

- (1) The Division of Elections must continue to monitor the overvotes and undervotes from each general election. (Required under *Florida Statutes*.)
- (2) The Florida Legislature should provide funding, contingent upon appropriations from Congress through the Help America Vote Act, to the counties for voter education efforts. The Legislature did this in its FY 2003-2004 and FY 2004-2005 appropriations bills.
- (3) The Division of Elections should review the recommendations for ballot instructions for incorporation into the uniform ballot rule. During the 2003 session, the Legislature passed a law delineating the content of separate printed instructions to accompany each absentee ballot (section 101.65, *Florida Statutes*). Rule 1S-2.030 F.A.C. standardizes the basic form of instructions to be sent to all overseas voters.
- (4) All voting system vendors should continue to improve the design of their voting systems in order to better meet the needs of Florida voters.

A number of supervisors of elections have implemented their own feedback systems through comment cards distributed at registration sites, workshops, and polling places. Some also allow citizens to make suggestions and complaints via their websites. Several counties have used some of their state voter education funds to solicit voter feedback and suggestions.

Florida’s system for constant evaluation of the effectiveness of voter education by both the county supervisors of elections and the Department of State is in place and operating.

**Section 254(a)(3). How will the State of Florida provide for programs for election official education and training which will assist the State in meeting the requirements of Title III?**

The State has assigned responsibility for education and training of election officials to the Secretary of State. The Division of Elections prepares and distributes educational materials for, and conducts the training of, supervisors of elections and their staffs.

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The Secretary of State is the State's chief election officer whose responsibilities are spelled out in Section 97.012, *Florida Statutes*. Among those responsibilities are explicit requirements to: "provide technical assistance to the supervisors of elections on voter education and election personnel training services;" "provide technical assistance to the supervisors of elections on voting systems;" "provide training to all affected state agencies on the necessary procedures for proper implementation of [Chapter 97 of the *Florida Statutes*];" and "coordinate with the United States Department of Defense so that armed forces recruitment offices administer voter education in a manner consistent with the procedures set forth in [Florida election] code for voter registration agencies."

The Division of Elections conducts voter education and election personnel training, issues advisory opinions that provide statewide coordination and direction for interpreting and enforcing election law provisions, provides technical advice on voting systems and equipment and State and federal election laws, certifies voting equipment, and provides written election information to candidates (Office of Policy Analysis and Government Responsibility, *Justification Review*, Report No. 02-55, October 2002).

The Division of Elections oversees and approves training courses for continuing education for supervisors of elections. It coordinates, on an annual basis, two statewide workshops for the supervisors of elections by reviewing and providing updates on the election laws to ensure uniformity statewide in the interpretation of election laws. These are generally held in conjunction with the Florida State Association of Supervisors of Elections' Conferences held in January and June. The division oversees certification for supervisors of elections through which supervisors obtain credits to maintain job proficiency. The Division may also conduct regional workshops for supervisors and staff, universities, community colleges and State agencies. When Select Task Forces are created by the Governor, Secretary of State, or other State officials, the Division provides administrative and technical assistance. (Florida Department of State, Division of Elections, 2001 Annual Report).

All Division of Elections' forms, rules, handbooks, opinions, etc. are available on the Internet via the Division's website—an award-winning site (<http://election.dos.state.fl.us/>). Section 97.026, *Florida Statutes*, states "It is the intent of the Legislature that all forms required to be used in chapters 97-106 [the election code], shall be made available upon request, in alternative formats" including the Internet (with the exception of absentee ballots).

The HAVA Planning Committee recommended that the Division of Elections also conduct training courses for the continuing education of county election officials in conjunction with meetings of the Florida Association of City Clerks. The Division of Elections routinely invites city clerks and supervisors of elections to attend its statewide training meetings held in conjunction with FSASE meetings.

The Florida State Association of Supervisors of Elections, through activities of its Get Out The Vote Foundation, will play a major role in educating and training election officials in 2004. On

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May 25, 2004, the Foundation launched its voter education plan. Through it, all 67 county supervisors of elections will have access to professionally prepared public media advertising materials. The Foundation has its own web site ([www.getoutthevote-florida.com](http://www.getoutthevote-florida.com)) which allows election officials—elected and staff—to access easily comprehended materials on a wide range of timely topics, including Absentee Voting, Early Voting, Registering to Vote, Election Reform in Florida, Voter Identification, Restoration of Felon’s Voting Rights, and Information on Direct Recording Equipment Voting Systems, along with posters, ads, and public service announcements.

**Section 254(a)(3). How will the State of Florida provide for programs for poll worker training which will assist the State in meeting the requirements of Title III?**

Florida has adopted extensive poll worker recruitment and training requirements and funded county poll worker training (as part of the \$6 million voter education appropriation in 2001). The State has: adopted minimum-hours-of-training requirements; spelled out training content requirements; prepared a uniform polling place procedures manual; and mandated a statewide and uniform program for training poll workers on issues of etiquette and sensitivity with respect to disabled voters. Rule 1S-2.034 F.A.C. requires the Department of State, Division of Elections to establish a polling place procedures manual, Form DS-DE 11 (January 25, 2004).

State law permits inspectors, clerks, and deputy sheriffs attending poll worker training to receive compensation and travel expenses—Section 102.021(2), *Florida Statutes*.

The HAVA Planning Committee recommended state funding for poll worker training and recruitment but the Florida Legislature in 2004 did not appropriate funds for either activity.

**Joint Responsibility of Department of State and County Supervisors of Elections**

Section 102.014, *Florida Statutes*, assigns responsibility for poll worker training to county supervisors of elections and the Department of State.

Section 102.014(1), *Florida Statutes*, requires supervisors of elections to conduct training for inspectors, clerks, and deputy sheriffs prior to each primary, general, and special election “for the purpose of instructing such persons in their duties and responsibilities as election officials.” Training is mandatory to work at the polls.

Section 102.014(5), *Florida Statutes*, directs the Department of State to “create a uniform polling place procedures manual and adopt the manual by rule” and to revise it “as necessary to address new procedures in law or problems encountered by voters and poll workers at the precincts.” Rule 1S-2.034, F.A.C., Polling Place Procedures Manual (Form DS-DE 11; Eff. Jan. 04), was recently updated for HAVA compliance. It was pre-cleared on June 3, 2004 by the Department of Justice. The manual, to be available in either hard copy or electronic form at every precinct on Election Day, must be “indexed by subject, and written in plain, clear, unambiguous language.”

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Under Section 102.014(7), *Florida Statutes*, the Department is assigned the responsibility for developing “a mandatory, statewide, and uniform program for training poll workers on issues of etiquette and sensitivity with respect to voters having a disability.” But county supervisors of elections are responsible for conducting such training. They are required to “contract with a recognized disability-related organization, such as a center for independent living, family network on disabilities, deaf service bureau, or other such organization, to develop and assist with training the trainers in disability sensitivity programs.”

#### Poll Worker Training Content

The content of poll worker training is detailed in State statutes.

Clerks must demonstrate “a working knowledge of the laws and procedures relating to voter registration, voting system operation, balloting and polling place procedures, and problem-solving and conflict-resolution skills”—Section 102.014(1), *Florida Statutes*.

The Uniform Polling Place Procedures Manual must include: regulations governing solicitation by individuals and groups at the polling place; procedures to be followed with respect to voters whose names are not on the precinct register; proper operation of the voting system; ballot handling procedures; procedures governing spoiled ballots; procedures to be followed after the polls close; rights of voters at the polls; procedures for handling emergency situations; procedures for dealing with irate voters; the handling and processing of provisional ballots; and security procedures—Section 102.014(5)(a-k), *Florida Statutes*. The manual “shall provide specific examples of common problems encountered at the polls on election day, and detail specific procedures for resolving those problems.”

Poll worker training on issues of etiquette and sensitivity for disabled voters “must include actual demonstrations of obstacles confronted by disabled persons during the voting process, including obtaining access to the polling place, traveling through the polling area, and using the voting system”—Section 102.014(7), *Florida Statutes*.

#### Poll Worker Minimum Hours of Training

Section 102.014(4), *Florida Statutes*, specifies that clerks must have had a minimum of three hours of training prior to each election to be eligible to work at the polls. For inspectors, there is a minimum of two hours of training. Section 102.014(7), *Florida Statutes*, requires one hour involving training related to etiquette and sensitivity with regard to voters with disabilities.

#### Poll Worker Recruitment

Supervisors of elections are required to “work with the business and local community to develop public-private programs to ensure the recruitment of skilled inspectors and clerks”—Section 102.014(6), *Florida Statutes*.

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There is no established procedure for evaluating the effectiveness of poll worker training or recruitment as there is for voter education. The 2002 Governor's Select Task Force on Election Procedures, Standards, and Technology report of December 30, 2002, recommended "establishing minimum standards for poll worker performance" and "improving poll worker recruitment and training by launching a statewide "Be a Poll Worker" campaign.

The HAVA Planning Committee has recommended that the Division of Elections establish a procedure to evaluate the effectiveness of poll worker recruitment and training in all 67 counties. In an effort to increase poll worker recruitment, the Department has initiated a "Be a Poll Worker" campaign which includes airing public service announcements and distributing "Be a Poll Worker" handouts at Department presentations. Some counties are using FY 2003-2004 voter education funds to recruit high school and college students as poll workers as well as the public at-large through publication and dissemination of new brochures and videos.

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## Element 4. Voting System Guidelines and Process

**How the State will adopt voting system guidelines and processes which are consistent with the requirements of Section 301.**

### **Introduction**

There are several governmental bodies and agencies that participate in the adoption of voting systems in Florida. The Florida Legislature has great authority to set voting system requirements and does so in Chapter 101, *Florida Statutes*. The Legislature also delegates rule making and certification authority to the Bureau of Voting Systems Certification in the Division of Elections under the Secretary of State.

After voting systems are independently tested and certified for use in Florida, Section 101.5604, *Florida Statutes*, provides that the Board of County Commissioners "at any regular or special meeting called for the purpose, may, upon consultation with the supervisor of elections, adopt, purchase or otherwise procure, and provide for the use of any electronic or electromechanical voting system approved by the Department of State in all or a portion of the election precincts of that county."

To keep Florida's voting systems standards up-to-date, Section 101.015, *Florida Statutes*, requires the Department of State to review "the rules governing standards and certification of voting systems to determine the adequacy and effectiveness of such rules in assuring that elections are fair and impartial."

<b>Section 254(a)(4) How will the State of Florida adopt voting system requirements and processes which are consistent with the requirements of Section 301?</b>
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Florida's laws and regulations for adopting voting systems that are consistent with the requirements of Section 301 are clearly outlined in *Florida Statutes* and the Florida Voting Systems Standards.

Section 101.015, *Florida Statutes*, authorizes the Department of State to adopt rules which establish minimum standards for hardware and software for electronic and electromechanical voting systems.

Section 101.017, *Florida Statutes*, creates the Bureau of Voting Systems Certification which provides technical support to the supervisors of elections and is responsible for voting system standards and certification.

Section 101.5605, *Florida Statutes*, authorizes the Department of State to examine and approve voting systems through a public process to ensure that the voting systems meet the standards

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outlined in Section 101.5606, *Florida Statutes*, and similar standards outlined in the Help America Vote Act of 2002 (HAVA) requirements outlined in Section 301 of Title III.

Section 101.5604, *Florida Statutes*, authorizes the Board of County Commissioners to adopt voting systems.

Sections 101.293-101.295, *Florida Statutes*, outline the public bidding process that counties should follow in purchasing voting systems.

Section 101.56062, *Florida Statutes*, exceeds the accessibility standards of HAVA Section 301 "Accessibility for Individuals With Disabilities." The HAVA Planning Committee has recommended that the Florida Legislature take advantage of federal funding and bring Florida into compliance and make Section 101.56062, *Florida Statutes*, effective by January 1, 2006 or one year after general appropriations are made, whichever is earlier.

Section 101.015, *Florida Statutes*, requires the Department of State to review "the rules governing standards and certification of voting systems to determine the adequacy and effectiveness of such rules in assuring that elections are fair and impartial."

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## Element 5. Florida's Help America Vote Act of 2002 (HAVA) Election Fund

**How the State will establish a fund described in subsection (b) for purposes of administering the State's activities under this part, including information on fund management.**

To clarify, Section 254(b) states that a fund described in this subsection with respect to a State is a fund which is established in the treasury of the State government, which is used in accordance with paragraph (2), and which consists of the following amounts:

- (A) Amounts appropriated or otherwise made available by the State for carrying out the activities for which the requirements payment is made to the State under this part.
- (B) The requirements payment made to the State under this part.
- (C) Such other amounts as may be appropriated under law.
- (D) Interest earned on deposits of the fund.

**Section 254(a)(5) How will the State of Florida establish a fund for the purpose of administering the State's activities under this part?**

All HAVA funds are maintained in a trust fund that has already been established by the Department of State. Within this trust fund, monies received for HAVA Sections 101, 102 and Title II are set up into four accounts: 101-Election Administration, 102-Replace Punch Card and Lever Voting Systems, 251-Requirements Payment, and 261-Access for Individuals with Disabilities.

**Section 254(a)(5) How will the State of Florida manage this fund?**

Any HAVA funds received by the State are used exclusively for activities authorized by HAVA. The Division of Elections is responsible for tracking and monitoring the use of funds in accordance with established State procedures.

The Director of the Division of Elections has final signing authority for HAVA expenditures. Any interest earned on this trust fund is returned to the principal amount of the trust.

Standard auditing procedures for monitoring the use of federal funds are used for the receipt and the distribution of HAVA funds. These standard procedures include random program audits by the Department of State Inspector General as well as an annual audit by the Florida Auditor General.



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The Governor and Secretary of State are responsible under HAVA for ensuring compliance with these requirements. The HAVA Planning Committee recommends that the Governor and the Secretary of State maintain contact with the Senate President and the Speaker of the House of Representatives to ensure they remain aware of the strict requirements set in law for the use of HAVA monies placed in this trust fund.

No audit has been conducted to-date, however, based on recent calls from the Florida Auditor General, it is anticipated that an audit will be conducted during FY 2004-2005.

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## Element 6 – Florida’s Budget for Implementing the Help America Vote Act of 2002 (HAVA)

The State’s proposed budget for activities under this part, based on the State’s best estimates of the costs of such activities and the amount of funds to be made available, including specific information on –

- (A) the costs of the activities required to be carried out to meet the requirements of Title III;
- (B) the portion of the requirements payment which will be used to carry out activities to meet such requirements; and
- (C) the portion of the requirements payment which will be used to carry out other activities.

### **Introduction**

The HAVA Planning Committee clearly recognizes its advisory role in election reform and acknowledges the authority of the Florida Legislature to make funding decisions for Florida. This budget reflects the HAVA Planning Committee’s best efforts to divide the funds that may be available during the three years identified in HAVA. If Florida receives more funds than are included in this budget, the HAVA Planning Committee will revise the budget to reflect this change.

### **Reimbursement for replacement of punch card and lever machines.**

Following the 2000 General Election, the State of Florida assisted counties by investing approximately \$24 million to replace outdated voting machines. In order to recoup some of this expense, Section 102 federal funds in the amount of \$11,581,377 were returned to the State of Florida as reimbursement.

### **Statewide Voter Registration System.**

The Florida Legislature directed the Department of State to begin development of a statewide voter registration system that meets the requirements of HAVA. Accordingly, the 2003 Legislature provided \$1.6 million to begin implementation of the system. Federal funds include \$1 million for the Needs Assessment Phase along with nine positions to support design, development and implementation of the HAVA requirements. Of the nine positions, five reside in the Department of State and two each in the Department of Highway Safety and Motor Vehicles and the Florida Department of Law Enforcement.

Phase 2, “Prototyping & Validation of Design,” began in March 2004 and includes the following:

- Installation of prototyping equipment and environment

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- Prototype the core system configuration and architecture
- Data conversion/migration testing (data & images)
- Prototype remote access to the core system

An estimate of costs for development and operation of the Florida Voter Registration System is provided in the table below.

Project Component	Fiscal Year					Total
	2003/4	2004/5	2005/6	2006/7	2007/8	
Systems Design & Dev.	602,352	1,343,194	759,493	0	0	2,705,038
FVRS IT Infrastructure	444,400	8,836,775	1,030,991	1,049,750	1,069,260	12,431,177
FVRS Operations	206,377	764,293	1,466,087	1,473,766	1,547,454	5,457,977
<b>Total</b>	<b>1,253,129</b>	<b>10,944,262</b>	<b>3,256,571</b>	<b>2,523,516</b>	<b>2,616,714</b>	<b>20,594,192</b>

The Division of Election also anticipates adding 20 full time equivalent positions (FTEs) in FY 2004-2005. The salaries and benefits, expenses and operating capital outlay associated with these 20 positions is expected to be \$1,203,650.

**Section 301 Accessible Voting Systems**

The HAVA Planning Committee recommended the purchase of Direct Recording Equipment (DRE) accessible to persons with disabilities to ensure that each county has one accessible voting system for each polling place. The estimated cost is \$11.6 million during the 2004-2005 fiscal year. The Florida Legislature authorized the following:

From the funds in Specific Appropriation 2871I, \$11,600,000 shall be distributed by the Department of State to county supervisors of elections for the purchase of Direct Recording Equipment (DRE) or other state approved equipment that meets the standards for disability requirements which is accessible to persons with disabilities to ensure that each county has one accessible voting system for each polling place. The funds are to be distributed according to the number of machines that are accessible for persons with disabilities that are needed in order for each county to have one per polling place.



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In addition, the HAVA Planning Committee in 2003 recommended reimbursing counties that have already purchased voting systems that meet the HAVA accessibility for voters with disabilities requirements. The estimated cost for this reimbursement was \$17 million.

### **Voter Education**

The HAVA Planning Committee recommended using HAVA funds for the development and implementation of a comprehensive statewide voter education program. The estimated expenditure is a total of \$9 million distributed to the counties and spread over the 2003-2004, 2004-2005 and 2005-2006 fiscal years.

The Florida Legislature authorized the following:

For FY 2003-2004, \$2,976,755 was appropriated and available to Florida counties for voter education programs. From funds in Specific Appropriation 2871I for FY 2004-2005, \$3,000,000 shall be distributed to county supervisors of elections for the following purposes relating to voter education: mailing or publishing sample ballots; conducting activities pursuant to the Standards for Nonpartisan Voter Education as provided in Rule 1S-2.033, F.A.C.; print, radio, or television advertising to voters; and other innovative voter education programs, as approved by the Department of State. No supervisor of elections shall receive any funds until the county supervisor of elections provides to the Department of State a detailed description of the voter-education programs, such as those described above, to be implemented.

### **Poll Worker Training**

The HAVA Planning Committee recommended using HAVA federal funds in the amount of \$250,000 for each fiscal year 2003-2004, 2004-2005 and 2005-2006 for poll worker training. These funds were intended to supplement each county's existing poll worker training budget.

The 2004 Legislature did not appropriate federal funds for conducting a poll worker recruitment campaign.

The HAVA Planning Committee recommends using HAVA federal funds in the amount of \$500,000, beginning with FY 2005-2006, for poll worker training and recruitment, with a 15% match required of each county.

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### **Statewide Poll worker Recruitment Campaign**

The HAVA Planning Committee recommended that HAVA federal funds be used to implement, through the Division of Elections, a statewide campaign to help recruit qualified poll workers. The increase in the complexity of voting systems and procedures has resulted in a need for more computer literate individuals to staff the polling places and help ensure error-free elections.

The 2004 Legislature did not appropriate federal funds for conducting a statewide poll worker recruitment campaign.

### **HAVA Oversight and Reporting**

The HAVA Planning Committee recommended that the Department of State create three full time positions to manage HAVA implementation.

- HAVA administrator
- Grants specialist
- Administrative assistant

The estimated cost for HAVA oversight and reporting is \$206,079 for the 2003-2004 fiscal year, \$196,485 for the 2004-2005 fiscal year and \$200,719 for the 2005-2006 fiscal year.

The Florida Legislature authorized three positions within the Division of Elections for HAVA Oversight and Reporting. For FY 2003-2004 \$206,079 was appropriated for salaries and benefits, expenses and operating capital outlay. The three position titles are

- Senior Management Analyst Supervisor
- Operations and Management Consultant II
- Administrative Assistant II

### **State Management (HAVA Planning Committee)**

The HAVA Planning Committee recommended that the Secretary of State require it to meet twice each year in 2003-2004 and in 2004-2005 to make recommendations and to resubmit the HAVA State Plan to ensure that Florida is meeting the requirements of the Help America Vote Act. The HAVA Planning Committee convened twice in the 2003-2004 fiscal year at an estimated cost of \$30,000. The HAVA Planning Committee further recommends that it meet twice in the 2004-2005 fiscal year at an estimated cost of \$30,000 and twice in the 2005-2006 fiscal year at an estimated cost of \$30,000.

### **Performance Goals and Measures Adoptions**

The HAVA Planning Committee recommended the Secretary of State utilize the HAVA Planning Committee to determine performance goals and measures. The estimated cost is \$160,000 to be expended in the 2003-2004 and 2004-2005 fiscal years.

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The HAVA Planning Committee determined HAVA performance goals and measures during the meetings that were held to update the HAVA State Plan. Two meetings were held on May 24, 2004 and June 4, 2004 at an estimated cost of \$30,000.

#### **Election Administration**

The HAVA Planning Committee recommends HAVA funds be used for the design and production of new voter registration forms and publications, and translations for all election administration forms and publications. The estimated cost is \$250,000 for each fiscal year 2003-2004, 2004-2005 and 2005-2006.

#### **Complaint Procedures**

Section 402(a) of HAVA requires each state to establish state-based administrative complaint procedures for any person who believes that there is or will be a violation of any of HAVA's Title III requirements. The HAVA Planning Committee recommends using HAVA funds in the amount of \$50,000 per year for the 2004-2005 and 2005-2006 fiscal years for the administration of the complaint procedures process.

The HAVA Planning Committee recommends that the remaining HAVA funds be reserved for future expenses related to the following items:

1. the continued development and implementation of the Florida Voter Registration System
2. future improvements in voting technology
3. continued funds to local counties for voter education programs
4. accessibility for polling places
5. poll worker recruitment and training

#### **Requirement 6**

**(A) Based on the state's best estimates, what are the costs of the activities required to carry out to meet the requirements of Title III?**

**(B) What portion of the requirements payment will be used to carry out activities to meet such requirements?**

**(C) What portion of the requirements payment will be used to carry out other activities?**

This information is displayed in charts on pages 61 and 62.

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### HAVA Budget Funding by Fiscal Year

	2003-2004 Appropriation	Expenditures thru 6/30/04	Balance	2004-2005 Appropriation	2005-2006
<b>Title I Requirements</b>					
Reimbursement for replacement of punch card and lever machines. (Section 102 HAVA)	11,581,377	11,581,377			
<b>Title III Requirements</b>					
<b>Sec. 303 Statewide Voter Registration System</b>					
Phase One Development –research, planning & design (Section 101 HAVA Funds)	1,000,000	973,078	26,922	0	0
5 full time DOS positions – salaries	290,000	99,965	190,035	290,000	290,000
5 full time DOS positions – expenses	69,575	0	69,575	69,575	69,575
DOS Operating capital outlay	7,500	5,246	2,254	7,500	7,500
2 full time DHSMV positions – salaries	115,000	115,000	0	115,000	115,000
2 full time DHSMV positions – expenses	27,830	27,830	0	27,830	27,830
DHSMV operating capital outlay	3,000	3,000	0	3,000	3,000
2 full time FDLE positions – salaries	115,000	115,000	0	115,000	115,000
2 full time FDLE positions – expenses	27,830	27,830	0	27,830	27,830
DHSMV operating capital outlay	3,000	3,000	0	3,000	3,000
Phase Two – Dev. & impl. statewide voter reg. system (Section 252 Requirements Payment)	0	0	0	10,179,969	10,179,969
20 full time positions – salaries	0	0	0	976,746	976,746
20 full time positions – expenses	0	0	0	196,404	196,404
20 full time positions – operating capital outlay	0	0	0	30,500	30,500
<b>Sec. 304 Voting System Standards (Section 252 Requirements Payment)</b>					
Accessibility for voters with disabilities (compliance)	0	0	0	11,600,000	0
Accessibility for voters with disabilities (reimbursement to counties)	0	0	0	0	17,000,000
<b>Other Election Reform Activities (Section 101 HAVA funds 2003-2004 activities; Section 101 &amp; Section 252 HAVA fund activities 2004-2005 and beyond)</b>					
Voter Education Programs	2,976,755	2,976,755	0	3,000,000	3,000,000
Poll worker recruitment and training	0	0	0	0	500,000
Poll worker Training	0	0	0	0	0
HAVA Oversight and Reporting					
3 full time positions – salaries	165,230	112,706	52,524	165,230	165,230
3 full time positions – expenses	35,849	7,812	28,037	35,849	35,849
Operating capital outlay	5,000	5,000	0	5,000	5,000
State Management (HAVA Planning Committee) HAVA Plan. Comm. convenes twice/year \$30k/mtg)	0	0	0	30,000	30,000
HAVA Performance Goals & Measures Adoption HAVA Planning Committee hearings – 4 at \$40k/mtg	0	0	0	0	0
Election Administration – design and production of new voter registration forms and publications, translations for all election administration forms and publications.	250,000	247,174	2,826	780,000	250,000
Complaint Procedure §402	0	0	0	0	50,000
<b>Total</b>	<b>16,672,946</b>	<b>16,300,773</b>	<b>372,173</b>	<b>27,658,433</b>	<b>33,078,433</b>

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<b>Election Reform Estimated Revenues 2003-2005 Fiscal Years</b>					
	<b>HAVA 101 (2003 actual)</b>	<b>HAVA 102 (2003 actual)</b>	<b>HAVA 252 (2003 Actual) (2004 Estimated)</b>	<b>Total Federal Funds</b>	<b>State Matching Funds</b>
<b>2003</b>	\$ 14,447,580	\$ 11,581,377	\$ 47,416,833	\$ 73,445,790	\$ 525,000
<b>2004</b>	0	0	\$ 85,085,258	\$ 85,085,258	\$ 6,103,018
<b>2005</b>	0	0	TBD	TBD	NA
<b>Total</b>					\$ 6,628,018

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## Element 7. Maintenance of Effort

**How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.**

### **Introduction**

The funding provided under the Help America Vote Act of 2002 (HAVA) is intended to pay for new or enhanced election efforts and is not intended to supplant existing funding at the State or county level. The projected HAVA budget is based on the assumption that the State of Florida and counties will maintain the foundation of election operating expenditures for the fiscal year ending prior to November 2000.

The Florida Division of Elections provides statewide coordination and direction for the interpretation and enforcement of election laws. The Division's budget supports year-round staff that provides election-related assistance to Florida's 67 county supervisors of elections and their staff, municipalities, special districts, county and city attorneys, candidates, political committees, committees of continuous existence, elected officials, media, the public and other election officials throughout the United States.

**Section 254(a)(7) How will the State of Florida maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000?**

In determining Florida's maintenance of effort expenditures, the Division of Elections calculated 1999-2000 fiscal year expenditures which included salaries and benefits, operating capital outlay and voter fraud programs for the Division of Elections Director's office and the portion of Bureau of Election Records' expenditures pertaining to election administration. Florida's expenditures for these activities for 1999-2000 fiscal year totaled \$3,082,224.

In order to comply with Section 254(a)(7) of HAVA, the Florida Department of State will maintain expenditures on similar activities at a level equal to the 1999-2000 fiscal year budget.

For FY 2003-2004 and FY 2004-2005, the State of Florida exceeded the \$3,082,224 required to meet the Maintenance of Effort requirements.

The HAVA Planning Committee recommended that the Secretary of State communicate to the Senate President and the Speaker of the House of Representatives the importance of maintaining this maintenance of effort figure, as a minimum level of expenditures, to ensure the required level of spending is appropriated by the Florida Legislature.

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During the 2003 and 2004 Legislative sessions, the Department of State's budget staff and legislative affairs staff maintained and continues to maintain close contact with House and Senate staff to convey the importance of continuing the Maintenance of Effort figure as a minimum level of funding.

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## Element 8. Performance Goals and Measures

**How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the process used to develop such criteria, and a description of which official is to be held responsible for ensuring that each performance goal is met.**

### **Introduction**

Florida has a very decentralized election governance and administrative system. The Secretary of State is appointed by the Governor and is the legal Chief Election Official in Florida. However, the Secretary of State does not supervise the day-to-day operations of the 67 local supervisors of elections and only provides guidance through technical assistance, rules, advisory opinions, voting system certification, and producing standardized election forms.

In Florida, it is the local supervisor of elections that has constitutional authority to conduct elections through State law and rule. The supervisors are elected to 4-year terms by the registered voters of their respective counties (except for Miami-Dade's appointed supervisor) and have broad authority to conduct the day-to-day election operations by appointing local election officials, administering voter registration, preparing ballots, administering absentee voting, conducting poll worker training, and developing voter education programs.

The Help America Vote Act of 2002 (HAVA) requires the State and not the local supervisors of elections to adopt performance goals and measures for determining statewide and local election reform success. The following performance measures have been adopted by the HAVA Planning Committee for these key elements of the plan:

1. Voting Systems
2. Voting systems guidelines
3. Absentee instructions
4. Voting systems for voters with disabilities
5. Provisional voting
6. Voter registration system
7. Voter education
8. Administrative complaint process

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**Section 254(a)(12) How will Florida adopt performance goals and measures that will be used by the State to determine its success and the success of local government in carrying out the plan, including—**

- **Timetables for meeting the elements of the plan**
- **Descriptions of the criteria the State will use to measure performance**
- **The process used to develop such criteria**
- **A description of which official is to be held responsible for ensuring that each performance goal is met?**

<b>Planning Element:</b>	Element #1, Section 301 – Voting Systems Element # 4, Section 254(a)(4) – Voting System Guidelines
<b>HAVA Deadline:</b>	January 1, 2006
<b>Goal:</b>	Document the performance of Florida’s voting systems to continually improve the voting experience for Florida voters.
<b>Performance Measures:</b>	<ul style="list-style-type: none"> <li>• Record and report to the Florida Legislature the number of overvotes and undervotes appearing in the first race for each General Election</li> <li>• List the likely reasons for such overvotes and undervotes by counties, by voting systems, and by appropriate election races</li> <li>• Suggest improvements to the voting process addressing such issues as voting system performance, ballot design, ballot instructions, election official training, poll worker training, voter education, and policy changes</li> <li>• Review rules and governing standards and certification of voting systems to determine the adequacy and effectiveness of such rules in assuring that elections are fair and impartial</li> </ul>
<b>Timetable (if applicable):</b>	On-going
<b>Process used to develop criteria:</b>	Florida Legislature (Section 101.595, Section 101.015, <i>Florida Statutes</i> ) 2001 Governor’s Select Task Force Report on Election Procedures, Standards and Technology HAVA Planning Committee
<b>Accountable official(s):</b>	Director, Division of Elections Chief, Bureau of Voting Systems Certification Supervisors of Elections

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HAVA PLAN UPDATE / 67

<b>Planning Element:</b>	Element #1, Section 301 – Absentee Ballot Instructions
<b>HAVA Deadline:</b>	January 1, 2006
<b>Goal:</b>	Ensure voters have sufficient absentee ballot instructions on how to make corrections by requesting a replacement ballot and the consequences of casting multiple ballots.
<b>Performance Measures:</b>	With receipt of absentee ballots following an election, each county will gather the following information: <ul style="list-style-type: none"><li>• Number of absentee/mail-in ballots requested</li><li>• Number of replacement absentee/mail-in ballots requested</li><li>• The number of returned absentee ballots not counted because of<ul style="list-style-type: none"><li>a) no signature</li><li>b) non-matching signature</li></ul></li></ul>
<b>Timetable (if applicable):</b>	September 2004
<b>Process used to develop criteria:</b>	<ul style="list-style-type: none"><li>• Department of State, (Rule 1S-2.032, F.A.C.)</li><li>• HAVA Planning Committee</li></ul>
<b>Accountable official(s):</b>	Director, Division of Elections Supervisors of Elections

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<b>Planning Element:</b>	Element #1, Section 301 – Certified Voting Systems for Voters with Disabilities
<b>HAVA Deadline:</b>	January 1, 2006
<b>Goal:</b>	Provide one accessible voting system for every polling place including non-visual accessibility for the blind and visually impaired that provides the same opportunity for access and participation as other voters.
<b>Performance Measures:</b>	<ul style="list-style-type: none"><li>• Legislature appropriates sufficient HAVA funds to purchase accessible voting systems;</li><li>• Supervisors of elections certify to the Department of State the number of certified accessible voting systems needed to meet the requirement of one per polling place;</li><li>• Upon approval by the Department of State, supervisors of elections submit recommendations for purchase of certified accessible voting systems to Board of County Commissioners;</li><li>• Board of County Commissioners receives HAVA funds and appropriates funds to purchase certified accessible voting systems;</li><li>• Supervisors of elections report to the Department of State before January 1, 2006 that this requirement has been met.</li></ul>
<b>Timetable (if applicable):</b>	Begin July 2004 End December 2005
<b>Process used to develop criteria:</b>	Florida Legislature sets requirements for certifying polling places Division of Elections certifies polling places and voting systems HAVA Planning Committee
<b>Accountable official(s):</b>	Director, Division of Elections Supervisors of Elections

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HAVA PLAN UPDATE / 69

<b>Planning Element:</b>	Element #1, Section 302 – Provisional Voting
<b>HAVA Deadline:</b>	January 1, 2004
<b>Goal:</b>	Ensure that all voters whose eligibility to vote is questioned be permitted to cast a provisional ballot and notified of outcome.
<b>Performance Measures:</b>	<p>With respect to the voter registration of each county, the following information will be collected to measure compliance performance:</p> <p>County Level</p> <ul style="list-style-type: none"><li>• The number of provisional ballots cast in each precinct</li><li>• The number of registered voters in each precinct</li><li>• The number of provisional ballots that were verified and counted in each precinct</li><li>• The number of provisional ballots not counted in each precinct and the reason for not counting</li></ul> <p>State Level</p> <ul style="list-style-type: none"><li>• The number of provisional ballots cast in each county</li><li>• The number of registered voters in each county</li><li>• The number of provisional ballots that were verified and counted in each county</li><li>• The number of provisional ballots not counted in each county and the reason for not counting</li></ul>
<b>Timetable (if applicable):</b>	On-going
<b>Process used to develop criteria:</b>	Florida Legislature (Section 101.048, <i>Florida Statutes</i> ) HAVA Planning Committee
<b>Accountable official(s):</b>	Director, Division of Elections Supervisors of Elections

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 HAVA PLAN UPDATE / 70

<b>Planning Element:</b>	Element #1, Section 303 – Voter Registration System
<b>HAVA Deadline:</b>	January 1, 2006
<b>Goal:</b>	Establish a single, uniform, official centralized, interactive, computerized, statewide voter registration list which shall be the single system for storing and managing the list of registered voters throughout the state for the conduct of all federal elections.
<b>Performance Measures:</b>	<ul style="list-style-type: none"> <li>• Legislature directs the Division of Elections to develop a statewide voter registration system that meets the requirements of HAVA;</li> <li>• Division of Elections begins Phase 1 of the “Florida Voter Registration System” (FVRS) in September 2003 and develops the specifications for design and implementation.</li> <li>• Division of Elections begins Phase 2 of the FVRS in March 2004 by prototyping and validating system components;</li> <li>• Division of Elections begins Phase 3 of the FVRS in March 2005 by conducting tests, revising modules, and ensuring all system components meet functional and performance standards;</li> <li>• Division of Elections begins Phase 4 of the FVRS in August 2005 by developing and implementing a training and education plan which will result in counties being brought on line as their election schedules permit;</li> <li>• Division of Elections begins Phase 5 of the FVRS in January of 2006 by providing final system documentation and by transitioning to a maintenance and support function</li> </ul>
<b>Timetable (if applicable):</b>	Begin September 2003 End December 2005
<b>Process used to develop criteria:</b>	<ul style="list-style-type: none"> <li>• Public meetings hosted by the Bureau of Voting Systems Certification in consultation with supervisors of elections and other involved state and federal agencies</li> <li>• HAVA Planning Committee</li> </ul>
<b>Accountable official(s):</b>	Secretary of State Deputy Secretary of State Director, Division of Elections Chief, Bureau of Voting Systems Certification Supervisors of Elections

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<b>Planning Element:</b>	Element #3, Section 254(a)(3) Voter Education
<b>HAVA Deadline:</b>	NA
<b>Goal:</b>	Promote a more educated electorate by providing comprehensive and varied voter education programs throughout each of Florida's 67 counties.
<b>Performance Measures:</b>	<ul style="list-style-type: none"> <li>• County supervisors of elections will create a Voter Guide including the information defined in Rule 1S-2.033, F.A.C.</li> <li>• Voter education plans will be filed with the Division of Elections by each supervisor of election</li> <li>• The Department of State will prepare a report on the effectiveness of these programs</li> <li>• Each county will document, where applicable:             <ul style="list-style-type: none"> <li>○ the number and types of locations in which voter guides are distributed</li> <li>○ the number and types of mediums for posting election related information (banners, billboards, etc.)</li> <li>○ the number of sample ballots mailed and/or publications where they were published</li> <li>○ voter education and registration programs for high school students</li> <li>○ college registration/education programs on each college campus in the county</li> <li>○ voting equipment demonstrations</li> <li>○ where voters rights and responsibilities are posted</li> <li>○ registration workshops held</li> <li>○ the number and locals of radio, television and print interviews</li> <li>○ methods used to reach non-English speaking and citizens with disabilities</li> <li>○ number of overvotes and undervotes that occur during an election</li> <li>○ the number of provisional ballots cast during an election</li> </ul> </li> </ul> <p style="text-align: right;"><i>(continued on next page)</i></p>



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<b>Timetable (if applicable):</b>	<ul style="list-style-type: none"><li>• Ongoing</li><li>• Supervisors of elections are required to file a report by December 15<sup>th</sup> of each general election year with the Dept. of State describing voter education programs implemented.</li><li>• Department of State is required to review information submitted by supervisors of elections and prepare a public report, to be submitted to Governor, Senate President and Speaker of the House of Representatives, on effectiveness of voter education programs by January 31<sup>st</sup> of each year following a general election.</li></ul>
<b>Process used to develop criteria:</b>	The Florida Legislature (Section 98.255, Section 101.65, <i>Florida Statutes</i> ) Department of State (Rule 1S-2.033, F.A.C.) Supervisors of Elections HAVA Planning Committee
<b>Accountable official(s):</b>	Director, Division of Elections Supervisors of Elections

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HAVA PLAN UPDATE / 73

<b>Planning Element:</b>	Element #3, Section 254(a)(3) – Election Official and Poll Worker Training
<b>HAVA Deadline:</b>	Immediate and Ongoing
<b>Goal:</b>	Provide a simple, friendly voting experience for Florida voters by training election officials and poll workers through professional and frequent instruction.
<b>Performance Measures:</b>	<ul style="list-style-type: none"><li>• Document the number of training classes offered at the state and local levels</li><li>• Document the number of supervisors of elections who receive certification</li><li>• Document the number of election officials who receive training</li><li>• Document the number of poll workers who attend the training sessions</li><li>• Document and report voter satisfaction with the voting process through various methods</li><li>• Report to the Florida Legislature after each election cycle the effectiveness of election official and poll worker training programs</li></ul>
<b>Timetable (if applicable):</b>	On-going
<b>Process used to develop criteria:</b>	HAVA Planning Committee
<b>Accountable official(s):</b>	Supervisors of Elections Director, Division of Elections

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HAVA PLAN UPDATE / 74

<b>Planning Element:</b>	Element #9, Section 254(a)(a) State-Based Administrative Complaint Procedures to Remedy Grievances
<b>HAVA Deadline:</b>	NA
<b>Goal:</b>	Establish and maintain a state-based administrative complaint procedure for any individual who believes that there has been a violation of any of HAVA's Title III requirements.
<b>Performance Measures:</b>	The following information will be collected to subjectively measure performance: <ul style="list-style-type: none"><li>• Number of complaints received</li><li>• Number of complaints resolved<ul style="list-style-type: none"><li>• Number of complaints resolved in 30 days or less</li><li>• Number complaints resolved in 60 days</li><li>• Number of complaints resolved in 90 days</li></ul></li><li>• Number of complaints unresolved<ul style="list-style-type: none"><li>• Description of reason complaint is left unresolved</li></ul></li></ul>
<b>Timetable (if applicable):</b>	Ongoing
<b>Process used to develop criteria:</b>	Florida Legislature (Section 97.028, <i>Florida Statutes</i> ) HAVA Planning Committee
<b>Accountable official(s):</b>	Director, Division of Elections Supervisors of Elections

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