



**UNITED STATES ELECTION
ASSISTANCE COMMISSION**

UNIFORMED AND OVERSEAS
CITIZENS ABSENTEE VOTERS ACT
(UOCAVA)

U.S. ELECTION ASSISTANCE COMMISSION
SURVEY REPORT FINDINGS

MARCH 2006

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Executive Summary

The Uniformed and Overseas Citizens Voting Act (UOCAVA) of 1986 (42 USC 1973ff) protects the voting rights of members of the Uniformed Services (on active duty), members of the Merchant Marine and their eligible dependents, Commissioned Corps of the Public Health Service, Commissioned Corps of the National Oceanic and Atmospheric Administration, and U.S. citizens residing outside the U.S. UOCAVA requires States/territories to allow these citizens to register and vote in elections for federal office using absentee procedures.

The Help America Vote Act (HAVA) of 2002 mandates that for each regularly scheduled general election for Federal office, the Election Assistance Commission (EAC) shall collect comprehensive data from the states on all of the ballots sent and received by UOCAVA voters. In 2004, EAC developed a survey instrument and distributed it to the states to collect statistics on balloting by UOCAVA voters from the November 2, 2004 presidential election. During the lengthy process of collecting the data, it was determined that many states and local jurisdictions did not track the specific data required by HAVA, and stored the requested statistics in various formats, resulting in some gaps in the UOCAVA data collected by EAC.

However, it should be noted that the information collected does provide valuable information about UOCAVA voters, and that EAC will continue working with states to improve efforts at the federal, state and local levels to collect more information for the 2006 general election. Such information will help facilitate the process of improving the transmission and receiving of ballots from UOCAVA voters, and to serve their special needs.

Background

The 1988 Executive Order 12642 names the Secretary of Defense as the Presidential designee for administering UOCAVA. Executive Branch departments and agencies with employees overseas provide voting assistance under guidance from the Presidential designee. The U.S. Postal Service and the Department of Defense Military Postal Service Agency facilitate the physical transmission of election materials between the voter and local election officials. The Department of Justice enforces UOCAVA protections through litigation.

The Help America Vote Act of 2002 (HAVA), section 703 (a), amended section 102 of UOCAVA by adding the following requirement:



“Not later than 90 days after the date of each regularly scheduled general election for Federal office, each State and unit of local government which administered the election shall (through the State, in the case of a unit of local government) submit a report to the Election Assistance Commission (established under the Help America Vote Act of 2002) on the combined number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the combined number of such ballots which were returned by such voters and cast in the election, and shall make such a report available to the general public”.

HAVA section 703 (b) requires EAC to work with the EAC Board of Advisors and EAC Standards Board to develop a standardized format for the reports submitted by States and units of local government under UOCAVA Section 102, as revised. HAVA also requires EAC to make the format available to the States and local units of government submitting such reports.

Section 702 of HAVA also requires each State to establish a single State office that is “responsible for providing information regarding voter registration procedures and absentee ballot procedures to be used by absent uniformed services voters and overseas voters with respect to elections for Federal office (including procedures relating to the use of the Federal write-in absentee ballot) to all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.” It further recommends that this State office be the organ responsible for carrying out the entire State’s responsibilities under UOCAVA.

Survey Methodology

EAC is assigned the task, through HAVA, of collecting comprehensive data on all of the ballots sent and received by uniformed and overseas citizen absentee voters. A variety of government agencies and non-profit organizations have collected information similar to that requested in EAC’s survey, however, this is the first time a Federal agency has been given the responsibility of collecting comprehensive data on all of the ballots sent and received by this group of American citizens. Similarly, this request by EAC is the first time that States have been asked to collect and tally the votes of this group of citizens, in this manner.

Prior to the administration of the survey, drafts were sent to EAC’s Board of Advisors and Standards Board, and to several state HAVA administrators, for comment and review. In the early fall of 2004, states were notified that the UOCAVA survey would be forthcoming. On December 21, 2004, EAC transmitted, electronically, to Secretaries of State and State Election Directors in the fifty States, the District of Columbia and four U.S. jurisdictions, the UOCAVA survey (**See Attachment 1**).



Each State was instructed to provide the answers to the ten-question survey on an Excel spreadsheet which EAC provided. The States were further instructed to provide electronic (PDF) versions of the ten-question survey to each of their local election authorities. The States' local election authorities were to complete the "fillable" PDF version of the survey and return it to the State. The State would then enter the data from the PDF survey forms that it received from each of its local election authorities into the master Excel spreadsheet. Each State was to complete and return, electronically, to EAC, its Excel spreadsheet by January 31, 2005.

EAC designated an electronic mailbox to receive the States' responses to the UOCAVA survey. By the January 31, 2005 closing date, only two States had returned their responses to EAC. EAC staff sent follow up e-mails to the non-responsive States. By June 10, 2005, a majority of States had submitted their responses to the survey.

EAC staff in charge of monitoring and answering State inquiries and responses to the survey indicated that EAC received relatively few questions regarding the completion of the survey. Many States' inquiries or questions related to difficulties they were having in collecting data from their local election authorities. Several States indicated that they had sent their responses to EAC's UOCAVA survey to the Federal Voting Assistance Program (FVAP).¹ Still other States indicated that they did not track the number of *domestic* military ballots that were transmitted or returned, meaning the State was unable to identify the *total number* of military votes that had been transmitted or returned.

The final format in which EAC received responses to the UOCAVA survey varied. As EAC instructed, many States completed the electronic Excel spreadsheet which listed all of the jurisdictions in that State and each jurisdiction's response to each of the survey questions. However, a number of States submitted only the PDF "fillable" survey form that was intended to be completed exclusively by the jurisdiction. For these States, EAC was unable to determine if the State had received data from each of its jurisdictions. Finally, other States submitted spreadsheets that used types of software other than Excel. Some of these spreadsheets contained the necessary information related to each of the ten EAC UOCAVA survey questions, while others did not.

¹ The U.S. Department of Defense administers the Uniformed and Overseas Citizens Absentee Voting Act and the Federal Voting Assistance Program (FVAP). In November 2004, FVAP also administered a random survey to UOCAVA voters, officers, and elected local election authorities.



In the spring and summer of 2005, EAC staff provided the state-level UOCAVA survey data to a contractor to enter, analyze, and perform preliminary verification of the numbers. In December 2005 and January 2006, EAC staff sent written correspondence to each Chief State Election Official and Election Director requesting verification of the UOCAVA survey numbers which the States had originally submitted. The written correspondence was followed by e-mails and phone calls to State election directors and administrators. EAC implemented this data-checking process to allow States an opportunity to verify and correct the numbers they had originally submitted and to prepare for the public release of these figures.

Survey Results

The attached chart summarizes the data which EAC is required by HAVA to report. However, it must be noted that the conclusions from the data in this report may be inflated, or deflated by a number of factors. States have varying interpretations and record-keeping requirements. In addition to a number of caveats to interpreting these figures, which will be elaborated on below, the reader should note the following:

- Some States did not respond to the original HAVA-mandated survey or requests for additional information or confirmations.
- Several States reported changes to the original numbers they had submitted (within 90 days of the Federal election). It is unclear whether the change was based on new information, or whether the States had provided information that was previously incorrect.

Some States do not record information in the manner in which it was requested in the UOCAVA survey. Some States only require record-keeping of the total number of absentee ballots sent and received—and cannot separate the UOCAVA ballots from the total number of absentee ballots because the information was not collected at the local level in that manner. Finally, States and local election authorities have varying ways in which they record the differences among ballots which has been *sent, returned, and cast*.

Challenges Related to UOCAVA Reporting

A review of the data collected and submitted by the States for the ten questions asked in the UOCAVA survey indicates large variations in the manner in which UOCAVA information is collected, tracked and reported.



With a few exceptions, most States reported that a majority of their local election authorities provided the requested information. However, many local election authorities did not track the precise number of ballots they mailed or transmitted to their domestic military, overseas military *and* overseas citizens, as required by HAVA. Both UOCAVA and HAVA anticipated that, because of the time it takes to transmit ballots overseas, a certain amount of necessary overlap may occur. Provisions in state laws could contribute to the states having difficulty in the tracking of ballots. The tracking of these transmitted absentee ballots is complicated by the following factors that may artificially inflate or deflate the numbers reported in this survey:

- If UOCAVA voters do not receive their State ballots close to the date of the elections they can send a “Federal Write-In” ballot that indicates his or her preferences for known races. These ballots are not classified as “sent” from the State, and they may or may not be counted as UOCAVA ballots received in the data reported.
- Additionally, if the UOCAVA voter submits his or her “Federal Write-In” ballot, and subsequently receives his or her full UOCAVA ballot from the State, the voter is allowed to vote the full ballot, and the State *should* count those full ballots. That is, the fact that several ballots might legitimately be received from one voter further complicates the accuracy of the data collected. We do not suggest that more than one ballot was counted for each UOCAVA voter, but that state record-keeping protocols might inflate the number of ballots received.
- Finally, when a voter registers to vote using the Federal Post Card Application, an absentee ballot is automatically sent to that voter—for the next two federal elections. Voters may move or change addresses and ballots may be sent to addressees for voters who are no longer residing at that address. This fact could artificially inflate the number of UOCAVA absentee ballots which the State records as having been sent.

To summarize, the various processes required by UOCAVA procedures vary substantially and will be considered when promoting further surveys and collecting data. The following State processes should be considered as EAC assesses future data collection efforts:

- How States and local election authorities handle the sending and the return of ballots. This includes variations among States in scheduling elections (late or early primaries), policies and procedures regarding the use of faxes, rules regarding the time allowed to return ballots and early voting policies and procedures.
- How States and their local election authorities handle ballots received from overseas military, domestic military on active or in-active duty, overseas citizens and Federal write-in absentee ballots.



- How States handle counting domestic and overseas military ballots, overseas citizen ballots, ballots cast early and all absentee and FWAB ballots cast and counted.
- How States define and assess UOCAVA ballot responses through the single state UOCAVA offices, and how those offices communicate the record-keeping protocols with local election officials.

Moving Ahead and Next Steps for 2006

The items described in the previous section are likely to cause fluctuation in the UOCAVA numbers reported by States. This report illustrates the need for EAC to provide election record-keeping protocols for the States to consider.

Efforts aimed at educating States and their local election authorities about HAVA requirements regarding UOCAVA is the first and most critical step. EAC will coordinate its efforts with the staff of the Federal Voting Assistance Program (FVAP) at the Department of Defense to ensure that both agencies work together in providing a service that is valuable to States and UOCAVA voters.

While it is important to recognize the tremendous variation in how States and their local election authorities handle the mailing and processing of their ballots, it is equally important that EAC assist States and local election authorities to develop policies and procedures that will make them HAVA-compliant.

Providing the UOCAVA survey instrument to States well in advance of the upcoming Federal election will assist States with their collection and reporting of UOCAVA survey data. As with the last UOCAVA survey, EAC staff will be available to answer and clarify specific questions States may have about completing the survey.

In the early Spring of 2006, EAC will conduct a working group meeting of State and local elections officials and other experts to fine-tune the UOCAVA survey instrument. Representatives from the elections community along with various organizations that utilize UOCAVA survey data will have an opportunity to share with EAC their suggestions for improving the format and administration of the survey. EAC will also work with its Board of Advisors and Standards Board to gain input on revisions to the survey.

EAC efforts to develop uniform measures for the collection and reporting of UOCAVA data will be a continuing process. These steps and measures will be shared with each State's UOCAVA office and will be recommended for use when completing future EAC/UOCAVA surveys. It is anticipated that this type of information will assist States with their implementation of effective and efficient methods for sending and receiving ballots to UOCAVA voters.



UOCAVA SURVEY RESULTS

November 2, 2004 Election

The interpretation of this chart and any conclusions regarding the results of this survey should be done with caution. As the footnote indicates, several states did not, at the time of the survey, divide their UOCAVA voters from the general group of absentee voters because of the manner in which local election authorities collected the data. Therefore, given this variation in the collecting and reporting of numbers, EAC did not provide totals for the number of UOCAVA absentee ballots sent or UOCAVA absentee ballots returned.

| State | UOCAVA Absentee Ballots Sent* | UOCAVA Absentee Ballots Returned* |
|-------|----------------------------------|---|
| AK | 14,574 | 9,839 |
| AL | 8,005 | 4,234 |
| AR | 5,173 | 2,539 |
| AZ | 12,046 | 8,282 |
| CA | 62,468 | No data |
| CO | 10,339 | 6,669 |
| CT | 6,045 | 4,489 |
| DC | 2,532 | 1,722 |
| DE | 1,811 | 1,273 |
| FL | 122,194 | 93,524 |
| GA | 16,690 | 13,216 |
| HI | 3,862 | 2,492 |
| IA | 5,343 | 4,920 |
| ID | 4,275 | 3,874 |
| IL | 30,556 | 26,639 |
| IN | 8,980 | 6,811 |
| KS | 6,564 | 5,084 |
| KY | 6,234 | 4,912 |
| LA | 12,899 | 8,631 |
| ME | 3,410 | 2,649 |
| MD | 12,916 | 11,306 |
| MA | 125,031 | 111,017 |
| MI | 13,583 | 9,916 |
| MN | 12,322 | 8,757 |
| MS | 2,779 | 1,683 |



| State | UOCAVA Absentee Ballots Sent* | UOCAVA Absentee Ballots Returned* |
|--------------|--|--|
| MO | 15,477 | 9,006 |
| MT | 4,721 | 3,490 |
| NE | 3,867 | 2,775 |
| NV | 5,699 | 4,420 |
| NH | 4,516 | 3,727 |
| NJ | 14,256 | 8,475 |
| NM | 519 | 348 |
| NY | 55,183 | 43,699 |
| NC | 18,063 | 11,996 |
| ND | 1,587 | 1,117 |
| OH | 14,527 | 11,768 |
| OK | 7,682 | 5,737 |
| OR | 18,752 | 14,307 |
| PA | 36,051 | 30,042 |
| RI | 21,498 | 19,046 |
| SC | 168,814 | 157,990 |
| SD | 3,823 | 3,288 |
| TN | 19,635 | 16,609 |
| TX | 88,847 | 66,374 |
| UT | 4,598 | 3,817 |
| VT | 1,733 | 1,340 |
| VA | 29,646 | 24,463 |
| WA | 37,198 | 30,446 |
| WV | 4,712 | 3,745 |
| WI | 10,275 | 7,146 |
| WY | 3,123 | 2,594 |
| AS | 326 | 284 |
| GU | No Response | No Response |
| PR | No Response | No Response |
| VI | No Response | No Response |

*Some State numbers may reflect *total* absentee ballots sent and received.
(UOCAVA *and* Non-UOCAVA).



ATTACHMENT - 1
UNITED STATES ELECTION ASSISTANCE COMMISSION



Military and Overseas Absentee Ballot Survey 2004

LOCAL JURISDICTION RESPONSE FORM

The following form is provided by EAC as a convenience to the States in gathering information from local election jurisdictions in preparation for responding to the Military and Overseas Absentee Ballot Survey for the November 2, 2004 election.

Please complete all of the fields below. Specific instructions relative to certain questions are found at the end of this form. If your question or concern is not answered in the instructions section of this form, please contact (name of state contact person) at (telephone number of contact person). Please return this form to (name of state contact person) at (address - email or physical - or fax number to which the form should be returned) on or before (date), 2005.

CONTACT INFORMATION

For each of the following questions please respond in the space provided,

LOCAL ELECTION JURISDICTION:

NAME:

ADDRESS:

TITLE:

PHONE:

EMAIL:

DATE:



ABSENTEE BALLOTS

Question 1. What was the total number of absentee ballots transmitted by your jurisdiction (including ballots transmitted by mail, fax, e-mail or courier) to (a) domestic military citizens, (b) overseas military citizens, and (c) overseas citizens (collectively, “military and overseas citizens”) for the November 2, 2004 general election?

Question 2. What was the total number of advanced ballots transmitted by your jurisdiction to military and overseas citizens?

Question 3. What was the total number of absentee ballots returned to your jurisdiction by (a) domestic military citizens, (b) absent military citizens, and (c) overseas citizens for the November 2, 2004 general election? (NOTE: Please **do not** include Federal Write-In Absentee Ballots as question 7 asks for information about these ballots.)

Question 4. Of the total number of absentee ballots distributed to or returned by military and overseas citizens, how many were transmitted or returned by (a) mail, (b) facsimile, and (c) e-mail?

Question 5. Of the total number of absentee ballots returned by military and overseas citizens, how many were actually counted by your jurisdiction for the November 2, 2004 general election?

Question 6. Of those military and overseas citizen absentee ballots **not counted**, provide the number of ballots rejected due to the fact that the ballot (a) lacked a postmark, (b) lacked the voter’s signature, (c) contained no verifiable signature, (d) had no date of signature, (e) had no notary or witness signature, (f) had no date of notary or witness signature, (g) was received after the state deadline, (h) was returned as undeliverable, or (i) was rejected for another reason. (Use “N/A” if not the category of rejection is not applicable to your jurisdiction)

Please provide additional clarifying information for any ballots itemized under “other” for Question 6.



Question 7. How many Federal Write-In Absentee Ballots (FWAB) did your jurisdiction receive from absent uniformed services and overseas voters for the November 2, 2004 general election?

Question 8. If data are missing, please explain any other reasons for missing data below.

Instructions:

Please answer every question. Do not leave any questions blank. If your jurisdiction does not collect a specific piece of data requested or data is unavailable for some other reason, please signify by placing N/A in the blank and noting the reason that data was not provided.

Definitions:

“Advance Ballots” means any Special Write-In Absentee Ballot, State Write-In Absentee Ballot, Special Write-In Early Ballot or Blank Absentee Ballot that is distributed by a state in advance of the publication of an official ballot for a federal election on which military and overseas citizens are allowed to write in the name of the candidate in each contest for whom they choose to vote.

“Domestic Military” encompasses

(A) a member of a uniformed service on active duty who, by reason of such active duty, is stationed or positioned within the United States or its territories, and who is absent from the place of residence where the member is otherwise qualified to vote;

(B) a member of the merchant marine who, by reason of service in the merchant marine, is serving within the United States and its territories, and who is absent from the place of residence where the member is otherwise qualified to vote; and

(C) a spouse or dependent of a member referred to in subparagraph (A) or (B) who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote.

“Overseas Military” include:

(A) a member of a uniformed service on active duty who, by reason of such active duty, is stationed or positioned outside of the United States and its territories, and who is thus absent from the place of residence where the member is otherwise qualified to vote;



- (B) a member of the merchant marine who, by reason of service in the merchant marine, is serving outside of the United States and its territories, and who is thus absent from the place of residence where the member is otherwise qualified to vote; and
- (C) a spouse or dependent of a member referred to in subparagraph (A) or (B) who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote.

“Overseas Citizens” are persons who are citizens of the United States who are living, working or stationed outside of the United States and its territories and who are not members of a uniformed service.

“Federal Write-In Absentee Ballot (FWAB)” is a ballot available to a military or overseas citizen when the absent uniformed services member or citizen outside the United States (including APO and FPO addresses) does not receive the regular absentee ballot from the state after having made a timely application for the ballot. The FWAB is used to vote for Federal offices (President/Vice President, U.S. Senator, U.S. Representative, Delegate or Resident Commissioner) in general elections.

A Federal write-in absentee ballot of an absent uniformed services voter or overseas voter shall *not* be counted. —

- (1) in the case of a ballot submitted by an overseas voter who is not an absent uniformed services voter, if the ballot is submitted from any location in the United States;
- (2) if the application of the absent uniformed services voters or overseas voter for a State absentee ballot is received by the appropriate State election official after the latter of—
 - (A) the deadline of the State for receipt of such application; or
 - (B) the date that is 30 days before the general election; or
- (3) if a State absentee ballot of an absent uniformed services voters or overseas voter is received by the appropriate State election official not later than the deadline for receipt of the State absentee ballot under State law.