

Attachment A to 2010 State Plan update

Responses to Comments Received on the Help America Vote Act of 2002 (HAVA) 2010 State Plan update

From: *Los Angeles County Registrar-Recorder/County Clerk Dean Logan*

July 8, 2010

Honorable Debra Bowen
California Secretary of State
Attn: Chris Reynolds
1500 11th Street, Sixth Floor
Sacramento, CA 95814

RE: HAVA State Plan 2010 Update

Dear Secretary Bowen:

Thank you for the opportunity to review and provide written comments on the final draft of California's 2010 State Plan Update regarding compliance with the Help America Vote Act (HAVA) of 2002. I recognize a great deal of effort has gone into the drafting of the plan update and that its contents are influenced by changing dynamics in the state's economic conditions and electoral activity. I appreciate the efforts your staff has extended in preparing the update.

I have reviewed the final draft with elections staff in Los Angeles County and in my capacity as a member of the HAVA State Plan Advisory Committee and offer the following comments for your consideration prior to adoption of the update and submission to the United States Elections Assistance Commission (EAC).

General Comment

In general, I believe the report is presented in a manner more directed toward a report of past activity and less as a planning document or tool for current and future direction in terms of continued improvement of the election process and allocation of remaining – and future – federally appropriated funding. The update is effective and comprehensive in the former and limited in the latter. This distinction was the topic of considerable discussion at the meetings of the HAVA State Plan Advisory Committee. I would recommend, therefore, that the transcripts from those meetings be included as addendum to the State Plan Update to serve as a more complete record of the input and activity of advisory committee members.

RESPONSE

The HAVA 2010 State Plan update must be submitted to the U.S. Election Assistance Commission (EAC) for publication in the *Federal Register*. HAVA Section 254 (a)(13) requires the Secretary to describe the advisory committee process as a part of its State Plan, which is included in this State Plan update as Section 13. The transcripts from the meetings are hundreds of pages long, and including them will add unnecessary expense to the cost of publishing the State Plan update in the *Federal Register*. However, to ensure the is as transparent as possible, the Secretary of State will post the transcripts from the meetings on the

“HAVA State Plan 2010 Update” webpage at www.sos.ca.gov/elections/hava/state-plan/ so everyone will have easy access to them.

Cost Summary

While the update, in various sections throughout the draft, references costs incurred and, in some cases, projections of future costs, it is recommended that Section 6 or an addendum to the update provide a cost summary that more clearly reports on allocation of HAVA funding to date and delineates a plan for the allocation of remaining – and future – federally appropriated funding. In its current form, the update seems disproportionate in its specificity with regard to future HAVA expenditures with priority reference made to the funding needs of the VoteCal project, but minimal reference to the manner in which remaining funding may be allocated and/or approved for county-initiated compliance efforts. This is of considerable importance to Los Angeles County with regard to preserving funding previously allocated to the County for voting system replacement/modernization efforts. As a planning document, I would recommend language that clearly states the intent to preserve unspent funding allocations where counties have an identified and ongoing process in place to acquire or develop compliant voting systems.

RESPONSE

This comment includes two different requests for information.

The first request is for an accounting of HAVA funds previously allocated and spent. As the comment indicates, information on prior use of HAVA funds is provided throughout the document, giving the reader the programmatic context of the expenditures, in addition to the dollar values (see Sections 1, 2, 3, 6, 10 and 12). To help clarify how money has been spent, the Secretary of State will add a summary sheet showing receipt of funds, descriptions and amounts of expenditures and balances to the State Plan update. The spending summary requested by the comment will be provided in Section 12 of the State Plan because that section provides readers with information about how the State succeeded in carrying out the State Plan in previous years.

The second request appears to reference information already provided in Section 6. In that section, the budget clearly identifies, as required by HAVA, the dedication of the funding that is the subject of this State Plan update – Title II funding – which is used to meet Title III requirements. Title III requirements include purchasing voting systems that meet HAVA Section 301 standards; providing voter information at polling places and providing provisional voting rights; and creation of a statewide voter registration system as described by HAVA Section 303. The budget in Section 6 reflects the continued commitment of the Secretary of State to the \$195 million allocated to counties through contracts for voting system upgrades and allowable poll worker training and voter education first initiated in December 2005. These funds, in fact, are the funds allocated to Los Angeles County, and other counties, for voting system replacement/modernization. This budget is the clear statement of intent to preserve that funding allocation that the comment requests. Furthermore, the Secretary of State is in the process of extending the contractual deadline for expenditure of those funds from December 31, 2010, to December 31, 2012, subject to legislative approval. As the comment notes, completion of the VoteCal project – the statewide voter registration database – required by HAVA Section 303 is the other Title III eligible expense identified in the budget. The VoteCal project is one of the four priority areas in Title III mentioned above that the funds being budgeted by this State Plan update must be spent on first. As such, VoteCal is the other major expenditure identified in this State Plan update budget.

Local Government Grant Program

In this same realm, members of the HAVA State Plan Advisory Committee offered recommendations for the establishment of a Local Government Grant Program as a means of funding local initiatives and programs linked to the goals and principles articulated in the Introduction Section of the update. The proposal was modeled after similar programs in place in Washington and Florida. Such a program would enhance the nature of the update as a planning tool and would provide both incentive and clarity to counties in continuing efforts to improve the elections process in compliance with the Act.

RESPONSE

The Secretary of State appreciates the benefits to be gained from providing additional resources for the types of activities identified by the advisory committee, including voter education programs, election official and poll worker training, maintaining voting equipment and modernizing polling places.

However, as the State Plan update draft language describing the grant program notes, such a program would be contingent upon EAC guidance as to when State Plan update budgeted funds may be used to improve the administration of elections.

Under HAVA, once the state certifies it complies with the HAVA Title III requirements noted above, these funds may be used to improve the administration of elections (see HAVA Sections 254(b)(2) and 251(b)(2)(A)). The Secretary of State has not yet certified to HAVA Title III compliance. Therefore, funds budgeted under this State Plan update must be used to meet Title III requirements. With the exception of voting system maintenance, the elements proposed under the advisory committee's Local Government Grant Program are not Title III requirements. Voting system maintenance is clearly an allowable expense and the Secretary of State has reimbursed counties for these expenses. In addition, the Secretary of State's office has allowed counties to expend funds for voter education and poll worker training activities in certain circumstances, as described in EAC guidance FAO 08-011 or whenever those costs fall under the minimum requirements payment program created by the Secretary of State pursuant to HAVA Section 251 (b)(2)(B).

Finally, the advisory committee's proposed Local Grant Program recommended that counties be allowed to use funds to improve polling place accessibility. There is an existing program for these purposes that uses HAVA Section 261 funds, funding not budgeted through another program outside the scope of this State Plan update. Under that polling place accessibility improvement program, the Secretary of State provided all counties with a proportionate share of \$3.345 million in HAVA Section 261 funds. In addition, the Secretary of State has awarded, through a competitive grant program, an additional \$2.6 million to 21 counties. A third round of competitive grants available to counties that had not previously been awarded grants will be awarded later this year. Lastly, in 2010 the Secretary of State updated the statewide guidelines used to assess the physical access to polling places and allocated \$176,000 in grants to counties, so county surveyors could be trained on the new guidelines, as well as conduct surveys and purchase mitigation supplies to improve accessibility.

Despite the limitations placed on the use of funding by HAVA, this State Plan update provides the necessary flexibility to respond to the kinds of needs described in the

advisory committee's proposed Local Government Grant Program in the future. As the budget in Section 6 explains, funds that do not need to be budgeted for Title III purposes at this time will be used in the future either to meet Title III requirements or to improve the administration of elections. As noted, the VoteCal statewide voter registration system, a Title III requirement, has not yet gone out to rebid and Title III compliance has not been certified at this time. Final costs for the VoteCal project, including maintenance and operation costs, are unknown at this time. However, at the appropriate time, this State Plan update, as drafted, will provide the Secretary of State with the flexibility to meet mandated costs and other appropriate needs.

For these reasons, the advisory committee's proposed Local Government Grant program will not be included in the State Plan update.

Voter Education and Pollworker Training Funding

Likewise, with regard to references made in the update to the EAC's guidance memorandum regarding allocation of HAVA funding for voter education and poll worker training, I urge you to take caution in how that reference is presented in the final update. As has been previously discussed, EAC guidance on such matters should remain open to interpretation and clarification. Memorializing agreement with or acquiescence to that guidance in the update may have a limiting effect that is counter to the best interests of the State and counties in the allocation of funding for activities many feel clearly fit within the structure and intent of the Act. As you know, counties were previously advised that there would be ongoing funding for HAVA related voter education and poll worker training programs and had planned operations as such and, in several cases, incurred significant costs based on approved spending plans submitted to your office.

RESPONSE

The Secretary of State's office agrees without question that voter education and poll worker training is a critical link in improving the administration of elections generally and in implementing a law as sweeping as HAVA.

However, the EAC guidance is clear and determinative. This guidance was issued in direct response to a request from the Secretary of State's office in an effort to minimize the risk that expenditures might be disallowed in an audit of the state's HAVA program and trigger a need for the state or counties to refund disallowed expenses to the federal government. The Secretary of State appealed the EAC staff decision to the EAC Commissioners at a March 20, 2008, public hearing, and made a request for an advisory opinion on July 10, 2008. Unfortunately, the staff decision was upheld by the Commission and as a result, funding for voter education and poll worker training is allowable under only fairly narrow circumstances – when a new voting system is deployed, or when counties use a paper-based, centrally tabulated voting system and use a voter education program to prevent overvoting as provided for in Section 301 (a)(1)(B).

Your point that the EAC has the option of reversing its guidance in the future is important. As such, language will be added to the State Plan update to emphasize that the EAC decision was made at a point in time and could be altered or reversed in the future.

Election Training Fund

Page 43 of the Plan states that, “California’s initial State Plan and 2004 update contemplated the creation of Election Academy to train prospective election officials. A significant amount of the funding (\$25 million) was earmarked for this purpose, but there is no indication that any curriculum or program design work was initiated.” The Plan then goes on to cite election official education efforts that are ongoing including the California Association of Clerks and Election Officials (CACEO) CalPEAC election officials training classes which address HAVA implementation and have taken place during the life of prior versions of the State Plan.

Recognizing the value of the efforts outside of the Election Academy idea that are listed on page 43, the implementation of the Election Academy – or something similar and funded at the same level – would contribute significantly to the election profession in California. As the Plan currently reads, it is not necessarily clear that there is or is not a commitment to follow through with the Election Academy idea. As a planning tool, I recommend the document recommit to this purpose.

RESPONSE

This issue is also subject to the limitations placed on the use of the Title II funds budgeted in the State Plan update. As indicated previously, these funds must be used exclusively for the purpose of meeting Title III requirements. Those Title III requirements, as noted earlier, are purchasing voting systems that meet HAVA Section 301 standards; providing voter information at polling places and providing provisional voting rights under HAVA Section 302; and creation of a statewide voter registration system as described by HAVA Section 303.

An Election Academy as described in California’s initial 2003 HAVA State Plan is not a Title III requirement and is therefore not an allowable expense. The Secretary of State has, in the absence of creating an Election Academy taken other allowable steps to inform and educate elections officials about HAVA. Those steps include maintaining continual contact to serve as a liaison with federal agencies and clarify HAVA administrative and policy matters; issuing memos on an as needed basis for those same purposes; developing a HAVA compliance manual in collaboration with counties; and providing Title I funding, which can be used for this purpose, to help fund the most recent California Association of Clerks and Election Officials (CACEO) California Professional Election Administration Credential (CalPEAC) program, the election officials’ training and certification classes, which include HAVA curriculum.

VoteCal

Page 4 of the Plan documents the steps that have been taken in the development of VoteCal, and concludes by stating, “The Secretary of State will be moving quickly to assess lessons learned on the VoteCal project so far and determine the appropriate next steps, including renewing efforts to contract with a private vendor to build and deploy the VoteCal system.” Though the events leading to the VoteCal vendor contract termination happened recently, it would be helpful to include a projected timeline for completion of the various stages of VoteCal’s development. Additionally, it would be helpful to identify the funding mechanism for the continuation of this project. If Title III

funding is to be used, it would be helpful to state why and how this money will be used here and in other sections that describe the VoteCal project.

RESPONSE

The projected timeline for the VoteCal is an estimate that became available on July 19, 2010 – 10 days after the close of the public comment period for the State Plan update. The estimate for full deployment to all counties of the VoteCal system – June 2014 – is included in a Special Project Report (SPR) that is still awaiting approval from state oversight agencies. That approval must be granted before the Secretary of State can begin preparing for release of a Request for Proposal (RFP) to seek bids for the project. However, that projected timeline in the SPR is speculative – the schedule for full deployment of the VoteCal system to all counties will be finalized in collaboration with the vendor that is selected for the project. The expected timeline for award of a contract to a vendor, which is also subject to change, anticipates awarding the contract to a system integration vendor in September 2011. This new information will be added to the State Plan update.

As to the question about the funding for the project, again, the VoteCal project is a Title III requirement (see HAVA Section 303) and is required to be included in the State Plan update budget. That is why the budget in Section 6 of this State Plan update clearly includes the use of these funds for this purpose. Again, the budget in Section 6 identifies the \$195 million that has been allocated to counties for voting system purchases to meet the requirements of Section 301, and includes the best available estimate at this time of \$65.6 million to establish and deploy the VoteCal voter registration system because these are the Title III requirements for which HAVA Title II money, the money budgeted under this State Plan update, are intended as a first priority.

Repeated Elements

Respecting the need for the update to be comprehensive in its treatment of each of the 13 sections, many elements are repeated several times, contributing to the length of the document. As a result, from a transparency and public information perspective, the repetition may make the update more complicated than necessary for readers. There may be an opportunity to make the document more approachable by using references to elements instead of repeating them verbatim. For example, there is language regarding the Statewide Voter Registration Database and the Top-to-Bottom Review that is repeated in multiple sections. The suggestion is that those elements – when they are subsequently duplications of the same information – be noted by reference rather than repeated.

RESPONSE

HAVA is a complex measure and the steps taken to implement HAVA's requirements are even more complex. It was considered helpful for purposes of clarity, therefore, to provide a full explanation of the steps taken for HAVA implementation in each section of the plan where it was appropriate. This approach makes it possible to read each section of the plan independently without losing content and context.

Revising the State Plan update as proposed could have the unintended effect of making the document less clear and more ambiguous, and risks leaving out information the public may consider useful and helpful.

(END OF COMMENTS)

Again, I thank you for the opportunity to review the final draft and present comments. I appreciate the extensive efforts of your staff and their responsiveness to inquiries made throughout the process on behalf of Los Angeles County and the HAVA State Plan Advisory Committee.

Please feel free to contact me if you would like to discuss any of these recommendations in greater detail.

Sincerely,
DEAN C. LOGAN
Registrar-Recorder/County Clerk

From: *California Association of Clerks and Elections Officials (Vice President Gail Pellerin)*

July 9, 2010

Honorable Debra Bowen
Attention: Chris Reynolds
Secretary of State
State of California
1500 11th Street, 6th Floor
Sacramento, CA 95814

Re: California Association of Clerks and Election Officials comments on HAVA State Plan

Dear Secretary Bowen,

The California Association of Clerks and Election Officials (CACEO) greatly appreciates the effort that has gone into producing the Help America Vote Act State Plan Update (the Plan). As part of the public comment process, we would like to highlight some areas of interest that emerged upon review of the document.

Voter Education and Pollworker Training Funding

Many counties have found the recent developments regarding a referenced Election Assistance Commission (EAC) opinion extremely problematic. (See for example the reference to EAC "guidance", page 36 bottom paragraph.) We would hope that the

State Plan would not be positioned to accept this opinion as final and/or non-controversial since it – in mid stream and without notice – changed the general character of California counties long and short term commitments to voter education and pollworker training.

That is, from the initiation of state 301 contracts and up to the time that this EAC opinion was made known to counties, there can be no doubt that counties were under the specific impression that there would be ongoing funding for HAVA related Voter Education and Pollworker training programs and had planned operations as such and, indeed in some cases, incurred significant costs based on this impression.

We would suggest that the Plan reflect this state of affairs.

RESPONSE

The Secretary of State's office agrees without question that voter education and poll worker training is a critical link in improving the administration of elections generally and in implementing a law as sweeping as HAVA.

However, the EAC guidance is clear and determinative. This guidance was issued in direct response to a request from the Secretary of State's office in an effort to minimize the risk that expenditures might be disallowed in an audit of the state's HAVA program and trigger a need for the state or counties to refund disallowed expenses to the federal government. The Secretary of State appealed the EAC staff decision to the EAC Commissioners at a March 20, 2008, public hearing, and made a request for an advisory opinion on July 10, 2008. Unfortunately, the staff decision was upheld by the Commission and as a result funding for voter education and poll worker training is allowable under only fairly narrow circumstances – when a new voting system is deployed, or when counties use a paper-based, centrally tabulated voting system and use a voter education program to prevent overvoting as provided for in HAVA Section 301 (a)(1)(B).

Your point that the EAC has the option of reversing its guidance in the future is important. As such, language will be added to the State Plan update to emphasize that the EAC decision was made at a point in time and could be altered or reversed in the future.

Election Training Fund

Page 43 and 73 of the Plan state that, "California's initial State Plan and 2004 update contemplated the creation of Election Academy to train prospective election officials. A significant amount of the funding - \$25 million was earmarked for this purpose, but there is no indication that any curriculum or program design work was initiated." The Plan then goes on to cite election official education efforts that are ongoing including the CACEO California Professional Elections Administration Credential (CalPEAC) election officials training classes which address HAVA implementation that have taken place during the course of the prior Plans.

Although we recognize the value of the efforts outside of the Election Academy idea that are listed on pages 43 and 73, we feel that the implementation of the Election Academy – or something very similar and funded at the same level – would contribute significantly to the election profession in California.

As the Plan currently reads, it is not necessarily clear that there is or is not a commitment to follow through with the Election Academy idea. We would suggest that the Plan address this concern clearly.

We would also specifically suggest that the first sentence of the last bullet on page 73 read "Finally, the initial State Plan allocated \$25 million for an Election Academy, which was incorporated into the 2004 State Plan updated, was not implemented" to include the exact dollar figure that was originally allocated.

RESPONSE

This issue is also subject to the limitation placed on the use of the Title II funds budgeted in the State Plan update. As indicated previously, these funds must be used exclusively for the purpose of meeting Title III requirements. Those Title III requirements, as noted earlier, are purchasing voting systems that meet HAVA Section 301 standards; providing voter information at polling places and providing provisional voting rights under HAVA Section 302; and creation of a statewide voter registration system as described by HAVA Section 303.

An Election Academy as described in California's initial 2003 HAVA State Plan is not a Title III requirement and is therefore not an allowable expense. The Secretary of State has, in the absence of creating an Election Academy taken other allowable steps to inform and educate elections officials about HAVA. Those steps include maintaining continual contact to serve as a liaison with federal agencies and clarify HAVA administrative and policy matters; issuing memos on an as needed basis for those same purposes; developing a HAVA compliance manual in collaboration with counties; and providing Title I funding, which can be used for this purpose, to help fund the most recent California Association of Clerks and Election Officials (CACEO) California Professional Election Administration Credential (CalPEAC) program, the election officials' training and certification classes, which include HAVA curriculum.

Regarding the request for the exact dollar figure that was originally allocated, the sentence quoted verbatim from the State Plan update includes the exact dollar figure that was originally allocated – \$25 million.

VoteCal

Page 4 of the Plan documents the steps that have been taken in the development of VoteCal, and concludes by stating, "The Secretary of State will be moving quickly to assess lessons learned on the VoteCal project so far and determine the appropriate next steps, including renewing efforts to contract with a private vendor to build and deploy the VoteCal system." Though the events leading to the VoteCal vendor contract termination happened recently, it would be helpful to include a projected timeline for completion of the various stages of VoteCal's development. Additionally, it would be

helpful to identify the funding mechanism for the continuation of this project. If Title III funding is to be used, it would be helpful to state why and how this money will be used here and in other sections that describe the VoteCal project.

RESPONSE

The projected timeline for the VoteCal is an estimate that became available on July 19, 2010 – 10 days after the close of the public comment period for the State Plan update. The estimate for full deployment to all counties of the VoteCal system – June 2014 – is included in a Special Project Report (SPR) that is still awaiting approval from state oversight agencies. That approval must be granted before the Secretary of State can begin preparing for release of a Request for Proposal (RFP) to seek bids for the project. However, that projected timeline in the SPR is speculative – the schedule for full deployment of the VoteCal system to all counties will be finalized in collaboration with the vendor that is selected for the project. The expected timeline for award of a contract to a vendor, which is also subject to change, anticipates awarding the contract to a system integration vendor in September 2011. This new information will be added to the State Plan update.

As to the question about the funding for the project, again, the VoteCal project is a Title III requirement (see HAVA Section 303) and is required to be included in the State Plan update budget. That is why the budget in Section 6 of this State Plan update clearly includes the use of these funds for this purpose. Again, the budget in Section 6 identifies the \$195 million that has been allocated to counties for voting system purchases to meet the requirements of Section 301, and includes the best available estimate at this time of \$65.6 million to establish and deploy the VoteCal voter registration system because these are the Title III requirements for which HAVA Title II money, the money budgeted under this State Plan update, are intended as a first priority.

Cost Summary

Although costs incurred and projected to be incurred appear throughout the document, it would be extremely beneficial for the Plan to include a summary chart or line item list in the Overview or in an appendix of total costs incurred to date and fund balance and – if possible – line item projections of costs to be incurred. Although we understand that this may be difficult given that the document points out that HAVA implementation issues are still in flux, it still seems that it would be of much value to include such a summary document.

RESPONSE

This comment includes two different requests for information.

The first request is for an accounting of HAVA funds previously allocated and spent. As the comment indicates, information on prior use of HAVA funds is provided throughout the document, giving the reader the programmatic context of the expenditures, in addition to the dollar values (see Sections 1, 2, 3, 6, 10 and 12). To help clarify how money has been spent, the Secretary of State will add a summary sheet showing receipt of funds, descriptions and amounts of expenditures and balances to the State

Plan update. The spending summary requested by the comment will be provided in Section 12 of the State Plan because that section provides readers with information about how the State succeeded in carrying out the State Plan in previous years.

The second request appears to reference information already provided in Section 6. In that section, the budget clearly identifies, as required by HAVA, the dedication of the funding that is the subject of this State Plan update – Title II funding – which is used to meet Title III requirements. Title III requirements include purchasing voting systems that meet HAVA Section 301 standards; providing voter information at polling places and providing provisional voting rights; and creation of a statewide voter registration system as described by HAVA Section 303. The budget in Section 6 reflects the continued commitment of the Secretary of State to the \$195 million allocated to counties through contracts for voting system upgrades and allowable poll worker training and voter education first initiated in December 2005. These funds, in fact, are the funds allocated to counties, for voting system replacement/modernization. This budget is the clear statement of intent to preserve that funding allocation that the comment requests. Furthermore, the Secretary of State is in the process now of extending the contractual deadline for expenditure of those funds from December 31, 2010, to December 31, 2012, subject to legislative approval. As the comment notes, completion of the VoteCal project – the statewide voter registration database – required by HAVA Section 303 is the other Title III eligible expense identified in the budget. The VoteCal project is one of the four priority areas in Title III mentioned above that the funds being budgeted by this State Plan update must be spent on first. As such, VoteCal is the other major expenditure identified in this State Plan update budget.

Repeated Elements

We greatly respect the need for the Plan to be comprehensive and its treatment of each of the 13 sections – without doubt – was aimed at being as thorough as possible. However, in being comprehensive, many elements are repeated several times – verbatim or nearly so - which contributes to the documents length. That length may make the Plan difficult to approach or understand.

We would suggest that there may be an opportunity to make the document more approachable by using references to elements instead of repeating them verbatim or nearly so. For example, there is language regarding the Statewide database and the Top-to-Bottom-Review that is repeated exactly or almost exactly in some areas of the document. Our suggestion would be that those elements – when they are subsequently repeated – be repeated by reference rather than at length.

RESPONSE

HAVA is a complex measure and the implementation measures taken to respond to HAVA requirements are even more complex. It was considered helpful for purposes of clarity, therefore, to provide a full explanation of the steps taken for HAVA implementation in each section of the plan where it was appropriate. This approach makes it possible to read each section of the plan independently without losing content and context.

Revising the State Plan update as proposed could have the unintended effect of making the document less clear and more ambiguous, and risks leaving out information the public may consider useful and helpful.

Approval Orders

Page 46, second paragraph, the Plan states that on August 3, 2007, “withdrawal of approval and approval orders based upon the findings of the top-to-bottom review for voting systems by three vendors” were released. We feel that it would be more accurate to state that the final approval orders were issued at the end of October 2007.

RESPONSE

The Secretary of State issued the final withdrawal and approval orders on August 3, 2007. However, as the comment indicates, those final withdrawal and approval orders were subsequently amended in October 2007. The State Plan update will be amended on Page 46 to reflect this fact.

Plan Deviation

Page 71 describes “factors that contributed to deviations in steps outlined in earlier State Plans ...” We would suggest that point number 4 (“Delay in receiving HAVA funding and HAVA guidance”) should contain more information regarding specific details regarding ongoing interpretations that effectively made budget planning throughout the state a kind of moving target. (See, for example, the EAC interpretation that is referenced in ***Voter Education and Pollworker Training Funding*** above.)

RESPONSE

This comment is correct and the State Plan update will be amended on Page 71.

Modified Primary vs. Proposition 14

Page 10 of the Plan describes various unique circumstances that add to the complexity of California’s election, including the third bullet point which describes primary election participation rules. This section will need to be updated to reflect the new Proposition 14 primary election system and the handling of decline to state voters, if this section is to remain at all.

RESPONSE

The passage of Proposition 14 at the June 8, 2010, Statewide Primary Election preceded the release of the State Plan update on June 10 by two days. The State plan update will be amended to note the passage of Proposition 14.

(END OF COMMENTS)

Thank you again for accepting our commentary regarding the State Plan.

If you have questions, please contact CACEO Vice-President Gail Pellerin at 831-454-2419.

Sincerely,

Rebecca Martinez
CACEO President



Gail L. Pellerin
CACEO Vice-President

From: *Sacramento County Registrar of Voters Jill LaVine (email message)*

"Thank you for this opportunity to comment. I have read the comments made by the CACEO and I agree with all of them. In addition I had a few suggestions.

RESPONSE

Regarding agreement with comments made by CACEO, see above responses.

Page 38 - Election Code 12309 is cited for the reason Inspectors are to be trained. You also need to include EC 19340 for the reason the first time poll workers need to be trained.

RESPONSE

The suggested clarification will provide readers with a better understanding of poll worker training requirements under California law and the State Plan update will be amended to include this clarification.

Page 63 - the document lists the benchmarks used to meet the HAVA requirements. After most of the bullet items, a link is listed for more details. Where is the link for the parallel monitoring reports? Is it no longer available? Can it be accessed by a paper copy?

RESPONSE

The State Plan update will be amended to include a link to these reports.

I have the same question for the bullet item on Monitoring and documenting Election Day concerns. No report or link is available.

RESPONSE

The State Plan update will be amended to include a link to the Election Day Observation and Poll Monitoring program reports.

Page 71 - after the bulleted list, this sentence is difficult to read/understand - "Actual experience with administering this critical federal program has also informed the SOS's efforts to implement the State Plan."

RESPONSE

The State Plan update will be amended to re-write the sentence to read: "The original State Plan was enacted in 2003 and updated in 2004. Both the original Plan and the subsequent update were done prior to the state embarking on any HAVA implementation efforts. Now, six years after the adoption of the last State Plan update, the Secretary of State has learned a great deal in terms of efforts to implement HAVA. This State Plan update is a reflection in part of what the Secretary of State has learned since the office first began to implement HAVA in 2005."

Page 81 - on June 7,2010, it states that the SOS has mailed notice to 50 statewide organizations for comments. Could a list of these organizations be made available on request or referenced in this document?

RESPONSE

Adding this information to the State Plan update would increase the size and the cost of reproducing the State Plan update, as required, in the *Federal Register*. However, to make the process as transparent as possible, the Secretary of State will post this information, as well as other supporting documentation about the process of developing the Draft State Plan update, on the "HAVA State Plan 2010 Update" webpage at www.sos.ca.gov/elections/hava/state-plan/.

(END OF COMMENTS)

Jill

Jill LaVine, Registrar of Voters, County of Sacramento, 7000 65th Street, Suite A,
Sacramento, CA 95823, 916-875-6558, Fax 916-876-5130

From: Disability Rights California

July 9, 2010

Secretary of State
Attn: Chris Reynolds
1500 11th St., 6th Floor
Sacramento, CA 95814

Via Email to: havapubliccomments@sos.ca.gov

RE: HAVA State Plan Comments

Dear Secretary of State Bowen:

Disability Rights California is an independent, non-profit, statewide organization mandated by the federal government to provide legal services to individuals with disabilities in California regarding their disability, civil and service rights. Disability Rights California is authorized under various federal statutes to ensure the protection and advocacy of all individuals with disabilities in the state and is the protection and advocacy system in California. Under the Help America Vote Act of 2002 (HAVA), Disability Rights California is charged with ensuring "the full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote and accessing polling places." 42 U.S.C. §15461.

Thank you for the opportunity to provide comments on the HAVA State Plan. Overall, Disability Rights California is pleased with the Plan, as it addresses many issues that people with disabilities have with voting systems in California. However, there are some areas of concern we wish to call your attention to.

Overview and Introduction

No comments.

Section One

No comments.

Section Two

According to the current HAVA plan description under Section Two [§254(a)(2)], the Secretary of State executes contracts with counties to engage in and be reimbursed for HAVA activities. Counties are only reimbursed for those activities which are authorized by HAVA, and thus can be effectively monitored for compliance with HAVA.

Unfortunately, even if a county's spending is in compliance with HAVA, the county might be prevented from the use of their purchases. In particular, we are concerned that counties will be prevented from using more than one accessible machine per polling

place, even where such purchases were authorized by HAVA. For example, we understand that Santa Cruz County was able to purchase several Section 301 (a)(3)(a) compliant voting machines, but when the Secretary of State decide, as part of the "Top-to-Bottom Review" process that only one of these systems can be in each polling place, they had to use their allotted funds to pay for storing the machines instead.

We believe voters with disabilities would be best served by increased availability of (and decreased stigmatization of) voting machines that are accessible to individuals with disabilities, i.e., voting machines which would meet the requirements of HAVA §301(a)(3).

We believe this can be best achieved if there is the option at the county level to obtain increased numbers of accessible voting machines, so that the local decision makers can arrange for increased accessible voting machines proportional to local need.

We therefore recommend that the Secretary of State encourage counties to evaluate whether additional accessible voting machines could be used in a particular polling place. If additional machines are needed, the Secretary of State should provide the county support in acquiring additional HAVA compliant machines with available HAVA or Maintenance of Effort (MOE) funding.

RESPONSE

The withdrawals of approval and re-approvals issued for two of the voting systems subjected to the top-to-bottom review, Sequoia and Diebold/Premier, specified that one direct recording electronic (DRE) voting unit shall be deployed per precinct. The re-approvals do allow counties to have a second DRE voting unit per precinct so a back-up unit is available in the event a DRE voting unit is taken out of service for any reason. The reapproval condition allowing one DRE voting per voting precinct does not apply to one of the voting systems subjected to the top-to-bottom review – the Hart Intercivic voting system. There is also no restriction on the number of ES&S Automark ballot-marking devices that can be deployed per voting precinct.

These conditions of voting system use are in place because the Secretary of State's top-to-bottom review detailed a number of security vulnerabilities in all of the voting systems tested. Based on these findings, the Secretary of State has limited the use of certain DRE voting machines. It was also determined that some of the problems discovered in the review can be mitigated if appropriate security and auditing procedures are in place. Therefore, the Secretary of State placed new conditions that will enhance the security of these voting systems. For these reasons, this condition of use for these voting systems will remain in place.

Section Two also addresses Secretary of State Bowen's 2010 expansion of the 2006 poll worker training guidelines. We strongly support the portion of these guidelines that covers the following topics:

- How to operate the DRE, or other voting machines accessible to individuals with disabilities. At such time as poll workers are trained on how to set up the

accessible voting machines, they should also be trained on how to cast a vote using the machine so they can instruct the voter.

- Disability sensitivity.
- Information on the legal rights of people with disabilities to vote. For example, people with disabilities have the right to vote unless a judge has ruled the person incapable of casting a vote.
- Ensuring that the entire polling place is accessible to persons with disabilities, including monitoring the location to check that the building remains accessible, and making sure that any signs directing voters to the accessible entrance are accurate.

However, in the course of observing poll worker trainings in four counties in California, we have noticed that not all of "these issues are covered in every poll worker training, with some issues not covered in my of the trainings we observed.

Therefore, we would like; to see increased oversight by the Secretary of State to ensure that the guidelines are actually applied in practice.

RESPONSE

Although accessibility is one of the dominant themes in HAVA, the specific Title III requirement for accessibility is found in voting system standards in Section 301. And as indicated in responses to other comments on the State Plan update, poll worker training is not a requirement of Title III. Again, EAC guidance (FAO 08-011) limits the ability to use HAVA funds for these purposes. However, the Secretary of State has taken a number of steps, especially recently, on her own and under the grant program found in HAVA Section 261. As the comment indicates, the Secretary of State recently took the initiative to expand the standards for poll worker training. The guidelines used to assess the accessibility of polling places, which were last issued in 2001, were updated this year also. An earlier \$3.345 million grant program allocated funds to all counties to improve physical access to polling places, and \$2.6 million in competitive grants have been awarded to 21 counties in the last two years. In the past six months, the Secretary of State allocated \$176,000 in grants to counties, so county surveyors could be trained on the new guidelines, as well as conduct surveys and purchase mitigation supplies to improve accessibility. A DVD of the training classes conducted by the California Department of Rehabilitation is being produced that will be provided to all counties in the coming months.

These steps were accomplished with the resources available to the Secretary of State and it is hoped county elections officials, which have statutory authority and responsibility for training poll workers have benefited from these efforts.

Section Three

Leading up to the November 2004 General Election, the Secretary of State earmarked \$9.9 million in HAVA Section 101 funding to counties for poll worker training and voter education grants.

California's initial State Plan and 2084 update contemplated the creation of an Election Academy to train prospective election officials. A significant amount of funding- \$25 million-was earmarked for this purpose, but there is no indication that an actual curriculum or program design was initiated.

As stated above, Disability Rights California staff observed poll worker training in four counties. In spite of the existence of the poll worker training guidance on the Secretary of State web site, the trainings were strikingly dissimilar, especially as they related to voters with disabilities. We encourage you to consider developing an "Election Academy". Were there an academy - there could be uniformity in instructors who travel from county to county giving uniform, comprehensive instruction to poll workers.

RESPONSE

As indicated in responses to other comments on the State Plan update, this issue is subject to the limitation placed on the use of the Title II funds budgeted in the State Plan update. As indicated previously (see response to Los Angeles County and CACEO comments), at this time these funds are to be used exclusively for the purpose of meeting Title III requirements. Those Title III requirements, as noted earlier, are purchasing voting systems that meet HAVA Section 301 standards; providing voter information at polling places and providing provisional voting rights under HAVA Section 302; and creation of a statewide voter registration system as described by HAVA Section 303. An Election Academy as described in California's initial 2003 HAVA State Plan is not a Title III requirement and is therefore not an allowable expense. The Secretary of State has, in the absence of the creation of an Election Academy taken other allowable steps to inform and educate elections officials about HAVA. Those steps include maintaining continual contact to serve as a liaison with federal agencies and clarify HAVA administrative and policy matters; issuing memos on an as needed basis for those same purposes; developing a HAVA compliance manual in collaboration with counties; and providing Title I funding, which can be used for this purpose, to help fund the most recent California Association of Clerks and Election Officials (CACEO) CalPEAC election officials training and certification classes.

Section Four

We continue to disagree with the Secretary of State's requirement that counties have one and only one direct recording electronic voting system (DRE) per precinct that is accessible to people with disabilities. This unnecessarily limits equal access to voting for people with disabilities and is contrary to Section 301(e)(3)(81) of the Help America Vote Act.

At the conclusion of the "Top to Bottom Review," it was decided that counties can only have one DRE machine at each polling place. See Press Release from the Office of the

Secretary of State dated August 3, 2007, available at <https://www.sos.ca.gov/voting-systems/oversight/ttbr/db07-042-ttbr-system-decisions-release.pdf>. This is contrary to federal law, which requires at least one DRE or other accessible voting system per polling place.

We acknowledge that ballots cast on a DRE may raise some security concerns for some voters. However, limiting the number of accessible voting systems to only one prohibits counties from making individualized decisions about the number of accessible voting systems that will meet the needs of voters with disabilities in their region. County election officials are in the best position to determine the number of accessible voting machines to place at a polling location. For example, at a poll monitor training that Disability Rights California staff attended, a poll monitor asked if they could request additional accessible voting machines since there are a lot of voters with disabilities in the precinct and there is usually a line for the DRE. Unfortunately, the answer was no, because only one accessible machine is allowed per polling place.

Only allowing one accessible machine per polling place perpetuates the stigmatization and segregation of people with disabilities. In many counties, voters use an accessible machine can be presumed to be voters with disabilities since nondisabled voters are often discouraged from using DREs. Disability Rights California staff observed poll worker training in four counties. In two of those counties, poll workers were told to only encourage voters with obvious mobility or vision disabilities to use DREs. This perpetuates stigma and discrimination of people with disabilities, and may raise privacy concerns if only one or two people use the DRE.¹

Disability Rights California encourages the restoration of the HAVA requirement that *at least one* accessible voting system be available in each polling place rather than restricting the policy to only one per polling place.

RESPONSE

The assertion that the Secretary of State's decision to limit the use of certain DRE machines to one per precinct is not consistent with federal law is inaccurate. Federal law requires at least one accessibly voting unit to be available in each polling place and the Secretary's voting system approval documents comply with that requirement entirely.

Section Five, Six, Seven

No comments.

Section Eight

We continue to strongly recommend that the Secretary of State survey all voters who use the accessible voting system polling places to identify problems and issues with accessible voting systems after each state election.

¹ We appreciate the Secretary of State's repeal of the rule requiring five people using a DRE voting machine before the votes could be counted.

One of the main points of Section 301 is to provide accessible voting systems for people with disabilities so they can vote in a private and independent manner. It is important that voters have an opportunity to tell the election officials and the Secretary of State whether or not this goal has been met. We do not believe simply identifying "incident reports" will capture the information needed to evaluate the accessibility of California's voting systems.

Additionally, we noted an error on page 63 for the link to the Election Day Observation reports. When we clicked on the link www.sos.ca.gov/elections/voting_systems/historic/historic_pm.htm, we reached a page stating "The page you are looking for cannot be found." However, we located the document at the following address: <http://www.sos.ca.gov/voting-systems/oversight/eday-reports.htm>.

RESPONSE

Surveying voters, particularly voters with disabilities, to gain insight into their experiences with the electoral process has been discussed by the Voting Accessibility Advisory Committee established by the Secretary of State. The Secretary of State looks forward to reviewing any survey data gathered by Disability Rights California and any other organization regarding the Election Day experiences of voters.

The appropriate link will be provided for the Election Day Observation reports in the final State Plan update.

Section Nine

Information about the State's HAVA complaint process remains difficult to find on the Secretary of State's website. This is due to the fact that the same complaint form is used by the State for general complaints as well as those directed towards fraud allegations and HAVA compliance problems.

We recommend that the HAVA complaint process and form be accessible from the home page and identified clearly with a banner and link.

We also recommend that the complaint form be revised in a manner which helps the complainant identify the HAVA violation at issue. For example, the addition of boxes which the voter could check to indicate the topic(s) of their complaint such as "I was not able to cast my ballot in private" or "I was not allowed an opportunity to verify my selections before casting my ballot."²

² See, Mississippi's HAVA Complaint form at:

<http://www.sos.ms.gov/links/elections/home/tab1/HAVAComplaintForm.pdf>

See also, Colorado's HAVA complaint form at:

http://www.elections.colorado.gov/content/Documents/Clerks%20Corner/SOS%20Approved%20Forms/2008_forms/HAVA_complaint_form_05.15.08.pdf.

Lastly, we recommend providing information on the website about how a voter who encounter accessibility barriers in completing the complaint form may request a reasonable accommodation from the Secretary of State's office.

RESPONSE

A direct link to the complaint form referenced in the comment is provided on the Secretary of State's Elections Division main page under the heading "Voter Information." This is the same location as complaint forms from other states recommended to the Secretary of State in the footnote, and seems an appropriate location.

A separate complaint form is now provided for HAVA complaints, in part because federal requirements for HAVA complaints differ from state requirements (HAVA complaints must be notarized, for instance).

The form currently includes "For more information or assistance" and lists the Secretary of State's voter information hotline contact number. However, specifying that assistance "filling out the form" will be provided may be a useful clarification and will be added to the form.

Section Ten

We suggest adding more detail to this section. Although it gives a general sense of where the money allocated for the purposes noted was spent, it includes little specifics concerning the programs. It would be helpful to know specifically what the nature of the funded programs were, who the partners were, how often the activities were conducted and how many voters or poll workers were trained. The lack of data makes it difficult to determine the effectiveness of the funded programs.

RESPONSE

This comment is similar to those provided by Los Angeles County and the CACEO. As indicated in responses to those comments, to help clarify how money has been spent, the Secretary of State will add a summary sheet showing receipt of funds, descriptions and amounts of expenditures and balances to the State Plan update. The summary will be provided in Section 10 of the State Plan because that section provides readers with information about Title I expenditures for the purposes of meeting HAVA Title III requirements, the spending the comment seeks to summarize.

Section Eleven

The state has made meaningful steps to increase communication about the implementation of HAVA. We hope the Secretary of State's office will continue to do all it can to meet with stakeholders and get input from the public.

RESPONSE

The Secretary of State will continue those meaningful steps to communicate with interested parties, including taking proactive steps such as meeting with members of the Voting Accessibility Advisory Committee established by the Secretary of State and

maintaining continual communication with elections officials through participation in CACEO monthly meetings and in monthly calls with all counties initiated by the Secretary of State.

(END OF COMMENTS)

In closing, thank you again for the opportunity to provide input and feel free to contact us if you have any questions about our comments. Further if you would like us to give you specific language in "addition and strikeout" style, please let us know.

Very truly yours,

Margaret Johnson
Advocacy Director

Hillary Sklar
Staff Attorney

Fred Nisen
Staff Attorney

From: *California Common Cause*

July 9, 2010

Honorable Debra Bowen
California Secretary of State
Attn: Chris Reynolds
1500 11th Street, Sixth Floor
Sacramento, CA 95814

RE: HAVA State Plan 2010 Update

Dear Secretary Bowen:

On behalf of California Common Cause, I write to thank you for convening the Help America Vote Act State Plan Advisory Committee (HAVA Advisory Committee) to participate in a process of providing insight and input to California's 2010 State Plan Update. In particular, we acknowledge the tremendous amount of time and effort that Chris Reynolds and numerous other Secretary of State staff have put into meeting with the HAVA Advisory Committee and writing the various iterations of a draft State Plan. I believe there was a significant amount of concurrence between the various members of the HAVA Advisory Committee, which included county voter registrars, voting rights organizations, good government groups, and academics.

Based on the overall discussion of the HAVA Advisory Committee, the consensus of the group was to create a State Plan Update that would both provide both a historical review of California's experience with election issues and efforts to meet the requirements of the Help America Vote Act, as well as serve as a road map for how the state would meet its continuing HAVA obligations as well as to set a standard for effective, responsive and accessible voting in the future. The SOS staff have effectively written a document that provides a good historical review.

Introduction

The language in the Introductory Section is much improved and reflects many of the comments provided by the HAVA Advisory Committee. In a joint letter from several Committee members sent in February 2009, we recommended a list of goals which we observe have been largely included in the Introduction. One omission was any reference to goals surrounding the implementation of a statewide voter registration database. Our recommended sentence was: "California will ensure that the statewide voter registration database is designed and maintained in a manner that is integrated with its voter registration efforts." We do suggest that some language be included in this statement of goals that references the creation of a functional statewide database.

RESPONSE

The specific language provided to the Secretary of State seems somewhat ambiguous with respect to intent, since the main purpose of a statewide voter registration database is to ensure people who want to register to vote have their registration information accurately captured. The Secretary of State will add the following language to the Introduction section: "The Secretary of State will ensure the statewide voter registration system required by HAVA is designed and operated in a manner that is consistent with HAVA Section 303 requirements to ensure that every legally registered voter is included in the VoteCal system and that no eligible voters be removed from the list."

Section 6

However, we believe that the State Plan Update should reflect the input of the HAVA Advisory Committee to include a more clear description of plans for the future. Both in meeting discussions as well as in a letter sent in February 2010, the HAVA Advisory Committee members made specific recommendations of future plans and performance measures that should be included. At least two sections where future plans can be delineated in greater detail are Sections 6 and 8.

The HAVA Advisory Committee generally agreed that plans should be laid out in Section 6 for how HAVA funds should be spent, in the event that all HAVA requirements had been met, including the implementation of the Statewide Voter Registration Database. The HAVA Advisory Committee proposed in a February letter that the Secretary of State set up Local Government Grant Program similar to other states to review proposals from counties to disperse grants that would fulfill the overall mission of HAVA. We believe that the current draft does an excellent job of laying out the plans for expending funds to establish the database, as the final specific requirement of HAVA left for the state to fulfill. The State Plan should additionally lay out a framework for

deciding how any residual funds would be spent. This framework might not be implemented until after the database was implemented and operational. However, setting up the framework, whether it is the Local Government Grant Program, or another framework, in advance would lead to greater transparency about the process and allow counties to make longer term plans around voting systems and operations investments.

The Overview of the State Plan lays out the steps that have been taken in the development of VoteCal. We recommend that the language in Section 6, starting on Page 49 not simply be a restatement of the language in the Overview, but that it provide greater detail as to the challenges of implementing a statewide database in California, and also include a projected timeline for completion of the various stages of the Statewide Voter Registration Database's development.

RESPONSE

As discussed in responses to similar comments raised by Los Angeles County, the Secretary of State appreciates the benefits to be gained from providing additional resources for the types of activities identified by the advisory committee, including voter education programs, election official and poll worker training, maintaining voting equipment and modernizing polling places.

However, as the comment and State Plan update draft language describing the grant program notes, such a program would be contingent upon EAC guidance as to when State Plan update budgeted funds may be used to improve the administration of elections.

According to HAVA, once the state certifies it complies with the HAVA Title III requirements noted above, these funds may be used to improve the administration of elections (see HAVA Sections 254(b)(2) and 251(b)(2)(A)). The Secretary of State has not yet certified to HAVA Title III compliance. Therefore, funds budgeted under this State Plan update must be used to meet Title III requirements. With the exception of voting system maintenance, the elements proposed under the advisory committee's Local Government Grant Program are not Title III requirements. Voting system maintenance is clearly an allowable expense and the Secretary of State has reimbursed counties for these expenses. In addition, the Secretary of State's office has allowed counties to expend funds for voter education and poll worker training activities in certain circumstances, as described in EAC guidance FAO 08-011 and whenever those costs fall under the minimum requirements payment program created by the Secretary of State pursuant to HAVA Section 251 (b)(2)(B).

Finally, the advisory committee's proposed Local Grant Program recommended that counties be allowed to use funds to improve polling place accessibility. There is an existing program for these purposes that uses HAVA Section 261 funds, funding that is not reflected in this State Plan update. Under that polling place accessibility improvement program, the Secretary of State provided all counties with a proportionate share of \$3.345 million in HAVA Section 261 funds. In addition, the Secretary of State has awarded, through a competitive grant program, an additional \$2.6 million to 21 counties. A third round of competitive grants available to counties that had not previously been awarded grants will be awarded later this year. Lastly, in 2010 the

Secretary of State updated the statewide guidelines used to assess the physical access to polling places and allocated \$176,000 in grants to counties, so county surveyors could be trained on the new guidelines, as well as conduct surveys and purchase mitigation supplies to improve accessibility.

Despite the limitations placed on the use of funding by HAVA, this State Plan update provides the necessary flexibility to respond to the kinds of needs described in the advisory committee's proposed Local Government Grant Program in the future. As the budget in Section 6 explains, funds that do not need to be budgeted for Title III purposes at this time will be used in the future either to meet Title III requirements or to improve the administration of elections. As noted, the VoteCal statewide voter registration system, a Title III requirement, has not yet gone out for rebid and Title III compliance has not been certified at this time. Final costs for the VoteCal project, including maintenance and operation costs, are unknown at this time. However, at the appropriate time, this State Plan update, as drafted, will provide the Secretary of State with the flexibility to meet mandated costs and other appropriate needs.

For these reasons, the advisory committee's proposed Local Government Grant program will not be included in the State Plan update.

As regards additional language to describe the challenges and timeline for implementing the VoteCal project, there is information on the Secretary of State's website that describes in great detail the efforts that have been made thus far at www.sos.ca.gov/elections/votecal/, which speak to the complexity of the project. It should be noted that the scope of the VoteCal project is undergoing review, based on lessons learned to date, a process that will take months to complete. That process may result in changes to the project scope.

The projected timeline for the VoteCal is an estimate that became available on July 19, 2010 – 10 days after the close of the public comment period for the State Plan update. The estimate for full deployment to all counties of the VoteCal system – June 2014 – is included in a Special Project Report (SPR) that is still awaiting approval from state oversight agencies. That approval must be granted before the Secretary of State can begin preparing for release of a Request for Proposal (RFP) to seek bids for the project. However, that projected timeline in the SPR is speculative – the schedule for full deployment of the VoteCal system to all counties will be finalized in collaboration with the vendor that is selected for the project. The expected timeline for award of a contract to a vendor, which is also subject to change, anticipates awarding the contract to a system integration vendor in September 2011. This new information will be added to the State Plan update.

A link to information about the VoteCal project and this new information about the projected timeline for the project will be added to the State Plan update.

Section 8

The HAVA Advisory Committee discussed adding performance measures in Section 8 such as: 1) measuring voter accessibility for voters with language assistance needs; 2)

analyzing the patterns and underlying causes of provisional ballot usage; and 3) in addition to evaluating California polling places, also continuing to observe poll workers from county to county to refine poll worker training guidelines, particularly with regard to accessibility and handling special issues such as provisional ballot usage. We strongly advocate these recommendations be included in the State Plan.

RESPONSE

As was discussed by advisory committee members, some of these measures are difficult to design and implement, especially with limited resources. Nonetheless, the Secretary of State has taken steps to address these issues:

- A statewide assessment of language needs down to the precinct level was recently accomplished in collaboration with the UC Berkeley Institute for Governmental Studies.
- Information on provisional voting ballot use is being gathered through the EAC Election Day Survey and is available on the Secretary of State's website at www.sos.ca.gov/elections/nvra/ca-biennial-report-to-eac.htm.
- New standards for poll worker training were created.
- Allowable HAVA funding was provided to the CACEO to fund CalPEAC training classes
- Election Day and poll worker training observation programs were conducted
- New guidelines on physical access to polling places were issued in 2010.
- Funding for elections officials to be trained on those standards was awarded.
- Money was provided to counties over the past four years for training, surveying and mitigation of inaccessible polling places through grant programs over the last four years.

(END OF COMMENTS)

I appreciate the opportunity to review the final draft and present comments. Please feel free to contact me at (213) 252-4552 if you would like to discuss any of these recommendations in greater detail.

Sincerely,

Kathay Feng
Executive Director
California Common Cause