

Voting by Overseas Citizens and Deployed Military Personnel

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Introduction. The principal problem in serving overseas citizens and military voters is how best to return a marked ballot to local election officials. Prior to 2009, insufficient time was provided for an overseas voter's ballot to be delivered and make it back in time to be counted. While the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986 required all states, the District of Columbia, and U.S. territories to permit U.S. citizens abroad to register to vote and to vote by absentee ballot, it did not provide for uniform standards by which states must abide in ensuring overseas voters could exercise their vote.¹

The Military and Overseas Voter Empowerment (MOVE) Act of 2009 attempted to solve the problem by enacting four primary provisions:²

- eliminating the requirement for notarization of overseas ballots.
- requiring all states to make voter registration at applications for absentee ballots available electronically along with a Federal Write-In Absentee Ballot (FWAB) in case the official ballots do not arrive in time.
- requiring overseas and military voters to re-register for each election cycle instead of every two election cycles.
- requiring all states to make provision to have ballots available for sending to overseas and military voters at least 45 days before the scheduled election day.

The Move Act requirement to have ballots available 45 days prior to the scheduled election date has been or is being implemented across all states with relatively minor issues remaining to be resolved. Some states are still arranging their election schedules to permit sufficient time between certification of the last election and the 45 day deadline. There does not appear to be any partisan disagreement over this issue. For example, S.B. 100 passed by the Texas 82nd Legislature in 2011, changed the Texas election schedule to comply with the MOVE Act. The measure passed with only a single vote cast in opposition. During the 83rd Legislature, S.B. 904 continues the process by fixing some minor issues with MOVE compliance with little, if any, disagreement on partisan grounds.

¹ For a summary of the history of military absentee voting in the United States, refer to Donald S. Inbody. 2010. *Political Barriers to Military Voting: A Brief Historical Overview*. Arlington, VA: Overseas Vote Foundation. Available at <https://www.overseasvotefoundation.org/files/researchnewsletterJune2010.pdf>.

² Summary drawn from Overseas Vote Foundation, "What the Move Act Means for You.." Accessed 25 May 2013, <https://www.overseasvotefoundation.org/node/282>.

In general, delivery of the blank ballot to the voter has been solved. Most states permit electronic transmission, including fax or email, of a blank ballot to the overseas voter. A recent survey of overseas voters indicates increasing satisfaction with and use of such means of obtaining the blank ballot (Murray & Smith 2013; OVF 2013). About half of 2012 UOCAVA ballots were transmitted electronically.

Return of the marked ballot is the real problem that requires further work to enhance the convenience and speed. Many ballots returned from overseas or military voters are rejected for late arrival, lack of signature, or other administrative errors. Anecdotal evidence indicates that voters using the electronically provided blank ballot are often confused by the instructions. Local election officials report receiving returned ballots in various non-standard forms. Ballots returned in such condition increase the likelihood of error in transcribing the ballot for submission for counting.

A related problem that has not been solved is how best to instruct overseas and military voters how to process the ballot and return it properly to the appropriate election jurisdiction in a timely manner. Additionally, the exceptionally low turnout rate by overseas voters is a problem that will likely require study beyond this report.

Observations. Review of data collected by the U.S. Election Assistance Commission, the Overseas Vote Foundation, and others reveals a low rate of ballots being returned from overseas or military voters in mid-term elections (about one third) with higher return rates (about two-thirds) during presidential elections. That pattern resembles typical behavior by voters in the general population.

Complete data for the 2012 election are not yet available, but preliminary analysis indicates a higher rate of ballot return in 2012 than in previous years. The proportion of ballots rejected for any reason is decreasing, perhaps indicating some familiarity with the process by the overseas voter. Table 1 below shows data for the general elections beginning with 2006 through 2012.

(Table 1 here)

Ballot Delivery/Transmission. Getting blank ballots to overseas non-military voters is not a serious problem. Mail can usually deliver a ballot in under a week and in most cases in just a few days. There does appear to be a problem with delivery of mail to military personnel deployed outside the United States and particularly those stationed in hostile fire zone. The U.S. Postal Service Administration has demonstrated that it can routinely deliver mail from the United States to Bagram Air Force Base in Afghanistan in four days. However, the Military Postal Service Administration is

reported to have difficulty in forwarding mail in a timely manner to Army soldiers, particularly if the soldier is in the field or has been restationed recently.³

Transmission of blank ballots to overseas and military voters by electronic means has been generally accepted as appropriate and reasonably secure. Most states permit such delivery now and all are in various stages of implementing it. There is wide variance in methodology, however, and some study is necessary to discover whether there are significant differences in accuracy, convenience, and security. A promising technology is an active pdf file that, once completed by the voter, converts the votes cast into a barcode that can be scanned at the local election office.

Ballot Return. In general, non-military overseas voters return their absentee ballots at a higher rate than do military personnel. While the rates for the 2012 general election are not yet available, this pattern has been consistent over the past several elections. The difference may be explained by the fundamental differences in the two populations.

In general, the non-military overseas citizen is older than the military population.⁴ Additionally, the overseas citizen is likely more stable in terms of living location and having access to the usual communications means. Military personnel are younger and more likely to be in locations without convenient work spaces and communications. Military personnel are also more likely to be moved between installations, thus increasing instability.

The most common reason for rejection of UOCAVA ballots is late arrival. However, states are not consistent in how they handle late arriving ballots. For example, Texas permits ballots mailed from overseas addresses to be accepted up to 5 days following election day while Florida permits them to be accepted up to 10 days after the election. Minnesota does not permit any late arriving ballots to be counted. Consistency among states will help military voter assistance offices to provide consistent information to deployed military personnel.

Election administrators interviewed for this study were generally of the opinion that ballots returned from overseas should be accepted as valid as long as there is reasonable evidence that they were actually mailed from overseas and were received in the election office within some reasonable time after the election. Most believed that accepting the ballot after the actual election date was reasonable

³ The Texas Director of Elections mentioned that he heard many stories from his Army sources expressing dissatisfaction with the ability of the Military Postal System (MPS) to deliver mail to Army personnel in Afghanistan. He had no information about MPS efficiency for the other services or to places other than in Afghanistan.

⁴ In 2010, about 52.7 percent of the U.S. population was 35 years of age or older. The non-military overseas population is likely similar. In contrast, only 19.7 percent of active duty military personnel are over the age of 36. Additionally, only 14.7 percent of enlisted personnel are over the age of 36.

as long as it was likely that the ballot was actually completed prior to the election deadline. Additionally, many returned ballots have other tracking information attached that would permit the local election official to easily determine when the ballot was mailed.

Assisting military personnel in remote locations to return ballots by electronic means has been adopted by nearly half of the states. Other states are resistant to this means, largely on security grounds - both security of the ballot as well as attempting to preserve the secret ballot concept. However, states are increasingly recognizing that military personnel pose a special case for returning of a ballot.

In Texas, H.B. 1129 (2013) permits voters who are members of the armed forces on active duty and currently eligible for hostile fire pay to return an absentee ballot by email. The Texas Secretary of State is directed to conduct a one-county pilot program and report back to the legislature by January 1, 2015. Under this pilot program, the selected voters would be able to complete the ballot and the voter signature form, scan them, and return them to the local election official by email. The Secretary of State will determine some means of ensuring the identity of the voter such as copies of the common access card (CAC) and the voter's military email address.

UOCAVA ballots, as well as absentee ballots in general, are handled differently than are ballots cast in the local precinct. Since most states use specially designed forms that can be scanned to retrieve the voter's data, the UOCAVA and absentee ballot information must be transcribed from the mailed paper to the appropriate form. Absentee ballot boards, usually consisting of at least two people and party observers, take each ballot and hand-transcribe the information onto the official form. This opens the increased likelihood of human error. Under most circumstances, states require local election officials to wait until at least election day before permitting the absentee ballot board from opening and beginning processing.

Many local election officials are recommending that preprocessing of such ballots be permitted. By permitting pre-processing, absentee ballots can be prepared in a more systematic, less time constrained manner and will be less likely to incur human error. This process could begin as early as when the ballot arrives, or some other pre-set day prior to election day. In the case of ballots that are received without a security envelope, many local election officials go ahead and pre-process the ballot, anyway. Interviews with state election directors indicate they are generally in favor of such actions and do not discourage their local election officials.

A minor issue that hampers even the method above is the variance in printers and paper sizes. Most U.S. forms are prepared assuming standard letter 8 ½ x 11 inch paper. However, many overseas

locations use A4 paper (8.27 in x 11.7 in.)⁵. This seemingly minor variation in paper size often results in some material at the bottom of pages being cut off in the copying process. In many cases, the paper size issue was enough to cause barcodes to be cut off and thus unavailable for machine scanning of the submitted ballot.

The best answer, however, is to adopt technology that reduces the cast ballot to a barcode that can be easily scanned by the local election official. Such technology will substantially reduce the likelihood of human error in data transcription to a local ballot.

Ballot Rejection. Other than UOCAVA ballots being returned as undeliverable due to bad addresses (about one third), the principal reason for rejection of a returned ballot submitted for counting is missing the state deadline. In 2010 about one third of all rejected ballots were set aside for this reason, down from 43 percent in 2008. The second most common reason for rejection was a problem with the voter signature, either no signature, an incorrect signature, or the signature did not match the one on the FPCA or registration certificate. In 2010 about seven percent were rejected for this reason, down from nearly 11 percent in 2008. Additionally, a small number are rejected due to lack of a postmark. See Table 2 below.

(Table 2 here)

Federal Write-in Absentee Ballot. Evidence indicates substantial confusion among military and overseas voters about how to use the Federal Write-in Absentee Ballot (FWAB). FWABs submitted for counting at local election offices are rejected about 1/3 of the time. The usual reason they are rejected is that no FPCA exists - in other words, the voter did not register to vote. It appears that many voters assume that the FWAB is a ballot that can be submitted at a late date as an emergency ballot. While some states use the FWAB as both a registration and voting instrument, most do not.

Partisan Issues. There is no credible evidence to suggest that partisan politics has interfered with the enfranchisement of overseas and military voters. Indeed, considerable evidence indicates that state legislatures and election administrators are bending over backward to ensure that all UOCAVA votes are counted. The only pressure on local election administrators is a general urging, largely by military voting special interest groups, to ensure that ballots are made available to overseas military voters as required by federal election law. The only issue brought up by election administrators were queries by political parties to obtain lists of overseas and military voters. Those requests are refused as such data is generally protected by state law.

⁵ A4 paper standard is 210 mm x 297 mm.

Voter Efficacy: A core problem with low participation is related to the age of most military personnel. About 65 percent of all active duty military personnel are under the age of 30 (DOD 2012). About 77 percent of active duty enlisted personnel are under the age of 30.⁶ The 18-29 year-old age group is demonstrated to have the lowest probability of voting. Any efforts to increase the likelihood of military personnel to vote must take the general low political efficacy of this age group into account. However, recent research has revealed that military personnel in this age group may have a higher political efficacy than do civilians in the same age group (Inbody 2009).

Military Voting Assistance Offices. The Move Act required the Department of Defense to establish military voter assistance offices at all military installations. While this was accomplished in many cases, the DOD Inspector General reported that the system was not fully functional in time for the 2012 general election. Congress did not provide additional funding for the offices, and as a result, many were underfunded or not established at all. The DOD Inspector General questioned whether offices on military bases was the best way to reach military voters. “The biggest population segment in the military are 18 to 25-year-olds, who have the lowest voting turnout. Placing [voting-assistance offices] on all geographically separated installations worldwide may not be the most effective way to reach that age group.” The DOD IG recommended that the Federal Voting Assistance Program (FVAP) develop a legislative proposal to request relief from the MOVE Act. FVAP recommends a program that invested in “intuitive, easy-to-use web-based tools...” rather than voting assistance offices as a means that could increase effectiveness and reduce cost (DOD IG 2012).

The DOD IG followed up with a second report in April 2013 and found that the services had established voting assistance offices and had staffed them. The report noted outdated regulations and a lack of accommodation for new technological advances. Specifically, they recommended that FVAP enhance their survey tool to ensure a higher response rate in order to ensure they were using correct metrics and collecting adequate data on military voter response (DOD IG 2013).

A principal problem for military voting assistance offices is the wide variation in state election laws. It is difficult for even the most energetic assistance officer to stay up to date on what is required in each state. Local unit collateral duty voting officers are even less likely to fully comprehend the details. Local election officials continually report having to deal with military voters who have received inaccurate information from such sources.

⁶ Data obtained from the Defense Manpower Data Center report that, in 2011, 43.2 percent of all military personnel are 25 years old or younger. Another 22.8 percent of enlisted personnel are between the ages of 26 and 30. For enlisted personnel only, 49.3 percent are 25 or younger with another 22.8 percent between the ages of 26 and 30.

What Works: Best Practices

1. *Electronic Ballot Delivery and Mail Tracking.* States should continue to implement and refine laws to permit transmission of a blank ballot to overseas voters by electronic means to include email. Additionally, efforts by the U.S. and Military Postal Systems to track and speed the transmission and return of ballot material should be further encouraged. This should involve electronic tracking the individual pieces of mail as well as a feedback method for the postal service to determine which pieces of mail may have not been delivered in a timely manner.

2. *Extended Ballot Receipt Time.* To the extent possible, permitting local election officials to count overseas ballots after election day appears to reduce the rejection rate. Several states have such laws in place, now, but are not consistent.

3. *Electronic ballot return.* Currently, 22 states permit returning overseas ballots by email or fax. This method reduces the turnaround time and increases the likelihood that the ballot will be counted. Additionally, use of technologies that permit the marked ballot to be reduced to a scannable bar code that local election officials can more easily, and more accurately reduces the chance of human error while transcribing the ballot data to their local forms.

4. *Accept Federal Write-in Absentee Ballot as Voter Registration.* several states already have laws permitting local election officials to accept the FWAB as a voter registration form, even in cases where no FPCA had been previously filed. Thus, a received, marked FWAB will essentially be accepted as a same-day registration form as well as a submitted ballot.

5. *Extended Ballot Preprocessing Time.* Permitting local election officials to pre-process absentee ballots before the scheduled election day increases accuracy of transcribed absentee ballots. Local election officials report liking the capability. That, along with technologies that eliminate the need to hand transcribe ballots, such as bar codes, are also well-received by local election officials.

6. *Flexibility for Local Election Officials.* More flexibility for local election officials in counting ballots from overseas citizens and military personnel is a common request. Such flexibility may include permitting them latitude in determination as to whether the ballot in question was actually completed prior to the end of election day. This provides for those cases in which a letter mailed from a military postal service was not postmarked, but may have other tracking data attached. Other flexibility may include permitting secure video conferencing to mark a ballot.

7. Proxy Administration. Several election officials thought that states should adopt laws permitting, in limited cases, the designation of a proxy to administratively prepare a ballot for military personnel in hostile fire zones or other arduous duty locations where access to normal means of communication may be limited.

8. Overseas and Military Voter Education. While currently mandated military voting assistance offices are functioning in the manner envisioned, they may not be the best use of resources. The DOD IG recommends, and evidence would support, a broad effort to establish websites with detailed information for voters on how to access their state voting process and use of social media sites such as Tumblr, Twitter, Facebook, and others.

This effort would include states providing more detailed instructions for overseas and military voters to cast an absentee ballot. Such enhanced instructions should include video examples as well as simplified access via state election websites. For example, in Texas, access to all voting information is available on <http://www.votetexas.gov>, thus providing a simple URL instead of being buried inside the Secretary of State's website. The site provides an obvious button placed on the homepage for overseas and military voters. Along with such instructions, state election officials should visit military installations within their states to interact with the commanders and voting assistance officers to ensure accurate, comprehensible, and convenient access to instructions and voter education materials.

Data Collection.

Part of the problem in fully understanding the issue of overseas and military voting is the lack of some data. The EAC now collects a substantial volume of data about UOCAVA voting, but more can be done. Specifically, EAC could collect data as to whether UOCAVA ballots transmitted and returned from military personnel are sent to and/or received from an overseas location. Currently, all military UOCAVA ballots are counted together as a single data group. Most local election officials already know that information and it can be collected for future analysis with relative ease.

Additionally, a post-survey validation conducted on the FVAP election survey would determine whether reported voting actually occurred. This will ensure a more accurate reporting of military turnout. This system already exists and has been used with the American National Election Study in past years.

Table 1. UOCAVA Data Summary for Elections 2006 - 2008

	2006	2008	2010	2012
Overseas Eligible Voters	4,417,527	4,972,217	4,972,217	4,737,600
UOCAVA Ballots Transmitted	992,034	989,208	611,058	-
UOCAVA Ballots Returned	333,179	680,463	211,749	-
Pct Ballots Returned	33.6%	68.8%	34.7%	74.3%
UOCAVA Ballots Counted	244,027	637,216	197,390	-
Pct Transmitted Ballots Counted	24.6%	64.4%	32.3%	71.6%
Pct Returned Ballots Counted	73.2%	93.6%	93.2%	96.4%
Overseas Vote Turnout	7.5%	13.7%	4.3%	12.1%

Data sources:

Overseas Eligible Voters - United States Election Project (McDonald)

UOCAVA Ballot numbers - Election Assistance Commission

2012 Percentages - Overseas Vote Foundation (Murray & Smith)

Table 2. Reasons for UOCAVA Ballot Rejections 2006 - 2008

	2008	2010
Not received on time or missed deadline	43.7%	32.4%
Problem with voter signature	10.7%	7.1%
No postmark	2.2%	0.2%

Data source: EAC UOCAVA Reports

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