BOARD OF ELECTIONS
IN
THE CITY OF NEW YORK
EXECUTIVE OFFICE, 32 BROADWAY
NEW YORK, NY 10004–1609
(212) 487–5300
FAX (212) 487–5349
www.vote.nyc.ny.us

AGENDA
COMMISSIONERS' MEETING
TUESDAY, JUNE 9, 2009
AT 1:30 P.M.

1. Minutes
   a) 5/12/09
   b) 5/19/09
   c) 5/26/09
   d) 6/02/09

2. Marcus Cederqvist
   a) HAVA Update
   b) Lunch Policy for Working Meetings
   c) Language Assistance Advisory Group meeting – June 15, 2009

3. John O'Grady
   a) Poll Site Accessibility Grants

4. Steven H. Richman
   a) Draft Letter to State Board re: Change in Voter Registration Procedures

5. Tom Sattie
   a) Audio Vendor Contract

6. John Ward
   a) Vacancy Report

For Your Information

- Letter from NYSBOE re: NYCBOE's Poll Worker Training Addendum and Request for Allocation
- Letter to Commissioner Martha K. Hirst, Department of Citywide Administrative Services

- Letter to Justice Fern A. Fisher, Deputy Chief Administrative Judge for New York City Courts
- New York State Division of Human Rights - Steven Elroy Goodner v. BOE (Case No. 10133838)
- 6210 Committee E-mail re: Conference Call with New York State Board of Elections
- Matter of John A. Tabacco v. John W. Vitucci (Motion No.: 2009-403)
- Statement of Cost for April 2009 from New York City Law Department
- Letter to Mark Paige, Director, New York City Office of Management and Budget
- HAVA Amended State Implementation Plan
- Federal Court's Approval of the 2009 Pilot Program (Case 1:06-cv-00263-GLS)
- Letter to Todd Valentine and Stanley Zalen, Co-Executive Directors, New York State Board of Elections

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STEVEN H. RICHMAN
GENERAL COUNSEL
Tel: (212) 487-5338
Fax: (212) 487-5342
E-Mail:
srichman@boe.nyc.ny.us

June 8, 2009

TO: The Commissioners of Elections

FROM: Steven H. Richman, General Counsel

COPIES: Marcus Cederqvist, George Gonzalez, Pamela Perkins, Steve Ferguson, John Owens, Steven Denkberg & Charles Webb

RE: **REVISED DRAFT:**
City BOE Comments on the Proposed Amendments to the State Board of Elections Rule § 6217.5(3)(a)

Attached for your consideration, review and approval of the REVISED DRAFT of the Board of Elections in the City of New York's recommended comments in opposition to the State Board of Elections Proposed Amendments to § 6217.5(3)(a) of the State Board's Rules.

Please note that the initial draft of these comments were prepared by NYC Assistant Corporation Counsel Doris Bernhardt of the Affirmative Litigation Division and incorporates some minor edits and additions of this writer.

Thank you for your consideration and action in this matter.

Attachment

REVISED DRAFT PREPARED BY
Steven H. Richman, General Counsel
based on the initial draft of
The NYC Law Department

June __, 2009

New York State Board of Elections
40 Steuben Street
Albany, NY 12207-2108
Attn: Robert Brehm
Deputy Director of Public Information

Re: Comments on the Proposed Amendments to the Rules and Regulations of the State Board of Elections, N.Y. Comp. Codes R. & Regs. tit. 9, § 6217.5(3)(a)

To the New York State Board of Elections:

On behalf of the Commissioners of Elections in the City of New York (the "Commissioners"), I write to provide comments on the proposed amendments to the Rules and Regulations of the State Board of Elections, § 6217.5(3)(a) of Title 9 of the Official Compilation of Codes, Rules, and Regulations of the State of New York. The staff of the State Board has advised counsel for the City Board that while the Proposed Amendments are currently under review by the Governor's Office of Regulatory Reform and have not been authorized for publication in the State Register, the State Board would receive and accept comments in advance of any formal comment period under the New York State Administrative Procedure Act (SAPA).

The Commissioners oppose the proposed amendments: by removing the requirement that county boards of elections electronically document their compliance with the bipartisanship provisions of § 6217.5(3)(a) and the Election Law, the amendments decrease accountability and transparency. Bipartisanship is a basic tenant of New York's election law and procedure, and is a principle that is especially crucial to voter registration and qualification.

The State Constitution Article II, § 8 requires that "[a]ll laws creating, regulating or affecting boards or officers charged with the duty of qualifying voters . . . shall secure equal representation of the two political parties which, at the general election next preceding that for which such boards or officers are to serve, cast the highest and the next highest number of votes." Under the Election Law, each application for registration must be "received by two members of the local board of inspectors, representing respectively the two political parties as provided herein for the appointment of inspectors." Election L. § 5-202(2). Cancellation of a voter's registration must be approved by two members of the county board of elections or two employees of the board representing different political parties. Election L. § 5-404(1). Whenever a voter's registration is challenged, a bipartisan team of workers must investigate the voter's status. Election L. § 5-702(1).

Part 6217 of the Rules and Regulations of the State Board of Elections was enacted pursuant to § 5-614 of the Election Law, which created the Statewide Voter Registration List, a computerized list of registered voters known as NYSVoter. Part 6217 is comprised of "regulations in relation to the operation of . . . NYSVoter," including the creation and maintenance of the computerized list. N.Y. Comp. Codes R. & Regs. tit. 9, § 6217.1(1). Reflecting the importance of bipartisanship to voter registration, the regulation requires that "[a]ll voter registration activity must be done by a bipartisan team of workers to ensure fairness and uniformity in the process." N.Y. Comp. Codes R. & Regs. tit. 9, § 6217.5(3).

Under the existing version of § 6217.5(3)(a), before the information in an application for voter registration is sent to NYSVoter, the application must be reviewed by a member of each of the two major political parties, each of whom must electronically sign his or her work. Contrary to principles of bipartisanship, the proposed amendments to § 6217.5(3)(a) remove the electronic signing obligation and provide no alternative method for documenting compliance with the bipartisanship

requirements of the regulation. The State Board of Elections, county boards, and voters will be left with absolutely no means of verifying compliance with the bipartisanship requirements of Election Law § 5-202(2) and the Rules and Regulations of the State Board of Elections.

The Commissioners consider the proposed amendments a move in the wrong direction. Indeed, rather than *removing* the electronic verification requirements from § 6217.5(3)(a), the State Boards *should add* electronic verification requirements throughout § 6217, to ensure adherence to the Election Law's bipartisanship requirements in all aspects of NYSVoter's creation and maintenance. *See e.g.*, N.Y. Comp. Codes R. & Regs. tit. 9, §§ 6217.7 (processing of voters who move between counties, including cancellation of registration); 6217.9 (determining voter registration status, including purged status); 6217.10 (voter registration list changes and list maintenance, including cancellation of registration).

For the foregoing reasons, the Commissioners of Elections in the City of New York urge the Commissioners of the New York State Board of Elections to reject the proposed amendments to § 6217.5(3)(a).

Very truly yours,

THE BOARD OF ELECTIONS IN THE CITY OF NEW YORK

By: _____
Steven H. Richman, General Counsel

Copy: Peter J. Kiernan, Counsel to the Governor
Amelia F. Stern, Acting Director and Counsel, Governor's Office of Regulatory Review
Kathleen O'Keefe, Team Leader- Program and Counsel Staff, New York State Assembly
Christopher Higgins, Assistant Counsel to the Majority, New York State Senate

NEW YORK STATE BOARD OF ELECTIONS
Douglas A. Kellner, Co-Chair
James A. Walsh, Co-Chair
Evelyn J. Aquila, Commissioner
Gregory O. Peterson, Commissioner
Stanley L. Zalen, Co-Executive Director
Todd D. Valentine, Co-Executive Director

BOARD OF ELECTIONS IN THE CITY OF NEW YORK
The Commissioners of Elections
Marcus Cederqvist, Executive Director
George Gonzalez, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steve Ferguson, Director, Management Information Systems
Charles Webb, III, Esq., Counsel to the Commissioners
Steven Denkberg, Esq., Counsel to the Commissioners
John Owens, Esq., Director of Campaign Finance
Reporting Enforcement

NEW YORK CITY LAW DEPARTMENT
Michael A. Cardozo, Corporation Counsel
Eric Proshansky, Deputy Chief, Affirmative Litigation Division
Doris Bernhardt, Assistant Corporation Counsel
Michael Pastor, Assistant Corporation Counsel

BOARD OF ELECTIONS

IN
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EXECUTIVE OFFICE, 32 BROADWAY
NEW YORK, NY 10004–1609
(212) 487–5300
www.vote.nyc.ny.us

DATE June 09, 2009
TO: Commissioners

FROM: John Ward
Finance Officer.
RE: Vacancies

					Inc.	New.
1	Assistant General Counsel				$75,000	
2	Valerie Marshall	Adm. Asst.	N.Y.	Dem.	$39,440	$37,562
3	Robert Helenius	VMT	Bklyn	Rep .	$27,818	$26.493
4	Lisa Sattie	Adm. Asst.	S.I.	Dem.	$39,440	$37,562
5	Steve Morena	Clerk.	Qns	Rep.	$27,111	$25,820
6	Roselie DeDomenico	Clerk.	Qns	Dem.	$27,111	$25,820

STATE BOARD OF ELECTIONS

40 STEUBEN STREET
ALBANY, N.Y. 12207-2108
Phone: 518/474-6336 Fax: 518/474-1008
URL: http://www.elections.state.ny.us

June 2, 2009

Executive Director Marcus Cederqvist
Deputy Executive Director George Gonzalez
New York City Board of Elections
32 Broadway
7th Floor
New York, NY 10004

Dear Mr. Cederqvist and Mr. Gonzalez:

On 6/1/09, the State Board of Elections has received your Poll Worker Training addendum for additional training on the use of the Ballot Marking Devices (BMDs). We accept your amendment and will allocate $9,500 for that request.

Thank you for your prompt attention to this matter. If you have any questions or need further assistance with the application process, please call us at (518) 474-1953.

Sincerely,

Patrick Campion
HAVA County Funds Coordinator

Gregory Fiozzo
HAVA County Funds Coordinator

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June 1, 2009

Hon. Martha K. Hirst
Commissioner
Department of Citywide Administrative Services
Municipal Building
One Centre Street
New York, NY 10007

Dear Commissioner Hirst:

As you know, the Board of Elections in the City of New York (BOE in NYC) has been working with your staff, especially Lori Fierstein, Michael Gaurafis, Glenn Pymento and Ann Zieha of your Real Estate Services group to meet our needs for new facilities. Renovations are currently underway in Brooklyn (5112 Second Avenue), and we expect imminent delivery of our other storage facility in Brooklyn (4312 Second Ave) for lever machines and other associated equipment.

Several recent events, however, have necessitated a schedule change in renovations for the Bronx (1780 Grand Concourse), Manhattan (450 W 33rd Street), Staten Island (1 Edgewater Plaza), and Queens (66-26 Metropolitan Avenue) voting machine facilities (VMFs). As a result of the U.S. Election Assistance Commission's temporary suspension of the State of New York's electronic Pollsite Voting Systems (PVS) certification facility (SysTest Labs, Inc), the schedule for full PVS implementation was affected statewide.

The State Board of Elections is engaged in discussions with the U.S. Department of Justice on a proposal that would modify the Remedial Orders issued by Judge Gary L. Sharpe of the US District Court for the Northern District of New York, the United States. Under that proposal, selected Boards of Elections would engage in a pilot program for the 2009 election cycle with full statewide implementation delayed until the Primary Election in 2010. The City of New York will not participate in the limited implementation pilot program due to the size and complexity of elections here and will therefore be using lever machines during the 2009 election cycle.

The project team has spent the past several weeks developing a schedule for full implementation in 2010, and it is imperative that renovations in the Bronx, Manhattan, Staten Island, and Queens VMFs occur starting January 2, 2010 and conclude by April 1, 2010. Any delays have a direct impact on our ability to conduct the Primary and General Elections in 2010, resulting in the BOE in NYC being non-compliant with Judge Sharpe's Federal Court Order. Therefore, we ask that all work on construction plans, scopes of work, bids, etc. continue this year so as to be completed in time for a January 2, 2010 construction start at these VMFs.

We have discussed this schedule with your Real Estate Services group and are pleased with their verbal concurrence. Nonetheless, I wanted to take this opportunity to communicate with you directly and to request a written commitment to this construction timeframe to assist the Board as it moves forward. Please feel free to contact me at (212) 487-5412 if you have any questions or if I can be of any assistance.

Sincerely,

Marcus Cederqvist,
Executive Director

cc: Lori Fierstein, Deputy Commissioner, Real Estate Services
Michael Garaufis, Portfolio Manager
Glenn Pymento, Director of Engineering Services
Ann Zieha, Director of Architectural Services
Hon. Frederic M. Umane, President
Hon. Julie Dent, Secretary
Hon. Jose Miguel Araujo, Commissioner
Hon. Juan Carlos "J.C." Polanco, Commissioner
Hon. James J. Sampel, Commissioner
Hon. Nancy Mottola–Schacher, Commissioner
Hon. Naomi C. Silie, Commissioner
Hon. J.P. Sipp, Commissioner
Hon. Gregory C. Soumas, Commissioner
Hon. Judith D. Stupp, Commissioner
George Gonzalez, Deputy Executive Director
Pamela Perkins, Administrative Manager
Steven H. Richman, General Counsel
Lucille Grimaldi, EVS Manager
Nicholas Squicciarini, Facilities Manager
John O'Grady, Chief Voting Machine Technician
Hon. Kevin Sheekey, Deputy Mayor for Government Affairs
Hon. Mark Page, Director of Management and Budget
Steve Monahan, Gartner, Inc.
Michael Kinara, Gartner, Inc.

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STEVEN H. RICHMAN
GENERAL COUNSEL
Tel: (212) 487-5338
Fax: (212) 487-5342
E-Mail:
srichman@boe.nyc.ny.us

June 4, 2009

Hon. Fern A. Fisher
Deputy Chief Administrative Judge
For New York City Courts
Office of Court Administration
State of New York
111 Centre Street, Room 1240
New York, N.Y. 10013

Dear Justice Fisher:

I am writing to you on behalf of the Board of Elections in the City of New York to advise you and your colleagues, the administrative judges of New York State Supreme Court in the various counties within the City of New York of the calendar relating to the September 15, 2009 Primary Election.

Pursuant to the authority vested in it by the Election Law of the State of New York, this Board adopted the enclosed Designating Petition and Opportunity to Ballot Petition Rules governing the process for designating petitions and opportunity to ballot petitions for the September 15, 2009 Primary Election on March 24, 2009. The Attorney General of the United States granted pre-clearance pursuant to Section 5 of the Voting Rights Act of 1965 on May 20, 2009. The Calendar of Filing Dates for said Primary Election was approved by the Commissioners on June 2, 2009.

Under the Election Law, proceedings relating to designating petitions must be commenced by **July 30, 2009** or three (3) business days after the Board of Elections hearing where a designating petition is invalidated. The Board has scheduled hearings on challenges to designating petitions beginning on **Monday, August 3, 2009** and continuing on **Tuesday, August 4, 2009** and **Wednesday, August 5, 2009** (if necessary). In addition, hearings on any challenges to any opportunity to ballot petitions are scheduled for **Tuesday, August 11, 2009.**

As always, if you, your staff, the Presiding and Administrative Judges or their staffs have any questions or require additional information, please call me directly at (212) 487-5338.

I want to thank you in advance for your cooperation, assistance and understanding in this matter.

Very truly yours,

STEVEN H. RICHMAN
General Counsel

Copies:

(with enclosure)

Hon. Ann T. Pfau, Chief Administrative Judge, New York State Office of Court Administration

Hon. Luis A. Gonzalez, Presiding Justice, Appellate Division of New York State Supreme Court, First Department
Hon. A. Gail Prudenti, Presiding Justice, Appellate Division of New York State Supreme Court, Second Department

Copies (continued):

(with enclosure)

Administrative Judges:
Hon. Joan B. Carey, New York County Supreme Court, Civil Term
Hon. Barry Salman, Bronx County Supreme Court, Civil Term
Hon. Sylvia Hinds-Radix, Kings County Supreme Court, Civil Term
Hon. Jeremy S. Weinstein, Queens County Supreme Court
Hon. Philip G. Minardo, Richmond County Supreme Court

Hon. David Schmidt, Justice Presiding, Special Election Part, Kings County Supreme Court

Maria Logus, Esq., Chief of Staff for the Deputy Chief Administrative Judge for New York City Courts
Susan Harkavy, Deputy Clerk, Appellate Division, Second Department
Lawrence H. Birnbaum, Esq., Chief Court Attorney, NYS Supreme Court - New York County
Howard Leventhal, Esq., Special Referee, NYS Supreme Court - New York County
Kenneth Schiffrin, Esq., Principal Court Attorney, NYS Supreme Court- Kings County
Robert Dioga, Court Attorney-Referee, NYS Supreme Court – Richmond County
Anthony D'Angelis, Chief Clerk, NYS Supreme Court- Queens County
John Segretti, Esq., NYS Supreme Court - Bronx County

Todd Valentine, Esq., Co-Executive Director, NYS Board of Elections
Stanley Zalen, Esq., Co-Executive Director, NYS Board of Elections

Thomas Crane, Esq., Assistant Corporation Counsel of the City of New York in charge of the General Litigation Division
Stephen Kitzinger, Assistant Corporation Counsel of the City of New York

(without enclosure)

:

BOARD OF ELECTIONS IN THE CITY OF NEW YORK
Commissioners of Elections
Marcus Cederqvist, Executive Director
George Gonzalez, Deputy Executive Director
Pamela Perkins, Administrative Manager
John Owens, Director, Campaign Financial Reporting Enforcement
Steven Denkberg, Counsel to the Commissioners
Charles Webb, III, Counsel to the Commissioners
Joseph LaRocca, Coordinator, Candidate Records Unit

Comm b
P41

NEW YORK STATE
DIVISION OF HUMAN RIGHTS
ADAM CLAYTON POWELL STATE OFFICE BUILDING
163 WEST 125TH STREET, ROOM 401
NEW YORK, NEW YORK 10027

(212) 961-8650
Fax: (212) 961-4425
www.dhr.state.ny.us

DAVID A. PATERSON
GOVERNOR

GALEN D. KIRKLAND
COMMISSIONER

June 1, 2009

Steven H. Richman, Esq., General Counsel
Board of Elections in the City of New York
32 Broadway Suite 7TH FLOOR
New York, NY 10004

Re: Steven Elroy Goodner v. Board of Elections in the City of New York
Case No. 10133838

This is in response to your request for an extension of time for submission of material to the New York State Division of Human Rights.

An extension is hereby granted until **Friday, June 19, 2009.**

No further requests for extensions will be considered.

Very truly yours,

David E. Powell

David E. Powell
Regional Director

Comm Hy

FYZ

Steven H. Richman

From: Bill Fruci [wfruci@saratogacountyny.gov]

Sent: Wednesday, June 03, 2009 3:55 PM

To: Tom Ferrarese; Helen Kiggins

Cc: Peter Quinn; Tom Turco; Steven H. Richman; Scott Kiedrowski; Laura Costello; Judith Layhee; Don Wart; Cinda Goodrich; Cathy Richter Geier; Brian Quail; Bill Scriber; Bill Fruci; Anthony Scannapieco; John P. O'Grady

Subject: 6210 committee

Pinkie & Tom,

Please see the attachment.

Thanks,

Bill & Peter

Date: June 1, 2009

To: Helen "Pinkie" Kiggins, ECA President
Thomas Ferrarese, Executive Committee Chair
6210 Sub Committee Members

From: Peter Quinn & William Fruci, 6210 Co-Chairs

RE: conference call with SBOE

On May 28, 2009, we had a conference call with the SBOE. This meeting was a follow up from our March 4th meeting discussion of the 6210 sub committee reports and comments. According to the SBOE 6210 and 6219 have been in place and were adopted by the State Board Commissioners already. However, 6218 has not been adopted and therefore, the public comment period ends the later part of July 2009.

Even though 6210 and 6219 have been adopted by the SBOE, they will be using our committee reports and comments to help further in developing policies and procedures which address the rules and regulations. It was further discussed, that in order to get a full understanding of the rules and regulations, we will need to go through an election using Plan A. The PILOT Program that will be conducted for this year elections will provide the SBOE with better feedback and information from the county boards. They claim that Plan B never provided us with a true or real picture for using the 6210 rules and regulations.

In addition, the SBOE will be providing us with further information regarding 6210 on or before the June ECA Summer Conference. We will provide the ECA Executive Committee all documentation that comes forth from the SBOE.

Peter Quinn
Bill Fruci
6210 Co-Chairs

Comm Mtn
Fyi

Matter of John A. Tabacco v John W. Vitucci
Motion No: 2009-403
Slip Opinion No: 2009 NY Slip Op 74040
Decided on June 04, 2009
Court of Appeals Motion Decision
Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431.
This motion is uncorrected and subject to revision before publication in the Official Reports.

In the Matter of John A. Tabacco,

Respondent,

v

John W. Vitucci,

Respondent,

The Board of Elections in the City of New York,

Appellant.

Motion for leave to appeal dismissed upon the ground that the issues presented have become moot.

Com Mtg
Pay

Steven H. Richman

From: Majerus, Kenneth [kmajerus@law.nyc.gov]
Sent: Tuesday, June 02, 2009 10:06 AM
To: Marcus Cederqvist; Steven H. Richman
Subject: STATEMENT OF COST, APRIL 2009

Attached is your agency's statement for April 2009. We have arranged the cases by division to assist you in identifying the matters. We have included all or part of both the plaintiff and defendant names, also to help identify the matters. Included is a running total of each division's hours. This is located after the last matter for each division.

As before, if you see a case you believe is erroneously attributed to your agency, please let me know.

Thank you.

Ken Majerus
Chief of Operations
City of New York Law Department
100 Church Street
New York, NY 10007
(212) 788-0373
(212) 788-0386 - fax
kmajerus@law.nyc.gov

Date: *5/22/2009*

Summary Charges to *BOARD OF ELECTION*

for Apr. 1, 2009 - Apr. 30, 2009

Number of Matters	8						
Total Attorney Hours	16.75				*Attorney Hours YTD*	1095.75	
Total Attorney Charges	$2,235.59				*Attorney Charges YTD*	$149,801.74	
Total Disbursement	$500.00				*Disbursement YTD*	$1,807.93	
Total Workers' Compensation Administrative Cost	$400.00	*for*	20	*claims*	*WC Admin Cost YTD*	$4,071.00	
Tort - Labor Attribution Summary	$0.00				*Tort Labor Costs YTD*	$0.00	
Grand Total	$3,135.59				*Grand Total YTD*	$155,680.67	
Total Workers' Compensation Actual Expenditure	$18,784.00				*Workers' Comp Actual Expenditure YTD **	$159,009.00	

YTD = July 1, 2008 to Present

*** = WC Actual Expenditure July 1, 2008 to Present**

Appendix A

Matters Detail BOARD OF ELECTION

for Apr. 1, 2009 - Apr. 30, 2009

Caption	*Matter Number*	*Date*	*Staff*	*Hour*	*Rate*	*Description*	*Amount*
Affirmative Litigation							
CITY OF NEW YORK VS NEW YORK STATE BOARD OF ELECTIONS	2009009787	4/1/2009	BERNHARDT , DORIS	3.00	$125.84	Research	$377.53
CITY OF NEW YORK VS NEW YORK STATE BOARD OF ELECTIONS	2009009787	4/6/2009	BERNHARDT , DORIS	2.50	$125.84	Research	$314.61
CITY OF NEW YORK VS NEW YORK STATE BOARD OF ELECTIONS	2009009787	4/13/2009	BERNHARDT , DORIS	0.25	$125.84	Conference	$31.46
CITY OF NEW YORK VS NEW YORK STATE BOARD OF ELECTIONS	2009009787	4/14/2009	BERNHARDT , DORIS	0.25	$125.84	Conference	$31.46
CITY OF NEW YORK VS NEW YORK STATE BOARD OF ELECTIONS	2009009787	4/14/2009	BERNHARDT , DORIS	1.00	$125.84	Research	$125.84
CITY OF NEW YORK VS NEW YORK STATE BOARD OF ELECTIONS	2009009787	4/17/2009	BERNHARDT , DORIS	0.50	$125.84	Telephone Conversation	$62.92
CITY OF NEW YORK VS NEW YORK STATE BOARD OF ELECTIONS	2009009787	4/21/2009	BERNHARDT , DORIS	0.50	$125.84	Research	$62.92
			Total Hours:	**8.00**			

Case Attorney Total YTD:	$3,676.37	*Case Attorney Total:*	$1,006.74
Disbursement YTD:	$0.00	*Disbursement Total:*	$0.00
Matter Total YTD:	$3,676.37	*Matter Total:*	$1,006.74

Total Hours:	**8.00**		
Division Attorney Total YTD:	$3,676.37	*Division Attorney Total:*	$1,006.74
Disbursement YTD:	$0.00	*Disbursement Total:*	$0.00
Matter Total YTD:	$3,676.37	*Matter Total:*	$1,006.74

Caption	*Matter Number*	*Date*	*Staff*	*Hour*	*Rate*	*Description*	*Amount*
Appeals							
MARSHALL, VALORIE VS ELECTIONS, BOARD OF	06LE000078	4/7/2009	ROOTENBERG , SHARYN	0.25	$130.53	Case Review	$32.63

MARSHALL, VALORIE VS ELECTIONS, BOARD OF	06LE000078	4/7/2009	ROOTENBERG , SHARYN	0.25	$130.53	Correspondence	$32.63

Total Hours: **0.50**

Case Attorney Total YTD:	$65.27	***Case Attorney Total:***	$65.27
Disbursement YTD:	$0.00	***Disbursement Total:***	$0.00
Matter Total YTD:	$65.27	***Matter Total:***	$65.27

Total Hours: **0.50**

Division Attorney Total YTD:	$54,846.56	***Division Attorney Total:***	$65.27
Disbursement YTD:	$0.00	***Disbursement Total:***	$0.00
Matter Total YTD:	$54,846.56	***Matter Total:***	$65.27

Caption	*Matter Number*	*Date*	*Staff*	*Hour*	*Rate*	*Description*	*Amount*
Contracts and Real Estate							
CONT & RE ADM TIME-BD OF EL	04CR900036	4/8/2009	TAK , ESTHER	1.50	$111.94	Drafting/Review of Transactional Do	$167.91

Total Hours: **1.50**

Case Attorney Total YTD:	$2,506.00	***Case Attorney Total:***	$167.91
Disbursement YTD:	$0.00	***Disbursement Total:***	$0.00
Matter Total YTD:	$2,506.00	***Matter Total:***	$167.91

Total Hours: **1.50**

Division Attorney Total YTD:	$2,506.00	***Division Attorney Total:***	$167.91
Disbursement YTD:	$0.00	***Disbursement Total:***	$0.00
Matter Total YTD:	$2,506.00	***Matter Total:***	$167.91

Appendix A

Caption	Matter Number	Date	Staff	Hour	Rate	Description	Amount
General Litigation							
GEN LIT ADM TIME - ELECTIONS, BOARD OF vs	04GL900014	4/7/2009	KITZINGER , STEPHEN	1.00	$147.76	Communication with Client	$147.76
GEN LIT ADM TIME - ELECTIONS, BOARD OF vs	04GL900014	4/13/2009	KITZINGER , STEPHEN	1.00	$147.76	Intra Office Conf/Communicatn	$147.76
GEN LIT ADM TIME - ELECTIONS, BOARD OF vs	04GL900014	4/24/2009	KITZINGER , STEPHEN	1.00	$147.76	Communication with Client	$147.76
GEN LIT ADM TIME - ELECTIONS, BOARD OF vs	04GL900014	4/27/2009	KITZINGER , STEPHEN	1.00	$147.76	Intra Office Conf/Communicatn	$147.76
			Total Hours:	**4.00**			
		Case Attorney Total YTD:	$13,623.99			***Case Attorney Total:***	$591.05
		Disbursement YTD:	$0.00			***Disbursement Total:***	$0.00
		Matter Total YTD:	$13,623.99			***Matter Total:***	$591.05
MASLOW, LORI S., ET AL., VS WILSON, LLOYD, ET AL.	2006003035	4/29/2009	KITZINGER , STEPHEN	1.00	$147.76	Intra Office Conf/Communicatn	$147.76
			Total Hours:	**1.00**			
		Case Attorney Total YTD:	$851.63			***Case Attorney Total:***	$147.76
		Disbursement YTD:	$0.00			***Disbursement Total:***	$0.00
		Matter Total YTD:	$851.63			***Matter Total:***	$147.76
REYNOLDS, JAMES J. VS QUEENS COUNTY BOARD OF ELECTIONS, ET AL.	2008031296	4/17/2009	KITZINGER , STEPHEN	0.50	$147.76	Communication with Client	$73.88
REYNOLDS, JAMES J. VS QUEENS COUNTY BOARD OF ELECTIONS, ET AL.	2008031296	4/17/2009	KITZINGER , STEPHEN	0.50	$147.76	Intra Office Conf/Communicatn	$73.88
			Total Hours:	**1.00**			
		Case Attorney Total YTD:	$3,234.74			***Case Attorney Total:***	$147.76
		Disbursement YTD:	$0.00			***Disbursement Total:***	$0.00
		Matter Total YTD:	$3,234.74			***Matter Total:***	$147.76

	Total Hours:	**6.00**	
Division Attorney Total YTD:	$80,669.55	***Division Attorney Total:***	$886.57
Disbursement YTD:	$604.50	***Disbursement Total:***	$0.00
Matter Total YTD:	$81,274.05	***Matter Total:***	$886.57

Caption	*Matter Number*	*Date*	*Staff*	*Hour*	*Rate*	*Description*	*Amount*
Labor And Employment Law							
COLLINS, MELODY VS ELECTIONS, BOARD OF	2008038245	4/6/2009	LINDSAY , ANDRE	0.25	$110.04	Review of Documents	$27.51

	Total Hours:	**0.25**	
Case Attorney Total YTD:	$5,837.65	***Case Attorney Total:***	$27.51
Disbursement YTD:	$0.00	***Disbursement Total:***	$0.00
Matter Total YTD:	$5,837.65	***Matter Total:***	$27.51

MARSHALL, VALORIE VS ELECTIONS, BOARD OF	06LE000078	4/7/2009	ROSENBAUM , BRUCE	0.50	$163.17	Supervision/Management	$81.59

	Total Hours:	**0.50**	
Case Attorney Total YTD:	$81.59	***Case Attorney Total:***	$81.59
Disbursement YTD:	$0.00	***Disbursement Total:***	$0.00
Matter Total YTD:	$81.59	***Matter Total:***	$81.59

	Total Hours:	**0.75**	
Division Attorney Total YTD:	$5,919.23	***Division Attorney Total:***	$109.10
Disbursement YTD:	$0.00	***Disbursement Total:***	$0.00
Matter Total YTD:	$5,919.23	***Matter Total:***	$109.10

Appendix A

Caption	*Matter Number*	*Date*	*Staff*	*Hour*	*Rate*	*Description*	*Amount*
Legal Counsel							
Board of Elections - DOJ Litigation	2007040566	7/22/2008	Disbursement		$0.00	LEGAL CONSULTANT	$500.00

	Total Hours:		
Case Attorney Total YTD:	$0.00	*Case Attorney Total:*	$0.00
Disbursement YTD:	$500.00	*Disbursement Total:*	$500.00
Matter Total YTD:	$500.00	*Matter Total:*	$500.00
	Total Hours:		
Division Attorney Total YTD:		*Division Attorney Total:*	$0.00
Disbursement YTD:	$500.00	*Disbursement Total:*	$500.00
Matter Total YTD:	$500.00	*Matter Total:*	$500.00

Agency Attorney Total YTD:	$149,801.74	*Agency Total Attorney Dollars:*	$2,235.59
Disbursement YTD:	$1,807.93	*Total Disbursement:*	$500.00
Matter Total YTD:	$151,609.67	*Grand Matter Total:*	$2,735.59

FYI

Marcus Cederqvist

From: Gewolb, Matt [MGewolb@council.nyc.gov]
Sent: Friday, June 05, 2009 4:04 PM
To: Marcus Cederqvist
Subject: FW: Letter to Mark Paige to fully fund dedicated Ballot Marking Device (BMD) poll worker positions

Fyi.

Have a great weekend. mg

From: Drucker, Jeremy
Sent: Friday, June 05, 2009 3:51 PM
To: Martinez, Ramon; 'emunson@cityhall.nyc.gov'
Cc: Gewolb, Matt; Barrientos, Patricio
Subject: Letter to Mark Paige to fully fund dedicated Ballot Marking Device (BMD) poll worker positions

HELEN SEARS
COUNCIL MEMBER, 25TH DISTRICT
QUEENS

DISTRICT OFFICE
37-30 75TH STREET
JACKSON HEIGHTS, NY 11372
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THE COUNCIL
OF
THE CITY OF NEW YORK

CHAIR
WOMEN'S ISSUES'S

COMMITTEES
FINANCE
HEALTH
JUVENILE JUSTICE
STANDARD & ETHICS
LAND USE
SUB COMMITTEE
ZONING & FRANCHISE

June 5, 2009

Mark Page
Director
New York City Office of Management and Budget
75 Park Place, 8th Floor
New York, NY 10007

Dear Director Page:

On behalf of our respective committees, Governmental Operations and Finance, we are writing to express our support for the full funding of dedicated Ballot Marking Device (BMD) poll worker positions for all future election events. As you know, BMDs were recently made available at every City poll site in an effort to ensure that persons with disabilities have the ability to vote privately and independently.

Sadly, at Council hearings following the 2008 primary and general elections, persons with disabilities testified that, in many cases, poll workers were insufficiently trained to properly operate the

BMDs. Instead, poll workers were forced to work "double-duty", both operating the BMDs and performing a variety of other tasks over the course of the primary and general elections. The result, in many cases, was unfair and unequal treatment for persons with disabilities as they attempted to exercise their fundamental right to participate in the democratic process. Such a result is plainly unacceptable. And while the CBOE has requested adequate funding on multiple occasions to properly address this issue, no such funding has been forthcoming.

We believe, and past election events have shown, that proper use of a BMD requires a poll worker who is adequately trained and who is assigned solely to assisting BMD users in operating the devices. At our committees' May 18, 2009 Executive Budget Hearing, the CBOE testified that the cost of placing an appropriate number of dedicated BMD poll workers at City polling sites would be approximately $550,000 per election event.

We believe that this amount should be provided and we look forward to meeting with you soon to discuss how such an appropriation might be accomplished.

Best regards,

Council Member Helen Sears

Council Member David Weprin

Jeremy Drucker
Director of Communications
Council Member Helen Sears
718-803-6373

FYI

Marcus Cederqvist

From: STAN ZALEN [SZALEN@elections.state.ny.us]
Sent: Thursday, June 04, 2009 10:35 AM
To: Margaret Fung; Esmeralda Simmons; Kathleen O'Keefe; Marcus Cederqvist; Christopher Hilderbrant; Joan Silvestri; Steven Carbo; Ronald Hayduk; Thomas Ferrarese; Aimee Allaud; June O'Neill; David Previte; Neal Rosenstein; Brad Williams; Helen Kiggins; Senator Addabbo; Anita Katz; Sharon Shapiro
Cc: STAN ZALEN; David Kogelman
Subject: HAVA Amended State Implementation Plan

2009 Amended State Plan.pdf (5...

Dear Task Force Members:

Thank you very much for your great help. Your organization, level of preparation, and interest was tremendously helpful and invigorating for myself and our staff. I understand that the final product will not completely satisfy all of you, but I hope that you can see and appreciate the many ideas and suggestions that were incorporated in the Plan, which is attached. The Plan was sent yesterday to the Election Assistance Commission.

Again, I thank all of you for your hard work and for many of you who took valuable time to make numerous trips to Albany.

Regards,

Stanley

HELP AMERICA VOTE ACT

AMENDED STATE IMPLEMENTATION PLAN

NEW YORK STATE BOARD OF ELECTIONS

Version 5-20, 2009

TABLE OF CONTENTS

New York State HAVA State Plan Introduction

For the first time in the history of the United States, the federal government has committed to sweeping election reforms which enhance the voting process in this country. The Help America Vote Act of 2002 (HAVA), requires all states to meet minimum standards for voting systems and for the administration of the electoral process, from voter registration to the casting of the ballot.

HAVA is the result of 18 months of negotiations between congressional representatives and members of the elections community, advocates for persons with disabilities, and members of ethnic and language minority groups. The problems surrounding the 2000 Presidential election were the catalyst for this legislation. In order to guarantee the intended results, HAVA leaves very little discretion to the states in enacting the changes mandated by the legislation. For example, while states may decide which voting system(s) it wishes to use, the system selected must meet the stringent minimum standards set out in the federal legislation.

The implementation of HAVA in New York State required several changes which would improve the conduct of elections and our voter registration procedures. Among the major changes required by HAVA are:

- replacement of 19,843 lever machines used in 15, 571 election districts in the November 2000 election with voting system which increase the accessibility for persons with disabilities; provides alternate language accessibility as required by the Voting Rights Act of 1965; and gives all voters an opportunity to assure the accuracy of their vote before it is cast;
- establishment of a single, interactive computerized statewide voter registration list, maintained by the state, which will enable the elimination of duplicate registrations;
- verification of voter identification information, enhancing New York's ability to maintain complete and correct voter registration lists;
- creation of a state-based administrative procedure for hearing and resolving citizen complaints involving violations of HAVA provisions, and
- use of provisional ballots.

HAVA provides significant federal funding for the many mandates placed upon the states, including replacement of lever machines and punch card voting devices, the training of election officials and workers, the education of the general public, and the creation of a statewide voter registration system. The statute requires each State intending to use these funds to apply for and certify that the funds will be used for the purposes outlined in the statute. Additionally, the law requires the submission of a plan which outlines how the State will use the funds to meet the requirements of the law, and how it will monitor and disperse those funds. The procedures for developing the State Plan, as well as the contents of the plan, are set out in detail in the statute.

Because federal money was appropriated in FY2003, New York submitted its plan before the end of that fiscal year to ensure our fair share of federal money. New York met the requirements of HAVA through the development of the initial State Plan with the input of the HAVA Task Force. The Task Force participated in five public meetings, where an open discussion between

members and the public ensued Issues were discussed and alternative methods for resolving those issues were explored. Ultimately the State's Chief Election Official prepared and submitted the Plan which articulated the priorities for the State in implementing HAVA.

This Amended State Plan includes the participation of a newly constituted Task Force. It provides a framework within which the State of New York will continue to work to meet the statutory requirements of HAVA. That framework includes goals and a time frame for meeting them, as well as standards for determining the success of our progress. While this plan provides the framework to allow New York access to its fair share of federal money, it is not intended to provide definitive answers to all of the questions which need to be addressed for the implementation of HAVA. The Amended Plan sought to update the original Plan, recognizing that ongoing discussions and decisions in New York are needed to fully implement this important piece of legislation. The Chief Election Official is committed to engaging in these discussions with all interested parties, as has been done throughout this process.

Outline of the State Plan

Section 254 of the Help America Vote Act of 2002 outlines the required elements for the State Plan. New York's State Plan follows the 13 subsections found in Section 254 and uses them as a series of questions which the State Plan then addresses in detail.

The State Plan contains a description of each of the following:

Section (1): How the State will use the requirements payment to meet the requirements of title III; (Voting Systems Standards (§301); Provisional Voting and Information Requirements (§302); Computerized Statewide List and Voters who Register by Mail (§303), and to carry out other activities to improve the administration of elections.

Section (2): How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in Section (1), including a description of:

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

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

Section (3): How the State will provide for programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of Title III.

Section (4): How the State will adopt voting system guidelines and processes which are consistent with the requirements of Section 301.

Section (5): How the State will establish a fund for the purposes of administering the State's activities under this part, including information on fund management.

Section (6): The State's proposed budget for activities under this part, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on:

– The costs of the activities required to be carried out to meet the requirements of Title III;

– The portion of the requirements payment which will be used to carry out activities to meet such requirements; and

– The portion of the requirements payment which will be used to carry out other activities.

Section (7): How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.

~~**Section (**~~**Section (8):** How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including:

– Timetables for meeting each of the elements of the plan;

– Descriptions of the criteria the State will use to measure performance and the process used to develop such criteria; and

– A description of which official is to be held responsible for ensuring that each performance goal is met.

Section (9): A description of the uniform, nondiscriminatory state-based administrative complaint procedures in effect under Section 402.

Section (10): If the State received any payment under Title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.

Section (11): How the State will conduct ongoing management of the plan, except that the State may not make any material change in the administration of the plan unless the change:

– Is developed and published in the Federal Register in accordance with Section 255 in the same manner as the State Plan;

– Is subject to public notice and comment in accordance with Section 256 in the same manner as the State Plan; and

– Takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register.

Section (12): In the case of a State with a State Plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the State Plan for the previous fiscal year and of how the State succeeded in carrying out the State Plan for such previous fiscal year.

Section (13): A description of the committee which participated in the development of the State Plan in accordance with Section 255 and the procedures followed by the committee under such Section and Section 256.

Section 1: How the State Will Use the Requirements Payment

OBJECTIVE:

Describe how the State will use the requirements payment to meet the requirements of Title III (Voting Systems Standards (§301); Provisional Voting and Information Requirements (§302); Computerized Statewide List and Voters who Register by Mail (§303)), and to carry out other activities to improve the administration of elections.

GOAL:

The Help America Vote Act of 2002 (HAVA), Public Law 107-252, establishes minimum election administration standards for states. It specifically requires the State of New York to:

- Replace all lever machines and punch card voting devices used by counties for elections;
- Certify new and existing voting systems according to national standards;
- Improve voting equipment accessibility, to include physical and language accessibility;
- Enhance existing provisional voting system requirements;
- Establish a statewide complaint system;
- Provide training for election officials and poll workers;
- Increase voter education for new voting systems; and,
- Create a new uniform statewide voter registration list.

PRESENT STATUS:

The State of New York continues to face significant challenges in upgrading its voting systems, but despite the difficulties encountered with the certification process, New York continues to pursue voting system certifications that are commensurate with the degree of testing New York feels is necessary to ensure the goals of HAVA The selection of a new voting system was directed by the State Legislature to rest with each County Board of Elections, to ensure that local needs which are best understood by local election administrators, are met. Uniformity across New York will be achieved through specific regulations which govern the use, deployment, storage and maintenance of our new voting systems. Other state statutes and rules and regulations continue to cover topics surrounding elections, including: voter identification; voting system certification; what constitutes a vote; election official and poll worker training;

alternative language requirements; uniform provisional ballot procedures; procedures for military and absentee ballots; and tabulating and reporting of votes cast. The State continues to be in compliance with the National Voter Registration Act of 1993, and therefore already has sound procedures for voter registration and maintenance of the voter registration rolls, though the performance of list maintenance tasks becomes easier with the creation and use of the state-wide voter registration list. The State will continue to provide outreach to enhance voter registration.

PROPOSED PLAN:

- **Voting Systems Standards (§301)**

In 2006, the State Board of Elections certified five ballot marking devices to serve as an interim solution to provide access for voters with disabilities. As mentioned elsewhere in this Plan, a copy of the Federal Court Order, which New York was subject to at that time, is attached. Compliance with the order required the placement of at least one such ballot marking device in each county, though counties could provide more access than just a single device for their entire county if they so chose. Rules for the use of these interim systems, and the manner in which ballots would be cast and canvassed, were adopted. As New York's efforts at obtaining full certification for lever replacement voting systems were abruptly halted in 2007 due to significant deficiencies in the certification testing effort, the interim certification of ballot marking devices was extended. Another significant change in the realm of voting systems was the transfer of the ownership of voting systems from each of New York's cities, towns, and villages, to each respective County Board of Elections. Prior to this change in statute, only the Boards of Elections of the City of New York and in the counties of Monroe, Nassau and Suffolk, owned their own the voting machines. In the federal election of November 2000, there were 15, 571 election districts in New York State. With the exception of voters in 30 election districts, the vast majority of voters in those districts voted on one of the 19,843 lever machines in use at that time. Absentee voting systems are owned by the local boards, and in 2005, in compliance with HAVA, the State Legislature banned punch card absentee systems, which reduced the number of certified absentee systems from three, to one – that one being an optical-scan absentee system. At present, ten counties and all five boroughs constituting the City of New York, use the op-scan absentee voting system.

New York successfully established a procurement effort which required that new, interim certified ballot marking devices be purchased by county boards, said ballot marking devices being an eventual component of a complete lever machine replacement program, The 2008 procurement effort, in compliance with a new Federal Court Order (attached) placed a ballot marking device in each polling place in the State of New York. This newest program of compliance will ensure that voting accessibility standards for persons with disabilities are better met.

The State Legislature has provided for the appointment of a Citizens' Advisory Committee, charged to assist the State Board in its voting system certification program, with a focus directly on the ability of systems seeking certification to meet the needs of voters with a variety of disabilities. This committee, known as CEMAC – Citizens' Election Modernization Advisory Committee- has participated in the review of interim ballot marking devices, and awaits further

progress in the certification of lever-replacement voting systems. In further enhancing accessibility, the State has engaged in statewide efforts to ensure that polling places and voting systems are fully accessible. The State has accomplished this task through interactive education and training programs. These efforts are discussed elsewhere in this plan.

To ensure that HAVA reform is sustained, the State Board will also extend current reporting requirements to gauge performance of county election officials. These reports will continue to be the foundation for determining the need for any modifications required in State law, the State Board's regulations or in recommended best practices.

To meet these efforts, the State Board has and will continue to incur administrative costs associated with the coordination, planning, operations and reporting on this voting system conversion program. In addition, the State Board has expanded its voting system certification efforts and will be engaged in election official training programs.

- **Provisional Voting and Information Requirements (§302)**

  - **Provisional Voting**

Provisional ballots, called affidavit ballots in New York, were already provided for in state statute, long before the passage of HAVA. These ballots are a fail-safe option for voters whose names do not appear in a poll book, or for those who have moved but not yet notified their respective board of elections. In Primary elections they are also available to voters whose stated enrollment does not match the enrollment specified in a poll book. Affidavit ballots which are researched and determined to be valid by the county Election Commissioners, will be canvassed, and the information provided on the envelope in which the voted affidavit ballot was placed, will be used to update respective voter records. Statute requires that county boards of elections send a notice, and a registration form to each person who casts an affidavit ballot which was deemed invalid and was thus, not canvassed.

New York has enhanced existing statutory requirements for provisional (affidavit) ballot voting, to encompass offering said ballot to those voters for whom identification must be provided at the time one votes, but who fail to present identification.

Additionally, New York's affidavit ballot envelope has been amended to allow a voter to reflect the additional, ID-related reason for casting an affidavit ballot. New York's NOTICE TO VOTERS has also been amended to reflect the availability of an affidavit ballot for resolution of an ID-related scenario.

  - **Information Requirements**

1–800-458-3453 is the State Board's toll free HAVA Administrative Complaint information line. It implements the initial call-in element of the statewide complaint procedure. The statewide complaint procedure allows for the comprehensive coordination of response by the State Board and county election officials, with the initial complaint inquiry handled by phone call, and with progression to a written process when needed.

The State Board has developed a "Voter's Bill of Rights", which is required to be prominently posted in each polling place. The poster describes: information regarding the hours during which polling places will be open; instructions on how to vote, including how to cast a vote and when and how to cast a provisional ballot; general information on voting rights under applicable Federal and State laws, including information on how to contact the appropriate election officials if these rights are alleged to have been violated; and general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation.

- **Computerized Statewide List, Voters who Register by Mail and Voter Identification (§303)**

  - **New York Voter Registration List**

The State Board has implemented a statewide voter registration list. The State Board's goal has been to meet the requirements of HAVA while maintaining the current level of election services at the local level, and at the same time enhancing the administration of voter registration and the election process for the citizens of New York. Working with the county boards of election, the State Board has defined functional requirements, and the roles and responsibilities of carrying out the functions of voter registration to enhance the operations of these offices. In order to comply with the requirements of Title III of HAVA, the State Board implemented, in a uniform and non-discriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list.

Pursuant to the State Constitution, Article II, §6, a voter's registration is valid as long as the voter resides in the jurisdiction where he/she is registered. There are 62 county boards of elections which have responsibility for the registration of voters in their respective counties. One central board of elections serves the City of New York, with offices in each of the five boroughs (counties). Each board is responsible for, among other things: keeping the registration list accurate and current; removing individuals who are no longer eligible to vote in their jurisdiction; and notifying voters of the dates and times of all elections and the location of their polling place. The voter registration list maintained by the county boards is also used by school districts, villages, towns and other special districts for their particular elections.

In 2005, the New York State Legislature amended the State Election Law to implement the requirements of HAVA pertaining to the statewide voter registration list. The statute also required that the State Board of Elections create the statewide list by integrating with the current county voter registration systems, creating a "bottom-up" system.

In December of 2005, the Commissioners of the State Board of Elections decided to use the voter registration system developed in the State of Washington as a model. The State Board of Elections arranged for the transfer from the State of Washington to New York of the voter registration system code and documentation. In 2006, New York contracted with Saber Corporation to perform the system modifications to make the Washington model meet New York's needs.

Using the basic design model from the Washington solution, New York and Saber redesigned the system to meet New York's requirements, including the significantly larger number of voters to be supported by the system. Additional and more robust technology was incorporated to address the number of transactions anticipated in New York.

The statewide voter registration list, NYSVoter, was fully implemented in the summer of 2007. NYSVoter was developed on a Microsoft platform, using Microsoft SQL Server 2005 as the database engine, while employing MSBizTalk to handle messaging between systems using Extensible Markup Language (XML). All county-based voter registration systems are now able to communicate with the NYSVoter over a secure, encrypted virtual private network (VPN).

Local Voter Registration/Election Management Systems (VR/EMS) use the VPN to transmit XML packets containing new voter registrations, updates to voters, global updates and audit requests to NYSVoter, and receives messages for processing in near real time. In the event that there is a break in the communication line, both the local interface and the NYSVoter interface are designed to hold the messages in a queued state until communication is reestablished, thus allowing uninterrupted work flow on both ends.

For voter applicants, for whom identification is required, and who have provided a DMV client ID number, or the last four (4) digits of their Social Security Number (SSN), NYSVoter communicates with DMV in near real time and relays verification results back to the local VR/EMS system.

Where the voter identification information is able to be confirmed, the county board accordingly updates the record indicating whether or not the ID requirement has been met. The process to verify SSNs consists of DMV confirming that information through the American Association of Motor Vehicle Administrators (AAMVA) to the Social Security Administration, and receiving appropriate responses. Records that cannot be verified due to communication errors are re-sent nightly in a batch file, until they are positively or negatively verified.

NYSVoter performs a statewide matching of potential duplicate voters, and also matches voter information against felon and death records provided by New York State's Office of Court Administration and the Department of Health. In order to perform these list maintenance tasks, a secure web site is provided where local election officials can access the information and take appropriate steps to update voter records. Local election officials can also query the statewide list and create reports. Potential felon records shall be revised on at least a monthly basis, to ensure updated and accurate voter list maintenance is performed.

NYSVoter provides the public with an opportunity, through a web-based link, to review their voter registration information and locate their designated polling place. An added feature is the ability to print a map with directions to their polling place.

(ii) Voters who Register by Mail and Voter Identification

HAVA's identification requirements are accomplished, in the first instance, via the verification of an applicant's NY Department of Motor Vehicles client ID number (driver's

license or non-driver ID issued by DMV), or the verification of the last four digits of their social security number when no DMV client ID is provided. If an applicant's ID cannot be verified via the interactive and real-time process now enabled by the functionality of New York's statewide database, the voter may provide alternative forms of identification such as a current and valid photo id or a copy of a current utility bill, bank statement, government check, paycheck or government document that shows the name of the voter.

If a voter's verification status is initially not able to be confirmed, the County Board shall conduct a visual inspection of the voter's registration form to ensure no data entry or other errors were made before the verification process can continue. Only once this visual check has been made can a County Board determine a voter is unverified. If no errors were made follow-up mail to the applicant is provided for in New York's Election Law and State Board regulations to notify the voter as to the status of their id verification and to request id verification information when the county board is unable to complete verification activities. If a county board of elections receives no response to such mailings, ID must be presented prior to the voter casting their vote on a voting machine. New York remains committed to minimizing the number of persons required to provide ID when they vote. Towards that end, county boards are encouraged to contact those voters more than once, prior to election day, to remind voters to submit identification information, and advising them of election day resolution options.

New York's registration system vendors, in cooperation with the State Board and their respective county board customers, have developed a method of election day notification to election day workers and voters of ID issues. New York currently provides for a voter to sign in when they vote, in a designated box which appears next to a facsimile of their signature, in digitized poll books. These poll books can now display a message in the election day signature box, indicating to the inspector that the voter must provide ID prior to voting, on a voting machine and also provides space for a notation by the inspectors that the ID requirement has been met. Voters who were 'flagged' as having to provide such ID on election day, but did not do so, may cast an affidavit ballot. Inspectors are provided with a list of acceptable forms of identification, and a Voter's Bill of Rights, to assist them in serving these voters.

New York State is required to prepare a statewide election inspector training curriculum and training materials. The on-line training, materials, handbooks, and companion interactive training components of New York's training initiatives have all been updated with information relative to election day ID issues and possible solutions.

- **Voting Equipment Accessibility**

Improving voting equipment accessibility, as required by HAVA, includes accessibility for individuals with disabilities and alternative language accessibility as determined in HAVA and the Voting Rights Act of 1965. The measure of success for both elements is the successful acquisition and deployment of accessible voting machines following their certification.

The State Board continues to encourage and fund private-public partnerships and co-operative training program development and delivery wherever possible to enhance the voting

participation of all voters with disabilities in coordination with the Help America Vote Foundation established by HAVA. While beyond the scope of this State Plan, activities of such groups may be incorporated into performance reporting to complement physical accessibility goals.

County reports on poll site accessibility include data from on-site inspections of polling places, the number of polling places that are accessible, and continue to include data on measures which may be taken to bring inaccessible polling places into compliance. Beginning in 2005, the responsibility to designate and inspect poll sites for accessibility was transferred from cities and towns, to county boards of elections. This transition will help ensure monitoring and more uniform methods of addressing physical accessibility in the polling place. Success will be measured by compliance with the federal and state laws and regulations on physical accessibility.

- **Alternative Language Accessibility**

The State's goal is to provide language access that is in compliance with Section 203 of the Voting Rights Act of 1965. The State Board and the counties so designated will provide the requisite language throughout the entire election process, from voter registration to casting the ballot.

- **State Board Administrative Complaint Procedure**

The State Board has established and is maintaining a statewide HAVA Administration complaint procedure, addressing all areas from initial inquiry relative to a complaint through potential Alternative Dispute Resolution. The Board is working with an Alternative Dispute Resolution Agency (ADRA) relative to the HAVA complaint procedures at the Board, and the requirements that apply to the ADRA function. The Board has educated county election boards by way of providing written procedures and in person discussion of procedures for those boards to follow in addressing a HAVA complaint. Measurement of the success of the statewide procedure will be based on the experience of the voter as well as a number of points of information: total number of complaints received, the number of complaints resolved, the number of complaints resolved within the mandated time frame, and the reason the complaint is not resolved within the mandated time frame.

Section 2: How the State will Distribute and Monitor Requirements Payments

OBJECTIVE:

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

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

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

GOAL:

To have the State Board centrally manage initiatives funded by requirements payments for the purpose of maintaining uniformity of voting equipment purchases and other expenditures.

PRESENT STATUS:

Prior to HAVA, the State of New York did not provide any funding to county boards of elections. Currently, NYSBOE administers several grant programs to the county boards of elections. These programs reimburse the county boards of elections for actual approved expenses for voter education and poll worker training services based on an allocation formula set by the State Legislature. New York successfully established a procurement effort which provided for the purchase by county boards of HAVA compliant voting systems.

PROPOSED PLAN:

The State Board administers the resulting contracts and disbursements consistent with state budget plan described in Section 6 of this plan. The commitments under Title III will be based on federal and state funds deposited in the state election fund.

Funds were allocated by the State Legislature based on availability and the priorities established in this State Plan, proportional to county voter registration statistics as of December 31, 2004. County boards of elections submitted their county budgets that contain the 2000 election cycle maintenance of effort, to establish baseline amounts for efforts already in practice. Allowable expenditures beyond the maintenance of effort will be coordinated with statewide efforts.

For purchases made pursuant to the statewide procurement explained elsewhere in this Plan, counties access their apportioned HAVA funds for this purpose by submitting requisitions to New York State's Office of General Services (OGS), which manages the State's voting system

contracts. Counties may purchase voting systems, election management systems, system peripherals, disability access devices and accessories, and other items such as support services, training, and privacy booths.

Purchase orders are subsequently processed and vendors are paid directly by OGS on each county's behalf. The State Board of Elections will develop a program to reimburse counties for allowable expenses incurred in the furtherance of federal elections, using any remaining HAVA funds after certification is provided which attests to the State's compliance with Title III of HAVA.

The performance measures detailed in Section 8 of this State Plan will be used to evaluate participation and effectiveness of disbursements. Monitoring performance measures will be completed during the filing of detailed reports required by the State Board. The reports will include specific data to disclose each county's performance as it relates to the implementation of HAVA.

Section 3: Voter Education, Election Official and Poll Worker Training

OBJECTIVE:

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

GOAL:

The goal of providing voter education has always been foremost with the State Board, as well as with county boards of elections. The State Board views education of the voter as a key component in the entire election process. Voter education is particularly important in the implementation of HAVA which includes the introduction of new voting systems. The State anticipates devoting significant resources available under HAVA to voter education efforts. The proposed Plan delineated below provides initial components of a voter education program necessary to successfully implement HAVA in New York. Additionally, New York recognizes the value of and intends to develop a uniform, statewide comprehensive training program for poll workers and election officials.

PRESENT STATUS:

The county boards of elections administer local, county, state and federal elections. They recruit, hire and train election inspectors and voting machine custodians. Local election officials administer their own training for staff and poll workers. The State Board provides each county with a "Guide to Operating a Board of Elections" for training of board staff. The State Board supplies county boards with Election Inspector Handbooks for use in their training and on

election day. The State Board supplies local boards of elections with educational brochures for the public on various aspects of the voting process. Voting system vendors are required to provide training for election officials, voting machine custodians and election day workers, as part of their contractual obligations.

The State Board takes pride in the working relationship it has with the county boards of elections. The Board has been successful in launching new forms and procedures, due to its policy of empanelling focus groups of election commissioners, who assist in evaluating all aspects of the concept or form being discussed. Additionally, the State Board includes other experts, such as postal officials, literacy and forms experts, and others who lend their skills and talents to the discussion and production phases of these efforts. The State Board intends to continue to utilize all the expertise available to it, to ensure a full analysis of any initiative and/or any forms which are a result of that initiative.

The State Board continues to be committed to effective election official and poll worker training which will result in positive voter experiences and fair and orderly elections. All poll workers must and will be trained in new procedures and will receive essential hands-on training in the operation of new voting equipment. Significant HAVA resources will be devoted to the training of poll workers which now must be provided annually, and election officials to ensure the successful introduction of new voting systems and procedures in New York. Poll worker training is essential to the successful implementation of HAVA in New York State. Each inspector should be provided with sufficient knowledge and information to become proficient at performing their duties in the election process.

The State Board of Elections includes in its mandatory core curriculum for poll worker training, the rights of voters at the polls and obligation of election workers to protect those rights while maintaining the integrity of the franchise. This mission includes assisting voters with disabilities (disability etiquette), operation and use of voting systems including Ballot Marking Devices and those with limited or no proficiency in the English language. This curriculum also addresses handling, processing and entitlement to ballots, including affidavit and emergency ballots, proper identification requirements, procedures to be followed with respect to voters whose names are not on the list of registered voters or whose identities have not been verified, electioneering and other violations of the elective franchise as defined in this chapter, solicitation by individuals and groups at the polling place and procedures to be followed after the polls close. Each prospective election day worker must complete a course of instruction and pass a written test before being appointed by the County Board to serve as a poll worker.

PROPOSED PLAN:

- State-level Voter Education and Poll Worker Training:

In 2007, the State Board selected a company to design and implement a web-based, accessible and interactive Voter Education program as well as a Poll Worker Training program that may be utilized in all counties. This program is provided at no additional expense to the counties. Our selected solution provider, SOE Software (SOE), has completed the development of each program.

The instructional material included in the training and education programs provide for a uniform and nondiscriminatory treatment of voters in determining: a) who is offered a provisional ballot, b) whose provisional ballots are counted, c) who may provide assistance to voters in the polling booth, d) the availability of language assistance, if required, including translated ballots and materials, and interpreters, e) which voter is asked for identification at the polls, f) what forms of identification are accepted at the polls to allow a voter to cast their ballots on the regular voting system, g) affidavit voting, and h) how voter education requirements are carried out. Further, the instruction materials address the use of the new voting machines, sensitivity in dealing with voters with disabilities, first time voters, the elderly, voters entitled to language assistance and those voters with accessibility issues.

The voter education program was completed in August 2008 and can be accessed at www.VOTE-NY.com. Information is available to the public on the use of voting systems available in their community as well as information on how to use such equipment in an election. All material and content is provided in written format that is able to be recognized by screen readers and the font size may be adjusted by the viewer. Audio instruction is also provided with closed captioning information.

The poll worker training program was completed in September 2008 and it provides a uniform statewide curriculum for use by county boards of elections to train poll workers in the use of their respective voting systems, and other election day requirements, as well as instruction on meeting alternative language and voter access needs. A county-level poll worker training manual was developed in both a student's edition as well as an instructor's edition. Also a county-level administrator manual was developed and county board of elections designated staff members were trained through a series of regional training sessions conducted in 2008.

In addition to the online voter education program and the poll worker training program, the State Board provided CD copies of the education and training material for use by county boards of elections in providing education and instruction programs when internet access is not available.

The State Board provides through this statewide training process, the same procedures that are used in all polling places.

The State Board is working with voting system vendors to enhance and deliver required training programs on the web and with companion training manuals to election officials, voting machine custodians, Election Day workers and voters.

The State Board has developed and begun to deliver a voter outreach/education campaign, via media to every registered voter, with information on the use of new voting machines and election day processes. Information material is provided in written and audio formats in all of the required languages and the font sizes may be adjusted. Further, online content may be translated to audio by use of a screen reader. Outreach efforts shall include ample opportunities for voters to become familiar with new voting machines. The provision of the education outreach material via the web facilitates access by a wide range of individuals and organizations

such as schools, community groups, libraries, government agencies, television, radio, and links with other websites.

The State Board continues exploring new and innovative poll worker recruitment programs, including the utilization of the "Help America Vote College Program."

Each county board of elections is urged to have a website that provides information and which links voters to comprehensive, useful and downloadable election information and forms. The State Board will develop a model website which would be available for utilization by county boards of elections.

- County-level Voter Education and Poll Worker Training:

In 2006, the State Board developed general and specific guidelines for use by county boards of elections to access a portion of the requirements money to develop and implement county-based voter education and poll worker training programs. These guidelines, copy attached, provide tips, reminders and practical recommendations, and are intended to bolster public confidence in the election process. They provide guidance to election administrators on methods for keeping the voting process secure while ensuring that every eligible voter can cast a vote and have that vote counted. Each county board of elections, and in the City of New York, the Board of Elections in the City of New York, may be reimbursed for actual expenses made based on approved vouchers for education and training services completed in accordance with a written plan.

Section 4: Voting System Guidelines and Processes

OBJECTIVE:

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

GOAL:

New York intends to replace all lever voting machines used in the state, which numbered 19,843 at the 2000 Presidential Election, with voting systems which are HAVA-compliant. ,

New York is currently under a federal court order, which has two main focus points. In 2008, New York provided voters with disabilities the opportunity to vote and verify their ballot selections independently and privately. This was being accomplished via the certification, delivery and use of at least one ballot marking device in each polling place in the State of New York. The second focus of the order is to provide for complete lever replacements throughout the state, no later than the 2009 Primary election. Details of the Order of the court are found elsewhere in this document, and a copy of the order itself can be found in the Appendix.

New York has replaced its two remaining county-based punch-card, absentee voting systems.

PRESENT STATUS:

- The State Board worked with and through the State's Office of General Services, and with its consultant. New York State Technology Enterprises Corporation (NYSTEC) to develop procurement documents, review proposals and select an independent testing facility to conduct certification testing.

- The State Board, as directed in statute, worked with and through the State Office of General Services to develop procurement documents, develop a corresponding contract, and participated in negotiation sessions which brought voting system vendors into the certification process.

- The State Board of Elections has incorporated the 2005 Voluntary Voting System Guidelines into its own voting system requirements, as Part 6209 of NYCRR. These regulations and its companion sections of Election Law, address issues of accessibility, secrecy, prevention of over votes, notification of under votes, review of one's ballot prior to casting, and the accurate counting of every vote cast.

- New York's voting system certification program is accomplished within the State Board's Election Operations Unit, in consultation with its independent testing consultant, NYSTEC.

- New York statute defines what constitutes a vote. The statute now has companion regulations, known as NYCRR Part 6210, which further define what constitutes a vote.

- The State Board has developed in regulation, Part 6209, a method to review and decertify voting systems that no longer meet the requirements of New York's statute and regulations.

- The performance of logic and accuracy tests is required before each election, and is conducted at the county level, pursuant to formulas and procedures developed and distributed by the State Board, thus ensuring accurate ballot configuration and consistent correct vote counts for all offices, and uniformity throughout the state. Draft procedures have been developed to ensure tasks match the new voting technologies to be used in New York.

- Current statute and regulations require the conduct of an acceptance test on each piece of voting equipment purchased in the State, prior to its use. For the ballot marking devices required for compliance with the federal court order, acceptance testing was being conducted centrally, in Albany, New York. County Board personnel have been present at testing, when counties so choose to participate. At the conclusion of successful acceptance testing, voting systems were re-packed by vendor representatives and shipped

to respective county boards of elections, however, counties may opt to pick-up their own ballot marking devices.

PROPOSED PLAN:

- The State Board will continue to work with county election officials to ensure that ballot marking devices and all companion peripherals are purchased, acceptance tested and deployed.
- The State Board will continue to work with county election officials, to ensure that fully-compliant lever replacement voting systems are purchased, acceptance tested and deployed throughout the State, once such replacement voting systems have been certified.
- The State Board will develop procedures to facilitate the review and decertification of systems that no longer meet adopted Voting System Standards, as provided for in regulation.

PERFORMANCE GOALS AND MEASURES: (also repeated in Section 8)

- Replacement of lever voting machines and punch card voting devices.

New York has undertaken a statewide effort to facilitate replacement of voting systems in counties where lever machines are used. The procurement effort will also ensure that voting accessibility standards for persons with disabilities and language minority voters are met. This effort will comply with all state procurement rules and laws. The measure of success is the replacement of all lever machines and punch card voting devices.

New York State initially charged the purchase of new voting equipment to Title II, Section 251 funds pending passage of federal legislation which would extend the timeframe within which NYS could use Title I, Section 102 funds. With the recent passage of the Government Appropriation Act of 2009 (Public Law 111-8, specifically Section 625 42 USC 15302), and as Title II funds are available for all HAVA related expenses, it is now possible to appropriately charge the voting equipment previously purchased to replace lever voting machines to Title I, Section 102 funds which is for the specific purpose of replacement of lever voting equipment.

Section 5: How the Election Fund will be Established and Managed

OBJECTIVE:

Describe how the State will establish an Election Fund for purposes of administering the State's activities under this part, including information on fund management.

GOAL:

To establish a state fund for the purposes of administering the receipt and distribution of funds under HAVA.

PRESENT STATUS:

The Legislature established a separate appropriation, which is the basis for our certification under Section 253(b) of HAVA, with regards to the five (5%) percent matching funds.

An appropriation was included in the Fiscal Year 2005-2006 Executive Budget, and it was reauthorized in each consecutive Fiscal Year since then, ensuring that the appropriation continued to be available.

PROPOSED PLAN:

There were no funds appropriated in 2003/04. In **2005,** the Legislature appropriated the following funds:

$190,000,000 in Aid to Localities for services and expenses related to the purchase of new voting machines and voting systems for use by the local boards of elections.

$10,000,000 in Aid to Localities for Poll Worker Training and Voter Education

$20,000,000 in State Operations for implementation of HAVA throughout New York State.

In **2006,** the Legislature appropriated $12,000,000 in **earned interest** for services and expenses related to the implementation of HAVA, including the purchase of new voting machines and disability accessible ballot marking devices for use b the local boards of elections.

In **2007,** the Legislature appropriated $15,000,000 in **earned interest** for services and expenses related to the implementation of HAVA, including the purchase of new voting machines and disability accessible ballot marking devices for use by the local boards of elections. The Legislature also appropriated $5,000,000 in **earned interest** for services and expenses related to testing and certification contracts for voting machines.

In **2008**, the Legislature appropriated $10,000,000 in **earned interest** for services and expenses related to the implementation of HAVA including the purchase of new voting machines and disability accessible ballot marking devices for use by the local boards of elections. Of that, $700,000 may be transferred by the state operations account for the State Board of Elections for the development of curriculum for use by local boards of elections for poll worker training and voter education with respect to using each approved voting machine and voting system.

Once the State's Chief Election Official certifies that New York has complied with HAVA's Title III requirements, the State intends to use any remaining funds, and any additional funds which may be received, for improvements to the administration of Federal elections.

Section 6: Budget for Title III Requirements

OBJECTIVE:

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

(A) the costs of the activities required to be carried out to meet the requirements of Title III;

(B) the portion of the requirements payment which will be used to carry out activities to meet such requirements; and

(C) the portion of the requirements payment which will be used to carry out other activities.

GOAL:

Provide for effective and efficient use of available federal funds, to implement election reforms required by HAVA.

PRESENT STATUS:

Separate funds are established in New York by legislation which allows state agencies overseeing the program to establish guidelines for access to such funds by local governments. Since neither the State nor the Federal government has previously distributed funds to localities for election purposes, no such program had existed. The State Board established a statewide procurement effort for use by county boards of elections to purchase new voting systems and accessible ballot marking devices; and created programs to improve poll site accessibility, and to develop and implement voter education and poll worker training services.

PROPOSED PLAN:

New York's proposed budget outlined below, subject to federal funding of HAVA, includes funding for programs to conform the State to the requirements of Title III. In order to qualify for funding, the State must: meet the requirements of Title III; provide the same maintenance of effort for election operations as in the budget year prior to the 2000 general election; and provide matching funds of five percent of the federal dollars. Funding under HAVA also provides funding under Section 101 for the Administration of Elections and under Section 102 for Lever Machine and Punch Card Replacement. All of the funds provided under HAVA are "no year" money, meaning that they are not required to be expended by the close of the specific federal fiscal year.

Proposed Budget for State Plan for Fiscal Years 2003-2009						
A total of $63 million from Title I and $160.7 million from Title II is Projected.						
Program Area	**Total Proposed Budget**	**Title I Section 101**	**Title I Section 102**	**Title II Section 251**	**Title II Section 261**	**NY State Funds**
Voting Accessibility - Lever Machine Replacement Program	198,000,000		50,000,000	140,000,000		8,000,000
New York State Voter Registration List	13,705,000	7,000,000		6,705,000		
Physical Accessibility	8,410,000				3,700,000	4,710,000
Provisional Balloting	0					
Poll Worker Training and Voter Education	10,500,000			10,000,000		500,000
Complaint Dispute Resolution	25,000	25,000				
Election Administration Grant Program	0					
HAVA Administration	8,975,000	8,975,000				
Additional Full HAVA Funding	40,000,000			40,000,000		
Totals	279,615,000	16,000,000	50,000,000	196,705,000	3,700,000	13,210,000

Voting Accessibility

New York is facilitating a procurement program, to enable the replacement of lever voting machines. The State Board will work with county election officials to ensure that all needs are met, including but not limited to: device acquisition; device tracking for chain of custody and audit purposes, system maintenance; election preparation services; and election tabulation services.

The Plan proposes, and statute now requires that counties own and operate these new systems. The State will work with county boards of elections and vendors to develop procedures for the conduct of and methods to monitor required maintenance tasks and the various other aspects associated with the new voting systems and the consolidation of the control of all election services at the county level.

Polls sites shall be staffed with sufficient numbers of bi-partisan teams of workers adequately

trained and competent in all aspects of the election process and on all voting devices utilized in the polling place.

New York State Voter Registration List

The State Board has implemented a statewide voter registration list that complies with HAVA Title III. The State Board has established rules and regulations which define procedures and roles and responsibilities for enabling county boards to uniformly carry out the functions of voter registration.

The State Board developed, and implemented a "bottom-up" system which communicates with local voter registration systems in near real time. County Boards are responsible for the local hardware, software and communications infrastructures necessary for synchronizing the statewide list.

The State Board maintains and supports the statewide list as the official voter registration list. County boards remain responsible for all aspects of election administration, including but not limited to: a) voter registration, b) poll site management, c) registration list information, d) provisional balloting, e) voter education and training, f) ballot access filings, and g) improved access to the voting process.

The State Board will develop and maintain web based systems based on the state wide voter registration list that will assist voters in determining their registration status and locating their proper polling site.

Physical Accessibility

In June 2006, the State Board created a grant program to administer $5 million in state funds, to be used by localities to improve the physical accessibility of polling places. Also, federal grant awards provide an additional $3.7 million from Health and Human Services (HHS) to improve accessibility of poll sites, to train poll workers to meet voter access needs and to train voters in the use of new voting equipment to ensure that every voter that wants to vote can vote and that their vote is counted. In order to access these funds, counties are required to survey all poll sites and prepare a written plan to provide temporary or permanent improvements, if necessary.

Provisional Balloting

Provisional balloting is already a county board responsibility, and is included in the maintenance of effort of the county election officials as prescribed in law.

Voter Education, Poll Worker and Election Official Training

Voter education is already a county board responsibility, and included in the maintenance of effort of county election officials. Because all jurisdictions will be changing voting technology, there will be costs associated with voter education above the current maintenance of effort. The

State Legislature has appropriated $10 million from the HAVA election fund for use by county boards of elections to develop and implement education and essential hands-on training programs to train voters, poll workers and election officials in the use of new voting systems. The State Board established and administers a grant program whereby county boards of elections may access their portion of the grant fund, subject to a local five (5%) percent match. County boards are reimbursed for actual expenses based upon approved vouchers for education and training services completed in accordance with a written plan. Quarterly status reports are required during the duration of the grant program to monitor compliance with the grant fund goals.

County Boards are encouraged to include disability service providers in the development and delivery of training programs to ensure poll workers understand how to assist voters with disabilities (disability etiquette), operation and use of voting systems including Ballot Marking Devices, polling place accessibility, the poll site surveying process, and will support re-imbursement for those services whenever possible. In those jurisdictions required to provide language assistance to voters under the Voting Rights Act, county boards will be similarly encouraged to include organizations serving language minorities in the development and delivery of training programs to ensure poll workers understand how to assist voters requiring language assistance, operation and use of voting systems including Ballot Marking Devices, and will support re-imbursement for those services whenever possible.

Poll worker training is already a county board responsibility, and included in the maintenance of effort of county election officials. Because all jurisdictions will be changing voting technology and election day procedures, there will be costs associated with poll worker training above the current maintenance of effort.

Election official training is already a State Board responsibility, and included in the maintenance of effort of the State Board. Due to changes in voting technology and election day procedures, there will be costs associated with election official training above the current maintenance of effort.

Statewide Complaint System

The State Board has implemented a statewide complaint system to comply with HAVA Title IV, in order to qualify for Title III funding. Working with the county election officials, the State Board has defined functional requirements, roles and responsibilities of complaint procedures as defined in Section 9 of the State Plan.

Subject to federal funding of HAVA, the complaint procedure will be funded for development and additional efforts for maintaining the system.

Election Administration Grant Program

The State Legislature has determined how HAVA funds distributed to New York should be appropriated at both the State and County Board levels. The State Legislature has appropriated funds in order to facilitate the mandate of the Legislature in this regard. The Election

Administration Grant Program which was described in our initial Implementation Plan, has been abandoned.

Administration Costs

To fulfill the requirements of Title III, the State Board provides for the coordination, planning, operation and reporting on these programs. Subject to federal funding of HAVA, the State Board will use funds to administer the implementation of HAVA above the Fiscal Year 2000 maintenance effort.

Section 7: Maintenance of Effort

OBJECTIVE:

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

GOAL:

Meet statutory mandate for maintenance of effort.

PRESENT STATUS:

Prior to the implementation of HAVA, the State Board did not provide funds for any activities identified in Title III. Costs for voting systems, provisional balloting, voting information requirements, voter registration lists, and registration by mail were and still are borne by county boards of election.

PROPOSED PLAN:

County boards shall continue to provide maintenance of effort in providing election and voter education as required in HAVA.

Section 8: Performance Goals and Measures

This section represents a consolidation of performance goals and measures found in other parts of this plan.

OBJECTIVE:

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

The State Board has the responsibility to monitor how each county board conducts elections in New York State. The State Board collects significant amounts of data at various times throughout the year, and uses the data to discern trends, identify problems, modify training materials and take other steps to improve the election process. The State Board evaluates county board operations via on-site visits, the review of surveys, the presentation at statewide conferences of workshops which focus on scenarios from which all county board staff and Election Day workers can learn.

GOAL:

The Help America Vote Act of 2002 (HAVA), public law 107-252, establishes minimum election administration standards for states. It specifically requires the State of New York to:

- Replace all lever machines and punch card voting devices used by counties for elections;
- Certify new and existing voting systems according to national and state standards;
- Improve voting equipment accessibility, to include physical and language accessibility;
- Enhance existing provisional voting system requirements;
- Establish a statewide complaint system;
- Provide training for election officials and poll workers;
- Increase voter education for new voting systems; and,
- Create a new uniform statewide voter registration list.

- **Voting Systems Standards (§301)**

Process used to develop the criteria	Establish the number of counties using lever voting machines and punch card voting devices in the 2000 Federal election.

Description of the criteria used to measure performance	62 New York counties had qualifying precincts in the 2000 Federal election according to HAVA descriptions for replacing voting systems.
Performance measure	Number of counties using lever machines and punch card voting devices in the 2006 Federal election.
Timetable	Ongoing from January 1, 2003.
Description of official to be held responsible for ensuring each performance goal is met	Each county board of elections is responsible for implementing the replacement voting system in their county; however, the State Board is leading the statewide effort for replacement and is therefore ultimately responsible for meeting this performance measure. The State Board is responsible for the certification of all new voting equipment.

- **Provisional Voting and Information Requirements (§302)**

Process used to develop the criteria	The State Board will review the current statutes and county board procedures and make any changes needed for provisional (affidavit) balloting.
Description of the criteria used to measure performance	Modify the current notice to voters to: add an explanation of instances where failure to present ID can be overcome by the casting of an affidavit ballot; add the phone number of county board of elections to ensure toll-free access for voters to follow-up on their ballots; and create a voter's bill of rights for distribution and posting in all poll sites.
Performance measure	Each county board will report the following information: • The distribution of revised notices in election day supplies. • The addition of revised procedures to any state or local inspector and voter education initiatives. • A review of amended processes added to inspector training curriculum • The number of affidavit ballots cast; the number of affidavit ballots subsequently verified and canvassed; the number of affidavit ballots that were not verified and canvassed, and the reasons for their rejection.

Timetable	Notices to be modified and documents to be distributed by May 2004, to inaugurate the process and to ensure full implementation by the 2004 Federal election. The effort to update poll worker materials as necessary is ongoing.
Description of official to be held responsible for ensuring each performance goal is met	County election officials are responsible for provisional ballot distribution verification and compliance with procedures established by the State Board. The State Board is responsible for reviewing compliance reports submitted by counties, including data on affidavit ballots cast, canvassed, or rejected and the reasons for such rejections. The State Board will review possible compliance issues working with counties to resolve issues which are identified.

- **Computerized Statewide List, Voters who Register by Mail and Voter Identification (§303)**

Process used to develop the criteria	Evaluation of the legislation, Task Force sessions, in-house work sessions with appropriate staff, consultation with other state agencies having related expertise, and on-site visits to other states and county boards to review voter registration systems.
Description of the criteria used to measure performance	Implementation of a single, uniform, statewide voter registration list accessible to all counties, and routinely review county board compliance with voter registration regulations and procedures.
Performance measure	The State Board has identified three stages for the creation of the statewide list. Stage 1: Planning: - Completion of business analysis. - Establishment of database architecture. Stage 2: Development: - Development of the database model. - Determination of hardware and software components of the database architecture. - Acquisition of the requisite hardware and software components of the database. - Development of a single statewide uniform user interface. - Development of the necessary computer network with local boards of elections. - Testing with regards to all of the above. Stage 3: Implementation: - Migration of local voter registration data into statewide list. - Training of appropriate personnel.

	- Rollout of the system to local boards of elections. - Troubleshooting with regards to items outlined in Stage 2. - Establishment of fully operational system. - Testing with regard to all of the above. - Routinely review county board compliance with voter registration regulations and procedures
Timetable	January 1, 2003 to the 2007 Primary election
Description of official to be held responsible for ensuring each performance goal is met	The State Board is responsible for implementing and operating the statewide voter registration list.

- **Voting Equipment Accessibility**

Process used to develop the criteria	Establish number of counties using accessible devices in the 2000 Federal election.
Description of the criteria used to measure performance	All 62 New York counties will require alternative voting accessibility devices in the 2006 Federal election.
Performance measure	Number of counties using voter-accessible compliant devices in the 2006 Federal election.
Timetable	Ongoing from January 1, 2003.
Description of official to be held responsible for ensuring each performance goal is met	The State Board is responsible for the certification of HAVA compliant voting equipment in the state.

- **Alternative Language Accessibility**

Process used to develop the criteria	The state and counties already provide language accessibility as required by the Voting Rights Act of 1965. In 2006, the State Board created general and specific guidelines for use by county boards of elections to access a portion of the requirements payments to develop, publish and distribute voter education and poll worker training materials in alternative languages, where applicable.

Description of the criteria used to measure performance	Counties will provide the state with quarterly reports of alternative language capabilities with reference to ballots, publicity pamphlets, voter registration forms, voter education materials, and language assistance at polling places on election day until such time as the existing grant program is completed.
Performance measure	With respect to each county, information will be collected to measure the steps taken to meet alternative language accessibility via inter alia, publicity pamphlets, ballots, voter registration forms, voter education materials, and language assistance at polling places on election day.
Timetable	Ongoing from 2007 until the funds are depleted.
Description of official to be held responsible for ensuring each performance goal is met	The county boards are responsible for ensuring each performance goal is met, with the assistance and cooperation of the State Board.

- **State Board Administrative Complaint Procedure**

Process used to develop the criteria	Evaluation of the legislation, Task Force sessions, in-house work sessions, with appropriate staff.
Description of the criteria used to measure performance	Measurement of successes of the statewide complaint procedure will be the performance of the system, as well as the experience for the voter.
Performance measure	The State Board will review the total number of complaints received, processed and resolved. The following information will be collected to objectively measure performance: • Number of complaints received • Number complaints resolved • Number of complaints resolved within the mandated timeframe • Reason complaint is not resolved within the mandated timeframe
Timetable	November 1, 2006.
Description of official to	State Board of Elections.

be held responsible for ensuring each performance goal is met	

- **Voter Education, Election Official and Poll Worker Training**
  - **Election Official and Poll Worker Training**

Process used to develop the criteria	Evaluate existing training programs and corresponding instructional materials in conjunction with new HAVA requirements.
Description of the criteria used to measure performance	Analyzing the number of election officials/poll workers trained in each county will allow the State Board and county boards to determine whether the uniform training as implemented, was successful. Encourage county boards to survey poll workers to solicit feedback on the effectiveness of the training.
Performance measure	With respect to each county, the following information will be collected to measure election official/poll worker training performance: • The number of election officials to be trained in each county. • The total number of poll workers to be trained in each county. • The number of election officials that are trained in each county. • The total number of poll workers that are trained in each county. • The total number of individuals who are tested on training curricula and pass or fail such tests.
Timetable	Spring 2008 training on new election day processes; training on new equipment when acquired by locality.
Description of official to be held responsible for ensuring each performance goal is met	County election officials are responsible for poll worker training and reporting, however, the State Board is responsible for establishing the guidelines, reporting requirements and ultimately the success of this performance measure.

- **Voter Education**

Process used to develop the criteria	The counties and certain community/political groups already provide voter education opportunities. By the 2006 Federal election, additional steps will be taken to ensure voter knowledge of changes in voting systems and election day procedures required by this Act. The State Board will continue to work with the counties to maintain records of and review voter comments concerning sufficiency of voter education programs. The counties will include details of their efforts in the annual reports they file with the State Board.
Description of the criteria used to measure performance	The assimilation by the voter of new election day processes will be determined by the number of problems occurring on election day.

Performance measure	With respect to each county, the following information will be collected to measure performance:
	• Number of public service announcements,
	• Number of locations where voting equipment is on public display,
	• Number of other voter education and voter outreach initiatives, including:
	  • Description
	  • Estimated costs
	  • Participation
	• Number and nature of problems on election day.

Timetable	September 2006 Primary Election and annually thereafter, until grant funds depleted.
Description of official to be held responsible for ensuring each performance goal is met	The State Board and the county boards are all responsible for ensuring the success of voter education; however, the State Board is responsible for the success of all statewide coordinated efforts for voter education.

Section 9: Administrative Complaint Procedure

OBJECTIVE:

Provide a description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under Title IV.

GOAL:

New York has developed a procedure for the processing of any complaints for alleged violations of Title III of HAVA.

PRESENT STATUS:

The State Board currently provides the opportunity for any person to file a complaint about provisions of the Election Law, election day procedures, election administration and voter registration. This includes complaints relating to the National Voter Registration Act. In addition, complaints may be also made to any county board of elections.

PROPOSED PLAN:

Initially, any complaints made at the local level may be resolved there in an informal manner. Thus, the officials closest to the problem may correct it in the most efficient and timely way possible.

1 - 800 -458-3453 (option 4) is the State Board's current toll-free HAVA Administrative Complaint information line. It implements the initial call-in element of a Statewide Complaint procedure. The statewide procedure allows for the comprehensive coordination of response by the State Board and county election officials, with the initial complaint inquiry handled in person or by phone call, and progression to a written process when needed.

The State Board has set up a method for processing written complaints received in compliance with HAVA requirements. The State Board and county boards will assist any person with disabilities to make a complaint.

As required by HAVA, the process provides for an opportunity for any complainant to request a hearing on the record. The procedure also provides that the State Board will make a final determination of a complaint within the mandated timeframe, unless the time limit is waived by the complainant. If the State Board fails to meet this deadline, an alternative dispute resolution procedure will be used to resolve the complaint within 60 additional days, unless the time limit is waived by the complainant. All determinations shall be published by posting to the State Board's website.

Section 10: Title I Payments

OBJECTIVE:

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

GOAL:

Provide for effective and efficient use of available federal funds.

PRESENT STATUS:

The Federal Funds received under Title I, Section 101 have been partially expended to support State Operations associated with the Implementation of HAVA including the development of a statewide voter registration database and the procurement of accessible Ballot Marking Systems and supplies and programming to support such systems.

PROPOSED PLAN:

Pursuant to HAVA and in anticipation of receiving full funding for Title I, money will be distributed to provide for lever machine replacement for each county where a lever machine system is in use. Section 6 details how the federal funds will be spent to meet the requirements of Section 301 of HAVA. Title 1, Section 102 funds will be used to replace lever voting systems. The following requirements must be met before these funds can be used:

- The State will use the payment to pay vendors directly for the costs of replacing a lever voting system by the required deadline of the first federal election after March 31, 2008.

New York will initiate a program to facilitate voting system replacement. Every county in the State will require new voting systems. The State Board will explore a procurement effort to acquire these systems. The scope of the program will be the replacement of voting systems. The State Board will work with county election officials to ensure that all needs are met, including but not limited to: system acquisition; system maintenance; election preparation services; and election tabulation services.

This Plan proposes that counties own and operate the systems and work with vendors to maintain the new voting systems and retain control of election services at the county level.

The State Board will implement a statewide voter registration list to comply with the HAVA Title III. Working with the county election officials, the State Board will define functional requirements and roles and responsibilities of carrying out the functions of voter registration. The State Board will define, maintain and administer at the state level "the single, uniform, official, centralized, interactive computerized statewide voter registration list."

The remainder of Title I, Section 101 funds will be used to support the implementation of Voting Systems throughout New York State.

Any remaining funds will be used for the other programs described in Title I, Section 101 (b) (1). Section 6 of the State Plan details how such funds will be allocated.

Section 11: Management of the State Plan

OBJECTIVE:

Describe how the State will conduct ongoing management of the plan except that the State may not make any material change in the administration of the plan unless such change is developed and published in the Federal Register in accordance with Section 255 in the same manner as the State Plan; is subject to public notice and comment in accordance with Section 256 in the same manner as the State Plan; and takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register.

GOAL:

The State Board will ensure proper management of obligations set forth in HAVA.

PRESENT STATUS:

Presently the State Board has oversight responsibilities for all 62 county boards of elections. The various mechanisms used at the present time, for conducting related monitoring and educational activities, include the following:

- on-site board visits, followed by written reports (to the State Board, County Board, and local legislative leaders, as appropriate)
- annual report statistical review, encompassing a quantitative summary of board activities
- extensive subject-specific surveys regarding procedures, processes or events
- certifications by county boards on the performance and outcome of certain statutory tasks (such as required mailings to voters, polling place evaluations, etc.)
- presentation of an annual conference, for all election officials in the state (usual attendance exceeds over 200 participants), including a Professional Practices component
- participation in two statewide conferences sponsored by the New York State Election Commissioners Association, at which the State Board presents workshops on specific topics
- creation and distribution of a "Guide to Operating a Board of Elections", to assist election officials in standardizing and professionalizing day-to-day and election-specific operations
- numerous memos on procedure and performance suggestions, to assist county boards in the development of operational procedures
- creation and distribution of model procedures which are task-specific, and serve as an easy reference and guide for the conduct and anticipated outcome of certain procedures (such as the NVRA-related List Maintenance Directory)

PROPOSED PLAN:

All of these existing components will be enhanced to include reviews, assessments, reporting and certification of HAVA requirements, to ensure the uniform, professional and consistent

implementation of all aspects of this federal legislation

If the State Board determines the State Plan requires material change, the State Board shall: a) propose the recommended changes to the Chief State Election Official; b) allow for public comment for not less than 30 days; and c) publish in the Federal Register upon submitting the revised plan to the Election Assistance Commission.

Section 12: Changes to State Plan from Previous Fiscal Year

OBJECTIVE:

Describe how the Plan reflects changes from the State Plan for the previous fiscal year and how the State succeeded in carrying out the State Plan for such previous fiscal year.

GOAL:

To establish a mechanism to address changes in subsequent years of the state planning process pursuant to HAVA.

PRESENT STATUS:

As the State was out of compliance with HAVA at a very early point in this process, and that failure to comply resulted in federal litigation *(United States of America vs. New York State Board of Elections, et al,*, 06-cv-0263in the United States District Court for the Northern District of New York, the State has been operating pursuant to two separate Remedial Orders outlining and directing the State's compliance with HAVA court orders, thus no previous amendments have been filed.

PROPOSED PLAN:

This State Plan will be updated annually, ~~demonstrating progress~~demonstrating progress in implementing the order of the federal court, ensuring New York's ultimate HAVA compliance.

Section 13: The Planning Committee and its Procedures

OBJECTIVE:

Provide a description of the committee which participated in the development of the State Plan in accordance with Section 255 and the procedures followed by the committee under such Section and Section 256, including the membership of the committee and its activities, such as hearings or other forms of public input, publications, notices, comments, and actions taken as a result of comments.

DESCRIPTION OF THE DEVELOPMENT OF THE STATE PLAN:

2003 TASK FORCE

Pursuant to Section 255, on February 7, 2003, the Chief State Election Official, Peter S. Kosinski, Deputy Executive Director of the New York State Board of Elections, appointed a task force to advise in the development of the State Plan, designated the Help America Vote Act State Implementation Plan Task Force (Task Force). The group included persons who provided expertise and meaningful input to the formation of the Plan, as well as representatives of groups mandated by HAVA.

Representatives of various government groups were appointed, including the Governor's Office; the New York State Senate and Assembly; the New York State Department of Motor Vehicles; New York State Office for Technology; the Secretary of State's Office and the Division of the Budget. The Secretary of State's Office and the Division of the Budget assisted with local government interaction issues and budgetary concerns, respectively.

Also mandated by HAVA and included on the Task Force, were representatives from the boards of elections of the two largest jurisdictions in the state, New York City and Suffolk County. Representatives from two upstate county boards of elections and an official representing county government also served as Task Force members.

In light of the provisions of HAVA concerning persons with disabilities, a representative of disability groups, as well as New York's Advocate for Persons with Disabilities, were appointed. A representative of each of the major state political parties and the New York State League of Women Voters also served on the panel.

The Chief State Election Official designated a portion of the State Board of ~~Election's website~~Election's website at www.elections.state.ny.us as a place for the public to view the Task Force's composition, meeting schedule, minutes of meetings, and back-up resource for the State Plan.

The Task Force held open, public meetings on February 26~~, March~~, March 5, 12, 19~~, and~~, and 26, 2003 and advised and provided feedback to the Chief Election Official on elements for the State Plan.

2009 TASK FORCE

Pursuant to Section 253 and 255, on March 13, 2009, the Chief State Election Official, Stanley L. Zalen, Co-Executive Director of the New York State Board of Elections, appointed a new task force to advise in the development of the amended State Plan, designated the Help America Vote Act Task Force (Task Force). The group included persons who provided expertise and meaningful input to the formation of the Plan, as well as representatives of groups mandated by HAVA.

Representatives of the New York State Senate and Assembly were appointed, along with the Executive Director and a Commissioner from the boards of elections of the two largest jurisdictions in the state, New York City and Suffolk County~~, as~~, as mandated by HAVA. Also mandated by HAVA were commissioners appointed to the Task Force from two upstate county boards of elections, as well as a third upstate county board of elections commissioner who was appointed as a representative of the New York State Senate Minority.

In light of the provisions of HAVA concerning persons with disabilities, three representatives of disability groups were appointed. A representative of each of the two major state political parties also served on the panel.

In addition, six members were appointed from public interest organizations, which added important and necessary insights from members of minority groups and other diverse entities.

The Chief State Election Official designated a portion of the State Board of Election's website at www.elections.state.ny.us as a place for the public to view the Task Force's composition, meeting schedule, minutes of meetings, and back-up resource for the State Plan.

The Task Force held open, public meetings on April 3, 14 and May 13, 2009 and advised and provided feedback to the Chief Election Official on elements for the State Plan.

Composition of Task Force

Member	Organization
Aimee Allaud	League of Women Voters of New York State
Steven Carbó	Demōs
Thomas Ferrarese	Commissioner of Monroe County Board of Elections
Margaret Fung	Asian American Legal Defense and Education Fund
Ronald Hayduk	Associate Professor of Political Science, Borough of Manhattan Community College, CUNY
Christopher Hilderbrant	Center for Disability Rights
Anita S. Katz	Commissioner of the Suffolk County Board of Elections
Helen M. Kiggins	Commissioner of the Onondaga County Board of Elections
June O'Neill	New York State Democratic Party
David Previte	New York State Republican Party
Neal Rosenstein	New York Public Interest Research Group

Sharon Shapiro	Jewish Disability Empowerment Center, Inc.
Esmeralda Simmons	Center for Law & Social Justice – Medgar Evers College
Brad Williams	New York State Independent Living Council
Kathleen O'Keefe	New York State Assembly
Senator Joseph Addabbo, Jr.	New York State Senate
Joan Silvestri	New York State Senate

The Drafting Committee did extensive research and utilized a variety of resources from inside and outside the agency to create the plan.

The Drafting Committee was composed of:

Stanley L. Zalen, Chief Election Officer and Co-Executive Director
Todd D. Valentine, Co- Executive Director, NYSBOE
Robert A.Brehm, Deputy Public Information Officer
Paul M. Collins, First Deputy Counsel
George Stanton, Director of Information Technology
Anna E. Svizzero, Director of Election Operations
Elizabeth C. Hogan, Enforcement Counsel
Patrick P. Campion – Special Projects Coordinator
Gregory Fiozzo, Special Projects Coordinator
Donna S. Mullahey – Secretary to Co-Executive Director

Section 14(a): Task Force Comments

The individuals who served on the newly-constituted HAVA Task Force are to be commended and thanked for their contribution to the amendment of this Plan. A number of their comments and suggestions have been incorporated into this Plan, and certain other of their proposals were not. In instances where they were not adopted, it was determined that the proposals concerned themselves with amending the New York State Constitution, amending the New York State Election Law, and/or the creation of new policies, none of which fall under the purview of this Plan or this committee.

Issues raised by Task Force members which were not included in this amended Plan are summarized herein:

- Change a voter's jurisdiction from 'county' to 'entire state'
  (requires constitutional and statutory changes)
- Reconsider existing ID verification requirements for first-time registrants
  (requires statutory change)
- Mandate boards of elections to utilize for voter registration purposes, information provided on affidavit ballots
  (requires statutory change)
- Incorporate NVRA statistical tracking and reporting in the NYSVoter registration list
  (SBOE already has a system in place to track this data and certain aspects of the tracking discussed by the Task Force is contrary to the source-related confidentiality requirements of the NVRA)
- Expand list of acceptable forms of identification
  (SBOE has already adopted a policy and includes in its statewide curriculum, examples of acceptable forms of identification)

Section 14(b): Comments from the General Public

To comply with Section 256 of the Help America Vote Act, New York State made a preliminary version of the proposed amended State Implementation Plan available for public inspection and comment on March 16, 2009. The Plan was made available through the State Board of Elections' web site. In addition, any written comments that were received were posted on the website along with copies of the minutes from Task Force meetings.

Task Force members participated in three meetings during April and May to review and update the proposed amended State Plan. Public comments were received at the beginning of each Task Force meeting to afford interested persons and groups an opportunity to present comments to the State's Chief Election Official, State HAVA Task Force members and staff of the State Board of Elections. Comments were also received by e-mail and regular mail. The public comment period extended to May 26, 2009. Each of the comments was thoroughly reviewed by the State and considered in the proposed amended State Plan.

The following is a list of the most common comments that were presented, followed by a response to each comment.

Public Comment:

The proposed amended Plan should provide for enhanced language accessibility, specifically towards the creation and use of alternative communications formats (Braille, large print, and closed captioning, etc.) for voter registration and voter information materials.

Response:

The State Legislature has appropriated $10 million from the HAVA Title II, Section 251 funds under Aid to Localities Budget for use by county boards of elections to develop and implement poll worker training and voter education programs. Further, the State Legislature has appropriated over $3.5 million from the HAVA Title II, Section 261 HHS grant program under the Aid to Localities Budget for use by county boards of elections to expand and improve access to and participation by individuals will a full range of disabilities in the election process.

The proposed amended State Plan has been updated to more clearly indicate the State's goal to provide language access that is in compliance with Section 203 of the Voting Rights Act of 1965.

Public Comment:

The Plan should include implementation of a training program for poll workers and election officials relative to persons with disabilities that includes direct hands-on training for each inspector in the set-up and operation of new voting systems, including ballot marking devices; enhancement of the poll inspector training material; and organizations and groups familiar with new voting systems and disability should be directly involved in the development and implementation of poll worker training and voter education programs and be able to directly receive HAVA funds for such service assistance.

Response:

The proposed amended State Plan has been updated to more clearly indicate the State's goal that the $10 million Aid to Localities Budget appropriation by the State Legislature from HAVA Title II, Section 251 funds be utilized by county boards of elections to develop and implement education and essential hands-on training programs to train voters, poll workers and election officials in the use of new voting systems.

County Boards of Elections continue to be encouraged to include disability service providers and/or organizations serving language minorities in the development and delivery of training programs to ensure poll workers understand how to assist voters with disabilities, operation and use of voting systems including Ballot Marking Devices, polling place accessibility, the poll site surveying process, how to assist voters requiring language assistance and to support reimbursement for those services wherever possible.

ATTACHMENT A

New York State
Board of Elections

General Guidelines on Pollworker Training & Voter Education

GENERAL GUIDELINES ON POLLWORKER TRAINING AND VOTER EDUCATION

The State Board of Elections has developed these general guidelines on pollworker training and voter education for use by County Boards to implement education programs on the proper use of new voting systems, including ballot marking devices.

- Pollworker training and voter education programs will be conducted by County Boards, in consultation with and with the assistance of State Board staff.
- The State Board will work to ensure that programs continue as necessary to ensure the smooth functioning of the election process.
- In developing these guidelines, the State Board considered, among other things, pollworker recruitment and training, voter education classes, the use of direct mail, public service announcements on television and radio, print media – daily and weekly papers, and local community public appearances and events.

A web-based **Training and Voter Outreach Resource Library** for county produced materials will be established by the State Board which will be accessible to County Boards. This library will serve as a tool for county boards to disseminate or research best practices in poll worker training, voter outreach services and other related activities.

These guidelines present tips, reminders and practical recommendations and are intended to help bolster public confidence in the election process by providing guidance to election administrators on methods for keeping the process secure while ensuring that every eligible voter can cast a vote and have that vote counted.

I. Issues and Shared Practices in Developing Education Programs[i]

A. Pre-Election Management

- Ten Election Tips
- Introducing New Voting Systems

1. Ten Election Tips

1.1 Develop Strategic Plans and Checklists.

As you deal with the daily challenges that come in an election year, it's easy to lose track of what needs to happen in order to meet key pre-election deadlines. Develop a "pre-election checklist" and operations calendar, as well as task-specific checklists. Meet regularly with staff to go through checklists. Conduct a pre-election strategy session with staff, vendor and selected pollworkers, and hold weekly status meetings.

Examples
The Election Center has developed a series of checklists on a variety of election topics. Completed checklists include a "Voting Systems Checklist" and an "Accessibility Preparations Checklist". By going to the following link, http://www.electioncenter.org/electionresources.html, you may review copies for use in your county programs or use these samples to develop your own checklists.

1.2 Build Partnerships with Stakeholders.

Strengthening relationships with elected officials, the community and voters will make the election run more smoothly and may help gain you public support. Solicit support from local government leaders and establishing an elections steering committee to create channels of communication. Conduct pre-election briefings with media, candidates, political leaders and community organizations. Conduct training programs for the media, candidates, political leaders, pollwatchers, community organizations, and the public. Prepare, update and disseminate regular status reports.

1.3 Focus Early on Pollworker Recruitment and Training.

Recruiting, managing, training and retaining pollworkers is difficult enough without the additional challenges posed by implementing new requirements. Many jurisdictions are working to recruit more pollworkers for the upcoming elections. Develop a recruitment plan and timeline for public service announcements, interagency solicitations, and, if money allows, paid media advertising.

Consider hiring professional recruiters and trainers. Develop a training schedule and system for managing new and experienced pollworkers. Some new components to include in pollworker training programs are: sensitivity training for serving voters with disabilities, accessibility of the voting process, security and contingency plans in the event of voting system failures.

Example
Create a 'Making Voting Popular' program to help recruit Election Day workers through a number of objectives:

- To educate the voting public about the voting process.
- To create opportunities for individuals and organizations to commit to and meet civic responsibilities of inspectors.
- To create channels of communication that can be used for other election related outreach programs.

1.4 Identify, Recruit Accessible, Reliable, Well-equipped Polling Places.

Develop a strategy and timeline for reaching out to most likely polling place hosts such as public schools, churches, and community centers. Involve community

organizations and interest groups representing voters with disabilities in the search for new polling places. Complete a written survey for each potential site you visit. Ensure commitment in writing from each polling place host. After you conduct your polling place location survey, produce sample layouts, dimensions, and equipment/materials placement for your pollworkers.

As you conduct the survey, keep in mind that polling places should be accessible, comfortable, sizable, visible, technology-friendly, and reliable.

1.5 Develop Communication Plans.

Educating all stakeholders – and most importantly, the voters – on the Election process will help strengthen your relationships with key constituencies.

Obtain Professional Support: County Boards may consider obtaining the services of a professional advertisement firm to create an advertisement campaign to educate the public on new voting systems. Some areas of consideration include:

- Advertisement available in multiple languages.
- Publicity efforts using: Television; Radio; Video(s); CDs and other electronic transmission systems like MP3 or digitized videos.

Outreach to Voters. Train outreach organizers to assist voters in the proper use of new voting systems to ensure that their vote is counted and to thoroughly understand new voting procedures. Update your website to include information that voters need to participate effectively in the voting process, including voting system-specific instruction materials, instructions on casting votes using your new voting system, sample ballots, polling place look-up, and accessibility status of polling places. Also, provide information on absentee voting procedures in your county.

Outreach/Education of Media. Educate media on what to expect during the election process including Election Night. Give them a timeline for results on Election Night, plans for supplemental counts of absentee ballots and affidavit ballots, as well as final certification of results. Explain the significance of each component, for example, who casts affidavit ballots and the process of verifying the eligibility of those voters. Make sure the media understand the difference between unofficial and official results.

Outreach/education of community organizations. Actively solicit engagement in the election process from stakeholders, including political parties, candidates and public interest and advocacy organizations.

Example

Invite community leaders, community-based organizations (CBO's), disabled community advocates, political party representatives, and other interested individuals to attend Community Voter Outreach Committee (CVOC) meetings

that you establish. Such committees have been effective in creating a partnership between the County and CBO's, toward maximizing voter outreach and education efforts, providing better services to all voters, and providing feedback on important election issues such as affidavit ballot design, and voting system and legislative changes and challenges.

1.6 Prepare Back-up and Emergency Plans.

Conduct an analysis of the election process and points in the process where things are most likely to go wrong – a risk analysis – and develop a plan for dealing with worst-case scenarios. For example, could you conduct the election if you were denied access to your central office? Prepare contingency plans for disaster, which might come in the form of, for example, technology failure, delay in election returns, natural disasters impacting polling place set up, voting or return of results, security/back-up of all computer systems, pollworker shortages, among others.

Example
Develop checklists on who to notify of an emergency, what constitutes an emergency, recovery plans for pollworkers and guidelines for rescheduling an election, etc.

1.7 Develop a Budget and Procurement Plan

With new requirements and new voting equipment, come new and sometimes unexpected costs. Establish budget priorities. Work well in advance with your local budget officers and local legislative leadership so that they understand trends and needs. Make sure the procurement process is open to public scrutiny and abides by state and county or municipal guidelines. Build in plenty of time for procurement – and have back-up plans in the event that certain deadlines for printing, mailing, equipment or supply delivery are not met.

Review and submit training, voter education and poll site accessibility funding plans to the State Board to access funding sources for services and expenses related to: poll worker training; voter education; and, to improve access to polling places, improving voter outreach to voters with disabilities, training of election officials and volunteers on accessibility issues.

1.8 Hire a Usability Consultant

Creating more legible polling place signs, reader-friendly voter guides, clear voting instructions, and user-friendly websites will make it easier for voters to participate, reduce voter errors and build good will on the part of the voting public. Usability consultants can help identify where such improvements can be made. Usability consultants are professionals who specialize in making forms and computer interfaces easier to use; they can help to make instructions more voter-friendly.

The Federal Election Commission's Office of Election Administration (now located within the EAC) produced three booklets in 2003, which provide useful guidance on enhancing usability and accessibility. You can link to the site at the EAC: http://www.eac.gov/election_resources.asp?format=none

- "Usability Testing of Voting Systems"
- "Developing a User-Centered Voting System"
- "Procuring a User-Centered Voting System"

1.9 Review the Legal Environment.

Review the laws as they pertain to that particular election. Ensure that all stakeholders have been educated about the applicable rules and laws prior to the election. Update your county contact sheets with the appropriate judicial duty assignments and make sure that appropriate staff can route calls appropriately.

1.10 Review Documentation to Ensure Accountability/ Transparency of Election Processes.

In every election, sound documentation of all election processes – from voter registration list maintenance to ballot definition to the compiling of results on Election Night -- can help reassure the public that the election was conducted fairly and accurately. Remember that the objective of documenting election processes is, in part at least, to be able to recreate events after the Election in the event that questions arise.

- Keep copies of everything, good and bad: all documentation from tests, all copies of proofs from vendors, all submissions from candidates, etc. Review all materials in bipartisan teams, initialing and dating materials and completed milestones. You can determine after the election what can be thrown out and what should be retained according to legal retention standards and your own common sense.

- Documentation could include information about the experiences of users with disabilities; the operation of voting systems, the effectiveness of polling places accommodations; the reaction by voters, community leaders and media to outreach efforts and the effectiveness of strategic planning that was inclusive of the needs of all stakeholders, including those with disabilities.

2. Introducing New Voting Systems.

Develop a plan to analyze, select, purchase, use and maintain electronic voting equipment, with a particular focus on new requirements with voting procedures including the security issues related to electronic voting equipment.

1. Communicate and consult with colleagues who have made this transition recently or who are using the same system. If your budget and time allows, travel to a jurisdiction served by your vendor or voting system to observe an election, borrow training materials, and consult with staff on lessons learned.

   Example
   Obtain valuable information on rating and selecting a vendor; on key warehouse storage, layout and electrical needs; sample acceptance testing procedures; sample voting machine diagnostics; suggested guidelines for logic and accuracy testing; tips for Election Day troubleshooting and a sample audit tracking mechanism.

2. Conduct voter and media outreach. Develop brochures. Set up self-help voting areas or kiosks at city and town halls, libraries, etc. Prepare demonstrations for community organizations. Prepare materials for Media Outreach and conduct pre-election briefings.

   Examples
   - A successful implementation of a new voting system with a myriad of voter outreach and education services included: conducting over 600 speaking/demonstration events in one year, demonstrating the system at large community venues, a mall tour of the voting system performed by a community-based organization, full color display features in the local print media and numerous smaller events throughout the community. Work with any local Speaker's Bureau programs to conduct outreach. Require that such speakers participate in the County's training program, which covers information on the basic operations of elections as well as the setup and use of the new voting system.

3. Develop a change management plan. Election officials who have made the transition to electronic voting systems advise quadrupling the amount of time allotted to test every piece of new equipment before it is deployed. Assess the new polling place requirements and ensure all polling places meet them. Some polling places may have to be reconfigured – make sure poll workers understand the reason for changing polling place layout. Consider how the new equipment will affect supply delivery schedules. Consider how you will secure voting equipment after it is delivered.

4. Provide extensive hands-on training for pollworkers. Train pollworkers on the appropriate approach in assisting voters who will not be familiar with the equipment, particularly those voters with disabilities.

   Example
   "Practice Makes Perfect" Hands-On Voting Machine Training for Election Workers, where pollworkers can drop by your training sites by appointment or

at their convenience to practice opening and closing the voting machines and get additional hands-on experience with voting equipment.

5. Establish a clear understanding between you and your vendor(s) regarding the level of support you expect. For example, specify the number of vendor staff who will be available to you before the election, on Election Day and in the post-election period. Specify who will be responsible for training staff on programming the equipment and pollworkers on setting up and operating the new systems.

6. Review records retention policy to determine if policy or records will change because of new technology.

7. Keep track of all costs, especially hidden or unanticipated costs, such as upgrading storage facilities to accommodate new voting systems or whether there will be any additional delivery systems.

8. Conduct a post-election debriefing with your pollworkers and stakeholders.

9. Recycle used voting supplies, booths, and provide election supply containers. Many are readily available and in good condition from counties that have changed to other systems. Consider election publications such as Election Administration Reports to announce that you are seeking supplies or have supplies for sale.

3. Voting System Vendor Management and Contract Issues

3.1 Timing

Vendors should provide training materials to election officials at an early stage so that you can adequately train internal staff and prepare pollworker training materials. Vendors should highlight accessibility features in the machines. Establish timelines for equipment delivery, ballot printing, delivery and testing, etc. Develop a plan or schedule that is contingent on deliverables and milestones.

3.2 Communication and Security Checks

Start or join a users group that is user-driven. Election officials should share post-election summary of issues with each other for mutual education, and to help identify solution to problems.

3.3 Vendor Responsibility

Ask your vendor to supply you with the qualifications, experience and number of personnel you will have available pre-election, on Election Day and post-election? You may wish to get the names of the project staff and especially the name and background of the project manager.

How can you become more independent from your vendor?

Develop other resources such as colleagues, user groups, independent technology consultants, and technology professionals working for local or state government agencies, technology professionals teaching at universities. You will want to develop in-house programming and technology expertise.

B. Voter Outreach

- Five Tips on Reducing Voter Error
- Five Considerations for Accommodating Voters with Disabilities
- Five Considerations for Accommodating Voters with Limited English Proficiency

1. Five Tips on Reducing Voter Error

1.1 Provide a Demonstration Unit or Video.

Provide a demonstration unit (preferably one that is fully accessible) or, as an alternative, a continuous-running demonstration video, at every voting site and encourage every voter to try it. If possible, use video that is also accessible to deaf and blind voters. A resource for making the video accessible is National Center for Accessible Media (NCAM) website at http://ncam.wgbh.org/.

1.2 Illustrations Will Make Voting Instructions Much More Effective.

Illustrations will make voting instructions much more effective. Remember that most people are visual. Keep instructional wording short, simple and focused on avoiding common voter errors.

Examples

- The Cook County, Illinois, Clerk's office has redesigned its ballot pages, polling place signs and instructions, election judge manual, and envelopes and forms to make them easier to read and more intuitive for voters and pollworkers. Cook County employs recent graduates of the University of Illinois-Chicago to provide more graphics and step-by-step diagrams to help polling places run more smoothly. Information about this program, can be found at the Design for Democracy link: http://www.designfordemocracy.org/

1.3 Conduct Focus Groups

Conduct focus groups to test how clear and effective your voting instructions are. These focus groups need not be sophisticated – ask college classes, family members, members of the public or community, city or county employees, disability and advocacy organizations, etc. to read and follow the instructions. Focus groups may be as simple as requesting verbal feedback or asking participants to fill out a survey or a more extensive approach such as providing varying layouts of voting instructions to dozens of participants and asking participants to attempt to implement the instructions.

1.4 Survey Voters on their Polling Place Experience.

Survey voters on their polling place experience. Work with disability organizations to survey voters with disabilities.

1.5 Encourage Community Organizations to Assist in Spot-checking.

Encourage community organizations to assist in spot-checking aspects of the elections that occur off-site, such as voter outreach and materials and polling place operations, the availability and clarity of voting instructions. Provide representatives with checklists and request that they provide specific feedback so that you can follow up as necessary.

2. Five Considerations for Accommodating Voters with Disabilities

2.1 Design an Accessible Website.

The federal Access Board has developed accessibility standards for various technologies. For more information on standards and assistive technologies, visit the Access Board website at www.access-board.gov.

2.2 Accessible Polling Places.

Develop checklists for surveyors of polling places to assess whether doorways are too narrow, ramps are too steep, or door handles too difficult to manipulate. Consider borrowing wheelchairs from community organizations or churches so that surveyors can better appreciate whether the polling places is truly accessible. Survey the polling places whenever possible with representatives from the disability community.

The services of community-based organizations can be obtained to train County Board employees on how to conduct a physical assessment of a polling site.

Examples

- Consult the Department of Justice, ADA Checklist for Polling Places

- The Election Center's Accessibility Task Force has developed an Accessibility Preparations Checklist, using federal and state standards, which can be used as a survey tool.

2.3 Sensitivity Training for Pollworkers.

The New York State Board of Elections in collaboration with the Commission on Quality of Care and Advocacy for Persons with Disabilities (CQCAPD) has developed a training program to offer instruction on meeting the needs of voters with disabilities. CQCAPD conducted six training sessions through the Election Commissioners' Association of the State of New York – Regional structure. The State Board will provide ongoing training and support, as needed for new County Board staff and to refresh current worker knowledge.

County Boards should work to incorporate sensitivity training in their education programs and ongoing office procedures.

2.4 Feedback from Voters with Disabilities.

Encourage organizations representing voters with disabilities to provide feedback, especially through on-site evaluations and review of materials utilized by voters with specific needs.

2.5 Public Debriefing with Disability Organizations.

Conduct a debriefing with your community organizations and pollworkers to review Election Day concerns and to solicit with recommendations for future improvements.

3. Five Considerations for Accommodating Voters with Limited-English Proficiency

The Voting Rights Act, passed in 1975, requires that language assistance must be provided to voters who indicate a need for assistance in a targeted language or who reside in an area with a high concentration of multilingual citizens. The Act has the objective of enabling members of applicable language minority groups to participate effectively in the electoral process. The language minority provisions are contained in Sections 203 and 4(f)(4) of the Voting Rights Act. Section 203 is codified at 42 U.S.C. 1973aa-1a; Section 4(f)(4) is codified at 42 U.S.C. 1973b(f)(4).

Where you are required by law to provide written and oral assistance to limited-English proficiency voters in your community, it is a good idea to work with community advocates to target populations and recruit bilingual pollworkers for oral assistance at polling places. If possible, involve sign language experts to develop your voter service and voter outreach programs.

3.1 Bilingual Pollworkers and Interpreters.

Issue identification badges to bilingual pollworkers and interpreters so they can be readily identified by voters. Train bilingual pollworkers and interpreters to assist voters with limited-English proficiency and help them feel more comfortable in a polling place. Demonstrate the voting system and translate election terms such as "affidavit ballot" or "roster". It is a good idea to translate and post basic signs.

3.2 Alternative Language Website.

Provide translated materials on your website.

3.3 Hire Bilingual Staff for Your Election Operations for Key Election Periods.

Recruit temporary and permanent staff by working in partnership with community organizations.

3.4 Pollworker Sensitivity Training.

Provide sensitivity training to pollworkers on how to assist voters with limited-English proficiency. Make sure your pollworkers are aware that in many jurisdictions services for voters with limited-English proficiency are required by federal law. Provide pollworkers with simple talking points to explain why it is important to provide these services. (For example, complex ballot propositions and measures are difficult to read in English. Even translating titles of offices will enable voters to cast an informed vote.)

Pollworker training should make clear the importance of assisting these voters throughout the voting process – not just by providing alternative language ballots.

3.5 Outreach to Minority Language Communities.

Work with your community organizations and language-specific community media in preparing limited-English voters for the voting experience. The organizations can help develop and proof your absentee voting instructions, polling place voting instructions, etc. They can help ensure that the translation is accurate and sensitive to local usage.

C. Pollworkers and Polling Places

- Pollworker Recruitment and Retention
- Pollworker Testing and Training
- Five Methods for Directing Voters to the Correct Election district

1. Poll Worker Recruitment and Retention: "Partners in Democracy"

Pollworker recruiting and retention have become increasingly challenging. The pollworker work force is aging; volunteerism is declining.

Further, with the introduction of new voting systems, some pollworkers may be reluctant to continue to serve because of increasingly complicated procedures. The following examples illustrate some solutions that election officials have devised to overcome these challenges through expanding their bases and retaining the best workers from the pool of veteran volunteer pollworkers.

1.1 College Pollworker Program.

Recruit college or university students to serve as pollworkers. It is recommended that students and sponsoring college administrators/professors coordinate with all the professors with whom the student is usually in class on Election Day. Some

jurisdictions have established programs where students may receive class credit and the pollworker stipend.

1.2 Student Pollworker Program.

Student Pollworker Programs typically encourage 18-year-old high school seniors or college students, who are likely to be tech-savvy, to serve as pollworkers. Students receive class credit or volunteer service hours and, the pollworker stipend. Students are also motivated to serve because the service looks good on college applications.

To ensure that school administrators and parents are aware of the students' plans and where-abouts, those with experience implementing the program have found that the nominating form should include parental/custodial permission.

Examples and Samples from Colorado schools can be found at:
http://www.elections.colorado.gov/DDefault.aspx?tid=568

Examples of College poll worker recruitment programs can be found at:
http://www.eac.gov/coll_poll.asp

1.3 County/City Pollworker Program.

Work with local officials to arrange for county or city employees to work at the polls. Local government employees may be given an "alternate work assignment" at the County Board of Elections on Election Day. County/City pollworker applications should include approval by their immediate supervisor. The advantage of such programs is that municipal employees are community-service oriented, often tech-savvy and may be bilingual.

1.4 Corporate Pollworker Program.

Program goals include increasing the number of election workers available to election authorities, expanding public knowledge of the voting process and creating opportunities for individuals to commit to serving as an election worker. Approach corporate leaders to encourage staff to serve as pollworkers as a commitment to community service.

Sample Program: Johnson County, Kansas, has a well-developed corporate pollworker program, called Makine Voting Popular Program to promote civic pride by loaning employees to work in the elections. More information can be found at: http://www.jocoelection.org/Menu-HelpWanted.htm

1.5 Bilingual Pollworker Program.

Bilingual pollworkers can play a critical role in assisting voters with limited-English proficiency to understand how to navigate the process of voting. (See "Top 5 Considerations Regarding Access for Voters with Limited-English Proficiency") Bilingual pollworkers can be recruited through community

organizations, by placing news stories and ads in community newspapers and by dispatching recruiters to community events. Supplemental training classes can be offered to assist bilingual pollworkers in fully understanding voting procedures and terminology.

1.6 Interpreter Program.

Some jurisdictions that are required to recruit bilingual pollworkers have resorted to hiring bilingual interpreters. Interpreters can play a critical role in assisting limited-English proficiency voters.

1.7 Adopt-a-Poll.

Some jurisdictions have successfully encouraged community organizations to "adopt a poll" as a fundraiser. Adopting a poll may encompass the organization's recruiting members to serve as pollworkers and possibly providing a polling place such as a church or club headquarters.

Example
Ventura County, CA, pioneered an Adopt-a-Poll Program in 1996 with 23 organizations participating. To date, 44 organizations are participating to show their civic pride and support democracy. Visit Ventura's website for more information at: http://recorder.countyofventura.org/apoll.htm

1.8 Incentive Programs.

Ideas that focus on recognizing pollworker service include: election-specific lapel pins, pollworker newsletters, legislative proclamations for Inspector Service Day, and other similar community recognition events or activities.

1.9 Creative Ideas for Pollworker Retention.

Pollworker retention is also a challenge for election officials. To the extent that you can retain pollworkers by easing the labor involved and by creating incentives for them to continue serving, you reduce your recruitment needs. What follows are a few ideas that jurisdictions have used to retain their pollworker pool.

Example
Los Angeles County, California, communicates with its 22,000 pollworkers via a pollworker newsletter, "The Poll Cat.", which can be found at: http://www.lavote.net/VOTER/POLLWORKER/Pollworker_Only.cfm

This newsletter serves at least 3 purposes:

- educates pollworkers on the county's strategic initiatives such as new voting systems, Neighborhood Voting Centers and the Inspector Supply Pick Up Program,
- briefs pollworkers on key procedures for that particular election such as changes in the roster of voters,

- highlights interesting pollworkers such as long-time pollworkers, pollworkers who went above and beyond the call of duty, student pollworkers, etc. and;
- repeatedly seeks input from and gives thanks to the pollworkers.

2. Pre-Election Poll Worker Testing and Training

In addition to the challenge of recruiting and retaining a sufficient number of pollworkers, election officials face the difficult task of training an army of pollworkers to conduct the election. This task will be even more challenging in a time when new requirements go into effect for the first time. The following suggestions aim to ensure pollworkers are adequately prepared on Election Day.

2.1 Hands-on training.

Give pollworkers an opportunity for extensive hands-on training close to the election. This training can be offered outside the normal curriculum and training schedule in the form of "pollworker clinics." Observing pollworkers in this context may help you identify who is willing and able to take on more sophisticated assignments.

2.2 Training Content

The State Board has updated the Poll Worker Training Curriculum for distribution to County Boards in May, 2006. Also, Train-the-Trainer sessions will be conducted throughout May by way of the Election Commissioners Association Regions to help train individuals that will conduct poll worker training sessions in how to successfully deliver presentations to adults and additional tools to strengthen training skills.

- Remember: It's not about ***YOU***; it's about ***THEM***. Training presentations need to be developed and conducted from the pollworkers' perspective. As you develop the program, put yourself in the pollworkers' position and provide the information and tools they will need to do the best job possible. In addition to the focus on their responsibilities, provide details about meals, pay, responsibilities, how they should communicate with you, and *how much you appreciate them.*

- Include training on Help American Vote Act (HAVA) requirements such as affidavit ballots, assisting voters with the voting process to prevent over-voting, and/or handling new identification requirements for first-time voters who need to present identification before voting on the voting system.

- Include training on polling place accessibility and sensitivity to persons with disabilities. Emphasize to pollworkers the importance of setting up the voting booths in accessible areas of the voting space. (For instance, encourage pollworkers to be careful not to move the voting area from the floor of a high school auditorium up to an inaccessible stage.)

2.3 Training Methods

- Develop training programs based adult learning models which prescribe three repetitions of the content:

    1) Review all components of the training.
    2) Review again and focus on the most important procedures and concepts.
    3) Review the most important procedures and concepts again using hands-on practice and feedback sessions.

- Provide training manuals that are user-friendly and contain explanatory graphics.

- Hands-on training is key to a successful polling place on Election Day. Pollworkers should practice each important component of the election process, especially using the voting equipment.

- Provide checklists and train pollworkers on how to use them.

- Provide training videos to vary the format and, ensure consistency in training on key information and practices. Reinforce the videos by providing copies of the videos in the election supplies and/or work with your cable access channels to show the videos.

- Training the trainer. Consider partnering with or employing local continuing education professionals.

- Coordinate with a local university in developing your training materials. For example, a local university may be able to work with you to establish a certification program or to develop training videos.

- Remember the "WHY": Pollworkers will better retain and properly implement procedures if you help them understand WHY they are being asked to follow the many steps and follow the checklists. In training class, interactively practice filling out all documents that the pollworkers will be required to read, comprehend and complete such as use of the poll book, affidavit ballot envelopes, etc.

2.4 Follow Up

To evaluate your training and make improvements, and also to help retain pollworkers, keep in contact with pollworkers and follow up on problems related to the pollworker program after the elections.

- Pollworker Testing and Certification. Some jurisdictions have teamed with local colleges to train election officials and pollworkers in accreditation programs.

- Evaluate pollworker performance via analysis and tracking of errors to a specific election district. Use the analysis to constantly improve your training approach and materials...and to help select the best pollworker teams.

  Example
  Solano County, CA, provides bonus incentives for excellent implementation of pollworker procedures. The program pays for itself over time as canvass staffs spend less time researching pollworker errors.

- Provide the name of a reliable, single point of contact for pollworkers at the county board of elections.

  Example
  Los Angeles County, California, recently began an "Ask Wanda" program. Trainers distributed business cards after training classes for pollworkers to call staff member Wanda with questions. The program has been enormously popular and valuable for identifying and tracking those areas that needed to be strengthened in training.

- Conduct a pollworker debriefing following the election to get the pollworkers' perspective and evaluate training.

3. Five Methods for Directing Voters to the Correct Polling Place

3.1 Polling Place Look Up

Many jurisdictions have added a "polling place look up" function to their websites. Special consideration could be provided to blind voters using this function.

Example
Niagara County, New York has the polling place look up on its website: http://ntsdata.dnsalias.com/niagaraboe/pollingplacelookup.aspx.

3.2 Pre-election Notices to the Voters

The Annual Notice to Voters post card advises voters about the name, location and accessibility of their polling place and how to get other information through the County Board of elections web site, etc.

3.3 Employ a Phone Bank and/or Automated Voice System

Employ a phone bank and/or automated voice system to serve those voters who may not have access to the Internet that provides information on polling place

location and accessibility. The automated voice system may also direct voters to the website or to other governmental or community entities that can advise voters of their correct polling place.

3.4 Provide Street Finders or Election district Maps to Polling Places

In the polling place, provide street finders or election district maps (showing adjacent election districts or countywide) which helps identify polling places.

Utilize the services of automated systems that can locate correct voter polling places and to provide access to other election day instruction materials.

3.5 Train One of Your Workers to Serve as a "Greeter" at Each Polling Place.

Use a polling place coordinator in sites serving more than one election district. Train the coordinator to serve as a "greeter" to ensure voters are directed to the correct polling place. The greeter may be stationed outside the election district to assist voters before they waste time standing in line at the wrong location.

D. Election Operations/Technology and Equipment

- Before the Election: Challenges and Solutions
- Election Day/Election Night: Challenges and Solutions
- Post-Election Period: Challenges and Solutions

1. Before the Election: Challenges and Solutions

1.1 Ensuring System Integrity

In light of increased public and media scrutiny of elections and heightened concerns regarding the security of the election process, consider the following actions to protect the integrity of your voting system. In doing so, County Boards will help make the election go more smoothly and may help gain you public support.

- Obtain documentation from the State Board and your voting system vendor regarding the testing and certification that the system (hardware and software) has been through (for example, state certification requirements) to substantiate that your system as installed has been certified.

- Verify that you are using the correct, certified version of the software.

- Test every piece of voting equipment prior to deployment, using the ballot styles for that election. Accommodate the public and media to view the pre-election test of the system at which you may include other information that they will need to know.

1.2 Ensuring Transparency.

To bolster public confidence, take steps to make every component of administering your voting system as transparent as possible.

- Invite the public and media to view all aspects of testing.

1.3 Establish Chains of Custody.

A chain of custody allows you to track who has handled the systems -- including paper ballots, optical scanners and DRE's – and who performed what functions. In the event of any malfunction or irregularity, you will be able to trace the problem back to the cause. In addition, a chain of custody will promote stricter accountability on the part of both county board staff and pollworkers.

- Separate staff duties for each test you conduct and require staff signatures to ensure each procedure has been completed and appropriately documented.

- Draft and implement well-organized procedures that identify the chain of custody for every instance when the ballots and/or voting equipment changes hands.

2. Election Day/Election Night: Challenges and Solution

2.1 Ensuring Trouble-free Polling Place Opening and Closing

- Prior to Election Day, double-check that the proper equipment and supplies have been delivered to the correct polling places. Many jurisdictions are using a bar code system to ensure accurate delivery of voting systems, ballots and supplies.

- Be sure to provide the pollworkers extension cords of sufficient length to lay out the polling place properly and adequate table space and chairs for pollworkers and voters. Be sure to tape down any cords to avoid accidents.

- Require each chief polling place official to contact other team members to confirm they will serve on Election Day.

- Provide alternate contact or emergency numbers in case polling place is locked or inaccessible.

- For paper ballot systems, ensure the ballot box is empty. For DRE or central count paper-based system, print out and consider posting the zero report prior to the polls opening. Also, for DRE systems ensure that the Voter Verified Paper Audit Trail (VVPAT) storage device is empty.

- After the polls have closed, have pollworkers verify the number of voted ballots, unused ballots, affidavit ballots, emergency ballots, if any, absentee

ballots (if the jurisdiction allows voters to drop absentee ballots at the polling place) and spoiled ballots to make sure the number of ballots corresponds with the number of ballots issued by the supervisor of elections. If there is a difference, the pollworkers should report such differences in writing to the county election officials, with an explanation, if known, so that any discrepancy can be evaluated during the canvass period.

2.2 Troubleshooting Strategies

- Develop a Troubleshooter Program.

  Example
  The Monroe County, Election Inspector Coordinator Handbook is located at: http://www.monroecounty.gov/org836.asp?orgID=836&storytypeid=&storyID=&

- Provide fully documented procedures for dealing with Election Day problems, such as equipment failures, supply delivery snafus and voter complaints. These procedures should be covered in troubleshooter pollworker training and be available in writing at the polling place. Have pollworkers keep a log documenting problems with equipment.

- Enlist support from community partners to assist in reviewing polling place operations.

  Example
  Montgomery County, Maryland, has instituted a "Polling Place Support Program" in partnership with the local League of Women Voters. LWV members are provided a stipend for intensive training and Election Day duties.

  The League surveys five to seven polling places for a minimum of 30 minutes each, to observe and fill out a checklist. Results are shared with the chief pollworker. A post-election debriefing helps the election office to develop its training methods and provides feedback on pollworker performance.

- Develop an effective communication plan to handle calls from voters, pollworkers and stakeholders on Election Day.

- Require staff and pollworkers to keep an Election Day "problem log" for all problems that are reported and how they were handled.

- To help provide privacy to the voter and maintain order in the polling site, instruct pollworkers not to allow a voter to sign the roster/register until a voting booth is available.

While experts may disagree over technological security, election officials can take some effective steps to protect the integrity of the election process by ensuring the physical security of voting systems and election materials.

- If you must deliver election equipment or supplies to the polling place prior to Election Day, seal equipment, supply boxes, and each sensitive item in the equipments container so you will know if tampering has occurred.

- Restrict access to your County Board office both before and after election. At the polling place, provide badges to pollworkers, poll clerks, coordinators, machine inspectors and custodians. Require staff and visitors to sign-in, sign-out and wear badges. Consider placing a video camera in the ballot room or other sensitive areas at your Board of Elections office.

  Example
  Some jurisdictions use "swipe cards," which are coded to log who entered and exited the election office.

- Provide well-marked supplies with thorough instructions and a check-off sheet.

- Establish a chain of custody to protect all ballots in the polling place (including affidavit ballots, emergency ballots and absentee ballots dropped off at polls).

- Provide well-marked containers for issuance and return of ballots.

- Create reconciliation checklists to account for all ballots.

- Include chain of custody instructions in pollworker training.

  Example
  San Bernardino, California, uses large, zip-lock baggies with pre- and post-processing checklists affixed to side of bag.

3. Protecting Voter Privacy/Voting Accessibility

- Instruct pollworkers on how to configure polling place to maximize voter privacy.

- Instruct pollworkers on how to configure polling place to ensure routes to voting units are safe and accessible.

4. Preventing Problems at Polling Places that Contain More Than One Election District ("Multiples")

Some jurisdictions are required to house several election districts in one polling place. Such multiple-election district polling places present a special set of requirements for

election officials, including directing voters to the correct line and ensuring voters either receive the proper ballot, or vote on the proper machine.

- Provide pollworker instructions that include information on model polling place configuration to avoid voter confusion.

- Provide color-coded supplies and well-marked voter rosters/registers.

- Provide election district maps, if possible.

- Recruit a polling place coordinator.

5. Election Night

- Test the equipment and services prior to Election Day to ensure that it is correctly operating for Election Night.

- Educate media and candidates regarding the difference between unofficial Election Night results and official results at the legal deadline. Explain that additional ballots are likely to be included in the official certified results such as absentee and affidavit ballots, which can impact the results of close elections.

- Reconcile that the number of votes cast matches the number of voters who signed each election district's roster.

- Check the voting system's public counter to verify that the number of voters who signed in matches the number of the public counter. Account for any discrepancies.

- Use "Ballot Reconciliation Statements" or "Ballot Supply Record" as an audit to reconcile various types of ballots issued/ballots returned and votes cast as well as keys issued and check-in of critical supplies.

- Develop administrative procedures (or implement those procedures developed by state officials) to audit the accuracy of your election results.

- Designate a particular space for pollwatchers where they can see, hear and observe the process but not disrupt the flow of voters or the work of election inspectors.

E. Post-Election: Challenges and Solutions

1. Post-Election Audits

- Conduct the New York State Election Law § 9-211 Audit. Additional instruction material will be provided to you by the State Board.

[i] These guidelines include sections from the Election Assistance Commission's "Best Practices Tool Kit". The link for the EAC Tool Kit is: http://www.eac.gov/bp

ATTACHMENT B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, Plaintiff, v. NEW YORK STATE BOARD OF ELECTIONS; PETER S. KOSINSKI and STANLEY L. ZALEN, Co-Executive Directors of the New York State Board of Elections, in their official capacities; and, STATE OF NEW YORK; Defendants.	)	Civil Action No. 06-CV-0263 (GLS)

PROPOSED REMEDIAL ORDER

Pursuant to this Court's March 23, 2006, Order (Docket #38) finding the New York State Board of Elections ("SBOE") in noncompliance with Sections 301 and 303(a) of the Help America Vote Act, 42 U.S.C. 15481 and 15483(a), the SBOE submitted to the Court a proposed Plan for Compliance with HAVA on April 10, 2006 (Docket #45). The State supplemented its proposed compliance plan on April 20, 2006 (Docket #49), and on May 15 and 16, 2006 (Docket #64-67). On April 28, 2006, the United States filed its Response to New York's Remedial Plan (Docket #57). On May 16, 2006, this Court held a conference in this action during which the parties further explained and argued their respective positions concerning the appropriate remedy in this litigation.

This Court has carefully considered the Complaint in this action, previous filings of the parties, and the specific filings and arguments of the parties concerning the proper remedy for the noncompliance with HAVA that this Court has found. This Court agrees with the United

States that the proposed State compliance plan will not bring the State of New York into full compliance with HAVA in time for the Fall 2006 federal elections (the September 2006 primary and the November 2006 general election) in New York. The Court recognizes that the State of New York will be unable to achieve full compliance with HAVA before the Fall 2006 elections, and that pushing for full HAVA compliance in time for those elections would overtax State election capabilities and risk a breakdown in the conduct of upcoming federal elections. However, the Court views the State's plan, as ordered herein, as leading, upon full implementation, to full compliance with HAVA. Moreover, the actions that the State and local jurisdictions in New York will take to partially comply with HAVA for the Fall 2006 elections will provide a practicable measure of compliance tempered by the need to ensure that the right of every voter to vote is not impaired and that the orderly conduct of the election process itself is not in any manner jeopardized.

Accordingly, it is hereby ORDERED, ADJUDGED and DECREED that:

1. The State's April 10, 2006, remedial plan for compliance with Sections 301 and 303(a) of HAVA, 42 U.S.C. 15481 and 15483(a), as supplemented by the April 20 and May 15 and 16, 2006, filings of the SBOE, shall be implemented in full by the Defendants, subject to the following:

A. Voting Systems

1) With regard to all voting devices accessible to individuals with disabilities that will be deployed for the Fall 2006 federal elections pursuant to the State's interim plan, the overriding principles shall be deployment of one or more accessible HAVA-compliant voting device(s) in each jurisdiction that will provide the opportunity to vote

independently and privately to all voters with disabilities no matter their residence location in the jurisdiction. As the United States has pointed out in its Response to the State's proposed Remedial Plan, it may be that such accessible voting devices may be used only by a small number of voters with disabilities. To ensure to the extent possible in such situations the privacy of the individual vote of each voter with disabilities, the defendants shall take steps to encourage the use of the accessible voting devices by non-disabled persons as well as persons with disabilities;

2) No later than June 15, 2006, the SBOE must file with the Court, for each local jurisdiction: a) the specific polling locations at which accessible voting devices will be deployed as part of the State's interim voting systems plan; b) the number of accessible voting devices to be deployed in each such polling location; c) the specific geographic area and population served by each polling location (e.g., county, assembly district, election district, etc.); and d) confirmation of what provision will be made, where appropriate, for accessible transportation for disabled voters to reach each such polling location;

3) No later than August 15, 2006, the SBOE must file with the Court a proposed detailed schedule for implementation of its long term proposal for replacing all lever voting systems in the State with all HAVA-compliant voting systems in every polling place by September 2007;

4) For each local jurisdiction that, for whatever reason, does not timely comply with the State's plan for interim HAVA voting systems compliance, the SBOE will determine the type, number, and specific location(s) of accessible voting devices to be deployed

by such jurisdiction, consistent with the time line and other details set forth in the State's plan, and shall order such voting devices for such jurisdiction;

5) Notwithstanding any provision of law to the contrary, the fact that a vote cast in the Fall 2006 elections is cast by a voter using an accessible voting device located outside of the election district in which that voter resides shall not disqualify that vote from being counted when the ballots cast in the election are canvassed.

6) All ballots cast by use of a ballot marking device in any election district pursuant to the provisions of this Order shall be cast and canvassed in a manner to be prescribed by the SBOE.

B. Statewide Voter Registration List

1) No later than September 15, 2006, the SBOE shall file with the Court a proposed detailed schedule for development and implementation of the NYSVoter permanent statewide voter registration list;

2) No later than June 15, 2006, for NYSVoter I, and no later than December 31, 2006, for NYSVoter, the SBOE shall file with the Court proposed implementation regulations for such voter registration system. The United States shall have fourteen (14) days from the date of each filing to review such regulations and file comments with the Court. If no objection to such regulations is noted by the United States or the Court, the SBOE shall adopt finally such regulations in a timely manner, but in no event later than August 15, 2006 for NYSVoter I. Where there is an objection, the Court shall resolve the issue(s) and order adoption of such regulations as appropriate;

C. Reporting and Recordkeeping

1) The SBOE shall report to the United States, on a bi-weekly basis until the general election on November 7, 2006, and on a monthly basis thereafter, in writing (by e-mail or overnight delivery) or through personal report from SBOE staff, concerning progress in implementing the terms of this Order;

2) The Defendants shall retain any and all records concerning the subject matter of this Order during the term of this Order. Subject to applicable privileges, the United States may request access to such records, and access shall be provided by the Defendants within a reasonable period of time after any such request. The Defendants shall make appropriate State personnel available to the United States at any and all reasonable times in order to answer questions and provide information concerning compliance issues that arise during the term of this Order;

3) It shall be the responsibility of each of the Defendants to provide advance notice that such Defendant is about to be in breach of any of the terms of this Order or any of the schedules to be devised pursuant to the Order, such advance notice to include the nature and causes of such breach, and the steps the Defendants propose to take to resolve the breach and ensure that such breach does not recur in any part of the State of New York;

4) If at any time the United States obtains information that any of the Defendants is about to be in breach of any of the terms of this Order, the United States shall advise the SBOE and the State of New York in writing by notice sent by e-mail or overnight delivery, and facsimile. The Defendants shall have two (2) business days following transmission of such notice to respond in writing (by e-mail or overnight delivery, and facsimile) to the

United States (unless such breach is within ten (10) days of a federal election, in which case Defendants shall have one (1) business day to respond orally or in writing). The parties shall thereafter immediately attempt to resolve any issue of potential noncompliance. If the parties are unable to agree on a resolution of the issue, any party may bring the matter before the Court for appropriate resolution. Nothing in this Agreement shall otherwise prevent the United States from taking any actions required to enforce any and all provisions of HAVA other than those that are the subject of this action;

5) Changes in voting procedures under this Order are subject to the preclearance requirement of Section 5 of the Voting Rights Act, 42 U.S.C.1973c, in counties covered by the preclearance requirement, and the State Board of Elections has applied to the United States Attorney General for preclearance of such changes in covered counties. In such covered counties, implementation of any changes to voting procedures under this Order shall be contingent on the Attorney General's prompt issuance of the requisite preclearance;

6) Any notices sent by the respective parties pursuant to provisions of this Order shall be sent to:

For the United States:

Chief
Voting Section
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Ave., N.W., Room 7254-NWB
Washington, D.C. 20530
Phone: (800) 253-3931
Fax: (202) 307-3961
Email: brian.f.heffernan@usdoj.gov
Email: chris.herren@usdoj.gov

For the State Board of Elections:

Todd D. Valentine, Esq.
Patricia L. Murray, Esq.
Counsel
Board of Elections of the State of New York
40 Steuben Street
Albany, New York 12207
Phone: (518) 474-8100
Fax: (518) 486-4068
Email: tvalentine@elections.state.ny.us
Email: pmurray@elections.state.ny.us
For the State of New York:

Bruce D. Feldman, Assistant Attorney General
Jeffrey M. Dvorin, Assistant Attorney General
Douglas J. Goglia, Assistant Attorney General
Office of the Attorney General
The Capitol
Albany, New York 12224
Phone: (518) 474-8370
Fax: (518) 474-5284
Email: bruce.feldman@oag.state.ny.us
Email: jeffrey.dvorin@oag.state.ny.us
Email: douglas.goglia@oag.state.ny.us

D. Scope of Remedial Order

This Remedial Order is binding on all defendants, including the State of New York, consistent with Rule 65 of the Federal Rules of Civil Procedure.

E. Retention of Jurisdiction

The provisions of this Remedial Order shall expire on January 1, 2008, absent further extension for good cause shown. The Court retains jurisdiction of this action to enforce the terms of this Order during the effective period of this Order.

ENTERED this 2 day of ~~May~~ June, 2006, at Albany, New York.

Gary L. Sharpe

GARY L. SHARPE
UNITED STATES DISTRICT JUDGE

ATTACHMENT C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, Plaintiff, v. NEW YORK STATE BOARD OF ELECTIONS; PETER S. KOSINSKI and STANLEY L. ZALEN, Co-Executive Directors of the New York State Board of Elections, in their official capacities; and, STATE OF NEW YORK; Defendants.	)	Civil Action No. 06-CV-0263 (GLS)

SUPPLEMENTAL REMEDIAL ORDER

On November 5, 2007, plaintiff United States filed a Motion to Enforce this Court's June 2, 2006 Remedial Order, alleging defendants' continuing noncompliance with the Remedial Order and the Help America Vote Act, 42 U.S.C. 15301 et seq. ("HAVA") (Docket # 134). Following the defendants' filing of responses to the United States' Motion (Docket ## 151, 153-157), this Court held a hearing on December 20, 2007 (Docket ## 175, 176), at which arguments of the parties were heard. Pursuant to this Court's directive at that hearing, on January 4, 2008, the defendants filed with the Court a revised HAVA implementation plan (Docket # 179). On January 11, 2008, the defendants supplemented this plan (Docket #180). On January 11, 2008, the United States responded to these submissions of the defendants in a letter to the Court and submitted to the Court a proposed Order. The Court now enters this Supplemental Remedial Order, which, in conjunction with this Court's previous June 2, 2006 Remedial Order, is intended to direct the remedial course of this litigation in the future.

This Court, having carefully considered the filings of the parties in this matter, and the extensive arguments heard at the December 20, 2007 hearing, finds as follows:

1) This Court agrees fully with the United States and finds that the defendants have failed substantially to comply with the voting systems requirements of this Court's Remedial Order and that New York remains in noncompliance with the voting systems requirements of Section 301 of HAVA, 42 U.S.C. 15481;

2) As this Court made clear at the December 20, 2007 hearing, noncompliance with HAVA is not an option for defendants and, to the extent that State law and procedure stands in conflict with full compliance with HAVA's federal law mandates, such State law and procedure must give way to federal law requirements;

3) This Court finds that the defendants' unacceptable and continual delays in meeting the voting systems requirements of HAVA that became effective January 1, 2006, has made full compliance with these HAVA requirements in time for New York's February 2008 presidential preference primary, and for the September 2008 federal primary election and November 2008 federal general election, not currently possible;

4) This Court finds, based on the filings and arguments of the parties and consistent with the January 4, 2008 submission of defendants (Docket #179), and having considered relevant submissions of amicus curiae, that partial compliance with HAVA's voting systems requirements, in the form of ballot marking devices and/or voting systems accessible to persons with disabilities available for use in every polling place in the State of New York during the fall 2008 federal primary and general elections, is possible and must be accomplished;

5) This Court finds, based on the filings and arguments of the parties and consistent with

the January 4, 2008 and January 11, 2008 submissions of defendants (Docket ##179, 180), and having considered relevant submissions of amicus curiae, that full compliance with HAVA's voting systems requirements, and the replacement of all lever voting machines in the State of New York, must be accomplished as soon as possible but in no event later than in time for use of fully HAVA-compliant voting systems during the fall 2009 State primary and general elections.

Accordingly, it is hereby ORDERED, ADJUDGED and DECREED that:

1. The United States Motion to Enforce is hereby GRANTED, as set forth below;

2. The defendants' Plan B for the deployment of ballot marking devices accessible to person with disabilities in every polling place in the State for use in the fall 2008 federal primary and general elections, as set forth in the defendants' January 4, 2008 filing with the Court and according to the specific timetable set forth in Exhibit C to that filing (Docket # 179), shall be implemented in full by the Defendants;

3. The defendants' Plan A for the deployment of fully HAVA-compliant voting systems throughout the State of New York, specifically including the replacement of all lever voting machines in the State, by the fall 2009 State primary and general elections, as set forth in the defendants' January 4 filing, as revised by the defendants' January 11, 2008 filing and according to the specific timetable set forth in the January 11, 2008 filing (Docket #180), shall be implemented in full by the Defendants, subject to the following:

a) Consistent with the January 11, 2008 submission of defendants (Docket #180), the defendants shall carry out certification of Plan A voting systems concurrently with certification of Plan B ballot marking devices;

b) It is the clear intent and Order of this Court that, where possible, New York

counties be able to utilize, for the fall 2008 federal elections, voting systems that are fully compliant with HAVA. Accordingly, consistent with defendants' January 11, 2008 submission (Docket #180), the defendants shall make all possible efforts to provide for certification of a Plan A voting system(s) in time for use of such system(s) in the fall 2008 federal primary and general elections by such counties as wish to utilize fully HAVA-compliant voting systems in such elections;

4. Beginning on the first Friday following the entry of this Supplemental Order, and continuing thereafter on each subsequent Friday until further order of this Court, the defendants shall file with this Court, and shall submit by electronic mail to counsel for the United States, a detailed report concerning the previous week's progress in implementing the terms of this Court's Orders;

5. The defendants shall provide immediate notice, by filing with this Court, and by electronic mail to counsel for the United States, concerning any deviation, no matter how minimal, from Plan A and/or Plan B as ordered implemented by this Court, including any deviation from the specific timelines set forth by defendants for those plans, such notice to include the nature and causes of such deviation, and the immediate steps the defendants propose to take to resolve the possible delay caused by such deviation and ensure that such delay does not recur in any part of the State of New York;

6. Time is of the essence in carrying out this remedial process. Accordingly, this Court, where possible, will make itself available on short notice by any party, to deal with any issues that may arise that threaten timely compliance with the Orders of this Court;

7. Unless superseded by more specific terms in this Order, all provisions of this Court's

June 2, 2006 Remedial Order are incorporated herein and shall be in effect until further order of this Court. Moreover, this Court retains jurisdiction to take any and all other actions, including specifically the appointment of a special master or other entity as necessary to ensure that the obligations imposed upon the defendants by HAVA and by this Court's Orders are carried out forthwith.

ENTERED this 16th day of January, 2008, at Albany, New York.

Gary L. Sharpe

GARY L. SHARPE
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-Plaintiffs,

-against-

Civil Action No.
06 CIV 0263 (GLS)

NEW YORK STATE BOARD OF ELECTIONS, TODD D. VALENTINE and STANLEY L. ZALEN, Co-Executive Directors of the New York State Board of Elections, in their official capacities; and STATE OF NEW YORK,

-Defendants.

ORDER

On June 3, 2009, the parties filed a joint letter request asking the Court to approve a revision to the voting systems compliance schedule set forth in this Court's January 16, 2008 Supplemental Remedial Order.

The parties' joint request seeks Court approval of a May 12, 2009 proposal by the New York State Board of Elections (SBOE): 1) to implement a pilot program utilizing optical scan voting systems for the fall 2009 state and local elections; and 2) to extend the remedial timeline to provide for full HAVA-compliant voting systems implementation throughout the State of New York in time for the fall 2010 federal primary and general elections. The details of this SBOE proposal are set forth in the three Attachments to the parties' joint request; namely, a narrative description of the SBOE proposal (Attachment A), a revised remedial timeline (Attachment B), and a list of counties participating in the pilot program (Attachment C). The Court has carefully considered the parties' joint filing and attachments in this matter, and finds that the parties' request is well-taken.

Accordingly, it is hereby ORDERED, ADJUDGED and DECREED that:

1) The parties' instant request for a revision of the compliance schedule in this litigation, as set forth in the parties' joint June 3, 2009 letter and the attachments thereto, is GRANTED, and defendants are ORDERED to proceed forthwith to implement the May 12, 2009 proposal of the SBOE;

2) Except to the extent superseded by the provisions of the SBOE's May 12, 2009 proposal, all provisions of this Court's June 2, 2006 Remedial Order and January 16, 2008 Supplemental Remedial Order shall remain in effect;

3) The Court continues to retain jurisdiction in this litigation to deal with all remedial matters and to enforce this Order and all of its previous Orders.

ENTERED this 4 day of June, 2009 at Albany, New York.

Gary L. Sharpe

GARY L. SHARPE
UNITED STATES DISTRICT JUDGE

The United States has reviewed the attached NYSBOE proposal and has indicated to the Defendants that, while it takes no position on the statements of the Board contained in the Introduction and Conclusion of the Narrative document (Attachment A), it is in agreement with the substance of the remedial plan and the timeline as proposed. Accordingly, the United States and the Defendants will jointly request that the Court approve the Board proposal. The parties believe that the requested revision is in the best interests of achieving the remedial goals in this litigation in a fair and efficient manner. We have attached a proposed Order to this letter should the Court approve our request.

The parties are available to discuss this request with the Court if the Court so desires. Thank you for your consideration of this request.

s/
Kimberly A. Galvin
Bar Roll No. 505011

s/
Brian F. Heffernen
Bar Roll No. 513721

s/
Paul M. Collins
Bar Roll No. 101384

s/
Jeffrey M. Dvorin
Bar Roll No. 101559

Attachment A

INTRODUCTION

The State of New York remains fully committed to full compliance with Section 301 of HAVA. New York is equally committed to ensure that we replace a working voting system with one that will be in full compliance with federal VVSG standards. In our commitment to fully replace lever machines in New York, we seek voting systems that are better than our existing system, and that do not deprive New Yorkers of their constitutional rights as voters.

It is critical to the New York State Board of Elections (SBOE) that any voting system intended for use in New York State be rigorously and thoroughly tested to ensure compliance with federal VVSG standards. It is projected that the current certification process will be concluded in December of 2009 (a copy of the timeline is attached). As that current certification process continues, it is critical that elections that take place in this State utilize secure and accurate voting equipment.

After a great deal of internal discussion and consultation with county boards of elections, the SBOE has concluded that there is a great deal of value that can be gained from the experience of a secure and controlled pilot program.

PROPOSED PLAN FOR A 2009 PILOT PROGRAM

This document sets forth a proposal by the State Board of Elections to the Department of Justice regarding the deployment of optical scan voting systems (OpScan) for the September 2009 primary and general elections. It is the intention of the State Board of Elections to allow Op Scan devices to be deployed and utilized as widely as they can be based upon the local boards of elections' capability to train on and use them effectively.

In addition, this document clarifies the schedule committed to for full machine deployment in 2010. The SBOE will immediately notify the Department of Justice should there be *any* deviation from any part of this proposed plan.

PRE ELECTION FUNCTIONAL TESTING AND ACCEPTANCE TESTING

The State Board will conduct functional testing of the vendor units prior to their deployment. This functional testing will validate the logic and accuracy of the systems, which will ultimately allow for less restrictive post-election procedures to be implemented. This will also be accomplished through testing by SysTest as part of the formal certification process.

In addition, the State Board will perform acceptance testing on all new voting equipment prior to its use. To this end, the State Board will create an enhanced acceptance testing procedure for all newly-delivered devices. Any new Sequoia/Dominion units that are to be deployed and all of the ES&S scanners will be required to go through this enhanced acceptance testing procedure prior to being dispatched to the counties for use. The enhanced acceptance testing will consist of a process developed by SBOE staff and NYSTEC and will be conducted at a central location in

Albany. The staffs are currently in the process of developing these procedures. The acceptance testing procedures have been finalized.

The counties have requested that the tabulation function of the voting systems be activated as soon as possible so that they may begin training on the "actual systems" that the poll workers will see on Election Day. The vendors have started to enable these tabulating functions or provide counties with scanners for testing purposes. Both vendors assured the State Board that they will finish the provision of "working machines" by May 30, 2009. This will give the counties adequate time to train their personnel.

UPGRADING OF MACHINES CURRENTLY IN THE CUSTODY OF THE COUNTIES

The Board must ensure that all units that are going to be used in this pilot program are loaded with identical software versions. After lengthy discussions with the Sequoia/D ominion vendor it has been tentatively agreed that this upgrade would be most efficiently done at a central location. The vendor has agreed to go to the counties involved in the pilot program, box up their voting systems and ship them to the central location. At that location, the upgrade would be made to the voting system by the vendor. The vendor will then box up the voting system again and send the machine back to the county of origin. At that point, the county board will perform receipt process tasks as outlined in the procedure manual, making the units ready for use. All of this will be done at no cost to the counties.

It has been determined that this process will take place in two phases. The first phase will consist of those machines that will be utilized in the pilot program and a finite number of spare machines. This first phase of the updating process for the pilot voting systems will be completed by July 15, 2009 which is a sufficient time frame to allow the counties to run pre-election tests that are necessary to confirm readiness for the September primary election. Phase two of this process will be upgrading the balance of the Sequoia/Dominion machines currently deployed throughout the State. This will be completed no later than July 30, 2009.

The Board also has had similar discussions with ES&S. While this vendor has a significantly smaller number of counties it has different logistical issues in that the scanners that will be utilized have not been tested at all and are currently not in the possession of the counties. ES&S has assured the State Board that they can meet the same deadlines as outlined above for Sequoia/Dominion and that we will have all of the scanners that are needed for the pilot counties in possession of those counties by July 15, 2009.

POST ELECTION VERIFICATION

The Board will also provide for a Post Election Audit System to verify the election results. While these processes are still being discussed by the SBOE staff and the Commissioners, it is enticipated that the counties' required audit requirements will be as follows:

- Full compliance with the audit provisions contained in Election Law §9-211 and the audit provisions contained in the proposed regulation 6210.18.
- Conduct a 100% hand audit of all ballots in election districts when the difference in the result of the election between the potential winning and losing candidates in any contested election on the ballots is 1% or less AND,
- Randomly select 3 % from all the devices used in each county, or, borough within NYC, and hand audit all of the ballots tabulated by that device. If the outcome does not match the canvass report, then a 100% hand audit is to be conducted.

PARAMETERS OF THE PILOT PROGRAM

As previously indicated, it is the SBOE's intention to encourage and allow Op Scan devices to be deployed, in the pilot program, as widely throughout the State as they can be, based upon the availability from the manufacturer and capability of each local board of elections to use them.

In keeping with this intention, in SBOE has required the local boards to identify to the State Board both their intention to participate and in what portion of their county it will be using the OpScan voting system. In addition to any other requirements that are developed, the SBOE is requiring that:

- $ The pilot area is comprised of distinct polling places so that all of the voters within that polling place cast their vote on the same voting system. This will ensure that training and outreach efforts are consistent and focused.
- $ If the poll site serves multiple election districts, the all of the voters in that poll site will be included in the pilot.
- $ In a pilot district all voters will be voting on scanners or BMDs. ***No lever machines*** will be deployed in the pilot districts.

PARTICIPATION IN THE PILOT PROGRAM

SBOE has been clear that participation is expected in both the primary and the general elections of 2009. In addition, SBOE has clearly stated that an *increased* participation from the primary election to the general election is encouraged and will be authorized.

A chart setting forth the various counties' level of participation in the pilot is attached. In addition, the DOJ has been previously provided with the individual county participation documents provided by the counties to SBOE.

Projection for Full Machine Deployment

As set forth in the attached timeline, the certification testing process will be completed by mid-December of 2009. The conclusion of the SBOE certification project includes the completion of testing by SysTest, any reviews required by NYSTEC, the issuance of testing reports, and a vote on certification by the Board at a meeting to be held no later than December 15, 2009.

All of the machines needed by the counties for a full 2010 deployment will be in the possession of the counties by March 15, 2010. By way of explanation, prior to full certification in December of 2009, SBOE is projecting that the vast majority of new machines will be ordered by the counties by May 30, 2009. Upon final contract "sign-off" by the NYS Comptroller's office (which we are expecting will occur on or before May 29, 2009), these requisitions will be converted almost immediately to actual purchase orders prior to the actual certification of the voting systems. Both vendors have indicated that they will only rely on purchase orders for building and shipping purposes. In furtherance of this process moving as quickly as possible, Board staff have had numerous conversations with the staff at OGS and with the vendors. SBOE has urgently and repeatedly stressed to all involved that everything and anything that can be done to move this process forward, should be undertaken. In addition, Board staff drafted a resolution that was taken up and voted on at our May 12, 2009 Board meeting, by which the Board awarded the required interim authorization for use of these systems.
Assuming final sign-off by OSC by May 29, 2009, it is anticipated that full acceptance testing of the new Sequoia devices can begin August 10, 2009 and will conclude no later than December 23, 2009. Should Sequoia/Dominion be chosen as the vendor for NYC, they have committed to SBOE that they can build enough machines in a timely fashion so that they will be acceptance tested and delivered to NYC no later than December 31, 2009.

ES&S staff has indicated to SBOE that they currently have enough units to fully deploy units for this conversion in all four of their counties outside of NYC. Acceptance testing can thus begin within 2 weeks of having the purchase orders issued. As such, it is anticipated that the ES&S machines for those counties outside of NYC will be acceptance-tested and deployed no later than July 30, 2009. Should ES&S be chosen as the vendor for NYC, they have committed to SBOE that they can build enough machines in a timely fashion so that they will be acceptance tested and delivered to NYC no later than November 30, 2009.

CONCLUSION

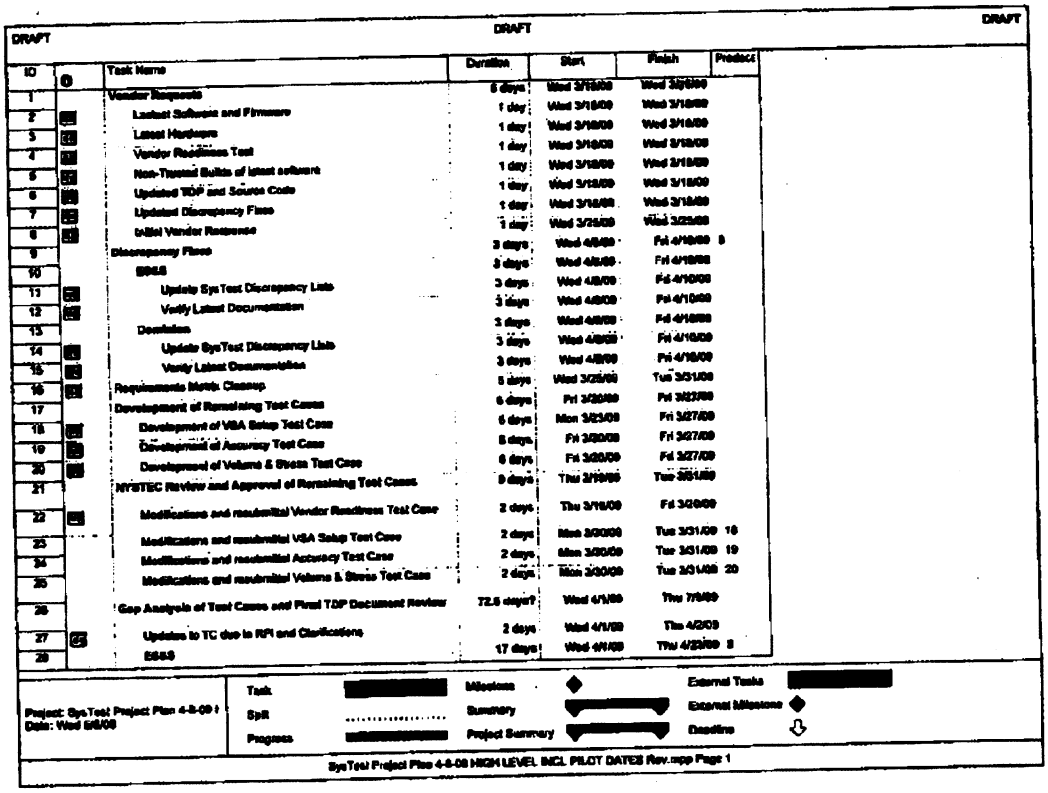
In summary, while the SBOE remains strongly committed to the full certification process, we believe that the Pilot program as outlined above will provide both the State and the counties with an invaluable learning tool as we finalize certification and full deployment in 2010. In addition, SBOE is committed to full certification and delivery as indicated in this document and the accompanying documents.

Attachment B

County Name	Code	Pilot Project (Yes or No)	Countywide (CW), City/Town (C/T), or Poll Site (PS)	Pilot Election Districts	Pilot Poll Sites	Pilot Registered Voters
Albany	1	Yes	C/T (3)	25	15	20,136
Allegany	2	Yes	C/T (TOWN-1)	2	1	1,200
Broome	4	Yes	CW	190	123	118,000
Cattaraugus	5	Yes	C/T - (1)	7	3	4,563
Cayuga	6	Yes	CW	61	29	46,946
Chautauqua	7	Yes	CW	124	60	82,000
Chemung	8	Yes	C/T (Town-1)	8	4	5,290
Chenango	9	Yes	CW	42	28	30,857
Clinton	10	No		0	0	0
Columbia	11	No		0	0	0
Cortland	12	Yes	CW	42	28	30,136
Delaware	13	Yes	CW	59	28	29,253
Dutchess	14	Yes	PS	4	2	1,432
Erie	15	No				0
Essex	16	No		0	0	0
Franklin	17	Yes	CW	49	31	26,000
Fulton	18	Yes	C/T (1 city/1 town)	8	8	9,140
Genesee	19	Yes	C/T (1)	1	1	1,045
Greene	20	Yes	C/T (TOWN-2)	2	2	1,200
Hamilton	21	Yes	CW	11	11	4,695
Herkimer	22	Yes	C/T	3	1	2,063
Jefferson	23	Yes	CW	91	50	59,058
Lewis	25	Yes	CW	31	19	17,460
Livingston	26	Yes	C/T (2)	4	3	2,736
Madison	27	Yes	CW	56	33	40,637
Monroe	28	Yes	C/T (2)	11	6	6,386
Montgomery	29	Yes	C/T (1)	1	1	1,083
Nassau	30	No		0	0	0
Niagara	32	Yes	C/T (2)	9	5	6,919
Oneida	33	Yes	C/T (1)	4	4	3,862
Onondaga	34	Yes	C/T (TOWNS- 3)	29	10	20,500
Ontario	35	No		0	0	0
Orange	36	Yes	C/T (2)	9	2	6,157
Orleans	37	Yes	C/T TOWN-1	6	2	2,715
Oswego	38	Yes	CW	124	56	73,000
Otsego	39	Yes	C/T (7)	14	9	5,346
Putnam	40	Yes	CW	86	22	59,270
Rensselaer	42	No		0	0	0
Rockland	44	No		0	0	0
Saratoga	45	Yes	C/T (6)	14	7	10,592
Schenectady	46	Yes	C/T (2)	10	3	6,908
Schoharie	47	Yes	PS	3	1	1,963
Schuyler	48	Yes	CW	17	16	12,340
Seneca	49	Yes	CW	27	19	20,124
St.Lawrence	50	Yes	CW	102	65	60,333
Steuben	51	Yes	CW	85	60	60,000
Suffolk	52	No		0	0	0
Sullivan	53	Yes	PS	3	2	2,290
Tioga	54	Yes	C/T (TOWN-2)	4	2	2,968
Tompkins	55	Yes	C/T (CITY -1)	19	10	11,600
Ulster	56	Yes	PS	5	2	2,887
Warren	57	No		0	0	0
Washington	58	No		0	0	0
Wayne	59	Yes	PS	1	1	722
Westchester	60	No		0	0	0
Wyoming	61	Yes	C/T (TOWN-1)	5	1	3,203
Yates	62	Yes	CW	20	13	14,692
Bronx	63a	No		0	0	0
Kings	63b	No		0	0	0
New York	63c	No		0	0	0
Queens	63d	No		0	0	0
Richmond	63e	No		0	0	0
Total	63f			1427	799	929,707

Note: Version as of : Final

Attachment C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SHAS
Update SysTest Discrepancy Lists
Verify Latest Documentation
Dominion
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Verify Latest Documentation
Requirements Matrix Cleanup
Development of Remaining Test Cases
Development of VSA Setup Test Case
Development of Accuracy Test Case
Development of Volume & Stress Test Case
NYSTEC Review and Approval of Remaining Test Cases
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Modifications and resubmittal VSA Setup Test Case
Modifications and resubmittal Accuracy Test Case
Modifications and resubmittal Volume & Stress Test Case
Gap Analysis of Test Cases and Final TDP Document Review
Updates to TC due to RFI and Clarifications
SHAS
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Date: Wed 5/6/09
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Progress
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Summary
Project Summary
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Deadline
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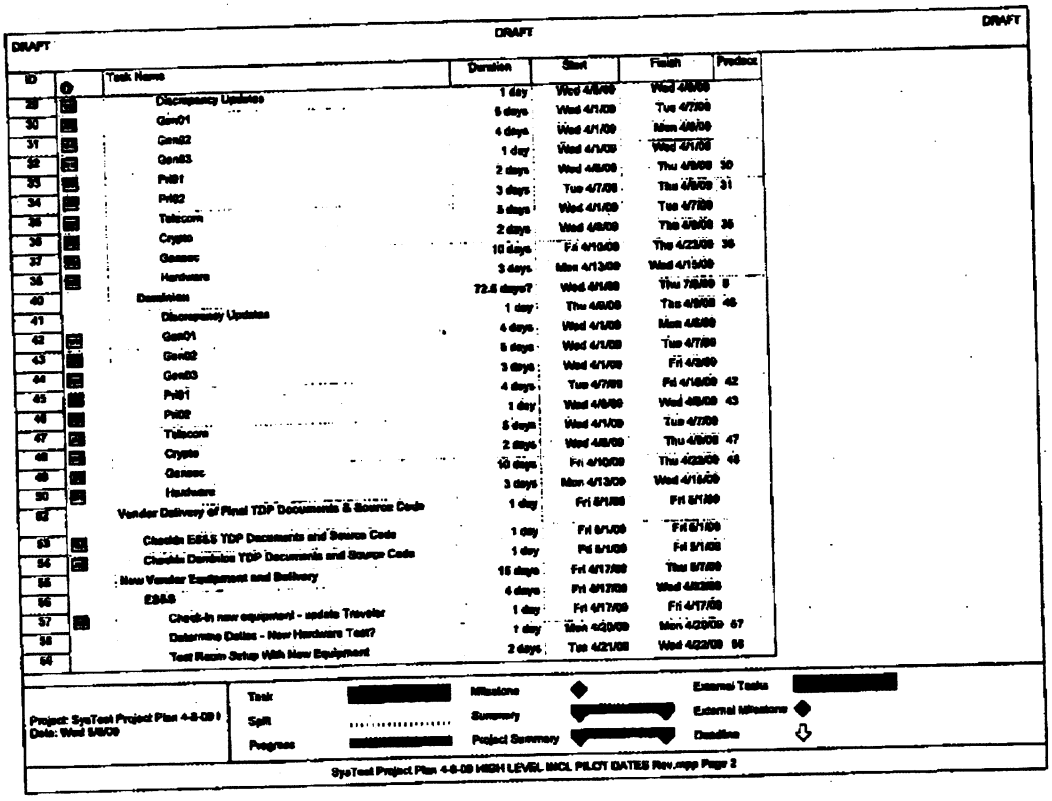
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Crypto
Genesc
Hardware
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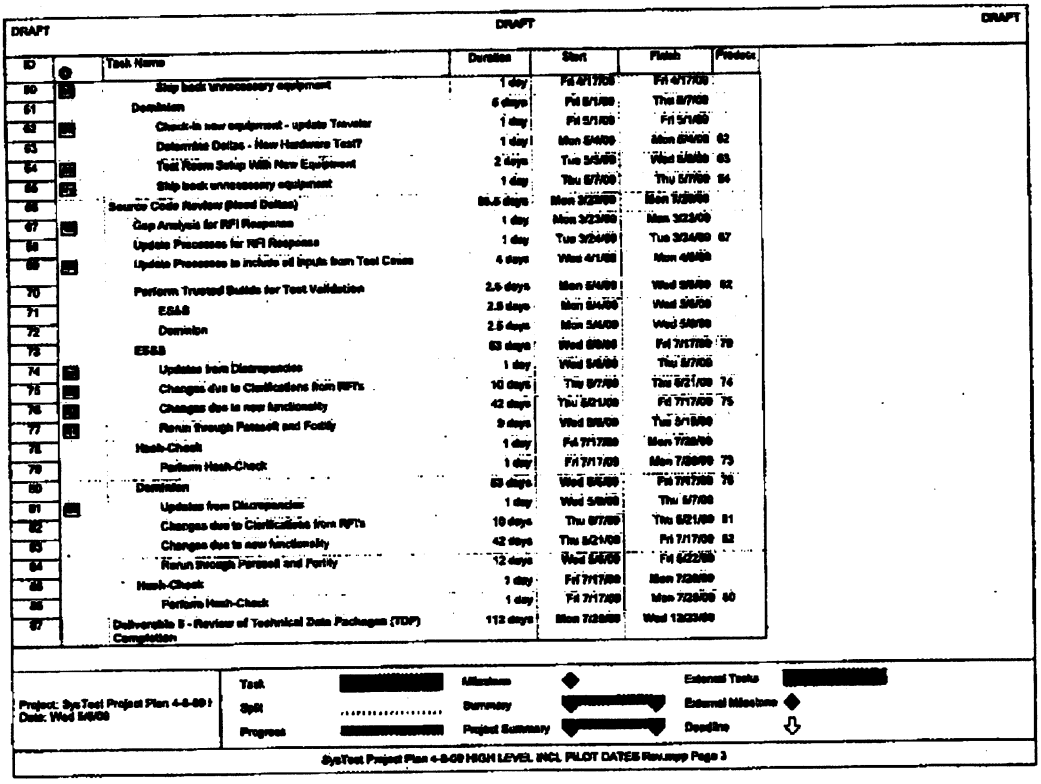
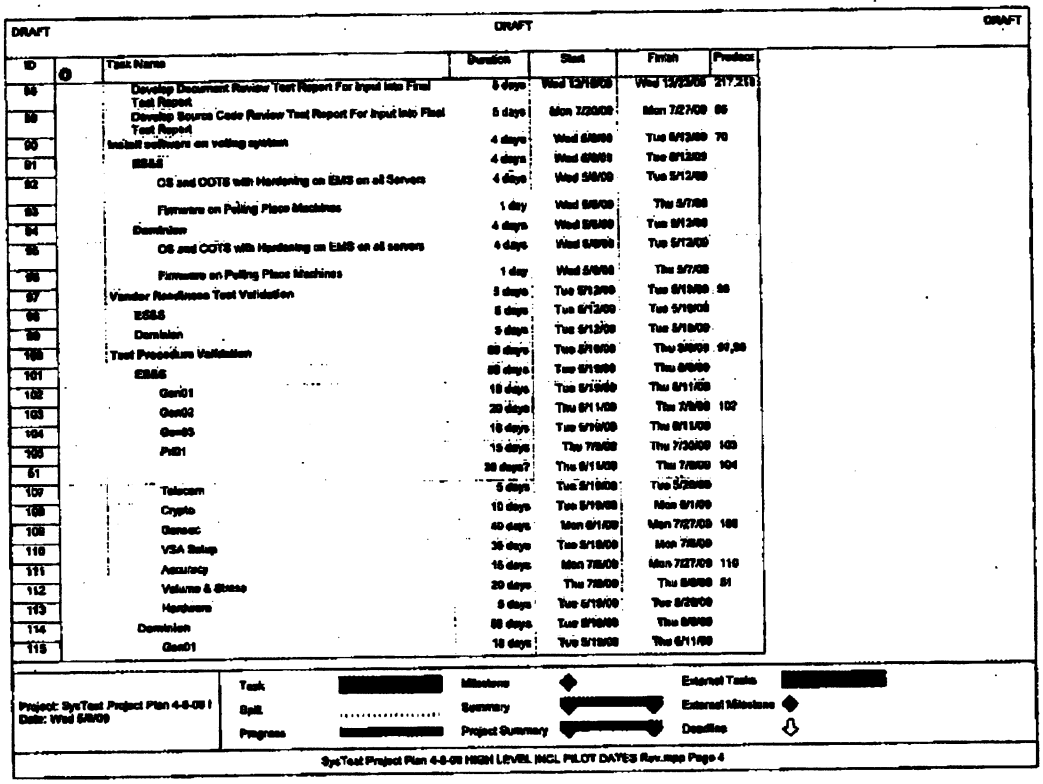
Checkin ESAS TDP Documents and Source Code
Checkin Deadalus TDP Documents and Source Code
New Vendor Equipment and Delivery
ESAS
Check-in new equipment - update Traveler
Determine Dates - New Hardware Test?
Test Room Setup With New Equipment
Task
Split
Progress
Milestone
Summary
Project Summary
External Tasks
External Milestone
Deadline
Project: SysTest Project Plan 4-8-09 I
Date: Wed 5/6/09
SysTest Project Plan 4-8-09 HIGH LEVEL INCL PILOT DATES Rev.mpp Page 2


DRAFT
DRAFT
DRAFT
ID
Task Name
Duration
Start
Finish
Predec
Ship back unnecessary equipment
1 day
Fri 4/17/09
Fri 4/17/09
Dominion
6 days
Fri 5/1/09
Thu 5/7/09
Check-in new equipment - update Traveler
1 day
Fri 5/1/09
Fri 5/1/09
Determine Deltas - New Hardware Test?
1 day
Mon 5/4/09
Mon 5/4/09 62
Test Room Setup With New Equipment
2 days
Tue 5/5/09
Wed 5/6/09 63
Ship back unnecessary equipment
1 day
Thu 5/7/09
Thu 5/7/09 64
Source Code Review (Need Deltas)
89.5 days
Mon 3/23/09
Mon 7/20/09
Gap Analysis for RFI Response
1 day
Mon 3/23/09
Mon 3/23/09
Update Processes for RFI Response
1 day
Tue 3/24/09
Tue 3/24/09 67
Update Processes to include all inputs from Test Cases
4 days
Wed 4/1/09
Mon 4/6/09
Perform Trusted Builds for Test Validation
2.5 days
Mon 5/4/09
Wed 5/6/09 62
ESAS
2.5 days
Mon 5/4/09
Wed 5/6/09
Dominion
2.5 days
Mon 5/4/09
Wed 5/6/09
ESAS
63 days
Wed 5/6/09
Fri 7/17/09 70
Updates from Discrepancies
1 day
Wed 5/6/09
Thu 5/7/09
Changes due to Clarifications from RFI's
10 days
Thu 5/7/09
Thu 5/21/09 74
Changes due to new functionality
42 days
Thu 5/21/09
Fri 7/17/09 75
Rerun through Parasoft and Fortify
9 days
Wed 5/6/09
Tue 5/19/09
Hash-Check
1 day
Fri 7/17/09
Mon 7/20/09
Perform Hash-Check
1 day
Fri 7/17/09
Mon 7/20/09 73
Dominion
63 days
Wed 5/6/09
Fri 7/17/09 76
Updates from Discrepancies
1 day
Wed 5/6/09
Thu 5/7/09
Changes due to Clarifications from RFI's
10 days
Thu 5/7/09
Thu 5/21/09 81
Changes due to new functionality
42 days
Thu 5/21/09
Fri 7/17/09 82
Rerun through Parasoft and Fortify
12 days
Wed 5/6/09
Fri 5/22/09
Hash-Check
1 day
Fri 7/17/09
Mon 7/20/09
Perform Hash-Check
1 day
Fri 7/17/09
Mon 7/20/09 60
Deliverable 3 - Review of Technical Data Packages (TDP) Completion
113 days
Mon 7/20/09
Wed 12/23/09
Project: SysTest Project Plan 4-8-09 I
Date: Wed 5/6/09
Task
Split
Progress
Milestone
Summary
Project Summary
External Tasks
External Milestone
Deadline
SysTest Project Plan 4-8-09 HIGH LEVEL INCL PILOT DATES Rev.mpp Page 3


DRAFT
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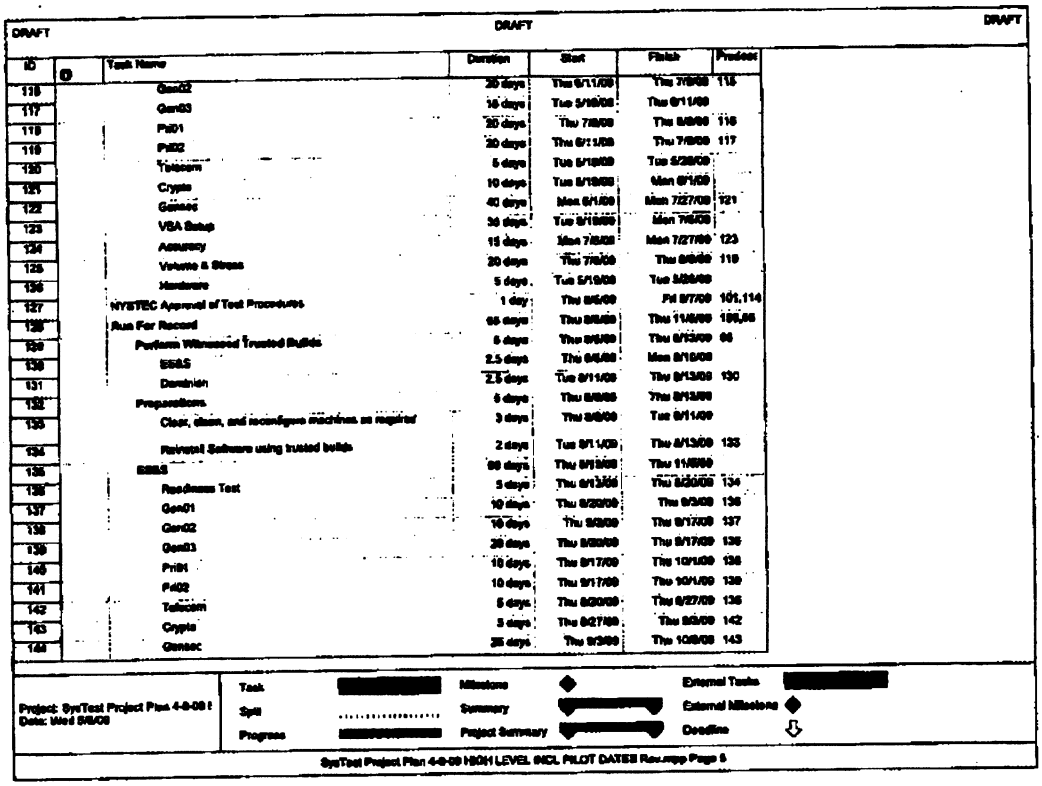
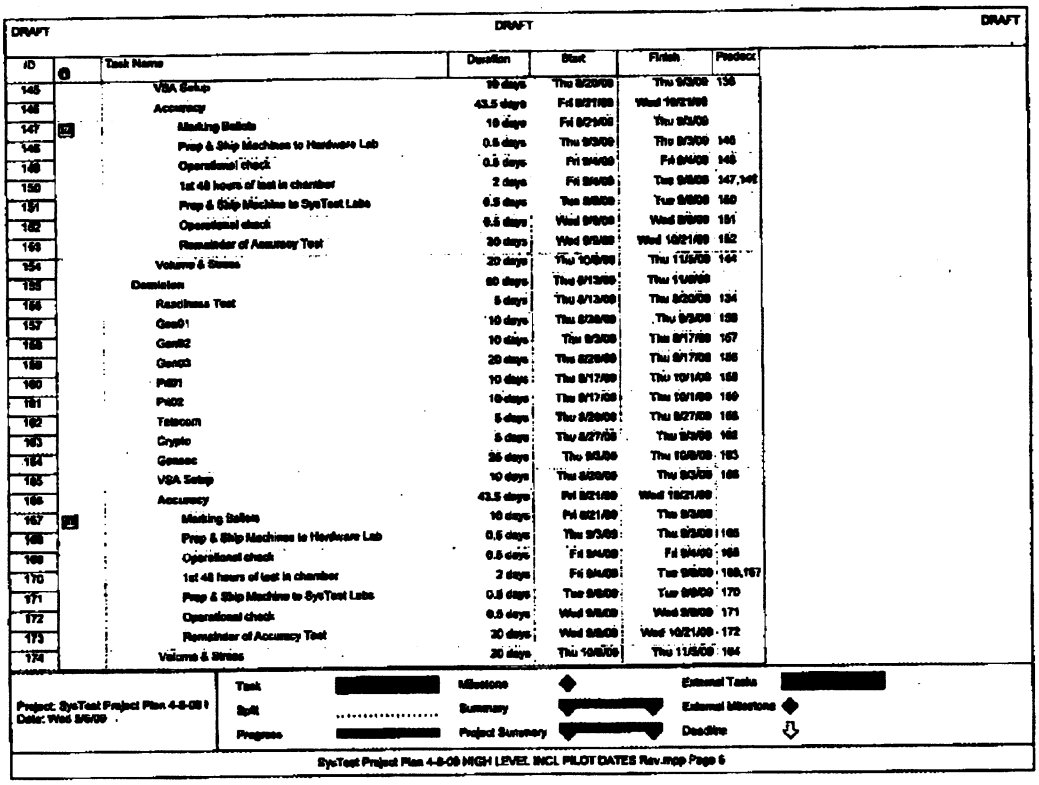
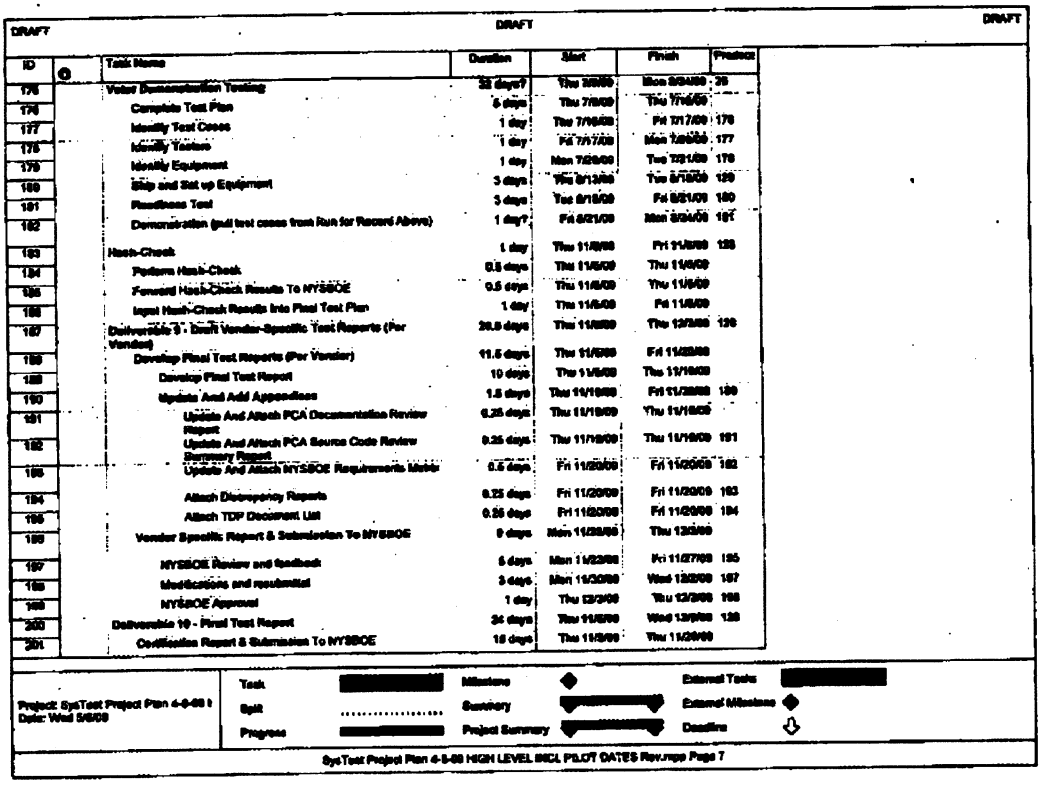
ID
Task Name
Duration
Start
Finish
Predec
Develop Document Review Test Report For Input into Final Test Report
5 days
Develop Source Code Review Test Report For Input into Final Test Report
5 days
Mon 7/27/09
Install software on voting system
4 days
Tue 8/11/09
70
ESS
4 days
OS and COTS with Hardening on EMS on all Servers
4 days
Tue 8/11/09
Firmware on Polling Place Machines
1 day
Thu 8/7/09
Dominion
4 days
Tue 8/11/09
OS and COTS with Hardening on EMS on all servers
4 days
Tue 8/11/09
Firmware on Polling Place Machines
1 day
Thu 8/7/09
Vendor Readiness Test Validation
5 days
Tue 8/11/09
ES&S
5 days
Tue 8/11/09
Dominion
5 days
Tue 8/11/09
Test Procedure Validation
Tue 8/11/09
ES&S
Gen01
Gen02
Gen03
PrD1
Telecom
10 days
Crypto
10 days
Mon 8/10/09
Generic
40 days
Mon 8/10/09
Mon 7/27/09
100
VSA Setup
30 days
Tue 8/11/09
Mon 7/27/09
Accuracy
15 days
Mon 7/27/09
Mon 7/27/09
110
Volume & Stress
20 days
Thu 7/30/09
Thu 8/6/09
81
Hardware
5 days
Tue 8/11/09
Tue 8/25/09
Dominion
Gen01
10 days
Tue 8/11/09
Thu 8/11/09
Project: SysTest Project Plan 4-8-09 I
Date: Wed 6/8/09
Task
Split
Progress
Milestone
Summary
Project Summary
External Tasks
External Milestone
Deadline
SysTest Project Plan 4-8-09 HIGH LEVEL INCL PILOT DATES Rev.mpp Page 4


DRAFT
DRAFT
DRAFT
ID
Task Name
Duration
Start
Finish
Predec
Gen02
Gen03
Pri01
Pri02
Telecom
Crypto
Comsec
VSA Setup
Accuracy
Volume & Stress
Hardware
NYSTEC Approval of Test Procedures
Run For Record
Perform Witnessed Trusted Builds
SSAS
Dominion
Preparations
Clear, clean, and reconfigure machines as required
Reinstall Software using trusted builds
SSAS
Readiness Test
Gen01
Gen02
Gen03
Pri01
Pri02
Telecom
Crypto
Comsec
Task
Split
Progress
Milestone
Summary
Project Summary
External Tasks
External Milestones
Deadline
SysTest Project Plan 4-8-09 HIGH LEVEL INCL PILOT DATES Revupp Page 5


DRAFT
DRAFT
DRAFT
ID
Task Name
Duration
Start
Finish
Predec
145 VSA Setup 10 days Thu 8/20/09 Thu 9/3/09 136
146 Accuracy 43.5 days Fri 8/21/09 Wed 10/21/09
147 Marking Bullets 10 days Fri 8/21/09 Thu 9/3/09
148 Prep & Ship Machines to Hardware Lab 0.5 days Thu 9/3/09 Thu 9/3/09 146
149 Operational check 0.5 days Fri 9/4/09 Fri 9/4/09 148
150 1st 48 hours of test in chamber 2 days Fri 9/4/09 Tue 9/8/09 147,149
151 Prep & Ship Machine to SysTest Labs 0.5 days Tue 9/8/09 Tue 9/8/09 150
152 Operational check 0.5 days Wed 9/9/09 Wed 9/9/09 151
153 Remainder of Accuracy Test 30 days Wed 9/9/09 Wed 10/21/09 152
154 Volume & Stress 20 days Thu 10/8/09 Thu 11/5/09 144
155 Decision 60 days Thu 8/13/09 Thu 11/5/09
156 Readiness Test 5 days Thu 8/13/09 Thu 8/20/09 134
157 Gen01 10 days Thu 8/20/09 Thu 9/3/09 156
158 Gen02 10 days Tue 9/1/09 Thu 9/17/09 157
159 Gen03 20 days Thu 8/20/09 Thu 9/17/09 156
160 Pt01 10 days Thu 9/17/09 Thu 10/1/09 158
161 Pt02 10 days Thu 9/17/09 Thu 10/1/09 160
162 Telecom 5 days Thu 8/20/09 Thu 8/27/09 156
163 Crypto 5 days Thu 8/27/09 Thu 9/3/09 162
164 Gasses 25 days Thu 9/3/09 Thu 10/8/09 163
165 VSA Setup 10 days Thu 8/20/09 Thu 9/3/09 156
166 Accuracy 43.5 days Fri 8/21/09 Wed 10/21/09
167 Marking Bullets 10 days Fri 8/21/09 Thu 9/3/09
168 Prep & Ship Machines to Hardware Lab 0.5 days Thu 9/3/09 Thu 9/3/09 166
169 Operational check 0.5 days Fri 9/4/09 Fri 9/4/09 168
170 1st 48 hours of test in chamber 2 days Fri 9/4/09 Tue 9/8/09 169,167
171 Prep & Ship Machine to SysTest Labs 0.5 days Tue 9/8/09 Tue 9/8/09 170
172 Operational check 0.5 days Wed 9/9/09 Wed 9/9/09 171
173 Remainder of Accuracy Test 20 days Wed 9/9/09 Wed 10/21/09 172
174 Volume & Stress 20 days Thu 10/8/09 Thu 11/5/09 164
Project: SysTest Project Plan 4-8-09 I
Date: Wed 9/9/09
Task
Split
Progress
Milestone
Summary
Project Summary
External Tasks
External Milestone
Deadline
SysTest Project Plan 4-8-09 HIGH LEVEL INCL PILOT DATES Rev.mpp Page 6


DRAFT
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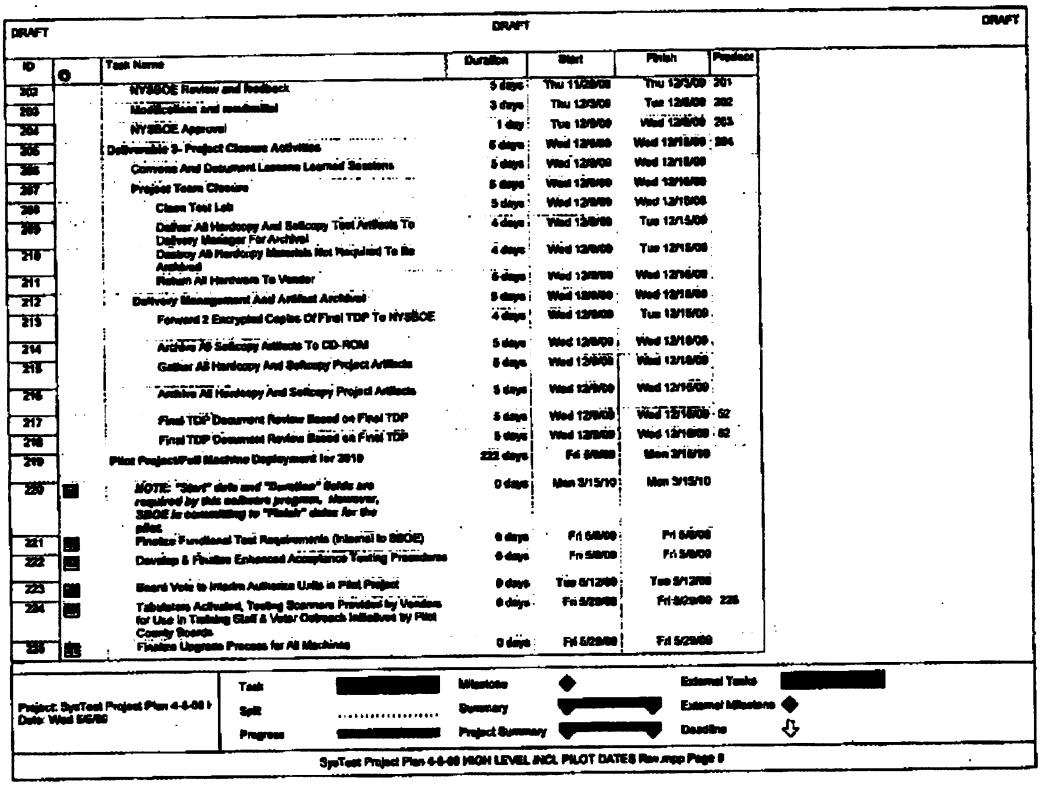
ID
Task Name
Duration
Start
Finish
Predece
Vendor Demonstration Testing
Complete Test Plan
Identify Test Cases
Identify Testers
Identify Equipment
Ship and Set up Equipment
Readiness Test
Demonstration (pull test cases from Run for Record Above)
Hash-Check
Perform Hash-Check
Forward Hash-Check Results To NYSBOE
Input Hash-Check Results Into Final Test Plan
Develop Final Test Reports (Per Vendor)
Develop Final Test Report
Update And Add Appendices
Update And Attach PCA Documentation Review Report
Update And Attach PCA Source Code Review Summary Report
Update And Attach NYSBOE Requirements Matrix
Attach Discrepancy Reports
Attach TDP Document List
Vendor Specific Report & Submission To NYSBOE
NYSBOE Review and feedback
Modifications and resubmittal
NYSBOE Approval
Deliverable 10 - Final Test Report
Certification Report & Submission To NYSBOE
Task
Split
Progress
Milestone
Summary
Project Summary
External Tasks
External Milestone
Deadline
Project: SysTest Project Plan 4-9-09 I
Date: Wed 5/6/09
SysTest Project Plan 4-9-09 HIGH LEVEL BICL PILOT DATES Rev.mpp Page 7



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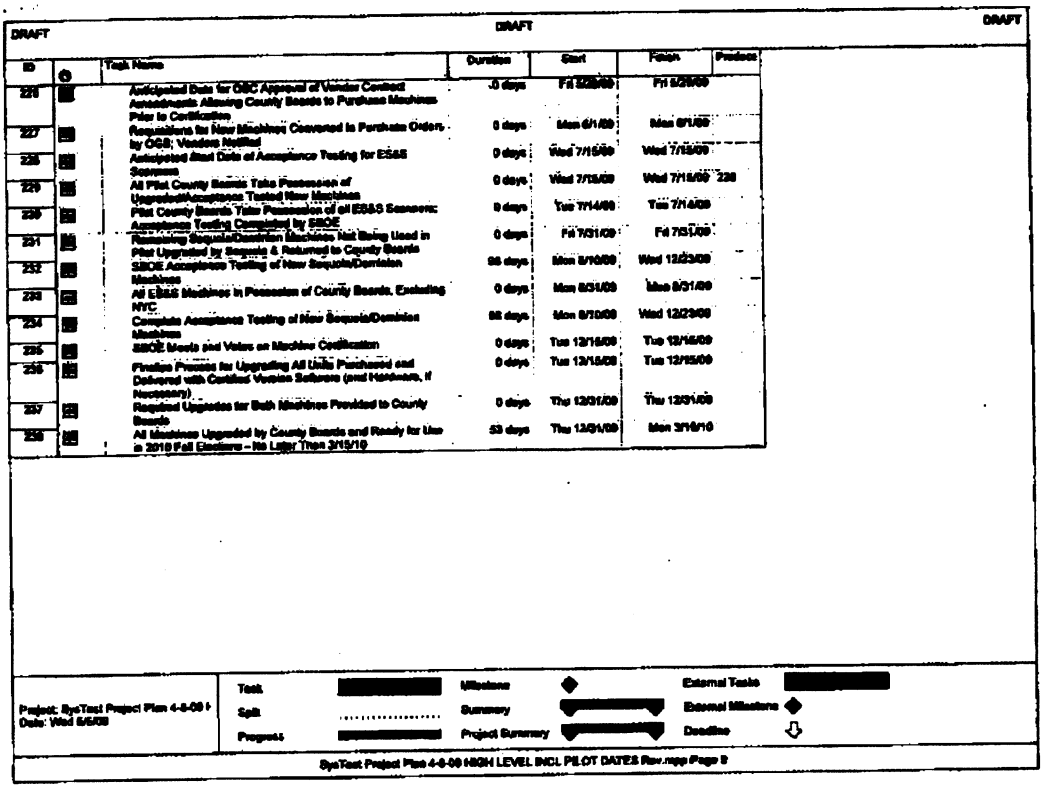
ID	Task Name	Duration	Start	Finish	Predecessors
203	NYSBOE Review and feedback	5 days	Thu 11/26/09	Thu 12/3/09	201
205	Modifications and resubmittal	3 days	Thu 12/3/09	Tue 12/8/09	202
207	NYSBOE Approval	1 day	Tue 12/8/09	Wed 12/9/09	203
208	Deliverable 9- Project Closure Activities	6 days	Wed 12/9/09	Wed 12/16/09	204
209	Convene And Document Lessons Learned Sessions	5 days	Wed 12/9/09	Wed 12/16/09	
210	Project Team Closure	5 days	Wed 12/9/09	Wed 12/16/09	
211	Clean Test Lab	5 days	Wed 12/9/09	Wed 12/16/09	
212	Deliver All Hardcopy And Softcopy Test Artifacts To Delivery Manager For Archival	4 days	Wed 12/9/09	Tue 12/15/09	
213	Destroy All Hardcopy Materials Not Required To Be Archived	4 days	Wed 12/9/09	Tue 12/15/09	
214	Return All Hardware To Vendor	5 days	Wed 12/9/09	Wed 12/16/09	
215	Delivery Management And Artifact Archival	5 days	Wed 12/9/09	Wed 12/16/09	
216	Forward 2 Encrypted Copies Of Final TDP To NYSBOE	4 days	Wed 12/9/09	Tue 12/15/09	
217	Archive All Softcopy Artifacts To CD-ROM	5 days	Wed 12/9/09	Wed 12/16/09	
218	Gather All Hardcopy And Softcopy Project Artifacts	5 days	Wed 12/9/09	Wed 12/16/09	
219	Archive All Hardcopy And Softcopy Project Artifacts	5 days	Wed 12/9/09	Wed 12/16/09	
220	Final TDP Document Review Based on Final TDP	5 days	Wed 12/9/09	Wed 12/16/09	62
221	Final TDP Document Review Based on Final TDP	5 days	Wed 12/9/09	Wed 12/16/09	62
222	Pilot Project/Full Machine Deployment for 2010	222 days	Fri 5/8/09	Mon 3/15/10	
223	NOTE: "Start" date and "Duration" fields are required by this software program. However, SBOE is committing to "Finish" dates for the pilot.	0 days	Mon 3/15/10	Mon 3/15/10	
224	Finalize Functional Test Requirements (Internal to SBOE)	0 days	Fri 5/8/09	Fri 5/8/09	
225	Develop & Finalize Enhanced Acceptance Testing Procedures	0 days	Fri 5/8/09	Fri 5/8/09	
226	Board Vote to Implm Authorize Units in Pilot Project	0 days	Tue 5/12/09	Tue 5/12/09	
227	Tabulators Activated, Testing Scenarios Provided by Vendors for Use in Training Staff & Voter Outreach Initiatives by Pilot County Boards	0 days	Fri 5/29/09	Fri 5/29/09	226
228	Finalize Upgrade Process for All Machines	0 days	Fri 5/29/09	Fri 5/29/09	

Project: SysTest Project Plan 4-6-09 Rev
Date: Wed 5/6/09

Task — Milestone — External Tasks
Split — Summary — External Milestone
Progress — Project Summary — Deadline

SysTest Project Plan 4-6-09 HIGH LEVEL INCL PILOT DATES Rev.mpp Page 8


DRAFT
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ID
Task Name
Duration
Start
Finish
Predece
Anticipated Date for OEC Approval of Vendor Contract Amendments Allowing County Boards to Purchase Machines Prior to Certification
0 days
Fri 5/29/09
Fri 5/29/09
Requisitions for New Machines Covered by Purchase Orders Issued by OCS; Vendors Notified
0 days
Mon 6/1/09
Mon 6/1/09
Anticipated Start Date of Acceptance Testing for ES&S Sequoias
0 days
Wed 7/15/09
Wed 7/15/09
All Pilot County Boards Take Possession of Upgraded/Acceptance Tested New Machines
0 days
Wed 7/15/09
Wed 7/15/09
226
Pilot County Boards Take Possession of all ES&S Sequoias Acceptance Testing Completed by SBOE
0 days
Tue 7/14/09
Tue 7/14/09
Remaining Sequoia/Dominion Machines Not Being Used in Pilot Upgraded by Sequoia & Returned to County Boards
0 days
Fri 7/31/09
Fri 7/31/09
SBOE Acceptance Testing of New Sequoia/Dominion Machines
66 days
Mon 8/10/09
Wed 12/23/09
All ES&S Machines in Possession of County Boards, Excluding NYC
0 days
Mon 8/31/09
Mon 8/31/09
Complete Acceptance Testing of New Sequoia/Dominion Machines
66 days
Mon 8/10/09
Wed 12/23/09
SBOE Meets and Votes on Machine Certification
0 days
Tue 12/15/09
Tue 12/15/09
Finalize Process for Upgrading All Units Purchased and Delivered with Certified Version Software (and Hardware, if Necessary)
0 days
Tue 12/15/09
Tue 12/15/09
Required Upgrades for Both Machines Provided to County Boards
0 days
Thu 12/31/09
Thu 12/31/09
All Machines Upgraded by County Boards and Ready for Use in 2010 Fall Elections – No Later Than 3/15/10
53 days
Thu 12/31/09
Mon 3/15/10
Project: SysTest Project Plan 4-8-09 F
Date: Wed 5/6/09
Task
Split
Progress
Milestone
Summary
Project Summary
External Tasks
External Milestone
Deadline
SysTest Project Plan 4-8-09 HIGH LEVEL INCL PILOT DATES Rev.mpp Page 9

BOARD OF ELECTIONS
IN
THE CITY OF NEW YORK
EXECUTIVE OFFICE, 32 BROADWAY
NEW YORK, NY 10004-1609
(212) 487-5300
FAX (212) 487-5349
www.vote.nyc.ny.us

June 8, 2009

Mr. Todd Valentine
Co-Executive Director
New York State Board of Elections
40 Steuben Street
Albany, NY 12207-2108

Mr. Stanley Zalen
Co-Executive Director
New York State Board of Elections
40 Steuben Street
Albany, NY 12207-2108

Dear Mr. Valentine and Mr. Zalen:

This is a follow-up to a conversation with your office last week concerning the Board of Elections in the City of New York's interest in using the updated software for the ES&S Ballot Marking Devices (BMDs) that the New York State Board of Elections recently authorized for use in the 2009 elections.

As you know, Board staff identified a number of items that required correction or modification during the implementation of ballot marking devices in New York City in 2008. Throughout the year, staff worked with ES&S to modify its system to meet New York City requirements. For the 2008 Primary and General elections, New York City used BMD AutoMark firmware version 1.4, and EMS Unity NY software version 2.0/AIMS.

There were, however, four issues that either we discovered to close to the elections to address or that the vendor was not able to resolve. These are important issues that impact both setup time and the voter experience. The problems include:

1. Inordinately long "boot up" times that significantly alter and extend our standard processes for both preparing and testing the machines before the election and opening the polls on Election Day;
2. Memory leak issues that require "powering up and down" after a certain quantity of ballots are cast;
3. Ballot rejection upon initial insertion by the voter requiring several attempts to begin the voting process; and
4. Print errors at the time of printing the marked ballot that require a workaround at the poll site.

ES&S has informed us that these specific issues are addressed in new versions of the firmware and election management system (EMS). I have taken the liberty of enclosing a letter from ES&S from April 27, 2009 detailing these remedies for your review. They further informed us that they have made other enhancements to the firmware and EMS to improve the system.

It is our understanding that these new versions (AutoMark 1.6 and Unity NY 3.0/ElectionWare) were submitted to the New York State Board of Elections for certification and have been authorized by the Board for use in counties participating in the 2009 pilot program. In light of the issues New York City encountered in 2008, we believe that the voters of New York City would benefit tremendously from an upgrade to our BMDs using the new versions of the AutoMark firmware and EMS for the 2009 Primary and General Elections that will be used elsewhere within New York State.

We therefore request that the State Board allow the upgrade of our inventory of AutoMARK BMDs using the new versions of the firmware and EMS that the State Board recently authorized. Our staff will work with the State Board and ES&S to ensure that we comply with the policies and procedures for verification and testing of the new firmware and EMS versions.

Thank you for your kind consideration of this important matter.

With best wishes.

Sincerely,

Marcus Cederqvist
Executive Director

Encl.

Cc: Commissioners of Election in the City of New York
George González, Deputy Executive Director
Pamela Perkins, Administrative Manager
Lucille Grimaldi, Manager, Electronic Voting Systems
Steven H. Richman, General Counsel