

Federal Voting Assistance Program: FPCA and FWAB Redesign

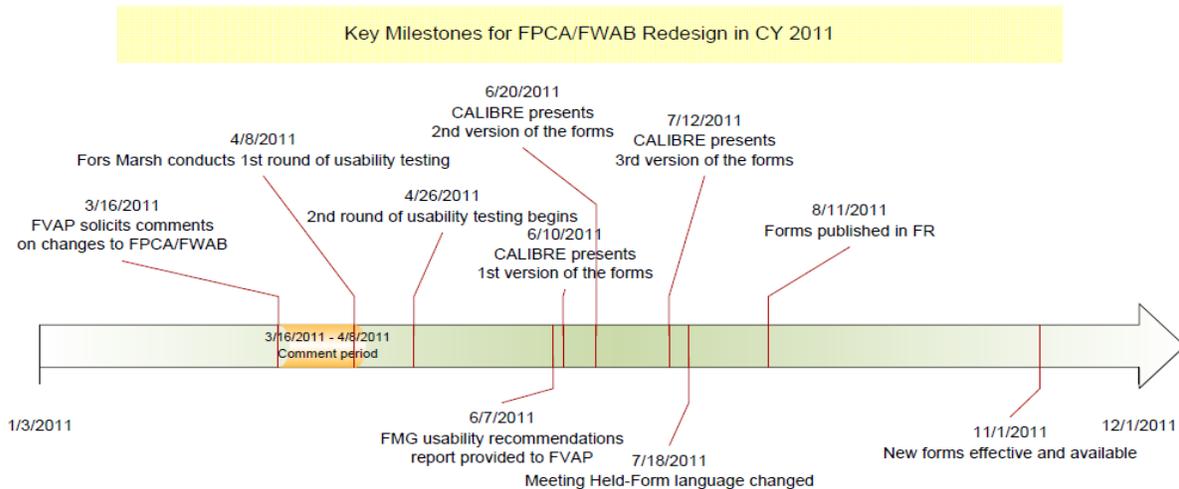
2005 FPCA and FWAB

- "I am a U.S. citizen residing outside the U.S. temporarily"
- "I am a U.S. citizen residing outside the U.S. indefinitely"

2011 FPCA and FWAB Redesign

- Options for Overseas Citizens
 - "I am a US Citizen, residing outside the US, and I intend to return"
 - "I am a US Citizen, residing outside the US, and I do not intend to return"
- Updated to comply with MOVE Act (notary)
- Open comment period
- Usability and accessibility testing completed
- Both 2005 and 2011 valid

Timeline



3/16/2011:	FVAP solicits public comments for FPCA/FWAB redesign. News release and supporting documentation posting on fvap.gov. Over 6500 subscribers receive notice of request for public comment.
4/8/2011:	FVAP initiated comment period ends.
6/7/2011:	Fors Marsh Group usability recommendations report provided to FVAP-recommended FPCA states "My Return Is Not Certain."
7/14/2011:	CALIBRE presents their 3 rd version of the forms-FPCA states "I May Not Return."
7/18/2011:	Meeting held to discuss FPCA form, updated form distributed-draft form is changed "I Do Not Intend To Return."
7/21/2011:	Forms forwarded to DHRA GC for review; GC review response provided; forms forwarded to SVAO for review- all responses returned 7/25/11.
8/3/2011:	Request for clearance of forms signed by the Director.
8/10/2011:	Forms filed for public inspection.
8/11/2011:	Forms published in the Federal Register as an announcement that new forms are available for inspection and use effective 9/11/2011.



Redesign Open Comment Period

- open comment period announced via news release
- March 16-April 8, 2011
- 229 comments received
- Comments received from Local Election Officials, State Election Officials, Overseas Citizens, State Department Employees and Military Service Members

Usability and Accessibility Testing

- FVAP conducted robust form usability analysis and incorporated those recommendations into the new forms, which were promulgated in the Federal Register August 2011.
Testing Conducted by Contract Staff
 - Usability conducted with Overseas Citizens, Active Duty Military, VAOs, LEOs
 - Accessibility conducted with Wounded Warriors and LEOs.
- Research conducted during the redesign process found that behavior-based — rather than time-based — options are more usable for voters.

State Laws

Texas

- Fundamental issues are whether the voter has a current address AND is not uncertain about intent to return
- If there is no current address in Texas AND if the intent to return is uncertain, the voter receives a federal ballot only (Ch 114)

Sec. 114.002. ELIGIBILITY. A United States citizen dwelling outside the United States is eligible to vote a federal ballot by mail if:

- (1) the citizen's most recent domicile in the United States was in this state and the citizen's intent to return to this state is uncertain;
- (2) the citizen would be eligible for registration as a voter in this state if a resident; and
- (3) the citizen is not eligible to vote on federal offices in any other state.

- Time overseas is not the determining factor, the intent to return is:

Sec. 1.015. RESIDENCE.

.
. .
.

(c) A person does not lose the person's residence by leaving the person's home to go to another place for temporary purposes only.

(d) A person does not acquire a residence in a place to which the person has come for temporary purposes only and without the intention of making that place the person's home.

Illinois

- Again, the key issue is the intent to return.
- If an Illinois overseas voter maintains Illinois residence and intends to return, they receive full ballot (10 ILCS 5/20-1)
 3. "Citizens of the United States temporarily residing outside the territorial limits of the United States" means civilian citizens of the United States and their spouses and dependents of voting age when residing with or accompanying them, who maintain a precinct residence in a county in this State and whose intent to return may be ascertained.
- If the voter does not maintain an Illinois residence, and the intent to return is unclear, he or she receives a federal ballot only
 4. "Non-Resident Civilian Citizens" means civilian citizens of the United States (a) who reside outside the territorial limits of the United States, (b) who had maintained a precinct residence in a county in this State immediately prior to their departure from the United States, (c) who do not maintain a residence and are not registered to vote in any other State, and (d) whose intent to return to this State may be uncertain.
- "Maintain a Residence" is not clearly defined, leaving it up to the voter and the local election official, but the time overseas is not a factor (10 ILCS 5/3-2) (from Ch. 46, par. 3-2)
 - Sec. 3-2. (a) A permanent abode is necessary to constitute a residence within the meaning of Section 3-1. No elector or spouse shall be deemed to have lost his or her residence in any precinct or election district in this State by reason of his or her absence on business of the United States, or of this State. Nothing in this Section shall be construed to prevent homeless individuals from registering to vote under the provisions of this Act.
 - (b) A homeless individual must have a mailing address in order to be eligible to register to vote. For purposes of this Act, a mailing address shall constitute a homeless individual's residence for voting purposes. A mailing address of a homeless individual may include, but is not limited to, a shelter, a day shelter, or a private residence.

Election authorities may by reasonable rules limit the place where voter registration of homeless individuals may be taken and the class of deputy registrars who may take the voter registration of homeless individuals.
 - (c) Nothing in this Act shall be construed to confer upon homeless individuals any additional privileges or benefits other than the right to register to vote and to be qualified to vote in an election under Articles 4, 5, and 6 of this Code.



FPCA Online Wizard Data

- 2010 FVAP FPCA wizard downloads
 - 81% “Overseas temporarily,” effectively requesting a full ballot
 - 19% “Overseas Indefinitely,” effectively requesting a federal-only ballot
- 2012 FVAP FPCA wizard downloads
 - 66% “Intend to Return,” effectively requesting a full ballot
 - 34% “Do Not Intend to Return,” effectively requesting a federal-only ballot

R3 FPCA Report

07/01/2010 - 12/31/2010

Eligibility	OLD FPCA Download PDF
USM	72,839
USM_SPOUSE	0
CITIZEN_OVERSEAS_TEMPORARILY	14,991
CITIZEN_OVERSEAS_INDEFINITELY	3,338
CITIZEN_GRANTED_MILITARY_VOTING	0
All Eligibilities	91,168

R3 FPCA Report

11/01/2011 - 05/02/2012

Eligibility	NEW FPCA Download PDF
USM	58,555
USM_SPOUSE	4,645
CITIZEN_OVERSEAS_INTEND_RETURN	22,807
CITIZEN_OVERSEAS_DO_NOT_INTEND_RETURN	11,364
CITIZEN_GRANTED_MILITARY_VOTING	125
All Eligibilities	97,496



Call Center Findings: Of the 34,000 + FPCAS downloaded by Overseas Citizens, there has one question regarding Block 1.

Stakeholder Concerns

➤ Tax Implications

- Some express concern the two new options may confuse overseas citizens into unwittingly exposing themselves to State tax liability.
- Section 106 of UOCAVA specifically protects the exercise of any rights under the act from affecting the tax status of the voter;
- Data shows more choosing federal only ballot with new form choices, and less choosing State and local ballots.

➤ Impact on Citizenship

- Some express concern selecting "I am a U.S. citizen residing outside the U.S., and I do not intend to return" will be a renunciation of citizenship.
- The Department of State has confirmed that the answers provided on the FPCA have no impact on citizenship status and cannot be used as evidence of intent to relinquish U.S. citizenship.
- Additionally, U.S. citizenship can only be renounced by taking an oath before a consular officer at an U.S. Embassy or Consulate abroad. More information on renouncing citizenship can be found at http://travel.state.gov/law/citizenship/citizenship_776.html.

Stakeholder Recommendations

- Democrats Abroad already developed revised text
 - Vote From Abroad online Voter Registration and Absentee Ballot Request (VFA) wizard options remain the same as the 2005 form, allowing for a choice amongst the following, but using the 2011 form:
 - I am overseas indefinitely.
 - I am overseas temporarily.
 - I am a member of Uniformed Services or Merchant Marine on active duty OR their spouse or dependent.
 - If a voter chooses "I am overseas indefinitely", then Block 1 Classification of the Federal Post Card Application (FPCA) VFA selects: *"I am a U.S. citizen residing outside of the U.S., and I do not intend to return."*
 - If this selection is made, then the VFA inserts into Block 9 of the FPCA the following statement: *"I checked I do not intend to return on the understanding that it means the same as indefinitely. I do not have current plans to move to the US and would like a federal ballot only."*
 - In addition to this, the text in the Helpful Hints column of the Screen 5 now reads: "If you have no plans to return to live in the US soon, check "indefinitely." You will get a ballot for federal elections only and the box "I do not intend to return" will be checked on your form."

The text "I am a U.S. citizen residing outside of the U.S., and I do not intend to return" is the text on the FPCA developed by the Federal Voting Assistance Program and in all likelihood cannot be changed by the Federal Voting Assistance Program for election cycle 2012. That decision was made by federal authorities in consultation with the States. To change our VFA Screen 5 to that FPCA language would not be self explanatory and would be even more off putting, as well as potentially much more confusing to Voters than allowing for the choice of "indefinitely" on VFA Screen 5.

FVAP Ideas

- Initially:
 - More explicit general language on difference of options of Block 1, specifically raising tax liability issues
 - Put additional "indefinite" or "temporary" or "Federal Ballot only" comments in Block 9
- Midterm, but still before this election: More granular State-by-State information in Block 1 instructions (State-by-State roll out)
- Long term
 - Start examining 2013 revision of forms (add "don't know language to, "do not intend to return")
 - Engage IRS and State tax authorities on immunity of FPCA from tax determination (long-term solution)