



James A. Walsh
Co-Chair

Gregory P. Peterson
Commissioner

Todd D. Valentine
Co-Executive Director

40 STEUBEN STREET
ALBANY, N.Y. 12207-2108
Phone: 518/474-8100
www.elections.state.ny.us

Douglas A. Kellner
Co-Chair

Evelyn J. Aquila
Commissioner

Robert A. Brehm
Co-Executive Director

June 9, 2010

Mr. Robert Carey, Director
Federal Voting Assistance Program
DOD – Rosslyn Plaza North
1777 North Kent Street
14th Floor, Suite 14003
Arlington, VA 22209-2162

RE: NYS MOVE Act Waiver Application

Dear Mr. Carey:

The State Board is in receipt of your letter of May 20th in which FVAP requested further clarification of certain components of the MOVE Act waiver application previously submitted on behalf of New York State. Please consider the following information:

- 1.(a) Contingency plans the State has if ballots are not mailed by local election boards by October 1, 2010.

The New York State Election Law requires the State Board of Elections to certify the state-level offices and candidates to appear on the general election ballot not later than thirty six days prior to the date of the election (NYS Election Law §4-112(1)). The appropriate county boards of elections are required to determine the candidates and offices to appear on the general election ballot not later than the day after the State Board issues its certification of those candidates (NYS Election Law §§4-114 and 7-122(4)).

The NYS Election Law was amended this year (Chapter 104 of the Laws of 2010) to provide a contingency for the transmission of Military Ballots (NYS Election Law §10-108(1)(c) and §10-108-(1)(d)) and for the transmission of Special Federal Ballots (NYS Election Law §11-216(3)(b) and §11-216(3)(c)) to address circumstances arising from a court restraining the issuance of military ballots or special federal ballots. The new provision mandates that all military voters and all special federal voters will be sent a federal write-in absentee ballot. Upon the certification of the ballot, all military voters and all special federal voters will be sent such certified ballot via the preferred method of transmission, notwithstanding the prior transmission of the federal write-in absentee ballot.

- 1.(b) Details on NYS Ballot Printing Process.

County boards of elections either contract with professional printing firms which have proven to the satisfaction of the board, their ability to produce in a timely way, ballots which can be read accurately by that county's selected voting system, or the board may arrange to print those same ballots, in-house. County boards of elections will utilize the voting system's election management system to build and produce PDF versions of each required ballot style. The county boards of election will then cause the ballots to be printed in-house or deliver same to their printer. (This PDF methodology enables boards to make ballots available for delivery to military and federal voters as soon as possible, to ensure not only prompt delivery but adequate turn-around time.)

2. Anticipated Timeline for finalizing the content for electronically-transmitted ballots and making that content available to FVAP or alternatively, the State's vendor.

Each year's ballot creation tasks begin with the execution of files and templates corresponding to the various municipal/jurisdictional building blocks for each ballot style. Information is provided by county, city, town and village clerks in January of each year, identifying local offices which are to be filled at an election.

Preliminary ballot creation tasks ensue, with the knowledge that last minute vacancies can be declared (deaths, retirements, and resignations) at any time, requiring modifications to files and templates.

The State Board of Elections certifies to each local board, the vacancies in state and federal offices which must appear on the ballot, in March of each year, which further enables county boards to continue to ready files and templates for the inclusion of specific candidate information. The deadline for municipal clerks to certify to the county boards of elections a local proposition is 36 days prior to the general election.

Once ballot access processes begin, specific candidate information as generated at the local level and as certified to county boards by the State Board can be added to files and templates. The names of candidates from the Primary Election Certification whose designations are uncontested can be added to general election files and templates, with the primary election winners being included when the General Election ballot is certified, which occurs no later than thirty-five days before the General Election. County boards of elections will produce PDF versions of each ballot style and will sign-off on each, and make such files available for transmission by October 1st to military voters and special federal voters, using the form of transmission selected by such voters.

Thank you for your kind consideration of this request. Please contact me with any questions or if you require additional information.

Sincerely,



Robert A. Brehm
Co-Executive Director
Chief Election Official

cc: Hon. David A. Paterson, Governor
Hon. Thomas P. DiNapoli, Comptroller
Hon. Andrew M. Cuomo, Attorney General
Hon. Sheldon Silver, Speaker
Hon. John L. Sampson, Conference Leader
Hon. Dean G. Skelos, Senate Minority Leader
Hon. Brian Kolb, Assembly Minority Leader
Hon. Joan L. Millman, Chair, Assembly Election Law Committee
Hon. Joseph P. Addabbo, Jr., Chair, Senate Election Law Committee
Hon. Thomas W. Libous, Senate Election Law Committee
Hon. Marcus Molinaro, Assembly Election Law Committee
Hon. Thomas R. Wilkey, Executive Director, Election Assistance Commission
Hon. Douglas A. Kellner, Co-Chair, New York State Board of Elections
Hon. James A. Walsh, Co-Chair, New York State Board of Elections
Hon. Evelyn J. Aquila, Commissioner, New York State Board of Elections
Hon. Gregory P. Peterson, Commissioner, New York State Board of Elections
Todd D. Valentine, Co-Executive Director, New York State Board of Elections