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March 14, 2011

Mr. Robert Carey
Director, Federal Voting Assistance Program
Department of Defense
1155 Defense Pentagon
Washington, D.C. 20301-1155
Fax: 703-636-1352
E-mail Robert.Carey@fvap.ncr.gov

Re: New York State Post Election Waiver Final Report

Dear Mr. Carey:

In 2010, New York State requested and was granted a waiver for compliance with the Military and Overseas Voter Empowerment (MOVE) Act (Pub. L. No. 111-84 Subtitle H) due to the hardship that would be caused as detailed in the waiver request. Because a waiver plan needed to provide Military Voters and Special Federal Voters sufficient time to vote, an important component of the FVAP waiver process is the requirement that New York submit a post-election evaluation as to the effectiveness of its plan. Attached please find a copy of the Final Report.

Overall, the Comprehensive Plan put forth by New York State was successful in its goal of improving upon past efforts to expand the inclusion of UOCAVA voters in the electoral process, despite being faced with a number of obstacles that were quickly and efficiently addressed. With our partnership with FVAP, Scytl, OVF and the county boards of elections, New York State improved ballot return rates from military and overseas voters, and availed ourselves to strategies and tools that we plan on implementing and integrating further in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert A. Brehm", is written over a horizontal line.

Robert A. Brehm
Co-Executive Director
Chief Election Official

cc: Hon. Andrew M. Cuomo, Governor
Hon. Thomas P. DiNapoli, Comptroller
Hon. Eric T. Schneiderman, Attorney General
Hon. Sheldon Silver, Speaker
Hon. Dean G. Skelos, Senate Majority Leader
Hon. John L. Sampson, Conference Leader
Hon. Brian Kolb, Assembly Minority Leader
Hon. Thomas F. O'Mara, Chair, Senate Election Law Committee
Hon. Joan L. Millman, Chair, Assembly Election Law Committee
Hon. Joseph P. Addabbo, Jr., Senate Election Law Committee
Hon. Kevin Smardz, 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

MOVE Act Final Report: Effectiveness of New York's Comprehensive Plan

Section I

Summary of Comprehensive Plan's Effectiveness

In 2010, New York State requested and was granted a waiver for compliance with the Military and Overseas Voter Empowerment (MOVE) Act (Pub. L. No. 111-84 Subtitle H) due to the hardship that would be caused as detailed in the waiver request. As part of the request, New York State put forth a comprehensive plan detailing steps that it would take to ensure sufficient time for UOCAVA voters to receive a blank ballot, mark it and return same in time for it to be counted.

For the 2010 General Election, New York State partnered with the Federal Voting Assistance Program (FVAP) to be one of 20 states to participate in their Electronic Voting Support Wizard (EVSZ) pilot program to help the state comply with the MOVE Act. Since additional steps were necessary for New York State to fully comply, the State then sought and procured additional assistance through Scytl and the Overseas Vote Foundation (OVF) to provide improved outreach to our military and overseas voters. For the first time, UOCAVA voters were given additional access to ballot request and contact information, along with a ballot tracking tool, Scytl Secure Ballot, through a hosted web site that was integrated with the State Board's web site.

The deadline for sending out the ballots for UOCAVA voters was October 1st, by which date many local Boards of Election had complied in sending out ballots to their respective

voters. As a result of a Department of Justice enforcement action, New York State entered into a Consent Decree to extend the deadline an additional nine days to allow for the receipt of ballots through November 24th.

The State Board then embarked on an aggressive and well-received campaign to notify those voters of the extended deadline - through print, broadcast and online media; communication with FVAP, the NYS Adjutant General's Office and coordination with local Boards of Election. In addition, almost 30,000 voters received notification of their ballot's accessibility via email, and over 400 faxes were sent as well to those voters who had provided such information.

Returned ballots were then tracked to assist military and special federal voters in determining the status of the returned ballot. The end results were return rates for military and overseas voters that both surpassed the numbers seen in the previous gubernatorial election in 2006 and an overall return rate for UOCAVA voters that even surpassed that of General Absentee ballots for 2010. New York State effectively demonstrated its continued dedication to engaging military and overseas voters in the electoral process.

Section II

Quantitative Results of Comprehensive Plan

For the 2010 General Election, 54,369 ballots were sent via mail, comprised of 15,275 military and 39,094 special federal ballots. In addition, 28,669 voters received notification (*see Attachment A*) by email and 424 by fax, that their ballot was available for download. Although this represents a decrease in the numbers seen in 2008 which were mentioned in

New York's plan, 2008 was the year of a Presidential election, when a larger turnout is generally expected. When comparing to 2006, a year that featured a similar set of election contests (Governor, US Senate and Congressional, amongst others), the numbers for 2010 represent an almost 80% increase in the number of UOCAVA ballots sent.

Returning ballots numbered 26,854, a 49% return rate and one that was an improvement over 2006's return rate for all UOCAVA voters. In 2010, Military voters had a return rate of 45.03% and Special Federal voters had a return rate of 51.09%, both improving over 2006's rates of 43.71% and 48.36%, respectively.

The ballots that were received before November 15th – the original deadline if all counties had complied with the October 1st deadline for mailing – comprised 93.95% of the ballots returned overall. Another 2.2% were received during the extended deadline period and the remaining 3.85% were received after the November 24th deadline. In total, 96.15% of the ballots that were received were returned in time to be counted.

Speaking to the utility of the newly introduced MOVE Act Wizard and accompanying web site, 64,710 UOCAVA voters were eligible for access to their ballot through the Scytl Secure Ballot tool. This number reflects voters in both the Primary and General elections in New York State. Our statistics showed that during the General Election 8,376 voters used the Scytl Secure Ballot site and 913 ballots were downloaded electronically. Seventy nine percent of those voters responding to the voluntary survey and representing over 39 different countries, said that they were interested in voting this way again, and 83% rated their experience as "Excellent" or "Good." The MOVE Act also requires that ballots be

tracked by county boards, and the Scytl Secure Ballot tool enabled the receipt-tracking of 14,943 ballots.

Section III

Narrative Explaining How Comprehensive Plan Provided UOCAVA Voters Sufficient Opportunity to Receive, Vote and Return Their Ballots

In looking at the data discussed in Section II which showed an improvement in the return rates of UOCAVA voters, both on a group by group basis as well as overall, it is clear that the efforts that New York State undertook not only provided those voters sufficient opportunity to partake in the electoral process, but expanded upon our success in previous elections similar in nature. Those efforts also allowed New York State to test out the efficacy of functionality not employed previously in our outreach efforts to UOCAVA voters and has allowed us to develop additional strategies and mechanisms to put into place for continued improvement of our UOCAVA outreach efforts in the future.

Despite the challenges that New York State faced during this process, each was dealt with in a manner that was directed towards enfranchising UOCAVA voters. When New York's voter registration system, NYSVoter, was created, it was not designed to track information relative to absentee voting. Despite that challenge, the MOVE Act Wizard greatly expanded the tools available for use by local election administrators to transmit registration, absentee applications, blank ballot materials, while also helping to provide timely information to eligible voters of the delivery/receipt status of ballot materials.

Another substantial challenge New York faced was the non-compliance of a number of counties to send out their UOCAVA ballots by the October 1st deadline. New York State then worked with the Department of Justice to enter into a Consent Decree which would extend the deadline for the receipt of these ballots an additional nine days, making the deadline for receipt for ballots for review and counting November 24th. The State Board issued a press release on the 15th of October announcing the deadline extension and then communicated that information aggressively and in multiple media platforms to try and reach as many UOCAVA voters as possible (*see Attachment B*). The press release itself went out to all major media in NYS and in Washington DC and was picked up by the Washington Post. The release also went to Stars & Stripes, the International Herald Tribune and Military Times, which covers all branches of the armed services.

Shortly after the announcement of the extended deadline, a special page, dedicated to UOCAVA voters was developed and posted on the State Board's web site (*see Attachment C*). The information regarding the extension as well as the newly posted page was then communicated to the Office of The Adjutant General, who in turn reported to us that they were successful in generating an email to all of their service members (including those deployed at the time) providing them with the new absentee ballot deadline along with the web address for the page dedicated to military and overseas voters. Between the page's publish date and Election Day, that web page received 179 unique page views. The State web site was also redesigned to more prominently direct military and overseas voters to the OVF/Scytl absentee ballot areas of the website. This included the use of the military and overseas voters banner in multiple places and the redesign of the front page to provide

multiple entry points for military and overseas voters for their ballots. This was also coordinated with the county boards to integrate into their websites.

A Public Service Announcement video was developed and uploaded to YouTube on October 21st. A link to that video was placed prominently on the homepage of the State Board's website, which during the time period of its release and Election Day received 78,007 unique views. The video itself was viewed on YouTube 1,756 times. The link to that video was also provided to county boards who were encouraged to post it on their web sites as well. The video was also inserted into an existing paid, in-state broadcast campaign for rotation around all of New York State.

To further reach out to our military voters, an advertisement noting the deadline extension for absentee ballots was placed in Stars & Stripes and ran from 10/27 through 11/1 (*see Attachment D*). This covered the domestic version, the European edition, Middle Eastern edition and the Asian edition of the publication.

Section IV

Conclusion

Overall, the Comprehensive Plan put forth by New York State was successful in its goal of improving upon past efforts to expand the inclusion of UOCAVA voters in the electoral process, despite being faced with a number of obstacles that were quickly and efficiently addressed. With our partnership with FVAP, Scytl, OVF and the county boards of elections, New York State improved ballot return rates from military and overseas voters, and availed ourselves to strategies and tools that we plan on implementing and integrating further in the future.

We have already begun our development of action items to integrate the MOVE Act Wizard business practices with the voter registration management systems used by the State Board and county boards alike. We hope that by doing this, we will be able to keep a record of all UOCAVA applicants with their preferred method of transmission; record the necessary email address or fax number of the voter; record the status of ballot transmission and receipt by mail; and record the reason if the ballot envelope was not opened or the ballot not counted.

Additionally, we are looking to provide an interface between the statewide voter registration list, the local boards of elections voter registration management systems, and the MOVE Act Wizard to achieve administrative efficiencies. Further, business rules will need to be established for election administrators to be able to correctly enter and verify information on contests and candidates to enable UOCAVA voters to enter his or her address or other relevant information and receive a list of all candidates for federal office in that jurisdiction to use with the Federal Write In Absentee Ballot.

Attachment A

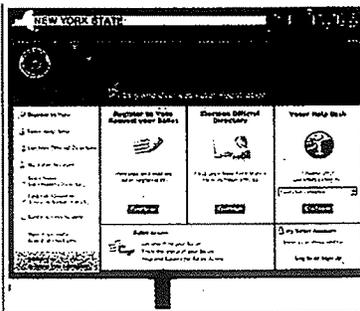
*Email / Fax Notification
to UOCAVA Voters*

New York State has established a new webpage to allow military and overseas voters to immediately obtain their general election ballots online in addition to the existing fax and mail options. To establish an account, you should visit www.elections.state.ny.us and click on the link for "Military & Overseas Voters".

If this is the first time you are accessing your ballot online, please click 'Provide your County, Name, Date of Birth and Zip Code' to create an account. You will be asked to provide an email address and password so that you may return to this site to track the status of your ballot and gain access to your ballots for future elections, when they become available.

If you are a returning voter, please provide your email address and password to gain direct access to your ballot and ballot status.

Once your account is established, you can immediately download your ballot, print instructions and the necessary return envelopes, so that you can mark your ballot for return by mail to your county board of elections.



Find Ballot Access at the bottom of the page:

To ensure that you will have sufficient opportunity under Federal law to receive the requested absentee ballot and submit the marked absentee ballot in time to be counted for the November 2, 2010 Federal general election, the State Board of Elections, the New York State Attorney General's Office and the US Department of Justice agree that a Court order shall be entered providing that valid ballots from all military and overseas voters qualified to vote in the State that are executed and postmarked by November 1, 2010, and received by the close of business on November 24, 2010, will be accepted and tabulated in the final general election results.

Overseas uniformed service members and their family members with access to Military Postal Service, may use the "Prepaid Expedited Mail - Label 11-DOD." This label is available at APO/FPO locations and can only be used for the general election. It provides expedited mail service up to seven days prior to the election. You can return your ballot with this label attached at any MPO/FPO, American embassy, or consulate. A portion of the label is retained by you for tracking your ballot through the U.S. Postal Service.

Attachment B

NYSBOE Press Release

Announcing Deadline Extension

News Release

New York State Board of Elections



For Information Contact:
John W. Conklin
Director of Public Information
Phone: (518) 474-1953
E-mail: jconklin@elections.state.ny.us

For Release: **IMMEDIATELY**

Absentee Ballot Deadline for Military/Overseas Voters Extended

ALBANY, NY (October 15, 2010) The New York State Board of Elections announced today a 9-day extension in the deadline for the acceptance of all absentee ballots from US military personnel and US citizens living overseas for the State of New York for the November 2nd General Elections.

All military and overseas ballots must be postmarked by November 1, 2010 and must be received by the appropriate county board of elections by November 24, 2010 to be accepted and counted. This represents an additional 9 days added to the original deadline of November 15.

In addition, New York State has established a new webpage to allow military and overseas voters to immediately obtain their general election ballots by email in addition to the existing fax and mail options. To establish an account, voters should visit www.elections.state.ny.us and click on the link for "**Military & Overseas Voters**".

Once the account is established, the military or overseas voter can download their ballot immediately, cast the ballot and have it in the mail back to New York State the same day. By obtaining their ballot by email, military and overseas voters can receive their absentee ballots earlier than they ever have before. This will also allow more time for the ballot to be mailed back to New York for the election. Military absentee ballots must be postmarked no later than November 1st and received by the appropriate local county board of elections by the extended deadline of November 24th to be counted. New York will also accept Federal Write-in Absentee Ballots (FWAB) cast by persons outside the United States who are qualified to vote in New York. A full online tool is available to complete the FWAB at www.fvap.gov.

Federal offices on the general election ballot for November 2nd include all US House of Representatives seats in New York and both US Senate seats.

In addition to the State Board's website, www.elections.state.ny.us, military voters can visit the Overseas Vote Foundation website, www.overseasvotefoundation.org and the Federal Voting Assistance Program website, www.fvap.gov. All three websites are set up to make the absentee voting process seamless, easy, intuitive, and quick for military and overseas voters.

Also, FVAP has launched a 24/7 call center (1-800-438-VOTE) for military and overseas voters, voting assistance officers, and election officials to get help with voting. Individuals can also e-mail their questions in to vote@fvap.gov or use the online chat capability at www.fvap.gov to accommodate an easy flow of absentee voting assistance and information. FVAP enhanced its existing service by teaming with the Navy's Global Distance 24 hour Support Center to respond immediately to emails, calls, faxes and online chat from military members, their families and overseas voters worldwide. Toll-free numbers from 67 countries are listed at: www.fvap.gov/contact/tollfreephone.html.

Military and overseas voters may also call 1-518-474-1953 or send email questions to INFO@elections.state.ny.us.

To ensure that New York's military and overseas voters will have sufficient opportunity under Federal law to receive absentee ballots they have requested and submit marked absentee ballots in time to be counted for the November 2, 2010 Federal general election, the State Board of Elections, the New York State Attorney General's Office and the US Department of Justice agree that a Court order shall be entered providing that valid ballots from all military and overseas voters qualified to vote in the State that are executed and postmarked by November 1, 2010, and received by the close of business on November 24, 2010, will be accepted and tabulated in the final general election results.

There are just under 70,000 military and overseas voters registered for absentee ballots in New York State. (20,172 military absentee voters / 49,468 non-military US citizens living overseas absentee voters.)

If you have already established an account, you can access your ballot by clicking here: https://www.secureballotusa.com/diaspora_ny/NY_login.action.

Attachment C

Military & Overseas Voter Page

Developed for NYSBOE Web Site



NEW YORK STATE

Board of Elections

Your ballot is now available

To access your ballot, go to: www.secureballotusa.com/NY



Ballot Access

Email

Password

Login

[Forgot My Ballot](#)

Please click on First Time Access if you have not activated your account yet

First Time Access

- ✓ Easy form reprinting
- ✓ Easy access to your specific ballot
- ✓ 100% secure and private

Ballot Access 12/12/12

If this is the first time you have accessed your ballot online, please click

First time access

Provide your County, Name, Date of Birth and Zip Code to create an account. You will be asked to provide an email address and password so that you may return to this site to track the status of your ballot and gain access to your ballots for future elections, when they become available.

If you are a returning voter, please provide you email address and password to gain direct access to your ballot and ballot status.

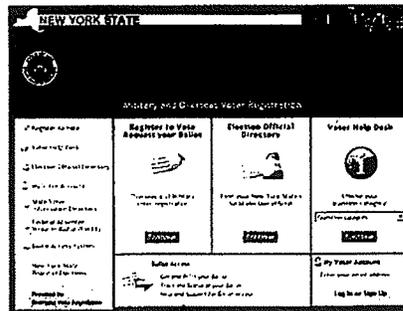
Login

You can also access the Secure Ballot site though:

<http://www.elections.state.ny.us/>

See: **MILITARY & OVERSEAS VOTERS, CLICK HERE!**

Find Ballot Access at the bottom of the page:



Submission Options

MAIL

You must mail your voted ballot to your local election official. Find your county or city in the address list below to locate your election official.

Overseas uniformed service members and their family members with access to Military Postal Service, may use the "Prepaid Expedited Mail - Label 11-DOD." This label is available at APO/FPO locations and can only be used for the general election. It provides expedited mail service up to seven days prior to the election. You can return your ballot with this label attached at any MPO/FPO, American embassy, or consulate. A portion of the label is retained by you for tracking your ballot through the U.S. Postal Service.

Attachment D

Advertisement Placed in

Stars & Stripes

IN THE STATES

Man accused of D.C. Metro bomb plot

Pakistani-born suspect arrested in FBI sting allegedly sought to attack stations, fight U.S. forces overseas

By ALICIA A. CALDWELL
The Associated Press

WASHINGTON — The FBI learned last January that a Pakistani-born man arrested Wednesday in the D.C. subway bomb sting was trying to make contact with terrorist groups to help him participate in jihad against U.S. forces overseas, according to a court record.

FBI agent Charles A. Dayoub said in an affidavit unsealed Thursday that Farooque Ahmed, 34, of Ashburn, Va., and an unnamed associate hoped to fight in Afghanistan or Pakistan early next year.

Dayoub also said the FBI subsequently learned that Ahmed either bought, or tried to buy, weapons in May 2008 and February 2009 and is believed to have used firearms to train for his goal of traveling to Afghanistan to kill Americans.

Ahmed was arrested Wednesday and accused of casing Washington-area subway stations in what he thought was an al-Qaida plot to bomb and kill commuters. Dayoub said Ahmed, a naturalized citizen, has lived in this country since 1993.

The bombing plot was a ruse begun in mid-April, the FBI said, but Ahmed readily handed over video of northern Virginia subway

stations, suggested using rolling suitcases rather than backpacks to kill as many people as possible and offered to donate money to al-Qaida's cause overseas.

There was no immediate detail on the identity or role of Ahmed's unnamed associate, though Dayoub said Ahmed was accompanied by an unnamed associate, presumably the same person, on some of his trips to case subway stations.

The FBI and White House have said the public was never in danger because FBI agents had Ahmed under tight surveillance before the bomb plot sting was begun and until his arrest.

Ahmed's lawyer, federal public defender Kenneth Troccoli, declined to comment on the case Thursday.

Ahmed was lured by an e-mail to the first meeting on April 18 in the lobby of a hotel near Washington-Dulles International Airport, Dayoub wrote.

As the FBI secretly videotaped the encounter, Ahmed accepted a Koran that contained "documents providing code words for locations to be useful for future meeting," the affidavit said.

Ahmed told a purported al-Qaida operative he had come to the meeting because "he wanted to fight and kill Americans in Afghanistan," Dayoub wrote.



Left: The entrance of the Potomac City Metro station in Arlington, Va., one of the four targeted stations. Above: FBI investigators leave the home of Farooque Ahmed in Ashburn, Va., on Wednesday.

According to Dayoub, Ahmed said he was willing to become a martyr and hoped to participate in jihad or holy war in Afghanistan or Pakistan in January 2011.

But first he wanted to attend the Hajj, a religious pilgrimage to the holy city of Mecca, Saudi

Arabia, later this year. "Ahmed told both Operative-1 and Operative-2 he was attending Hajj this year and that they should all go in order to complete the five pillars of Islam before making the 'topmark' by which I believe Ahmed meant 'becoming a martyr,'" Dayoub wrote.

Ahmed has been indicted on charges of attempting to provide material support to a designated foreign terrorist organization, collecting information to assist in planning a terrorist attack on a transit facility, and attempting to provide material support to terrorists.

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BALLOT DEADLINE EXTENDED IN NEW
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BALLOTS POSTMARKED BY NOVEMBER 1st WILL BE
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