FEDERAL VOTING ASSISTANCE PROGRAM
DEPARTMENT OF DEFENSE
WASHINGTON, DC 20301-1155

December 18, 2006

The Honorable Patricia Elwood
Secretary of the District of Columbia
1350 Pennsylvania Avneue, NW, Room 419
Washington, DC 20004

Dear Secretary Elwood,

I would like to thank you for the work you have done over the past several years to promote and support the legislative initiatives the Federal Voting Assistance Program (FVAP) has recommended. The 2006 elections pointed out the importance of the states enacting these legislative initiatives. In particular, the provision of 45 or more days for ballot transit; electronic transmission of Federal Post Card Applications, blank ballots, and voted ballots; and, authorization for the state chief election official to implement emergency measures. States with these provisions were able to support a greater number of situations faced by our brave men and women serving in combat areas such as Iraq and Afghanistan, and other U.S. citizens worldwide. I would ask you also to consider alternative methods that these citizens could use to request their absentee ballots such as phone, email or by proxy, and utilizing digital signatures with electronically transmitted materials.

After reviewing Washington, D.C.'s existing election code and procedures, I have identified six initiatives that the Washington, D.C. legislature might consider during the upcoming legislative session. These initiatives are discussed in detail with suggested wording in the enclosed legislative initiatives document. If these initiatives are enacted and signed into law, they would significantly help to facilitate the absentee voting process for Washington, D.C.'s citizens covered by the *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).* Information available to FVAP indicates that there are 956 Uniformed Services members, 717 family members and many overseas citizens that claim Washington, D.C. as their voting residence.

As you review the enclosed initiatives for possible inclusion in Washington, D.C.'s 2007 legislative agenda, please do not hesitate to contact us for assistance. We can provide legislative wording that other states have enacted to implement similar measures and provide written or in-person testimony, if desired. We have come a long way in simplifying the absentee voting process since the enactment of the *UOCAVA*—let's continue our joint efforts to achieve the simplest possible absentee voting process while maintaining its integrity.

Sincerely,

J. Scott Wiedmann
Deputy Director

Enclosure:
2007 Legislative Initiatives and Suggested Wording

District of Columbia 2007 Legislative Initiatives and Sample Language

Electronic Transmission of Election Materials

Since the 1990 general election, faxing has proven to be a valuable alternative method for facilitating the enfranchisement of military persons and overseas citizens serving their country who may have otherwise been unable to vote. This initiative has helped to ensure that these citizens were not disenfranchised by allowing them to cast a ballot when they would not otherwise have been able to vote due to time and location constraints.

Throughout an election year cycle, various circumstances exist that require the need for this alternative procedure in order for citizens to vote. The basic concept of electronic transmission of election materials is to secure high-speed delivery of election materials to and from the voter and local election officials. Your support in developing the **acceptance of electronic transmission for all aspects of the process**, with proper controls, would cut the ballot transit time at least in half. This would reduce a major obstacle to voting absentee and allow local election officials more administrative flexibility in preparing election materials.

Please consider expanding the use of modern technology in the absentee voting process. We realize the District of Columbia allows electronic transmission of the FPCA for registration and absentee ballot request and permits faxing of the absentee ballot when military service prevents the voter from receiving and returning the voted ballot. However, we encourage you to expand the use of this alternative to include electronic transmission of the blank and voted ballots for all military and overseas citizens, electronically sending the ballot to the voter and accepting the voted ballot electronically from the voter, on a regular basis, where circumstances would otherwise disenfranchise a citizen. The sample language below would accommodate these alternatives.

Sample Language

An election official may send blank ballots and accept voted ballots from eligible electors who are members of the United States Uniformed Services, merchant marine, or family members, or qualified electors living outside the United States via electronic transmission.

Late Registration Procedures

We recommend that the District of Columbia **allow persons recently separated from the Uniformed Services or overseas employment and their family members to be able to register late or be exempt from registration**. Many of these citizens go through a transition period when they first leave the Uniformed Services or overseas employment and may reside in the District of Columbia just prior to an election. This time frame does not meet your normal residency requirements. Often, the date of discharge or termination of overseas employment and registration requirements combine to disenfranchise a discharged military member or overseas citizen returning home after employment abroad. Special procedures to allow these persons to register and vote would solve this problem. **Twenty-nine** states currently allow such procedures.

Sample Language

An individual, or accompanying family member who has been discharged or separated from the Uniformed Services, merchant marine, or from employment outside the territorial limits of the United States, too late to enable him or her to register by the regular deadline for registration, shall be entitled to register for the purpose of voting at the next ensuing election after such discharge, separation, or termination of employment.

Special Write-In Absentee Ballot

We also recommend that the District of Columbia provide a special write-in absentee ballot for all elections. The purpose of the special write-in absentee ballot is to **provide a method for voting by military and other persons overseas who, due to military contingencies or special circumstances such as those faced by submariners, Peace Corps volunteers, missionaries or others in remote areas, will be out of communication for extended periods of time and unable to receive the regular ballot in the normal timeframe**. A voter could request a special write-in absentee ballot 90 days in advance and write in the names of the candidates or party preferences. The voter knows in advance that he or she will not be able to receive, vote, and return the regular ballot in time to be counted. **Twenty-seven** states now provide special write-in absentee ballots.

This special write-in absentee ballot should not be confused with the Federal Write-In Absentee Ballot (FWAB) that is prepositioned at Embassies and Consulates, military installations, overseas organizations and corporations. In comparison, the FWAB is generally only available to military stationed overseas and overseas citizens who have already applied for a regular ballot. They do not know in advance that they need the FWAB. However, if the regular ballot does not arrive in sufficient time for the voter to return the voted ballot and meet the deadline, these voters may obtain, vote, and return the FWAB to the local election official.

It is also important to note that a state write-in absentee ballot usually provides a "full" slate of offices to be voted upon including Federal, state, and local offices. On the other hand, the FWAB generally allows voting for Federal offices. There are presently 11 states that have expanded the use of the FWAB beyond Federal law. The revised FWAB was designed to accommodate its use beyond the general election and Federal offices only.

Sample Language

If the voter is a U.S. citizen residing outside the United States or is a member of the United States Uniformed Services, merchant marine, or family member and a qualified elector, he or she may request, not earlier than 180 days before an election, a special write-in absentee ballot. The voter must submit with the request a statement that provides that due to military or other contingencies that preclude normal mail delivery, the elector cannot vote an absentee ballot during the normal absentee voting period. The ballot will be available 90 to 180 days before the election.

Expand Use of Federal Write-In Absentee Ballot

Currently, the Federal Write-In Absentee Ballot (FWAB) may be used **only in general elections for Federal offices only**. This ballot is prepositioned worldwide at Embassies and Consulates, military installations and overseas organizations and corporations with American membership. By **expanding its use to include special, primary and runoff elections**, citizens would not be disenfranchised because regular ballots are not received in a timely manner. Frequently, there is insufficient time between the call for a special election and the actual election and between primary and runoff elections. Allowing use of the FWAB in these elections would reduce the possible need for legal action when insufficient time exists for the ballot to be received, voted and returned to be counted. During the 1996 primaries, on an *ad hoc* basis, several states and jurisdictions allowed the FWAB to be used for offices other than Federal offices. **Thirteen** other states have expanded its use beyond the Federal law.

In addition, for those citizens that desire to vote in elections for Federal office only, the acceptance of the FWAB voter declaration as **a request for registration simultaneously with the submission of the FWAB** would further simplify the process, improve on transit time and help ensure enfranchisement. It should be noted that the information requested on the voter declaration is basically the same as the information requested from the voter on the Federal Post Card Application (FPCA). We recommend the FWAB be accepted simultaneously as a registration form and ballot by the state for general election and Federal offices if:

(1) the information submitted complies with the District's registration requirements;

(2) the voter is otherwise eligible to vote absentee in the jurisdiction where the request is submitted;

(3) the request is received by the appropriate election official not less than 30 days before the election or by the registration deadline established by the state.

The adoption of this initiative would save money and alleviate administrative responsibilities on the local election official.

Sample Language

- Expanded use of the FWAB:

If the voter resides outside the United States or is a member of the United States Uniformed Services, merchant marine, or a family member, he or she may use the Federal Write-In Absentee Ballot in general, special, primary, and run-off elections for local and Federal offices.

- Use of FWAB as a Combined Request for Registration and Ballot Submission:

If the voter is residing outside the United States or is a member of the United States Uniformed Services, merchant marine, or a family member, he or she may use the Federal Write-In Absentee Ballot (FWAB) voter declaration as a request for registration simultaneously with the submission of the FWAB if:

> *(1) the information submitted complies with the registration requirements of the jurisdiction;*
>
> *(2) the voter is otherwise eligible to vote absentee in the jurisdiction where the request is submitted; and*
>
> *(3) the request is received by the appropriate election official not less than 30 days before the election or by the registration deadline established by the state.*

Enfranchise Citizens Who Have Never Resided in the U.S.

There are many U.S. citizens who have never resided in the U.S. and under current law are not entitled to vote. These are usually first or second-generation citizens who are subject to U.S. income tax and all other requirements of citizens. Except for the fact that they have never resided in the U.S., they would be eligible to vote in elections for Federal office. Some local election officials make exceptions and allow these citizens to vote. **Fifteen** states have passed legislation allowing these citizens to claim the legal residence of a parent. **We recommend these citizens be allowed to vote in elections for Federal offices** where either parent is eligible to vote under *UOCAVA*.

Sample Language

If a U.S. citizen outside the United States who has never lived in the United States has a parent who is a qualified elector, then that person is eligible to register and vote where his or her parent is a qualified elector.

Acceptance of a Signature and Date on Ballot as Evidence of Time of Completion

We recommend that **the District of Columbia accept the signature and date on a ballot envelope as evidence of the time the ballot was completed by a[uniformed service or overseas voter in lieu of a postmark**. Although UOCAVA voters may have voted and mailed their ballot in a timely manner, the ballot envelope may not have been postmarked on that date. By signing and dating the ballot the voter, under penalty of perjury, is certifying that their ballot was voted prior to the close of polls on election day.

Sample Language

If the voter is residing outside the United States, or is a member of the United States Uniformed Services, merchant marine, or a family member, and a qualified elector, the ballot shall be counted if it is signed and dated by the voter prior to the close of polls on election day and received by the absentee ballot deadline.