comments. If other agencies are added to the agenda when it is finalized, an additional notice will be published soliciting written comment on those agencies.

What happens to the written comments that I submit or submitted in response to the April 23, 2010 **Federal Register** *notice?*

Any third-party written comments regarding an agency received by September 22, 2010, in accordance with either this **Federal Register** notice, or with the April 23, 2010 **Federal Register** notice cited above, will become part of the official record. Those comments will be considered by the Department in its review of the agency's submission and by the NACIQI at the December 2010 meeting.

What happens to comments received after the deadline?

Department staff will review any comments received after the deadline. If such comments, upon investigation, reveal that the agency is not acting in accordance with the Criteria for Recognition, we will take action either before or after the meeting, as appropriate. Documents responsive to this notice but received after September 22, 2010 will not be distributed to the NACIQI for its consideration. Individuals making oral presentations may not distribute written materials at the meeting.

How may I obtain electronic access to this document?

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF), on the Internet at the following site: *http://www2.ed.gov/news/fedregister/index.html.* To use PDF, you must have Adobe Acrobat Reader, which is available free at this site.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Authority: 5 U.S.C. Appendix 2.

Eduardo M. Ochoa,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2010–20908 Filed 8–20–10; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Publication of State Plan Pursuant to the Help America Vote Act

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice.

SUMMARY: Pursuant to Sections 254(a)(11)(A) and 255(b) of the Help America Vote Act (HAVA), Pub. L. 107–252, the U.S. Election Assistance Commission (EAC) hereby causes to be published in the **Federal Register** changes to the HAVA state plan previously submitted by California.

DATES: This notice is effective upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, Telephone 202–566–3100 or 1–866–747–1471 (toll-free).

Submit Comments: Any comments regarding the plans published herewith should be made in writing to the chief election official of the individual state at the address listed below.

SUPPLEMENTARY INFORMATION: On March 24, 2004, the U.S. Election Assistance Commission published in the **Federal Register** the original HAVA state plans filed by the fifty states, the District of Columbia and the territories of American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands. 69 FR 14002. HAVA anticipated that states, territories and the District of Columbia would change or update their plans from time to time pursuant to HAVA Section 254(a)(11) through (13). HAVA Sections 254(a)(11)(A) and 255 require EAC to publish such updates. This is the second revision to the state plan for California.

The amendments to California's state plan provide for compliance with the Military and Overseas Voter Empowerment Act (MOVE Act) and account for changes in the methods of implementing HAVA. In accordance with HAVA Section 254(a)(12), all the state plans submitted for publication provide information on how the respective state succeeded in carrying out its previous state plan. California confirms that its amendments to the state plan were developed and submitted to public comment in accordance with HAVA Sections 254(a)(11), 255, and 256.

Upon the expiration of thirty days from August 23, 2010, the state is eligible to implement the changes addressed in the plan that is published herein, in accordance with HAVA Section 254(a)(11)(C). EAC wishes to acknowledge the effort that went into revising this state plan and encourages further public comment, in writing, to the state election official listed below.

The appendices referred to in California's state plan can be found at *http://www.eac.gov/payments_and_grants/state_plans.aspx.* An accessible version of this state plan can also be found at the same address.

Chief State Election Official

The Honorable Debra Bowen, Secretary of State, 1500 11th Street, 6th Floor, Sacramento, California 95814–2974, Phone: (916) 653–7244, Fax: (916) 653–4795.

Thank you for your interest in improving the voting process in America.

Dated: August 10, 2010.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

Overview

The Help America Vote Act of 2002 (HAVA) is now more than seven years old. The decision by Congress to provide new HAVA money to states gives California the opportunity to take stock of the efforts to make it easier for people to participate in democracy here and throughout the nation.

The events that took place in Florida during the 2000 Presidential election brought a number of concerns about the electoral process to the forefront, including:

- The difficulty in determining a voter's intent on punch-card voting systems because ballot cards contained hanging, dimpled or pregnant chads
- Lack of uniform standards in some states for determining voter intent when ballot cards contained hanging, dimpled or pregnant chads
- Voter registration list maintenance practices that affected voter eligibility
- Long lines at polling places
- Inconsistent pollworker training

HAVA attempted to address these concerns and focus attention on reducing ballot errors and improving access for voters with disabilities and those with alternative language needs by promoting the use of a new generation of voting systems.

The effort to create HAVA may have been driven by events in the 2000 Presidential election, but California took action before Congress adopted HAVA. Then-Secretary of State Bill Jones banned the use of pre-scored punch card voting systems, used then by more than half of the state's voters in September, 2001, and the State Legislature placed the Voting Modernization Bond Act, Proposition 41, on the March 5, 2002, ballot. This $200 million bond act was supported by voters and provided California counties with money to upgrade their voting systems. By June of 2002, the Voting Modernization Board, created by Proposition 41 to oversee administration of the bond act, began meeting. On October 29, 2002, HAVA was signed into law.

The 161 pages that make up HAVA represent what is arguably the most extensive federal election law rewrite ever enacted. Whereas previous efforts appropriately extended the vote to more people and removed barriers to participation, HAVA was directed at the very mechanics and technology being used to conduct elections. It accelerated the movement toward a new era of voting technology, including the use of direct-recording electronic (DRE) voting equipment. It required states to establish new, statewide voter registration databases to serve as the official list for elections, and fundamentally altered the voter registration process with new voter identification and verification requirements. Finally, it reinforced or expanded practices regarding provisional voting, voter education and poll worker training, reforms that California had led the nation in implementing prior to HAVA's enactment.

Following the adoption of HAVA, states that moved quickly, in some cases even before HAVA's enactment, to implement many of its provisions soon found themselves effectively "beta testing" voting systems that presented new, and unknown challenges. Questions about the security of voting systems, particularly DRE voting equipment, came to the fore. Decades-old testing and approval processes were challenged by the need to examine new, fundamentally different equipment that presented new questions that few had previously entertained or had experience answering. The deployment of new equipment raised practical, logistical and procedural difficulties. At the heart of the issue was the question of transparency. The reliance on proprietary source code for computerized, DRE voting units, precluded open, public examination of the entirety of voting systems and many questioned the ability of these voting systems to protect the security of the vote. To strengthen the electoral process, critics of DRE voting systems called for a transparent, auditable mechanism to add greater accountability to the process – the voter-verified paper audit trail (VVPAT).

Following a 2004 incident in California in which source code changes made by a voting system vendor were implemented without going through the required state testing and approval process, state law was amended to strengthen the Secretary of State's approval authority. The Legislature also adopted a requirement that, beginning in 2005, all DRE voting systems be equipped with an "accessible voter-verified paper audit trail" (AVVPAT) before they could be approved for use in California. Additionally, no DRE voting system could be approved for use that had not first received federal qualification, a process during which voting system source code would be examined. DRE voting systems already in use were required to be retrofitted with an AVVPAT by January 1, 2006. Soon thereafter, more than half of the states in the nation enacted VVPAT requirements of their own for DRE voting systems, but it is not yet a requirement of federal law or HAVA.

As California addressed these issues, it exercised the option to extend the HAVA implementation deadline from January 1, 2004 to January 1, 2006.

During this time, the Election Assistance Commission (EAC), created by HAVA to oversee and guide the implementation of the Act, was established and belatedly began to assume its duties. So-called "early" HAVA funding that was to be distributed even before the EAC was established was not made available to states until April 29, 2003 – more than four months after HAVA required the money to be made available and just eight months prior to HAVA's January 1, 2004, compliance deadline.

The EAC itself was established more than 10 months after HAVA required it to be established, and at the time of its inception, it had no funding for its operations. Consequently, a domino effect occurred that affected the ability of California and other states to implement HAVA's requirements. States had difficulty requesting and securing the federal funding intended to help them meet HAVA's requirements to deploy new voting systems, statewide voter registration databases and improve voter education programs. According to the EAC, in April 2004, four months after HAVA's initial January 1, 2004, deadline, less than 20 percent of this money had been disbursed to states. Furthermore, the EAC failed to provide states with guidance on how to implement HAVA. EAC guidance on how to establish a voter registration database was issued two

years later than HAVA required. The EAC's voluntary voting system guidelines (VVSG), the most definitive explanation of HAVA's voting system standards, were issued nearly two years later than the time provided for in HAVA, and just weeks before the ultimate January 1, 2006, deadline for states to comply with all of HAVA's requirements. On September 21, 2005, just three months before the EAC issued the VVSG, the United States Government Accountability Office (GAO) – the investigative arm of Congress – issued a report on the security and reliability of electronic voting systems being deployed to meet HAVA requirements. In that report, the GAO raised numerous concerns, stating:

> "In light of the recently demonstrated voting system problems; the differing views on how widespread these problems are; and the complexity of assuring the accuracy, integrity, confidentiality and availability of voting systems throughout their life cycles, the security and reliability concerns raised in recent reports merit the focused attention of federal, state, and local authorities responsible for election administration." (Page 23, GAO report issued September 21, 2005: "Federal Efforts to Improve Security and Reliability of Electronic Voting Systems are Under Way, but Key Activities need to be Completed")

Controversy over the deployment of new voting systems was not the only challenge faced by states. HAVA's requirement to establish a statewide voter registration database resulted in enforcement action, or the threat of enforcement action, by the U.S. Department of Justice (US DOJ) in more than a handful of states – including California. California had already engaged the US DOJ in discussions in early 2005 that culminated in the adoption of a November 2, 2005, Memorandum of Agreement (MOA) jointly executed between the Secretary of State and US DOJ. Pursuant to the MOA, California upgraded its CalVoter system – used previously for list maintenance purposes – to achieve "interim compliance" with HAVA's requirements. Under the MOA, the Secretary of State further committed to pursuing "full compliance" by deploying the new "VoteCal" system. That project was under way until April 19, 2010, when the Secretary of State's office discovered the vendor hired to develop and deploy the VoteCal project had not obtained a performance bond, which is a requirement of the contract the state executed with the vendor. On May 4, 2010, the Secretary of State sent the vendor a letter documenting, among other things, the vendor's lack of a performance bond, and required the vendor resolve the issue within 30 days. The letter offered the vendor an opportunity to meet with Secretary of State personnel to discuss the issues. During subsequent discussions with the vendor, the Secretary of State's office and the vendor mutually agreed to terminate the contract. A settlement to terminate the contract was executed on May 21, 2010.

The Secretary of State is committed to completing the VoteCal project. The state is also bound to complete the project pursuant to the terms of the MOA executed with the US DOJ on November 2, 2005. The work done to date on the project will facilitate those efforts. That work includes:

- Development of an RFP that documents in great detail the business requirements of the VoteCal project – all of the necessary functions the system must be capable of performing.
- Extensive, documented communication with stakeholders, including county elections officials, voting rights advocates, representatives of voters with disabilities and others who provide valuable input on the VoteCal business requirements.
- Experience gained with state oversight agencies, including procurement experts at the Department of General Services and technology experts at the Office of the Chief Information Officer.
- Input and advice from independent oversight contractors required by state law for technology projects, including an Independent Project Oversight Consultant and an Independent Verification and Validation consultant.
- Insight from county elections officials and vendors on the functions and operation of county election management systems, which must be integrated into the functions of VoteCal.

The Secretary of State will be moving quickly to assess lessons learned on the VoteCal project so far and determine the appropriate next steps, including renewing efforts to contract with a private vendor to build and deploy the VoteCal system. On July 19, 2010, a Special Project Report (SPR) was submitted to state agencies that must approve the project before it can move forward to be advertised for bid in a Request for Proposal (RFP). The project will also be submitted to the Legislature for final approval following the procurement process and award of the bid to a system integrator vendor. The SPR contains a preliminary estimated deployment of the VoteCal voter registration system statewide by June 2014. However, that preliminary timeline is subject to change, and a final timeline for development, testing and statewide deployment will be determined after a vendor is selected for the project. The estimated timeline for completion of the bidding process and award of the contract to the system integrator vendor under the state's solution-based procurement process is September 2011. Additional historical information about the VoteCal project, which includes a description of the business requirements for the project, is available on-line at www.sos.ca.gov/elections/votecal/.

The Secretary of State and county elections officials did not have the flexibility to wait until the controversy surrounding voting systems and database requirements abated before beginning to implement HAVA. HAVA implementation was pursued by the Secretary of State and county elections officials based on the requirement to meet the January 1, 2006, deadline.

Through the 2008 election cycle, California's elections officials implemented HAVA to the fullest extent possible, including:

- Creating the complaint procedures required as a prerequisite to receiving HAVA funding
- Expanding the capacity and languages available on the Secretary of State's toll-free voter information hotline

- Establishing the Secretary of State as the single statewide office to serve as a resource for military and overseas voters and for the counties that serve those voters
- Ensuring that provisional voters can, at no cost, check the status of their provisional ballot to determine if their ballot was counted, and if not, why not
- Creating a uniform definition of a vote cast on voting systems in use in California
- Establishing an "interim solution" statewide voter registration database that integrated and synchronized the 58 county election management systems containing California's voter rolls into a single, statewide system, pursuant to the MOA negotiated with the US DOJ
- Testing and approving voting systems intended to be HAVA-compliant, so California counties could acquire and deploy those voting systems
- Allocating HAVA funds to counties to defray the costs of Title III requirements and to improve polling place accessibility
- Working with counties to ensure that voting systems with the functionality required by HAVA voting system standards, including accessibility for voters with disabilities, were deployed at every polling place
- Making voter materials more accessible at the state and local level by providing them in alternative formats and improving the accessibility of websites
- Executing contracts with counties for federal grant funds to improve polling place accessibility and conducting outreach to voters with disabilities
- Providing statewide training in conjunction with the Department of Rehabilitation to elections officials on surveying polling places for accessibility during 2005 and 2006
- Establishing a Voting Accessibility Advisory Committee to recommend to the Secretary of State ways to improve accessibility to the electoral process
- Developing, pursuant to state law, poll worker training guidelines, which included training on HAVA requirements
- Providing guidance to counties on all aspects of HAVA, including developing and publishing a HAVA compliance manual

Following the 2006 election cycle, HAVA implementation has continued to evolve. In 2007, California undertook the most comprehensive review of voting systems ever conducted. Consistent with state legislative direction, the review included a top-to-bottom examination of voting system source code and a review of voting system accessibility for voters with disabilities. Three voting systems, deployed in 44 of California's 58 counties, were subject to the initial review. That review, conducted under the auspices of the Secretary of State's office by nationally recognized computer security experts from the University of California, other academic institutions and the private sector, uncovered numerous vulnerabilities that reviewers and "Red Team" testers documented and demonstrated. In response to these findings, the Secretary of State withdrew approval and approved with conditions certain voting systems on August 3, 2007, and, in collaboration and cooperation with vendors and elections officials, created new use procedures, including rigorous security and post-election auditing requirements for those voting systems.

Some voting systems were not reviewed where the manufacturer stated it would bring forward new, upgraded systems for testing and approval. In cases where the manufacturer did not bring forward a new system, the existing voting system was subjected to equally stringent security and auditing requirements.

There was also a great deal of change that occurred at the Secretary of State's office between the submission of California's last State Plan update in 2004 (published by the EAC in the Federal Register on September 30, 2004) and 2008. In addition to four changes of administration at the California Secretary of State's office since 2004, nine statewide elections were conducted between 2002 and 2008. There have also been changes in law – most notably the requirement for an AVVPAT for DRE voting systems and budgetary decisions – that have impacted HAVA implementation. Finally, EAC guidance on the use of HAVA funding has clarified the allowable use of resources in ways that significantly affect the ability to implement HAVA as envisioned in the initial State Plan. The EAC guidance may be found online at www.eac.gov/election/advisories%20and%20guidance (see FAO 08-011). That guidance could be reconsidered by the EAC. The Secretary of State will continue to monitor EAC guidance to ensure that its HAVA program is structured accordingly.

With that overview and status report on HAVA implementation in mind, California is proposing to adopt the following update to its HAVA State Plan. This State Plan acknowledges the progress made to date to implement HAVA requirements and builds upon that progress. Pursuant to HAVA requirements, this State Plan, following publication and public comment in California, will be submitted to the EAC for publication in the Federal Register.

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HAVA California Preliminary State Plan Update

Introduction

In California's initial 2003 State Plan, which was incorporated into its 2004 State Plan update, a set of goals were articulated. Some progress has been made, and continues to be made, toward these ambitious goals. With seven years of experience administering HAVA in California, the Secretary of State is re-stating and adding to the goals it will pursue during future HAVA implementation efforts. These goals will inform future expenditures of HAVA funds as outlined in Section 6 of this plan:

- Every eligible citizen, including voters with disabilities or language assistance needs, will be afforded the opportunity to vote privately, securely and independently
- Every elections official and poll worker will be thoroughly trained and committed to treating every eligible voter with respect and courtesy, and help them to vote easily and securely
- Every eligible voter will be provided ongoing, easily accessible information regarding candidates, measures and the voting process in simple, accurate terms and in a language and format that she or he can best understand
- Voters will be informed of their rights prior to voting, as they vote at the polls and after they vote
- California will pursue removing artificial barriers that preclude eligible citizens from registering to vote
- Voting equipment and ballots will be easy to use, accessible and flawlessly capture and report voter intent
- All voters, especially those who are new to voting, will be encouraged to actively participate in the electoral process as voters, poll workers, and interested citizens, with education regarding the voting process beginning as early as possible
- Overseas and military voters will be allowed to register and to vote conveniently and safely wherever they might be
- No eligible citizen will be turned away at a polling place on Election Day without being able to vote a regular or provisional ballot
- Counties and the State will share best practices in election administration to improve the efficiency, service, accuracy, and security of elections

- The Secretary of State will ensure the statewide voter registration database required by HAVA is designed and operated in a manner that is consistent with HAVA Section 303 requirements to ensure that every legally registered voter is included in the VoteCal system and that no eligible voters be removed from the list

It is important to understand the historical, legal, demographic and logistical environment in which these goals will be pursued because this environment provides both challenges and opportunities.

California's history is filled with leadership in electoral reform and innovation. Over decades, proactive policies and programs intended to help and encourage people to exercise their right to self-governance have been enacted. Implementation of those policies and programs has been directly affected by the state's size and diversity.

California's total population grants the state 53 seats in the House of Representatives and more than 10 percent of the seats in the Electoral College. Federal elections are conducted by the state's 58 counties under the direction of the California Secretary of State, who serves as the state's Chief Elections Officer.

California's most populous county, Los Angeles, is also the country's largest voting jurisdiction with a voting age population of 5,775,838, while the state's smallest county, Alpine, is home to 901 people of voting age. The most recent U.S. Census data available indicates that California, with a voting age population of 23,208,710, has as many as 10 million more citizens eligible to vote than the next most populous state, Texas. Los Angeles County alone is home to a voting age population that is larger than the voting age population in 38 states.

There is virtually no public process that rivals a statewide election in its magnitude or its importance. On Election Day, millions of people participate in a process that defines the core of our democracy. Conducting flawless elections is the goal of every elections official, but in California meeting that goal is particularly challenging because of an array of unique circumstances and because the reforms designed to further the opportunity for citizen participation in the political process have grown in number and complexity. These factors include:

- **Thousands of Voting Precincts** – For a regularly scheduled statewide election, California has some 25,000 election precincts. Staffing thousands of polling places for statewide elections requires election officials to recruit more than 100,000 reliable poll workers, who must be trained to serve millions of voters on a single day at conveniently-located sites that are accessible to voters with disabilities. The tasks of recruiting a sufficient number of poll workers, training them to adhere to and educate voters on complex laws and processes, deploying new voting systems, and locating appropriate polling places, are continuing challenges for California's elections officials.

- **A Multiplicity of Election Materials -** For each statewide federal election, California mails to each household with a registered voter a Voter Information Guide containing information on state ballot measures, statewide candidates, qualified political parties and more. Local elections officials send each voter a sample ballot that includes critical information such as polling place locations, instructions on how to use voting equipment and other information. Elections materials are also made available to voters via state and local websites and at polling places on Election Day. The tasks of preparing and providing accurate, informative and yet easy-to-use materials that are accessible to voters with disabilities in up to seven languages are staggering for election officials, while reviewing the full complement of comprehensive materials available can be overwhelming to some voters.

- **Ballot Complexity -** California ballots are typically long, reflecting California's tradition of engaging its voters in self-governance. Ballots containing myriad state and local ballot measures and candidate races present voters with an array of important choices. Some believe the complexity of the ballot may complicate efforts to encourage people to register and to vote, although surveys indicate that many voters prefer to be offered these choices to participate as fully and directly as possible in policy making.

- **Thousands of Different Ballot Types -** California elections officials must configure, in statewide primary elections, more than 60,000 different ballot types to accommodate the plethora of political subdivisions that serve people and, in California's most populous jurisdiction, ballots that must be printed in seven languages.

- **Different Political Party Participation Rules -** California has six political parties qualified to participate in primary elections. California's modified open primary means party-specific ballots must be prepared in primary elections for the voters registered with each party. Voters who "decline-to-state" an affiliation with a political party have the option to vote in primary elections only for measures and non-partisan candidates, or to request a ballot to participate in the nomination process for political parties that allow these voters to cast a ballot in the party's nominating process. The decision of each qualified party to allow decline-to-state voters to participate in its nominating process can differ from election cycle to election cycle. This process has greatly complicated ballot ordering for election officials who must estimate the number of decline-to-state voters that may be likely to request a partisan ballot. Pursuant to state law, the number and type of ballots requested and cast by decline-to-state voters must also be tracked by elections officials.

- **A Variety of Voting Systems -** At the time the initial State Plan was drafted in 2003, and prior to HAVA requirements taking effect, the Secretary of State reported that there were 19 companies manufacturing 23 voting systems approved for use in California. As of August 3, 2007 – when the results of the state's

comprehensive voting system review were announced – five manufacturers were supplying California counties with 17 distinct voting systems to comply with state and federal HAVA requirements. These voting systems included two basic categories of systems: optical scan and direct-recording electronic (DRE/touchscreen). Counties are free to deploy any voting system approved for use by the Secretary of State that complies with state and federal requirements, including meeting accessibility requirements for voters with disabilities, leading to widespread diversity of voting systems among counties (and even within counties, which often utilize more than one voting system to meet polling places needs). The array of available systems, while preserving county autonomy to choose the voting system that best meets its needs and serve other public policy goals, complicates efforts to ensure uniform and consistent training of poll workers, makes educating voters and the media about voting system issues difficult, and may lead to confusion for voters who move from one county to another.

- **Early Voting Laws and Voter Registration Deadline -** Californians are entitled to vote by mail and in person at election offices or other locations designated by county election officials 29 days before Election Day. Californians are now also entitled to register to vote up to 15 days prior to Election Day. The difference between the deadlines for early voting and registering to vote are challenging because early voting commences before the final voter rolls are set for the election. Taken together, early voting, a 15-day deadline for registering to vote, and the need to deploy multiple voting systems to meet voters' needs, including meeting accessibility requirements for voters with disabilities, reduces the amount of time that elections officials have to prepare for an election, creates new logistical challenges for election officials and creates additional choices for voters in terms of the timing of their voting.

- **Provisional Balloting -** Since the 1980s, California law has permitted a voter whose eligibility to vote cannot be immediately established at a polling place to cast a provisional ballot. At the 2008 General Election, 798,332 provisional ballots were cast, of which 657,053 (82 percent) were counted. This is a significant difference compared to the estimates provided in the initial, 2003 State Plan, where it was reported that an estimated 200,000 provisional ballots were cast in the 2002 General Election, of which an estimated 60 percent were ultimately counted. While provisional voting permits immediate access to the franchise for voters, including voters with disabilities through the use of accessible voting equipment for casting provisional ballots, the process is resource intensive, and it increases the need for additional training of poll workers and requires greater education of voters with respect to the provisional voting process.

- **Voting by Mail -** At the November 2008 General Election, more than 41.6 percent of voters (5.7 million) cast vote-by-mail ballots, continuing the upward trend noted in California's initial 2003 State Plan, where it was reported that the November 2002 General Election saw more than 27 percent of voters cast ballots by mail. State law enacted in 2001, which allows any voter to become a "permanent absentee voter," (now referred to in law as a "permanent vote-by-mail voter") accelerated the trend. Again, this innovation, while convenient for voters, often requires a different vote tabulating system from the one used to tabulate votes cast in person, and sometimes delays announcing elections results, since many vote-by-mail ballots are processed after Election Day.

- **Language Diversity -** To improve access to vital election information, to ensure that all citizens can participate fully in the electoral process, and pursuant to state and federal law, election materials are produced and oral assistance is provided in a variety of languages in California. For example, Los Angeles County provides ballots, sample ballots, and other materials, in seven languages: English, Chinese, Japanese, Korean, Spanish, Tagalog and Vietnamese. The entire state is required by the federal Voting Rights Act to provide election materials in Spanish, and 26 of California's 58 counties are required to provide bilingual voting assistance in at least one language other than English. Some jurisdictions, in response to local needs and pursuant to state law, provide written and oral assistance in other languages. This adds to the challenge of conducting an error-free election.

- **Varied Geography -** California has some of the most urban and most rural areas in the country. Densely populated areas such as San Francisco and Los Angeles bear little resemblance to the wide-open expanses of Modoc County, the forests of Trinity County or the deserts of San Bernardino County, the largest county, by area, in the country. The election processes employed to deliver democracy directly to voters in California's counties reflect that geographic diversity, challenging elections officials and voters alike.

- **New Primary Election System** – At the June 8, 2010, statewide Primary Election voters approved a new primary election process. Primary election winners, those that will appear as choices for voters on the general election ballot, will be the two candidates receiving the most votes in the primary election, regardless of party affiliation. Previously, the primary election served as the nominating process for political parties' candidates to partisan office, with each party nominee moving on to the general election ballot. This change and others to the primary election process, which does not affect the process for selection of Presidential nominees or selection of party members to county central committees, will create new challenges for elections officials in ballot preparation, ballot layout and election results tabulation. Voters will also need to be informed about this electoral change.

California election officials continually meet these challenges in an effort to provide full access to the electoral process. In fact, many of the provisions in HAVA were already features of California law, regulation or procedure at the time of HAVA's enactment. For example:

- California's voter registration-by-mail became law in 1975 and vote-by-mail on demand in 1978
- Permanent vote-by-mail balloting for any voter who requested it was enacted in 2001
- California voters approved Proposition 41 at the March 5, 2002, election – eight months before the enactment of HAVA – which provided counties access to $200 million in state bond funding to upgrade voting systems, including replacement of prescored punch card voting machines in California
- California created a statewide database in 1995, known as CalVoter, that assisted counties with list maintenance, duplicate-record checking. This system was significantly upgraded as part of the state's efforts to achieve interim compliance with HAVA Section 303 requirements
- California permits voters to correct or replace ballots before being cast
- Provisional ballots have been a feature of California law since the 1980s
- A statewide complaint procedure for making allegations regarding violations of elections laws is in place, including a toll-free telephone number (800) 345-VOTE) for making complaints
- Efforts were made to accommodate the needs of voters with disabilities and people from minority language communities

In 2007, California also took a leadership role in the effort to address unresolved concerns with the security and reliability of voting systems by undertaking a "top-to-bottom review" of voting systems approved for use in California. The review uncovered numerous design and performance issues that posed potentially serious consequences, including the potential that election results could be affected or altered. Elections officials from other states who followed California's lead and conducted similar, rigorous reviews of voting systems reached similar conclusions. As a result of California's "top-to-bottom" voting system review, serious voting system vulnerabilities are being addressed in California through the adoption of new security procedures and new use procedures. Voting system manufacturers report they are undertaking efforts to improve the design and security of voting systems.

As a part of its top-to-bottom review of voting systems, California contracted with federally recognized accessibility experts to conduct the first-ever accessibility review using the 2005 voluntary voting system guideline accessibility standards promulgated by the EAC. The primary focus was to identify whether the voting systems were sufficiently accessible to voters with disabilities and to assess whether the voting system was capable of providing alternative language accessibility by displaying Chinese and Spanish language ballots. Alternative language capabilities were evaluated for the ability of the voting system to be used by persons with or without disabilities.

The review included testing physical accessibility and language accessibility attributes of the voting systems, as well as testing usability and accessibility of voting systems for casting a ballot. Expert analyses of the voting systems and the test methodology were conducted, which was followed by user testing. Forty-five volunteer "test voters" cast test ballots using selected contests from the 2004 General Election that included multiple candidates for federal and state offices, as well as ballot measures and confirmation of judges. The test voters cast ballots containing at least nine contests and as many as 23. The expert analyses and test voting sessions were video-taped. The authors, who among them report more than 60 years of experience in technology and accessibility interfacing, included in the report a thorough list of mitigation measures for vendors to consider that could improve accessibility as well as recommendations for elections officials on polling place set-up of voting equipment. The accessibility testing protocols used in the review have been adopted by the Secretary of State and incorporated as a part of the state's voting system approval process. A copy of the voting system accessibility review can be found on-line at www.sos.ca.gov/elections/elections_vsr.htm (see UC Accessibility Report).

Now, more than seven years after the enactment of HAVA and with the findings of a comprehensive review of voting systems completed, it is a good time to evaluate California's progress on HAVA implementation and to determine how much more remains to be done. In the November 2008 General Election, 79.4 percent of registered voters cast ballots, which represents 59.2 percent of all those eligible to participate. The goal of restoring confidence in the integrity of the electoral system must be realized to help bring voters back to the polls and to engage those who are not yet participating. HAVA implementation should serve as one critical building block in California's efforts to reconnect citizens to the electoral process.

III. State Plan by Sections

Section 254(a) requires the State Plan to include a description of each of thirteen elements. Each of the thirteen elements is treated as a "section" of the California State Plan, as set forth below:

Section 1

(Section 254(a)(1))

How the State will use the requirements payment to meet the requirements of Title III, and, if applicable under Section 251(a)(2), to carry out other activities to improve the administration of elections.

Title III, commencing with Section 301, sets forth "Uniform and Non-Discriminatory Election Technology and Administration Requirements."

Below is a summary of the requirements of HAVA and how California intends to use the requirements payment to comply with that federal law. It should be noted that, pursuant to Section 305, the specific choices on the methods of complying with the requirements of Title III are left to the discretion of the State.

A. Voting Systems Standards (Section 301(a))

Federal Law:

HAVA requires that each voting system used in a federal election on or after January 1, 2006, meet each of the following requirements:

(1) Balloting errors:

(a) Voter verification of ballot selections (and correction)

The voting system must:

(i) permit the voter to verify privately and independently the votes selected before casting a ballot;

(ii) permit the voter privately and independently to change or correct a ballot before it is cast (including receiving a replacement ballot).

(Note that the requirement that a voting system permit the voter to verify the votes selected before casting a ballot may not be defined in a manner that makes it impossible for a paper ballot voting system to meet the new requirements of HAVA.)

(b) Voter notice on overvoting (and correction)

The voting system must:

(i) notify the voter of an overvote (casting votes for more candidates than allowed);

(ii) notify the voter of the effect of overvoting (i.e., the vote for that office will not be counted);

(iii) provide the voter with the opportunity to correct the ballot, if he or she has overvoted.

(c) Paper-based voting systems compliance

Paper-based voting systems (including vote-by-mail balloting systems) may meet the above requirements with:

(i) voting-system specific voter education programs notifying the voter of the effect of overvoting;

(ii) instructions on how to correct a ballot before it is cast (including instructions on obtaining a replacement ballot); and

(iii) system designs that preserve voter confidentiality.

(2) Voting system audit requirements:

The voting system must:

(a) produce a record with an audit capacity (The paper record produced shall be available as an official record for purposes of a recount.);

(b) produce a permanent paper record with a manual audit capacity;

(c) allow the voter to correct any error before the permanent paper record is produced.

(3) Accessibility for individuals with disabilities:

The voting system must:

(a) be accessible to voters with disabilities, including voters with visual impairment, in a manner that provides the same opportunity

for access and participation, including privacy and independence, as for other voters.

(The above requirement is met by providing at least one DRE voting unit, or other voting system equipped for individuals with disabilities at each polling place.)

(All voting systems purchased with Title II funding after January 1, 2007, shall comply with these requirements.)

(4) Alternative language accessibility:

The voting system must:

(a) meet all requirements of alternative language access of Section 203 of the Voting Rights Act of 1965 (42 USC 1973aa-1a).

(5) Error Rates:

The voting system must:

(a) meet FEC guidelines (Section 3.2.1) for voting system error rates (errors attributable only to system errors, and not an act of the voter) in effect at the time of HAVA's enactment (October 29, 2002).

(6) Definition of Vote:

Each state shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State.

HAVA Compliance with Voting Systems Standards

Following the 2000 Presidential election, California joined the nation in scrutinizing whether the punch card voting systems widely in use disproportionately disenfranchised large numbers of voters. Common Cause and the American Civil Liberties Union filed a lawsuit to challenge the use of pre-scored, punch card voting systems based on field studies and reports that indicated a higher error rate for these systems. The lawsuit was settled by then-Secretary of State Bill Jones after he withdrew approval for pre-scored punch card voting systems used by California counties. Shortly thereafter, the State Legislature placed on the March 2, 2002, ballot the $200 million Voting Modernization Bond Act to provide money to counties to upgrade voting systems, including those that had previously used pre-scored, punch card voting systems.

With the enactment of HAVA, a punch card voting system replacement incentive program and new federal voting system standards were created. These programs took aim at the concerns about the effectiveness of punch card voting systems to accurately capture voter intent and the desire to improve accessibility to the ballot for voters with disabilities and voters with alternative language needs.

On December 19, 2005, the Secretary of State began the process to enter into contracts with California's 58 counties to allocate $195 million in HAVA Title II, Section 251 requirements payment funding. The contracts, developed through a collaborative process with counties to determine the appropriate level of funding, were targeted primarily at helping counties buy and deploy voting systems intended to be compliant with HAVA, and associated costs such as voter education and poll worker training. These funds were used by counties in conjunction with $200 million in state Voting Modernization Bond Act funding, and HAVA Section 102 punch card voting system replacement funds, previously distributed through the Secretary of State beginning in 2004.

During this time, however, computer scientists and others began expressing serious concerns about whether DRE voting systems could be considered secure absent an independent and thorough review of the proprietary source code used to operate these voting systems. Reports of failures and anomalies in voting system performance surfaced around the country, which fueled the mounting criticism and concern. One response to the issues being presented was California legislative enactment of a requirement, effective on January 1, 2006, that all DRE voting systems be equipped with an accessible voter-verified paper audit trail (AVVPAT) to provide an additional audit mechanism and to increase transparency of the electoral process. Less than four months before HAVA's definitive January 1, 2006, deadline to deploy HAVA-compliant voting systems, the U.S. Government Accountability Office (GAO) – the investigative arm of the Congress – issued a report noting these concerns and observing potential shortcomings in the security and reliability of voting systems. The GAO report was emblematic of concerns that voting system testing and approval processes were not adequately uncovering deficiencies in voting system design and performance. At the time of the GAO report, the EAC had not yet issued its required voluntary voting system guidelines (VVSG) and had not yet assumed responsibility for the federal testing and certification regime, which was then operating under the auspices of the National Association of Election Directors (NASED). California's Secretary of State implemented programs to provide some additional safeguards, including "volume testing" of equipment to test the reliability of voting system production models in addition to the prototypes typically tested, and a "parallel monitoring" program that audited the performance and accuracy of voting systems on Election Day under Election Day conditions. Both of these programs were designed to ensure that voting systems performed in the field the way prototypes tested in laboratory settings performed.

The introduction of new voting systems was accompanied by Secretary of State programs to educate poll workers and promote voter understanding of new voting equipment, including use by voters with disabilities and voters with alternative language needs. The programs included:

- Developing new voting system use procedures
- Issuing poll worker training guidelines released in 2006
- Creating a HAVA compliance manual produced by the Secretary of State in collaboration with county elections officials
- Providing instructions on the use of new voting systems, which each county elections office included in sample ballots mailed to each voter, and which were also posted on the Secretary of State's website and each county's website
- Conducting outreach and education activities in partnership with counties, schools, state and local government, and community service organizations such as the League of Women Voters, and Independent Living Centers (private, nonprofit, corporations that provide services to maximize the independence of individuals with disabilities and the accessibility of the communities they live in)

These efforts were accompanied by voter education programs authorized by HAVA Section 301 (a)(1)(B) to educate voters on correction of overvotes where a paper-based, centrally tabulated voting system was in use through independent mailings to voters, and mailings in conjunction with delivery of sample ballots or vote-by-mail ballots.

At the same time, elections officials and voting system vendors were seeking to comply with California's AVVPAT requirement and federal HAVA voting system requirements. During the final months leading up to HAVA's January 1, 2006, deadline and even during the 2006 election cycle, California completed its final testing and approval of voting systems that complied with state law and exhibited the functionality required by HAVA voting system standards. By the November 2006 General Election, all California counties had purchased and deployed these voting systems in accordance with HAVA requirements, including deploying at each polling place at least one DRE voting unit, or one voting unit designed to be accessible to voters with disabilities.

Clearly, this rush to compliance was not an optimal implementation scenario. Delays by vendors in bringing forward voting systems for certification as promised, and the discovery of an oversight in the federal testing process that forced California to conduct its own independent review of one of these voting systems concurrent with federal re-testing, resulted in just-in-time compliance in many counties. Privately, county elections officials frustrated by the lengthy voting system certification process, concerned about local controversy over voting system reliability and security, and worried by the ever-shortening implementation schedule, expressed concern about being backed into compliance at a time of great uncertainty.

In the face of serious, yet unresolved questions, about voting system reliability and security, and the apparent inability of the voting system testing and certification processes to ensure adequate performance of voting systems, California undertook a comprehensive, top-to-bottom review aimed at the heart of the issue – voting systems' source code. The California Legislature augmented the Secretary of State's budget in 2006 to permit a review of voting systems' source code. Using that funding, and money from voting system vendors that was required for source code review on a contingency basis as a condition of prior voting system certification, the Secretary of State commissioned, under the auspices of the University of California, a top-to-bottom review of voting systems. That review also included, for the first time, accessibility testing as a separate, specific component of the testing process.

Under the top-to-bottom review, each voting system vendor was offered the opportunity to subject its certified system to the top-to-bottom review, or to forgo the review if the vendor did not intend for counties to use their system during the 2008 election cycle. The Secretary of State reserved the right to impose new, additional conditions on the use of any existing voting system if the vendor failed to bring forward a new system for certification testing as promised.

On August 3, 2007, the Secretary of State released the results of the top-to-bottom review and withdrew approval and approved with conditions the three voting systems subjected to the review. Reports and approval orders issued in accord with the findings of the top-to-bottom review can be found on the Secretary of State's website at www.sos.ca.gov/elections/elections_vsr.htm.

In short, computer scientists discovered, documented and, in some cases, demonstrated source code and security vulnerabilities that called into question the security of the voting systems. The review cast doubt on the ability to prevent manipulation of voting systems that could affect an election's outcome by exploiting these vulnerabilities, or detect after the fact that these vulnerabilities had been exploited, in ways that could affect the outcome of an election. Furthermore, the review found that malicious software code could propagate throughout an entire voting system, including infecting the central tabulation system. Based on these findings, for two voting systems the Secretary of State's approval orders restricted the use of DRE voting units to one voting unit per polling place, which is the minimum number required by the HAVA 301 (a)(3) accessibility requirements. Where a county had previously deployed additional DRE voting units at the polling place, an optical scan balloting system was used to take its place. Additionally, the Secretary of State imposed new security measures on all systems to limit and prevent potential exploitation of voting system source code vulnerabilities. New use procedures were crafted to ensure consistent, uniform implementation of security measures. Finally, new, more stringent post-election auditing requirements of results produced by the voting systems examined in the review were put in place to ensure that tampering or errors did not produce incorrect outcomes in close contests.

Following the review and issuance of approval orders, 56 of 58 counties relied largely on optical scan voting for polling place needs, while deploying DRE voting units to meet HAVA's accessibility requirements. This closely mirrors what happened in the states of New Mexico and Florida following actions taken in those states that restricted the use of DRE voting equipment. Furthermore, the findings of the California top-to-bottom review have been largely confirmed by similar reviews in Ohio and Colorado that occurred after the California review.

California's voting system testing and approval process has been modified to incorporate the security and accessibility elements employed in the top-to-bottom review. Any new voting system brought forward for certification will be subjected to a testing and approval process to ensure the systems are secure, accurate, reliable and accessible.

California was the first state to use, and continues to use, the disability standards in the federal 2005 Voluntary Voting System Guidelines (VVSG) when testing and approving voting systems. Those standards include provisions for usability and accessibility for vision, dexterity, mobility, hearing, speech, English proficiency and cognition (see Section 3.2 of Volume I of the VVSG on pages 53-64). These testing efforts examine each voting system with the help of voters with a full range of disabilities. The Secretary of State has also sought the input of a Voting Accessibility Advisory Committee (VAAC), providing the VAAC with information on voting system standards and briefings on the voting system testing and approval process, while seeking its advice on proposed standards and the voting system approval process.

In addition to meeting federal requirements, the Secretary of State has made progress on meeting unique local needs by certifying the first voting system in California for the purpose of employing a ranked-choice voting process. Based on the history of HAVA voting system standard implementation described above, compliance with HAVA voting system standards will include the following components:

- Continued reliance upon the voting system contracts issued in 2005 to help defray allowable costs for voting system equipment purchases and associated costs, including voter education and poll worker training expenses, pursuant to EAC guidance.

- Voting systems brought forward for approval will be subjected to the enhanced voting system testing regime used during the top-to-bottom review, which will also include accessibility testing and volume testing of the voting system. The approval process will include, pursuant to state law, a public hearing. DRE voting units, pursuant to state law, will continue to be required to receive federal approval prior to being considered for state approval. The EAC 2005 voluntary voting system guidelines (VVSG), which are now the basis for federal approval, and the recently released VVSG update will be evaluated and considered by California to determine the implications for the state's testing and approval protocols.

- Counties will continue to ensure that voter information provided in sample ballots, on county websites, and given to voters as a part of voter education and outreach efforts include instructions on how to use the county's voting system, including any voter education program necessary to inform voters how to avoid overvoting, and correct ballot errors. The Secretary of State will also continue to host on its website instructions on how to use voting systems deployed by counties. Where applicable, county voting systems will deploy precinct-based scanners for optical scan ballots to notify voters of ballot errors. DRE voting units will continue to provide overvote protection by preventing a voter from voting more than allowed for ballot measures and offices, and undervote protection by providing a ballot summary screen, with an option for correcting the ballot before it is cast**.**

- Each voting system will continue to provide for auditing, producing a paper record with a manual audit capacity that allows a voter to correct any error before a permanent paper record is produced. Such paper records in California are now subject to more rigorous, post-election audit requirements.

- Each county will continue to deploy at each polling place at least one voting unit that provides voters with disabilities the opportunity to vote privately and independently.

- All voting systems, and voting materials, will continue to meet the requirements of alternative language access of Section 203 of the Voting Rights Act by providing for ballot translation or transliteration and translation or transliteration of other materials into required languages.

- All voting systems will continue to be subjected to federal approval and applicable federal voting system error rates; California's voting system testing and approval process will also independently note error rates exhibited by voting systems tested through volume testing.

- California developed a uniform definition of a vote for each type of voting system through a cooperative effort with the counties. The Secretary of State will continue to rely upon that uniform definition of a vote, or any successor uniform definition of a vote that replaces that uniform definition of a vote. Further efforts to refine the uniform definition of a vote were pursued in 2009 through Secretary of State-sponsored SB 387 (Hancock), which sought to clarify that extraneous markings on a ballot would not be cause for invalidating the ballot. That bill was vetoed by the Governor, however. The current uniform definition of vote is available on the Secretary of State's website at www.sos.ca.gov/elections/hava.htm

B. Provisional Voting (Section 302):

Federal Law:

Section 302(a) (p. 102) requires that "provisional voting" be permitted in federal elections on or after January 1, 2004. Under HAVA, if a voter's name does not appear on the official list, or the elections official asserts the voter is ineligible, the voter is entitled to cast a provisional ballot as follows:

(a) Elections officials at polling place notify voters of the provisional ballot option;

(b) Voter executes written affirmation stating:

He or she is a registered voter in the jurisdiction; and
He or she is eligible to vote;

(c) The voted ballot or written affirmation information is promptly transmitted to appropriate state or local elections official for verification;

(d) If the information is verified, the ballot shall be counted;

(e) At the time the voter casts the ballot, the voter shall be provided with information about the existence of a free access system (e.g. secure, confidential telephonic or Internet-based system) that restricts access to information on individual ballots, so that only the voter who casts the ballot may determine her or his individual ballot status;

(f) State or local officials shall establish the free access system.

(HAVA also requires (Section 302(c)) that voters who cast ballots after the normal poll closing as a result of a Federal or state order, vote by provisional ballot that is segregated from regular provisional ballots.)

HAVA Compliance with Provisional Ballot Requirements

As previously noted, California law is consistent with the dictates of HAVA regarding the right of voters to receive a provisional ballot, when those voters' registration status and eligibility to vote cannot be immediately ascertained. To obtain state approval, every voting system must include an accessible device with provisional voting capability. The right to receive an accessible provisional ballot is also supported by state law at Elections Code section 19227. Additionally, California counties, under the direction and continued oversight of the Secretary of State's office, have all implemented a "free access" system available to provisional voters to determine if their ballot was counted, and, if not, why not. A complete list of each county's free access system and a description of how voters can access the system (whether by phone or via the Internet) is provided on the Secretary of State's website at www.sos.ca.gov/elections/elections_provisional.htm.

C. Voter Information Requirements (Section 302(b))

Federal Law:

Section 302(b) requires that, with respect to federal elections held on or after January 1, 2004, elections officials post specified voting information at each polling place on Election Day, including:

(a) a sample ballot for that election;

(b) the election date and polling place hours;

(c) voting instructions, including provisional voting instructions;

(d) mail-in registrant and first-time voter instructions;

(e) general voting rights information, including the right to cast a provisional ballot and instructions on how to contact appropriate officials regarding allegations of violations;

(f) general information on legal prohibitions on fraud and misrepresentation.

HAVA Compliance with Voting Information Requirements

As previously noted, California law goes further than HAVA's minimum requirements with respect to voting information requirements. At each election, households with registered voters receive a Voter Information Guide containing information on statewide measures and candidates, and other critical information, including information about HAVA. Additionally, each county sends to every registered voter a sample ballot that includes not only ballot information, but also HAVA information, such as instructions on how to cast a ballot on that county's voting system. These materials, and other required HAVA postings are available at polling places as well, including, at county request, a Voter Bill of Rights poster supplied by the Secretary of State that includes HAVA required information. Counties and the Secretary of State post these materials on websites. Proactive efforts to educate voters, with a primary focus on new voting system use, were also encouraged by allowing the expense of incorporating new HAVA requirements into materials and outreach programs to be reimbursed as a part of the counties' voting system upgrade efforts. The cost of meeting requirements to provide voter information that pre-date HAVA are not reimbursed with HAVA funds.

Counties used a limited amount of funding for this purpose – approximately $7.9 million statewide. Subsequent EAC guidance has clarified that HAVA funding used for voter education programs must focus on the use of new voting systems and efforts that provide overvote protection, including receiving a replacement paper ballot to correct ballot errors.

To support county efforts, statewide voter education efforts were also undertaken using Section 101 funding. Those statewide efforts included developing voter education materials used by state and local officials, and community-based organizations through partnerships with state agencies, such as the Department of Education, partnerships with local elections officials and partnerships with nonprofit groups such as Independent Living Centers. These materials were also made available on state, county and nonprofit websites, including the League of Women Voters of California Smart Voter webpage and in the League-sponsored Easy Voter Guide.

In California's initial State Plan, published on July 17, 2003, the Secretary of State proposed to "consider developing voter information in appropriate languages for posting at polling places" and to work to "ensure that all information provided at polling places be accessible to the widest possible audience." The Secretary of State developed voter information for posting at polling places pursuant to California Elections Code section 2300. The Voter Bill of Rights poster outlined in Elections Code section 2300 is provided to counties at their request in required languages, and production of the Voter Bill of Rights poster is partially funded by HAVA Section 101 funds. This posting supplements information provided in sample ballots, which are mailed to registered voters and available at polling places for voters who do not receive one or any voter who wishes to view one at the polling place. Additionally, the Secretary of State has made statewide electoral information in the Voter Information Guide (VIG) available in several languages and in alternative formats such as audiotapes, which are available on request; MP3 files and other materials available on its website; and produced in American Sign Language a video version of the statewide "Your Voting Rights" brochure that is posted on the Secretary of State website and available on DVD.

D. Statewide Voter Registration Database Requirements (Section 303)

Federal Law:

Section 303 requires that the Secretary of State, as the Chief Elections Officer, implement, in a uniform and nondiscriminatory manner, by January 1, 2004, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each such voter.

(1) The computerized list shall:

(a) be the official voter registration list for federal elections;

(b) serve as the single system for storing and managing the official list;

(c) contain the name and registration information of every registered voter;

(d) contain a unique identifier (driver's license number, partial social security number, or assigned number) for each voter;

(e) be coordinated with other state databases (California Department of Corrections and Rehabilitation; California Department of Public Health; California Department of Motor Vehicles; other state social service agencies and the Social Security Administration);

(f) provide immediate, electronic access to any elections official in the state;

(g) allow for electronically entering data by any local elections official on an expedited basis;

(h) be supported by the State.

(2) Maintenance of the official list shall be performed on a regular basis as follows:

(a) voters names shall be removed in accordance with the National Voter Registration Act (42 U.S.C. § 1973gg, Section 8, (a)(4), (c)(2), (d) and (e);

(b) ineligible voters shall be removed in accordance with the NVRA for felony status (42 U.S.C. § 1973gg, 6(a)(3)(B)); for death (6(a)(4)(A)); or in accordance with state law;

(c) each registered voter's name shall appear on the list;

(d) only ineligible voters or voters not registered shall be removed from the list;

(e) duplicate names shall be removed from the list;

(f) other reasonable efforts to remove ineligible voters, consistent with the NVRA (42 U.S.C. § 1973gg, et. seq.) that ensure eligible voters are not removed in error, including removing registrants who have not responded to a notice and who have not voted in two consecutive general elections for federal office shall be removed from the official list of eligible voters, except that no registrant shall be removed solely by reason of failure to vote.

HAVA Compliance with Statewide Database Requirements

As previously noted, California exercised the option to extend the HAVA implementation deadline from January 1, 2004, to January 1, 2006, to comply with Section 303, statewide voter registration list requirements.

California requested a US DOJ opinion on January 11, 2005, about its efforts to comply with Section 303. On April 19, 2005, US DOJ representatives were briefed by California Secretary of State staff on the plans to comply with these requirements. In response, on May 25, 2005, the US DOJ provided the Secretary of State with a detailed 10-page letter that opined California's plans to implement an "interim" technological and procedural program to comply with Section 303 were inadequate. The letter stated that US DOJ was "prepared to move forward with enforcement action as appropriate to ensure compliance with HAVA's requirements." The letter went on to express interest in working with

California to "implement HAVA's terms to the fullest extent possible in the short term, and longer term actions to provide full HAVA compliance within the shortest practicable time frame."

In early June 2005, the Secretary of State began discussions with the US DOJ over what steps could be taken to implement HAVA Section 303 requirements to the fullest extent possible. Those discussions culminated in a November 2, 2005, Memorandum of Agreement (MOA) outlining the Secretary of State's responsibilities. In short, the agreement required that California establish a statewide voter registration list by integrating and synchronizing the voter rolls from the 58 counties, which until the enactment of HAVA were the sole, official repositories for voter registration rolls, into a single, uniform system to serve as the official voter registration list for election purposes. That system was also required to be configured to accommodate verification of registrants' driver's license, California ID or partial social security number data, as required by HAVA, and to receive information from other state agencies for list maintenance purposes.

During the implementation phase of this system in California – an upgraded version of the state's pre-existing Calvoter system – a federal judge ruled on challenges to procedures governing the verification process employed by the State of Washington to match driver's license and partial social security data to registrants' records. Litigants argued that precluding registration by potential voters based on the failure to match records using the strict criteria employed by the State of Washington amounted to inappropriately disenfranchising voters by creating a new registration requirement. A federal judge agreed that the State of Washington's interpretation was overly restrictive. California modified its procedures in accordance with that Washington State ruling to ensure that any failure to verify a registrant's identification data did not prevent a person from registering to vote. The decision by a federal judge clarified that in these cases states should issue a unique identifier to the voter when it was not possible to verify the data provided.

The enhanced Calvoter statewide voter registration system was fully operational during the 2006 election cycle.

Pursuant to the November 2, 2005, MOA however, California must continue to work toward a permanent solution because, among other things, the upgraded Calvoter system is not a single, centralized list that provides for the use of a uniform voter registration process throughout the state. California awarded a proposal to a winning bidder, in accordance with state contracting requirements, to establish a permanent statewide voter registration list – the proposed VoteCal system.

To move forward with this effort, the Secretary of State took work initially done to evaluate a long-term compliance strategy to meet HAVA Section 303 requirements compiled by a previous administration and drafted a comprehensive Feasibility Study Report (FSR), which was approved on April 14, 2006. An FSR, required under state law, serves as a roadmap to develop and implement major technology projects. After approval of the FSR, Debra Bowen was sworn as Secretary of State on January 8, 2007. During the early months of her administration, the Secretary of State visited other states that had deployed HAVA-compliant voter registration databases to better inform the office on the efficacy of approaches to compliance undertaken by other states. She also appointed a VoteCal advisory committee comprised of county elections officials and interested stakeholders to provide input on the project and the tasks the system must perform to function properly for its intended purpose. That input was taken into account when drafting the Request for Proposal (RFP) to solicit bids for the project. The advisory committee met three times between May 10, 2007, and February 25, 2008. The February 25, 2008, meeting was conducted following the release of the Request for Proposal (RFP) for the VoteCal project on December 13, 2007, and a final meeting was conducted on November 16, 2009, following selection of the winning bidder pursuant to the RFP process. Two separate working groups comprised of county elections officials were also established to gather input on county needs and necessary system functionality for inclusion in the RFP. The county working groups began meeting in mid-June 2007 and concluded work in August 2007. Communications with these advisory committee members and counties continue through the initial phase of development and planning. During this time, operating under the approved FSR, the Secretary of State also hired the required oversight staff – an Independent Project Oversight Consultant (IPOC); a consultant to provide Independent Verification and Validation (IV&V) of project plans and deliverables; a Project Manager; a Contract Manager, and other required personnel. That RFP to solicit bids on the VoteCal project was released on December 13, 2007. The bidding process was conducted under a "solution-based procurement" provided for in state law. Rather than prescribing a specific technological solution, the solution-based procurement allows a state agency to present the business requirements that the technology project is required to meet, and allows private sector companies to propose the specific technological solution for meeting those business requirements. The process engages potential bidders in individual, confidential discussions to assist vendors in developing a proposed bid. Under the auspices of the solution-based procurement, potential bidders notified the Secretary of State after release of the RFP by December 31, 2007, of their intent to bid on the project. Following that vendor notice of intent to bid, the Secretary of State staff, under the direction of the Department of General Services personnel, engaged in a series of confidential discussions with vendors about the project in preparation for submission of bids. During this process, in response to bidder questions and to clarify the RFP, eight addenda to the RFP were adopted. The final addendum to the RFP was adopted on December 31, 2008. Following adoption of the final addendum, a deadline for submission of bids was set for January 29, 2009. Cost opening for the bids occurred on March 26, 2009. A Notice of Intent to Award a contract was issued on April 24, 2009. A May 1, 2009, deadline for bid protests passed without a protest being received. Work on a Special Project Report (SPR) describing the project in greater detail based upon the winning bid was completed and the SPR was provided to state control agencies, including the Department of Finance and Office of the Chief Information Officer. Meetings with county representatives to describe the project, answer questions and receive input commenced on July 17, 2009, and concluded on August 28, 2009. The Legislature formally received the SPR on July 23, 2009, and approved the project on August 21, 2009. An amended Spending Plan requesting

expenditure authority for VoteCal costs for the fiscal year was received by the Legislature from the Department of Finance on August 6, 2009, and approved by the Legislature on August 25, 2009. A contract was executed with the winning bidder and work on the project commenced on September 8, 2009.

On April 19, 2010, the Secretary of State's office discovered that the vendor hired to develop and deploy the VoteCal project had not yet obtained a performance bond, which is a requirement of the contract the state executed with the vendor. On May 4, 2010, the Secretary of State sent the vendor a letter documenting, among other things, the vendor's lack of a performance bond and required the vendor to resolve the issue within 30 days. The letter offered the vendor an opportunity to meet with Secretary of State personnel to discuss the issues. During subsequent discussions with the vendor, the Secretary of State's office and the vendor mutually agreed to terminate the contract. A settlement to terminate the contract was executed on May 21, 2010.

The Secretary of State is committed to completing the VoteCal project. The state is also bound to complete the project pursuant to the terms of the MOA executed with the US DOJ on November 2, 2005. The work done to date on the project will facilitate those efforts. That work includes:

- Development of an RFP that documents in great detail the business requirements of the VoteCal project – all of the necessary functions the system must be capable of performing.
- Extensive, documented communication with stakeholders, including county elections officials, voting rights advocates, representatives of voters with disabilities and others who provide valuable input on the VoteCal business requirements.
- Experience gained with state oversight agencies, including procurement experts at the Department of General Services and technology experts at the Office of the Chief Information Officer.
- Input and advice from independent oversight contractors required by state law for technology projects, including an Independent Project Oversight Consultant and an Independent Verification and Validation consultant.
- Insight from county elections officials and vendors on the functions and operation of county election management systems, which must be integrated into the functions of VoteCal.

The Secretary of State will be moving quickly to assess lessons learned on the VoteCal project so far and determine the appropriate next steps, including renewing efforts to contract with a private vendor to develop and deploy the VoteCal system. On July 19, 2010, a Special Project Report (SPR) was submitted to state agencies that must approve the project before it can move forward to be advertised for bid in a Request for Proposal (RFP). The project will also be submitted to the Legislature for final approval following the procurement process and award of the bid to a system integrator vendor. The SPR contains a preliminary estimated deployment of the VoteCal voter registration system statewide by June 2014. However, that preliminary timeline is subject to change, and a final timeline for development, testing and statewide deployment will be determined after a vendor is selected for the project. The estimated timeline for completion of the bidding process and award of the contract to the system integrator vendor under the state's solution-based procurement process is September 2011. Additional historical information about the VoteCal project, which includes a description of the business requirements for the project, is available on-line at www.sos.ca.gov/elections/votecal/.

E. Requirements for Verification of Voter Registration Information (Section 303)

Federal Law:

(1) Section 303(a)(5), beginning January 1, 2004, or January 1, 2006, mandates specific requirements with respect to an application for voter registration for a federal election.

(a) Such application may not be accepted or processed unless it includes:

(i) the driver's license number of an applicant who has been issued a current, valid driver's license; or, if a valid driver's license has not been issued;

(ii) the last four digits of an applicant's social security number.

(b) However, if an applicant has not been issued a current, valid driver's license or a social security number, then:

(i) The State shall issue a unique identifying number.

(To the extent the State has a computerized list, this unique identifying number shall be the number assigned to the applicant for purposes of the computerized list.)

The State shall determine whether the information provided by the applicant (driver's license number or partial social security number (the last four digits)) is sufficient to meet the requirements of HAVA.

(2) The Secretary of State shall enter into a cooperative agreement with the Department of Motor Vehicles, and the Department of Motor Vehicles shall enter into an agreement with the Commissioner of Social Security, to verify the accuracy of the information provided by the voter registration applicant, specifically:

(a) the applicant's name (first name and forename or surname);
(b) the applicant's date of birth;
(c) the applicant's social security number;
(d) whether such records show the applicant is deceased.

(Nothing shall be construed to require provision of applicable information under exceptional circumstances (e.g. personal safety or interference with an investigation).)

HAVA Compliance with Requirements for Verification of Voter Registration Information

The interim solution, approved for use by the US DOJ utilizes the upgraded, pre-existing Calvoter database to interface with the Department of Motor Vehicles (DMV) and the Social Security Administration (SSA), through a cooperative agreement with the American Association of Motor Vehicle Administrators (AAMVA) to verify identification data submitted by people registering to vote. Under this interim solution, counties are required to assign a unique identifier based upon the result of this ID verification process and in accordance with a standard formula established by the Secretary of State. The Calvoter system verifies the presence of that unique identifier when counties upload a new voter registration record to the Calvoter database.

The proposed fully HAVA compliant VoteCal system will incorporate the existing ID verification processes with DMV/SSA. However, the VoteCal system will assign the unique identifier to a voter and provide that number to the county as verification that the registration transaction has been completed and accepted for that voter.

F. Special Requirements for Certain Voters Who Register by Mail (Section 303)

Federal Law:

(1) Beginning January 1, 2004, the State shall, in a uniform and nondiscriminatory manner, require proof of residence from a registered voter for purposes of casting a ballot in a federal election, if the voter:

(a) registered to vote in a jurisdiction by mail on or after January 1, 2003,

and

(b)(i) has not previously voted in an election for federal office in the State,

or

has not voted in an election for federal office in the jurisdiction and the jurisdiction is located in a State that does not have a HAVA-compliant statewide voter registration computerized list.

(2) If the voter meets these conditions, and he or she **votes in person** (at a polling location), the voter shall, in order to vote, present to the appropriate elections official:

(a) a current and valid photo identification, **or**

(b) a copy of one of the following that shows the name and address of the voter:

(i) a current utility bill;
(ii) a bank statement;
(iii) a government check;
(iv) a government paycheck;
(v) a government document.

(3) If the voter meets these conditions, and he or she **votes by mail** (absentee ballot), the voter shall, in order to vote, submit with his or her ballot to the appropriate elections official a copy of one of the following that shows the name and address of the voter:

(a) a current and valid photo identification, **or**

(b) a copy of one of the following that shows the name and address of the voter:

(i) a current utility bill;
(ii) a bank statement;
(iii) a government check;
(iv) a government paycheck;
(v) a government document.

(4) Any voter subject to these requirements who votes in person and who does not provide proof of residence as required shall be provided a provisional ballot.

(5) Any voter subject to these requirements who votes by mail (vote-by-mail ballot) and who does not provide proof of residence as required shall have their ballot treated as a provisional ballot.

Exceptions (Section 303(b)(3)(C))

The requirements for first-time voters to provide proof of residence shall not apply when any of the following apply:

(1) The voter registers under Section 6 of the NVRA (42 U.S.C. § 1973gg—4) and submits as part of the voter registration a copy of:

(a) a current and valid photo identification, **or**;

(b) a copy of one of the following showing the name and address of the voter:

(i) a current utility bill;
(ii) a bank statement;
(iii) a government check;
(iv) a government paycheck;
(v) a government document.

(2) The voter registers under Section 6 of the NVRA (42 U.S.C. § 1973gg—4) and submits as part of the registration (subject to state verification of the information, including the applicant's name and birth date):

(a) a driver's license number, **or**

(b) at least the last four digits of their social security number.

(3) The voter is entitled to vote by vote-by-mail ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff—1 et seq.).

(4) The voter is entitled to vote other than in person by Section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee—1).

(5) The voter is entitled under federal law to vote other than in person.

HAVA Compliance with Special Requirements for Certain Voters Who Register by Mail

In conjunction with the interim solution, counties must identify first-time voters who register to vote by mail and who are also required to show identification, or provide a copy of identification when voting by mail. These voters are identified by a unique marker in the Calvoter system. The database clearly identifies those first-time voters who are required to present identification.

These provisions of HAVA are furthered through regulations enacted by the Secretary of State that define what forms of identification can be accepted by elections officials for these purposes, and via regulations that govern the use of the interim solution, the Calvoter system. Regulations for the operation of the interim solution database can be found on the Secretary of State's website at www.sos.ca.gov/elections/elections_regs.htm. Regulations that specify the allowable forms of identification to be presented by first-time voters who register by mail, under the applicable conditions, can be found on the Secretary of State's website at www.sos.ca.gov/elections/elections_regs.htm.

The functional requirements developed for the VoteCal project, as previously described, will provide for printing of polling place index from the VoteCal system, the roster of voters eligible to cast ballots at each polling place. This function of the VoteCal system will comply with HAVA's requirement that the VoteCal system constitute the official voter registration list for the state. The VoteCal system will uniformly note first-time voters who register by mail and are required to show identification when voting, so poll workers will ask for identification when necessary and appropriate.

G. Mail-in Registration Form Requirements (Section 303(b)(4))

Federal Law:

(1) The voter registration form developed under Section 6 of the NVRA (42 U.S.C. § 1973gg—4) must include:

(a) The questions:

(i) Are you a citizen of the United States of America? (and)

(ii) Will you be 18 years of age on or before election day?

(b) The statement: "If you checked "no" in response to either of these questions, do not complete this form."

(2) A statement informing the applicant that if the form is submitted by mail and the voter is registering for the first time, that additional information (a copy of documents for proof of residence; or a driver's license number or partial social security number) must be provided to avoid additional proof of residence requirements at the time of voting.

(3) If an applicant fails to answer the question: "Are you a citizen of the United States of America?" the registrar shall notify the applicant of the failure to complete the form and provide an opportunity to the applicant to complete the form in a timely manner.

HAVA Compliance with Mail-in Registration Form Requirements

Mail-in registration forms available for use in California have been modified to meet HAVA requirements by including the language required to notify registrants they must be U.S. citizens and 18 years old by Election Day to be eligible to register to vote. The form also provides for registrants to enter a California driver's license number or California ID number, if they have one of those forms of identification. If not, the registration form instructs the registrant to enter the last four digits of her or his social security number. First-time voters who register by mail are also notified that they may be required to show identification when casting a ballot.

H. Use of Requirements Payment for Other than Complying With Title III

Section 251(b) permits the use of requirements payments only for complying with Title III requirements. One exception to this allows a state to use a requirements payment to carry out other activities to improve the administration of elections. To do so, the state must certify it has implemented the requirements of Title III **or** the amount expended with respect to such other activities does not exceed an amount equal to the minimum payment amount applicable to the State under Section 252(c) (1/2 of 1 percent of the total amount appropriated for requirements payments for the year).

HAVA Compliance with Use of Requirements Payment for Other than Complying with Title III

In accordance with guidance and direction provided by the EAC, California certified to the EAC that it would establish a minimum requirements payment program on April 3, 2006. Pursuant to that certification, the Secretary of State allocated approximately $11.6 million to California counties as a part of the $195 million voting system upgrade contract. Pursuant to EAC guidance, this funding can be used in a more flexible manner than other HAVA, Title II funding.

The minimum requirements payment program established by California was intended to allow elections officials to use Title II funding for the following purposes:

- To meet storage and warehousing needs for new voting equipment;
- To buy cell phones for use by poll workers on Election Day to maintain direct contact with elections officials;
- To buy forklifts to move voting equipment that was "racked" to maintain equipment and to ensure proper electrical charging of systems;
- To retrofit voting systems with equipment necessary to produce a voter-verified paper audit trail; and
- Other purposes deemed allowable by the EAC.

Each county was permitted to use the funding allotted through the minimum requirements payment program up to its proportionate share of the $11.6 million distributed statewide among the counties.

Pursuant to subsequent guidance from the EAC, counties can also use minimum requirements payment funding to purchase hand-held personal digital assistant devices used to ensure poll workers can address issues that arise on Election Day or to refer to county-created guidance on election laws, procedures and processes, and for other purposes deemed allowable by the EAC.

Section 2

(Section 254(a)(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 element [section] number one, 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 whom the payment is distributed, consistent with the performance goals and measures adopted under element [section] number eight.

The requirements payments available under HAVA have been, and will continue to be, used for the purposes described in *Section 1* above, including as provided in Section 251(b)(2), or as otherwise authorized by HAVA.

HAVA funds distributed pursuant to this State Plan are to be used for meeting Title III requirements for federal elections. California's 58 counties conduct federal elections. Therefore, it was determined by then-Secretary of State Kevin Shelley in 2003 that only California counties are eligible to receive these funds. Cities conducting stand-alone, municipal elections are not eligible for HAVA funding. Other criteria are used to determine funding eligibility. For instance, counties may use federal funding only to purchase those voting systems approved by the Secretary of State to meet the applicable requirements of state and federal law.

The Secretary of State's office, in consultation with county elections officials, determined in 2004 the appropriate allocation of HAVA funds for Title III requirements. That process resulted in an allocation of $195 million (76% of the Title III funds received to date by the state) to voting system upgrades and related costs, such as poll worker training and voter education, where appropriate and allowable. The Secretary of State's office subsequently began executing contracts with each of the 58 counties beginning on December 17, 2005 to distribute the HAVA requirements payment funds to counties. These standard agreements provide the counties with details on the allowable use of funds and rules governing the use of funds. The reimbursement-based contracts require counties to submit claims with supporting documentation to be eligible to receive reimbursement. By executing contracts with counties, the State is able to monitor both the distribution and the use of funds.

Subsequent to the execution of those contracts, the EAC has provided additional guidance to states on the allowable uses of HAVA funding, including the use of funding for voter education and pollworker training, which is posted on the EAC website at www.eac.gov/election/advisories%20and%20guidance (e.g., FAO 08-011 for guidance on voter education and poll worker training). The guidance specified that using Section 251 funds, which are earmarked in HAVA for meeting Title III requirements, could not be used for voting education and poll worker training except in limited circumstances – when a new voting system was introduced to voters by counties or to conduct a voter education program to minimize overvoting when a paper-based, centrally tabulated voting system was being used. That guidance could be reconsidered by the EAC. The Secretary of State will continue to monitor EAC guidance to ensure that its HAVA program is structured accordingly.

In an effort to maximize the flexibility for counties in use of these funds, then-Secretary of State Bruce McPherson certified to the EAC on April 3, 2006, that a minimum requirements payment program would be established pursuant to HAVA Section 251 (b). The proportionate share of approximately $11.6 million in minimum requirements payment funding available under HAVA Section 251 (b) was provided to each county using the formula developed for allocation of California's Voting Modernization Bond Act of 2002 (Proposition 41). These funds were made available to counties for allowable purposes specified by the EAC, including meeting storage needs for new voting equipment, subject to EAC pre-approval.

Counties have expended approximately $124.8 million for voting system upgrades and other related allowable uses, including $8.9 million in minimum requirements payment funding. Uses of minimum requirements payment funding by counties included:

- Meeting storage and warehousing needs for new voting equipment – $5.5 million
- Retrofitting DRE voting equipment with voter-verified, paper-audit-trail printers – $138,000
- Educating voters and training poll workers – $8.6 million

The expenditure of HAVA funds for voter education and poll worker training included the following activities:

- Updating poll worker training manuals (34 counties)
- Employing new training techniques (26 counties)
- New poll worker recruitment efforts (12 counties)
- New poll worker feedback and monitoring efforts (5 counties)
- Newspaper advertising to educate voters on new HAVA requirements (26 counties)
- Expanding sample ballots to educate voters to new HAVA requirements (10 counties)
- Creating brochures, videos and audio cassettes, in multiple languages (13 counties)
- Website enhancements (9 counties)
- Participating in community events (10 counties)

This list of HAVA activities undertaken by California counties is not exhaustive. The list does not include voter education and poll worker training efforts undertaken using county resources. This list only includes those activities for which counties sought HAVA reimbursement under HAVA contracts and the minimum requirements payment program included in those contracts.

In poll worker training plans submitted by counties at the request of the Secretary of State, many counties noted that new training techniques would include hands-on voting system training, role-playing and added components to ensure poll workers could meet the needs of voters with disabilities and those with alternative language needs. Some of these efforts were bolstered by a separate grant program provided for under HAVA Section 261 aimed at improving polling place accessibility for voters with disabilities. Guidelines on poll worker training developed under state law (Elections Code section 12309.5) provided the counties with standards for the uniform training of precinct inspectors and first-time poll workers, who under Elections Code section 12309 and section 19340, respectively, are required to be trained by county elections officials. Those guidelines, pursuant to state law, include guidelines for instruction of poll workers on:

- The rights of voters, including rights to language access provided for under the Voting Rights Act, and access for voters with disabilities
- Cultural competency – commonly understood as the ability to recognize and to respond to cultural concerns or sensitivities of groups
- Knowledge of issues confronting voters with disabilities, including barriers to access and the potential need for reasonable accommodations to exercise the right to vote

In 2010, the Secretary of State updated the standards to expand on the 2006 guidelines, and address issues that arose subsequent to issuing the 2006 standards.

State law only requires that precinct inspectors, who have responsibility for supervising polling place activities, and first-time poll workers, be trained prior to each election. Although counties make training available for all poll workers, returning poll workers are not required by law to undergo training. The law attempts to recognize experienced poll workers may not need training and that if all poll workers had to be trained by law, recruiting people for largely volunteer positions would likely become more difficult. The increasing popularity of vote-by-mail balloting as a means of casting a ballot may become an impetus for revising state law to adjust the number of voters a polling place must accommodate, which would reduce the overall need for pollworkers.

Additionally, the Secretary of State conducted Election Day and Poll Worker Training observation programs during the 2006 and 2008 election cycles. These programs, which utilized Secretary of State employees as observers, provided for onsite visits to county poll worker training sessions and polling places selected to reflect a wide cross-section of demographics and to maximize the number of sites that could be visited. Observers received training at the Secretary of State's office, including training on the use of voting systems and other HAVA-required activities. Observers also attended poll worker training classes conducted by local elections officials in the county where they were assigned to be observers. Lessons learned from each of the observation programs built successively on later programs. Issues identified by observers and innovative practices employed by counties, such as hands-on training on voting systems, role-playing and interactive training sessions were communicated to counties, which contributed to changes that were noted by observers in subsequent county programs. In addition to these direct communications with counties observed and in identifying the posting of observation reports, the Secretary of State has created a Practices of Elections Officials page on its website to foster expansion of innovative programs. The full reports of the programs for the 2006 and 2008 election cycles are available on the Secretary of State's website at www.sos.ca.gov/elections/elections_vs.htm The Secretary of State's Practices of Elections is available on the Secretary of State's website at www.sos.ca.gov/elections/best-practices.htm

These combined efforts – the use of standard agreements developed in collaboration with county election officials, ongoing guidance and monitoring of expenditures, requests for reports, as required, and the Election Day observation program, as resources permit – will continue to serve as tools used by the Secretary of State to oversee and monitor HAVA implementation at the local level.

Section 3

(Section 254(a)(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.

Leading up to the November 2004 General Election, the Secretary of State earmarked $9.9 million in HAVA Section 101 funding to counties for poll worker training and voter education grants. Contracts were executed with counties that applied for the funding, which was allocated based on the grant requests submitted by counties. Counties used these funds to prepare for implementation of HAVA requirements through voter education and outreach programs that included meetings with community groups, county-sponsored efforts and mass media advertising.

The Secretary of State subsequently provided additional HAVA funding for poll worker training and voter education through contracts valued at a total of $195 million. The contracts allowed counties to determine what level of funding was necessary to complement the deployment of HAVA-compliant voting systems. Counties were required by the contract to file voter education and poll worker training plans. The money was to be used to improve voters' understanding of new HAVA requirements, with an emphasis on instructions on how to cast a ballot using new voting equipment. Poll worker training funding was to be used to ensure HAVA requirements were met (e.g. instructions on set up and operation of new voting systems, provisional voting rights, etc.). Through the 2006 and 2008 election cycles, counties spent $8.6 million for voter education and poll worker training efforts.

Many county poll worker training plans noted that new training techniques would include hands-on voting system training, role-playing and other components to meet the needs of voters with disabilities and those with alternative language needs. Some of these efforts were bolstered by a separate grant program provided for under HAVA Section 261 aimed at improving polling place accessibility for voters with disabilities.

As previously mentioned, pursuant to state law (Elections Code section 12309.5), a task force was created to recommend uniform statewide guidelines for the local training of poll workers. Under Elections Code sections 12309 and 19340, precinct inspectors and first-time poll workers are required to be trained by county elections officials. The guidelines encourage poll workers to be instructed on:

- The rights of voters, including rights to language access and access for voters with disabilities, and rights of protected classes of voters referenced and defined under the federal Voting Rights Act
- Cultural competency – commonly understood as the ability to recognize and to respond to cultural concerns or sensitivities of groups
- Knowledge of issues confronting voters with disabilities, including barriers to access and the potential need for reasonable accommodations to exercise the franchise

By including guidance on meeting the needs of voters with disabilities, language accessibility and cultural competency, the guidelines highlight the importance of recognizing California's diverse electorate. According to U.S. Census Bureau data, California is home to more than 4 million people with disabilities, and more than 12 million Californians speak a primary language other than English at home. More than 8 million speak Spanish, and more than 2.7 million speak an Asian or Pacific Islander language. As a result of this language diversity, the entire state of California is a covered jurisdiction for Spanish and California's most populous counties serve multiple languages under Section 203 of the federal Voting Rights Act. Los Angeles, for instance, is required to provide voting materials in seven languages – English, Chinese, Japanese, Korean, Spanish, Tagalog/Filipino, and Vietnamese.

The guidelines, which were issued in 2006, were updated in 2010. The most current standards can be found on the Secretary of State's website at www.sos.ca.gov/elections/pollworker.htm. Although no HAVA funding was used to develop these guidelines and the updated standards, they provide local elections officials with information on applicable state and federal laws, including HAVA.

The Secretary of State also issued a HAVA compliance manual on August 25, 2006, that includes guidance on voter education and poll worker training. The HAVA compliance manual can be found on the Secretary of State's website at www.sos.ca.gov/elections/hava_compliance_manual.htm.

Along with this statewide guidance, the Secretary of State has used Section 101 funding to augment county elections officials' efforts. The Secretary of State has produced printed materials that include important new information about the electoral process, including:

- New voter registration requirements (providing a driver's license number or partial social security number)
- Instructions on casting a ballot (by reference to county-specific information)
- Information about voting rights
- Information to assist voters with disabilities in accessing information, polling place accessibility, and voting rights
- Information about casting a provisional ballot
- Audio cassettes of printed voter information
- A sign language version of voter information that was posted on the Secretary of State's website
- Press releases issued in consultation and coordination with local elections officials as needs arise

Many of these printed materials have been included in mailings to a database of more than 5,000 community-based organizations, and have also been made available at community events attended by the Secretary of State and Secretary of State staff. Additional materials were, and continue to be, mailed to community-based groups upon request. These materials are also available on the Secretary of State's website at www.sos.ca.gov/elections/elections.htm

The Secretary of State formed partnerships with state and local government agencies, and with private organizations to help distribute materials. Those groups included: Independent Living Centers (which represent voters with disabilities), the League of Women Voters of California (supporting the Smart Voter webpage and production and distribution of the Easy Voter Guide, a plain English version of the statewide Voter Information Guide translated into multiple languages and available online), the League of California Cities, the California State Association of Counties, the California Department of Education, local school districts, the State Controller's Office, professional trade associations and others. The Secretary of State has also undertaken efforts to expand its use of technology to reach voters by providing electronic "logos" to public, private and non-profit entities that link back to the Secretary of State's web pages that provide voter information. The Secretary of State has also utilized social networking tools such as Facebook and Twitter to engage voters in the electoral process and to provide timely updates of voter information, such as reminders about the voter registration deadline, and vote-by-mail ballot request and return deadlines. Many of the activities were not supported with HAVA funds, but some staff time and printing and distribution costs for printed materials were partially supported with HAVA Section 101 funds.

In California's initial State Plan, published on July 17, 2003, the Secretary of State proposed to "consider developing voter information in appropriate languages for posting at polling places" and to work to "ensure that all information provided at polling places be accessible to the widest possible audience." The Secretary of State developed voter information for posting at polling places pursuant to California Elections Code section 2300. The Voter Bill of Rights poster outlined in Elections Code section 2300 is provided to counties at their request and production of the Voter Bill of Rights poster is partially funded by HAVA section 101 funds. This posting supplements information provided in sample ballots, which are mailed to registered voters and available at polling places for voters who do not receive one or any voter who wishes to view one at the polling place. Additionally, the Secretary of State has made statewide electoral information in the Voter Information Guide (VIG) available in alternative formats such as audiotapes, which are available on request; audio MP3 files and other materials available on its website; and produced in American Sign Language and posted on the Secretary of State website a video version of the statewide "Your Voting Rights" brochure.

To address elections official training needs, the professional umbrella organization for county elections officials, the California Association of Clerks and Elections Officials (CACEO), contracted with a private consulting firm for a full review HAVA requirements and the implications of those requirements for administration of elections in California. In addition, the CACEO created training classes for its members. While the training courses are not exclusively about HAVA, the Act is mentioned as a specific topic to be covered and the related subject matter (e.g. poll worker training and recruitment, voter registration, testing new voting equipment) necessarily includes a thorough discussion of HAVA requirements. At the conclusion of the program's 10 courses, a California Professional Election Administrator Credential is conferred on participants. All of these CACEO efforts were funded using association dues, and no HAVA Title II resources were allocated to this effort.

California's initial State Plan and 2004 update contemplated the creation of an Election Academy to train prospective election officials. A significant amount of funding – $25 million – was earmarked for this purpose, but there is no indication that any curriculum or program design work was initiated. No outline of such a program exists at the Secretary of State's office. For all intents and purposes, the CACEO efforts to credential its membership have filled this void.

Despite the decision by prior Secretaries of State not to initiate an "Election Academy," the office has undertaken numerous, meaningful steps to ensure that California's county elections officials are fully informed of HAVA requirements and programs, and those efforts continue today. Those efforts include:

- Creating, in collaboration with election officials, a HAVA Compliance Manual, which can be found on the Secretary of State's website at www.sos.ca.gov/elections/havea_compliance.htm
- Drafting and executing standard contracts, in consultation and collaboration with counties, that specify the level and appropriate use of HAVA funding
- Providing ongoing written guidance to all counties on a regular basis regarding HAVA requirements, including associated requirements for meeting federal guidelines for receipt of federal funds
- Conducting monthly conference calls with all county elections officials
- Secretary of State staff attendance at monthly CACEO meetings and subcommittee meetings, and attendance at biannual CACEO conferences
- Serving as a resource for individual county questions and concerns on a daily basis
- Working with the CACEO to provide financial support using HAVA Section 101 funding for CalPEAC elections officials training classes, which address HAVA implementation

California has relied upon Title I, Section 101 funding to provide this ongoing guidance. It is not anticipated that any Section 251, Title III requirements payment funding will be used for these efforts.

Subsequent to these efforts, the EAC issued additional guidance to states on the allowable use of HAVA funds for voter education and poll worker training (see the EAC website at www.eac.gov/election/advisories%20and%20guidance, FAO-080-011).

The Secretary of State will continue to work with CACEO, and respond to voter education and poll worker training needs. Through this work and continued interaction with individual counties, the Secretary of State will seek to complement local efforts.

The Secretary of State will continue to produce voter education materials, which include information on HAVA-specific requirements, for distribution to its list of community-based organizations, which the Secretary of State will continue to refine. The Secretary of State will also seek to expand its partnerships with voter rights advocacy groups and other private sector organizations.

Section 4

(Section 254(a)(4))

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

State law requires the Secretary of State to approve voting systems and equipment, as well as the procedures for the use of those voting systems before a system can be used in any election. The Secretary of State also has the authority to withdraw approval of voting systems and equipment.

Through 2005 and 2006, California significantly modified the testing and approval process used to examine voting systems to ensure to the fullest extent possible that voting systems met the prevailing standards. Until December 13, 2005, the EAC had not yet promulgated the Voluntary Voting System Guidelines (VVSG) pursuant to HAVA Subtitle B of Title III (Section 311 (b)(1)). Even after the adoption of the VVSG, the Guidelines did not take effect until December 13, 2007. Therefore, the prevailing standard used by California leading up to the 2006 election cycle was the Federal Election Commission (FEC) 2002 standards for voting systems. Additionally, under state Elections Code section 19250 (a), all direct recording electronic voting systems (DRE) submitted to the Secretary of State after January 1, 2005, were required first to receive federal qualification. Throughout 2006, federal qualification was attained through a process conducted under the auspices of the National Association of Election Directors (NASED). The EAC, pursuant to HAVA requirements, launched its full voting system testing and approval program in January 2007.

For the voting systems proposed for use in the 2006 election cycle, the Secretary of State's office required confirmation of the federal qualification of the voting system to ensure the voting system met the prevailing FEC 2002 standards. Testing of the voting system was conducted to ensure the system met the requirements of state law. The state also examined the system to ensure the HAVA-required voting system features were present and functional (e.g. the ability to detect an error in the ballot before it is cast). Only after a system met these requirements was it eligible for state consideration for approval. The state also instituted some innovative testing protocols, in particular volume testing, in an attempt to determine if the voting system would perform adequately under simulated Election Day conditions.

Throughout the nation, however, concerns about the operation and security of voting systems persisted and the adequacy of the voting system testing and approval process was called into question.

On January 6, 2007, Secretary of State Debra Bowen assumed office. Under the authority provided to her by state law, she undertook a top-to-bottom review of voting systems approved for use in California. A total of $512,425 in HAVA Title I, Section 101 funds earmarked by the State Legislature for this purpose was used in conjunction with nearly $400,000 of required funding from voting system vendors to defray the costs

of the review. The top-to-bottom review was the first of its kind in the nation, consisting of a comprehensive review of voting equipment source code that included both a review of source code and penetration security testing to determine whether perceived vulnerabilities in the source code could be exploited or manipulated to adversely affect the secure operation of the voting system. Voting systems were also subjected to a full review of accessibility for voters with disabilities during the top-to-bottom review using the applicable provisions of the 2005 VVSG as a benchmark.

Prior to conducting the top-to-bottom review, voting system vendors were provided the opportunity to submit a voting system for review, or to forgo the review provided the vendor planned to submit a new, upgraded voting system in time for the system to be tested and approved under an updated testing and approval regime modeled on the procedures and protocols used in the top-to-bottom review.

On August 3, 2007, the Secretary of State released the results of the top-to-bottom review and issued withdrawal of approval and approval orders based upon the findings of the top-to-bottom review for voting systems manufactured by three vendors – Sequoia, Premier (formerly Diebold) and Hart Intercivic.

The August 3, 2007, approval orders are detailed and complex and were subsequently amended. Final approval orders were issued in October 26, 2007. Among the many provisions, the orders for the Sequoia and Premier voting systems restrict the use of DRE voting equipment to one DRE voting unit per polling place, which is consistent with HAVA's Section 301 (a)(3)(B) requirement to meet the needs of voters with disabilities. Hart Intercivic voting units were not restricted to one DRE per polling place. All DRE and optical scan voting systems are now subject to modified use procedures to improve security, consistent with the findings from the top-to-bottom review. Information about the top-to-bottom review, including findings, and withdrawal of approval and approval orders can be found on the Secretary of State's website at www.sos.ca.gov/elections/elections_vsr.htm

The Secretary of State will continue to review voting systems to ensure that they comply with the requirements of Section 301 and other provisions of HAVA. The processes used to test and review the systems will include volume testing, procedures and protocols adopted as part of the top-to-bottom review in 2007, and consideration of any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III.

Section 5

(Section 254(a)(5))

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

(1) The Secretary of State has established three Special Deposit Fund subfunds within its Federal Trust Fund. Each subfund within the Special Deposit Trust Fund serves as the repository for actual cash disbursements by the federal government for the Title I-Section 101, Title I-Section 102 and Title II funds.

(2) The Secretary of State's fiscal, accounting, and budgeting offices will have overall responsibility, under the direction of the Secretary of State, for administration of these funds.

(3) The administration of the fund will meet all requirements of federal and state law for fiscal management.

Section 6

(Section 254(a)(6))

The State's proposed budget for activities under this Part (Part 1 of Subtitle D of Title II), based on the State's best estimate 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.

A great deal has changed since California's last State Plan update was published by the EAC in the Federal Register on September 30, 2004. In addition to four changes of administration at the California Secretary of State's office since the 2002 adoption of HAVA, 11 statewide elections were conducted between 2002 and 2008. The Secretary of State's office was subject to multiple audits. The office also engaged in detailed discussions with the United States Department of Justice (US DOJ) regarding compliance with HAVA Section 303 requirement to have a statewide voter registration database that culminated in execution of a Memorandum of Agreement (MOA) on November 2, 2005. The nation also witnessed a continuing debate over voting system policy, design and deployment. States such as New Mexico and Florida were among the first to react to voting system challenges that arose after the enactment of HAVA by moving to largely paper-based voting systems. California conducted a top-to-bottom review of the voting systems used in the state and has followed a similar course. After California's top-to-bottom review was concluded, Colorado and Ohio independently conducted voting system reviews and reached findings similar to those made in California.

Notwithstanding these challenges, HAVA compliance deadlines did not change. During the 2006 election cycle, California complied with the terms of the November 2, 2005, MOA by meeting the requirements for interim compliance with HAVA Section 303 statewide voter registration database requirements. Before the close of 2007, California issued a Request for Proposal (RFP) that served as the basis for contracting with a vendor to design and implement a statewide voter registration system that is fully compliant with HAVA requirements, as required by the MOA. As previously indicated, a vendor was selected through a competitive bidding process to complete the VoteCal project. However, on April 19, 2010, the Secretary of State's office discovered that the vendor hired to develop and deploy the VoteCal project had not obtained a performance bond, which is a requirement of the contract the state executed with the vendor. On May 4, 2010, the Secretary of State sent the vendor a letter documenting, among other things, the vendor's lack of a performance bond, and required the vendor to resolve the issue within 30 days. The letter offered the vendor an opportunity to meet with Secretary of State personnel to discuss the issues. During subsequent discussions with the vendor, the Secretary of State's office and the vendor mutually agreed to terminate the contract executed with the vendor. A settlement to terminate the contract was executed on May 21, 2010.

The Secretary of State is committed to completing the VoteCal project. The state is also bound to complete the project pursuant to the terms of the MOA executed with the US DOJ on November 2, 2005. The work done to date on the project will facilitate those efforts. That work includes:

- Development of an RFP that documents in great detail the business requirements of the VoteCal project – all of the necessary functions the system must be capable of performing.
- Extensive, documented communication with stakeholders, including county elections officials, voting rights advocates, representatives of voters with disabilities and others who provide valuable input on the VoteCal business requirements.
- Experience gained with state oversight agencies, including procurement experts at the Department of General Services and technology experts at the Office of the Chief Information Officer.
- Input and advice from independent oversight contractors required by state law for technology projects, including an Independent Project Oversight Consultant and an Independent Verification and Validation consultant.
- Insight from county elections officials and vendors on the functions and operation of county election management systems, which must be integrated into the functions of VoteCal.

The Secretary of State will be moving quickly to assess lessons learned on the VoteCal project so far and determine the appropriate next steps, including renewing efforts to contract with a private vendor to develop and deploy the VoteCal system. On July 19, 2010, a Special Project Report (SPR) was submitted to state agencies that must approve the project before it can move forward to be advertised for bid in a Request for Proposal (RFP). The project will also be submitted to the Legislature for final approval following the procurement process and award of the bid to a system integrator vendor. The SPR contains a preliminary estimated deployment of the VoteCal voter registration system statewide by June 2014. However, that preliminary timeline is subject to change, and a final timeline for development, testing and statewide deployment will be determined after a vendor is selected for the project. The estimated timeline for completion of the bidding process and award of the contract to the system integrator vendor under the state's solution-based procurement process is September 2011. Additional historical information about the VoteCal project, which includes a description of the business requirements for the project, is available on-line at www.sos.ca.gov/elections/votecal/.

During the 2006 election cycle, all counties in California also deployed voting systems intended to comply with HAVA Section 301 voting system requirements. Voter education and poll worker training programs were also initiated at the state and county levels leading up to and during implementation of HAVA requirements in the 2006 and 2008 election cycles.

The budget included in the original State Plan and the 2004 update included the following caveat:

> "Budgetary issues cannot be resolved until the…costs of actual implementation are ascertained."

Now, with the actual experience of HAVA implementation and understanding the challenges that still lay ahead, the budgetary issues have become clearer, but will be subject to similar dynamics. The EAC's Voluntary Voting System Guidelines (VVSG), adopted in 2005, are currently undergoing refinement. Thereafter, the EAC intends to promulgate a new set of VVSG. Congressional action on HAVA policy may still be forthcoming. In addition, California still needs to establish its statewide voter registration database as required by the MOA executed with the US DOJ. With that in mind, California's proposed HAVA budget is set forth below:

(1) Proposed Budget

(a) The Secretary of State, as the Chief Elections Officer of California as described in HAVA Section 253(e), in accordance with U.S. Election Assistance Commission (EAC) guidance, will continue to adopt policies and procedures to ensure that all funds received, including interest earned on those funds will be used to accomplish the requirements of Title III, with the exception of funds identified in Sections 251(b)(2)(A) and (B) from Title II allocations.

(b) The Secretary of State will identify its "maintenance of effort" level, pursuant to EAC guidance, and will not use HAVA funds to supplant activities already funded, as this activity is precluded by maintenance of effort provisions found in Section 254 (a)(7).

(c) California's voters authorized $200 million in general obligation bonds in 2002 to finance the modernization of voting equipment. Counties can use these funds for the purchase and deployment of voting equipment. The appropriate portion of these funds will be accounted for to satisfy the matching fund requirement of Section 253(b)(5).

(d) No funds received pursuant to Title II will be used for purposes of litigation or payment of judgment, as this is precluded by Section 251(f).

(e) The Secretary of State, as the Chief Elections Officer of California as defined in Section 253(e), will administer the Election Fund described in Section 254(b) of the Act.

(2) Specific Budget Components Relative to Title III

The Secretary of State, in administering the Election Fund, will provide funding for the following specific requirements of Title III:

(a) Voting Systems Standards

In consultation with county elections officials, and taking into account funding provided via the California "Voting Modernization Bond Act of 2002" (described under (c) above), it was determined under a prior administration that $195 million of the $264.2 million provided to the state by HAVA was an appropriate level of funding to assist counties with deploying HAVA-compliant voting systems by the January 1, 2006, deadline. The allocation formula used to disburse the $195 million was the same formula used to distribute Voting Modernization Bond Act funds. The formula gives equal weight to a county's proportionate statewide share of four factors:

- The county's number of registered voters (as of the February 19, 2002 Report of Registration)
- The county's average voter turnout over four election cycles (beginning in November 1998)
- The number of polling places in the county (for the March 2002 Primary Election)
- The number of people eligible to register to vote (as of the February 19, 2002 Report of Registration)

More detail about the allocation formula can be found on the Secretary of State's website at http://www.sos.ca.gov/elections/vma/vmb_formula_allocation_docs.html

The 2004 State Plan update budgeted $75,677,843 to meet Section 301 voting system standards through county procurement and deployment of HAVA-compliant voting system equipment. The 2004 State Plan update also budgeted a cumulative total of $45 million for voter education, and $800,000 for provisional voting requirements. Additionally, the 2004 State Plan update budgeted $25 million for an "Election Academy" to train election officials and provide poll worker education. The cumulative total of the 2004 State Plan update budget for these items is $146,477,843. The amount budgeted for these purposes under this 2009 State Plan update is $195 million, a difference of $48,522,157. However, the 2004 State Plan update also anticipated a reserve of more than $66 million.

On May 20, 2005, then-Secretary of State Bruce McPherson provided a cross-reference and reconciliation of the 2004 State Plan update budgeted items with a spending plan submitted to the State Legislature. It detailed expenditures, including $195 million earmarked for voting system upgrades and associated voter education and poll worker training costs by using of a portion of the proposed $66 million reserve budgeted in the State Plan update for that purpose. The cross-reference and reconciliation provided at the request of the EAC noted a differential of approximately 3.5% between the State Plan update budget and the spending plan pending before the Legislature. After receiving that

cross-reference and reconciliation, the EAC approved the release of $169,677,955 in HAVA funds to California.

As noted above, earlier State Plans separately earmarked up to $70 million in HAVA Title II funding for voter education and poll worker training. Recognizing that local efforts aimed at voter education and poll worker training needed to work in concert with the deployment of new voting equipment, funding for these activities was included in the $195 million voting system upgrade contract executed with the state's 58 counties. Through the 2006 and 2008 election cycles, counties used approximately $8 million in HAVA funding from this source for these purposes.

(b) Provisional Voting

Before HAVA's enactment, California law already specified procedures for provisional voting that generally comply with the requirements of Section 302. Provisional balloting is also accessible to voters with disabilities because in order to obtain state approval, every voting system must include an accessible device that includes a provisional voting capability. In response to new HAVA requirements, the Secretary of State, in cooperation with local elections officials, defined a free access system (or systems) to permit voters to determine if their provisional ballot was counted and if it was not, why not. Each county has deployed a free access system in accordance with HAVA requirements. The Secretary of State conducts an annual survey of counties to ensure the free access system is available to provisional voters and to determine what specific method is used to meet the free access requirements. This information is provided to voters on the Secretary of State's website at http://www.sos.ca.gov/elections/elections_provisional.htm

As mentioned in previous State Plans, the state is still considering taking a proactive approach to advising provisional voters of the status of their ballot and, if it was not counted, why it was not counted through the design of its VoteCal statewide voter registration system.

No HAVA Section 251, Title II funds were spent to date complying with the requirements described above.

(c) Voting Information

HAVA requires that certain information be provided to voters at the polling place. This information includes a sample ballot, the date and hours of voting, how to vote, how to vote a provisional ballot, procedures for first-time registrants required to provide identification in order to vote, a listing of the rights of voters, and general information on other laws and protections for voters. Before HAVA's enactment, much of this information was provided to voters pursuant to state law. However, posting the information at polling places was viewed as a minimum standard, as HAVA Section 305 states, because providing this information to voters before Election Day best ensures that voters understand the electoral process to enable them to fully exercise their rights. Therefore, counties were encouraged to pursue voter education programs that provided this information in printed materials distributed at outreach events and via websites leading up to elections as an adjunct to deployment of a new voting system. The incremental cost of revising materials or websites and conducting outreach programs were included as allowable costs via the $195 million voting system upgrade contract described above.

EAC guidance received on September 26, 2008, at the request of the Secretary of State's office has clarified the use of these funds for voter education efforts. The guidance points out that the specific requirements of HAVA Section 302 are for posting information at polling places and further advises that there are limits on the use of funding beyond posting information at polling places. Funding is only allowable for voter education programs aimed at informing voters about the consequences of overvoting and how to prevent overvoting when voters use a paper-based, centrally tabulated voting system, or when educating voters on the use of a new voting system at the time that the voting system is first deployed.

To ensure adequate posting of voter information required by HAVA, the state has produced and distributed, pursuant to California Elections Code section 14105(q), a Voter Bill of Rights for posting at polling places. The Voter Bill of Rights is printed and distributed using an equal amount of HAVA Section 101 funds and state funds.

No further Section 251, Title III requirements payment funding, beyond that described above, will be budgeted for this activity.

(d) Statewide Voter Registration List

Pursuant to HAVA Section 303, the Secretary of State is required to develop a single, uniform, official, centralized, and interactive list of registered voters that is defined, maintained, and administered at the state level. This computerized list shall be the official list of voters for federal elections.

From a budgetary standpoint, the cost of meeting this requirement was largely unknown in 2004, when the prior Secretary of State drafted the initial State Plan. Also, historical documentation available to subsequent administrations suggests that many of the costs associated with procurement of a major technology project was not recognized when the initial State Plan was drafted, nor were they anticipated in the State Plan update. Subsequent to the drafting of those State Plans, California took two courses of action that fully informed the State of the costs involved.

On January 11, 2005, the Secretary of State's office requested an opinion from the US DOJ about its plans to comply with HAVA Section 303 statewide voter registration database requirements on an interim basis. The initial discussions with the US DOJ about those plans concluded on April 19, 2005. On May 25, 2005, the US DOJ informed the Secretary of State that its plans did not represent compliance, and that US DOJ was

"prepared to move forward with enforcement action under HAVA as appropriate to ensure compliance…"

Thereafter, the Secretary of State engaged in discussions with the US DOJ about what procedural changes to the voter registration process could be enacted via regulations and what technological upgrades could be made to an existing system to integrate and synchronize 58 county election management systems (EMS's) into a single, statewide voter registration system. The discussions with US DOJ culminated in a Memorandum of Agreement (MOA) executed between the Secretary of State and US DOJ on November 2, 2005. The MOA outlined the regulations that were to be enacted, and the technological improvements to the state and county voter registration systems to achieve interim compliance. The state met the requirements of the MOA and is operating the system outlined in the MOA using Title I, Section 101 funds. However, the MOA also committed the Secretary of State to continuing to pursue long-term compliance with the HAVA mandate of building a statewide voter registration list. Long-term compliance with HAVA Section 303 will be achieved with development and implementation of the VoteCal project.

The Secretary of State took work initially done to evaluate a long-term HAVA Section 303 compliance strategy compiled by a previous administration and drafted a comprehensive Feasibility Study Report (FSR). An FSR, required under state law and procedures, serves as a roadmap to development and implementation of major technology projects. The FSR, which was approved by technology and budget oversight authorities, is required to include an estimate of all costs associated with development, procurement and implementation of major technology projects. The full accounting of costs in that FSR differed significantly from the estimated $8 million to $40 million cost of compliance in the initial State Plan, and the estimated $40 million in the 2004 State Plan update. That initial 2004 cost estimate only included the cost of system integration; it did not account for other necessary costs required to be included to obtain state approval to develop and implement a major technology project. Those cost estimates must include project management, project oversight, independent validation and verification, and one year of system operation and maintenance in order for the project to be approved. These costs, and others, were not included in the cost projection provided in the initial State Plan and State Plan update.

Through its procurement experience, the Secretary of State, accounting for all costs associated with procurement, development and implementation, including a year of maintenance and operation, estimated more accurately the cost to complete the VoteCal project at $65.6 million. Although that estimated cost could change based upon a new procurement process and a new proposed solution, this is the best estimate for the project at this time. This change in the estimated costs in the State Plan budget, which is driven in large part by the MOA executed with the US DOJ, the enforcement authority for HAVA, represents the largest material change in this 2009 State Plan update.

(e) Requirements for Voters Who Register by Mail

The Secretary of State developed guidance and regulatory procedures for the uniform implementation of the requirements of Section 303(b) via guidance and regulation, including:

- A HAVA Compliance Manual, with relevant guidance found principally in Chapters 1 and 7 of the Compliance Manual, on the Secretary of State's website at www.sos.ca.gov/elections/hava_compliance_manual.htm;
- Regulations adopted that govern operation of the interim solution statewide voter registration database, which can be found on the Secretary of State's website at www.sos.ca.gov/elections/elections_regs.htm; and
- Associated regulations that govern the application of voter identification requirements for first time voters who register by mail at www.sos.ca.gov/elections/elections_regs.htm.

The costs for developing the HAVA Compliance Manual, implementing regulations and implementing the interim solution statewide voter registration database were funded using existing resources and HAVA Section 101 funds. No additional HAVA Section 251 funding will be expended on this requirement beyond the funding for the VoteCal project.

(3) The Portion of the Requirements Payment, which will be used to carry out Other Activities.

Minimum Requirements Payment Program (Title II, Section 251(a)(2)(B) – On April 3, 2006, pursuant to EAC guidance, California filed a certification to create a minimum requirements payment program pursuant to HAVA Section 251 (a)(2)(B). The minimum requirements payment program provides states with the ability to allocate up to $11,596,803 for purposes that improve the administration of elections that are not otherwise required by Title III of HAVA. California provided the allocation to counties via the $195 million voting system upgrade contract by applying the Voting Modernization Bond allocation formula to the $11,596,803 allowed pursuant to Section 251 (a)(2)(B) and allocating to each county its proportionate share of funding as a part of the county's voting system upgrade contracts. Counties were allowed to expend that proportionate share of the minimum requirements payment on storage and warehousing needs for new voting equipment, for forklifts to move voting units at warehouse or storage facilities and for cell phones to maintain direct communication with polling places on Election Day. The funds are also allowable for use as specified by guidance from the EAC. The funding is restricted to ensure that only that portion of spending that directly benefits federal elections is allowable.

Thus far, pursuant to EAC guidance and with EAC pre-approval when necessary, counties have expended $9.5 million in minimum requirements payment funding, leaving a balance of approximately $2.1 million. These expenditures represent about 3.6 percent of California's existing Title III allocation.

New HAVA Funding

According to the EAC, California is entitled to receive $31,991,504 in new Title II funding. In addition, California has earned $35,459,287 in interest on Title II funding on deposit in its State Election Fund.

(4) Summary of Costs and Portions used to carry out Activities

Note that the budget below includes the total of all HAVA funds the Secretary of State anticipates receiving, including interest earned on funds received to date and funds anticipated following the submission and publication of this 2009 State Plan. As such, this budget reconciles, and replaces, earlier budget estimates included in the initial 2004 State Plan (published in the Federal Register on March 24, 2004), and the 2004 State Plan update (published in the Federal Register on September 30, 2004) previously submitted by California.

As those earlier State Plans stated, "the costs and portions indicated [in those State Plans] [were] subject to change based on the variables indicated [in those State Plans]. Such anticipated changes, unknown at this time, are deemed to be included in this Plan as if set forth in detail. Note, also, that the 'Portion of Payment' indicated below is based on the minimum 'Cost Estimate,' which may not be the true cost as ultimately determined."

Furthermore, despite the fact that HAVA implementation began in 2003, there are still some challenges that lie ahead, including ongoing efforts to improve the capabilities of voting systems to meet security and accessibility needs and the completion of the VoteCal project – California's long-term statewide voter registration database required by HAVA Section 303.

California will designate HAVA funding from federal appropriations in fiscal years 2008-2010 and interest earned to date in this State Plan budget for meeting Title III requirements and for future improvements in the administration of elections.

Based on California's estimated cumulative total of requirements payment funding, including interest earned to date, of $331,687,915 for fiscal years 2003-04 through fiscal year 2009-2010, the best estimate of the distribution is as follows:

HAVA Title III mandate	Cost Estimate or Allocation	Portion of payment
Voting systems (Section 301)	$195 million	58.79%
Provisional Voting (Section 302)	$0	0%
Voter materials at polling places (Section 302)	$0	0%
Statewide Voter Registration Database (Section 303)	$65,568,600	19.77%
Total allocated/estimated	$260,568,600	78.56%
Total balance to be allocated for Title III requirements and improving the administration of federal elections	$71,119,315	21.44%

*The county contracts that provide a total of $195 million allocated for voting system upgrades also allow counties to request reimbursement for the incremental, allowable cost of voter education and poll worker training costs associated with voting system deployment and meeting other HAVA requirements that must be incorporated into the electoral process. In part these needs are addressed by incorporating the state's "minimum requirements payment" of $11.6 million for purposes deemed allowable by the EAC into these contracts.

Section 7

(Section 254(a)(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.

The Secretary of State, pursuant to EAC guidance, will ensure the expenditures of the state for activities funded by the payment will be maintained at a level that is not less than the level of such expenditures maintained by the state for the 1999-2000 Fiscal Year. Throughout the implementation of HAVA, the Secretary of State has attempted to ensure that no HAVA funds were used to supplant local funding for activities already required by state law and to ensure that these and other "normal, ongoing" election expenses were not reimbursed with federal funds. The Secretary of State provides the means for ensuring appropriate use of HAVA funds, including preventing supplanting local funding with new, HAVA resources, through:

- Standard agreements (contracts), which identify the allowable uses of funding
- Reimbursement-based contracts, which require counties to submit supporting documentation for costs in order to receive HAVA funding
- Secretary of State internal review and approval of claims submitted by counties before payment, which in many cases has led to disapproval of some expenses claimed
- Regular, ongoing and daily communication with county elections officials to provide guidance on allowable uses of funding

The Secretary of State will continue to use these mechanisms to avoid supplanting with HAVA funds those election expenses that should be borne by state and local agencies.

Pursuant to an EAC Maintenance of Effort (MOE) policy adopted June 28, 2010, states are allowed to voluntarily submit plans to the EAC for review and comment on how a state intends to meets its MOE obligation under HAVA. California will submit such a plan to the EAC by the June 28, 2011, deadline prescribed in the final policy.

Section 8

(Section 254(a)(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 carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the States will use to measure performance and the process used to develop such criteria, and a description of which officials will be held responsible for ensuring that each performance goal is met.

In its initial State Plan, which was incorporated into the 2004 State Plan update, the Secretary of State proposed the following:

> "(1) The Secretary of State, as Chief Elections Officer, in consultation with local elections officials and other interested parties, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, shall:
>
> (a) develop performance goals and measures, with timetables, descriptions of criteria, the process used to develop the criteria, and identification of accountable officials, to determine the effectiveness of all programs and efforts receiving HAVA funds;
>
> (b) monitor, through consultations with local elections officials and interested individuals and organizations, the performance of the state, units of local government and other entities with respect to reaching goals and each and every provision of HAVA."

This proposal was never put into practice. On March 1, 2005, the California Secretary of State who initially undertook the task of implementing HAVA resigned. Pursuant to state law, the Governor appointed a successor who assumed office, following confirmation by both houses of the California State Legislature, on March 30, 2005. With the nine months left before the January 1, 2006, deadline to implement HAVA's full complement of requirements, the state was able to meet, for the 2006 election cycle, HAVA's Title III requirements. Performance measures, as envisioned under the initial State Plan, were not adopted.

However, California has performance measures, some of which have been put in place recently, which can serve as benchmarks for measuring the success of HAVA implementation for voting systems. These include:

- Requiring each county, as a condition of voting system approval, to report any Election Day problems and issues with voting equipment used in polling places
- Requiring, as a matter of state law, a manual tally of ballots cast in 1% in randomly selected precincts in each county (EC 15360)

- Requiring each county, as a condition of voting system approval, to allow for Election Observation Panels to publicly observe the electoral process, including the tally of ballots. County Election Observer Panel plans are available on line at www.sos.ca.gov/elections/eop.htm
- Requiring each county to report, prior to each statewide election, on the type of voting system it will use for the upcoming election. Information on the use of voting systems in counties can be found online at www.sos.ca.gov/elections/vs_election.htm

Additional information required for performance measures pursuant to HAVA is provided below:

Planning Element:	Voting systems – Section 301
Goal:	Document the performance of California's voting systems to continually improve the voting experience for California voters
Performance Measure	Incident reports on problems and issues with voting equipment deployed at polling places
Timetable	Ongoing – following each statewide election
Process for developing criteria	Voting system approval process (Elections Code (EC) sections 19100; 19201; and 19222)
Accountable official(s)	County elections officials; Secretary of State

Planning Element:	Voting systems – Section 301
Goal:	Document the performance of California's voting systems to continually improve the voting experience for California voters
Performance Measure	Manual 1% tally of ballots from randomly selected precincts
Timetable	Ongoing – following each statewide election
Process for developing criteria	EC section 15360
Accountable official(s)	County elections officials; Secretary of State

Planning Element:	Voting systems – Section 301
Goal:	Document the performance of California's voting systems to continually improve the voting experience for California voters
Performance Measure	Allow public observation of voting system deployment and use, including logic and accuracy testing and ballot tally
Timetable	Ongoing – during each statewide election
Process for developing criteria	Voting system approval process (EC section 15004)
Accountable official(s)	County elections officials; Secretary of State

Planning Element:	Voting systems – Section 301
Goal:	Document the deployment of HAVA-compliant voting systems
Performance Measure	Require each county to report to the Secretary of State the voting system it will deploy on Election Day prior to each statewide election
Timetable	Ongoing – before each statewide election
Process for developing criteria	Secretary of State
Accountable official(s)	County elections officials; Secretary of State

Planning Element:	Voting systems – Section 301
Goal:	Document the performance of California's voting systems to continually improve the voting experience for California voters
Performance Measure	Require voting system vendors to deposit an exact approved version of software and firmware into an escrow facility approved by the Secretary of State
Timetable	Ongoing – prior to voting system use in an election
Process for developing criteria	EC section 19103(a)
Accountable official(s)	Secretary of State

Planning Element:	Vote-by-mail balloting – Section 301
Goal:	Document the utilization of vote-by-mail balloting to determine the appropriate distribution of resources required to support activity level
Performance Measure	Require each county to report to the Secretary of State the following information: ▪ Percentage of registered voters who are registered as permanent vote-by-mail voters ▪ Percentage of registered voters that voted by vote-by-mail ballot ▪ Percentage of vote-by-mail ballots mailed to those cast

Timetable	Ongoing – after each statewide election cycle
Process for developing criteria	Secretary of State
Accountable official(s)	County elections officials; Secretary of State

Planning Element:	Provisional voting – Section 302
Goal:	Ensure that counties have instituted a free access system which allows provisional voters to ascertain whether their vote has been counted and, if not, obtain an explanation of the reason why
Performance Measure	Survey counties to ensure that a free access systems is made available to voters for each election
Timetable	Ongoing – after each statewide election cycle
Process for developing criteria	EC section 14310 (d)
Accountable official(s)	County elections officials; Secretary of State

Planning Element:	Polling place accessibility – Section 261
Goal:	Ensure compliance with the accessibility and privacy requirements for individuals with disabilities
Performance Measure	Evaluate California polling places to determine compliance, using the guidelines provided in the Polling Place Accessibility Checklist
Timetable	Ongoing
Process for developing criteria	Title 24 of California Code of Regulations, Americans with Disabilities Act Accessibility Guidelines
Accountable official(s)	County elections officials; Secretary of State

Also, California took steps during the 2006 and 2008 election cycles to ensure that HAVA requirements were met in a manner that fulfilled the intent and spirit of HAVA, including:

- Developing a new voting system testing and approval process with new benchmarks that included innovations like volume testing to better ensure the reliability of voting systems on Election Day; information on California's approval process can be found on-line at www.sos.ca.gov/voting-systems/cert-and-approval/vsys-approval.htm
- Issuing procedures for the proper use of all voting systems approved by the state to comply with state and federal requirements; the template to be used for developing voting system use procedures can be found on-line at www.sos.ca.gov/voting-systems/oversight/directives/use-procedures-2006.pdf
- Conducting parallel monitoring programs of voting systems in 2006 on Election Day to monitor actual in-use performance of equipment; parallel monitoring reports are available on-line at www.sos.ca.gov/voting-systems/oversight/eday-reports.htm
- Conducting Election Day Observation programs to provide on-site review of implementation of HAVA requirements at polling places; Election Day Observation reports are available on-line at www.sos.ca.gov/voting-systems/oversight/eday-reports.htm
- Monitoring and documenting Election Day concerns reported by voters to the Secretary of State's toll-free voter information hotline
- Issuing standards to election officials on effective poll worker training. The standards are available on-line at www.sos.ca.gov/elections/pollworker.htm
- Providing regular, ongoing guidance to election officials, including issuing a HAVA compliance manual. The compliance manual is available on-line at www.sos.ca.gov/elections/hava_compliance_manual.htm
- Requiring counties to submit security plans and communications plans for use on Election Day

These measures will continue to serve as benchmarks of HAVA performance.

Section 9

(Section 254(a)(9))

A description of the Uniform, Nondiscriminatory State-based Administrative Complaint Procedures in Effect Under Section 402.

(1) Section 402 (pp. 126-128) requires the state to establish and maintain a state-based administrative complaint procedure that:

(a) is uniform and nondiscriminatory;

(b) allows any person who believes that there is a violation of any provision of Title III to file a complaint;

(c) requires that the complaint be in writing and be notarized;

(d) permits consolidation of complaints;

(e) requires that there be a hearing on the record if the complainant requests such;

(f) an appropriate remedy be provided if the State determines that there is a violation of Title III;

(g) the complaint be dismissed and that the results be published if it is determined that there is no violation;

(h) a final determination be made within 90 days from the date the complaint is filed unless the complainant consents to a longer period for making such a determination;

(i) alternative dispute resolution procedures be established for resolving the complaint within 60 days if the State fails to meet the 90 day deadline set forth above.

(2) Under existing procedures, any person may complain to the Secretary of State, as Chief Elections Officer, that election laws or procedures have been violated, are being violated or are about to occur. A toll-free telephone number for this purpose is provided and is widely disseminated. Complaints may also be submitted to the Secretary of State in writing. All credible allegations are investigated by one or more units of the Office of the Secretary of State, often in conjunction with local elections officials and other state officials.

(3) The Secretary of State, after consulting with local elections officials and interested individuals and organizations, has established a uniform, nondiscriminatory state-based administrative complaint procedure in compliance with Section 402 of HAVA. The procedure provides individuals with a meaningful, expedited means of voicing a complaint concerning the implementation of Title III of HAVA and an appropriate remedy if a violation has occurred. The procedure addresses the accessibility needs of minority language voters and individuals with disabilities.

(4) The complaint procedure in effect authorizes any individual residing in the State of California to file a written complaint with the Secretary of State alleging that Title III has been violated, is being violated or is about to be violated. Pursuant to HAVA, the complaint must be notarized. (The Complainant must sign the complaint after being sworn by a notary public.) The complaint may be filed on a form prescribed and made available by the Secretary of State or on any other form that meets the specified requirements. Forms prescribed by the Secretary of State are required to be translated into appropriate languages. The complaint may be filed in person at any office of the Secretary of State or mailed to Secretary of State, Elections Division, HAVA Complaint, 1500 11th Street, Sacramento, CA 95814. The complaint must be filed within 60 days after the occurrence of the alleged violation or within 90 days after the Complainant becomes aware of the alleged violation, whichever is later. The Secretary of State may consolidate complaints when appropriate. The Complainant may request a hearing on the record. The Secretary of State determines whether the hearing is oral or is based on written testimony. A final determination must be made within 90 days of filing the complaint. An appropriate remedy must be provided if a violation is found. In any case, the determination shall be in writing and must be posted on the Secretary of State's website, unless such posting might compromise a criminal investigation or other enforcement action. If a determination is not made within 90 days, then the complaint is referred to a neutral Hearing Officer who must make a determination within 60 days of the initial 90-day deadline, noting any provisions in the proceedings used to make a determination that require reasonable accommodations for a complainant. The determination must be posted on the Secretary of State's website, unless such posting might compromise a criminal investigation or other enforcement action.

The Secretary of State is continually examining its website – one source of information about the complaint procedure – to assess its usability for all users, including users with disabilities and those with alternative-to-English language needs. Those efforts are ongoing.

Section 10

(Section 254(a)(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.

A total of $84.6 million was received, pursuant to HAVA Title I.

These funds were used extensively, as previously noted, by the Secretary of State to comply with HAVA Title III requirements and many of the elements included in the initial State Plan that were originally anticipated to be funded with Section 251, Title III funding.

As previously noted:

Voter Education and Poll Worker Training

Voter education and poll worker training efforts, expected to be funded with Section 251, Title III fund, were initially funded via a $9.9 million statewide grant of Title I, Section 101 funds. Those funds were allocated leading up to the November 2004 General Election. The Secretary of State also used Title I, Section 101 funding for a voter outreach program administered directly by the Secretary of State in 2004. A total of $3.8 million was allocated for this purpose, although $2.9 million of those expenses were disallowed following a federal, EAC audit. A total of $496,000 in Title I, Section 101 funding was used subsequently by the Secretary of State's office on statewide voter education efforts to augment local efforts, in consultation and collaboration with local election officials, other state and local agencies, community organizations and private groups (e.g. the League of Women Voters of California).

Counties used a limited amount of Section 251 funding for this purpose – approximately $8.6 million statewide. Subsequent EAC guidance has also clarified that HAVA funding used for voter education programs must focus on the use of new voting systems and efforts that provide overvote protection, including receiving a replacement paper ballot to correct ballot errors.

As indicated, to support county efforts, statewide voter education efforts were undertaken using Section 101 funding. Those statewide efforts included developing voter education materials used by state and local officials, and community-based organizations through partnerships with state agencies, such as the California Department of Education, partnerships with local elections officials and partnerships with nonprofit groups such as Independent Living Centers. These materials were also made available on state, county and nonprofit websites, including the League of Women Voters of California Smart Voter webpage and in the League-sponsored Easy Voter Guide.

In California's initial State Plan, published on July 17, 2003, the Secretary of State proposed to "consider developing voter information in appropriate languages for posting at polling places" and to work to "ensure that all information provided at polling places be accessible to the widest possible audience." The Secretary of State developed voter information for posting at polling places pursuant to California Elections Code Section 2300. The Voter Bill of Rights poster outlined in Elections Code Section 2300 is provided to counties upon request and production of the Voter Bill of Rights poster is partially funded by HAVA Section 101 funds. This posting supplements information provided in sample ballots, which are mailed to registered voters and are available at polling places for any voter who wishes to view one at the polling place. Additionally, the Secretary of State has made its statewide Voter Information Guide material available on audiotapes, which are available on request; audio MP3 files and other materials available on its website; and produced its "Your Voting Rights" brochure in American Sign Language, which is made available on DVDs and posted on the Secretary of State's website.

Statewide voter registration database requirements

Title I, Section 101 funding was used for the purpose of achieving interim compliance with Section 303 requirements to establish a statewide voter registration database, pursuant to the MOA executed with the US DOJ on November 2, 2005. A total of $3.9 million was used to design and implement technological upgrades to the existing CalVoter system – previously used to assist counties with list maintenance activities – to meet this requirement. Modifications to the CalVoter system included establishing the necessary interfaces with the Department of Motor Vehicles, the Social Security Administration, the state Department of Health Services, and the state Department of Rehabilitation and Correction. Also included in this funding was the cost of modifying local election management systems to ensure that those systems, which until the enactment of HAVA were the sole repository of voter rolls, would integrate and synchronize data with the modified CalVoter system. Staff time necessary for developing regulations and other administrative costs necessary to implement the CalVoter interim solution were also funded with Section 101 funding. Finally, necessary modifications to California's voter registration affidavits to comply with HAVA requirements – including specific language required to be included and addition of registrant identification information for purposes of verification (e.g. driver's license data) – were funded with Section 101 resources. These changes required the printing of new voter registration cards to replace existing stock.

Voting Systems

Section 102 punch card voting system replacement funds totaling $57.3 million statewide were distributed to eligible counties beginning in 2004. These funds, in conjunction with state Voting Modernization Bond Act of 2002 funds and HAVA Title II, Section 251 requirements payment funding allocated in 2006, were used by county election officials to procure and deploy voting equipment in an effort to comply with new HAVA Section 301 voting system standards.

Section 101 funds were also used to assist the Secretary of State with implementation of new voting system standards. Funding was used to defray the cost of additional security measures imposed by the Secretary of State following withdrawal of approval and approval with conditions of DRE voting equipment in 2004. These funds were also used for parallel monitoring efforts that attempt to monitor the performance of voting equipment on Election Day. The uniform definition of a vote for California voting systems, and the top-to-bottom source code review conducted by the Secretary of State in 2007 were paid for with this funding. Finally, additional staff costs associated with certifying new voting systems intended to comply with HAVA's new voting system standards were funded, in part, with these HAVA resources. For example, the State of California now tests voting systems using the disability standards in the federal 2005 Voluntary Voting System Guidelines (VVSG), which include provisions for usability and accessibility for vision, dexterity, mobility, hearing, speech, English proficiency and cognition (see Section 3.2 of Volume I of the VVSG on pages 53-64). California was the first state to test voting systems using these standards, and these standards continue to be used by California in its testing and approval for all voting systems. These testing efforts employ consultants who test each voting system with the help of voters with a full range of disabilities. The Secretary of State has also established and sought the input of a Voting Accessibility Advisory Committee (VAAC), providing the VAAC with information on voting system standards and briefings on the voting system testing and approval process, while seeking its advice on proposed standards and the voting system approval process.

The introduction of new voting systems was also accompanied by programs, some of which were supported in whole or in part with HAVA Section 101 funds, to educate poll workers, promote voter understanding and ease-of-use of new voting equipment, including use by voters with disabilities and voters with alternative language needs. The programs included:

- Developing new voting system use procedures
- Issuing poll worker training guidelines
- Creating a HAVA compliance manual produced by the Secretary of State in collaboration with counties
- Providing instructions on the use of new voting systems, which each county included in sample ballots mailed to each voter, and which were also posted on the Secretary of State's website and each county's website
- Conducting outreach and education activities in partnership with counties, schools, state and local government, and community service organizations such as the League of Women Voters, and Independent Living Centers

These efforts were accompanied by HAVA allowed voter education programs per HAVA Section 301 (a)(1)(B) to educate voters on correction of overvotes where a paper-based, centrally tabulated voting system was in use through independent mailings to voters, and mailings in conjunction with delivery of sample ballots or vote-by-mail ballots.

Section 11

(Section 254(a)(11))

How the State will conduct ongoing management of the plan, except that a State may not make any material change in the administration of the plan unless the plan is appropriately noticed and published in the Federal Register.

As previously noted, the Secretary of State's office has undertaken numerous, meaningful steps to manage HAVA implementation, and to ensure that California's county elections officials are fully informed of HAVA requirements and programs. Those efforts, which continue still, include:

- Designating a single Deputy of Secretary of State for HAVA Activities with responsibility for overseeing and coordinating HAVA activities
- Establishing a new Office of Voting System Technology Assessment to provide for testing and approval of voting systems intended to comply with HAVA Section 301 voting system standards
- Developing internal control procedures in reaction to, and consistent with, audit findings
- Maintaining communication, as necessary and required, with the EAC – the federal oversight authority for HAVA – to request guidance and clarification of HAVA requirements
- Communicating regularly, and as requested, with the US DOJ, the enforcement authority for HAVA
- Creating, in collaboration with election officials, a HAVA Compliance Manual, which can be found on the Secretary of State's website at: www.sos.ca.gov/elections/hava_compliance_manual.htm
- Drafting and executing standard contracts, in consultation and collaboration with counties, that specify the level and appropriate use of HAVA funding
- Providing ongoing written guidance to all counties on a regular basis regarding HAVA requirements, including associated requirements for meeting federal guidelines for receipt of federal funds
- Serving as a resource for individual county questions and concerns on a daily basis
- Conducting monthly conference calls with all counties

- Secretary of State staff attendance at monthly CACEO meetings and subcommittee meetings, and attendance at biannual CACEO conferences

- Conducting an Election Day Observation program intended to provide on-site feedback about HAVA implementation

These efforts will continue to be employed by the Secretary of State to conduct ongoing management of the State Plan.

Section 12

(Section 254(a)(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.

Since the submission of the last State Plan update to the EAC in 2004, California complied with the requirements of HAVA, and largely succeeded in its efforts to carry out the State Plan, though not in the manner specified in the State Plan.

The factors that contributed to deviations in steps outlined in earlier State Plans proposed under prior administrations have been noted previously in this State Plan, which include:

- Unexpected changes in administration at the Secretary of State's office
- A series of annual statewide elections from 2002 through 2006, including a first-ever gubernatorial recall election in California
- Audit scrutiny at both the state and federal level that, while appropriate, diverted resources from implementing elements of the State Plan
- Delay in receiving HAVA funding and HAVA guidance
- Evolving policies on voting system standards
- Delays in vendors bringing forward voting systems to be tested and approved pursuant to voting system standards
- The discovery of shortcomings in voting system design and performance during voting system testing that resulted in the need to re-test equipment multiple times
- The need to respond to legitimate US DOJ concerns about the shortcomings of the state's plans to implement an "interim solution" to HAVA Section 303 statewide voter registration database requirements
- Evolving interpretations of HAVA requirements with respect to verification of voter registrant information, including a federal court decision
- Evolving EAC interpretations and guidance on the appropriate use of HAVA funds

The original State Plan was enacted in 2003 and updated in 2004. Both the original Plan and the subsequent 2004 update were done prior to the state embarking on any HAVA implementation efforts. Now, six years after the adoption of the last State Plan update, the Secretary of State has learned a great deal in terms of efforts to implement HAVA. This State Plan update is a reflection in part of what the Secretary of State has learned since first beginning to implement HAVA Title III requirements in 2005. And, in many respects, the seemingly strong interest exhibited in Congress in recent years about making fundamental changes to electoral policy, including HAVA policy, indicate that California is experiencing this same evolution of thinking on the best methods to achieve HAVA's goals.

Notwithstanding encountering some significant stumbling blocks to smooth implementation of HAVA, California was able to make significant progress in its efforts

to implement HAVA and even to realize in practice what the original State Plans outlined. As previously noted, through the 2009 election cycle, California's elections officials managed to implement HAVA to the fullest extent possible, including:

- Creating the complaint procedures required as a prerequisite to receiving HAVA funding
- Expanding the capacity and languages available on the Secretary of State's toll-free voter information hotline
- Establishing the Secretary of State as the single statewide office to serve as a resource for military and overseas voters and for the counties that serve those voters
- Ensuring that provisional voters can check, through a free access system, the status of their provisional ballot to determine if their ballot was counted, and if not, why not
- Creating a uniform definition of a vote cast on voting systems in use in California
- Establishing an interim solution statewide voter registration database that integrates and synchronizes the 58 county election management systems containing California's voter rolls into a single, statewide system, pursuant to an MOA negotiated with the US DOJ
- Modifying state voter registration forms in accord with HAVA requirements
- Ensuring that the interim solution statewide voter registration database, and accompanying regulations, provide for verification of registrant identification data, and that HAVA provisions for first-time voters who register by mail are met
- Replacing and eliminating punch card voting systems in California through the HAVA Section 102 incentive program
- Testing and approving voting systems intended to be HAVA-compliant, so that those systems were available for acquisition and deployment by California counties
- Executing standard agreements with California's 58 counties to allocate HAVA Title II funding to help defray the costs of Title III requirements and to improve polling place accessibility
- Ensuring that, by the 2006 November General Election, all counties had deployed voting systems that met the requirements outlined in HAVA, including making available at every polling place at least one voting unit designed to be accessible to voters with disabilities
- Developing, pursuant to state law, poll worker training guidelines and updating those standards in 2010
- Providing HAVA Title I, Section 101, and HAVA Title II, Section 251, resources to counties to assist with poll worker training and voter education
- Providing ongoing, regular and daily guidance to counties on all aspects of HAVA, including developing and publishing a HAVA compliance manual
- Meeting voter education and information requirements as provided for in HAVA, including providing to counties, upon request, a Voter Bill of Rights

As previously described, the biggest differences between the 2004 State Plan and this State Plan update are the method of implementation, especially the funding mechanisms utilized. The Secretary of State relied more heavily on the use of more flexible Section 101 funding than was anticipated in the State Plans previously submitted.

Major changes in the State Plan being submitted now, include:

- Combining voter education and poll worker training funding, previously budgeted at $70 million with voting equipment procurement costs, previously budgeted at $75,677,843, into a single $195 million contract that allows counties to determine the appropriate level of expenditure for these related activities to meet local needs. The $49,522,157 difference in spending levels between the 2004 State Plan update and this State Plan reflects a consensus reached about the appropriate level of funding achieved between the Secretary of State and county election officials under prior administrations.
- The budget for the statewide voter registration database now fully acknowledges the costs of developing and implementing that system - increasing from $40 million to $65,568,600 the allocation of HAVA Title II, Section 251 funding for that purpose.
- The process described for developing performance measures proposed under prior administration was not implemented.
- Finally, the initial State Plan provision for an Election Academy, which was incorporated into the 2004 State Plan update, was not implemented. However, California county election officials through its umbrella, professional association – the CACEO – initiated a review of HAVA and its implications for the administration of elections in California and also created training courses for its membership that include significant review of HAVA and its requirements. These efforts were independently funded; no HAVA resources were used for these efforts.

The effect of these changes in spending levels reflects the calculation of a reserve of $71,119,315 in this updated State Plan, which will be used for meeting Title III requirements or for future improvements in the administration of elections.

A summary sheet detailing HAVA expenditures to date has been included in this section of the State Plan update in response to public comments. The summary reflects the fact that the bulk of all HAVA funds received (79.5%) have been allocated to counties in recognition of the fact that counties administer elections – establishing polling places, deploying voting systems, training poll workers and educating voters.

Fiscal Year	HAVA Expenses and 2010-11 Budget									
	02-03/03-04	04-05	05-06	06-07	07-08	08-09	09-10	10-11	Interest Earned	Total
HAVA Revenues:										
Section 101(election admin.)	$27,340,830								$2,527,059	$29,867,889
Section 102(punchcard)[a]	$57,322,707									$57,322,707
Section 251(Title III funding)[b]	$94,559,169	$169,677,955				$12,908,853	$11,225,089	$7,857,561	$38,992,863	$335,221,490
Section 261 Polling Place Accessibility Improvement (DHHS $)	$1,371,756	$985,955	$987,918	$1,113,936	$1,113,511	$1,279,848	$1,279,927	$1,276,978		$9,409,829
Total Revenues Available	**$180,594,462**	**$170,663,910**	**$987,918**	**$1,113,936**	**$1,113,511**	**$14,188,701**	**$12,505,016**	**$9,134,539**	**$41,519,922**	**$431,821,915**
HAVA Activities									**Encumbered**	
Voting systems upgrades - county grants[c]			$101,611,033	$5,680,011	$87,667,059	$41,897				$195,000,000
Statewide Database (VoteCal)				$380,562	$1,190,085	$1,284,020	$4,437,403	$4,570,988	$53,736,942	$65,600,000
Interim Solution-SOS[d]		$724,878	$311,919	$97,437	$71,880	$29,395	$153,619		$477,000	$1,866,128
Interim Solution-County Retrofit			$2,776,950	$210,831	$130,328					$3,118,109
Voter Educ Develop and Dissemination		$114,768	$641,000	$288,927	$316,760	$128,656	$115,200	$500,000	$500,000	$2,605,311
HAVA Voting Systems/ Testing & Certification[e]			$3,253	$642,194	$0	$19,466	$19,295	$200,000	$200,000	$1,084,208
Poll Monitoring/Election Observation	$84,843	$10,419	$46,491	$64,634	$63,348					$269,735
Elect Asst for Indiv with Disabilities (EAID)			$2,041,022	$0	$796,196	$2,342,575	$1,224,147	$1,609,927	$1,395,962	$9,409,829
Administration[f]	$1,514,252	$1,280,000	$642,504	$1,282,879	$953,025	$1,009,841	$1,125,267	$1,605,000	$1,605,000	$11,017,768
Poll Worker Training		$6,731,724								$6,731,724
County Security		$1,537,783								$1,537,783
Parallel Monitoring		$278,319		$300,828						$579,147
Punch Card Replacement	$51,114,000	$3,799,000	$2,410,000							$57,323,000
Outreach (Other Expenditures)[g]	$1,449,000									$1,449,000
Poll Worker Training/Election Assessment								$300,000		$300,000
Total	**$54,162,095**	**$14,476,891**	**$110,484,172**	**$8,948,303**	**$91,188,681**	**$4,855,850**	**$7,074,931**	**$8,785,915**	**$57,914,904**	**$357,891,742**

a $1,156,759 earned in interest on Section 102 funds has been moved to Section 251 funding per guidance from EAC.

b Funding for FY 08-10 has been appropriated by Congress, and may be claimed by California after revised HAVA State Plan is accepted by EAC.

c Contract for remaining balance of $41,897 declined by county in FY 08/09

d FY 05-08 expensed from 101 funds, FY 09-10 expensed from 251 funds

e FY 05-08 expensed from 101 funds, FY 09-11 expensed from 251 funds. FY 06/07 includes source code review

f FY 02-09 expensed from 101 funds, 09-11 pro-rated to all 3 funds

g $3,810,000 originally expensed; $2,361,000 replaced by state funds in FY 07-08 in accordance with EAC audit findings

Summary of State and County HAVA Expenses

Activity	Grants to counties	State expenses	
Costs include expenditures and encumbrances to date			
Voting System upgrades			
Purchasing new equipment* Sec. 301	$195,000,000		
Punch card replacement Sec. 102	$57,323,000		Sec 102
Security compliance (counties) or testing (state)	$1,537,783	$1,663,355	
Poll Worker Training			
Direct county grants	$6,731,724		
Spent as part of voting system upgrades contracts*	$10,271,989		
Election observation/poll worker training assessment		$144,342	
As part of HAVA Section 261 (EAID) funding	$269,257		Sec 261
Voter Education			
Spent as part of voting system upgrades contracts*	$10,271,989		
Statewide voter education		$4,054,311	
As part of HAVA Section 261 (EAID) funding	$333,559		Sec 261
Statewide Database			
Interim Solution county contracts	$3,118,109		
Interim Solution SOS costs		$1,866,128	
VoteCal County support	$415,763		
VoteCal State costs		$6,876,307	
Vote Cal projected costs	$3,727,908	$54,580,022	
Adjusted totals**	$268,457,103	$69,184,465	

** Totals adjusted to avoid double posting categories marked with *
Totals do not equal all funds expended or encumbered, as not all expense categories were included

Description of county and statewide voter education and pollworker training efforts:

County efforts

A combined $14.6 million in HAVA funding was spent for voter education and pollworker training programs:

- $6.6 million was allocated to counties via a grant program created by then-Secretary of State Kevin Shelley for the November 2004 election
- $8 million in voter education and outreach efforts through the $195 million voting system upgrade contract with the counties executed in 2005 and 2006

Overall, 46 counties participated in one or both of these programs.

Poll worker training		
Activity (funded by HAVA)	**Number of counties**	**Notable practices**
Update pollworker training manual	34	Additional focus on assisting voters with disabilities and voters with alternative language needs; additional focus on provisional voting rights; additional focus on assisting first-time voters
New training techniques	26	On-line pollworker training; CD/DVD training (take home materials); professional trainers; role-playing; individualized classes focused on voting systems, provisional voting requirements, needs of voters with disabilities; needs evaluation to improve pollworker training
New pollworker recruiting efforts	12	Additional focus on recruiting bilingual poll workers; student pollworker programs; advertising; designated recruitment coordinator; adopt-a-poll programs; ethnic community advisory group assistance; recruiting county employees; direct mail programs to voters
New pollworker feedback/monitoring	5	Cell phones for direct contact with polling place workers; surveys and evaluation forms for pollworkers

Voter Education		
Activity (funded by HAVA)	**Number of counties**	**Notable practices**
Advertising – new HAVA requirements	26	Alternative language newspapers; alternative language radio; cable TV; direct mail
Use of sample ballot – new pages on HAVA requirements	10	Cassette recording of sample ballot
New materials – voting systems, new HAVA requirements	13	Brochures, voting system videos, outreach materials in multiple languages; education materials on audio cassette
Website enhancements	9	Provide new HAVA information (provisional voting; new voting systems); provide multilingual information
Community events	10	Ethnic fairs; early voting demonstrations; outreach to underserved communities that historically have low voter turnout; voter education videos in multiple languages

Statewide activities sponsored by the Secretary of State

Secretary of State-sponsored statewide voter education efforts in 2006 and 2008 election cycles ($807,186)
Election Day and Pollworker Training Observation programs in 2006 and 2008 election cycles ($218,000)

Voter Outreach and Education

Activity	Target Audience	Notable practices
Community-based programs	Voters with disabilities; alternative language voters; general public	Downloadable audio version of Voter Information Guide (VIG) (2008); large print VIG in seven languages (2008); partnerships with Independent Living Centers, California Council of the Blind, county elections officials to distribute "Know Your Voting Rights, A Guide to Voters with Disabilities" brochure and to host demonstrations of new voting equipment (2006 and 2008); website accessibility improvements (2008); Immigration and Naturalization swearing-in ceremony events; partnership with NALEO/La Opinion/KMEX (LA) (2006); "A Voting Guide for Inmates" distributed through county election officials, law enforcement and parole officials (2008); League of Women Voters partnership on Easy Voter Guide and SmartVoter website support (2008); Democracy at Work program partnership with businesses, nonprofits and labor unions to reach voters in their workplace (2008)
Mock Election and young voter outreach	Youth, first-time voters, students	Partnership with State Department of Education that led to participation of 600 middle schools and high schools reaching 260,000 students in 2008 and 500 schools and 230,000 students in 2006; partnership with CSSA and UCSA, student associations of CSU and UC campuses
Social Networking	Young voters, first-time voters	You Tube "Why I'm Voting" video challenge; Facebook "My Voice. My Choice. My Vote" page (2008)
Outreach and Advertising	General public	Partnership with sports franchises and county elections officials at sporting events (2008); advertising in 125 newspapers throughout the state for June and November 2006 elections
Materials production	Voters with disabilities; general public	"Know Your Voting Rights, A Guide to Voters with Disabilities" (2006); Website version of "Know Your Voting Rights" available in American Sign Language (2008); "MyVote California"(2008); and "A Guide to Voting in California" (incorporates "Know Your Voting Rights" information) translated into 7 languages (2008)
Website improvements	General public	Voter Education and Outreach page (one-stop shop for voter information) (2006 and 2008); MyVote Election Information button posted by more than 75 organizations on hosted websites to link to Secretary of State voter information (2008); Best Practices of Elections Officials webpage (2008)
State/Local Government partnerships	State workers, general public	California state employee pay stub messages; State Department of Education mock election partnership; midnight registration program; Secretary of State-sponsored polling place (2006 and 2008)
UOCAVA outreach	Military and Overseas voters	Created new resources for overseas voters distributed through the Federal Voting Assistance Program, Overseas Vote Foundation and US Postal Service and others; distributed voter registration and education materials to VA facilities throughout California

Poll worker Training

Activity	Completed	Additional information available at
Pollworker training standards	2006	http://www.sos.ca.gov/elections/pollworker.htm
Election Day and Pollworker Training Observation programs	2006 and 2008	http://www.sos.ca.gov/voting-systems/oversight/eday-reports.htm
Election Officials – Best Practices website	2008	http://www.sos.ca.gov/elections/best-practices.htm
Support for pollworker survey conducted under UC Berkeley Institute for Governmental Affairs	2006	http://earc.berkeley.edu/StateReport.final.pdf http://earc.berkeley.edu/StateReport.NovemberPWSurvey.final.pdf

Section 13

(Section 254(a)(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.

HAVA State Plan Advisory Committee

The State Plan update Advisory Committee appointed by Secretary of State Debra Bowen comprised 13 members, including:

- Local elections officials from the two most populous counties in California, as required by HAVA section 255(a), and the then-president of the California Association of Clerks and Elections Officials
- Voting rights advocacy groups representing voters with disabilities, voters with alternative language needs, minority voting rights advocates, and voters generally
- Political scientists possessing academic credentials and practical experience directly related to the administration of elections and the electoral process

The membership of the State Plan update Advisory Committee is described below in detail. The process used to develop and publish the State Plan update follows the detailed description of the Advisory Committee membership.

Advisory Committee members:

Ana Acton
FREED Center for Independent Living

Ana Acton lives in Nevada City and is the Executive Director for FREED Center for Independent Living serving Nevada, Yuba, Sutter, Colusa, and Sierra counties. As a non-profit Independent Living Resource Center, FREED's goal is to empower people with disabilities to exercise their civil rights in becoming active, productive members of our community. FREED serves people with disabilities regardless of age or type of disability. Since 2004, Ms. Acton has worked with FREED to provide independent living services and ensure equal access to the community for people with disabilities.

Michael Alvarez
Professor of Political Science, Caltech
Caltech/MIT Voting Technology Project

R. Michael Alvarez is a professor of Political Science at the California Institute of Technology (Caltech). Since arriving at Caltech as an assistant professor in 1992, Professor Alvarez has focused most of his research and teaching on the study of electoral politics in the United States. He has written five books, three of which focus on election administration and voting technology. Professor Alvarez currently is Co-Director of the Caltech-MIT Voting Technology Project, researching technological solutions to electoral problems. He received his B.A. in political science from Carleton College in 1986, and his Ph.D. from Duke University in 1992.

Ardis Bazyn
California Council of the Blind

Ardis Bazyn is currently the Membership Chair of the American Council of the Blind based in Washington, D.C.; the primary voting advocate for the California Council of the Blind, President of the Independent Visually Impaired Enterprisers and Secretary of the Randolph Sheppard Vendors of America. She is a motivational speaker, business coach and writer with Bazyn Communications. She has published numerous articles and books. In 2001, she compiled a booklet for Blind Students of California, "A Guide to a Successful College Experience." She has owned several businesses and has been active in a variety of business and consumer organizations.

Chris Carson
Government Director
Board of Directors, League of Women Voters of California

In January 2005, Chris Carson joined the Board of Directors of the League of Women Voters (LWV) of California as Government Director. In that capacity, Ms. Carson has been responsible for developing and managing education and advocacy in the areas of redistricting, campaign finance, open government, state and local finance relationships and elections/voting rights issues. She has served on the Civil Liberties Taskforce and Immigration Study Committee of the LWV of the United States. Ms. Carson has been an extremely active member of the League of Women Voters for 25 years, working at the national, state and local levels. She is a third generation native of the Los Angeles area. She received a B.A. in History from Immaculate Heart College in Los Angeles, as well as an M.A. in History from the University of Southern California. Following her graduate work, she taught American History, particularly early American history and American Government, at several colleges in Southern California. Ms. Carson also served as Director of Education for Heritage Square Museum, a small historic preservation museum. She is active in the Burbank community, including having recently served on the City's Charter Revision Commission.

Kathay Feng
Executive Director
California Common Cause

Kathay Feng is the Executive Director of California Common Cause. California Common Cause is a non-profit, non-partisan citizens' lobby organization. California Common Cause has anchored a statewide coalition of election reform groups, called California Voter Empowerment Circle (CalVEC) that meets regularly to talk about major election policies. Ms. Feng has more than 10 years of experience working in the area of election reform. She recently co-authored and played a leadership role in winning the passage of Proposition 11 to reform California's redistricting process. Prior to joining Common Cause in 2005, she directed the Voting Rights and Anti-discrimination Unit of Asian Pacific American Legal Center. Ms. Feng serves, or has served, on the Asian Pacific Policy & Planning Council, the California Secretary of State's Advisory Committee on Voter Participation and Outreach, Los Angeles County Human Relations Commission, LAPD Police Chief's API Forum, the Asian Pacific American Police Advisory Council, Organization of Chinese Americans, and the National Asian Pacific American Women's Forum's Los Angeles Board. She was responsible for organizing poll monitoring of hundreds of poll sites in Southern California, building a statewide coalition to advocate for communities in the 2001 redistricting process, and the creation of the Office of Independent Review providing oversight for the Los Angeles County Sheriff's Department and representing hate crime victims. She is a graduate of UCLA Law School and Cornell University.

Rosalind Deborah Gold
NALEO Educational Fund
Senior Director of Policy, Research and Advocacy

Rosalind Gold serves as Senior Director of Policy, Research and Advocacy with the National Association of Latino Elected and Appointed Officials Educational Fund, where she has worked for two decades on policy analysis and research for the naturalization and Latino civic engagement efforts of the organization. Ms. Gold coordinates the research for several of the Fund's publications, including its *Directory of Latino Elected Officials,* and the biennial *Latino Election Handbook.* Ms. Gold also has extensive policy expertise in the areas of voting rights and the decennial Census. She also serves on the advisory committees and boards of several public affairs and research efforts, including the National Institute on Money in State Politics. Ms. Gold received her J.D. from Harvard Law School and B.A. from Pomona College in Claremont, California.

Alice A. Huffman
State President
National Association for the Advancement of Colored People (NAACP), California State Conference

Alice A. Huffman is the president of the California State Conference of the NAACP and has served in this capacity since October 1999. She is the first woman to hold this post. Ms. Huffman also is a member of the National NAACP Board of Directors. Ms. Huffman was appointed by Governor Schwarzenegger to serve on the California State Parks and Recreation Commission. She also serves on the board for California Center for Civic Participation, on T-CAP, which is a consumer advisory panel to AT&T and is a member of the Wells Fargo Advisory Committee. Ms. Huffman is founder and President/CEO of A.C. Public Affairs, Inc., a public affairs firm that specializes in public policy and grass roots advocacy. She is a member of the Rules Committee for the Democratic National Committee and the California Democratic Party. She was co-chair for the Site-Selection Committee and later named chair for the 2004 Democratic National Convention Committee. Ms. Huffman was inducted into the Los Angeles African American Women Political Action Committee's (LAAAWPAC) Political Hall of Fame in April 2002, for her outstanding achievements as a social activist in the minority community. Ms. Huffman is a graduate of the University of California Berkeley with honors in Social/Cultural Anthropology, with advance studies at University of Pennsylvania, University of California Davis, and University of Southern California. Ms. Huffman is a member of Phi Beta Kappa, and the Etta Gamma Omega Chapter of Alpha Kappa Alpha.

Margaret Johnson
Advocacy Director
Disability Rights California

Margaret Johnson has worked for Disability Rights California for more than 20 years. She was hired as a staff attorney, promoted to a senior attorney and then to managing attorney over her years at Disability Rights California. Ms. Johnson specializes in special education issues and developmental disabilities service system eligibility. She also specializes in Americans with Disabilities Act litigation, including public transit litigation. Important class actions brought include cases against the Bay Area Rapid Transit and the California State Lottery. She became the managing attorney of the Bay Area Regional Office in 1999 and held that position until she moved to San Diego in 2001 to set up a new regional office, which she managed until 2006. In March 2006 Margaret accepted a position as Disability Rights California's Advocacy Director and moved to the legislative unit in Sacramento, where she supervises that unit, its peer self advocacy units and serves as communications director. She is on the Board of Directors for the National Disability Rights Network, the protection and advocacy system member organization, and currently serves as the President of the Board. Over the years Ms. Johnson has served on numerous disability related organizations' boards, including Through the Looking Glass, Disability Rights Education and Defense Fund, The

Berkeley Center for Independent Living, the Access Center of San Diego, the Axis Dance Company and the Bay Area Outreach and Recreation Program.

Neal Kelley
Orange County Registrar of Voters

Neal Kelley is the Registrar of Voters for Orange County. Orange County is the second most populous county in California with 1.6 million registered voters, requiring language support in English, Chinese, Korean, Spanish, and Vietnamese. Mr. Kelley joined the county as Chief Deputy Registrar in May 2004 and stepped in as Acting Registrar the following year. Mr. Kelley was awarded the 2005 Election Center's Best Practices award for outstanding poll worker recruitment program. He received his Bachelor of Science Degree in business and management from the University of Redlands and his Master's in Business Administration from the University of Southern California. Prior to joining the County, Kelley developed two companies of his own, served for three years as an officer with the San Bernardino Police Department, and was an adjunct professor with Riverside Community College's Business Administration Department.

Eugene Lee
Asian Pacific American Legal Center

Eugene Lee is an attorney at the Asian Pacific American Legal Center (APALC). Founded in 1983, APALC is a nonprofit organization dedicated to advocating for civil rights, providing legal services and education, and building coalitions to positively influence and impact Asian Pacific Americans, and to create a more equitable and harmonious society. APALC is affiliated with the Asian American Justice Center in Washington, D.C. Mr. Lee is the Project Director for APALC's Voting Rights Project, which focuses on protecting the rights of Asian Pacific American voters. He orchestrates APALC's election day poll monitoring efforts, works with local and state coalitions to promote civic participation among the Asian Pacific American community, and provides training to community-based organizations on the language assistance provisions of the Voting Rights Act. Prior to joining APALC, Mr. Lee practiced with law firms in New York and Los Angeles. He received his undergraduate degree from Duke University and his law degree from Columbia Law School.

Dean C. Logan
Los Angeles County Registrar-Recorder/County Clerk

Dean Logan was appointed Registrar-Recorder/County Clerk for Los Angeles County, California on July 9, 2008, previously serving as the Acting Registrar-Recorder/County Clerk and as Chief Deputy. Los Angeles County, with more than 500 political districts and 4.1 million registered voters, is the largest and most complex county election jurisdiction in the country. Mr. Logan has over 20 years experience in elections administration, records management and public service. Prior to moving to Southern California, Mr. Logan served as the Director of Records, Elections and Licensing Services for King County, Washington; as State Elections Director for the Washington Secretary of State; and as the elected County Clerk and Chief Deputy County Auditor in Kitsap County, Washington. Mr. Logan serves on the Board of Directors for the California Association of Clerks and Election Officials (CACEO) and is a member of the County Recorders' Association of California (CRAC), the National Association of County Recorders, Election Officials and Clerks (NACRC), the International Association of Clerks, Recorders, Election Officials and Treasurers (IACREOT) and the American Council of Young Political Leaders (ACYPL) Alumni Council. He also serves on the California Secretary of State's VoteCal Statewide Voter Registration System Advisory Committee and The Election Center's National Task Force on Education & Training and National Task Force on Election Reform. In 1999, Mr. Logan was recognized by Sprint USA and the National Association of Community Leadership with its Distinguished Leadership Award. In 2007, he served as an International Election Observer in Morocco with the National Democratic Institute.

Karin Mac Donald
Director
Statewide Database & Election Administration Research Center
University of California, Berkeley

Karin Mac Donald is the director of the Statewide Database (SWDB), the redistricting database for the State of California, and the Election Administration Research Center (EARC), located at the Institute of Governmental Studies (IGS) at the University of California, Berkeley. She works and writes in the areas of redistricting, voting rights, political demography and geography, election administration, implementation and evaluation of public administration and public policy, and California politics. She has served as a consultant to many government, news, and nonprofit organizations, and worked as a redistricting consultant for various local and regional entities, including the City of San Diego and the County of San Francisco in 2001 and 2002 respectively. In 2006 and 2007, she was the lead consultant for the U.S. Election Assistance Commission's implementation study of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) with her consulting firm Q^2 Data & Research, LLC. Her current projects include a study of the implementation of online voter registration systems in two states with the EARC. She also manages the Block Boundary Suggestion Project of the Census Redistricting Data Program for the State of California with the SWDB.

Rebecca Martinez
Madera County Clerk-Recorder

Rebecca Martinez serves the County of Madera as County Clerk-Recorder and Registrar of Voters. Madera County, one of California's smaller counties with a population of 150,887, is located just north of Fresno in central California. With over 35 years in service to the county, Ms. Martinez has held her elected position since 1990. Prior to being elected, she served in the County Clerk's office in various positions, including as

Chief Assistant County Clerk. During her terms as Clerk-Recorder, Ms. Martinez has completely automated both the Recorder and the Elections divisions of her office. Ms. Martinez was elected President of the California Association of Clerks and Election Officials in July 2008, and will serve the association in that capacity until July 2010. She also served as President of the Madera Hispanic Chamber of Commerce for the 1994 term.

Process used to develop and publish State Plan update:

On December 26, 2007, President Obama signed a federal Omnibus appropriations bill for fiscal year 2008 that included $115 million in HAVA Section 251 funding to be used by states to meet HAVA's Title III requirements, which are outlined in this State Plan update. Subsequent federal appropriations were provided in 2009 and 2010 funding bills. To be eligible for additional HAVA funding, states and territories are required to prepare a State Plan update and to follow other procedures outlined in HAVA sections 253-256.

Following a recruitment and selection process, Secretary of State Debra Bowen confirmed the appointment of the members of the State Plan update Advisory Committee described above on April 30, 2008. The process of finalizing the membership of the Advisory Committee was hampered somewhat by the decision of the State Legislature and Governor to conduct a stand-alone Presidential Primary election in California on February 5, 2008, which occupied the full attention of elections officials and other potential advisory committee members. On April 30, 2008, the appointed Advisory Committee members were provided with a thank you letter from Secretary of State Bowen; the provisions of HAVA related to adoption of a State Plan update; a sample Oath of Office; and a roster of the Advisory Committee membership. Advisory committee members were informed at that time that draft sections of the State Plan update would provided to them in the coming months for initial review and comment, and that, in recognition of the demands of the 2008 election cycle on their time, the first face-to-face meeting of the Advisory Committee would be conducted following the November 4, 2008, General election..

On July 23, 2008, Advisory Committee members were provided six draft sections of the State Plan update for initial review and comment.

On August 29, 2008, Advisory Committee members were provided four more draft sections of the State Plan update for initial review and comment.

On October 17, 2008, Advisory Committee members were provided the final four draft sections of the State Plan update for initial review and comment.

During November 2008, and following discussions with Advisory Committee members, it was determined that the first face-to-face meeting of the Advisory Committee should take place in March or April 2009, and that written comments on the draft sections of the State Plan update provided in 2008 would be submitted by Advisory Committee members to the Secretary of State by January 29, 2009, in advance of that meeting.

Between January 29, 2009 and February 25, 2009, Advisory Committee members provide written comments on the State Plan update based on members' input and input from others consulted by Advisory Committee members.

On April 15, 2009, the Advisory Committee conducted a meeting at the Secretary of State's offices at 1500 11th Street, Sacramento, CA 95814.

In recognition of an unanticipated statewide special election called by the Governor for May 19, 2009, the Advisory Committee agreed to conduct the next meeting on July 30, 2009, at the Los Angeles County Registrar of Voters offices at 12400 Imperial Highway, Norwalk, CA 90650.

On August 12, 2009, an Advisory Committee meeting was conducted via teleconference as a follow-up to items discussed at the July 30 meeting.

On December 22, 2009, Advisory Committee members were notified of a final January 27, 2010, meeting to discuss the final, edited draft of the State Plan update.

On January 27, 2010, the Advisory Committee met for the final time at the Secretary of State's offices at 1500 11th Street, Sacramento, CA 95814. During this meeting, Advisory Committee members requested until February 5, 2010, to submit additional edits to the State Plan update and until February 12, 2010, to submit a proposed addition to the State Plan.

Between February 5, 2010, and February 18, 2010, Advisory Committee members submitted the final proposed edits and additions to the State Plan update.

In recognition that preparations for the June 8, 2010, Primary election would consume the attention and resources of elections officials, the publication date of the State Plan update was set for June 10, 2010.

On June 4, 2010, a CC/ROV memo to county elections officials was sent to remind county elections officials that the final draft State Plan update would be available for public comment on June 10, 2010, for 30 days, until July 9, 2010.

On June 4, 2010, Advisory Committee members were notified via email that the final draft State Plan update would be available for public comment on June 10, 2010, for 30 days, until July 9, 2010.

On June 7, 2010, the Secretary of State mailed written notice to 50 statewide organizations considered Interested Parties that the final draft State Plan update will be available for public comment on June 10, 2010, for 30 days, until July 9, 2010.

On June 10, 2010 through July 9, 2010, a public notice was published, in the manner used for notice of public hearings, that the final draft State Plan update would be available for public comment on June 10, 2010, for 30 days, until July 9, 2010.

On June 10, 2010, the preliminary draft State Plan update was posted to the Secretary of State's website at www.sos.ca.gov/elections/hava/state-plan. An emailbox was provided for submission of public comments at havapubliccomments@sos.ca.gov. A paper copy of the plan was made available at the Secretary of State's regional office at 300 South Spring Street, Rm 12513, Los Angeles, CA 90013; and at the Secretary of State's office at 1500 11th Street, Sacramento, CA 95814.

The public comment period for the 2010 preliminary draft State Plan update closed on July 9, 2010. Four comment letters and one email were received by the deadline. A complete copy of the letters and responses to the comments are included as Attachment A to the final 2010 State Plan update submitted to the EAC on July 29, 2010.

Section 14

Required addition to State Plan regarding implementation of the Military and Overseas Voter Empowerment (MOVE) Act:

The Military and Overseas Voter Empowerment (MOVE) Act was signed into law on October 28, 2009, as part of the National Defense Authorization Act of FY 2010 (P.L. 111-84). The MOVE Act makes changes to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986, that will be in effect for the November 2010 General Election and each succeeding election for federal office. States may delegate MOVE Act responsibilities to jurisdictions within the state.

In California, counties conduct elections, including meeting the requirements of UOCAVA for registering military and overseas voters, providing election materials and ballots, and accepting and counting ballots from military and overseas voters as provided for in state and federal law.

The MOVE Act specifies that states must describe implementation of its provisions in HAVA State Plan updates, and allows for the use of HAVA funds to pay the costs of MOVE Act implementation.

A review of the MOVE Act and a cross-reference to California Elections Code requirements demonstrates that California law meets or exceeds the MOVE Act in virtually every area.

Specifically, the MOVE Act requires states to:

- Establish procedures to allow UOCAVA voters to request voter registration applications and absentee ballot applications by mail or electronically for general, special, primary, and runoff elections for federal office. The procedures must include a means for the voter to designate whether they want to receive the application by mail or electronically.

  California Elections Code section 3103.5 already allows UOCAVA voters to electronically request ballots for general elections. The MOVE Act requires county registrars of voters to extend this practice to special, primary, and runoff elections for federal office.

  The SOS has confirmed with the Federal Voting Assistance Program (FVAP) that faxing qualifies as "electronic transmission" at this time. Other acceptable means of electronic communication for making voter registration/absentee ballot applications and blank absentee ballots available to military and overseas voters include scanning and emailing the materials, and web-based methods, such as allowing voters to download applications and/or ballots directly from the Internet.

- Transmit the voter registration application or absentee ballot application based on the preference selected by the voter. If the voter does not indicate a preference, the application must be delivered by mail.

  This practice is already in place in California.

- Protect, to the extent practicable, the security of the voter registration and absentee ballot application request process, and protect the privacy of the identity and personal data of the voter who requests or is sent a voter registration application or absentee ballot application.

  This practice of maintaining the confidentiality of all voter registration and personal identification information is already in place in California.

- Designate at least one means of electronic communication for UOCAVA voters to request, and for states to send, voter registration applications, absentee ballot applications, and voting information. The designated means of electronic communication must be included on all information and instructional materials that accompany balloting materials sent to UOCAVA voters.

  California Elections Code section 3103 allows for electronic transmission of voter registration applications, absentee ballot applications, and voting information. Counties with special absentee voters already have established procedures to transmit this material to their UOCAVA voters.

- Develop procedures for transmitting blank ballots to UOCAVA voters by mail and electronically for general, special, primary, and runoff elections for federal office. The procedures must allow voters to designate whether they want to receive the blank ballot by mail or electronically. The state must transmit the ballot based on the preference selected by the voter. If the voter does not indicate a preference, the ballot must be delivered by mail.

  California Election Code section 3103(b) allows counties to provide special absentee voters with a special absentee ballot along with a list of measures and candidates that the UOCAVA voter is entitled to vote on.

- Work with local jurisdictions to develop a free access system that allows UOCAVA voters to determine whether their marked absentee ballots were received by the appropriate election official.

  Federal law requires county elections officials to maintain a similar system for people who cast provisional ballots and California Elections Code section 3017(c) requires county elections officials to provide such a system to any Californian who casts a vote-by-mail ballot. County elections officials may need to determine if their existing system(s) are used for ballots received by UOCAVA voters or whether their existing system could be modified to provide this same service to UOCAVA voters.

- Work with the Department of Defense and the Election Assistance Commission (EAC) to develop standards for reporting on the number of ballots transmitted and received and other data as the Department determines appropriate.

  The SOS will continue to work with the EAC and the FVAP regarding reporting requirements.

- Accept the special absentee ballot application as a ballot request at least for all federal elections in the calendar year in which it was submitted.

California Elections Code section 3100 exceeds the MOVE Act requirement by specifically requiring that anyone who registers as a UOCAVA voter shall remain registered for two years. Therefore, counties are still required to send special absentee ballots to all UOCAVA voters who are registered as permanent absentee voters as soon as possible on or after the 60th day prior to an election through two subsequent federal election cycles.

Three separate official communications with counties and additional follow-up confirms that all California counties are in compliance with all aspects of the MOVE Act as detailed above.

The MOVE Act became law when California was in the process of updating its State Plan. This analysis of the MOVE Act's impact on the administration of California elections demonstrates California's compliance with the Act's provisions, and also represents its implementation plan as required by the MOVE Act.

Because California currently complies with the provisions of the MOVE Act, there is no expected expenditure of HAVA Section 251 to meet these requirements.

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BILLING CODE 6820–KF–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9192–2; Docket ID No. EPA–HQ–ORD–2010–0701]

Climate Change Vulnerability Assessment: Four Case Studies of Water Utility Practices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period.

SUMMARY: EPA is announcing a 45-day public comment period for the draft document titled, "Climate Change Vulnerability Assessment: Four Case Studies of Water Utility Practices" (EPA/600/R–10/077a). The document was prepared by the National Center for Environmental Assessment within EPA's Office of Research and Development.

This draft report presents a series of case studies describing the approaches currently being taken by four water utilities to assess their vulnerability to future climate change. The report is intended to illustrate the types of analyses, models, and climate change information being developed and used by selected utilities that are leaders in climate adaptation to understand and respond to climate risk.

The public comment period and the external peer-review workshop, which will be scheduled at a later date and announced in the **Federal Register**, are separate processes that provide opportunities for all interested parties to comment on the document. EPA intends to forward the public comments that are submitted in accordance with this notice to the external peer-review panel prior to the meeting for their consideration. When finalizing the draft document, EPA intends to consider any public comments that EPA receives in accordance with this notice.

EPA is releasing this draft document solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This document has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination.

The draft document and EPA's peer-review charge are available via the Internet on the NCEA home page under the Recent Additions and the Data and Publications menus at *http://www.epa.gov/ncea.*

DATES: The 45-day public comment period begins August 23, 2010, and ends October 7, 2010. Technical comments should be in writing and must be received by EPA by October 7, 2010.

ADDRESSES: The draft "Climate Change Vulnerability Assessment: Four Case Studies of Water Utility Practices" is available primarily via the Internet on the National Center for Environmental Assessments home page under the Recent Additions and the Data and Publications menus at *http://www.epa.gov/ncea.* A limited number of paper copies are available from the Information Management Team, NCEA; telephone: 703–347–8561; facsimile: 703–347–8691. If you are requesting a paper copy, please provide your name, your mailing address, and the document title, "Climate Change Vulnerability Assessment: Four Case Studies of Water Utility Practices." The EPA's National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242; telephone: 1–800–490–9198; facsimile: 301–604–3408; e-mail: *nscep@bps-lmit.com.* Please provide your name, your mailing address, the title, and the EPA number of the requested publication.

Comments may be submitted electronically via *http://www.regulations.gov,* by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the Office of Environmental Information Docket; telephone: 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov.*

For technical information, contact Thomas Johnson, NCEA; telephone: 703–347–8618; facsimile: 703–347–8694; or e-mail: *Johnson.thomas@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Information About the Project/Document

This report presents a series of case studies describing the approaches currently being taken by four water utilities in the United States to assess their vulnerability to climate change. The report is not intended to be a comprehensive listing of assessment approaches or utilities conducting vulnerability assessments. Rather, its purpose is to illustrate a range of issues and current approaches taken by selected utilities that are leaders in climate adaptation to understand and respond to climate risk. The approaches taken by the different utilities to assess their vulnerability to climate change range from sophisticated environmental modeling and scenario analysis to qualitative methods based on reviews of available literature. The case studies illustrate different approaches that reflect specific local needs and conditions, existing vulnerabilities, local partnerships, and available information about climate change. Information from these case studies will be of use to water utilities and other members of the water resources community to inform the development of strategies for understanding and responding to climate change. The issue of climate change is complex and will require ongoing attention and study.

II. How To Submit Technical Comments to the Docket at *http://www.regulations.gov*

Submit your comments, identified by Docket ID No. EPA–HQ–ORD 2010–0701, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: ORD.Docket@epa.gov.*
- *Fax:* 202–566–1753.
- *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The OEI Docket is located in the EPA Headquarters Docket Center, Room 3334 EPA West Building, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center's Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

If you provide comments by mail or hand delivery, please submit three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2010–0701. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked "late," and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to