

Help America Vote Act of 2002



Virginia State Plan

– 2012 –

*Adopted by the
Virginia State Board of Elections*

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Introduction

It has been almost a decade since the passage of the Help America Vote Act (HAVA) and Virginia has made great strides in modernizing the Commonwealth's electoral processes. The Virginia State Board of Elections (SBE) has complied with the requirements of Title III of HAVA, which include meeting voting system standards, implementing provisional voting and voting information requirements, establishing a computerized statewide voter registration list, and instituting identification requirements for first time voters that register to vote by mail. SBE plans to focus the use of remaining HAVA funds on long term improvements to the Virginia Election and Registration Information System (VERIS). These enhancements will include new infrastructure to improve system stability, interoperability and reliability for election officials and create increased usability and resources for military and overseas voters. SBE will also focus on interoperability with other Commonwealth of Virginia and national data sources for improved list maintenance activities and the modernization of Virginia's voter registration system. SBE plans to continue its efforts to expand the use of electronic poll books and improve the physical and voting system accessibility of polling places throughout the Commonwealth. SBE will leverage federal funds received from the Department of Health and Human Services (HHS) and the Federal Voting Assistance Program (FVAP) to accomplish its revised goals as we embark on the next phase of improving the administration of elections in Virginia.

Elements of the State Plan

1. How Virginia will use the Requirements Payments

How the State will use the requirements payment to meet the requirements of subchapter III of this chapter, and, if applicable under section 15401(a)(2) of this title, to carry out other activities to improve the administration of elections.

– 42 U.S.C. 15404(a)(1)

Voting Systems

The State Board of Elections is currently operating two reimbursement programs for localities to purchase voting equipment. The first program is to provide additional voting equipment to localities that established additional precincts as a result of the decennial redistricting process. The second program provides funding to localities for the purchase of accessible voting equipment for localities that established additional precincts due to the redistricting process. These limited programs allow localities to purchase additional equipment to augment their existing voting systems so they can effectively administer the upcoming Presidential elections without deploying an entirely new voting system. This will provide additional time for localities to secure the funding necessary for full replacement of voting systems as existing systems reach the end of their useful lives. SBE does not plan to fund the wholesale purchase of replacement voting systems going forward but will look for ways to help subsidize locality purchases of voting equipment, if possible.

Virginia Election and Registration Information System (VERIS) Improvements

After the initial deployment of the Virginia Election and Registration Information System (VERIS) in 2007, a large number of system issues were discovered through user feedback during implementation. During state fiscal year 2009, SBE implemented system builds and modifications that addressed a variety of post-implementation issues and provided several enhancements to system functionality. VERIS presents many challenges for SBE and for local general registrars; however, SBE staff has been working extremely hard to improve the system and provide better functionality. While ongoing efforts have addressed the most critical issues of functionality, system issues remain. VERIS does not enforce established business processes, does not provide ad hoc reporting capabilities, is too costly to improve and maintain long term in its current form, and does not take advantage of newer technologies.

SBE is deploying several large scale enhancements that will dramatically improve VERIS, with the aim of increasing voter registration list accuracy and reducing long term operating costs. Plans are underway to fund immediate infrastructure improvements to VERIS using HAVA funds. All VERIS servers will be replaced and all server software will be upgraded to the latest version. Replacement of the underlying infrastructure will help SBE build a fault tolerant network and minimize VERIS outages. The redundant network is part of SBE's contingency planning and will allow VERIS access to resume within hours of SBE's determination that the primary system has suffered an outage that will impact the conduct of elections in the Commonwealth. New hardware will also improve speed and responsiveness for local election officials.

SBE plans to create a data warehouse to improve reporting capabilities, including the establishment of user-defined reporting. SBE will improve VERIS usability by updating the user experience and ensuring compliance with state and federal accessibility standards, which will assist users interacting with VERIS through the online portal. Future VERIS builds will focus on enforcing business processes and improving data integrity within the system.

The State Board of Elections is participating in state, regional, and national efforts related to improved data exchange that will greatly improve list maintenance activities. This includes improved data connections with other state data providers including the Department of Motor Vehicles (DMV), the Virginia State Police, the Virginia Department of Health, and others. The agency's internal operations will be more reliant on seamless technological integration and exchange of information with other state agencies that partner with SBE in delivery of voter registration services. SBE anticipates developing the capability to cross-check and validate voter information against DMV, Social Security, and other systems seamlessly during data entry and record maintenance activities. When driving records or vital statistics are updated, that information should also be used to seamlessly update and validate voter registration information.

SBE plans to integrate geographic information system (GIS) capabilities into the VERIS system, which will provide another useful tool for election officials, voters, and candidates. SBE's VERIS enhancements will improve data collection to ensure the state's ability to respond to data requests by the U.S. Election Assistance Commission (EAC), FVAP, and other entities.

In addition to its current plans to improve VERIS using HAVA funds, SBE has been actively seeking additional funding streams to improve usability and access to VERIS and its data. The Federal Voting Assistance Program awarded approximately \$1.8 million in federal grant funds to SBE in November 2011 to help improve ballot access for military and overseas voters. This additional grant money will help SBE develop better core infrastructure services for VERIS that will provide benefits to all voters in the Commonwealth.

There is much left to do in terms of improving and enhancing VERIS in the years to come. SBE's long term plan includes the transformation of technical management of VERIS from vendor based support to in-house resources that will reduce long term maintenance costs through better design and implementation strategies. SBE is currently conducting a cost-benefit analysis to determine whether to continue development of VERIS or begin the design and deployment of a successor system. While SBE makes this decision in conjunction with the General Assembly, local election officials, and other stakeholders in the electoral system, the planned projects will provide benefits for either decision. The data warehouse, infrastructure improvements, and improved data connections will be implemented in a way that integrates them into VERIS but allows portability to a new system if that course of action is taken. SBE is excited about the prospects of delivering a much improved, stabilized platform that will help streamline the voter registration list maintenance and election support activities of local general registrars.

Modernizing the Voter Registration Process

The current voter registration process in the Commonwealth is paper based and is heavily dependent on the U.S. Postal Service. In addition to the various plans for upgrading VERIS, SBE intends to implement several projects to modernize the entire voter registration process in the Commonwealth to make it easier and more efficient for individuals to register to vote; reduce the administrative and logistical burden on local election officials and state agencies; and reduce

costs associated with carrying out voter registration processes. The modernization process will lead to improvements in data quality and integrity of the statewide voter registration list.

On average, more than half of all voter registration activities in Virginia are initiated at the Department of Motor Vehicles. This makes DMV a key partner in the voter registration process and integral to the success of the Commonwealth's electoral process. SBE and DMV work in partnership to continually improve the process. The current process for transmitting voter registration forms from a local DMV branch to the local general registrar's office is lengthy and contains multiple potential points of failure. When an individual registers to vote or updates voter registration information at a local DMV, the paper registration form is mailed to the State Board of Elections, with DMV incurring postage costs. SBE receives the forms, separates them by locality, and mails completed forms to each local voter registration office on a weekly basis, incurring postage costs for SBE. SBE and DMV incur additional postage costs during election time because registration forms are sent using expedited mail delivery as the voter registration deadline approaches. Once the forms are received in the local office, local election officials must input the information into VERIS, conduct the necessary checks for eligibility, and mail a voter information card or denial letter to the potential voter. The entire process can take up to a month between the time an individual completes a registration form at a DMV and when the voter receives a voter information card confirming registration or a denial letter. The process is completely paper based, relies heavily on the U.S. Postal Service for delivery, and is expensive and time consuming to implement. This cumbersome process leads to data entry errors, delays in processing registrations, and registration forms lost during transit.

SBE plans to work with DMV to implement a new electronic voter registration system for use in DMV offices throughout the Commonwealth. The new system will allow voters to complete and sign voter registration forms electronically at local DMV offices. The information, including the electronic signature, would be transmitted from DMV to SBE electronically through a secure system. This new system would address several issues that exist with the current system. It would reduce data entry errors because the information would be entered electronically directly by the voter. In addition, the system would ensure that voters complete the entire registration form, which would exponentially reduce the number of incomplete registration forms received by local general registrars. Because the information is transmitted electronically, it would greatly reduce transmission time between local DMV and local registration offices and almost eliminate shipping costs associated with paper voter registration forms. While the information is transmitted and maintained electronically, the system would permit local registrars to print paper versions of the registration forms as part of the local office procedures, if desired by the locality. The new electronic system would also benefit other DMV functions, allowing the Commonwealth to increase the impact of any state funding spent on implementing the system. In conjunction with this project, SBE will evaluate options to allow localities to convert existing paper registration records to electronic format.

Currently, many voter registration actions require a signature in order to begin processing a requested action. Future processing of certain voter registration actions, such as change of address, or potential future requirements, like identification of political party, could be easily and quickly accomplished electronically with electronic or digital signatures and scanned images via secure internet transactions or verifiable email transmissions. Accepting electronic signatures is already permitted under existing state law and would only require administrative action by SBE. Armed with the ability and the legal authorization to accept voter registration requests and changes from citizens using these technologies, SBE and general registrars will be able to

process voter requests more accurately, efficiently, and economically. Voters will greatly benefit from the proposed changes by having the ability to more easily and quickly update their voter registration information and improve their interaction with local voter registration offices.

Electronic Poll Books

In 2009, SBE began to take additional steps to further modernize the election process in Virginia and, at the same time, overcome the inherent impediments and costs associated with paper poll books. Electronic poll books greatly improve efficiency at the polls and minimize the time it takes for a Virginian to cast a vote. Implementation of secure and uniform electronic poll books on a statewide basis promises immediate and significant benefits to Virginia state government, local governments, local election offices, Virginia's voters, candidates, political parties and other agency customers.

SBE established the Government Furnished Equipment (GFE) Electronic Poll Book (EPB) project that provided a lower cost option for EPBs versus full vendor solutions. SBE solicited vendors for EPB applications that would be viable solutions on refurbished laptops. The contractor selected provided software and services coupled with low cost laptops to provide an EPB system at about a third of the cost of typical vendor solutions.

One of SBE's objectives with the remaining HAVA funds is to transition the remaining localities from paper poll books to EPBs and to continue support of the EPB program. SBE is currently reviewing contractual requirements and preparing revisions to the EPB program to increase SBE's support and scope of the EPB program. SBE will leverage existing state contracts to assist in obtaining low cost hardware and transition training and support functions from contractors to SBE personnel. This effort is designed to reduce the expense of and dependency on vendors for future autonomy of localities with electronic poll books.

Polling Place and Voting Accessibility

Beginning in 2002, SBE has dedicated considerable effort towards ensuring that polling places are compliant with the Americans with Disabilities Act (ADA). At that time, SBE sent out a survey to every registration office and required that each locality evaluate every polling place for accessibility based on defined requirements. As of that date, an estimated 12.6% of Virginia's precincts were not compliant based on the self-evaluation. Beginning in March 2004, the State Board of Elections contracted with 16 Centers for Independent Living located throughout the Commonwealth to conduct on-site accessibility surveys of every building used as a polling place. Currently, some precincts in the Commonwealth are not fully compliant with ADA standards for polling places. SBE continues to work with localities to ensure that existing polling places are accessible and that newly established polling places are evaluated for accessibility.

SBE is analyzing new survey tools to improve the assessment of polling places throughout the Commonwealth for accessibility. This will allow localities to effectively evaluate compliance with polling place accessibility standards and partner with SBE to make temporary and permanent improvements to ensure access to the voting process for individuals with disabilities. SBE will utilize remaining HAVA funds and funding received through the Department of Health and Human Services to assist localities in making the remaining polling places ADA compliant

and ensure that all polling places in the Commonwealth remain accessible for individuals with disabilities.

In addition to improving the physical accessibility of polling places, SBE continues to work with localities to ensure that election officers are trained in proper etiquette when dealing with voters with disabilities. This includes the appropriate use of accessible voting systems in polling places and the proper implementation of curbside voting opportunities. SBE is also undertaking a pilot program to increase awareness of the annual absentee ballot application for individuals with disabilities among local voter registration offices. This effort will include training for general registrars and staff about properly completing the annual applications and how to effectively make them available to voters that are eligible for and would benefit from their use.

Language Accessibility

Virginia continues to experience a constant growth in the diversity of its electorate. As a result, Fairfax County became the first locality in Virginia subject to the language minority provisions of the Voting Rights Act in October 2011. Section 203 of the Voting Rights Act requires that a covered state or political subdivision provide registration or other materials relating to the electoral process, including ballots, in the language of the applicable minority group, in addition to the English language materials. The requirements of the law are straightforward; for "covered jurisdictions", all election information that is available in English must also be available in the minority language so that all citizens will have an effective opportunity to register, learn the details of the elections, and cast a free and effective ballot. Fairfax County must now provide all election materials in Spanish. While Fairfax County is responsible for ensuring its compliance with the provisions of federal law, SBE shares the responsibility of providing translations of all voting materials provided by SBE.

In anticipation of potential coverage, SBE created a minority language working group in 2010 composed of election officials from around the Commonwealth to determine a plan for compliance with the new requirements. SBE's foresight in establishing a working group and translating materials was key to Fairfax County's compliance success in 2011. In addition to providing all SBE forms in Spanish, SBE is implementing changes in VERIS to allow election officials to track which voters request alternative language materials. This will assist election officials in complying with legal requirements and will also allow SBE to provide statistics regarding utilization of alternative language assistance.

Covered jurisdictions are determined by the Census Bureau every five years based on Census and American Community Survey data based on a formula set out in the Voting Rights Act. The next determinations are scheduled for 2016. Additional Virginia localities may become covered under the minority language provisions at that time. Coverage takes effect immediately and cannot be appealed in the courts.

2. How Virginia will distribute and monitor Requirements Payments

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 paragraph (1), 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 paragraph (8).

– 42 U.S.C. 15404(a)(2)

SBE utilizes a reimbursement process for local expenditures requiring the use of HAVA or other federal funds. Reimbursement programs allow SBE to verify the validity of expenditures and to ensure compliance with the state plan, SBE directives, and state and federal legal requirements. Reimbursement programs have also allowed the HAVA funding to remain in the interest bearing Election Fund longer and ensured that localities would not cause the loss of interest income for the state due to delays in procurement. SBE's reimbursement programs require localities to provide documentation of expenditures and agree to all federal recordkeeping requirements as a prerequisite to receiving funds. This allows SBE to maintain all records related to HAVA expenditures centrally, allowing for easier auditing by federal and state entities.

SBE has established internal processes and procedures to ensure adequate accounting and management of HAVA funds. All expenditures above \$10,000 require prior approval by the Secretary of SBE. SBE is currently reviewing all of its policies and procedures related to federal grants management to ensure compliance with all requirements and facilitate future audits. SBE adheres to all state and federal requirements regarding fiscal management.

3. Education and Training

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 subchapter III of this chapter.

– 42 U.S.C. 15404(a)(3)

Training for Election Officials and Officers of Election

The State Board of Elections conducts annual training for general registrars and electoral board members. This annual, mandatory training makes local election officials aware of changes in state and federal election laws; provides them with updated information regarding SBE's priorities for the year; and allows the exchange of information between local election officials. SBE also established a secure website for general registrars and electoral board members to access tools, training materials, and guidance documents.

Meeting SBE's responsibility to ensure that all local election officials are adequately trained will require the deployment of innovative, effective, and convenient techniques to deliver quality and uniform training on a statewide basis. One viable option to accomplish this goal is the development of a statewide, one-stop, online training portal for local county and city election officials and poll workers. Development of updated training tools will be funded with HAVA grant funds.

State law requires that chief and assistant chief officers be instructed in their duties between three and thirty days prior to an election. SBE recommends that the electoral board train all new officers before each election and all officers whenever there are major procedural changes in polling place operations. SBE established minimum training requirements for officers of election through Board Policy 2010-002. SBE plans to utilize HAVA funding to establish a supplemental online training program for officers of election that can be used to provide greater uniformity and enhance the training being provided at the local level. Offering online training increases the tools available for local election officials to meet the training requirements set forth by the Board. Participation in the online officer of election training program will be voluntary because there may be some expenses incurred by the localities.

Voter Education

The decennial redistricting process requires mailing new voter information cards to almost every voter in the Commonwealth of Virginia. SBE utilized this opportunity to redesign the voter information card to include vital information for voters, including voter rights and responsibilities, how to contact their local election officials, and upcoming election dates. The card also provides new district, precinct, and polling place location information. Using the voter information cards as a source of educational materials provides a cost effective means of reaching voters and ensures the information being distributed is uniform throughout the Commonwealth. This program is jointly funded with state general funds and HAVA funds.

As the Virginia electorate becomes more reliant on their personal computers to conduct their electoral activities, SBE will be expected to provide real-time, online access to all its service offerings including customized and personalized voter information, voting information, and other information relating to elections (polling place location, polling place accessibility characteristics, candidates, registrar information, county and city electoral board information,

etc.). Currently, the vast majority of communications from SBE and local election officials to registered and potential voters occurs through paper notices, letters, and telephone calls. In the future, voter notices and other information may be more efficiently transmitted using email, internet technologies, and automated telecommunications technologies. Using new transmission methods will increase the timeliness of information delivered to voters and greatly reduce costs for SBE and local election officials. Electronic communications are essential in communicating with Virginia's military and overseas voters.

SBE has leveraged the creation of VERIS to provide additional tools for voters to obtain information about their registration status, polling place location, and sample ballots. SBE's website has a portal that allows voters to securely obtain information about their registration record contained in VERIS. This tool is especially important to military and overseas voters that are often unable to reach their local election officials during normal business hours due to differences in time zones and the cost of making international calls. SBE's online portal follows the best practices established by the Election Assistance Commission. SBE's website will be the major vehicle used in providing a one-stop shop to voters and potential voters seeking to participate in Virginia's voter registration and election processes.

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4. Voting System Guidelines and Processes

How the State will adopt voting system guidelines and processes which are consistent with the requirements of section 15481 of this title.

– 42 U.S.C. 15404(a)(4)

Under § 24.2-626 of the Code of Virginia, SBE must approve any mechanical or electronic voting system or equipment before it can be purchased or used by any locality. This includes any upgrades or modifications to hardware, firmware, and software. The State Certification of Voting Systems, Requirements and Procedures states that any modification to existing software, which has been previously certified will, in general, invalidate the results of the prior certification unless and until it can be determined by SBE that the change does not affect the overall flow of program control or the manner in which ballots are interpreted and the vote data is processed. This means that no change of any kind can be made to any voting system software or firmware unless SBE has been informed of the proposed change and determined whether or not it will require recertification of the system. These procedures are strict in order to protect the locality. Failure to follow these requirements may result in decertification of voting equipment and provide candidates a reason to contest an election.

As set forth in the State Certification of Voting Systems, Requirements and Procedures (Revised March 3, 2010), the voting system or equipment must meet the following requirements:

- Have completed federal certification as prescribed by the applicable version of the Voluntary Voting Systems Guidelines, published by the U.S. Election Assistance Commission (Federal certification is assumed to substantiate compliance with the minimum requirements of §301(a) of the Help America Vote Act of 2002).
- Comply with the applicable provisions of the Code of Virginia relating to voting equipment and the policies of the State Board of Elections (§§ 24.2-625 – 642).
- Accommodate interactive visual and non-visual presentation of information to voters and alternative languages when required.

Each system must successfully complete three distinct levels of testing:

- **Qualification testing:** The purpose of qualification testing is to show that the voting system complies with the requirements of its own design specification and with the requirements of SBE. The testing of hardware and software may be conducted by an Independent Testing Authority.
- **Certification testing:** The purpose of certification testing is to ensure the system meets all applicable requirements of the Code of Virginia. It is not intended to result in exhaustive tests of system hardware and software attributes; these are evaluated during qualification testing. However, all system functions that are essential to the conduct of an election will be evaluated.
- **Acceptance testing:** This test is conducted by the locality to ensure the system meets its needs and is identical to the certified system. Acceptance tests will be conducted by the

local jurisdiction with the assistance of state officials or consultants, if requested. The tests will be performed as part of the procurement process for the voting system.

The following is a summary of the certification process:

- Letter of request for certification and certification fee
- Vendor submission of technical data package and corporate information
- Preliminary review by evaluation agent
- Vendor authorization to proceed
- Evaluation by evaluation agent
- Board review of evaluation
- Test election
- Board certification and notification

The State Board of Elections requires each electoral board to be responsible for the security of all voting systems under its control and directs each board to implement a local Voting Systems Security Program. Administrative responsibilities include the standards, procedures, and actions taken to develop and manage a security program designed to protect voting systems and to manage the conduct of persons having access to them. All considerations should apply to voting systems while in storage, in transit, and in the polling place. All aspects of the security program must be documented in a Voting Systems Security Plan, which must be updated annually.

As election laws, election standards, and voting system technology continue to evolve, the State Board of Elections will continue to identify security procedures and actions that enable local electoral boards to further strengthen their security safeguards. However, given the diversity of technical and operational environments among the electoral boards across the Commonwealth, it is not always practicable to qualify all security procedures and actions as State Board of Elections voting systems security standards. Several security procedures and actions put forth by SBE are more appropriately qualified as guidelines. Nonetheless, a large percentage of electoral boards find significant value in formally adopting the guidelines recommended by SBE.

5. Election Fund

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

– 42 U.S.C. 15404(a)(5)

SBE established the Virginia Election Fund through an administrative procedure permitted under state law. The Secretary of the State Board of Elections authorizes all payments made from the fund and the Treasurer of Virginia is the signatory of all checks issued from the fund. Account codes allow SBE to track receipts and disbursements for §101, §102, requirements payments, and state matching funds separately. The fund is interest bearing, as required by HAVA.

The SBE Secretary works with the agency's fiscal officer, the Department of Planning and Budget, and the Treasurer of Virginia to ensure that fund management follows Generally Accepted Accounting Principles and all appropriate federal and state policies and procedures.

6. Proposed Budget for Remaining HAVA Funds

The State's proposed budget for activities under this subpart, based on the State's best estimates 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 subchapter III of this chapter;

(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.

– 42 U.S.C. 15404(a)(6)

Virginia has received a total of \$76,099,279 in federal funding since the passage of the Help America Vote Act to assist the state in improving election administration. As of January 1, 2012, the Commonwealth had \$30,667,664 in HAVA funds remaining.

The systems put in place to meet the requirements of HAVA and accompanying changes in state law will require on-going maintenance that will affect both state and local budgets for the foreseeable future. Given the current federal budget situation, no additional federal funds are anticipated under HAVA for the next several years. This requires SBE to be especially prudent with the remaining federal funds since state and local expenditures will increase considerably once the existing federal funds are exhausted.

The state certified to the EAC on January 25, 2012 that it met all the HAVA Title III requirements, which will allow the state to use any remaining funds to improve the administration of federal elections. The Commonwealth did not previously certify compliance because under the prior plan, Virginia did not intend to use more than the minimum payment amount for other improvements. This certification will allow much more flexibility for the state in funding innovative programs with federal funds. Any future funding that may be appropriated by Congress under HAVA will focus on VERIS and other projects to improve the administration of federal elections.

Activity	% of remaining funds	Estimated amount
Voting Systems	4.89%	\$1,500,000
VERIS Maintenance/Improvements	42.39%	\$13,000,000
Modernizing Voter Registration Process	16.63%	\$5,100,000
Electronic Poll Books	8.15%	\$2,500,000
Polling Place and Voting Accessibility	1.63%	\$500,000
Language Accessibility	0.73%	\$225,000
Online Training for Officers of Election	2.61%	\$800,000
Other Improvements to the Administration of Federal Elections	22.96%	\$7,042,664
Total	100.00%	\$30,667,664

7. Maintenance of Effort

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.

– 42 U.S.C. 15404(a)(7)

Virginia calculated its maintenance of effort (MOE) requirement when it drafted the initial HAVA state plan in 2003. The baseline MOE amount is \$778,994. This was calculated based on HAVA Title III-related expenditures during state fiscal year 2000. The MOE calculation has already been reviewed once by federal auditors in 2005 during an audit by the Election Assistance Commission's Office of Inspector General. The EAC issued revised guidance in 2010 regarding how to calculate the MOE baseline. SBE believes the current calculation is correct based on this advisory from EAC. SBE will prepare and submit an MOE plan to EAC, as provided under the policy, so SBE can gain additional assurance that it is proceeding appropriately.

The total MOE requirement for fiscal years 2005 through 2011 was \$5,452,958. During this same time period, SBE expended \$8,338,562 in MOE expenditures, far exceeding its minimum requirement.

In addition to the state's maintenance of effort, much of the expense of federal and state elections in Virginia is covered by the 134 localities. The cost of election officer pay and training, voting equipment, ballot generation, and absentee ballot processing are costs borne by local governments. Virginia will ensure that localities continue to maintain levels of expenditures sufficient to fund elections and that localities will not use HAVA funds for routine registration and election related expenses. As discussed in section 2 of this plan, Virginia depends heavily on reimbursement programs to localities; SBE will make no payments to cover the costs associated with the "normal" business of Virginia's local registration and election offices.

8. Performance Goals and Measures for Virginia and localities

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

– 42 U.S.C. 15404(a)(8)

The Secretary of SBE has the ultimate responsibility for ensuring the success of Virginia’s HAVA implementation effort. The SBE Deputy Secretary will have day-to-day operational responsibility for the implementation. SBE division managers and staff, as well as local election officials, contribute to the successful implementation of HAVA requirements.

Virginia Performs, a signature initiative of the Council on Virginia's Future, is a performance leadership and accountability system within state government. It begins with a vision for Virginia’s future: responsible economic growth, an enviable quality of life, good government, and a well-educated citizenry prepared to lead successful lives and to be engaged in shaping the future of the Commonwealth. Virginia Performs aligns specific state agency outcomes with larger statewide goals. It allows anyone to see how Virginia state government is working on behalf of the citizens of the Commonwealth on its Agency Planning and Performance pages.

SBE’s performance measures for HAVA implementation are included in the agency’s Strategic Plan, which is part of the Virginia Performs program. The strategic plan is submitted to the Department of Planning and Budget prior to the start of each biennium. The strategic plan encompasses SBE’s responsibilities and efforts in all program areas, including HAVA and other federal and state mandates. The strategic plan is available at:

<http://vaperforms.virginia.gov/agencylevel/stratplan/spReport.cfm?AgencyCode=132>

9. Complaint Procedures

A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 15512 of this title.

– 42 U.S.C. 15404(a)(9)

The State Board of Elections formally adopted administrative complaint procedures through Board Policy 2004-001. SBE is in the process of restating some existing board policies in the Virginia Administrative Code (VAC). Currently, Board Policy 2004-001 and HAVA Section 402 are included by reference in 1 VAC 20-20-80. SBE plans to incorporate the full text of the administrative complaint procedures and complaint forms into the VAC in 2012.

In addition to the formal administrative complaint procedures required under HAVA, SBE has adopted procedures for informal complaints, including a toll-free number, email address, and online complaint form that any member of the public can use to file election related complaints. Informal complaints are handled by appropriate SBE staff or referred to local election officials for follow up. Under current Virginia law, all written complaints are public documents open to public inspection.

10. Use of Title I Funds

If the State received any payment under subchapter I of this chapter, 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.

– 42 U.S.C 15404(a)(10)

Virginia utilized the majority of Title I, Section 101 funds to begin development of VERIS, establish the administrative complaint procedures, fund the development of the state's HAVA plan, and partially addresses polling place accessibility issues around the state.

Section 102 funds were used to reimburse localities that were utilizing punch card and lever voting systems during the 2000 election for the purchase of new voting systems that complied with HAVA requirements. All Section 102 funds were expended prior to the applicable deadline.

Remaining Title I funds will be utilized by Virginia for ongoing administration of the state plan and for other improvements to the administration of federal elections.

11. Management of State Plan

How the State will conduct ongoing management of the plan, except that the State may not make any material change in the administration of the plan unless the change-

(A) is developed and published in the Federal Register in accordance with section 15405 of this title in the same manner as the State plan;

(B) is subject to public notice and comment in accordance with section 15406 of this title in the same manner as the State plan; and

(C) takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register in accordance with subparagraph (A).

- 42 U.S.C. 15404(a)(11)

The Secretary of the State Board of Elections will have overall responsibility for the implementation and management of the state plan and will make regular reports to the Board. The Deputy Secretary will have day-to-day operational responsibility for the implementation of the plan, with the Division Managers responsible for the implementation of the aspects of the plan that fall within their purview.

SBE staffing has historically been insufficient for the proper administration and implementation of the Act. Additional staff was hired to improve SBE's ability to carry out its responsibilities under HAVA, particularly in the areas of voting equipment, accessibility, training, and policy. As responsibilities for meeting HAVA requirements have increased, some employee salaries are now being funded partially by HAVA funds to account for the time spent in implementing federally mandated programs.

SBE will review the state plan as part of the agency strategic planning process during the course of each biennium and revise the plan if it is determined that material changes will be required. The state will also review the state plan as needed if new legislation at the state or federal level requires material changes to the plan sooner than the regular review process.

12. Changes from the Previous Year's Plan

In the case of a State with a State plan in effect under this part 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.

– 42 U.S.C. 15404(a)(12)

The Commonwealth of Virginia has implemented all Title III Requirements of the Help America Vote Act since the plan was last updated in 2006. SBE certified Title III compliance to EAC on January 25, 2012.

Voting Systems Standards

The Code of Virginia requires that SBE certify any mechanical or electronic voting system or equipment before any locality may purchase (or lease) the system or equipment (Code § 24.2-625). The current certification procedure adopted by the State Board of Elections requires certification from the U.S. Election Assistance Commission and then Virginia-specific hardware and software testing, financial certification, and field-testing. Virginia currently retains a consultant well versed in the technology and issues surrounding the implementation of new voting technology; the consultant conducts the hardware and software tests and makes recommendations. The Virginia Department of Accounts reviews all financial documents. State law allows SBE to decertify voting equipment for various reasons, including non-compliance by voting system vendors with state requirements. The certification and decertification processes established in Virginia ensure adherence to state and federal requirements and maintain integrity of the Commonwealth's voting systems.

Each of Virginia's 134 localities purchases voting systems from the list of SBE certified equipment and maintains its own voting equipment in compliance with SBE requirements. There are three categories of equipment in use in Virginia: paper, optical scan, and DRE (either touch screen or button). Since 2001 SBE has, on an annual basis, reviewed, adopted and distributed uniform definitions of what constitutes a valid vote for paper and optical scan ballots in a recount or other hand count.

Beginning in early 2002, SBE certified a total of seven different Direct Recording Electronic (DRE) voting systems, which are adaptable for non-visual use. Subsequently, the Virginia General Assembly adopted a statewide ban on future purchases of DRE equipment in the Commonwealth. The previously purchased DRE's will remain in use until the end of their useful lives. This may pose a challenge for Virginia localities to meet the voting system accessibility requirements in HAVA and effectively reduces the choice for localities to the only currently available non-DRE voting system that is considered accessible for individuals with disabilities. SBE and Virginia localities will continue to explore new optical scan accessibility options with voting system vendors. SBE will ensure that Virginia continues to deploy voting systems that allow voters with disabilities to vote privately and independently.

SBE is currently reviewing its certification procedures to determine how to streamline and enhance the state voting system certification process, bringing more of the review and testing of federally certified voting systems in-house in an effort to introduce new voting technology for localities within the Commonwealth.

Provisional Voting

Provisional voting (previously known as “conditional voting”) has been available to Virginia voters since 1975. When a person offers to vote as a registered voter in the precinct, but his or her name cannot be found on the precinct registered voter list, an officer of election will call the local general registrar. If the general registrar is not available, or cannot state that the person is in fact registered to vote, then that person must be allowed to vote a provisional ballot. If the registrar is available and confirms that the person is a registered voter in that precinct, the individual would vote in the same manner as other voters. If registered in another precinct, the officer of election refers the voter to the correct precinct.

The provisional voter must provide, subject to the penalties for making false statements pursuant to § 24.2-1016 of the Code of Virginia (on a green envelope supplied by the State Board) the identifying information required in § 24.2-652. An officer of election informs the voter that a determination of the voter’s right to vote shall be made by the electoral board on the following day and advises the voter of the beginning time and place for the board’s meeting. The electoral board only counts the ballot if it finds, by the time of their meeting, that the person was in fact registered and qualified to vote in that precinct (Virginia Constitution, Article II, Section 1 and Va. Code § 24.2-653).

SBE developed a free-access system by instituting a toll-free telephone number. SBE updated the phone system to handle not only the increase in calls made to the State Board, but also to maintain this toll-free number that routes callers to their localities, which maintain the information on the disposition of provisional ballots. (HAVA §302(a)(5)(B)) In addition, the public access portal available online allows a voter to view provisional ballot history and determine whether a provisional ballot was counted.

Voting Information

Virginia meets all of the requirements for posting of information at the polls on Election Day. SBE reviews and modifies the documents provided to localities every year to ensure information is updated to reflect changes in state laws enacted during the legislative session. SBE provides the following public information for local election officials to post at the polling place on Election Day:

- A sample ballot (HAVA §302(b)(2)(A))
- Information regarding the date of the election and the hours during which the polls are open (HAVA §302(b)(2)(B))
- Instructions on how to cast a ballot specific to the equipment or ballot style in use (HAVA §302(b)(2)(C))
- Instructions on how to cast a provisional ballot (HAVA §302(b)(2)(C))
- Instructions on ID requirements (HAVA §302(b)(2)(D))
- General information on voting rights, on the right to cast a provisional ballot, and on how to contact officials if these rights might have been violated (HAVA §302(b)(2)(E))

Finally, HAVA requires that, if a court order extends the closing time of the polls, the state must consider ballots cast after the normal closing time as provisional ballots and local election

officials must segregate these provisional ballots from the other ballots for that election. This provision would not apply to anyone who is in line by the normal closing time for the polls and is already allowed to vote in the usual manner. It would only apply to those who arrive after the normal closing time, and who vote because of a court order extending the voting hours. While the ability to extend polling place hours is not currently provided for in state law, SBE ensures that local election officials are aware of this requirement and have instructions for properly carrying out this HAVA requirement if necessary.

Computerized Statewide Voter Registration List

Virginia was one of the first states to adopt a computerized statewide voter registration list, which pre-dated the passage of HAVA, and was known as the Virginia Voter Registration System (VVRS). After the passage of HAVA, the Commonwealth decided to replace VVRS, a mainframe system, with a web based voter registration list. The Virginia Election and Registration Information System (VERIS) is the statewide voter registration and election management system that was built using HAVA funds. The system was launched in early 2007 and has supported over 40 elections with over 5 million registered voters. VERIS is a customized off-the-shelf application used to maintain the official list of all registered voters in the Commonwealth as mandated by state and federal law. VERIS has key interfaces with the Department of Motor Vehicles (DMV), State Police, and the Department of Health to exchange information that may impact voter eligibility. VERIS is used by local election officials throughout the Commonwealth to maintain voter registration records and to record election-related information.

Voter Registration by Mail and Identification Requirements

The National Voter Registration Act (NVRA) mandated that states allow voters to register by mail and at designated agencies such as the Department of Motor Vehicles. Before its 1996 implementation in Virginia, most voters (other than military and overseas voters) were required to register in person in front of a registrar. Initially, the state required first time mail registrants (other than certain exempt classes such as military and overseas voters, and students away at school) to vote in person the first time they voted in Virginia, and to present identification at that time. The in-person requirement is still in state law, but the state legislature extended the identification requirement in 2000 to all voters voting in person at the polls. In 2002, the state further extended the ID requirement to include absentee voters who voted in person at a registrar's office or satellite absentee location established by the registrar.

Virginia requires a voter to present one of the types of identification specified in state law or sign a statement affirming his or her identity, under felony penalty for false statements, in lieu of presenting identification. Those individuals registering for the first time by mail and who have not previously voted in a federal election in their jurisdiction must provide one of the forms of identification required under HAVA. Such voters may not sign the state affirmation of identity form in lieu of presenting one of the federally required IDs. Any voter who did not submit a copy of the required identification and is not able to present the required ID or a copy at the polling place on Election Day will vote using a provisional ballot. The local electoral board will count such Provisional Ballot only if it verifies that the voter is entitled to vote in that precinct.

Virginia redesigned its voter registration application prior to January 1, 2004 to include the questions required under HAVA §303(b)(4) and the statement related to the new identification requirements for first time registrants.

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13. The HAVA Advisory Committee

A description of the committee which participated in the development of the State plan in accordance with section 15405 of this title and the procedures followed by the committee under such section and section 15406 of this title.

– 42 U.S.C. 15404(a)(13)

Virginia’s HAVA Advisory Committee is composed of a diverse group of stakeholders in Virginia’s electoral process, including local election officials, representatives from various constituency groups, and representatives from state agencies. Donald Palmer, Secretary of the SBE, chaired the committee. The committee met before the release of this plan for public comment to provide feedback and guidance to SBE regarding its proposed changes to the existing HAVA state plan.

The committee membership, including each person’s affiliation, is as follows:

Renee Andrews
President, Virginia Electoral Board Association
Secretary, Falls Church Electoral Board

The Honorable George Barker
Virginia State Senate, 39th District
Member, Senate Privileges & Elections Committee

Matthew Barkley
Director of Disability Services Planning & Development
Fairfax County Department of Family Services

Timothy Barrow
Secretary
City of Virginia Beach Electoral Board

Mac Beeson
Virginia Sales Representative
Election Systems & Software

The Honorable Mark Cole
Virginia House of Delegates, 88th District
Chairman, House Privileges & Elections Committee

Jeremy Epstein
Co-founder
Virginia Verified Voting Coalition

Eric Eversole
Executive Director
Military Voter Protection Project

Lynn Gordon
President
Virginia League of Women Voters

Karen Grim
Assistant Commissioner for Driver, Vehicle, and Data Services
Virginia Department of Motor Vehicles

Barbara Gunter
President, Voter Registrars Association of Virginia
General Registrar, Bedford County

Charles James
Deputy Secretary of Administration
Office of the Governor of Virginia

Salim Khalfani
Executive Director
Virginia NAACP

Penny Limburg
General Registrar
Bristol City

David Mills
Executive Director
Democratic Party of Virginia

Suzanne Obenshain
Secretary
City of Harrisonburg Electoral Board

Donald Palmer
Secretary
Virginia State Board of Elections

David Pierce
Director for Data Management Services
Virginia Department of Motor Vehicles

Cameron Quinn
General Registrar
Fairfax County Office of Elections

14. Compliance with the Military and Overseas Voter Empowerment Act

How the State will comply with the provisions and requirements of and amendments made by the Military and Overseas Voter Empowerment Act.

– 42 U.S.C. 15404(a)(14)

Virginia's conforming legislation, enacted and implemented prior to the 2010 November election, ensures full compliance with the Military and Overseas Voter Empowerment (MOVE) Act requirements for all federal elections held in the Commonwealth. Virginia's legislation implementing the MOVE Act was submitted to the United States Department of Justice on April 30, 2010, and precleared on June 28, 2010.

Section 24.2-612 of the Code of Virginia requires absentee ballots to be sent to overseas voters at least 45 days prior to all elections, with a limited exception for non-federal special elections in which absentee ballots must be sent as soon as possible after the 45-day deadline. The Virginia State Board of Elections has worked in cooperation with Federal Voting Assistance Program (FVAP) and the Department of Defense (DOD) for many years to improve its services to military and overseas voters.

Virginia allows any voter whose timely requested absentee ballot was sent late additional time to return the ballot and have it counted. Each voter sent a late ballot will have the benefit of an extension to return the voted ballot or Federal Write-In Absentee Ballot (FWAB). The State Board of Elections plans additional training to ensure all localities understand the time requirements for sending absentee ballots.

Virginia law conforms to the MOVE Act by allowing active duty military and overseas voters to receive a blank ballot by mail, fax, or e-mail (Va. Code § 24.2-706). Virginia's legislation also allows voters to use the FWAB to vote in all elections for which the voter is eligible (Va. Code § 24.2-702.1).

Virginia worked with FVAP to make an online FWAB application available to military and overseas voters in the November 2010 election that FVAP reports was used to download over 800 Virginia ballots. Subsequently, SBE implemented procedures to allow voters to electronically request voter registration applications and absentee ballot applications. The Virginia voter registration application is on the State Board of Elections website and the websites of many of Virginia's local general registrars.

In 2011, realizing that complications, including delays in receiving ballots from the printers, could endanger localities' complying with the 45-day deadline, SBE secured a failsafe system by contracting the services of a ballot on demand vendor who offered complete end-to-end service from ballot printing and inserting through mail processing. This contractor was at the ready in the period immediately before the deadline to act as a backup in the event a locality was unable to mail their ballots on time. SBE is currently looking at expanding this concept by offering the localities an option to utilize this ballot on demand and ballot tracking service as a primary means to meet the absentee ballot deadlines.

SBE continues to work in partnership with its local election officials, FVAP, and DOD to ensure that military and overseas voters have full access to Virginia's electoral processes. Recent

examples of this ongoing cooperative effort include the adoption of a new regulation allowing military and overseas voters to submit an FPCA electronically without the need to mail an original signed copy through the mail. SBE has also received a \$1.8 million grant from FVAP to make enhancements to VERIS to improve service to military and overseas voters.

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