



State of New York
STATE BOARD OF ELECTIONS

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March 27, 2006

Dear County Commissioners,

As you are aware, the United States Department of Justice ("DOJ") has brought suit against the State of New York and the New York State Board of Elections to enjoin the State to comply with the Help America Vote Act of 2002 ("HAVA"). On March 23, 2006, the United States Department of Justice obtained a preliminary injunction, which requires the State Board of Elections to submit to the Court a comprehensive Plan to bring the State into compliance with sections 301 and 303(a) of HAVA. The State Board must submit the Plan to the Court on or before April 10, 2006.

The Compliance Plan will outline for the Court the measures that the State and County Boards of Elections will take to ensure that disabled voters are provided, to the extent possible, the opportunity to vote during the fall 2006 elections in the manner HAVA requires – namely, privately and independently at the polling place. The Department of Justice will have an opportunity to review and to comment upon the proposed plan before it is modified and/or adopted by the Court. The Court may also hold a hearing to determine the sufficiency of the Counties' plans for accommodating HAVA compliance for disabled voters.

To ensure that the Court issues a plan for HAVA compliance that is feasible to implement, each county must inform the State Board of the specific steps by which it will provide HAVA compliant voting for the disabled. We have enclosed a HAVA Compliance Questionnaire to guide you. The Questionnaire asks you to specify the number of HAVA compliant ballot marking devices that the county will have available at polling places for use by disabled voters during the upcoming Fall 2006 elections, and how those devices will be located. For purposes of completing the Questionnaire, please assume that at least two such devices – the ES&S Automark, and the IVS Vote-by-Phone system – will be available for purchase by the counties in 2006.

It is imperative that every county participate in the Compliance Plan. The Court will expect every county to make a good faith effort to provide disabled voters with the opportunity to vote this Fall at a polling place in the private and independent manner mandated by HAVA. Please complete the Questionnaire as accurately as possible. It will play a critical role in the development of the State Board's Compliance Plan and in whatever remedy the Court ultimately fashions. Please return your responses by Friday, March 31, 2006.

Please complete and return the Questionnaire to the New York State Board of Elections and a copy to the Office of the Attorney General.

Thank you. If you have any questions or we can offer any guidance, please do not hesitate to call.

Sincerely,

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