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MEMORANDUM

TO: COUNTY BOARDS OF ELECTIONS

RE: COMPLIANCE WITH HAVA AND CHAPTERS 24 & 181 OF 2005 LAWS OF NEW YORK

DATE: MARCH 8, 2006

FULL COMPLIANCE WITH HAVA AND NYS LAWS

Voting Systems

Voting Systems Standards Regulations :

The State Board is still considering a number of amendments to the proposed rules and regulations on voting system standards. The State Board received over 2000 comments during the public comment period, which included four public hearings. Changes were made, and a second draft was published on the State Board's website, inviting comments for an additional 10 day period. Those comments have also been reviewed, additional changes have been made. We anticipate the Commissioners will approve these changes at their next meeting. That meeting is tentatively scheduled for March 21st. These regulations govern the testing process for voting systems to be certified for use in NYS, and delineate maintenance testing once systems have been purchased.

Upon final adoption of these rules and regulations, the State Board will be prepared to test for certification any and every voting system submitted to it for that purpose. To assist in the testing process, the State Board has contracted with an independent testing authority, and they are prepared to begin working with us as soon as the first system is submitted. Certification by the Commissioners of the State Board is a prerequisite to any vendor selling voting systems for use in this State.

Replacement of Lever Voting Machines

It is intent of the State Board to achieve voting machine replacement in the shortest practicable time frame, consistent with HAVA, New York law, and the State Board's need to ensure that the right of every voter to vote is not impaired and that the election process itself is not in any

manner jeopardized. To that end, SBOE shall ensure that contracts for purchase or lease of voting systems provide for replacement of all lever voting machines in use in New York State with HAVA-compliant voting systems for use in each polling place in the State, as soon as practicable; and in no event later than the deadline set forth in Chapter 181, 2005 N.Y. Laws, which is September, 2007.

Contracts for voting systems will be executed at the state level, in conjunction with the Office of General Services, pursuant to NYS law. County boards of elections will be able to order the appropriate number of certified voting systems at the prices established in those contracts. The contracts will include prices for additional items, such as extra year(s) of support services; extended warranties; additional system components, etc. County boards will be required, pursuant to the provisions of Chapter 181 Laws 2005, to select which system they wish to acquire, subject to certification, at a date in the very near future. You will be notified of that date by mid-April.

Statewide Voter Registration Database

Both HAVA and New York State Law require the creation of an interactive, computerized statewide voter registration list, defined and administered at the state level, which shall serve as the single official list of registered eligible voters in the state.

New York's statute requires that the statewide database developed and maintained by the State Board, be created by integrating, to the extent possible, existing county board registration systems with the state system. This "bottoms-up" approach allows county boards of elections to continue to do business in the manner that is most amenable to their circumstances, while meeting the requirements of both federal and state law. The State Board will, in some instances, assume some or all of the costs of assuring the connectivity of the county board system to the statewide database.

On December 15, 2005 the State Board Commissioners voted to develop and implement a statewide voter registration list through the modification of software transferred from the state of Washington. The transfer is at no cost to NYS, and the modifications would be made to meet the specifics of our state requirements. The State Board is in the process of finalizing a Request for Proposals for a Systems Integrator to make the necessary modifications to the Washington transfer, and to integrate existing county boards of elections systems with the statewide voter registration database. It is our intent to have a contract awarded by July 1st. Full implementation will be accomplished over a period of months, ending no later than Spring, 2007.

Training Programs

New York law requires the State Board to develop core curriculum for the development of training programs for election inspectors and other county board employees, on all the changes in election procedures, the use of new voting systems, and the appropriate etiquette for handling persons with disabilities. It is our intention to present at our May Conference in Syracuse, a draft of that curriculum.

Also at that conference, the State Board will present guidelines for county boards to use to develop a public education program for the voters in your county.

INTERIM COMPLIANCE WITH HAVA AND NYS LAWS

Voting Systems

The State Board is developing an accessible voting device compliance plan, which involves the identification of existing commercially available ballot marking or other devices, such as the Vermont telephone system, which meet the accessibility requirements of HAVA and New York law. The devices will provide the ability to facilitate unassisted, private, reliable voting for the State's voters with disabilities. The plan calls for placing one such device in every polling place in time for training and use in the September 12, 2006 primary.

The State Board staff has identified two such devices to date: IVS vote by phone and ES & S Automark. There may be other devices available. An announcement in the March 6th New York State Contract Reporter calls for any all vendors of such devices to register with Office of General Services to receive an Invitation to Bid to provide these devices. Our goal is to have contracts approved no later than May 12, 2006. We will contract with every vendor whose device is authorized by the State Board Commissioners. County boards may be required to choose which device they wish to acquire as early as May 31st.

The State Board shall conduct a detailed functional test to ensure a high level of confidence in the device's ability to mark ballots accurately, to permit voters to verify their ballots, and to evaluate the devices firewalls, virus protection and other security components. The State Board will give priority to testing these devices. All testing will be done with the assistance of the State Board's Independent Testing Authority, and will occur in a public venue.

Statewide Voter Registration Database

The SBOE is developing a plan to implement NYSVoter I, an interim computerized statewide voter registration list. Upon full implementation, NYSVoter I, among other things:

- (a) shall serve as the single statewide voter registration system for storing and managing the official list of registered voters throughout the State;
- (b) shall be able to generate a computerized statewide voter registration list that is single, uniform, official, centralized, interactive, defined, maintained and administered at the State level, which contains the name and registration information of every legally registered voter in the State, and which shall be the official voter registration list for the conduct of all federal, state and local elections in the State;
- (c) shall assign a unique identifier to every registered voter in the State;
- (d) shall maintain one record for each registered voter in the State, including the statewide unique identifier, immediate voting history and current status of that voter;
- (e) shall ensure that all data in the system complies with the data standards established by the SBOE for the database;
- (f) shall provide for the remediation of all county election management systems in the

State to ensure:

- 1) that such systems interface with NYSVoter I to enable county election officials to enter all voter registration information into the statewide official list on an expedited basis at the time the information is provided to the county official, 2) that all data sent to the statewide list by the counties meets SBOE standards, and 3) that all counties submit updated county voter registration data to NYSVoter I on a regular basis to enable complete synchronization of the statewide list with the county lists at least once during each 24 hour period;
- (g) shall indicate if a voter is a first time voter with no verified identification and flag that voter as requiring identification resolution in order to vote;
- (h) shall conduct periodic checks to determine the existence of duplicate registrations in the system;
- (I) shall be coordinated with the State Department of Motor Vehicles, the federal Social Security Administration, and appropriate state agencies which keep records of deaths and felon status in order to conduct verification of voter registration information and perform voter registration list maintenance functions as required by HAVA and the National Voter Registration Act (“NVRA”), 42 U.S.C. § 1973gg et seq.;
- (j) shall provide for state monitoring of county actions for compliance with SBOE regulations concerning NYSVoter I.

The State Board will finalize rules and regulations for the implementation of NYSVoter I no later than July 1, 2006.