

A Guide to the Election Administration and Voting Survey



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Introduction

Purpose

The purpose of this document is to provide information to election officials responsible for completing EAC's Election Administration and Voting Survey (Survey). This document provides information concerning the processes and procedures associated with a State's submission, review, and correction of the Survey data.

About the Election Administration and Voting Survey

Since 2004, the EAC has administered this biennial Survey to the 50 States, the District of Columbia, and the territories of America Samoa, Guam, Puerto Rico, and U.S. Virgin Islands. The Survey asks election officials questions concerning voting and election administration. These questions request information at the State and county levels (or county equivalent) on ballots cast; voter registration; overseas and military voting; Election Day activities; voting technology; and other important issues. The EAC issues the survey to meet its obligations under the Help America Vote Act to serve as national clearinghouse and resource for the compilation of information with respect to the administration of Federal elections. The Survey data is also used to satisfy statutory requirements and results in three reports: the Impact of the National Voter Registration Act of 1993; the Uniformed and Overseas Citizens Absentee Voting Act; and, the Election Administration and Voting Survey. The aforementioned reports are sent to Congress and posted on the EAC website.

Background and Authority

The EAC issues the Survey to meet its obligations under the Help America Vote Act 2002 (HAVA) to serve as national clearinghouse and resource for the compilation of information with respect to the administration of Federal elections; to fulfill its data collection requirements under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA); and meet its National Voter Registration Act (NVRA) mandate to collect information from states concerning the impact of that statute on the administration of Federal elections.

HAVA. The Help America Vote Act of 2002 (42 U.S.C. §15322) requires the EAC to serve as a national clearinghouse and resource for the compilation of information and review of procedures with respect to the administration of Federal elections. This includes conducting studies to promote the effective administration of Federal elections under topical areas such as methods of voter registration, methods of conducting provisional voting, poll worker recruitment and training, and such other matters as the Commission determines are appropriate.

NVRA. Under the National Voter Registration Act (NVRA), the EAC is responsible for collecting information and reporting, biennially, to the United States Congress on the impact of that statute. The information the States are required to submit to the EAC for purposes of the NVRA report are found under Title 11 of the Code of Federal Regulations. States that respond to questions in this survey concerning

voter registration related matters will meet their NVRA reporting requirements under 42 U.S.C. §1973gg-7 and EAC regulations.

UOCAVA. The Uniformed and Overseas Citizens Absentee Voters Act (UOCAVA) mandates that EAC create a standardized format for state reporting of UOCAVA voting information (42 U.S.C. §1973ff-1). UOCAVA requires that “not later than 90 days after the date of each regularly scheduled general election for Federal office, each State and unit of local government which administered the election shall (through the State, in the case of a unit of local government) submit a report to the Election Assistance Commission (established under the Help America Vote Act of 2002) on the combined number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the combined number of such ballots which were returned by such voters and cast in the election, and shall make such a report available to the general public.” States that complete and timely submit the UOCAVA section of the survey to the EAC will fulfill their UOCAVA reporting requirement under 42 U.S.C. §1973ff-1(c).

Release of the Survey

The EAC intends to release a draft of the Survey, if possible, one year before the election for which the data are being sought. The draft survey will appear on the EAC website (www.eac.gov). In addition, the EAC is statutorily required to submit its survey to the Office of Management and Budget (OMB) for review – a process that can take up to 120 days. During the review process, the EAC will publish the estimated paperwork burden for the proposed information collection in the Federal Register. The public is encouraged to comment on the paperwork burden of the proposed Survey. Once EAC has acquired approval for the data collection through OMB, it will release the final version of the survey. The final survey package will include the instrument, an instruction manual, and templates to be used by the States for submitting their data.

Technical Assistance

Once the data collection phase begins, States will have the benefit of technical assistance offered by the EAC. The technical assistance includes, but is not limited to, guidance and support related to understanding the questionnaire, definitions and instructions, entering States’ data into the template, uploading States’ data to the project website, and anything else that involves a State attempting to collect and submit its data.

States (or individuals charged with providing information for the Survey) may request technical assistance by contacting that State’s EAC designated technical assistance specialist. Specifics related to the contact information for the technical assistance specialist will be provided to the State-level contact person upon release of the Survey materials.

Submission of the Survey Data

EAC will provide States with easily-accessible templates to use for the submission of Survey their data. EAC will also accept alternative formats if a State indicates that it would be easiest for the transfer of the requested information. The alternative format for data submission must be consistent with the data elements indicated in the Survey (each individual State will work through the alternative format submission process with the

EAC during the technical assistance period). Formatting their database systems to collect the data elements noted in the Survey will assist States to query and submit the data by the submission deadline (see below).

Submission Deadline

The due date for the survey data is the first business day in February following the Federal election.¹ If a State's data submission is not received by the first business day in February following the Federal election, it will be considered late and will be flagged as such in EAC's system. States that turn their data in after the deadline will not be able to review their submissions (see below).

State Verification of the Survey Data

Once States have submitted their data on the first business day in February following the Federal election, the EAC will begin compiling and formatting the data so that the data can be sent back to the States for review and verification. States will have 10 business days to review and resubmit their data to the EAC. If the State misses the deadline of the first business day in February, that State will not have an opportunity to review and resubmit its data.

Upon reviewing and verifying the State's data, the individual at the State level responsible for submitting the data to EAC, usually the Chief Election Official, must certify in writing that the information being presented to the EAC is true and accurate to the best of his/her knowledge. An EAC certification letter will be sent to the Chief Election Official requesting a written State response. If the data are correct, the State must certify its data and indicate that the submission process is complete. If the data are not correct, the State must specify that corrections are needed and work with the EAC to ensure corrections are made. After the corrections are made, the State must certify its data and indicate that the submission is complete.

Steps:

1. States submit the Survey data by the first business day in February following the Federal election.
2. EAC formats States' data in the Survey database and sends data back to the States for review.
3. States review and verify their data over a 10 business day period.
4. States certify their final data submissions.

On the first business day in March, EAC will "lock" the Survey database and begin data reconciliation for the purpose of beginning the report writing process. At this point, no additional data will be accepted from the States for inclusion into the database or the final

¹ For example, data for the 2010 EDS (based on the November 2010 election) will be due to EAC in February of 2011. This deadline is necessary, in part, due to the EAC's requirement under section 702 of HAVA that States submit their UOCAVA numbers to EAC within 90 days of the election (42 U.S.C. §1973ff-1(c)). Since the EAC collects the NVRA, UOCAVA, and other election-related data simultaneously using the same instrument, all data are due at the same time to eliminate confusion and duplicative efforts by State and local officials and EAC.

_____. If a State fails to submit its data to the EAC before the first business day in March, the State's data will not be included in the database used to write the EAC reports. The EAC must have adequate time to assess the data so that it can begin its analysis with a complete dataset. A State that misses the submission deadline may request in writing that a link to its data be placed on the EAC website (see the section on post reporting matters).

EAC Issuance of Survey Reports

The Survey data is used to create three reports: the Impact of the National Voter Registration Act of 1993 (NVRA); the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA); and, the Election Administration and Voting Survey.

The NVRA report includes data related to voter registration in the States' over a two-year election cycle. The report is based on the Survey results from the 55 States and territories. Included in the report are data on:

- the total number of registered voters; number of active and inactive registered voters;
- number of persons who registered to vote on Election Day;
- number of voters who registered using online registration;
- number of voter registration applications received from all sources;
- number of voter registration applications that were duplicates, invalid or rejected, new, changes of name, address, party, and not categorized;
- number of duplicate registration applications received from all sources;
- number of removal/confirmation notices mailed to voters and the reason for removal;
- total number of voters removed from the registration list or moved to the inactive registration list.

The UOCAVA report includes data related to voting by uniformed and overseas voters over a two-year election cycle. The report is based on the Survey results from the 55 States and territories. Included in the report are data on:

- the total number of UOCAVA absentee ballots transmitted, returned, cast, and counted;
- number of UOCAVA absentee ballots not counted and the reason for rejection;
- number of Federal Write-in Absentee Ballots returned and cast by UOCAVA voters;
- number of UOCAVA ballots transmitted as part of the two-election cycle of automatic requests;
- number of UOCAVA ballots transmitted as part of the two-election cycle of automatic requests that were returned undeliverable and submitted for counting.

The Election Administration and Voting Survey report includes data related to Election Day activities, turnout, and other important and timely election administration topics. The report is based on the Survey results from the 55 States and territories. Included in the report are data on topics such as:

- total number of precincts in the state/jurisdiction;

- number of polling places available for voting in the Federal general election;
- number of poll workers used for Election Day; number of persons who voted in the Federal general election;
- total number of first-time voters who registered by mail and were required to provide identification in order to vote;
- number of absentee ballots requested, received, counted, and not counted;
- reasons for absentee ballot rejection; number of provisional ballots cast, counted, and rejected;
- reasons for provisional ballot rejection;
- use of electronic and printed poll books during the Federal general election;
- type and number of voting equipment used for the Federal general election;
- type of process in which voting equipment was used – precinct, absentee, early vote site, accessible to disabled voters, provisional voting; location in which votes were tallied – central location, precinct/polling place, or early vote site;
- total number of votes cast – at polling places, via absentee ballot, at early vote centers, via provisional ballots.

Post Reporting Matters

Corrections to the data

The EAC will provide ongoing technical assistance to States starting when the EAC releases the survey and continuing until the data submission deadline. The EAC encourages States to utilize the resources provided by the EAC to assist in submitting timely and accurate information.

The EAC will accept survey data until the first business day in February following a Federal election. As an example, the due date for acceptance of the 2010 survey will be February 1, 2011. The EAC will clearly note the due date when releasing the survey and will provide reminders throughout the reporting period.

Additionally, as noted above, the EAC will provide States with a 10 business day window in which States can review data and submit corrections. After the 10 business day window, the database will be “locked” and EAC will not be able to augment or amend any data in the database after that point. As with the survey due date, the “lock” date will vary depending on the year. As an example, the “lock” date for the 2010 survey will be March 1, 2011. The EAC will provide reminders of the “lock” date during this 10 business day period.

Reporting Errors or Omissions in Survey Data Following the “Lock” Date

If a State notices an error or omission in the EAC’s data after the “lock” date, which is by example March 1, 2011 for the 2010 survey, the Chief Election Official for that State (or individual who certified the final submission, if not the Chief State Election Official) must send written notification to the EAC’s Executive Director and Director of Research, Policy and Programs in a timely fashion. Written notification will be deemed timely if submitted to the EAC no later than 30 calendar days following the EAC’s adoption of the report in question. A requester’s notification of a possible error or omission in survey

data will in no way affect or otherwise alter EAC's timelines for printing and publishing its reports. See "A Note on EAC Final Reports," below.

Written notification must include the following information to be considered:

- Name and contact information of the individual providing the written notification;
- An explanation of the error or omission, including, if applicable, the specific data points that are incorrect or incomplete; and
- A statement explaining the error or omission, including whether the State reasonably believes that the error or omission is a direct result of an EAC action or failure to act.

All requests shall be sent to the Executive Director, U.S. Election Assistance Commission, 1201 New York Avenue, NW, Suite 300, Washington, DC 20005, ATTN: Election Administration and Voting Survey Correction. The request can also be sent electronically to HAVAinfo@eac.gov with the subject line "Election Administration and Voting Survey Correction."

Consideration of Timely Reported Errors or Omissions in Survey Data

The EAC Executive Director and Director of Research, Policy and Programs will consider all information provided by States to determine, within their discretion, the disposition of the reported error or omission. In other words, they will determine, within their discretion, whether a report of an error or omission sufficiently justifies an amendment to the Survey Data Report. The Executive Director will notify States in writing of his or her decision within 10 business days of receipt of a timely submitted written notification. Written notification will be deemed timely if submitted to the EAC no later than 30 calendar days following the EAC's adoption of the report in question. The Executive Director's determination may be appealed pursuant to the appeals process described below.

If the Executive Director determines that a reported error or omission is the direct result of an EAC action or failure to act, the EAC will:

- Provide written notification to the State's Congressional delegation of the corrected or additional data;
- Include in the EAC's weekly email to stakeholders a statement indicating that corrected or additional data are available; and
- Place a notation along with corrected or additional data on the EAC's website page containing the survey data.

If the Executive Director determines that a reported error or omission is not a direct result of an EAC action or failure to act, the EAC will:

- Provide the State with the opportunity to post on the EAC's website a link to the additional data, which must reside on the State's own website.

Appeal of Executive Director's Determination Concerning Errors or Omissions

If a State disagrees with the Executive Director's determination that a reported error or omission is not a direct result of an EAC action or failure to act, the Chief State Election Official (or individual who certified the final survey submission, if not the Chief State Election Official) may send a request for reconsideration to the EAC's Commissioners. A State wishing to appeal the Executive Director's determination must submit a written request for reconsideration within 14 calendar days of the date on the letter notifying the State of the Executive Director's decision. The Commissioners' review will be limited to the contents of the State's survey file and associated documentation; and may not include arguments or facts that could have been made available to the Executive Director during his or her review. The Commissioners' decision on appeal will be limited to a review of whether the Executive Director's determination was clearly erroneous or not supported by the contents of the State's survey file and associated documentation.

Written requests for reconsideration must include the following information to be considered:

- Name and contact information of the individual requesting the appeal;
- A statement indicating the elements of the Executive Director's determination that are clearly erroneous or not supported by the facts or circumstances; and
- As appropriate, documents or correspondence that support the State's assertion of an erroneous or unsupported decision.

All requests shall be sent to the Chair, U.S. Election Assistance Commission, 1201 New York Avenue, NW, Suite 300, Washington, DC 20005, ATTN: Election Administration and Voting Survey Correction Appeal. The request can also be sent electronically to HAVAinfo@eac.gov with the subject line "Election Administration and Voting Survey Correction."

Supplementation of Survey Data Pursuant to Enforcement Action

Occasionally, State Attorneys General or the U.S. Department of Justice (DOJ) may initiate enforcement actions concerning the data the EAC collects in its survey. Often, these actions are intended to ensure compliance with States' reporting obligations under the NVRA or UOCAVA.

Upon notification by the Chief State election official (or his or her designee); or the proper law enforcement official; of a final action in a State or Federal court of competent jurisdiction that results in additional NVRA or UOCAVA data, the EAC will append its survey data to include data recovered or reported as a result of such an enforcement action. For purposes of this provision, an official of a law enforcement agency will be considered the proper requester if he or she is a State Attorney General (or his or her designee) or the Chief of the Voting Rights Section of DOJ (or his or her designee).

EAC will consider requests from other law enforcement agencies to append the survey data on a case by case basis. Determinations concerning enforcement actions that are decided on a case by case basis will initially be made by the Executive Director and may

be appealed by using the same process outlined in the “Appeal of Executive Director’s Determination Concerning Errors or Omissions” section above.

Written notification must include the following information:

- Name and contact information of the individual providing the written notification;
- The year for which additional or corrected data has been collected (i.e. 2006, 2008, 2010);
- A citation to the enforcement action that resulted in additional survey data; and
- A database containing the additional survey data that the requestor wants the EAC to include in the survey. In the alternative, the requestor may provide a link to court documents or similar official findings that contain this information.

All requests shall be sent to the Executive Director, U.S. Election Assistance Commission, 1201 New York Avenue, NW, Suite 300, Washington, DC 20005, ATTN: Election Administration and Voting Survey Correction. The request can also be sent electronically to HAVAinfo@eac.gov with the subject line “Election Administration and Voting Survey Correction.”

Upon receipt of written notification that an enforcement action has resulted in additional or corrected data, the EAC will:

- Include in the EAC’s weekly email to stakeholders a statement indicating that corrected or additional data are available; and
- Place a notation along with corrected or additional data on the EAC’s website page containing the survey data.

A Note on EAC Final Reports

After a report has been written and adopted by the EAC, no changes to that report may be made. That is, no new report will be designed, printed, and issued (electronic or hardcopy). However, if the Executive Director determines that an error or omission was directly attributable to an EAC action or lack of action, the EAC will include an errata sheet with corrections for any hard copy reports it has available. The errata sheet for electronic versions of the report will be placed on the EAC website. Similarly, upon receipt of written notification that an enforcement action has resulted in additional or corrected data, the EAC will include an addendum for any hard copy reports it has available. The addendum for electronic versions of the report will be placed on the EAC website.

Effective Date

This policy becomes effective on May 11, 2010 and supersedes all previous versions.