



U. S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

September 29, 2004

VIA FACSIMILE

The Honorable Nancy Worley
Secretary of State
State Capitol, Room S 105
600 Dexter Avenue
Montgomery, AL 36104

Re: Potential Ballot Delays to Overseas Voters

Dear Secretary Worley:

On July 21, 2004, the Department of Defense and the Department of Justice sent you a letter regarding compliance with the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), 42 U.S.C. §§ 1973ff to 1973ff-6. That letter discussed, among other things, the deadlines for preparing and transmitting ballots to overseas civilian and military voters in time for the November 2 General Election. As we fast approach those deadlines, the Department of Justice seeks your cooperation in ensuring full compliance with UOCAVA.

Pursuant to UOCAVA, qualified overseas civilian and military voters who have applied for an absentee ballot by the 30th day before a federal election must be given an opportunity to vote by absentee ballot. To effectuate this right, election officials must mail absentee ballots to such voters sufficiently in advance of the election to allow them a fair opportunity to cast a valid ballot. The Federal Voting Assistance Program of the Department of Defense (FVAP) strongly recommends allowing 45 days to ensure voters have time to receive, cast and return the ballots by the applicable state deadlines. Studies conducted by federal postal authorities have established that a *minimum* of 30 days is necessary for the round-trip transit of absentee ballots mailed to overseas voters and then sent back to election officials.

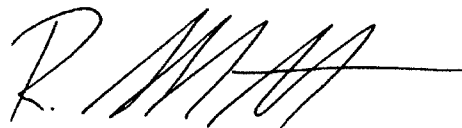
In our prior letter we noted our willingness to assist you in complying with UOCAVA and suggested a number of actions that you could undertake to ensure that absentee ballots are available to overseas voters in time for the fall election, e.g., expedited delivery, electronic transmission, etc. The Department of Justice remains

ready to assist you in complying with this federal statute. However, we will not hesitate to take legal action if necessary to make sure that overseas voters are not disenfranchised.

A recent Department of Defense survey of selected counties in some states has indicated that not all jurisdictions have mailed their absentee ballots. To aid us in our enforcement efforts, we ask that you please advise us by October 1, 2004, whether your State's absentee ballots have been sent out on time and in compliance with UOCAVA. If necessary, we would ask you, as your state's chief election official, to conduct a survey of local election officials to determine whether absentee ballots have actually been sent out. If we can answer any questions, do not hesitate to contact Rebecca Wertz in our Voting Section at (202) 514-6342.

We appreciate your prompt attention to this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Alexander Acosta', with a long horizontal line extending to the right.

R. Alexander Acosta
Assistant Attorney General