

# State of Wisconsin \ Government Accountability Board

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## MEMORANDUM

**DATE:** March 23, 2012

**TO:** Wisconsin County Clerks  
Milwaukee County Election Commissioners  
Wisconsin Municipal Clerks  
City of Milwaukee Election Commissioners

**FROM:** Nathaniel E. Robinson  
Elections Division Administrator

**SUBJECT:** 2012 Federal Consent Decree Regarding Wisconsin's Compliance with the Military and Overseas Voter Empowerment (MOVE) Act

Today, the federal court for the Western District of Wisconsin entered an order based upon the admitted failure of several municipalities across the state to transmit absentee ballots to military and overseas electors in a timely manner as required by federal law. The order is a consent decree reached by the U.S. Department of Justice and the Government Accountability Board, with the assistance of the Wisconsin Department of Justice. The approved court order is designed to ensure that military and overseas electors will have sufficient time to receive and transmit absentee ballots. The Government Accountability Board has been in discussions with the U.S. DOJ to reach an agreement that would satisfy its concerns and also create a solution that could be realistically achieved by state and local election officials.

Attached is an order issued by the Government Accountability Board to ensure compliance with the MOVE Act and the Federal court order, which requires several changes to procedures followed by municipal and county election officials for the April 3, 2012 Spring Election and Presidential Preference Primary, with regard to processing absentee ballots of military and overseas electors. The order also requires ongoing reporting and periodic certifications from all municipalities, regardless of whether they were at fault in the present situation, for the remaining federal elections of 2012.

Please find below an outline of the impact of the consent decree on local election officials. We appreciate that these changes and new reporting duties required by the federal court order are coming late in the process, but unfortunately they are necessary due to the noncompliance of a small number of municipal clerks in Wisconsin. The G.A.B. shares the concern of the federal government that every military and overseas voter should have sufficient time to receive and transmit an absentee ballot, and we appreciate that the vast majority of municipal clerks are conscientious about satisfying the mandates of the MOVE Act. Thank you for assistance in complying with the attached order.

### **Impacts of the Consent Decree on All Municipal Clerks**

1. All municipal clerks must respond to a survey no later than June 28, 2012, regarding the readiness of the municipality to send out absentee ballots to military and overseas electors for the August 14, 2012 Partisan Primary and the November 6, 2012 General Election. The survey will include:
  - a. Whether the municipal clerk has the technical capacity to transmit all requested ballots by the requested method of transmission.
  - b. Whether the municipal clerk anticipates any difficulties or a situation that would prevent him or her from transmitting all requested ballots to military and overseas voters by the requested method of transmission by the respective deadlines.
  - c. What measures the municipality will implement to address any difficulties or obstacles to transmitting all requested ballots to UOCAVA voters by the requested method and by the appropriate deadlines.
  - d. Whether additional support from G.A.B. is necessary to ensure the deadline is met.
  
2. Municipal clerks must provide a written or electronic certification no later than July 2, 2012, that contains the following:
  - a. The number of absentee ballot applications received for the Partisan Primary on or before June 30, 2012, from military and overseas electors.
  - b. The method of transmission requested (mail, fax, or email) by each military or overseas elector for applications received on or before June 30, 2012.
  - c. The date that the municipal clerk began sending absentee ballots to military and overseas electors for the Partisan Primary.
  - d. The date that the municipal clerk sent each absentee ballot to military and overseas electors with applications received no later than June 30, 2012.
  - e. The method of transmission (mail, fax, email) for each ballot sent to military and overseas electors with applications received no later than June 30, 2012.
  - f. An affirmative declaration that all military and overseas ballots requested for the Partisan Primary by June 30, 2012, were transmitted by the method requested no later than June 30, 2012.
  
3. Municipal clerks must provide a written or electronic certification no later than July 16, 2012, that contains the following:
  - a. The number of absentee ballot applications for the Partisan Primary received after June 30, 2012, but on or before July 15, 2012, from military and overseas electors.
  - b. The method of transmission requested (mail, fax, or email) by each military or overseas elector for applications received after June 30, 2012, but on or before July 15, 2012.
  - c. The date that the municipal clerk sent each absentee ballot for the Partisan Primary to military and overseas electors with applications received after June 30, 2012, but on or before July 15, 2012.
  - d. The method of transmission (mail, fax, email) for each ballot sent to military and overseas electors with applications received after June 30, 2012, but on or before July 15, 2012.
  - e. An affirmative declaration that all military and overseas ballots requested by after June 30, 2012, but on or before July 15, 2012, were transmitted promptly by the method requested.
  
4. Municipal clerks must provide a written or electronic certification no later than September 24, 2012, that contains the following:
  - a. The number of absentee ballot applications received for the General Election on or before September 22, 2012, from military and overseas electors.

- b. The method of transmission requested (mail, fax, or email) by each military or overseas elector for applications received on or before September 22, 2012.
  - c. The date that the municipal clerk began sending absentee ballots to military and overseas electors for the General Election.
  - d. The date that the municipal clerk sent each absentee ballot to military and overseas electors with applications received no later than September 22, 2012.
  - e. The method of transmission (mail, fax, email) for each ballot sent to military and overseas electors with applications received no later than September 22, 2012 for the General Election.
  - f. An affirmative declaration that all military and overseas ballots requested by September 22, 2012, were transmitted by the method requested no later than September 22, 2012.
5. Municipal clerks must provide a written or electronic certification no later than October 8, 2012, that contains the following:
- a. The number of absentee ballot applications for the General Election received after September 22, 2012, but on or before October 7, 2012, from military and overseas electors.
  - b. The method of transmission requested (mail, fax, or email) by each military or overseas elector for applications received after September 22, 2012, but on or before October 7, 2012.
  - c. The date that the municipal clerk sent each absentee ballot for the General Election to military and overseas electors with applications received after September 22, 2012, but on or before October 7, 2012.
  - d. The method of transmission (mail, fax, email) for each ballot sent to military and overseas electors with applications received after September 22, 2012, but on or before October 7, 2012.
  - e. An affirmative declaration that all military and overseas ballots requested after September 22, 2012, but on or before October 7, 2012, were transmitted promptly by the method requested.

#### **Impact of the Consent Decree on County Clerks**

By June 27, 2012 and September 19, 2012, each county clerk shall respond to a G.A.B. survey to certify that each municipality in the county has received a sufficient number of printed absentee ballots to fulfill the requests submitted by UOCAVA voters in advance of the 45-day deadlines for ballot transmission for the Partisan Primary and the General Election, which are June 30, 2012 and September 22, 2012, respectively.

#### **Special conditions for municipalities that failed to report when they sent military and overseas ballots for the April 3, 2012 election:**

1. All municipal clerks must respond to the recent G.A.B. survey requesting information regarding the number of UOCAVA ballot requests received by February 18, 2012 and the dates on which those ballots were transmitted. Any clerk who has not yet responded must contact the G.A.B. Help Desk at 608-261-2028 **immediately** to provide the information requested.
2. If the survey response indicates that absentee ballots were sent to military and overseas electors late, the municipality must comply with the special conditions below for municipalities that sent ballots late.

#### **Special conditions for municipalities that sent military and overseas ballots late for the April 3, 2012 election:**

1. The deadline for receipt of ballots from military and overseas electors for the April 3, 2012 Spring Election and Presidential Preference Primary is extended beyond April 3, 2012 by the total number of days past February 18, 2012, that the municipal clerk transmitted the requested ballots to give a minimum of 45 days transit time. Please see the below chart:

Sent Ballot	Receipt Deadline
2/19/2012	4/6/2012
2/20/2012	4/6/2012
2/21/2012	4/6/2012
2/22/2012	4/7/2012
2/23/2012	4/8/2012
2/24/2012	4/9/2012
2/25/2012	4/10/2012
2/26/2012	4/11/2012
2/27/2012	4/12/2012
2/28/2012	4/13/2012

Sent Ballot	Receipt Deadline
2/29/2012	4/14/2012
3/1/2012	4/15/2012
3/2/2012	4/16/2012
3/3/2012	4/17/2012
3/4/2012	4/18/2012
3/5/2012	4/19/2012
3/6/2012	4/20/2012
3/7/2012	4/21/2012
3/8/2012	4/22/2012
3/9/2012	4/23/2012

Sent Ballot	Receipt Deadline
3/10/2012	4/24/2012
3/11/2012	4/25/2012
3/12/2012	4/26/2012
3/13/2012	4/27/2012
3/14/2012	4/28/2012
3/15/2012	4/29/2012
3/16/2012	4/30/2012
3/17/2012	5/1/2012
3/18/2012	5/2/2012
3/19/2012	5/3/2012

2. Municipal clerks must contact their military and overseas electors by email/fax to advise them of the following:
  - a. If they have not received their ballot, they may choose to receive their ballot by fax or email instead of by mail to expedite delivery.
  - b. The deadline to vote and send their ballot back is April 3, 2012.
  - c. The deadline for receipt of their voted ballot has been extended to the applicable extended receipt deadline (see above).
  - d. The procedure if the elector returns multiple ballots, i.e., any ballot received by April 6<sup>th</sup> will be counted in full and any subsequent ballots rejected; and if multiple ballots are received after April 6<sup>th</sup>, but before the extended deadline, one ballot will be counted for President-only and any additional ballots rejected (additional instructions are enclosed).
  - e. The clerk's and G.A.B.'s contact information, if they have any questions or need assistance.
  
3. The Municipal Board of Canvassers must meet on or after their respective extended deadline to process any late-arriving military or overseas absentee ballots and update the results of the Presidential Preference accordingly. This meeting is only required if late-arriving military or overseas ballots are received after April 9, 2012. Amended results must be immediately conveyed to the County Clerk.
  
4. Municipal clerks must respond to a G.A.B. survey no later than May 11, 2012, regarding the number of military and overseas absentee ballots sent, received, and counted for the Presidential Preference Primary. The response must include:
  - a. The number of absentee ballots from military or overseas electors received by the municipal clerk on or before April 6, 2012, and counted.
  - b. The number of absentee ballots from military and overseas electors received and counted after April 6, 2012, but prior to any applicable extended.
  - c. The number of absentee ballots from military and overseas electors received later than applicable deadline.
  - d. The number of absentee ballots from military and overseas electors that were not counted in the April 3, 2012 election, for reasons other than late receipt and the specific reason the ballot was not counted.