

State of Wisconsin\Government Accountability Board

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JUDGE TIMOTHY L. VOCKE
Chair

KEVIN J. KENNEDY
Director and General Counsel

February 7, 2013

Logan Churchwell
Group for Change
P.O. Box 27368
Houston, TX 77227

Dear Mr. Churchwell:

Several Wisconsin County Clerks recently received a public records request from you. Because elections in Wisconsin are highly decentralized we would like to provide some clarification on the availability of the requested information. The Freedom of Information Act (FOIA) does not apply to the requests. Instead it should be treated as a public records request pursuant to Wis. Stats. § 19.31-19.39.

For each item requested below, we provide an explanation regarding options for obtaining that information. You are free to request data from individual municipalities, but it may be more efficient and less costly to obtain some of the data from our office.

1. *A full and complete list of all voters who participated in "Same Day Registration" (i.e. - registering at a polling place) for the period of Early Voting and on Election Day, as applicable.*

This information can be obtained by submitting a Voter Data Request (GAB-361 form). Wis. Stats. § 6.36(6) requires a fee for obtaining data from the Statewide Voter Registration System (SVRS), and G.A.B. Administrative rules identify those costs. There is a \$25 dollar charge, plus \$5 per 1,000 names. If the file is purchased from the state, you would only need to pay the \$25 fee once. Purchasing the information from each county/municipality would require paying the \$25 to each county/municipality. The form and additional information about that process is available on the G.A.B. website here:
<http://gab.wi.gov/clerks/svrs/voter-data>.

2. *A full and complete list of those "Same Day Registration" (from above) that have been returned to your office as undeliverable by the United States Post Office for any reason and include the reason they were returned.*

This would also be a data request. The G.A.B. could provide a list of all voters who were sent a verification postcard and the date that mailing was generated. Because the postcards are sent by the G.A.B. but with a return address for the municipal clerk, each municipality would have to be contacted to identify those that were returned undeliverable. The municipalities could also provide copies of the returned undeliverable postcards.

3. *A full and complete list of all voters who voted by mail or absentee ballot.*

This would also be a data request. G.A.B. could provide a list of absentee voters for all municipalities that use SVRS to track absentee ballots. Municipalities are not required to track all absentee ballots in SVRS, but are required to track absentee ballots issued to military

and permanent overseas. The G.A.B. could provide a list of municipalities that did not track any absentee ballots in SVRS which could be contacted individually.

4. *A full and complete list of all voters who voted a provisional ballot including precinct location, reason for provisional ballot and whether the provisional ballot was counted or not.*

This would also be a data request. All municipalities are required to enter provisional ballots and the status of each in a statewide database, in compliance with the Help America Vote Act of 2002 (HAVA). This information could be provided by each municipality or by the G.A.B.

5. *The number of poll watchers present on Election Day in each voting location broken out by polling location and the name of the stakeholder the poll watcher was representing.*

Each municipality should be able to provide a copy of the observer logs, which would include the name and affiliated organization (if applicable) for each polling place. Please note that under public records request laws, the county and municipal clerks would not be required to create a new document. The G.A.B. does not have this information.

6. *Copies of any and all reports related to Poll Watchers or Election Observers submitted on Election Day.*

Each county or municipality should be able to provide any applicable documents they may have.

7. *Copies of any and all reports of suspected "Voter Fraud" submitted on Election Day.*

Each county or municipal clerk should be able to provide any applicable documents they might have to the extent that those documents are determined to be subject to the Public Records Law. However, please note that any G.A.B. records regarding any ongoing investigation are exempt from public disclosure per Wis. Stats. §§5.05(5s) and 12.03(5).

We hope that the information provided in this letter will help you obtain the request information in the most efficient method possible. Please feel free to contact us at (608) 261-2028 or GAB@wi.gov, if there is anything else we can do to assist you.

Sincerely,



MICHAEL HAAS
Elections Division Administrator
Government Accountability Board

cc: Kevin J. Kennedy
Director and General Counsel

Wisconsin Municipal Clerks
Wisconsin County Clerks
City of Milwaukee Election Commission
Milwaukee County Election Commission