



20 July 2010

Dawn K. Roberts, Interim Secretary of State
Florida Department of State
R.A. Gray Building
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Roberts,

Re. Cyber Security and the Return of Voted UOCAVA Ballots by Electronic Transmission

Thank you for your response to our 13 July letter. While there are a number of our questions skipped or for which we would have appreciated more direct answers, we appreciate that it is a very busy time in your office, and confine this follow-up to only one area that appears to remain in active transition.

We asked the following questions, none of which were answered:

“2a. Expanding electronic transmission of voted ballots

11. Is the Department attempting to expand the use of electronic transmission of voted ballots?
12. If so, does it intend to rely upon an amended 1S-2.030 FAC for the expansion?
13. Does the Department consider the prerequisite in s 101.697 F.S., for the Department to first determine secure means, to have been met?
14. If so, please supply documentation of that prerequisite having been met and the date that occurred.
15. Does the Department consider a scanned ballot image, received via email, complies with the definition of “marksense ballot” in Chapter 97 F.S.?”

You began your reply by mentioning the federal MOVE Act and Chapter 2010 Florida law. While difficult to follow your reply, it seems you conflate “electronic transmission of ballots” with “facilitating the delivery and return of absentee ballots.” You wrote:

“In regards to the section on electronic transmission of ballots - recently enacted federal and state law (the Military and Overseas Voting Act and Florida chapter law 2010-167) focused on facilitating the delivery and return of absentee ballots for voters subject to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). Based on those laws, the Department re-examined its rules to implement and further that goal.”

As we have previously pointed out, please note that neither the MOVE Act nor 2010-167 ordain expanded *return of voted ballots* by electronic transmission. Both laws require facilities for electronic transmission of *blank* ballots, tracking and other information – but clearly do not sanction electronic return of voted ballots.

Nonetheless, your reply seems to indicate you are relying on those laws to pursue “the proposal to allow the return of voted absentee ballots by e-mail,” as you put it. Again, your reply is difficult to comprehend but appears to refer to our inquiry about Department’s announcement to the FSASE IT users group in May, that email voting for UOCAVA voters would be allowed in Florida for the November 2010 general election.

Therefore, we are at a loss to understand any answer to questions 11 and 12 above.

Questions 13 and 14 refer to the prerequisite in s 101.697 F.S. that the Department establish “secure means” before promulgating a rule to accept voted ballots by electronic transmission. Rule 1S-2.034, as published in September 2007, is reliant on this prerequisite, as well as any further amendment to it that contemplates return of voted ballots by electronic transmission.

We’ve asked multiple times in the past for documentation of the Department’s compliance with this prerequisite. Each time the Department has ignored those requests. With all respect, please consider this a demand, under Chapter 119, for documentation of any such finding, relied upon for the 2007 amendment, or subsequent rulemaking further to electronic transmission of voted ballots, further to s 101.697. If none exists for either the 2007 amendment, or for subsequent rulemaking, please confirm that to be the case.

Finally in question 15 we ask a straightforward question about a scanned ballot image complying with Florida’s definition of a marksense ballot.

Again, we would be most grateful if you would provide clear, direct answers to the five questions above, or say why not, so no more time than necessary is taken with these inquiries. If you consider

them unreasonable for any reason, please say what that reason is. We very much appreciate your service and your time.

Very truly yours,



Dan McCrea, President
Florida Voters Foundation

Previous correspondence in this exchange:

7 July: [FVF letter to SoS](#)

12 & 13 July: [Email exchange FVF and DoS](#)

13 July: [FVF letter to SoS](#)

20 July: [SoS letter to FVF](#)

cc Governor Charlie Crist
Attorney General Bill McCollum
Senate President Designee, Senator Mike Haridopolos
Speaker of the House Designee, Representative Dean Cannon
Hon. Gwen Chandler, President, Florida State Association of Supervisors of Elections