Jose Morales v. Karen Handel
USDC/NDGA/Atlanta
1:08-CV-3172 JTC

PART 1 OF 3
OF
EXHIBIT 4

VOTING RIGHTS SUBMISSION 2008-15
(PLUS ALL VRA EXHIBITS)
Information of Person Making Submission

Submission ID: 1285  Submission Time: 2008-10-14 09:50:27
Name: Dxxxxx R. Dxxx  Title: DEPUTY ATTORNEY GENERAL
Street: xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
City: ATLANTA  State: Georgia  Zipcode: 30334
Phone: (404) 656-5614  Email: xxxxxxxx@law.ga.gov

Jurisdiction Covered by Submission

Name of Submitting Jurisdiction/Entity  State of Georgia/Attorney General
In what state is your jurisdiction located?  Georgia
In what county  APPLING
Jurisdiction Affected  If not from list, then enter jurisdiction:

Detail of Change Submitted

28 CFR §51.27 & 51.28(h)
Each submission should contain the following information or documents to enable the
Attorney General to make the required determination pursuant to section 5 with respect
to the submitted change affecting voting:

a. A copy of any ordinance, enactment, order, or regulation embodying a change
affecting voting.

Pursuant to the request of October 8, 2008, the State of Georgia is submitting for
preclearance a process developed pursuant to the Help America Vote Act of 2002.
When an individual registers to vote or changes a critical piece of identifying
information, data from the statewide voter registration database is verified with the
driver\(\text{\textcopyright}\)s license database maintained by the Department of Driver Services
(DDS). Among other pieces of information, one element of this data verification for
voter eligibility purposes includes a verification of (1) the citizenship information
provided on registering to vote with (2) the citizen information provided upon
obtaining a state driver\(\text{\textcopyright}\)s license or identification card. The process is explained
in greater detail in the attached letter from the Attorney General which is
incorporated by reference herein.

b. A copy of any ordinance, enactment, order, or regulation embodying the voting
practice that is proposed to be repealed, amended, or otherwise changed.

Prior to the use of the HAVA data verification process, Georgia required voter
registrants to provide a full nine-digit social security number. However, after
litigation that process was invalidated and has been replaced with the current
system. This situation is explained in greater detail in the attached letter and is
incorporated by reference herein.

c. A clear statement of the change explaining the difference between the submitted
change and the prior law or practice, or explanatory materials adequate to disclose
to the Attorney General the difference between the prior and proposed situation with
respect to voting.

The purpose of this verification system is to comply with HAVA and state law to
verify the information provided by an individual on registering to vote in order to
determine voter identity and eligibility to vote. This purpose is explained in greater
detail in the attached letter and is incorporated by reference herein.

d. Identification of the person or body responsible for making the change and the mode
of decision (e.g. act of state legislature, ordinance of city council, administrative
decision by the registrar).

The Secretary of State, as the State\(\text{\textcopyright}\)s chief election official, is charged with
maintaining the statewide voter registration database. This includes maintaining the
data verification process between the registration list and the DDS. However, the
Secretary is not a voter registrar and does not actually register voters nor add a
voter\(\text{\textcopyright}\)s name to the registration list. That function is performed by local county
voter registrars. The Secretary also does not challenge the registration of local
voters. That function is also performed by local voter registrars. This process is also
addressed in the attached submission letter incorporated by reference herein.
e. A statement identifying the statutory or other authority under which the jurisdiction undertakes the change and a description of the procedures the jurisdiction was required to follow in deciding to undertake the change.

The Secretary has implemented this process pursuant to HAVA. The process is also consistent with the requirements of Georgia law. This situation is explained in greater detail in the attached letter and is incorporated by reference herein.

f. A statement that the change has not yet been enforced or administrated, or an explanation of why such a statement cannot be made.

As previously discussed, this system has been implemented under the belief that it was required pursuant to HAVA. This situation is explained in greater detail in the attached letter and is incorporated by reference herein.

g. Where the change will affect less than the entire jurisdiction, an explanation of the scope of the change.

The change will affect the entire State of Georgia.

h. A statement of the reasons for the change.

The purpose of the data verification process is to comply with HAVA and federal and state law to verify data provided by voter registrants by comparing the information provided with information provided to the DDS. This verification process is to assure the identity and eligibility of voters and to prevent fraudulent or erroneous registrations. This situation is explained in greater detail in the attached letter and is incorporated by reference herein.

i. A statement of the anticipated effect of the change on members of racial or language minority groups. In addition, per §51.28(f), include the names, addresses, daytime telephone numbers, and organizational affiliation (if any) of racial and language minority group members residing in the jurisdiction who can be expected to be familiar with the proposed change or who have been active in the political process.

Because the HAVA verification and citizenship requirements addressed through this process are race neutral, it is not anticipated that this verification process will adversely impact minority voters in Georgia. The minority contact person is identified in the attached letter incorporated by reference herein.

j. A statement identifying any past or pending litigation concerning the change or related voting practice.

There is currently pending the case of Morales v. Handel, Civil Action No. 1:08-CV-3172, in the U.S. District Court for the Northern District of Georgia, Atlanta Division. A copy of that complaint is attached to this submission.

k. For redistricting and annexations: the items listed under §51.28(a)(1) and (b)(1); for annexations only: the items listed under §51.28(c)(3).

Not applicable.

l. Other information that the Attorney General determines is required for an evaluation of the purpose or effect of the change. Such information may include items listed in §51.28 and is most likely to be needed with respect to redistrictings, annexations, and other complex changes. In the interest of time such information should be furnished with the initial submission relating to voting changes of this type. When such information is required, but not provided, the Attorney General shall notify the submitting authority in the manner provided in §51.37.

A detailed submission letter is attached to this submission and is incorporated by reference herein. Additionally, a number of documentary exhibits are also provided in support of the submission. EXPEDITED REVIEW is requested due to the upcoming November 4 election.

Attachments

The following attached files provide additional information for this submission. Following the file name is the file’s current status.

- DunnVRA Submission 2008-15 - Citizenship and Registration VerificationGa Exh. A-1 - Sec of State and DDS Agreement.pdf - Success
- DunnVRA Submission 2008-15 - Citizenship and Registration VerificationGa Exh. A-4 - DDS SSN Agreement.pdf - - Success
- DunnVRA Submission 2008-15 - Citizenship and Registration VerificationGa Exh. B-4 - Cobb County Data Verification List.pdf - Success
- DunnVRA Submission 2008-15 - Citizenship and Registration VerificationGa Exh. A-1 - Sec of State and DDS Agreement.pdf - Success
- DunnVRA Submission 2008-15 - Citizenship and Registration VerificationGa Exh. A-4 - DDS SSN Agreement.pdf - Success
- DunnVRA Submission 2008-15 - Citizenship and Registration VerificationGa Exh. B-4 - Cobb County Data Verification List.pdf - Success

Additional Information Submission

Name: DENNIS R. DUNN/GEORGIA AG

Submission ID: 1285

Comment: You have already assigned this a file number, which I believe is 2008-5243. Additionally, there are two more exhibits that I wish to send to you but the electronic form would not permit me to submit them. They are Exhibit C (a copy of the Morales v. Handel) complaint and Exhibit D (a copy of the newspaper notice of the submission being made). I will be glad to separately email them to you or to fax them. To assure that you have everything, I am also sending by Fed. Express a hard copy of this submission.
October 14, 2008

SUBMISSION UNDER SECTION 5
OF THE VOTING RIGHTS ACT

FILED BY DOJ ELECTRONIC FILING SYSTEM
EXPEDITED REVIEW REQUESTED

Mr. Christopher Coates
Chief, Voting Section
Civil Rights Division
Room 7254 – NWB
Department of Justice
1800 G Street, N.W.
Washington, D.C. 20006

Re: State of Georgia Section 5 Submission No. 2008-15:
DOJ File No. 2008-5243.
Voter Registration and Citizenship Confirmation Data Matching
Verification, Voter Eligibility and Information Use Process.

Dear Mr. Coates:

As you know, over the past several weeks you and your staff have been working with my staff and the Office of the Secretary of State to address concerns or questions that have arisen regarding the voter registration process in Georgia. I thank you and your staff for your professionalism and cooperation during those discussions.

During those talks, questions were raised regarding the comparison of information collected from an applicant to register to vote and information contained in the State’s driver’s license database maintained by the Department of Driver’s Services (DDS). In particular, these discussions focused on the comparison of the data for verification of citizenship information provided when registering to vote. Ultimately, by letter dated October 8, 2008, you recounted those concerns and asked that the State submit this process for review and preclearance under Section 5 of the Voting Rights Act of 1965, as amended (42 U.S.C. § 1973c). It is the intent of this letter to submit all aspects of this process for review and preclearance by the U.S. Attorney General pursuant to Section 5.
Expedited review is requested for this submission pursuant to 28 C.F.R. § 51.34 because the November 4, 2008 general election is imminent and questions as to the qualifications and eligibility of voters need to be resolved prior to that election and because, as noted below, litigation is currently pending in the United States District Court for the Northern District of Georgia which in part addresses the question of whether this process has been submitted and precleared by the U.S. Attorney General.

As indicated above, though, the circumstances surrounding this submission have been somewhat unusual. Given this, I think it would be helpful to provide some background on the State’s actions and position in relation to the questions presented and in relation to the submission being made here.

The Georgia process involved in this submission provides that when a person registers to vote, or when a voter changes some specific, critical information regarding his or her voter registration, the Secretary of State’s office attempts to verify the applicant’s personal information through a “data match” with information on file with the DDS. One piece of data that is provided by an applicant for registration is whether he or she is a U.S. citizen. When an individual applies for a driver’s license or DDS issued identification card in Georgia, the law requires that the person provide proof of either U.S. citizenship or, if the person is not a citizen, of lawful residence in the country. DDS maintains that citizenship data as a part of its database. Therefore, citizenship data provided by a registrant, just like other information such as address or date of birth, is verifiable with the DDS through a data-matching process. Additionally, if an applicant does not provide a Georgia driver’s license number but instead provides the last four digits of his or her social security number, then the DDS will also attempt to match that applicant’s record with information on file with the U.S. Social Security Administration (SSA).

An inquiry as to the citizenship of a registration applicant is consistent with provisions under Georgia law regarding both registering to vote and obtaining a driver’s license or an identification card from DDS. Under both the Georgia Constitution and provisions within the Georgia Election Code, a person must be a citizen of the United States in order to register and vote in Georgia. GA. CONST. Art. II, Sec. I, Para. II; O.C.G.A. § 21-2-216(a)(2). Applicants for registration are asked to provide citizenship information pursuant to O.C.G.A. § 21-2-220(b). Additionally, under Georgia law, only residents of

---

1 I understand that by letter dated October 10, 2008, you have separately inquired of the Georgia Secretary of State as to questions you have regarding the numbers of matches conducted by the DDS and the Social Security Administration over the past federal fiscal year and that the Secretary will be responding promptly to your inquiry.
the State of Georgia may obtain either a driver’s license or an identification card from DDS. O.C.G.A. § 40-5-20(a) (“Any person who is a resident of this state for 30 days shall obtain a Georgia driver’s license before operating a motor vehicle in this state.”); O.C.G.A. § 40-5-100(a) (“The department shall issue personal identification cards to all residents as defined in Code Section 40-5-1 who make application to the department . . . ”). As a part of the law defining who may be a “resident” under the motor vehicle code, the law provides that no person may be considered a resident unless that person is either a United States citizen or an alien with legal authorization from the U.S. government for his or her residency. O.C.G.A. § 40-5-1(15).²

This data matching process noted above is not one that was arbitrarily implemented by the State, but is instead the result of the passage and implementation of the Help America Vote Act of 2002, 42 U.S.C. § 15301 through 15544, otherwise known as HAVA. Among other provisions, this federal law mandates that the Secretary of State, as Georgia’s chief election official, maintain a statewide computerized voter registration list. 42 U.S.C. § 15483. Additionally, HAVA (along with the National Voter Registration Act of 1993 [NVRA], 42 U.S.C. § 1973gg-4), provides that individuals may register to vote by use of a mail-in voter registration application which must be accepted by the state. 42 U.S.C. § 15483(b).

However, in addressing this mail-in voter registration issue, HAVA provides additional requirements. Id. One of those additional requirements is that an applicant for registration must answer, “Are you a citizen of the United States of America?” 42 U.S.C. § 15483(b)(4)(A)(i). If an applicant answers “no” to that question, then the congressionally mandated registration form should not be completed or submitted for registration purposes. 42 U.S.C. § 15483(b)(4)(A)(iii). If the question is not answered at all, a registrar must notify the applicant and give him or her an opportunity to complete the form prior to the next Federal election, commensurate with any time limits for registration under state law. 42 U.S.C. § 15483(b)(4)(B).

Additionally, as a part of this system, HAVA prohibits a state from accepting for registration an application unless certain verifiable information is provided, if possible. 42 U.S.C. § 15483(a)(5). For an applicant who has a current and valid driver’s license, the applicant must provide his or her driver’s license number. 42 U.S.C. § 15483(a)(5)(A)(i)(I). For any other applicant, the applicant must provide the last four

² Acceptable documentation for these categories is identified under O.C.G.A. §§ 40-5-21.1 and 40-5-21.2. See also Georgia Department of Driver’s Services Website (http://www.dds.ga.gov/drivers/DLdata.aspx?con=1744173714&ty=dl) (Last visited October 11, 2008).
digits of his or her social security number. 42 U.S.C. § 15483(a)(5)(A)(i)(II). If an applicant has neither a current and valid driver’s license nor a social security number, only then may a state assign that applicant a unique voter registration number for identity purposes. 42 U.S.C. § 15483(a)(5)(A)(ii). It is up to the state “to determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph [of the Act], in accordance with State law.” 42 U.S.C. § 15483(a)(5)(A)(iii).

Once a state has collected either a driver’s license number or the last four digits of a social security number, HAVA then mandates that the state act to “verify the accuracy of the information provided on applications for voter registration.” 42 U.S.C. § 15483(a)(5)(B)(i). Specifically, HAVA requires:

The chief State election official and the official responsible for the State motor vehicle authority shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration.

Id. Additionally, HAVA requires that:

The official responsible for the State motor vehicle authority shall enter into an agreement with the Commission of Social Security under section 205(r)(8) of the Social Security Act.

42 U.S.C. § 15483(a)(5)(B)(ii). The Social Security Administration (SSA) may then verify the accuracy of information provided by a state’s motor vehicle authority “with respect to applications for voter registration, for whom the last 4 digits of a social security number are provided instead of a driver’s license number.” 42 U.S.C. § 15483(a)(5)(C) (amending the Social Security Act, 42 U.S.C. § 405(r)(8)(C)). This verification covers the first name, last name, date of birth, social security number and whether the identified individual is deceased. Id. amending 42 U.S.C. § 405(r)(8)(D)(i)(I).

The State of Georgia is HAVA compliant in that it has both of these mandated requirements in place. On May 23, 2007, the Secretary of State and the DDS entered into the required agreement providing for a verification of information provided by a Georgia resident for voter registration purposes. See Exhibit A-1 attached. This data specifically
includes (where applicable) an applicant’s first and last name, date of birth, the last four-digits of the applicant’s social security number and the applicant’s driver’s license number, as well as any other information identified for verification purposes. See Paragraphs 1 and 4 of Exhibit A-1. This information includes a verification of the citizenship data provided by the applicant. The understanding to include citizenship data was apparently made in November 2006 during the administration of the previous Secretary of State as a part of initial discussions on setting up the matching process. See Exhibit A-2. The business rules were outlined on a spreadsheet and describe the position and length of the various data fields to be matched, including citizenship.

Additionally, on April 23, 2007, the Chief of the Voting Section wrote to the Secretary of State inquiring as to whether the State was in compliance with HAVA by having in place an agreement between DDS and the SSA. See Exhibit A-3. On May 23, 2007, my staff responded on behalf of the Secretary with documentation showing that Georgia’s DDS had entered into the required agreement in order to comply with HAVA. Exhibit A-4.

The above described statutory framework, created both by federal and state law, has therefore created the following situation. When an individual applies to register to vote in Georgia, he or she must state whether he or she is a U.S. citizen. HAVA then mandates that this registration information be provided by the Secretary of State to the DDS in order to, “verify the accuracy of the information provided on applications for voter registration.” HAVA provides no additional guidance as to the specific information to be verified, but given that HAVA also requires the applicant to indicate U.S. citizenship on applying to vote, Congress must have intended that this citizenship data be considered as part of the “information provided on application for voter registration.” The DDS has the ability to verify the registration information provided, including whether the applicant has verified that he or she is a U.S. citizen. Thus, under the system designed by HAVA, the Secretary of State is providing citizenship data to DDS and DDS is verifying that citizenship data along with other information provided for voter registration purposes. It is the intention of the State to use this data verification system to both confirm identity and eligibility of persons to register and vote, including using the citizenship data contained within the system.

The result of this process, though, is that the information verification process produces prima facie data which shows that an applicant for registration may not be a U.S. citizen. This data is available to county voter registrars by virtue of their access to the HAVA-mandated statewide voter registration system. A county board of registrars is charged by law with assuring that a voter has the necessary qualifications to vote, which would include determining whether the voter is a citizen of the U.S. O.C.G.A. § 21-2-228(a). County registrars carry out that responsibility by reviewing the HAVA-mandated “information provided on application for voter registration.” The result of all of this is
that HAVA itself creates a situation where a voter registrar, in verifying the accuracy and qualifications of an applicant to register to vote, is then faced with data that shows that the applicant may not be a U.S. citizen and not eligible to either register or vote.

Under Georgia law, a process is established by which registrars may challenge the qualifications of an applicant, including providing notice to the applicant, holding a hearing and the right of an applicant to appeal an adverse decision. O.C.G.A. § 21-2-228. This is neither a routine form of "list maintenance" nor a systematic removal of voters, but is instead an individualized and particularized examination of a registrant’s qualifications to vote. If a registrar is faced with factual information that an applicant is not qualified to vote, whether that information comes from the HAVA-mandated data verification process or other reliable information provided such as an individual complaint or contradictory documentation, the registrar must as a matter of law address that question and determine whether the applicant is indeed qualified.

This is all that is happening under the process which is at the heart of your October 8 inquiry. By virtue of the federally created and mandated data match with DDS and the data that is available for verification purposes, evidence is being generated raising questions regarding the accuracy of information provided by an applicant. A voter registrar, in holding a hearing on this issue, is doing nothing more than addressing that verification issue which has been created under these circumstances as provided by state and federal law.

Given this situation, the State has not previously submitted these facts and processes for preclearance by the Attorney General. The State was acting under the good-faith belief that the processes in question were either mandated by Congress, and therefore not subject to the preclearance requirements of Section 5, or that the state-related actions were authorized under the Georgia Election Code, the provisions of which have been previously precleared. However, in order to clear up any outstanding issues in relation to this entire process, in my capacity as chief legal officer of the State of Georgia, pursuant to the Voting Rights Act of 1965, as amended (42 U.S.C. § 1973c), I hereby submit for preclearance the entire aforementioned data collection and matching process between the statewide voter registration database and the DDS database. This process will be used to determine whether a person may or may not be qualified to register to vote or to vote in Georgia and may lead to a voter’s qualifications being individually challenged by registrars.

These voter registration verification activities do not have the purpose or effect of abridging the right to vote or seek office on account of race, color or membership in a minority group and should, therefore, be precleared. 28 C.F.R. § 51.52(a).
For purposes of clarity and assuring that as much information is provided for your review as is possible in this time frame and in accordance with the required contents for submission set forth in 28 C.F.R. § 51.27, the State of Georgia hereby submits the following information with respect to this request.

(a) A copy of any ordinance, enactment, order, or regulation embodying a change affecting voting.

There is no new statutory or regulatory enactment submitted for preclearance in this submission. The entire process of the comparison of voter registration with data contained on the DDS database, as described above, is submitted for preclearance, including the use of citizenship data.

To the extent that there is documentation describing this process, please find attached as Exhibit B-1 the September 24, 2008, guidance memorandum provided by Mr. Wesley Tailor, who is the director of the Elections Division of the Office of the Georgia Secretary of State, to local county election officials, including the voter registrar of each of Georgia’s 159 counties. This memorandum describes the Secretary of State’s understanding of the operation of the matching system and guidance to the local election officials on how the system should operate.

Local election officials had previously been trained on the use and operation of this process. Copies of the training materials, provided to attendants at the August, 2007 and March, 2008 annual training conferences of the Voter Registrars Association of Georgia, are attached as Exhibits B-2 and B-3. These materials address this data matching process and other registration issues and also include reproduction of the computer screen views that registrars see when they access a voter registrant’s file.\(^3\) There is also a lack of clarity in the discussion of the citizenship verification data in that the materials do not specifically identify that the verification on citizenship comes only from the DDS and does not come from any activity of the Social Security Administration. Mr. Tailor’s September 24 memo was intended to clear up any misunderstandings in this context. To the extent that it deemed necessary that the Attorney General preclear the appearance of the local voter registrar’s computer screen in conducting his or her review of the results.

\(^3\) It is my understanding that these “screen shots” do not reflect the files of actual voters but are fictitious and created for the purposes of training examples.
of the data matching and verification process, those “screens” are also submitted for preclearance.

Additionally, the data verification process will be triggered under the statewide voter registration system if an existing registrant changes what is deemed a “critical” identifying field in his or her voter registration record. These critical fields include the voter’s first name, last name, date of birth, driver’s license number or last four digits of his or her social security number. All of these fields are deemed “critical” because they go to the very essence of the HAVA mandated data match and changes in these fields, which would normally remain static, may be significant indications of attempts to fraudulently register and vote.

As a part of the registration data verification process, a local voter registrar may access the Georgia statewide voter registration database, as noted above, and may also produce reports indicating the matching verification status of voter registrants. Those reports are identified in Mr. Tailor’s September 24 memorandum as the SSVRZ791R1 and SSVRZ791R2 reports. These reports are identical in format, with the “R!” version of the report showing matching results in all categories and the “R2” version of the report listing only those individuals who were described as “non-citizens” through the matching process. An example of one such report obtained from the Cobb County Board of Elections and Registration is attached as Exhibit B-4. To the extent that such reports, including their format and the information contained therein, are required to be submitted for preclearance, that request is made here as well.

Based upon a review of the data produced by the matching process outlined above, a voter registrar may challenge the qualifications of a voter pursuant to a registrar’s statutory duties under O.C.G.A. § 21-2-226 and in accordance with the statutory procedures outlined in O.C.G.A. § 21-2-228, including notice of a hearing, an opportunity to be heard and a right to appeal to a superior court. In following such a process, a registrar would provide written notice to a challenged registrant. To the best of my knowledge, the U.S. Attorney General has never taken the position that such written notices must also be specifically precleared under Section 5 of the Voting Rights Act. Such a requirement, essentially holding that the daily correspondence of election officials in 159 Georgia counties or through the Office of the Secretary of State could not be distributed without prior preclearance from the U.S. Attorney General, would be completely impractical if not impossible. Nonetheless, there have been
indications that some persons or groups feel that such approval is necessary or is necessary at least in relation to this particular process. Attached as Exhibit B-5 is an example of such a notice or challenge letter sent to a registrant as it relates specifically to the citizenship verification process. I do not believe that such correspondence is uniform throughout the state and offer it as demonstrative as one example of this communication. To the extent that it or other similar correspondence needs preclearance, it is offered for such here.

(b) A copy of any ordinance, enactment, order, or regulation embodying the voting practice that is proposed to be repealed, amended, or otherwise changed.

Prior to 2006, Georgia was exempt from the data matching and verification procedures required under HAVA because the State required that voters provide their full nine-digit social security number when registering to vote. See 42 U.S.C. § 15483(a)(5)(D). However, as you are aware from previous submissions, the State was prohibited from continuing this requirement through litigation. See Schwier v. Cox, 412 F. Supp. 2d 1266 (N.D. Ga. 2005), aff’d, 439 F.3d 1285 (11th Cir. 2006). Therefore from 2006 forward, the State moved forward to comply with the aforementioned requirements of HAVA for identification and verification of voter registrants. Because the State believed that the process provided under HAVA included the process included here, it was not previously submitted for preclearance.

(c) If the change affecting voting either is not readily apparent on the face of the documents provided under paragraphs (a) and (b) of this section or is not embodied in a document, a clear statement of the change explaining the difference between the submitted materials adequate to disclose to the Attorney General the difference between the prior and proposed situation with respect to voting.

The changes in practice, procedure or process have been described above and all such aspects of this issue are submitted for preclearance by the Attorney General.
(d) The name, title, address and telephone number of the person making the submission.

Thurbert Baker
Attorney General of Georgia
40 Capitol Square, S.W.
Atlanta, Georgia 30334-1300
404-656-3300

Please direct all communications to:

Dennis R. Dunn
Deputy Attorney General
40 Capitol Square, S.W.
Atlanta, Georgia 30334-1300
404-656-5614

(e) The name of the submitting authority and the name of the jurisdiction responsible for the change, if different.

The submitting authority is the Georgia Attorney General. The changes described would be implemented by the Secretary of State and local voter registrars.

(f) If the submission is not from a state or county, the name of the county and State in which the submitting authority is located.

Not applicable.

(g) Identification of the person or body responsible for making the change and the mode of decision (e.g., act of state legislature, ordinance of city council, administrative decision by registrar).

As described above, the data verification process is mandated under HAVA. To the extent that particular data is identified, including citizenship, for purposes of verifying eligibility to register or remain registered to vote, the guidance on this issue has been provided by the Secretary of State. Additionally, the Secretary is a party to the agreement for data verification with the DDS.
The Secretary of State, however, does not add voters’ names to nor remove their names from the statewide voter registration list, except in the instance of deceased voters pursuant to O.C.G.A. § 21-2-231(e). Local voter registrars perform this function. The local registrars will be the officials charged with determining whether a challenge to a voter’s qualifications, including citizenship, should be made and what proceedings should be undertaken in addressing any such challenge.

(h) **A statement identifying the statutory or other authority under which the jurisdiction undertakes the change and a description of the procedures the jurisdiction was required to following in deciding to undertake the change.**

Georgia has implemented the registration data verification system pursuant to HAVA, specifically 42 U.S.C. § 15483. To the extent that Georgia is seeking to verify the U.S. citizenship of voters, it is doing so pursuant to HAVA, as well as state law. Ga. Const. Art. II, Sec. I, Para. II; O.C.G.A. §§ 21-2-216(a)(2), 21-2-220(b), 21-2-226, 21-2-228. The actual implementation of the data verification process has been undertaken by the Office of the Secretary of State in conjunction with the Department of Driver Services. There have been no specific statutes passed or rules promulgated on this subject, as this is being accomplished pursuant to federal law and previously precleared state statutes.

(i) **The date of the adoption of the change affecting voting.**

As noted above, staff members of the former Secretary of State and the DDS discussed the data matching process in November 2006 and identified the fields that would be matched, including citizenship. The actual data sharing agreement between the Secretary of State and DDS was entered into on March 27, 2007. The agreement between DDS and SSA was agreed to by the Commissioner of SSA on April 23, 2007. As described above, it appears that the process has been addressed with local registrars as early as August of 2007. Mr. Tailor’s September 24 memorandum (**Exhibit B-I**) summarizes the current status of the Secretary’s understanding of the process.

(j) **The date on which the change is to take effect.**

As you know, the process was in effect at the time of your inquiry. However, I understand that Cobb County, which had been at the center of some of the controversy here, has suspended any further challenge
hearings. As noted below, a request for a temporary restraining order is currently pending in the United States District Court. Any such order entered by the Court would affect how this process proceeds in the future. As noted above, expedited preclearance is requested to permit its continued usage.

(k) **A statement that the change has not yet been enforced or administered or an explanation why such a statement cannot be made.**

As you know, the process is currently in effect. Expedited preclearance is requested to permit its continued usage. The development of this situation is described above.

(l) **Where the change will affect less than the entire jurisdiction, an explanation of the scope of the change.**

The change will affect the entire State of Georgia.

(m) **A statement of the reasons for the change.**

Federal and state law clearly provide that only U.S. citizens may register and vote in federal and state elections. HAVA has provided for a data verification process to be established between the Secretary of State and the DDS for purposes of verifying registration data. One such element of data that is available through both the voter registration and DDS databases is citizenship status. DDS maintains this information based upon the self-reporting and documentation provided by applicants for driver’s licenses and identification cards. To the extent that the data verification process is to be used for purposes of determining an individual’s eligibility to register or vote in Georgia, this data is readily available and provides a local voter registrar with relevant information to determine whether a person may be properly registered as a voter. The local registrar may then conduct an individualized and particularized fact-finding process to determine whether the individual in question is a U.S. citizen or otherwise eligible to be registered to vote.
(n) A statement of the anticipated effect of the change on members of racial or language minority groups.

The proposed changes will not adversely affect members of racial or language minority groups in Georgia. The data matching requirement provided for under federal and state law is race neutral. The criteria used by the State, including citizenship, are race neutral as well.

(o) A statement identifying any past to pending litigation concerning the change or related voting practices.

A complaint challenging this process has been filed in the United States District Court for the Northern District of Georgia in the case of Jose Morales v. Karen Handel, Civil Action No. 1:08-CV-3172-JTC. A copy of the complaint in that action is attached as Exhibit C. The Plaintiff has moved for a temporary restraining order and preliminary injunction to prevent the enforcement of the process described in this submission based upon a lack of Section 5 preclearance for the process and upon an alleged violation of the 90 day “quiet period” provided for under the National Voter Registration Act, 42 U.S.C. § 1973gg-6(c)(2). Copies of the motion and brief and materials are available for your review if you would like them.

A hearing was held before the Honorable Jack Camp on October 10, 2008, but the Court has not issued an order on the motion. The Court has asked that a Three-Judge Court be constituted for purposes of addressing the Plaintiff’s Section 5 claim.

(p) A statement that the prior practice has been precleared (with the date) or is not subject to the preclearance requirement and a statement that the procedure of the adoption of the change has been precleared (with the date) or is not subject to the preclearance requirement, or an explanation of why such statements cannot be made.

The Georgia Constitution has been previously precleared by the Attorney General by letter dated January 29, 1982. The Georgia statute defining U.S. citizenship as a qualification for voting, O.C.G.A. § 21-2-216, and providing the challenge procedures by registrars questioning the qualifications of voters, O.C.G.A. § 21-2-228, were precleared by U.S. Attorney General on August 10, 1998, under DOJ File Nos. 98-1651, -1771 and -1822. The statute providing that registrars in fact have a duty

(q) For redistricting and annexations: the items listed under § 51.28(a)(1) and (b)(1); for annexations only, the items listed under § 51.28(c)(3).

Not applicable.

(r) Other information that the Attorney General determines is required for an evaluation of the purpose or effect of the change.

Not applicable.

Pursuant to 28 C.F.R. § 51.28, the following additional information is submitted.

(a) Demographic information.

Not applicable.

(b) Maps.

Not applicable.

(c) Annexations.

Not applicable.

(d) Election returns.

To the best of my knowledge, there are no election returns relevant to this action.

(e) Language usage.

To the best of my knowledge, the action does not affect the use of the language of a minority group in the elective process.
(f) **Publicity and participation.**

The subject of the use of citizenship for registration verification purposes has been the subject of press coverage and publicity, both before and after the filing of the *Morales* litigation.

(g) **Availability of the submission.**

The submission will be advertised by a legal advertisement in the *Atlanta Journal and Constitution* as shown in *Exhibit D.*

(h) ** Minority group contacts.**

Ms. Linda W. Latimore  
Election Supervisor, DeKalb County  
4380 Memorial Drive, Suite 300  
Decatur, GA 30032-1239  
(404) 298-4020

There is no further information that is known to be relevant to the consideration of this submission

Sincerely,

[Signature]

THURBERT BAKER  
Attorney General

TB:DRD:me

Enclosures
MEMORANDUM OF UNDERSTANDING BETWEEN
THE GEORGIA DEPARTMENT OF DRIVER SERVICES AND
THE OFFICE OF THE SECRETARY OF STATE

This Memorandum of Understanding (hereinafter referred to as “Agreement” or “MOU”) is entered into this 27th day of March 2007, by and between the State of Georgia Department of Driver Services (hereinafter referred to as the “DDS”) whose address for the purpose of this Agreement is 2206 East View Parkway, Conyers, Georgia 30013, and the Office of The Secretary of State (hereinafter referred to as the “SOS”) whose address for the purpose of this Agreement is 214 State Capitol, Atlanta, GA 30334. The DDS and the SOS shall be referred to collectively as the “Parties”.

WHEREAS, The Help America Vote Act of 2002 (hereinafter referred to as “HAVA”) requires the Voter Registrars of each county to verify the identity of person’s registering to vote by certain means, including a requirement for each such person to provide his or her driver’s license number or the last four digits of their social security number; and

WHEREAS, HAVA requires that the DDS enter into an agreement with the Social Security Administration (hereinafter referred to as “SSA”) for purposes of verifying certain voter information with respect to applications for voter registration wherein the applicant provides the last 4 digits of a social security number instead of a driver’s license number; and

WHEREAS, HAVA requires that the DDS enter into an agreement with the SOS for the purposes of verifying certain voter information in the database of the statewide voter registration system with information in the database of the DDS with respect to applications for voter registration; and

WHEREAS, the Parties have created a voter registration identification verification program which enables the SOS and DDS to transmit voter registration data between the Parties for verification pursuant to the provisions of HAVA.

NOW, THEREFORE, the above Parties for good and valuable consideration as herein stated covenant and agree as follows:

1. During the term of this Agreement, and subject to the provisions of paragraph 2, DDS will furnish access to DDS data as required by SOS to assist the County Voter Registrars, and their authorized users, in verifying applicable information submitted by a Georgia resident for voter registration purposes. In accordance with the provisions of HAVA and SSA, “applicable information” shall mean information regarding whether:

EXHIBIT "A-1"
• The name (including first name and any family forename or surname),
• The date of birth (including month, day, and year),
• The last 4 digits of the individual’s social security number (hereinafter referred to as “SSN”), match the information contained in SSA’s records, and
• Driver’s license or identification card number.

Notwithstanding the foregoing, the parties agree and understand that SSA has advised that verifications using only the last 4 digits of the SSN may result in multiple positive matches or false positive matches of information.

2. The SOS shall transmit on a daily basis the voter registration information referenced above in an agreed upon format to the DDS for verification with the DDS database or for verification with SSA under the HAVA process, (hereinafter referred to as the “HAVV” process).

3. The DDS shall transmit on a daily basis a response of “data verified/data not verified” or such other indicators as mutually agreed upon by DDS and SOS in response to the SOS transmission of data.

4. The parties agree and understand that pursuant to the DDS’ agreement with SSA, verifications through SSA under the HAVV process shall only be requested for new applicants that provide the SSN for voter registration. However nothing in this agreement is intended to preclude the SOS and DDS from agreeing to conduct other methods of verification of voter data currently maintained on the voter registration system to the DDS database as permitted by law.

5. The parties agree and understand that the HAVV verification services provided by SSA will be available every Federal business day excluding reasonable system down-time for periodic or emergency maintenance. The parties further understand that any system delays in verification response time attributable to the SSA is not the responsibility of the DDS.

6. The parties shall abide by the confidentiality requirements imposed on the DDS pursuant to DDS’ agreement with SSA for Voter Registration Information Verification Services.

7. The SOS shall be responsible for the actual costs associated with creating the voter registration identification verification program referenced above. Said costs shall include, but not be limited to, DDS’ programming time associated to developing the HAVV verification process and the program designed for transmitting the data to and from the SOS to the DDS. The hourly rate for developing the HAVV verification process shall be $65.00 per hour, total cost for the project not to exceed $8,000.00.
8. The SOS shall reimburse the DDS for costs incurred by the DDS for conducting the HAVV verification process pursuant to the agreement with SSA. Said costs shall include, but not be limited to SSA’s System Development and Start-up Cost, DDS’ start-up and continuing operational costs associated to the HAVV verification process, Voter Registration Information Maintenance and Verification Costs, and AAMVA actual costs associated to the operation of the HAVV verification process.

9. The SOS shall be responsible for increased or additional costs resulting from expense recalculations by SSA; and said recalculations by SSA will not require an amendment to this Agreement¹, unless the additional cost increase exceeds 20% of the actual cost currently charged to conduct the verification.

10. The SOS shall provide written notice and collaborate with the DDS prior to making any program changes that may alter the search criteria of the voter registration identification verification program.

11. The SOS represents that the authorized users of the Statewide voter registration system with access to the information supplied pursuant to this Agreement, will been fully informed that the DDS information obtained through the verification process shall be used solely for the purpose of carrying out their official responsibilities concerning voter registration and for no other purpose, except as allowed by federal and state laws.

12. DDS shall not be responsible for any errors, omissions or discrepancies in the data obtained through the HAVV verification process pursuant to this Agreement.

13. Amendments or additions to this Agreement may be made only by written amendment, duly executed by both parties. Nothing in this provision shall require the parties to execute an amendment for purposes of the recalculations by SSA, except as expressly set forth in paragraph 9 of this agreement.

14. This Agreement contains the entire agreement between the parties concerning the subject matter hereof, and supersedes any previous understandings, presentations, commitments or agreements, oral or written, relating to the sharing of DDS information for purposes of voter registration information verification.

15. This Agreement shall remain in effect until cancelled at any time by either party upon thirty (30) days’ written notice to the other. SOS shall remain responsible for any and all costs due and payable to the DDS at the time of cancellation.

16. This Agreement and the rights hereunder shall not be assigned by the DDS or SOS.

¹ The SOS understands that SSA’s costs related to providing HAVV verification services may be recalculated periodically and charges adjusted accordingly; the actual cost for transmitting each record to SSA for HAVV verification is $.20 cent per record.
IN WITNESS THEREOF, the parties hereto have caused this Agreement to be duly signed and executed on the dates hereinafter stated.

Georgia Department of Driver Services

By: Gregory C. Dozier  
Deputy Commissioner  
Date: 3/27/07

Georgia Secretary of State

By: Karen Handel  
Secretary of State  
Date: 3/27/07
<table>
<thead>
<tr>
<th>Description of Field</th>
<th>Position</th>
<th>Length</th>
<th>Format</th>
</tr>
</thead>
<tbody>
<tr>
<td>DL number</td>
<td>1</td>
<td>9</td>
<td>numeric</td>
</tr>
<tr>
<td>last name</td>
<td>10</td>
<td>20</td>
<td></td>
</tr>
<tr>
<td>first name</td>
<td>30</td>
<td>20</td>
<td></td>
</tr>
<tr>
<td>Date of Birth</td>
<td>50</td>
<td>10</td>
<td>cyyymmdd</td>
</tr>
<tr>
<td>last 4 ssn</td>
<td>60</td>
<td>4</td>
<td>numeric</td>
</tr>
<tr>
<td>Match-flag</td>
<td>64</td>
<td>1</td>
<td>Y or N</td>
</tr>
<tr>
<td>SSA-flag</td>
<td>65</td>
<td>1</td>
<td>Y or N</td>
</tr>
<tr>
<td>Iname-match-flag</td>
<td>66</td>
<td>1</td>
<td>Y or N</td>
</tr>
<tr>
<td>fname-match-flag</td>
<td>67</td>
<td>1</td>
<td>Y or N</td>
</tr>
<tr>
<td>dob-match-flag</td>
<td>68</td>
<td>1</td>
<td>Y or N</td>
</tr>
<tr>
<td>last4-match-flag</td>
<td>69</td>
<td>1</td>
<td>Y or N</td>
</tr>
<tr>
<td>DL-match-flag</td>
<td>70</td>
<td>1</td>
<td>Y or N</td>
</tr>
<tr>
<td>Citizenship-flag</td>
<td>71</td>
<td>1</td>
<td>Y or N</td>
</tr>
</tbody>
</table>
The Honorable Karen Handel
Secretary of State
State Capitol, Room 214
Atlanta, Georgia 30334

Dear Secretary Handel:

We are writing to you as the chief state elections official for the State of Georgia concerning the State's apparent noncompliance with the voter registration information verification requirements of Section 303(a)(5) of the federal Help America Vote Act of 2002 ("HAVA"), 42 U.S.C. 15483(a)(5).

HAVA requires that applications for voter registration for an election for Federal office cannot be accepted or processed unless the application includes a driver's license number, if the voter has a valid license or the last four digits of the applicant's social security number, for applicants who do not have a driver's license, but do have a social security number. 42 U.S.C. 15483(a)(5)(A)(i). If an applicant has not been issued a current and valid driver's license or a social security number, the State shall assign to that applicant a unique identifying number for voter registration purposes. 42 U.S.C. 15483(a)(5)(A)(ii). HAVA also requires the motor vehicle authority of each State to enter into an agreement with the federal Social Security Administration (SSA) for the purpose of verifying social security number information provided by voter registration applicants under HAVA. 42 U.S.C. 15483(a)(5)(B)(ii).

The SSA has implemented a program to enable state motor vehicle agencies to verify the last four digits of social security number information provided by voter registration applicants. States can use this program via a connection between their motor vehicle agencies and SSA through the American Association of Motor Vehicle Administrators (AAMVA), under their Help America Vote Verification program (HAVV).

The State of Georgia originally asserted that it did not have to comply with the verification requirements of Section 303(a)(5), based on the State's claim that its collection of full nine-digit social security numbers on voter registration applications allowed it to invoke the exemption in Section 303(a)(5)(D) of HAVA, 42 U.S.C. 15483(a)(5)(D). However, on January 31, 2005, in litigation brought by private parties, a federal district court held that the State was not allowed under the Privacy Act of 1974 to require applicants for voter registration to provide...
full nine-digit social security numbers, and that decision was later upheld by the court of appeals. Schwier v. Cox, 412 F. Supp. 2d 1266 (N.D. Ga. 2005), aff'd, 439 F.3d 1285 (11th Cir. 2006). A consent decree entered by the federal district court in the Schwier case on June 27, 2006 contemplated that the State would come into compliance with the verification requirements of Section 303(a)(5) of HAVA by January 2007. We note that for non-exempt States that did not seek a waiver from the Election Assistance Commission of the deadline in Section 303(a), as Georgia did not, the requirements of Section 303(a)(5) otherwise took effect on January 1, 2004. 42 U.S.C. 15483(d)(1).

While it appears that your State has revised its voter registration application to seek the information required by Section 303(a)(5) of HAVA, it appears that, based on the public information posted on the AAMVA website and information which we have received from SSA, as of now, your State is still not online through the HAVV verification program for matching the last four digits of social security numbers against the SSA database. In light of this information, we request that you provide the Department of Justice as soon as possible, but in no event later than thirty days from the date of this letter, with a detailed written update which advises: 1) whether your State has an agreement with SSA, signed by all parties, as contemplated by Section 303(a)(5) of HAVA; and 2) whether your State is now online with SSA for matching the last four digits of social security numbers through AAMVA’s HAVV program or any other mechanism. If so, please provide appropriate dates and documentation. If not, please provide a detailed explanation of the reason for the State’s apparent noncompliance with HAVA and the status of any efforts to achieve compliance.

Under Section 401 of HAVA, the Department of Justice has enforcement authority for these requirements. Pursuant to that enforcement authority, if your State is not prepared to take action promptly to comply with HAVA in a timely manner, we are prepared to take appropriate enforcement action.

Please send your written response to the following address: Voting Section, Civil Rights Division, Room 7254 - NWB, U.S. Department of Justice, 950 Pennsylvania Ave., N.W., Washington, DC 20530 or you may fax your response to 202-307-3961. If you have any questions about this request, please call Chris Herren (202-514-1416) or Brian Heffernan (202-514-4755) in the Voting Section.

Thank you for your cooperation.

Sincerely,

John Tanner
Chief, Voting Section

cc: Thurbert E. Baker, Attorney General
May 23, 2007

John Tanner
Voting Section, Civil Rights Division
Room 7254 - NWB
U.S. Department of Justice
950 Pennsylvania Ave., N.W.,
Washington, DC 20530

RE: State of Georgia’s participation in HAVV verification program

Dear Mr. Tanner:

I am writing in response to your letter of April 24, 2007, addressed to Georgia Secretary of State Karen Handel in her capacity as the chief election officer of the State of Georgia, which asks her to address “1) whether [Georgia] has an agreement with SSA, signed by all parties, as contemplated by Section 303(a)(5) of HAVA; and 2) whether [Georgia] is now online with SSA for matching the last four digits of social security numbers through AAMVA’s HAVV program or any other mechanism.”

The answer to both questions is “yes”: (1) the State of Georgia does have a signed agreement with the Social Security Administration (“SSA”) as contemplated by section 303(a)(5) of HAVA, and (2) Georgia is online with the SSA for matching the last four digits of social security numbers through the AAMVA HAVV program. I have included documentation as to former of these with this letter; I can provide an affidavit as to the latter if necessary. Please note that the agreement was signed by SSA as of April 23, 2007 (the day before your letter to me was executed). Georgia’s Department of Driver’s Services executed the agreement several months before that. Numerous programmers were assigned fulltime to resolving implementation problems with AAMVA HAVV program. That program went live as of Monday May 21, 2007, and is now fully in operation.

Your letter also refers to the consent order in Schwier v. Cox, civil action no 1:00-cv-2820-JEC in the United States District Court for the Northern District of Georgia, Atlanta Division, and the State’s compliance with that order. The consent order in Schwier put in place, by consent, implementation guidelines and a timetable for Georgia’s switch away from its former mandatory
May 22, 2007
Page 2

collection of nine digit social security numbers as part of the voter registration process. The Office of the Secretary of State and the State of Georgia have fully complied with that order.

I appreciate your attention to the above.

Sincerely,

STEFAN RITTER
Senior Assistant Attorney General

Enclosure

cc: Karen Handel
10/12/04

USER AGREEMENT

for

VOTER REGISTRATION INFORMATION VERIFICATION SYSTEM SERVICES

between

THE GEORGIA DEPARTMENT OF DRIVER SERVICES (MVA)

and

THE SOCIAL SECURITY ADMINISTRATION (SSA)
Article I
Purpose and General Background

The purpose of this user agreement is to define the process by which SSA will provide, upon request, verification of certain voter registration information to the Georgia Department of Driver Services, hereinafter referred to as MVA, for its use in the registration of voters for an election for Federal office. Verified information will be provided under the terms, conditions and safeguards of this agreement and the Help America Vote Act of 2002 (HAVA or Act), and may be used only for the purposes described within this agreement and the Act.

HAVA places certain requirements on State, Washington D.C., and Territorial voter registration officials regarding verification of information provided on voter registration applications. Section 303(a)(3)(A) of HAVA, requires that, to be acceptable, applications for voter registration for an election for Federal office must provide information as follows:

(i) In General – Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for Federal office may not be accepted or processed by a state unless the application includes—

(I) in the case of an applicant who has been issued a current and valid driver’s license, the applicant’s driver’s license number; or

(II) in the case of any other applicant (other than an applicant to whom clause (i) applies), the last 4 digits of the applicant’s social security number.

Section 303(a)(5)(A) provides that the State, Washington D.C., or Territory shall determine whether the information provided by an individual is sufficient to meet the requirements of HAVA, in accordance with State, Washington D.C., or Territory law.

Section 303(a)(5)(B)(i) requires the chief State, Washington D.C., or Territory election official and the official responsible for the MVA to enter into an information matching agreement to enable each such official to verify the accuracy of the information provided on applications for voter registration for elections for Federal office. Section 303(a)(5)(B)(ii) further requires the official responsible for the MVA to enter into an agreement with the Commissioner of Social Security who, at the request of the official responsible for the MVA, shall enter into an agreement with that official for the purpose of verifying "applicable information."

"Applicable information" means information regarding whether—
- the name (including first name and any family forename or surname),
- the date of birth (including month, day, and year), and
- the last 4 digits of the individual’s SSN match the information contained in SSA’s records, and
- such individual is shown on the records of SSA as being deceased.
Section 303(a)(3)(C) (as codified at 42 U.S.C. §405(r)(8)(C)-(D)), also provides that SSA shall develop methods to verify the accuracy of information provided by the respective MVAs, and that the "applicable information" will be matched with the information contained in SSA's records. SSA will make appropriate efforts to provide verifications by comparing the information provided by the applicant with information in SSAs Master Files of Social Security number (SSN) Holders and Applications data base. However, because SSA's enumeration records are based on a complete and unique 9 digit SSN, verifications using only the last 4 digits of that number are inherently a partial rather than the full "9-digit" verification and may result in multiple positive matches or false positive matches of information.

Article II
Legal Authority

Legal authorities for the disclosures contemplated in this user agreement are found at section 205(r)(8) and §1106 of the Social Security Act (42 U.S.C. §405(r)(8)) established by Public Law 107-252, the Help America Vote Act of 2002 and are consistent with Privacy Act (552a(a)(7) and (b)(3) and disclosure regulations, 20 C.F.R. §401.120 and 401.150(c).

Routine use number 41 in the Master Files of Social Security (SSN) Holders and SSN Application, 60-0058 system of records, permits SSA to disclose information to the State and Territory Motor Vehicle Administration officials (or agents or contractors on their behalf) and State and Territory chief election office to verify the accuracy of information provided with respect to applications for voter registration for whom the last four digits of the Social Security number are provided instead of a driver's license number.

Article III
Voter Registration Information Verification Process

Nationally, most people of voting age possess a valid driver's license. Consequently, verification of applicant information with Social Security Administration records will not be necessary or appropriate in the majority of cases. In addition, verifications contemplated under the terms of this agreement shall be requested only for new applicants for voter registration. This service shall not be used to verify information for voters already on state voter registration rolls.

42 U.S.C. § 405(r)(8)(B) provides that the Commissioner of Social Security has the authority to decide when, where, and in what manner an MVA will, pursuant to an agreement, provide information to SSA to conduct verifications of certain voter registration information. Under that authority, the Commissioner has determined that it is most appropriate for SSA to provide the required verification services by interacting with only one entity. That entity will jointly serve the interests of all the MVAs and SSA by serving as an electronic information conduit between the MVAs and SSA. The
Commissioner selected the American Association of Motor Vehicle Administrators (AAMVA) to serve in this capacity. AAMVA has agreed to this arrangement.

The verification system will be an electronic "online" process between the MVAs and AAMVA and between AAMVA and SSA. All requests for verification of voter registration information shall be forwarded from the MVAs to AAMVA and from AAMVA to SSA. SSA shall process the requests and return the results to AAMVA. AAMVA shall, in turn, forward the results to the MVA. There will be no direct MVA to SSA or SSA to MVA voter registration information verification process.

For purposes of implementation of HAVA, under this user agreement the order of verification followed by MVA, AAMVA, and SSA shall be sequential as follows:

- if a valid driver's license exists, the MVA shall compare it to its records and return the result to the voter registration authority. If no valid driver's license exists and
- the applicant has an SSN, the MVA may request verification of applicant information from SSA via AAMVA.

1. Employing the prescribed sequence described above, each MVA shall submit verification requests one-at-a-time over the time period deemed appropriate to their voter registration process. Requests for verifications of voter registration information received from the MVAs shall include:

   - the applicant's name (including first name and any family forename or surname),
   - the date of birth (including month, day, and year), and
   - the last 4 digits of the individual's SSN.

2. The online verification requests shall be sent to AAMVA.

3. AAMVA shall forward the request files from the MVAs to SSA for processing.

4. SSA shall process the request files, comparing information submitted with information in SSA's Master Files of Social Security Number (SSN) Holder and Applications data base and will return responses indicating:

   - no match found,
   - one unique match-no death indicator present,
   - one unique match-death indicator present,
   - multiple matches-at least one with no death indicator (e.g., one live hit),
   - multiple matches-all matches have death indicator,
   - multiple matches-with multiple no death indicators (e.g., multiple live hits), or
   - transaction did not process, invalid data.
5. SSA will make this service available every Federal business day excluding reasonable system down-time for periodic or emergency maintenance. Verification results will normally be returned to AAMVA within 1 Federal business day of SSA's receipt of the request.

6. AAMVA shall return the results to the appropriate MVAs for subsequent distribution to the voter registration authorities. The timeframe for AAMVA's distribution of verification results is not under SSA's control.

**Article IV**

*Confidentiality of Information Provided by the Commissioner*

All information provided by the Commissioner pursuant to this user agreement shall be considered as strictly confidential and shall be used only for the purposes described in Article I of this user agreement. Any officer or employee or former officer or employee of a state, Washington D.C., or territory MVA, or any officer or employee or former officer or employee of a contractor of a state, Washington D.C., or territory MVA who, without written authority from the Commissioner, publishes or communicates any information in such individual's possession by reason of such employment or position as such an officer, shall be guilty of a felony and upon conviction thereof shall be fined or imprisoned, or both, as described in §§ 208 and 1106 of the Social Security Act (42 U.S.C. §§ 408 and 1306).

**Article V**

*Confidentiality Safeguards and Record Maintenance*

42 U.S.C. § 405(r)(A)(ii), provides that this user agreement shall include safeguards to assure the maintenance of the confidentiality of any applicable information disclosed and procedures to permit MVA use of the applicable information for the purpose of maintaining its records.

- The official responsible for the MVA shall ensure that the MVA follows applicable State, Territorial, and Federal laws governing confidentiality of applicable information received under the terms of this user agreement.
- The official responsible for the MVA shall ensure that access to the MVA database used to house applicable information received under the terms of this user agreement is limited to only those individuals with a need to access the information in their official conduct of voter registration and/or data base maintenance responsibilities. No other uses of this information may be made.
- The official responsible for the MVA shall ensure that all individuals with access to applicable information received under the terms of this user agreement are aware of and understand the penalties for breaches of confidentiality as discussed in Article IV of this user agreement.
- SSA reserves the right to make onsite inspection of the MVA to ascertain the effectiveness of the confidentiality safeguards employed for information gathered under this law.
Article VI
Cost Reimbursement

42 U.S.C. § 405(r)(3)(A)(i), specifies that the Commissioner shall enter into an agreement with the MVA, "... so long as the requirements of subparagraphs (A) ... are met..." Subparagraph (A) found in § 205(r)(3)(A) of the Social Security Act (42 U.S.C. § 405(r)(3)(A)), states, "under such arrangement the agency provides reimbursement to the Commissioner of Social Security for the reasonable cost of carrying out such arrangement..." Reimbursement for:

- Voter Registration Information Verification System development,
- start-up,
- information verification search,
- ongoing maintenance/administration, and
- miscellaneous costs incurred by SSA

shall, per the law, be borne by the states, Washington D.C., and the territories for which the Voter Registration Information Verification System is being created. If the MVA fails to reimburse SSA voluntarily through AAMVA, the MVA will remain liable to SSA and SSA will collect reimbursement from the State through any and all legal means available to it.

For any amounts past due, subchapter II of Chapter 37 of Title 31, United States Code, as amended by the Debt Collection Improvement Act of 1996, and regulations implementing this statute, require that interest, administrative costs and penalties be charged if debts are not paid within 30 days of the mailing of the first notice of indebtedness. SSA will use the "Private Consumer Rates of Interest" developed by the Department of Treasury and apply them against overdue payment for each 30-day period, or portion thereof, that payment is delayed.

Provision for appropriations in support of this Act was included in the Act. (See sections 103 and 104 of the Act.) SSA adopts the same proportions to determine the amount each state, Washington D.C., and each territory shall reimburse SSA for its system development and start-up costs.

"Per verification" charges for verifications of voter registration information shall be the same for each MVA.

- **SSA's System Development and Start-up Costs:**

SSA's system development and start-up costs are approximately $1.3 million. The proportionate share of these costs as explained in the preceding paragraph, shall be paid directly to SSA from the office of the official responsible for the
MVA on behalf of the chief election official. AAMVA will contact the MVA to collect this payment on behalf of SSA upon ratification of this user agreement.

- **MVA's Start-up and continuing Costs:**

  All MVA site preparation, hardware, software, connection, and operating costs, as well as any other costs incurred by the MVA are the responsibility of and shall be borne by the MVA.

- **Voter Registration Information Maintenance and Verification Costs:**

  SSA, with the assistance of AAMVA and the MVA as needed, will project quarterly Voter Registration Information Verification System usage and will calculate charges accordingly. The current fee for each record verification is $0.0062. The yearly maintenance fee (which includes administrative charges) is estimated to be approximately $200,000. Each state will be billed the proportionate share of these costs. The resulting notice of charges will be provided to AAMVA for its prospective reimbursement to SSA. AAMVA shall forward the payment for the projected quarterly usage to SSA upon receipt of the notice of charges. AAMVA will establish its own reimbursement process for these costs with the MVA.

  SSA's costs related to providing the verification service discussed in this user agreement will be recalculated periodically (annually at a minimum) and charges adjusted accordingly. Such expense recalculations will not require amendment to this user agreement.

**Article VII**

**Period of and Alterations to User agreement**

This user agreement is the user agreement governing use of SSA's Voter Registration Information Verification System for all states, Washington D.C., and territories of the United States. This user agreement is effective upon signature of both parties and shall remain in effect as required by HAVA. The user agreement may be reviewed from time-to-time and changes made as appropriate. Any changes made shall apply to all states, Washington D.C., and territories of the United States.
Persons to be Contacted for Further Information or Assistance

SSA Regional Contact:

Name
Title
Address
Telephone
E-Mail

MVA Contact:

Name: Lorraine Piro
Title: Information Technology Section Manager
Address: P.O. Box 80447, Conyers, GA 30013
Telephone: 678-413-8650
E-Mail: lpiro@dds.ga.gov
Signatures of Authorized Officials

Each official executing this user agreement is authorized to enter into user agreements of this nature on behalf of his/her organization. In witness thereof, the parties hereby execute this user agreement. (MVA's original signature page)

(Name)
Date 4-23-2007
Regional Commissioner
Social Security Administration

(Name) Gregor C. Dozler
(Date) 2-14-2007
(Title) Commissioner
Georgia Department of Driver Services (MVA)

USER AGREEMENT

for

VOTER REGISTRATION INFORMATION VERIFICATION SYSTEM SERVICES

between

THE MOTOR VEHICLE AUTHORITY
and
THE SOCIAL SECURITY ADMINISTRATION
Signatures of Authorized Officials

Each official executing this user agreement is authorized to enter into user agreements of this nature on behalf of his/her organization. In witness thereof, the parties hereby execute this user agreement. (SSA's original signature page)

(Name)  
Date 4-23-2007  
Regional Commissioner  
Social Security Administration

(Name)  
Date 2-19-2007  
Gregory C. Dozier  
Commissioner  
Georgia Department of Driver Services (MVA)

USER AGREEMENT

for

VOTER REGISTRATION INFORMATION VERIFICATION SYSTEM SERVICES

between

THE MOTOR VEHICLE AUTHORITY

and

THE SOCIAL SECURITY ADMINISTRATION