FEDERAL VOTING ASSISTANCE PROGRAM
DEPARTMENT OF DEFENSE
WASHINGTON, DC 20301-1155

September 24, 2007

Mr. Rex Quidilla
Chief Elections Officer
Office of Elections
802 Lehua Avenue
Pearl City, HI 96782

Dear Mr. Quidilla,

I would like to thank you for the work you and the state of Hawaii have done over the past several years to promote and support the legislative initiatives the Federal Voting Assistance Program (FVAP) has recommended. The 2006 elections pointed out the importance of the states enacting these legislative initiatives. In particular, the provision of 45 or more days for ballot transit; electronic transmission of Federal Post Card Applications, blank ballots, and voted ballots; and, authorization for the state chief election official to implement emergency measures. States with these provisions were able to support a greater number of situations faced by our brave men and women serving in combat areas such as Iraq and Afghanistan, and other U.S. citizens worldwide. I would ask you also to consider alternative methods that these citizens could use to request their absentee ballots such as phone, email or by proxy, and utilizing digital signatures with electronically transmitted materials.

After reviewing Hawaii's existing election code and procedures, I have identified four initiatives that the Hawaii legislature might consider during the upcoming legislative session. These initiatives are discussed in detail with suggested wording in the enclosed legislative initiatives document. If these initiatives are enacted and signed into law, they would significantly help to facilitate the absentee voting process for Hawaii's citizens covered by the *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)*. Information available to FVAP indicates that there are 5,447 Uniformed Services members, an estimated 4,000 family members and approximately 17,000 overseas citizens that claim Hawaii as their voting residence.

As you review the enclosed initiatives for possible inclusion in Hawaii's 2008 legislative agenda, please do not hesitate to contact us for assistance. We can provide legislative wording that other states have enacted to implement similar measures and provide written or in-person testimony, if desired. We have come a long way in simplifying the absentee voting process since the enactment of the *UOCAVA*—let's continue our joint efforts to achieve the simplest possible absentee voting process while maintaining its integrity.

Sincerely,

J. Scott Wiedmann
Deputy Director

Enclosure:
2008 Legislative Initiatives and Suggested Wording

Hawaii 2008 Legislative Initiatives and Sample Language

The Need for 45-Day Ballot Transit Time

The most persistent problem which continues to face Hawaii military and overseas voters is the extremely short period of time these voters have to receive, vote, and return their absentee ballots in order to be counted. While electronic transmission of election materials offers an alternative to inadequate ballot transit time in emergency situations, the fact remains that insufficient ballot transit time through the mail continues to be the primary obstacle to timely delivery of absentee ballots to voters. Our post-election surveys and Postal Service statistics indicate that a **45-day transit time is needed** for absentee ballots sent through international mail or the military APO/ FPO (overseas) post offices. This round trip transit time is especially necessary because of the remote location of many military personnel and overseas citizens such as sailors and marines aboard ship, airmen and sailors at isolated tracking sites around the world, as well as Department of State personnel and citizen employees of American multinational corporations in remote areas. **Forty-three** states now allow 45-day ballot transit time.

Sample Language

For all elections, the official charged with the printing and distribution of ballots and election materials shall print as many absentee ballots as may be necessary as soon as possible after receiving the information concerning candidates and measures to be voted on at an election, and balloting materials shall be mailed not later than the 45th day before the election.

Late Registration Procedures

We recommend that **Hawaii allow persons recently separated from the Uniformed Services, the merchant marine, or overseas employment, and their family members, to be able to register after the standard registration deadline or be exempt from registration**. Although Hawaii Revised Statute Section 15-3 states "...any former registered voter of Hawaii may vote an absentee ballot in any presidential election occurring within twenty-four months after leaving Hawaii...", This statute does not cover members of the Uniformed Services, the merchant marine, or citizens employed overseas, and family members that have been away for over 24 months. Many members of the Uniformed Services, merchant marine and overseas citizens go through a relocation transition period when they separate from service or overseas employment. The timing of their discharge or employment termination may prevent them from meeting the normal registration deadline. A special late registration procedure for these circumstances would solve this problem. **Twenty-nine** states currently have a late registration procedure.

Sample Language

An individual, or accompanying family member, who has been discharged or separated from the Uniformed Services, the merchant marine, or from employment outside the territorial limits of the United States, too late to enable him or her to register by the regular state deadline, shall be entitled to register up to the day of the next election after such discharge, separation, or termination of employment.

Expand Use of Federal Write-In Absentee Ballot

Currently the Federal Write-In Absentee Ballot (FWAB) may be used **only in general elections for Federal offices only**. This ballot is prepositioned worldwide at Embassies and Consulates, military installations and overseas organizations and corporations with American membership. While Hawaii offers electronic transmission of election materials, the fact remains that by **expanding the use of the FWAB to include special, primary and runoff elections for Federal offices**, citizens would not be disenfranchised because regular ballots are not received in a timely manner. Frequently, there is insufficient time between the call for a special election and the actual election and between primary and runoff elections. Allowing use of the FWAB in these elections would reduce the possible need for legal action when insufficient time exists for the ballot to be received, voted and returned to be counted. During past primaries, on an *ad hoc* basis, several states and jurisdictions allowed the FWAB to be used for offices other than Federal offices. **Thirteen** states have legislatively expanded the use of the FWAB for other than Federal offices beyond the Federal law.

In addition, for those citizens that desire to vote in elections for Federal office only, the acceptance of the FWAB voter declaration as **a request for registration simultaneously with the submission of the FWAB** would further simplify the process, improve on transit time and help ensure enfranchisement. It should be noted that the information requested on the voter declaration is basically the same as the information requested from the voter on the Federal Post Card Application (FPCA). We recommend the FWAB be accepted simultaneously as a registration form and ballot by the state for general election and Federal offices if:

(1) the information submitted complies with the state's registration requirements;

(2) the voter is otherwise eligible to vote absentee in the jurisdiction where the request is submitted; and

(3) the request is received by the appropriate state election official not less than 30 days before the election, or by the registration deadline established by the state, whichever is later.

The adoption of this initiative would save Hawaii money, and alleviate administrative responsibilities on the part of the chief election officer.

Sample Language

- Expanded use of the FWAB:

If the voter is residing outside the United States or is a member of the United States Uniformed Services or merchant marine, or their family members, and a qualified elector, he or she may use the Federal Write-In Absentee Ballot in general, special, primary, and run-off elections for local, state and Federal offices.

- Use of FWAB as a Combined Request for Registration and Ballot Submission:

If the voter is residing outside the United States, or is a member of the United States Uniformed Services or merchant marine, or their family members, and a qualified elector, he or she may use the Federal Write-In Absentee Ballot (FWAB) voter declaration as a request for registration simultaneously with the submission of the FWAB if:

(1) the information submitted complies with the registration requirements of the state;

(2) the voter is otherwise eligible to vote absentee in the jurisdiction where the request is submitted; and

(3) the request is received by the appropriate state election official not less than 30 days before the election, or by the registration deadline established by the state, whichever is later.

State Special Write-In Absentee Ballot

We also recommend Hawaii provide a special write-in absentee ballot for all elections. The purpose of the special write-in absentee ballot is to **provide a method for voting by military and other persons overseas who, due to military contingencies or special circumstances such as those faced by submariners, Peace Corps volunteers, missionaries or others in remote areas, will be out of communication for extended periods of time and unable to receive the regular absentee ballot sent in the normal time frame**. A voter could request a special write-in ballot 90 days in advance and write in the names of the candidates or party preferences. The voter knows in advance that he or she will not be able to receive, vote, and return the regular absentee ballot from the state in time to be counted. **Twenty-seven** states now provide special write-in absentee ballots.

This special write-in absentee ballot should not be confused with the Federal Write-In Absentee Ballot (FWAB) that is prepositioned at Embassies and Consulates, military installations, overseas organizations and corporations. In comparison, the FWAB is generally only available to military members on active duty absent from their voting residence and overseas citizens who have already applied for a regular absentee ballot from the state. They do not know in advance that they need the FWAB. If the regular absentee ballot from the

state does not arrive in sufficient time for the voter to return the voted ballot and meet the state deadline, these voters may obtain, vote, and return the FWAB to the local election official.

It is also important to note that a state write-in absentee ballot usually provides a "full" slate of offices to be voted upon including Federal, state, and local offices. On the other hand, the FWAB generally allows voting for Federal offices. There are presently **thirteen** states that have expanded the use of the FWAB beyond Federal law. The revised FWAB was designed to accommodate its use beyond the general election and Federal offices only.

Sample Language

If the voter is a U.S. citizen residing outside the United States, a member of the United States Uniformed Services or merchant marine, or their family members, and a qualified elector, he or she may request, not earlier than 180 days before an election, a special write-in absentee ballot. The voter must submit with the request a statement that provides that due to military or other contingencies that preclude normal mail delivery, the elector cannot vote an absentee ballot during the normal absentee voting period. The state will make the ballot available "90 to 180" days before the election.