

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE
BANGOR DIVISION

THE UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO. 06-86-B-W
v.)	
)	
STATE OF MAINE, and MATTHEW)	
DUNLAP, Secretary of State, in his official)	
capacity,)	
)	
Defendants)	
_____)	

JOINT MOTION TO AMEND CONSENT DECREE
AND INCORPORATED MEMORANDUM

The United States and the State of Maine and Secretary of State Matthew Dunlap hereby jointly request the Court to approve a modification to the terms of the Consent Decree agreed to by the parties on July 28, 2006, and approved and entered by this Court on August 1, 2006. The requested modification adjusts the schedule for full implementation of the central voter registration system ("CVR"), and includes additional requirements designed to assure that the accessible voting equipment will be fully operational for the upcoming federal election on November 7, 2006. The modifications that the parties are requesting are shown in the document labeled Attachment A-1, which is being submitted with this motion as a substitute for the original Attachment A to the Consent Decree.

In the view of both parties, the modifications being requested are necessary to ensure an orderly election on November 7, 2006.

Dated: October 23, 2006

Respectfully submitted,

/s/ Robert Popper

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/s/ Phyllis Gardiner

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ATTACHMENT A-1 (Oct. 20, 2006)

In order to achieve full compliance with the requirements of HAVA Sections 301 and 303(a), the State of Maine, acting by and through the Department of the Secretary of State (hereafter "the State"), agrees to undertake the following steps and to submit the following reports, plans, and schedules to the United States Department of Justice ("USDOJ"), pursuant to the terms of the Consent Decree, dated July 28, 2006 and entered in Civil Action No. 06-86-B-W. The USDOJ recognizes the complexity and difficulty of dealing with and relying upon 503 separate and independent local jurisdictions and various private vendors to accomplish all of these steps, and recognizes that problems may arise that are due to no fault of the State.

CENTRAL VOTER REGISTRATION SYSTEM

1. The State will start regression testing of the ElectionNet software application by July 28, 2006, provided that its vendor, PCC Technology Group, has completed final correction of all application anomalies and release of the production-ready application in accordance with the terms of its contract with the State by July 26, 2006.

The State will notify USDOJ when regression testing starts.

Within 5 business days of completion, the State will submit to the USDOJ a certificate of completion of the testing indicating whether the application is ready for roll-out or whether there are any remaining anomalies that would prevent placing the system into production, and, if so, a schedule for correction of those anomalies by PCC.

2. Local jurisdictions will begin converting the voter registration data in their existing electronic or paper systems into the CVR by mid-July and will complete that process by October 18, 2006 for the selected municipalities, referenced in paragraph 6, which will be converted into ElectionNet and will begin to utilize the CVR before the November 7, 2006 election.

By August 14, 2006, the State will submit to the USDOJ a roll-out schedule showing, for each group of municipalities, the method or type of data conversion to be employed, the time frame to complete data conversion, and the date each group is scheduled to go live with the CVR.

3. The training manual for election officials for use of the CVR and ElectionNet software will be revised to reflect the correction of all application anomalies that PCC is currently fixing, pursuant to its contract with the State, by August 14, 2006.

By August 14, 2006, the State will submit to the USDOJ a copy of the final CVR Users Guide for election officials.

4. Training for local registrars and election officials in the use of the CVR will be conducted

in small groups, in person and in regional computer labs, according to a schedule to be developed by August 14, 2006.

By August 14, 2006, the State will submit to the USDOJ a description and schedule for on-site training of groups of local registrars and election officials.

In addition, the State will report completion of all training within 5 days of the last training session.

5. A production pilot with a select group of approximately 15 cities and towns, representing different types of legacy electronic voter registration systems and paper based systems, will be conducted beginning no later than September 8, 2006, provided that the regression testing and conversion steps described in paragraphs 1 and 2 above have been successfully completed. The pilot will involve testing the entire CVR system with real voter registration data in a production-ready environment.

The State will notify USDOJ when the production pilot begins.

Within 5 business days of completion, the State will submit to the USDOJ a certificate of completion of the pilot indicating whether the central server, local site equipment, and software are functioning properly and, if not, a plan and schedule for corrective action.

6. Prior to the November 7, 2006 election, voter registration data will be converted to the CVR from a selection of municipalities with both legacy electronic systems and paper records. The municipalities that will be able to utilize the CVR for their voter registration data for the November 2006 election include: all of the municipalities in the production pilot described above in paragraph 5, totaling approximately 90,000 voters; at least five of the municipalities with the largest voter populations in the state, representing more than 75,000 voters; three to five municipalities that currently use the Trio electronic system; and a minimum of 30 municipalities that currently use paper records for voter registration purposes. The State will identify for USDOJ by November 3, 2006 which municipalities are in each of these four categories. All of the remaining municipalities in the state will be converted to the CVR during the period from mid-November, 2006 through mid-January, 2007, according to a revised roll-out schedule to be submitted by the State to USDOJ no later than November 17, 2006. The training schedule submitted by the State pursuant to paragraph 4 above will be revised to assure that local officials receive training close to the time when their data is scheduled to go live on the CVR system.

By November 17, 2006, the State will submit to the USDOJ a revised schedule for training local election officials in use of the CVR and for all remaining municipalities in the state to go live on the HAVA compliant CVR by January 17, 2007.

Within 5 business days of full statewide implementation of the CVR, the State will submit to the USDOJ a certificate of full implementation indicating whether the central

server, local site equipment, and software are functioning properly and, if not, a plan and schedule for corrective action.

ACCESSIBLE VOTING EQUIPMENT

7. The State will execute a contract with its selected vendor of accessible voting equipment, IVS LLC, no later than August 14, 2006.

Within 3 days of signing a contract with IVS, the State will submit to the USDOJ a copy of the final approved contract with IVS.

8. Training in the use of accessible voting equipment for local election officials will be conducted beginning on September 18, 2006, according to a schedule to be developed by September 8, 2006. These training sessions also will include review of the State's Uniform Guidelines defining what constitutes a vote.

By September 8, 2006, the State will submit to the USDOJ a schedule for training all local election officials in the use of the IVS.

9. The State will purchase telephones and fax machines for all local jurisdictions (one per polling place) and deploy them by October 18, 2006. Deployment will include installation of any wiring necessary for use of the equipment.

By September 8, 2006, the State will submit to the USDOJ a plan for the purchase, deployment, and installation of all equipment required for IVS.

By October, 18, 2006, the State will submit to the USDOJ a narrative description of the IVS system architecture that explains the redundant features of the system as well as the backup and failure mitigation strategies for the system.

10. The State will coordinate with IVS to perform a pilot no later than October 13, 2006, with a select group of five to ten municipalities to confirm the usability and capacity of the accessible voting system. Following completion of this pilot program, during the period from October 18 to November 1, 2006, the State and IVS will undertake statewide testing of the usability of a fully deployed accessible voting system. Under the statewide testing program, election officials in every local jurisdiction in the state will be required to connect their accessible voting equipment to the telephone and fax lines at their local polling locations, and to conduct a logic and accuracy test to verify that it is operating properly and interacting with the central server as designed. Any equipment found to be defective will be repaired or replaced.

Within 5 business days of completion of the pilot, the State will submit to the USDOJ a certificate of completion of the pilot, with a description and time frames for any corrective actions that may be necessary.

Within 2 business days of completion of the statewide testing program, the State will submit to the USDOJ a certificate of completion, including a report of any problems encountered and corrective actions that will be taken to ensure that the equipment at each polling place is fully operational by election day.

11. The State will design and implement a voter outreach and education program to inform voters with disabilities regarding the availability and use of this accessible voting equipment. This program will include use of the IVS Preview and Practice system that allows voters to practice accessing the system from their home telephones using a sample ballot.

By September 8, 2006, the State will submit to the USDOJ a plan for the outreach and education program for voters with disabilities to be implemented prior to the November 2006 general election.

12. A HAVA-compliant, accessible voting system will be fully implemented in time for the November 7, 2006 general election. To this end, site equipment will be distributed to all local jurisdictions for use at each of their polling places, and installation, programming and testing of the central server will be completed by October 18, 2006.

Within 5 business days of completion of full implementation, the State will submit to the USDOJ a certificate of completion of the full implementation, with a description and time frames for any corrective actions that may be necessary.

CERTIFICATE OF SERVICE

I hereby certify that on October 26, 2006, I electronically filed the within Joint Motion to Amend Consent Decree and Incorporated Memorandum with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following: John Tanner, Esq., Paula D. Silsby, Esq., Robert Popper, Esq. and Wan Kim, Esq.

/s/ Phyllis Gardiner

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