

## **SETTLEMENT AGREEMENT**

### **I. INTRODUCTION**

Pursuant to 42 U.S.C. § 1973gg-9(b), the Alabama State Conference of the National Association for the Advancement of Colored People (“Alabama NAACP”) on June 13, 2012 sent a letter to, *inter alia*, Ms. Nancy Buckner in her capacity as Commissioner of the Alabama Department of Human Resources (“DHR”), and Ms. Beth Chapman in her capacity as Alabama Secretary of State (the “Secretary”), alleging violations of the National Voter Registration Act, (“NVRA”), 42 U.S.C. § 1973gg-5. Specifically, with respect to DHR, the letter alleged serious deficiencies in DHR’s implementation of Section 7 of the NVRA, which resulted in DHR’s failure to provide federally-required voter registration services to its clients; and informed Ms. Buckner and Ms. Chapman of Alabama NAACP’s intent to sue if the alleged violations were not addressed within the statutory notice period. The letter was addressed directly to Ms. Chapman who, in her official capacity as Secretary of State, was at the time Alabama’s chief elections official and thereby responsible for the state’s compliance with the NVRA.

After being informed of these alleged violations of the NVRA, representatives from DHR and the Secretary expressed their strong desire to ensure compliance with Section 7 of the NVRA and to work with Counsel for the Alabama NAACP towards that end. The Alabama NAACP, DHR, and the Secretary now desire to resolve this matter, as it relates to DHR’s compliance with the NVRA, without the need to resort to litigation. In consideration of the Alabama NAACP’s agreement not to sue and the waiver of any claim for attorneys’ fees or costs incurred in connection with the negotiation, implementation, and monitoring of this Agreement, DHR and the Secretary agree to implement and maintain the procedures and practices outlined in this Settlement Agreement. Provided, however, that nothing in this Agreement shall be construed, in the event of a breach of this Agreement by DHR or the Secretary, to prevent Alabama NAACP from bringing a lawsuit pursuant to 42 U.S.C. s. 1973gg-9 or based upon breach of this Agreement, or to prevent Alabama NAACP from pursuing attorneys’ fees and costs as permitted by 42 U.S.C. s. 1973gg-9 or other applicable law in connection with such a lawsuit (provided that Alabama NAACP does not seek any attorneys fees for time spent negotiating, implementing, or monitoring this Agreement as noted above). Neither DHR nor the Secretary admit any liability or any violation of the NVRA or any other law, and Alabama NAACP maintains its allegations of widespread past and ongoing violations of Section 7 of the NVRA by DHR.

The procedures and practices described in Sections III through XI below shall be implemented within 15 days of the execution of the Agreement or at such other specific times as delineated herein.

### **II. DEFINITIONS**

- A. “Client” means any individual who is applying for or receiving public assistance benefits through or from any DHR office.

- B. “Covered transaction” means each time a client applies for public assistance benefits, renews or recertifies for public assistance benefits, or submits a change of address, whether in-person, or via the telephone, facsimile, mail, or electronically.
- C. “County DHR offices” means all DHR offices in each Alabama county through which individuals may apply for public assistance benefits, renew or recertify their public assistance benefits, or change their address with regard to the receipt of public assistance benefits.
- D. “DHR” means the Alabama Department of Human Resources and includes, without limitation, its offices, agents and employees.
- E. “DHR employees” means employees of DHR who have responsibilities regarding Section 7 of the National Voter Registration Act, 42 U.S.C. § 1973gg-5, and/or state implementing statutes and regulations including, without limitation, those who are responsible for interacting with individuals regarding the provision of public assistance benefits, those who are responsible for interacting with clients at point of entry, the supervisors of such employees, and NVRA coordinators.
- F. “Frontline staff person” means a DHR employee who is responsible for interacting with individuals regarding the provision of public assistance benefits and/or is responsible for interacting with clients at point of entry.
- G. “Public assistance benefits” means those benefits available under various programs administered by DHR, including, without limitation, Food Stamps (also known as Supplemental Nutrition Assistance Program or “SNAP”) and Temporary Assistance for Needy Families (“TANF,” formerly Aid for Families with Dependent Children).
- H. “Secretary” means the Alabama Secretary of State and includes, without limitation, the Secretary of State’s officers, agents and employees.
- I. “Voter preference form” means the form, often referred to as a “declination form,” that is required pursuant to Section 7 of the NVRA, 42 U.S.C. § 1973gg-5(a)(6)(B), and includes a question about voter registration and contains boxes for public assistance applicants and clients to check in response.
- J. “Voter preference question” means the following question, mandated by Section 7 of the NVRA, 42 U.S.C. § 1973gg-5(a)(6)(B)(i): “If you are not registered to vote where you live now, would you like to register to vote here today?”
- K. “Voter registration application” means the mail voter registration application form described in Section 9 of the NVRA, 42 U.S.C. § 1973gg-7(a)(2), or the equivalent Alabama voter registration application form, including the agency-based voter registration application and the mail-in voter registration application.

1. "Agency-based voter registration application" means a voter registration application that indicates that the application is "agency-based." The current version of the agency-based voter registration application is also known as the "NVRA-1B."
2. "Mail-in voter registration application" means a voter registration application that may be mailed without an envelope and is pre-addressed to election officials. The current version of the mail-in voter registration application is also known as the "NVRA-2."

### III. STAFFING

#### A. DHR NVRA Coordinator.

DHR shall designate a "DHR NVRA Coordinator" to ensure implementation of voter registration services within DHR, to monitor compliance with Section 7 of the NVRA statewide, and to assist County DHR offices in identifying and solving problems as they arise. This need not be a full-time position or require the hiring of new/additional staff. The DHR NVRA Coordinator's responsibilities shall include:

1. Familiarity with all DHR voter registration requirements, procedures, and materials such that (s)he is qualified and prepared to assist County DHR Coordinators and other agency personnel with questions or challenges related to the agency's administration of NVRA-compliant voter registration services;
2. maintaining an up-to-date list of County NVRA Coordinators (defined below), and directing the County Director of Human Resources to appoint an individual to fill that position within fifteen business days after any vacancy occurs;
3. coordinating and overseeing compliance with the requirements of Section 7 of the NVRA, Alabama's implementing statutes and regulations, and the provisions of this Agreement, including requirements related to supplies, computer processes, training, procedures, oversight, and reporting, as detailed in Sections V-VIII and XI of this Agreement. The coordination responsibilities shall involve regular communication with the Secretary of State and the County NVRA Coordinators to ensure that DHR fully complies with the requirements of Section 7 and the provisions of this Agreement;
4. once per year, distributing to each County DHR office signs obtained from the Secretary advising the public of the right to register to vote at that site, along with a request to display the signs; and responding to any notification that signs are lacking in a particular County DHR office by sending that office a new sign and requesting that the office display it; and

5. providing every County NVRA Coordinator with a complete list of voter registration deadlines for federal elections for the coming year by December 31 of each year and distributing promptly any supplemental lists of additional registration deadlines for federal elections received from the Secretary of State throughout the year.

B. *County NVRA Coordinators.*

DHR shall designate a “County NVRA Coordinator” for each county Department of Human Resources to ensure implementation of and compliance with Section 7 of the NVRA. This need not be a full-time position or require the hiring of new/additional staff. In the event any County NVRA Coordinator position becomes vacant, the County Director of Human Resources shall appoint a person to fill the position as soon as practicable, but in any event no later than fifteen business days after the vacancy occurs. County NVRA Coordinators’ responsibilities shall include:

1. reading and understanding all DHR voter registration requirements, procedures, and materials as applicable to his or her County DHR office(s);
2. coordinating and overseeing implementation and compliance with the requirements of Section 7 of the NVRA, Alabama’s implementing statutes and regulations, and the provisions of this Agreement by DHR offices within their county, including requirements related to supplies, marking of voter registration materials, training, procedures, oversight, and reporting, as detailed in Sections V-VIII and XI of this Agreement;
3. answering questions from the public relating to voter registration services provided by County DHR office(s);
4. compiling and transmitting all data for the monthly reports, aggregated by individual office, to the DHR NVRA Coordinator (see Section VIII);
5. In addition to the foregoing responsibilities, County NVRA Coordinators shall be responsible for monitoring their supervisory DHR employees at County DHR office(s) compliance and implementation of the following:
  - a. all DHR voter registration requirements, procedures, and materials as applicable to his or her position;
  - b. answering questions from the public relating to voter registration at County DHR offices; and
  - c. compiling and providing completed voter registration applications to the County DHR Coordinator for transmission to the county board of registrars.

*C. Secretary of State NVRA Coordinator*

The Secretary shall maintain at all times a statewide “SOS NVRA Coordinator” to ensure implementation of Section 7 of the NVRA, to monitor compliance with Section 7 of the NVRA statewide, and to assist in identifying and solving NVRA compliance problems as they arise. This need not be a full-time position or require the hiring of new / additional staff. In the event the SOS NVRA Coordinator position becomes vacant, the Secretary shall appoint a person to fill the position as soon as practicable, but in any event no later than fifteen business days after the vacancy occurs. The SOS NVRA Coordinator’s responsibilities shall include:

1. Providing support and guidance (including technical expertise) to DHR, including the DHR NVRA Coordinator and County NVRA Coordinators, to assist them in identifying what is required to implement and comply with Section 7 of the NVRA, Alabama’s implementing statutes and regulations, and the provisions of this Agreement;
2. serving as a liaison between the Secretary, DHR, and local election authorities regarding NVRA compliance at County DHR offices;
3. timely review of the Secretary and DHR reports related to voter registration at County DHR offices;
4. prompt reporting of suspected or known compliance problems at particular County DHR offices to the DHR NVRA Coordinator;
5. consulting regularly with the DHR NVRA Coordinator regarding office-level compliance and any corrective action plans, including providing to the DHR NVRA Coordinator the number of total voter registration applications generated from each County DHR office each month; and
6. providing the DHR NVRA Coordinator with a complete list of known voter registration deadlines for federal elections for the coming year by December 20 of each year and supplemental lists of additional registration deadlines for federal elections if necessary.

**IV. MAIL-IN VOTER REGISTRATION APPLICATIONS**

The Secretary shall create and provide a coded mail-in voter registration application that identifies to election officials the source of the mail-in voter registration application as originating from a particular public assistance agency (in this case DHR) to facilitate comprehensive tracking of voter registration services provided by DHR and other Alabama public assistance agencies.



The newly created mail-in voter registration application shall either be provided to DHR and other Alabama public assistance agencies pre-coded in a manner that enables the form to be tracked back to a specific agency but cannot be easily identified as originating at that agency by a member of the public; or shall permit DHR and other Alabama public assistance agencies – at their discretion – to code the form in a manner that will allow the form to be tracked back to the particular agency. In the latter scenario, DHR shall code mail-in registration forms originating from its offices in a manner that will allow those forms to be tracked back to DHR.

Upon finalizing the exact method for coding the mail-in voter registration application, the Secretary shall communicate the specifics of the method to Counsel for Alabama NAACP so that Counsel for Alabama NAACP may understand how the system works and properly interpret data resulting from the relevant coding.

**V. INCORPORATION OF VOTER REGISTRATION INTO BENEFITS DOCUMENTS**

- A. *Conforming agency policies.* Any and all written policies that govern frontline staff person procedures or reference voter registration shall be reviewed and modified to incorporate Sections III-XI of this Agreement within 30 days of execution of this Agreement.
- B. *Applications.* Within 30 days of the execution of this Agreement, initial benefits applications for both SNAP and TANF, used at both application and recertification, shall be modified to incorporate the statutorily-required voter preference question as well as the rest of the content of the voter preference form. Said applications shall also include a voter registration application form.

The voter registration application form, which DHR and the Secretary shall design cooperatively to ensure that the form meets the needs of both DHR and the Secretary, shall include the following features, in addition to all features necessary to operate as an effective voter registration application: (a) the form shall be coded as originating from DHR in a manner that cannot be easily identified as such by a member of the public, so as to allow elections officials to credit DHR as the source of the registration while preserving the privacy of clients submitting forms; and (b) the form shall be a part of the initial benefits application, such that it will not be necessary for any DHR personnel to assemble a separate benefits application and registration form into a single packet.

Upon finalizing the exact method for coding the voter registration application, the Secretary shall communicate the specifics of the method to Counsel for Alabama NAACP so that Counsel for Alabama NAACP may understand how the system works and properly interpret data resulting from the relevant coding.

- C. Alabama NAACP understands that DHR may replace its public assistance benefits applications with the single, streamlined application described in Section

1413 of the Patient Protection and Affordable Care Act (ACA). If and when DHR begins providing public assistance benefits on the basis of information obtained through such single, streamlined application, DHR shall ensure that voter registration services are provided according to the terms of this Agreement, including but not limited to incorporating the statutorily-required voter preference question as well as the rest of the content of the voter preference form, providing a voter registration application form, and providing equal assistance.

## VI. TRAINING

### A. Materials

1. The Secretary of State's office will update its existing training video in consultation with Counsel for Alabama NAACP and forward this updated version to the DHR NVRA Coordinator no later than 50 days after the execution of this Agreement. The training video shall reflect the requirements of the NVRA, Alabama's implementing statutes and regulations, and this Agreement.
2. DHR will include NVRA training in its LETS electronic training system, which, at a minimum, shall consist of:
  - a. the NVRA training video created by the Secretary of State pursuant to Section VI.A.1 above, or any updates thereto;
  - b. a Power Point presentation, created by the DHR NVRA Coordinator, with input from other relevant DHR staff, the Secretary, and Counsel for Alabama NAACP as noted below, on DHR's NVRA compliance procedures; and
  - c. notification that the County NVRA Coordinator is available to answer questions.
3. The training identified in Section VI.A.2 above shall reflect the requirements of the NVRA, Alabama's implementing statutes and regulations, and this Agreement.
4. DHR will consult with Counsel for Alabama NAACP and the Secretary on the content of its Power Point training and incorporate reasonable feedback before finalizing the training. DHR will provide a draft of this Power Point training to Counsel for Alabama NAACP and the Secretary within 30 days of the execution of this Agreement; Counsel for Alabama NAACP will provide feedback within 14 business days of receiving such draft; and DHR shall finalize this Power Point training within 14 business days of receiving such feedback.
5. The training program will be continuously available on DHR's intranet so that any staff person may review it at any time and/or any supervisor may

require a member of his/her staff to review it if the supervisor determines that a member of his/her staff is not performing his/her NVRA obligations satisfactorily.

6. If and when DHR begins providing public assistance benefits on the basis of information obtained through a single, streamlined application as described in Section V.C above, DHR shall update its training to reflect any resulting changes in procedure. If the changes occur during the reporting period as set out in Section XI, a draft of the updated training shall be provided to Counsel for Alabama NAACP within 14 business days of the changes, Counsel for Alabama NAACP and the Secretary shall have the opportunity to provide feedback within 14 business days of receiving the draft, DHR shall finalize this Power Point training within 14 business days of receiving such feedback.

#### B. Training Program

1. DHR shall upload the training Power Point and other associated materials described in Section VI.A above into its LETS system and provide training as described in Section VI.A.2 regarding the NVRA and the requirements of this Agreement within 30 days of the finalization under Section VI.A.4.
2. Each County NVRA Coordinator, frontline staff person, and supervisor of frontline staff persons at DHR will be required to complete NVRA training through the LETS system immediately upon its finalization. All DHR employees on annual, sick or other leave at the time when annual training is scheduled shall be trained within fifteen days after their return to active work status. Thereafter, each County NVRA Coordinator, frontline staff person, and supervisor of frontline staff persons at DHR will be required to complete NVRA training annually through the LETS system.
3. All new DHR employees shall be required to view the training within forty-five days of hire or before interaction with clients, whichever day is earlier, measured from the employee's start date. Each DHR employee's supervisor will be notified when that employee has completed the training.
4. DHR shall maintain a record of each DHR employee's history of completing the required training.
5. County NVRA Coordinators shall be available to answer questions from frontline staff persons both after required trainings and on an ongoing basis.



6. If and when DHR begins providing public assistance benefits on the basis of information obtained through a single, streamlined application as described in Section V.C above, DHR shall upload the updated training described in Section VI.A.6 above into its LETS system and provide training as described in Section VI.A.2 regarding the NVRA and the requirements of this Agreement within 30 days of the finalization of the updated training under Section VI.A.6.

## VII. PROCEDURES

### A. *Proper maintenance and availability of voter registration materials.*

1. DHR shall ensure that it maintains a sufficient number of transmittal envelopes and packing slips required to fulfill its voter registration responsibilities, and that it promptly distributes to each County DHR office such materials upon request.
  2. Prior to distribution to clients or other members of public, all voter registration applications (mail-in or agency-based) shall be marked as originating at DHR and have the requested information on the "For Use by Agency Official Only" portion of the form filled out. The Secretary will provide the necessary forms, pursuant to this Agreement, so as to fulfill this requirement.
  3. DHR shall make available to each County DHR office signs announcing that voter registration is available and encouraging clients to fill out an application and/or see a frontline staff person for assistance. DHR shall obtain these signs from the Secretary and shall distribute them once per year to each County DHR office, along with a request to display the signs. If the DHR NVRA Coordinator is notified or becomes aware that a particular County DHR office is not displaying a voter registration sign, the NVRA Coordinator shall send the office a sign and request that the office display it.
- B. *Distribution of forms, in general.* DHR shall distribute a voter registration application with each application for public assistance and with each renewal, recertification, or change of address related to such assistance, except in cases where a client declines in writing by checking "no" in response to the voter preference question. If and when DHR begins providing public assistance benefits on the basis of information obtained through a single, streamlined application, as described in Section 1413 of the ACA, applications for public assistance which are received by direct application to another agency shall be governed by Section VII.D. DHR shall also distribute a mail-in voter registration application to members of the public who wish to register to vote but are not already receiving voter registration services due to a covered transaction. To

facilitate this, mail-in voter registration applications shall be available in each county office upon request.

C. *In office procedures.* During each in-office covered transaction, the frontline staff person will review the voter preference form.

1. If the client has indicated on the voter preference form that (s)he wishes to register or to change his/her address for registration purposes, the worker will:
  - a. If the client has not done so already, encourage the client to fill out the (already provided) agency-based voter registration application immediately. If the client prefers not to fill out the voter registration application immediately, the worker will advise him/her that (s)he may take a mail-in form home with him/her;
  - b. Provide a mail-in voter registration application if requested by the client; and
  - c. Provide equal assistance, as described in Section VII.F.
2. If the client does not complete the voter preference form, the frontline staff person will:
  - a. Ask the client to mark a response to the voter preference question and sign the application;
  - b. If the client does not wish to complete the form, the worker will write "REFUSED" next to the voter preference question on the benefits application and give the client a mail-in voter registration application if the client has not already received one;
  - c. If the client marks that (s)he wishes to register to vote, encourage the client to fill out the (already-provided) agency-based voter registration application immediately. If the client prefers not to fill out the voter registration application immediately, the worker will advise him/her that (s)he may take a mail-in form home with him/her;
  - d. Provide a mail-in voter registration application if requested by the client; and
  - e. If the client decides to fill out the voter registration application immediately, provide equal assistance as described in Section VII.F.
3. In the event that a client, while in the office for a single visit, has not already received voter registration services pursuant to the terms of this Agreement and wishes to change his/her address with DHR, the following procedures will apply:
  - a. If the change of address request occurs during a meeting with a frontline staff person, DHR staff will provide the client the voter preference form (NVRA-1A), will provide the client an agency-based

voter registration application unless the client declines to register in writing, and will provide equal assistance as described in Section VII.F unless refused; and

- b. If the change of address request occurs by turning in a form at the front desk, DHR will automatically mail a coded mail-in voter registration application to the client's new address.

D. *Remote transactions.* Voter registration services shall be integrated into the procedures for processing covered transactions that occur from outside the office. Such covered transactions include, without limitation, those occurring by telephone, facsimile, mail, electronically, or via the Internet.

1. For changes of address that occur from outside the office, a mail-in voter registration application shall be automatically mailed to the client's new address. The voter registration application will be accompanied by a cover letter approved by the Secretary explaining that the client may need to fill out a new voter registration application to become or remain properly registered if (s)he is not already registered at that new address and explaining that assistance is available in completing such application, in accordance with Section VII.F below.
2. With respect to online transactions, DHR shall include the voter preference question and a voter registration application as part of any downloadable public assistance benefits applications, any downloadable renewal or recertification forms, or any downloadable change of address forms. DHR shall also include the voter preference question on all online forms through which clients may apply for benefits or seek recertification, renewal, or a change of address. The online voter preference question shall contain a "hard stop" requiring the client to select "yes" or "no." If the client selects "yes" the client will be provided a link at which the client may download a voter registration application and also be given the opportunity to check a box to indicate that the client would like a voter registration application mailed to him or her. The Secretary will promptly mail a mail-in voter registration application to any client who checks the box requesting that a voter registration application be mailed. If Alabama, in the future, allows electronic voter registration, all options outlined in this paragraph shall remain but the option to connect through a link to the online voter registration application shall also be provided.
3. With respect to transactions initiated through a single, streamlined application as described in Section V.C. above, paper and electronic applications distributed and received by DHR shall comply with Section V.B of this Agreement. If it is an agency other than DHR that administers or receives the particular single, streamlined application, DHR shall be deemed to have satisfied its obligations under the NVRA

if, and only if, such agency's application, whether paper or electronic, contains a voter preference form, the receiving agency distributes voter registration applications to all clients unless the client checks "no" in response to the voter preference question (including, in the case of electronic and other remote transactions, providing the client the option to receive, via mail, a voter registration application), and provides equal assistance. If DHR knows or has reason to believe that such agency has not provided the client a voter preference form, a voter registration application (agency-based or mail-in), or equal assistance pursuant to its normal procedures, DHR shall distribute a mail-in voter registration application to such client.

- E. *Telephone interviews.* If a client interview is conducted by telephone for a covered transaction, the frontline staff person will review the individual's response to the voter preference question on the previously submitted forms. If the client has indicated that (s)he wishes to register to vote or to change his/her address for voter registration purposes the worker will provide the same level of assistance in filling out the voter registration application that the worker would provide with the agency's other forms.
- F. *Equal assistance.* Frontline staff persons will provide clients who have indicated on the voter preference form that they wish to register to vote or to change their address for voter registration purposes with the same degree of assistance in filling out voter registration applications as they would for filling out one of the agency's own forms, unless the client refuses such assistance. Each covered transaction shall contain an explanatory notice regarding the availability of assistance.

For in-person transactions, frontline staff persons shall respond to any questions from the client, examine the client's voter registration application for basic completeness and signature, and ask the client to complete any piece that is obviously missing.

Any time a client is mailed a voter registration application (including, but not limited to, transactions described in Section VII.D), the client shall be provided notice in writing that voter registration assistance is available in person at the DHR office and by telephone. The notice will also include any required statutory language, as well as a brief statement about Alabama's photo voter ID requirement and contact information for the Secretary of State's office.

When a voter registration application is provided electronically as part of a computer-based transaction, an electronic explanatory notice regarding the availability of assistance shall also be provided.

- G. *Transmittal of voter registration applications.* DHR employees shall transmit all filled-out voter registration applications collected by the agency each week to the

local board of registrars on Friday of that week. Any applications collected during the week that were not included within the Friday transmittal shall be transmitted the following Monday. This procedure will ensure that all applications are transmitted within five days of receipt in the County DHR office and. Pursuant to 42 U.S.C. §1973gg-6(a)(1)(C) and Alabama Administrative Code § 820-22-.09, voter registration applications collected by DHR at any time up to the official close of voter registration for any given federal election shall be deemed timely and, when transmitted according to the procedure above, shall be treated as a voter registration application filed with the local registrar of elections in advance of the deadline. DHR shall transmit all applications to the board of registrars within the specified time frame, regardless of completeness. Additionally, whenever DHR employees transmit applications to the board of registrars, they will simultaneously send a copy of the transmittal form to the Secretary.

- H. *Corrective action.* If a DHR employee determines, at any point, that a client did not receive a voter registration application as required under Section 7 of the NVRA, Alabama implementing statutes and regulations, or this Agreement, the employee shall notify the County NVRA Coordinator immediately. Within five days of receiving such notice, the County NVRA Coordinator shall send a remedial mailing to the client and enclose a voter registration application and explanatory notice. The explanatory notice shall advise the client that (i) (s)he is receiving the mailing because (s)he may not have been offered the opportunity to apply to register to vote, (ii) that the mailing does not affect the individual's registration status if the individual is already registered to vote at the individual's current address, (iii) that receipt of the mailing does not indicate any information about the individual's eligibility to register to vote, and (iv) that assistance in completing the form is available from DHR employees. DHR shall maintain a copy of the letter in the client's file.
- I. *Maintenance of voter preference question responses.* All responses to the voter preference question (which is part of the initial benefits application or NVRA Form 1-A) will be maintained in each client's file for a minimum of two years, and DHR shall provide to the Secretary access to all such voter preference question responses, pursuant to Alabama Administrative Code § 820-22-.06(3).

#### **VIII. OVERSIGHT – DHR**

- A. Within 45 days of the execution of this Agreement, DHR will begin to use pre-marked NVRA-1B forms approved by the Secretary of State at County DHR offices to ensure that all agency-based voter registration applications submitted by a client, whether the client submits the application by mail or in-person to a County DHR office, the Secretary of State or a local elections office, may be tracked for purposes of reporting and monitoring public assistance voter registration activity as required under Sections VIII and X of this Agreement and



for purposes of reporting voter registration data to the U.S. Election Assistance Commission as required under the NVRA.

- B. Within 45 days of the execution of this Agreement, DHR will begin to use pre-marked NVRA-2 forms approved by the Secretary of State to ensure that all agency-based voter registration applications submitted by a client, whether the client submits the application by mail or in-person to a County DHR office, the Secretary of State or a local elections office, may be tracked for purposes of reporting and monitoring public assistance voter registration activity as required under Sections VIII and XI of this Agreement and for purposes of reporting voter registration data to the U.S. Election Assistance Commission as required under the NVRA.
- C. Within 45 days of the execution of this Agreement, DHR will track the following information by month and by County:
  - 1. the number of covered transactions by type (application, renewal/recertification or change of address); and
  - 2. the number of filled-out voter registration applications transmitted to the appropriate elections authority.

The number of covered transactions by type and the number of filled-out voter registration applications transmitted to the appropriate elections authority shall be reported each month by the County DHR Coordinators to the DHR NVRA Coordinator no later than the fifth of the month succeeding the month at issue. The DHR NVRA Coordinator shall report the data to the SOS NVRA Coordinator no later than the tenth of the month succeeding the month at issue.

- D. Each month, the DHR NVRA Coordinator shall analyze the data collected in Section VIII.C by comparing, for each County DHR office, the number of voter registration applications transmitted to elections officials during the month at issue and the total number of voter registration applications generated from that office (obtained from the SOS NVRA Coordinator) with the number of covered transactions for that office that occurred during the same month, with the office's prior numbers, and with rates across all offices.

The DHR NVRA Coordinator shall review, follow up and/or investigate problems at County DHR offices. Potential problems to be investigated or reviewed include, but are not limited to: (i) problems or concerns identified by the SOS NVRA Coordinator by the means set forth in Section IX; and (ii) offices that are the subject of a complaint from the public regarding the provision of voter registration.

Where a potential compliance problem is identified for an office, the DHR NVRA Coordinator shall contact the appropriate County DHR office to investigate the cause.

During the term of this Agreement, Counsel for Alabama NAACP may provide DHR with a list of up to five offices per quarter that Counsel for Alabama NAACP believes require further review and possible corrective action, with an explanation of the reason for review. In such a case, DHR shall conduct a review of any such offices to determine whether corrective measures are needed and shall communicate the results to the Counsel for Alabama NAACP in the next quarterly report.

E. *County Management Evaluation Reviews.*

DHR shall monitor County DHR office compliance with Section 7 of the NVRA by incorporating NVRA compliance into the USDA-management evaluation review process, which includes site visits to the County DHR offices under evaluation, or shall create a parallel process for NVRA compliance. Deficiencies found by DHR during the review shall be transmitted to the County NVRA Coordinator and the DHR NVRA Coordinator and a corrective action plan shall be developed and implemented. Management evaluation reviews shall occur on the following schedule, as required by federal regulations:

1. Annually in counties with more than 15,000 food assistance cases;
2. At least once every 2 years in counties with 2,001 to 15,000 food assistance cases; and
3. At least once every 3 years in counties with 2,000 or fewer food assistance cases.

F. *Annual TANF Case Record Review.*

DHR shall monitor County DHR office compliance with Section 7 of the NVRA by incorporating NVRA compliance into the annual TANF case record review process or shall create a parallel process for NVRA compliance. DHR shall provide to Counsel for Alabama NAACP within 30 days after execution of this Agreement, for review and comment, any worksheets or checklists used to evaluate County DHR offices' compliance with NVRA. Deficiencies found by DHR during the review shall be transmitted to the County NVRA Coordinator and the DHR NVRA Coordinator and a corrective action plan shall be developed and implemented. TANF case record reviews shall occur annually for each County DHR office.

G. *Bi-Annual County Operation Review for TANF.*

DHR shall monitor County DHR office compliance with Section 7 of the NVRA by incorporating NVRA compliance into the bi-annual TANF county operation review process or shall create a parallel process for NVRA compliance. DHR shall provide to Counsel for Alabama NAACP within 30 days after execution of this Agreement, for review and comment, any worksheets or checklists used to evaluate County DHR offices' compliance with NVRA. Deficiencies found by

DHR during the review shall be transmitted to the County NVRA Coordinator and the State NVRA Coordinator and a corrective action plan shall be developed and implemented. County TANF operation reviews shall occur every two years for each County DHR office.

H. *Corrective Action.*

DHR shall ensure that any complaints made by the public regarding the provision of voter registration by County DHR offices shall be forwarded to the affected office and also forwarded to the DHR NVRA Coordinator and the SOS NVRA Coordinator.

DHR shall take appropriate corrective action, subject to State personnel law, when it is determined that a particular office or individual employees at a particular County DHR office is/are not complying with Section 7 of the NVRA or the provisions of this Agreement, or otherwise are in need of corrective action to assure compliance.

I. *Personnel Policy.*

Annual performance reviews of the DHR NVRA Coordinator, County NVRA Coordinators, and County Directors shall include compliance with NVRA requirements. District Administrative Specialists shall consider NVRA compliance as part of their evaluation of County Directors, as indicated on the Responsibility and Result Statement evaluation form provided to Counsel for Alabama NAACP on June 21, 2013. DHR shall not remove NVRA compliance as a criterion for evaluation or lower the relative weight of NVRA compliance in the overall evaluation during the term of this Agreement. DHR progressive discipline procedures shall apply to all DHR staff who do not comply with the requirements of Section 7 of the NVRA and the terms of this Agreement.

**IX. OVERSIGHT – SECRETARY OF STATE**

A. *Data Collection.*

1. The SOS NVRA Coordinator shall collect from local elections officials or its centralized database the following data monthly by County DHR office:
  - a. total number of voter registration application forms received by election officials that are attributable to DHR (those that were transmitted by County DHR offices plus coded mail-in voter registration applications received); and
  - b. total number of new and updated voter registrations that result from voter registration applications received by election officials from DHR.

2. The Secretary shall incorporate the data collected pursuant to Sections VIII.C and IX.A.1 of this Agreement into its biennial report to the federal Elections Assistance Commission.
3. The Secretary shall communicate the data collected pursuant to Section IX.A.1 of this Agreement to the DHR NVRA Coordinator no later than the seventh day of each month. If the seventh day of the month falls on a weekend or holiday, said data shall be communicated by the next business day.

B. *Review of Data.* On a monthly basis, the SOS NVRA Coordinator will:

1. Review and analyze monthly data from DHR (see Section VIII.C above). That analysis shall include a comparison of the voter registration numbers reported by DHR with the voter registration numbers reported by the local election officials or pulled from the centralized database, as well as voter registration numbers and rates reported by other public assistance agencies in the state.
2. Review, follow up and/or investigate problems at County DHR offices. Potential problems to be investigated or reviewed include, but are not limited to: (i) offices exhibiting unusually low registration rates as compared to their rates during previous reporting periods or to the rates of other offices in the state; (ii) offices exhibiting potential compliance problems based on information obtained from a site visit, any other auditing procedure, office managers or supervisors, or other appropriate sources; (iii) offices suggested for review by Counsel for Alabama NAACP; and (iv) offices that are the subject of a complaint from the public regarding the provision of voter registration.
3. Following that review, the SOS NVRA Coordinator shall coordinate any necessary follow-up and corrective action with the DHR NVRA Coordinator;
4. The Secretary shall incorporate the data collected pursuant to Sections VIII.C and IX.A.1 of this Agreement into its biennial report to the federal Elections Assistance Commission.

C. *Site visits.* Each month the Secretary will conduct a telephone meeting with the three lowest-performing DHR offices for the previous month, determined by registration rates (the number of submitted voter registration applications attributed to the office divided by the number of covered transactions in that office). If any office is one of the three lowest performing offices twice in one quarter, (1) the Secretary will conduct a site visit to that office during the following quarter, and (2) the Secretary will call the next lowest-performing office(s) that month rather than the office(s) with the repeat low performance,

such that three offices are called every month. Provided, however, that the Secretary is not required to conduct a site visit at a low-performing office that has been visited within the previous six months. If the Secretary determines that the ranking of a particular office as lowest may be related to factors other than compliance with the provisions of this Agreement, the Secretary shall consult with Counsel for the Alabama NAACP regarding such determination. If Counsel for the Alabama NAACP agrees with the Secretary's determination, the Secretary is not required to visit that particular office and shall visit any office that is then one of the three lowest-performing offices (once the office that is the subject of consultation is removed) twice in one quarter.

**X. CODIFYING PROCEDURE GOVERNING CURING INCOMPLETE VOTER REGISTRATION APPLICATIONS**

Within six months of the execution of this Agreement, the Secretary shall promulgate a regulation that codifies the existing procedure among county registrars that such registrars shall attempt to cure incomplete voter registration applications by contacting the applicants before rejecting such applications.

**XI. REPORTING TO COUNSEL FOR THE ALABAMA NAACP**

A. *DHR Quarterly Reporting.* On or before the fifteenth day of the month in January, April, July and October after this Agreement is executed and thereafter until the expiration of this Agreement, DHR, in cooperation with the SOS NVRA Coordinator, shall provide the below-listed items for the three months immediately proceeding the month to Counsel for Alabama NAACP. If the fifteenth day of the month falls on a weekend or holiday, these reports shall be provided on the next business day thereafter.

1. a report in Excel spreadsheet format or a format that can be easily converted to Excel containing the following data, by County DHR office, broken down by month:
  - a. the number of covered transactions by type (application, renewal, recertification or change of address);
  - b. the number of filled out voter registration applications transmitted to the appropriate elections authority.
2. any investigations or corrective actions undertaken during the preceding quarter, as detailed in Sections VIII.D and VIII.H;
3. all annual trainings that all frontline staff persons are required to complete (either initial trainings or refresher trainings) posted to the LETS system during the quarter;



4. all evaluation reports pursuant to Sections VIII.E-G that note any deficiencies;
  5. A general summary of all other efforts undertaken by DHR to advance NVRA compliance or promote the provision of voter registration services;
  6. in the first quarterly report, the information listed below, which also shall be reported upon any change in its content:
    - a. the identity of the DHR NVRA Coordinator;
    - b. the identities of County NVRA Coordinators;
    - c. worksheets or checklists developed for use in County Management Evaluation Reviews, Annual TANF Case Record Reviews, and Bi-Annual County Operation Reviews for TANF to evaluate County DHR offices' compliance with NVRA; and
    - d. any other checklists, worksheets, or other documents related to compliance with Section 7 of the NVRA developed for use by the County DHR offices and/or the DHR central office.
  7. in the second quarterly report, confirmation that training of DHR employees has occurred in all Counties, as detailed in Section V above.
- B. *SOS Monthly Reporting.* No later than the fifteenth day of each month or, if the fifteenth day falls on a weekend or holiday, the following business day, the Secretary shall report to Counsel for Alabama NAACP, in Excel spreadsheet format or a format that can be easily converted to Excel, the following data for the preceding month, by County DHR office:
1. the number of covered transactions; and
  2. the number of total DHR-coded voter registration applications received by elections officials .
- C. *SOS Quarterly Reporting.* On or before the fifteenth day of the month or, if the fifteenth day falls on a weekend or holiday, the following business day in January, April, July and October after this Agreement is executed and thereafter until the expiration of this Agreement, the Secretary shall provide the below-listed items for the three months immediately preceding the report to Counsel for Alabama NAACP and the DHR NVRA Coordinator in Excel spreadsheet format or a format that can be easily converted to Excel. If the fifteenth day of the month falls on a weekend or holiday, these reports shall be provided on the next business day:

1. The total number of voter registration application forms received by Boards of Registrars that are attributable to DHR (those that were transmitted by County DHR offices plus coded mail-in voter registration applications received), by county;
  2. The total number of new and updated voter registrations that result from voter registration applications received by election officials from DHR, by county; and
  3. Analysis of the data described in Sections VIII.C and IX.A, along with the reviews conducted pursuant to Sections VIII.D and IX.C for the preceding quarter. The analysis shall identify the three lowest performing County DHR offices (measured by comparing the number of covered transactions to the number of voter registration applications received by election officials that are attributed to that office), the three County DHR offices with the largest shifts (positive or negative) in the rate of voter registration applications attributed to that office, County DHR offices exhibiting potential compliance problems based on observation or any other basis, and any other areas of concern related to compliance with Section 7 of the NVRA that the SOS NVRA Coordinator identifies or becomes aware of from others.
- D. All reporting to Counsel for Alabama NAACP shall be electronic, communicated by email, unless otherwise agreed to by the parties to this Agreement. Reporting shall be to Adam Lioz of Demos at [alioz@demoss.org](mailto:alioz@demoss.org) and Jaliya Faulkner of Sutherland at [jaliya.faulkner@sutherland.com](mailto:jaliya.faulkner@sutherland.com) unless and until Counsel for AL NAACP informs DHR and the Secretary directly in writing (including electronically via email) of a change in the person(s) who shall receive the reports and provides a new email address.

## **XII. TERM AND ENFORCEMENT**

This Agreement shall become effective on the date of execution and shall remain in effect until November 30, 2016.

If Counsel for Alabama NAACP conclude that DHR is in breach of this Agreement, Counsel for Alabama NAACP shall notify DHR in writing of the asserted breach. Any notice of breach shall identify the breach of the Agreement. DHR shall then have thirty days to respond to the notice and take action to cure the asserted breach. If DHR does not respond to the notice and take action to cure the asserted breach by the end of 30 days, Alabama NAACP may file an action both under the NVRA and to enforce this Agreement. If the breach is not cured within 45 days of the notice of breach notwithstanding the action taken, Alabama NAACP may file an action both under the NVRA and to enforce this Agreement. This Agreement shall not be interpreted to preclude, within such lawsuit, allegations based on the alleged widespread past and

ongoing violations of Section 7 of the NVRA by DHR that Alabama NAACP has alleged prior to the negotiations leading to this Agreement.

### **XIII. SUBMISSION TO SECRETARY OF STATE**

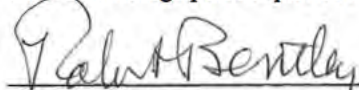
DHR shall file with the Secretary of State, pursuant to Alabama Administrative Code § 820-2-2-.08, any and all changes or amendments to its procedures for conducting voter registration in its offices made as a result of this Agreement.

### **XIV. EXECUTION IN COUNTERPARTS**

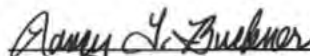
This Agreement may be executed in two or more counterparts, each of which shall constitute an original instrument and all of which together shall constitute one and the same Agreement.

### **XV. BINDING EFFECT**

The persons signing this Agreement represent that they have the authority to enter into this Agreement on behalf of the respective parties they represent and that this Agreement shall be binding upon the parties hereto.

  
Governor Robert Bentley

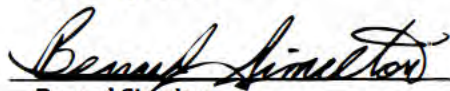
Dec 19, 2013  
DATE

  
Nancy T. Buckner  
Commissioner, Alabama Department of Human Resources


12-6-13  
DATE

  
Jim Bennett  
Secretary of State


12-9-13  
DATE

  
Benard Simeon  
President, Alabama State Conference of the NAACP

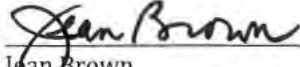
Dec 4, 2013  
DATE

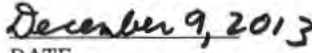
  
David Byrne  
Chief Counsel for Governor Bentley

Dec 19, 2013  
DATE

  
Sharon E. Ficquette  
Chief Counsel, Alabama Department of Human Resources

  
DATE

  
Jean Brown  
Chief Counsel, Alabama Secretary of State

  
DATE