

Background

The President's budget proposal for FY 2012 (October 1, 2011 – September 30, 2012) was released on February 14. P479 (attached) shows zero funding for voting access for individuals with disabilities beginning FY2012.¹ Funding for the last four years has been at \$17.0mm.

The justification given for this request from the White House was as follows:

"The Administration proposes to terminate 2012 funding for the Voting Access for Individuals with Disabilities grant program, given States have large unexpended balances available....States have balances of over \$35 million in unexpended funds from prior year appropriations for this program...State obligations relating to voting access for people with disabilities are unchanged by the 2012 funding level, and States may use untapped funds to meet those obligations." (emphasis added)²

Executive Summary of Our Position

We believe there are two major assumptions, both false, that must be addressed with this budget proposal as we communicate our goals for universal voter accessibility. (1) The problem of voter access for people with disabilities is not solved. This is according to the government's own General Accounting Office ("GAO") Report from 2008.³ (2) The math implying that unexpended funds are available is flawed. The reason is that there is no procedure of reallocation of unspent funds among states, some of which have spent all their funding and still have accessibility problems; some of which have funds left and still have accessibility problems.

Issue 1. The problem of voter access for people with disabilities is not solved.

The GAO says so in its own report published June 2009, titled "More Polling Places Had No Potential Impediments than in 2000, but Challenges Remain."

The GAO sampled 730 polling places throughout the United States and discovered the following:⁴

- 73 percent of polling places had features that might impede access to the voting area for people with disabilities.
- 50 percent of polling places had potential impediments in the path from the parking area to the building entrance
- 36 percent of polling places had potential impediments in the parking area
- 29 percent of voting stations were not arranged to accommodate a wheelchair.

Further validating this report, the Director of Public Policy at the National Disability Rights Network ("NDRN") DRN gave voting accessibility in the United States "a C+" – better than ten years ago, but with much more improvement needed.

Finally, the foundational Americans with Disabilities Act (ADA) states that "the obligation to remove barriers when readily achievable is a continuing one. Over time, barrier removal that initially was not readily achievable may later become so because of your changed circumstances."⁵ Only continued funding makes it possible for election jurisdictions to meet this ongoing improvements requirement – an obligation that changes over time as new technologies removing barriers become available (such as making absentee voting accessible).

Issue 2. The math implying that unexpended funds are available is flawed.

The National Disability Rights Network (NDRN) believes continued funding is needed. Why? Because when the money allocated to state or local jurisdictions is not spent, it is *not because the problem of polling place accessibility is fixed – it is often because the jurisdiction never got around to using the money.*

Example: Florida. The State of Florida held onto 2006-2011 funding in the belief that these funds could be used for a new voting system. As a consequence, the State only released funds on the verge of five-year expiration (e.g. the state made available 2005 funds in 2010; 2006 funds totaling \$567,000 were just released in 2011). Meanwhile, Florida counties need access to all available funds to make polling site access improvements **and** pioneer accessible voting absentee voting programs. The result: inadequate voter accessibility and inability to pilot next-generation solutions, while \$3 million in unspent funds create the appearance of being “overfunded.”

Please see Appendix 1 for more examples demonstrating why states have accumulated unspent HAVA funds without solving the problem of disability access to the polls.

The math of using accumulated but unspent money to solve problems over the next two years is flawed for another reason: there is no means by which states can reallocate unspent funds from those who don't need funds to those who do need funds.

Please see Appendix 2 for a proposed solution to this problem.

We're not done, but with the money spent to date, we have made tangible progress.

Without question, voting in our country is more accessible than any time in history for all Americans – including those with disabilities. This is in large part because *the program now being cut has worked!* Election jurisdictions with tight budgets have stated that they have been able to make improvements they otherwise wouldn't have as a result of this program. Once again quoting the GAO report from June 2009:

““We found that, compared to 2000, the proportion of polling places without potential impediments increased and the *most significant reduction in potential impediments occurred at building entrances.* We estimate that 27 percent of polling places had no features that might impede access to the voting area for people with disabilities—up from 16 percent in 2000...The most significant reduction since 2000 was that potential impediments at building entrances – such as narrow doorways or high door thresholds – decreased from 59 percent to 25 percent.”⁶

By comparison, disability advocates in the United Kingdom surveyed polling site accessibility gains from 2001 to 2009. Their findings? Site accessibility had improved only 2% in eight years, as a result of lack of funding.⁷

Conclusion

Voting is the right from which all other rights derive. It can be made fully accessible to all in our country for very little money – in fact, less than represents 0.0005% of our federal budget, enough to fund our government for less than three minutes. Cutting such a small amount clearly will not improve our nation's fiscal health; but it will undermine equal access to the ballot for millions of American voters with disabilities.

APPENDIX 1. EXAMPLES DEMONSTRATING HOW STATE 'UNEXPENDED BALANCES' DOES NOT MEAN THE PROBLEM OF ACCESSIBILITY IS SOLVED.

Connecticut. The previous Secretary of State administration has not made funds available to registrars or town clerks for site access, despite repeated requests and efforts from the Connecticut Protection and Advocacy.

Unspent funds due to state's decision not to distribute them **Up to \$600,000**
New funds are critical to ensure site access in states like Connecticut.

California. California has largely administered funds under several statewide "competitive grants". Normally the state waits until several years of HHS funding has accrued and then makes the "bulk sum" of several years available at once. This competitive grant program anticipated all counties would eventually get an opportunity to participate, but only 22 of the 63 California counties have received such grants to date. If funding is suddenly eliminated, fully two thirds of counties in California will still have significant polling place access barriers with no means to pay for remedy.

Unspent funds that will be allocated shortly after current grant **\$2 million - \$4 million**
New funds are critical for the 2/3 of counties that have not received large VOTE grant for site access.

Texas. The State of Texas uses a formula that gives large counties \$8,500 for site access. As a consequence, smaller counties with fewer resources decided it was not worth their while to apply for HAVA grants. Texas Protection and Advocacy group "Advocacy Inc." spoke to the Texas Association of County Clerks and election officials and lamented that polling place access remains a serious problem in the state and that more funds are needed. The result: over \$2 million of unspent funds, and limited improvement in voter accessibility.

Unspent funds because of state suspension of program **\$2 million - \$3 million (est)**
Many counties that have not accessed funds will disenfranchise voters with disabilities.

Georgia. The state has acknowledged polling place accessibility issues and counties have tried to access funding. However, the state's allocation mechanism makes it very difficult for many counties to access funds – even when they have clear barriers to accessibility for voters. As a result, new officials at the state level and in the disability community have promised wider distribution of funds in 2011 and beyond – but only if these funds are not summarily withdrawn.

Unspent funds because of state allocation mechanism. **\$1 million + (est)**
New funding is needed to solve major ongoing site access barriers in Georgia.

Territories (U.S. Virgin Islands, American Samoa, Guam). The formula for funding site access allocates a minimum of \$100,000 per year for each state or territory. This is an appropriate annual number for less populous states such as Wyoming, Vermont, North Dakota, Alaska, South Dakota and Delaware with populations of 560,00 – 900,000 and 200-500 polling places to make accessible. However, this is an inappropriate amount for territories such as Guam, the U.S. Virgin Islands and the Northern Mariana Islands with collective populations between 89,000 and 178,000 and in between 16 and 38 precincts. The result: while funding in these smaller population states is adequate, it is far too much for the territories, resulting in inefficiencies and unspent funds with no means for reallocation.

Unspent funds from overfunded territories: **Likely over \$1 million**
No new funding is needed in territories and therefore should be reallocated – but this has created an illusion of "unspent funds" nationally.

APPENDIX 2. A MEANS BY WHICH UNALLOCATED FUNDS CAN BE REALLOCATED TO STATES IN NEED.

1. Give states and territories four years instead of five years to spend allocated funds. *Reason:* it takes one to two years for funds to become available at the state level, and between 6-12 months to become available at the county level.
2. Those not spending allocated funds within four years would redistribute "four year old" funds into a national pool and not be eligible for reallocation.
3. HHS would "top off" the fund to equal \$17 million (actually \$12 million for states and \$5 million for protection and advocacy agencies)
4. Example:
 - a. In 2012, it is found that \$2 million in funds at least four years old is unspent from 10 states and territories;
 - b. The \$2 million is added to the pool and then HHS (or Congress) adds the balance (\$10 million);
 - c. These funds are reallocated to the 45 states and/or territories demonstrating unaddressed needs for voters with disabilities.

ENDNOTES

¹ Budget of the United States released by The Office of Management and Budget, February 14, 2011.

² Office of Management and Budget, "Terminations, Reductions, and Savings," p.83.

³ United States General Accounting Office, published June 2009, titled "More Polling Places Had No Potential Impediments than in 2000, but Challenges Remain." Available online at <http://www.gao.gov/products/GAO-09-685>.

⁴ US Department of Justice, "ADA Technical Assistance," p.12. Available online at <http://www.ada.gov/adata1.htm>.

⁵ GAO Report, "More Polling Places Had No Potential Impediments than in 2000, but Challenges Remain," pp.13-19.

⁶ GAO Report, "More Polling Places Had No Potential Impediments than in 2000, but Challenges Remain," p.2.

⁷ SCOPE Polls Apart Campaign survey of 1,000 polling stations (precincts) during 2009 elections. Report available at <http://www.pollsapart.org.uk/pages/2010report.php>.