



Matthew Dunlap  
Secretary of State

State Of Maine  
Office  
of the  
Secretary of State

May 22, 2008

The Honorable Rosemary Rodriguez, Chair  
The Honorable Caroline Hunter, Vice Chair  
The Honorable Gracia Hillman  
The Honorable Donetta Davidson  
U.S. Election Assistance Commission  
1225 New York Avenue (NW), Suite 1100  
Washington, D.C. 20005

Dear Commissioners:

I am writing to oppose Commissioner Hillman's Maintenance of Effort (MOE) Funding Proposal (introduced as *EAC Advisory 07-003-B*) which sustains an expanded and flawed interpretation of HAVA's State MOE requirement; and I am also writing to support Commissioner Caroline Hunter's proposal to modify *EAC Advisory 07-003-A* by eliminating "county or local government" from the MOE requirement.

*EAC Advisory 07-003-A*, in its current version, and the proposed *EAC Advisory 07-003-B*, are problematic because:

- 1) *EAC Advisory 07-003-A* advises that Maintenance of Effort Funding requirements must include consideration of county and local funding. The proposed *EAC Advisory 07-003-B* further defines, but ultimately leaves in place, this counsel. In fact, the applicable section of HAVA is unambiguous and does not make requirements of local and county governments. A full reading of the law makes clear the omission of county and local governments from MOE was indeed an intentional decision of Congress.
- 2) *EAC Advisory 07-003* (from which emanates *EAC Advisory 07-003-A* and the proposed *EAC Advisory 07-003-B*) was adopted nearly four full years after most states (including Maine) submitted their State Plans – in which states explicitly and openly laid out their approaches to calculating and meeting MOE. In fact, the advisory and its subsequent revision were adopted long after most major implementation decisions had been made, and after substantial sums of HAVA funds had already been expended. This late change in policy is tantamount to changing the "rules of the game" mid-play. Decisions and strategies employed by Maine and other states would likely have been different if Congress had included county or local jurisdictions in MOE. Moreover, introduction of such a requirement at this late date places an enormous, if not impossible, burden on states to compile and assess historic financial records from more than eight years back, and in Maine's case from more than 500 municipal jurisdictions.

I support Commissioner Hunter's proposal because it rectifies these problems, and also for many reasons that have already been well-articulated in public comments submitted by the National Association of State Election Directors (NASSED) on May 20, 2008, as well as in public comments submitted by many of my colleagues.

For the reasons noted above, I urge you to oppose the proposed *EAC Advisory 07-003-B* and support Commissioner Hunter's proposal to modify *EAC Advisory 07-003-A*. I also would like to commend you for the outstanding work you do to enhance our democratic process and thank you for your time and consideration.

Sincerely,



Matthew Dunlap  
Secretary of State