



U.S. ELECTION ASSISTANCE COMMISSION
1225 New York Ave. NW – Suite 1100
Washington, DC 20005

January 18, 2005

EAC Advisory 05-001 - Use of funds provided by counties as part of the State's matching funding under Title II of HAVA

Question: Can county governments appropriate and maintain the funding that a state intends to appropriate as its matching funding pursuant to section 253(b)(5) of the Help America Vote Act of 2002 (HAVA)?

Response: A State may use funds that are set aside by county or local governments and maintained under the control of those governments as their matching funds for purposes of receiving Requirements Payments. However, there are several stipulations to that authority:

1. In order for the money to be under the control of the State, there must be some written agreement between the counties and the State establishing that the funds have been set aside by the counties for use by the State for this purpose and that the only purposes for which those funds may be used are those provided by HAVA for the use of matching funds. A cooperative agreement, memorandum of understanding or other contract would be sufficient to satisfy the requirement of a written agreement.
2. Maintenance of funds at the county level does not obviate in any way the State's obligation to provide the matching funds, account for their use, report on their use, and audit those funds as required by HAVA and OMB Circulars A-87 and A-133.
3. The provision and maintenance of matching funds by the counties does not alleviate the State's obligation to use all HAVA funding in keeping with the tenets and spirit of the Voting Rights Act and other state and federal laws and regulations prohibiting the discriminatory use of federal funds and/or discriminatory application of voting systems.