



U.S. ELECTION ASSISTANCE COMMISSION
1225 New York Ave. NW – Suite 1100
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January 18, 2005

EAC Advisory 05-003 - Interest on HAVA Title I, Section 101 Funds

Question: Does the State have to remit interest earned on Title I, Section 101 funds to the Federal Government? Further, if the State does not have to remit interest earned on these funds, may the State use that interest to make up a part, or the entirety, of its matching funds pursuant to Section 253(b)(5)?

Response: States do not have to remit the interest earned on Title I, Section 101 funds to the Federal Government. Generally, interest on federal grant funds are required to be remitted to the federal government under either or both the Cash Management Improvement Act or the Common Rule (OMB Circular A-102). However, the Help America Vote Act of 2002 (HAVA) specifically designates the use of the interest on money deposited into the election fund required by sections 104(d) and 254(b)(1) of HAVA to be used to meet the requirements of Title III and for such other purposes that a requirements payment could be used. These sections allow the State to retain, rather than remit, the interest earned on Title I, Section 101 funds, when they have been deposited in the State's section 254 election fund for use in accordance with its state plan and for the purposes permitted by Section 254(b)(2) and 251(b).

A State may not use interest from Title I, Section 101 funds to serve as a part of a the matching funds appropriated by the State in order to receive Title II Requirements Payments. The interest that is earned on Section 101 grant funds is interest on Federal funds and thus is Federal in nature. As such, the provisions of OMB Circular A-87 apply. Specifically, the factors affecting the allowability of costs prohibit the use of federal grant funds to meet cost sharing or matching requirements of another federal award:

“h. Not be included as a cost or used to meet cost sharing or matching requirements of any other Federal award in either the current or a prior period, except as specifically provided by Federal law or regulation.”

HAVA does not specifically allow the use of Title I, Section 101 interest as matching funds for Title II Requirements Payments. Thus, while the interest on Section 101 funds may be used to further the State's efforts to meet the requirements of Title III and to improve the administration of Federal elections, those funds cannot be used as any part of the State's matching funds for purposes of receiving Title II Requirements Payments.