GRANTS PRIMER

FOR STATE ELECTION OFFICIALS

The information contained in this document, including the sample forms, is intended for informational and general guidance purposes only. It does not supersede or modify relevant federal statutes, regulations and/or case law relating to the application for and administration of federal grant money. Following this guidance is not a guarantee or assurance that activities are in compliance with legally controlling federal authority. Grant applicants and recipients are encouraged to consult with their attorneys or with representatives of this agency with specific questions.

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I. INTRODUCTION

This primer was developed by the U.S. Election Assistance Commission (EAC) for state election officials. The primer is a compendium of information for quick reference on the funding and grants administration requirements of the Help America Vote Act (HAVA) of 2002 and other federal funding requirements. It is principally focused on the management of HAVA funding and the responsibilities of state officials in administering and overseeing these programs and grants to assure responsible financial management of HAVA funds. While not an exhaustive resource, this primer provides valuable information about the requirements for states and addresses many questions new election officials have.

This primer is intended as an educational tool for election officials, particularly officials whose responsibilities include assuring compliance with HAVA. Other election officials may also find the information useful.

If you have any questions, please contact the EAC Payments and Grants Division either by email at havafunding@eac.gov or by phone at 202-566-3100. Another resource that you may find useful is your fellow election officials in other jurisdictions. Many officials have developed connections with those in other states and have learned a lot from their experiences and expertise.

II. BACKGROUND OF HAVA

a. Purpose of HAVA

The Help America Vote Act (HAVA, PL 107-252) was passed by Congress and signed by President George W. Bush in 2002. It was drafted in large part due to the controversies in the 2000 Presidential Election.

Pursuant to HAVA, every state choosing to receive federal funds must undertake an examination of their voting systems and regulations and implement fundamental changes to the electoral process. The law provides funding to help states meet the new standards found in HAVA, to replace voting systems and to improve the overall administration of elections. It is highly recommended that every new election official read the legislation (http://www.eac.gov/about_the_eac/help_america_vote_act.aspx).

HAVA also created EAC to oversee these reforms and provide voluntary standards for the management of elections.

b. The U.S. Election Assistance Commission (EAC)

EAC was established by HAVA as an independent, bipartisan commission. The four EAC Commissioners are appointed by the President and confirmed by the U.S. Senate. The Commissioners hold regular public meetings to gather input and inform the public about its activities. Public meetings are typically webcast live and archived on the EAC website so that you can remain informed. HAVA also established three advisory committees (a Standards Board, Board of Advisors, and the Technical Guidelines Development Committee) that provide advice to EAC.

EAC is tasked with several important missions:

1) Serve as a national clearinghouse of information on election administration, including the experiences of state and local government election officials in implementing election reform and operating voting systems.

2) Administer a federal voting system testing and certification program.

3) Develop guidance to assist the states in HAVA compliance, including information and training on the management of payments and grants provided to the states.

4) Distribute funds to the states and perform audits to ensure the funds are spent appropriately.

5) Conduct research and studies to promote effective administration of federal elections.

While all of these are incredibly important tasks, this primer will focus on providing information on requirements payments (HAVA Section 251) and their management by the states. In this role, EAC has responsibility for issuing grants and specifying terms and conditions, administering grants (including providing guidance and assistance and oversight), and auditing funds through the EAC Inspector General.

III. HAVA FUNDING

a. State Plan

According to HAVA, each state must develop a state plan to receive federal funding. The plan details how the funds will be used in accordance with HAVA.

HAVA specifies that the state plans be developed through a committee that includes the chief election officer of the two most populous jurisdictions, other local election officials, and stakeholders including representatives of groups of individuals with disabilities, and other citizens appointed by the chief state election official. The state plan must meet the public notice and comment period requirements as outlined in HAVA Section 256. The state takes the public comments at the state level or federal level into account when preparing a final version of the state plan. Once the preliminary plan is developed, it is sent to EAC for publication in the Federal Register for a 30-day public inspection and comment period.

Upon request, the EAC grants management office will review state plans or revisions to answer questions. On the date of publication, EAC will notify the state that the state plan has been published and shall go into effect following a 30-day period. The final state plan is filed with the EAC. The state plan should be amended if there are any material changes in what has been published.

b. Key Components of a State Plan (For complete overview, see HAVA Section 254).

The state plan shall contain a description of each of the following:

1) How the state will use the requirements payment to meet the requirements of Title III, and, if applicable to carry out other activities to improve the administration of elections

2) How the state will distribute and monitor requirements payments to local governments or other entities

2a) How the state will determine the eligibility of local governments or sub-grantees to receive funds

2b) How the state will monitor these funds to ensure that they are used in accordance with the performance goals of the state plan

3) How the state will provide for programs for voter education, election official education and training, and poll worker training

4) Detail the voting system guidelines and processes to be used by the state in accordance with Section 301 of HAVA

5) How the state will establish a fund to track requirements payments, matching funds, interest earned on the fund, etc.

6) Long-term budget (the budget should cover entire time frame of the state plan) based on the state's best estimates for the costs of activities identified

6a) Specific cost of becoming compliant and maintaining compliance with Title III requirements

6b) Specific information on the portion of funds that will be used for these activities (include whether the state has submitted to the EAC that it is Title III compliant)

6c) Specific cost of other election activities and the specific portion of funds that will be used for these activities

7) How the state will maintain expenditures (MOE) and maintain documentation

8) Performance Goals and Measures:

- Process to develop the criteria
- Specific criteria to measure performance
- Name of an individual or job title that will ensure that each performance goal is met- Timetable for meeting aspects of the state plan

9) Description of the uniform, nondiscriminatory administrative complaint procedures

10) Amount of any Title I payments and description of how they will be used

11) How the state will conduct ongoing management of the plan

12) Description of any changes in current plan from the previous state plan and a description of how the state implemented aspects of the previous state plan

13) Description of the committee which participated in the development of the state plan in accordance with Section 255 and the procedures followed by the committee under Sections 255 and 256

OTHER:

14) Description of how the state will implement the Military and Overseas Empowerment Act (MOVE)

15) How the state calculates and ensures matching funds

c. How to Request Requirements Payments

Following the 30-day public comment period in the Federal Register, the state may send EAC a request for requirements payments by certifying compliance with HAVA Section 253(b) (See Appendix B for Template Letter to EAC Requesting Requirements Payments).

Requests can be sent either electronically to havafunding@eac.gov or hardcopy by mail to the address below:

Attn: Payments and Grants Division
U.S. Election Assistance Commission
1201 New York Ave, NW, Suite 300
Washington, DC 20005

EAC requests that states also provide backup documentation that shows the five percent match has been deposited into the state election fund.

Upon review, EAC will send an email notification to the state with an electronic copy of the 1) Notice of Grant Award, 2) ACH Vendor/Miscellaneous Payment Enrollment Form (Standard Form (SF) 3881), 3) EAC Certifications Regarding Lobbying; Debarment, Suspension and other Responsibility Matters; and Drug-Free Workplace, and 4) Assurances – Non-Construction Programs (SF 424B). A hardcopy of these documents will also be mailed to the state.

Once these documents have been completed, signed and dated, the state may send them electronically to havafunding@eac.gov or by mail.

Visit our website at
http://www.eac.gov/payments_and_grants/request_requirements_payments.aspx
to read the "Memo to chief election officials on new instructions for 2010" and listen to the "Webinar on Requirements Payments."

d. Purpose of Requirements Payments

HAVA Section 251 requirements payments have been authorized by Congress to implement changes to federal elections at the state level to:

- Procure voting systems that comply with the requirements of HAVA;
- Implement and/or operate a system of provisional voting during federal elections;
- Create and maintain a computerized statewide voter registration list;
- Educate voters;
- Implement new voter identification requirements;
- Improve accessibility; and
- Provide for other improvements to the administration of federal elections.

According to HAVA Section 251(b)(2), states can use requirements payments for other activities to improve the administration of federal elections only after meeting the requirements of Title III (see Appendix A for more information on Title III compliance) or if the amount is not more than the minimum payment amount applicable to the state under HAVA Section 252(c).

e. Title III Certification:

Each state must send a letter to EAC certifying that the state is in compliance with all of the Title III requirements of HAVA:

1) Voting Systems (Section 301)
2) Provisional Voting (Section 302)
3) Voter Registration (Section 303)

The letter must also include the date that the state became compliant with Title III and that the state is also in compliance with other sections of HAVA. Each state must keep backup documentation on file to prove that they are in compliance with these requirements and have a plan for remaining in compliance.

The checklist in Appendix A may be helpful to you in determining your state's progress toward compliance. Appendix C offers a sample letter to EAC to certify that your state is Title III compliant.

If you have any additional questions, please reference the HAVA statute or contact the EAC. The list of states that have certified compliance with Title III of HAVA is available on our website at http://www.eac.gov/payments_and_grants/request_requirements_payments.aspx under "HAVA Title III and Minimum Payment Amount Certification."

IV. FISCAL AND GRANT MANAGEMENT

a. Reporting Requirements

States must report on all distributions of funds. The reporting scheduling for states can be found in Appendix D or by visiting our website http://www.eac.gov/assets/1/Documents/State%20HAVA%20Reporting%20Schedule_revised.pdf.

The form used to report annually to EAC is called SF 425 – Federal Financial Report (FFR) which can be found on the EAC website at http://www.eac.gov/payments_and_grants/reporting.aspx. There is also an annotated version available to help you in completing the form (See Appendix E for Annotated Federal Financial Report).

b. OMB Circulars

Basic Grants Information on Administering EAC HAVA Grant Awards to States

Aside from the funding award itself and any limitations therein reflecting the HAVA statute or agency requirements, there are three major government-wide documents which address the administration of federal awards to the states including those issued by EAC under HAVA:

- **The Cost Principles (OMB Circular A-87/2 CFR 225)** for state and local governments – which define specific allowable and unallowable costs, the standards of reasonableness and allocability, and documentation requirements.

- **The Uniform Administrative Requirements** for grants and agreements with states and local governments **(OMB Circular A-102)** establishes uniform rules for applying, receiving, and administering federal grants or assistance.

- **Audits of State & Local governments & Nonprofits (OMB Circular A-133)** establishes the federal requirements and standards for audits for organizations receiving federal funding and/or assistance.

1. Cost Principles

The cost principles are issued by the White House Office of Management and Budget (OMB) (Circular A-87) and codified as 2 Code of Federal Regulations (CFR) 225 for state and local governments.

Full text of Circular A-87: http://www.whitehouse.gov/omb/circulars_default

(This has been relocated to http://www.whitehouse.gov/sites/default/files/omb/assets/omb/fedreg/2005/083105_a87.pdf)

Federal cost principles are policies used to determine which costs of an activity/project/program should be borne by the federal government. This document ensures the consistent treatment of costs, regardless of whether reimbursement is received directly from the federal government or through another recipient of federal funds.

Purpose and Significance of 2 CFR 225 (OMB Circular A-87)

This guidance is intended to achieve more efficient and uniform administration of federal grant and contract awards, and to foster better relationships between the federal government and state and local governments (and federally-recognized Indian tribal governments). It provides the foundation for greater uniformity in the cost procedures of nonfederal governments and in the reimbursement practices of federal agencies. It should be used in conjunction with other applicable state laws to provide comprehensive direction and accountability in federal fund management.

2 CFR 225 provides principles and standards for determining both direct and indirect costs applicable to federal cost-based awards to governmental units. It may be useful for budget preparers, recipient personnel responsible for tracking costs charged against federal awards, independent auditors, federal awarding agency personnel reviewing budget requests and charges to the award, and cognizant agency and recipient personnel negotiating indirect cost rates and cost allocation plans.

2 CFR 225 Appendix A — General Principles for Determining Allowable Costs, this is the basis for determining the allowability of costs under federals grants and thus is applicable to all HAVA funding. This directive explains what costs are allowable charges to federal programs, what costs are not allowable, and how costs must be documented. They describe what may be

reimbursed or recovered under a federal award. They are designed so that the federal government bears its fair share of costs, except where restricted or prohibited by law. Agency statute, in the case of the U.S. Election Assistance Commission, the statute referred to as HAVA, preempts any differences between the OMB Cost Principles and the statute.

These Cost Principles also establish the standards for states and local government to document the costs charged to federal awards. It defines in 2 CFR 225 Appendix B – Selected Items of Cost, specific items of costs that are unallowable under all federal awards, such as alcohol, entertainment, lobbying, fines, work not specifically provided for under the grant, losses, etc. It also defines the direct costs allowable such as personnel, services, equipment, telecommunications, etc., within the context of the purpose and conditions of the federal agency grant award. For the specific costs defined as allowable, the Cost Principles also establish the standards for documentation such as the time and activity reports necessary to document any personnel charged to a grant. The Cost Principles further establish the standards of reasonableness and allocability for allowable charges to the federal grant.

Finally, allowable charges to the grant may be limited by the purpose of the federal agency grant funding and/or by the agency statute. For example, HAVA does not support voter registration drives or get-out-the-vote activities as these are not within either the statute or the purposes or scope of grant funding. If you have any questions whether an expense is allowed under HAVA funding, please ask the EAC Payments and Grants division.

Governmental Unit Responsibilities

2 CFR 225 recognizes the responsibility and sovereignty of governmental units that receive and administer federal awards. It reinforces the expectation contained in the law and in award agreements that these organizations will administer federal funds properly and in a manner consistent with the sound management practices that they apply to their own revenues. Standards provided in the Common Rule OMB Circular A-102 (http://www.whitehouse.gov/omb/circulars_a102/), Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, reinforce this recipient responsibility for financial management, procurement, property management, and record retention.

The Cost Reimbursement Process

In the context of Circular A-87 (2 CFR 225), the term "cost reimbursement" describes how the claims will be reviewed, accepted, and settled. Although

the term “cost reimbursement” implies that funding is received after-the-fact, the process of cost reimbursement under federal grant (assistance) awards has little to do with this when cash is actually received. This is because, with few exceptions, assistance award recipients receive advance funding. In the case of HAVA, the statute directs that funds will be advanced to the state and held along with state HAVA funds in a separate interest-bearing account.

The cost principles have a role to play at most stages of the assistance award or contract life cycle. These stages, and the role of 2 CFR 225 at each stage, are summarized in the following chart:

At this stage in the cycle….	2 CFR 225 plays this role:
Soliciting applications and/or proposals from governmental units	Awarding agency (EAC) announces the applicability of the 2 CFR 225 cost principles in its Notice of Funds Award to the states.
Preparing proposals or plans for use of funds	Applicant governmental unit includes only costs allocable, reasonable, and allowable under 2 CFR 225 or the HAVA statute if there are exceptions.
Notifying recipient of award	Applicable assistance award document cites the applicability of 2 CFR 225.
Expending funds	Governmental unit recipient incurs costs for expenditures that are eligible under applicable program legislation, as well as allowable under 2 CFR 225, under control procedures that allow proper determination.
Developing and retaining documentation	As costs are incurred, governmental unit generates documentation consistent with that generated for expenditure of own-source revenue and with any specific requirements of 2 CFR 225 (e.g., personnel activity reports) — documentation is maintained in a system of records for at least the minimum of time provided under OMB Circular A-102 Common Rule – three years after the final Federal Financial Reports (FFR) SF 425.
Auditing Awards	Through test procedures, independent auditors or auditors representing awarding agencies review claims to determine whether incurred costs are appropriate under 2 CFR 225 and HAVA statute. Discrepancies are reported to EAC as questioned costs requiring resolution.

General Tests of Cost Allowability

Although 2 CFR 225 Appendix B lists a number of selected items of cost, which frequently represent significant amounts in individual federal awards or are costs for which there is a specific federal policy, 2 CFR 225 Appendix A establishes general tests of allowability that apply irrespective of whether a particular item of cost is specifically mentioned in 2 CFR Appendix B. These general tests frequently involve judgment and an assessment of the facts and circumstances in which the specific cost is incurred. The tests are not only listed in the Circular itself, but are frequently restated in compliance

audit guidance that federal and nonfederal auditors use to carry out field-work and reporting.

The basic guidelines for determining allowability state that costs:

- Be necessary and reasonable for proper and efficient performance and administration of the federal awards. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances

- Be allocable to Federal awards under the provisions of 2 CFR Part 225

- Be authorized or not prohibited under State or local laws or regulations

- Conform to any limitations or exclusions set forth in these principles, Federal laws, terms and conditions of the Federal award, or other governing regulations as to types or amounts of cost items

- Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit

- Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost

2. Uniform Administrative Requirements

The Uniform Administrative Requirements for grants and agreements with state and local governments (OMB Circular A-102) addresses a myriad of government-wide requirements from pre-award to post-award and final closeout of federal funding for states and local governments. For EAC funding, OMB Circular A-102 is found at 41 CFR 105-71.1.

Circular A-102 Common Rule also establishes documentation and systems requirements for a variety of functions.

Some of the more significant requirements addressed in Circular A-102 for state and local governments are:

- Standards for financial management which establish state responsibility for fiscal control, accounting procedures, internal

and budget controls and source documentation for grant funds in accordance with state laws and procedures and federal requirements

- The responsibility of the state for assuring fiscal control and accountability for sub-grantees or sub-recipients of federal funds
- Real property and equipment defines standards for dollar thresholds, establishes the need for inventory every two years, maintenance, security, title to and disposal of inventory
- Procurement establishes requirements for competition, small purchase procedures, standards and conflict-of-interest policies for involved staff, documentation, debarred parties, etc.
- Federal financial reporting requirements, annually for the HAVA awards to states
- Closeout defines the process and requirements for reporting and reconciliation for final grant award closing
- Record Retention – three years after last Federal Financial Report with exception of on-going audits. (For HAVA Section 251requirements payments this retention period may extend several years as the initial award of funds is often spent out over many years)

3. A-133 Audits

Audits of state, local governments and nonprofit organizations (OMB Circular A-133, http://www.whitehouse.gov/omb/circulars_default) set the standards for audits for recipients of federal funding and a dollar threshold for annual audits – expenditure of all federal funding in a single fiscal year of $500,000 or more.

Due to the various streams of federal grant and assistance funding, all states exceed the threshold for an annual audit and are regularly audited in accordance with the OMB Circular A-133 requirements.

However, the states are responsible for assuring that all of their sub-recipients or sub-grantees of federal funds meet the standards for independent audit. Further, the state is responsible for assuring receipt of the audit and acting on any findings in the audit including cost disallowance

and repayments and resolution of findings pertaining to internal controls, financial management or other matters.

c. Matching Funds

Per HAVA, each state must have a five percent state match in order to receive HAVA funds. That is five percent of the total amount, so the formula is: (Federal Dollars/.95) – Federal Dollars = State Match. The EAC grants office will assist you in calculating your state match to ensure that you have the correct amount. The amount is available at http://www.eac.gov/payments_and_grants/managing_payments.aspx under "Distribution of FY 2008, 2009 and 2010 Requirements Payments and Matching Contributions."

EAC can only distribute an amount based on the matching funds the state has deposited into their election fund. In other words, for every $1,000 placed in the election fund as a state match EAC will distribute $19,000, up to the state's allocation.

d. Maintenance of Expenditure (MOE)

HAVA Section 254(a)(7) requires states to meet an annual MOE based on state expenditures in the fiscal year prior to November 2000 for election activities in Title III of HAVA. The purpose of MOE is so that states maintain expenditure at this level in addition to using HAVA funds.

EAC adopted a new policy providing guidance on MOE on June 28, 2010 (See Appendix F for MOE Policy).

e. Audits by the EAC Office of the Inspector General

EAC has the responsibility for distributing funds and monitoring their use to ensure they are used responsibly, which includes regular audits. All of the audits are conducted by the EAC Office of the Inspector General.

There are several ways you can find out what to expect in an audit:

- Read audit reports from other states (http://www.eac.gov/inspector_general/hava_funds_audits.aspx)

- Talk to other state officials about their experiences with being audited

- Contact the EAC IG for information on what they look for in an audit

EAC's grant management office conducts site visits/monitoring and can provide pre-audit support. You can contact the IG's office at: eacoig@eac.gov or 1-866-552-0004.

The grants management office has primary responsibility for audit resolutions, including any corrective actions for issues identified in audits. The Director of the EAC Payments and Grants Division recommends how to resolve any issues to the EAC Executive Director who issues a management decision on the audit. If a state does not agree with the management decision, they have thirty days to appeal in writing to the Chair of the EAC. The Commissioners will make a decision within sixty days.

V. CONCLUSION

We hope this document has been a helpful overview for you. For more information on HAVA fiscal management, please visit the EAC website or contact the Payments and Grants Division by email at havafunding@eac.gov or by phone at 202-566-3100.

APPENDIX A

Title III Certification Checklist

This self-assessment tool is for state election officials to help determine progress toward becoming compliant or maintaining compliance with Title III of the Help America Vote Act (HAVA). EAC does not expect to receive or review this form.

Choose one of the following three levels of compliance:

1) State is Title III compliant and has officially certified compliance ☐ YES ☐ NO

(if unsure please check with EAC grants management division)

Date of certification: _____ (MM/DD/YYYY)

Processes to determine compliance is documented and back-up documentation used to show compliance is on file. ☐ YES ☐ NO

Process to re-affirm compliance is established and used on a regular basis ☐ YES ☐ NO

2) State is Title III compliant, but has not yet certified as such to the EAC: ☐ YES ☐ NO

(a sample state certification is attached)

3) State is not yet Title III compliant ☐ YES ☐ NO

VOTING SYSTEMS

(For more detailed information please see the HAVA Section 301)

Please check all subcategories for which the state is compliant:

1) For optical scan, or Direct Recording Electronic (DRE) systems, all systems:

☐ Allow voter to verify ballot before submitting

☐ Allow voter opportunity to correct ballot before submitting

☐ Warn if voter selects more than allowed option(s) for an office and give an opportunity to correct ballot

☐ Ensure privacy and confidentiality when voting

2) For paper ballot, or central count (including mail-in) systems, all systems:

☐ Have a voter education program about the effect of casting more than allowed votes

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☐ Have instructions on how to correct the ballot (including obtaining a replacement)

☐ Ensure privacy and confidentiality when voting

3) For manual audit capacity:

☐ The voting system shall produce a permanent paper record with a manual audit capacity

☐ The voting system shall allow the voter to change or correct the ballot before the paper record is created

☐ Ensure privacy and confidentiality when voting

4) Access for voters with disabilities:

☐ The voting system shall be accessible for individuals with disabilities in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters

☐ Includes at least one operating accessible system at each polling place

5) Alternative Language Provision

☐ The voting system provides alternative language accessibility (per Section 203 of Voting Rights Act of 1965, http://codes.lp.findlaw.com/uscode/42/20/I-B/1973aa-1a)

6) Error Rates:

☐ Voting systems comply with error rates pursuant to Voluntary Voting System Standards

(http://www.eac.gov/testing_and_certification/voluntary_voting_system_guidelines_fact_sheet.aspx)

7) Definition of a Vote

☐ There is an official state definition of what will count as a vote for each voting system

Voting systems are compliant (must have checked all applicable subcategories): ☐ YES ☐ NO

PROVISIONAL VOTING **(Section 302)**

Please check all subcategories for which the state is compliant:

☐ 1) Voter can cast a provisional ballot if he or she does not appear on the list of eligible voters, with a written affirmation that the individual is a registered voter in that jurisdiction and eligible to vote

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☐ 2) Voter is given written information on (a) how to determine if the vote is counted or (b) why the vote was not counted

☐ 3) Free-access system for an individual to check on the status of his or her provisional ballot, for example a toll-free number or website

☐ 4) The following information is publicly posted at each polling place:

- ☐ Sample version of the ballot
- ☐ Date of election and hours for polling place
- ☐ Instructions on how to vote including how to cast a provisional ballot (including provisional balloting)
- ☐ Instructions for mail-in registrants and first time voters
- ☐ Information on voting rights and who to contact about rights violations
- ☐ Information on laws prohibiting fraud and misrepresentation

☐ 5) Provisional ballots are given to individuals who vote as a result of a federal or state court order extending the closing of the polls. Ballots are separated and held apart from other provisional ballots not affected by the order.

Provisional voting is compliant (All subcategories are checked): ☐ YES ☐ NO

VOTER REGISTRATION (HAVA Section 303)

(Not applicable for states where there is no voter registration requirement for any voter in the state or where all voters may register to vote at the polling place (per section 4(b) of the National Voter Registration Act of 1993).

Please check all subcategories for which the state is compliant:

1) Voter Registration Database

☐ There is one official computerized statewide voter registration system that lists information on each legally registered voter, including:

- ☐ Unique identifier for each voter
- ☐ Sole system for managing the official list of voters
- ☐ Coordinated with other state databases
- ☐ Immediate electronic access to information for any election official in the state
- ☐ Information obtained by local election official is entered into database

☐ Procedures exist to remove individuals according to National Voter Registration Act of 1993 (http://www.justice.gov/crt/voting/42usc/subch_ih.php), including:

- ☐ Coordination with state records of felony status, deaths, and other disqualifications (if applicable)
- ☐ Only remove voters that are either:

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Title III Certification Checklist

1) not registered
2) not eligible or
3) duplicates

☐ Individuals are not removed solely for failure to vote

☐ Safeguards exist to ensure that eligible voters are not removed in error

☐ System has adequate security to prevent unauthorized access

2) Voter Registration Application used for Federal Elections

☐ State uses application which requires current and valid driver's license number **OR** the last 4 digits of the applicant's social security number (if applicant does not have either then the state assigns a unique identifying number from database)

☐ State determines if information on application is sufficient and accurate

☐ State coordinates with motor vehicle authority to match the information of application information (motor vehicle agency works with commissioner of social security per Social Security Act)

☐ State requires first-time voters who registered by mail and (1) have not previously voted in a federal election in the state OR (2) if the state does not have a computerized voter registration system, to:

☐ Present election official with one of the following: (1) a current and valid photo ID (2) a copy of a current utility bill, bank statement,4 government check, paycheck, or other government document with name and address of voter (unless this information was submitted with registration).

☐ For those voting by mail: Submit copy with ballot of (1) driver's license or other appropriate photo ID OR (2) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter (unless this information was submitted with registration).

☐ Identification requirements do not apply if voter registered by mail and submits (1) driver's license number OR (2) last four digits of social security number and election official matches this information to state records or voter is eligible to vote absentee via Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), Voting Accessibility for the Elderly and Handicapped Act (VAEHA), or other applicable federal law.

☐ Cast a provisional ballot if the voter does not have appropriate identification.

3) Mail-in Voter Registration Form used for federal elections includes statement:

☐ "Are you a citizen of the United States of America?" with yes/no checkboxes

☐ "Will you be 18 years of age on or before election day?" with yes/no checkboxes

☐ "If you checked 'no' in response to either of these questions, do not complete this form."

☐ For first-time registrants that they must mail supporting information to avoid additional identification requirements when voting for the first time

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If form is incomplete the registrar notifies applicant in time to complete prior to election: ☐ YES ☐ NO
Voter registration is compliant (Must have Checked all subcategories): ☐ YES ☐ NO

A state must have checked 'yes' for all of these boxes in order to make a reasonable determination that it can certify that is in compliance with Title III of HAVA.

State is Title III compliant: ☐ YES ☐ NO

Next Steps:

State will certify Title III Compliance by: _____ (please see the attached sample Title III Compliance letter).

Steps to complete before certification:

_____

_____

_____

_____

_____

APPENDIX B

Template Letter to EAC Requesting Requirements Payments

Dear [U.S. Election Assistance Commission]:

___[State]___ hereby certifies that it is in compliance with the requirements referred to in section 253(b) of the Help America Vote Act of 2002.

Furthermore, ___[State]___ certifies that it has:

- Filed and implemented a plan for uniform, nondiscriminatory administrative complaint procedures required by HAVA Section 402
- Appropriated matching funds equal to five percent of the total amount (State share plus Federal share) of your HAVA requirements payment budget.
- Complied with the six laws listed in Section 906 of HAVA.
- Filed a State plan that complies with the requirements listed in Sections 253, 254, 255, and 256 of HAVA.
- Provided EAC with appropriate certifications under Section 251(b)(2) regarding use of requirements payments for activities other than meeting the requirements of HAVA Title III.

___[State]___ is prepared and eligible to receive funds for [INDICATE FISCAL YEAR].

Signature

Chief Election Official

APPENDIX C

Sample Title III Certification Letter

Pursuant to section 251(b) (2) (A) of the Help America Vote Act of 2002 (HAVA) (42 U.S.C. 15401), __[State]__ certifies that it has implemented all of the Title III requirements established by HAVA. To support this certification, the status and implementation date of each of the Title III requirements are provided below:

1. *Voting System Standards* [Provide detailed description]

2. *Provisional Voting* [Provide detailed description]

3. *Voting Information* [Provide detailed description]

4. *Voter Registration* [Provide detailed description]

Signature

Chief Election Official

APPENDIX D

State HAVA Funds Reporting Schedule

STATE HAVA FUNDS REPORTING SCHEDULE

Information Provided by the U.S. Department of Health and Human Services and the U.S. Election Assistance Commission

Due Date	Frequency	Type of Report	Period Covered	Form of Report	Send Report To:
31-Dec	Annually until all funds disbursed	Consolidated report on HAVA Title I, Section 101 funds	October 1 to September 30	SF 425 + • a list of expenditures made with respect to each category of activities described for the use of funds in HAVA Section 101; • the number and type of articles of voting equipment obtained with the funds; and • an analysis and description of the activities funded to meet HAVA requirements and how such activities conform to the submitted State plan	Send electronically to HAVAFunding@eac.gov If unable to submit electronically, send to: State HAVA Funding Reports U.S. Election Assistance Commission 1201 New York Avenue, NW Suite 300 Washington, DC 20005
31-Dec	Annually until all funds disbursed	Consolidated report on HAVA Title I, Section 102 funds, if such funds were received	October 1 to September 30	SF 425 + • a list of expenditures made with respect to each category of activities described for the use of funds in HAVA Section 101; • the number and type of articles of voting equipment obtained with the funds; and • an analysis and description of the activities funded to meet HAVA requirements and how such activities conform to the submitted State plan	Send electronically to HAVAFunding@eac.gov If unable to submit electronically, send to: State HAVA Funding Reports U.S. Election Assistance Commission 1201 New York Avenue, NW Suite 300 Washington, DC 20005
31-Dec	Annually until all funds disbursed	Consolidated report on HAVA Title II, Section 251 requirements payments	October 1 of the year before last to September 30 of last year	SF 425 + • a list of expenditures made with respect to each category of activities described for the use of funds in HAVA Section 101; • the number and type of articles of voting equipment obtained with the funds; and • an analysis and description of the activities funded to meet HAVA requirements and how such activities conform to the submitted State plan	Send electronically to HAVAFunding@eac.gov If unable to submit electronically, send to: State HAVA Funding Reports U.S. Election Assistance Commission 1201 New York Avenue, NW Suite 300 Washington, DC 20005
31-Mar	One time only March 31, 2005	HAVA Title II, Section 261 for funds provided in FY 2003 and FY 2004	FY 2003 – September 1, 2003 to September 30, 2004; FY 2004 - October 1, 2003 to September 30, 2004	Narrative: • Describing how the State followed the plan for each of the four mandated areas. • Describing any activities carried out by the State that displayed innovation and can be shared with others as "best practices". • Describing any significant barriers/roadblocks to carrying out the State's activities and, if possible, suggested solutions. • Describing activities which involved collaboration with other organizations or groups, for example the Protection & Advocacy System within your state, disability advocacy groups, student groups, etc. • Including, if possible, comment upon continuity. (Has the State been able to build upon earlier "start up" activities in an effective manner?) • Including comment upon citizen feedback on voter accessibility issues within your State if such information is available.	Send electronically to: melvenia.wright@acf.hhs.gov If unable to submit electronically, send to: Melvenia Wright U.S. Department of Health and Human Services Administration for Children and Families Administration on Developmental Disabilities 370 L'Enfant Promenade, SW. Mail Stop HHH 405-D Washington, DC 20447

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August 12, 2010

APPENDIX D

State HAVA Funds Reporting Schedule

STATE HAVA FUNDS REPORTING SCHEDULE

Information Provided by the U.S. Department of Health and Human Services and the U.S. Election Assistance Commission

Due Date	Frequency	Type of Report	Period Covered	Form of Report	Send Report To:
30-Nov	Annually until all funds disbursed	Financial report on HAVA Title II, Section 261 for funds provided in FY 2003 only	September 1 of the previous year to August 31 of the current year	SF 269a	Send electronically to: joseph.lonergan@acf.hhs.gov If unable to submit electronically, send to: Joseph Lonergan Administration for Children and Families Office of Grants Management Division of Mandatory Grants 370 L'Enfant Promenade, SW Washington, DC 20447
30-Dec	Annually until all funds disbursed	Financial report on HAVA Title II, Section 261 for funds provided in FY 2004 and beyond	October 1 of the previous year to September 30 of the current year	SF 269a	Send electronically to: joseph.lonergan@acf.hhs.gov If unable to submit electronically, send to: Joseph Lonergan Administration for Children and Families Office of Grants Management Division of Mandatory Grants 370 L'Enfant Promenade, SW Washington, DC 20447
31-Dec	Annually	HAVA Title II, Section 261 for funds provided in FY 2005 and beyond	October 1 of the previous year to September 30 of the current year	Narrative: • Describing how the State followed the plan for each of the four mandated areas. • Describing any activities carried out by the State that displayed innovation and can be shared with others as "best practices". • Describing any significant barriers/roadblocks to carrying out the State's activities and, if possible, suggested solutions. • Describing activities which involved collaboration with other organizations or groups, for example he Protection & Advocacy System within your state, disability advocacy groups, student groups, etc. • Including, if possible, comment upon continuity. (Has the State been able to build upon earlier "start up" activities in an effective manner?) • Including comment upon citizen feedback on voter accessibility issues within your State if such information is available.	Send electronically to: melvenia.wright@acf.hhs.gov If unable to submit electronically, send to: Melvenia Wright U.S. Department of Health and Human Services Administration for Children and Families Administration on Developmental Disabilities 370 L'Enfant Promenade, SW. Mail Stop HHH 405-D Washington, DC 20447

APPENDIX E

Annotated Federal Financial Report

FEDERAL FINANCIAL REPORT

(Follow form instructions)

1. Federal Agency and Organizational Element to Which Report is Submitted

2. Federal Grant or Other Identifying Number Assigned by Federal Agency

Page 1 of 1 pages

Make sure you identify Funds as either Section 101, 102 or 251

All Reporting for EAC is annual. States may Submit a Final FSR for Section 102 Funds if all funds have been used or State will not be using remainder of Funds

3. Recipient Organization (Name and complete address including Zip code)

4a. DUNS Number

4b. EIN

DUNS and EIN are required fields

5. Recipient Account Number or Identifying Number

Insert "Until Disbursed" for 101, 251 funds. For 102, use your State's deadline for expenditures.

6. Report Type
- ☐ Quarterly
- ☐ Semi-Annual
- ☐ Annual
- ☐ Final

7. Basis of Accounting

Use Your State accounting method HAVA funds

☐ Cash ☐ Accrual

8. Project/Grant Period
From: (Month, Day, Year)

Date Funds first Received: Check your NGA or past FSRs for the dates.

To: (Month, Day, Year)

9. Reporting Period End Date (Month, Day, Year)

This is September 30, for 101, 102 and 251 Funds

10. Transactions	Cumulative
(Use lines a-c for single or multiple grant reporting)	
Federal Cash	
a. Cash Receipts	$0.00
b. Cash Disbursements	$0.00
c. Cash on Hand (line a minus b)	$0.00
(Use lines d-o for single grant reporting)	
Federal Expenditures and Unobligated Balance:	
d. Total Federal funds authorized	$0.00
e. Federal share of expenditures	$0.00
f. Federal share of unliquidated obligations	$0.00
g. Total Federal share (sum of lines e and f)	$0.00
h. Unobligated balance of Federal funds (line d minus g)	$0.00
Recipient Share:	
i. Total recipient share required + earned	$0.00
j. Recipient share of expenditures	$0.00
k. Remaining recipient share (line i minus j)	$0.00
Program Income:	
l. Total Federal program income (interest) earned	$0.00
m. Program income expended in accordance with the deduction alternative	
n. Program income (interest) expenditures	$0.00
o. Unexpended program income (interest) (line l minus line m or line n)	$0.00

Boxes a, b and c are optional as they are duplicative of information provided below.

Recipient share includes the matching funds, interest earned on State match and net program income.

EAC is using the Program Income boxes to exclusively track interest earned on Federal Funds. This amount was previously included as part of Federal Share.

Expenditures of interest income earned on Federal Funds only.

11. Indirect Expense	a. Type	b. Rate	c. Period From			e. Amount Charged	f. Federal Share
				g. Totals:			

12. Remarks. *Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation:*

13. Certification: By signing this report, I certify that it is true, complete, and accurate to the best of my knowledge. I am aware that any false, fictitious, or fraudulent information may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 18, Section 1001)

a. Typed or Printed Name and Title of Authorized Certifying Official

c. Telephone (Area code, number and extension)

d. Email address

b. Signature of Authorized Certifying Official

e. Date Report Submitted (Month, Day, Year)

14. Agency use only.

Standard Form 425
OMB Approval Number: 0348-0061
Expiration Date: 10/31/2011

Paperwork Burden Statement
According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is 0348-0061. Public reporting burden for this collection of information is estimated to average 1.5 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0050), Washington, DC 20503.

APPENDIX F

MOE Policy

U.S. ELECTION ASSISTANCE COMMISSION
1201 New York Avenue, NW, Suite 300
Washington, DC 20005

EAC Maintenance of Expenditure Policy

Effective Date:

This policy supersedes and replaces any previous Maintenance of Effort or Maintenance of Expenditure policy adopted by the Election Assistance Commission (EAC). This policy is effective as of June 28, 2010.

Policy Overview Statement:

The Help America Vote Act of 2002 (HAVA) requires States to meet an annual Maintenance of Expenditure (MOE) (previously known as Maintenance of Effort) based on State expenditures for activities allowable under Title III of HAVA in the fiscal year prior to November 2000. HAVA requires that States establish a baseline spending level and then meet that spending level each year HAVA Section 251 funds are spent by the State. The following questions and answers provide details on what is required to meet HAVA's MOE requirement and how the U.S. Election Assistance Commission (EAC) will work with States to ensure they have a plan (See question 11) in place for managing MOE requirements.

1. What is the purpose of the maintenance of expenditures (MOE) requirement mandated by HAVA?

The purpose of MOE is to ensure that recipients of Section 251 funds (Requirements Payments) use the payments to meet the added requirements placed on States by HAVA, while maintaining the level of State funding that was available for those activities during the fiscal year ending prior to November 2000

2. Where in HAVA is the MOE requirement?

Section 254 of HAVA provides the required elements to be included in the State plan. An MOE description is one of the required elements. Section 254(a)(7) requires States to identify in their plans:

> "[H]ow the *State,* in using the requirements payment, will *maintain the expenditures* of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000." 42 U.S.C. § 15404(a)(7) (Emphasis added).

3. What does this MOE policy do?

The purpose of this policy is to facilitate State compliance with the maintenance of expenditure (MOE) requirement in HAVA. This policy supersedes EAC Advisory drafts 07-003 and 07-003A.

This policy provides guidelines and assistance for States to identify their baseline MOE and maintaining that level in subsequent years. This policy can also assist those states that elect to develop detailed, *voluntary plans* for identifying a baseline MOE level and maintaining that level in subsequent years

APPENDIX F

MOE Policy

4. Who is covered by this policy?

This policy applies directly to the 50 States, four U.S. Territories and the District of Columbia (referred to as States) that are eligible to receive Requirements Payments. This policy may also impact "lower-tier" entities indirectly (see below). However, States are ultimately responsible for demonstrating compliance with MOE.

5. What does the EAC mean by the term "lower tier" entities and recipients?

A lower-tier entity is a political subdivision of a State. Depending on the State, lower-tier entities may include, but are not limited to, counties, cities, townships, and other jurisdictions. A lower-tier recipient is a lower-tier entity that receives Section 251 HAVA funds or equipment from the State.

6. What is a baseline MOE?

The baseline MOE is a dollar amount that captures the level of State spending for a particular program or activity in the base year. In the case of HAVA, the baseline is the State spending level for a set of election activities pursuant to Title III that were in place in the fiscal year ending prior to November 2000. States may choose the Federal fiscal year, which runs from October 1, 1999 through September 30, 2000; or the State fiscal year, if it is different from the Federal fiscal year.

7. Do States need to account for lower tier (local) spending during the base year in calculating MOE?

Maybe. A State will need to account for lower-tier spending during the base year in calculating MOE when the lower-tier spending derives from funds appropriated by the State for that purpose. If the funds used are not derived from a State appropriation provided or awarded to a lower-tier entity for a specific purpose allowable under Section 251 of HAVA, a State MAY choose to exclude the lower-tier spending from the baseline MOE calculation.

8. What types of expenditures must be used to calculate the MOE baseline amount and are eligible to count towards our annual MOE contribution?

States must use all election expenditures that are allowable under Section 251 of HAVA and that were funded directly by the State, or through a State appropriation to a lower-tier entity in the base year, to calculate the baseline MOE. EAC does not consider funds distributed from States to lower-tier entities, where the lower-tier entities have discretion on how the funds are spent, to be an eligible State expenditure that would require inclusion in the baseline MOE calculation. For example, sales tax that is collected by State, but distributed back to counties to finance county operations, would not constitute a State expenditure for purposes of calculating the MOE baseline.

All allowable uses under Section 251 of HAVA, including: 1) purchase of voting equipment; 2) development and operation of a statewide voter registration list; 3) development and implementation of provisional voting for Federal elections; 4) provision of information to voters at the polling place on election day; 5) verification of information provided by persons seeking to register to vote; and, 6) improvement of the administration of elections for Federal office should be included in the baseline MOE.

For example, State X appropriates $10 million for election activities eligible for funding under Section 251 of HAVA. Two million dollars of the $10 million appropriation went to county Y to provide provisional ballots on Election Day. The State's MOE is $10 million because it includes all funds appropriated to counties for specific HAVA-allowable activities that year as part of its aggregate MOE.

9. Does this policy impose a set of uniform requirements that States must comply with to establish a baseline MOE and meet annual MOE requirements?

This policy provides minimum requirements that should be addressed when setting the baseline MOE and tracking annual MOE contributions. EAC recognizes that the financing and administration of elections includes a particularly diverse set of practices that vary from State to State. As such, this policy allows for States to develop flexible plans designed to meet each individual State's circumstances.

10. Our State plan already acknowledges that we will meet the MOE requirements. Do we still need to submit the MOE plan discussed in this policy?

No. Submission of the MOE plan described in this policy is voluntary and may not be the only means of satisfying Section 254(a)(7) of HAVA. However, States' adoption of detailed MOE plans will help ensure that States capture an accurate, defensible baseline MOE and are meeting annual MOE requirements. EAC's assessment of the detailed MOE plans will assist States to create an accurate, defensible baseline MOE and allow for easier determination as to whether they are meeting their annual MOE requirement.

11. What should a State include in its MOE plan?

A State's MOE plan should:

1. Provide the date parameters for the 'fiscal year ending prior to November 2000' as described in HAVA. This base year will be used to set the baseline MOE for the State.
2. Provide the specific cost factors and fund sources that make up the baseline MOE, or proposed alternative method(s) for determining the baseline MOE and why the alternative is adequate.
3. Establish an MOE baseline dollar level that is an aggregation of MOE expenditures: by the State and by lower-tier jurisdictions receiving appropriated funds from the State (see question7) for the fiscal year ending prior to November 2000. If funds appropriated to a lower-tier jurisdictions were counted as part of the State expenditure, then they do not have to be counted a second time as an appropriation to the lower-tier entity.
4. A description of how the MOE will be collected, including what documentation will be provided to track receipt of funds to cover the MOE, as well as the timeline for collecting all the pertinent information.
5. Describe the back-up documentation that must be maintained and made available for inspection by EAC upon request in order to substantiate the State's calculation of its baseline and fulfillment of MOE requirement for those years when it applies. For a State plan that calls for lower-tier jurisdictions to contribute to MOE, documentation showing the MOE baseline and annual MOE contribution levels from these entities.
6. Clearly state the roles and responsibilities of the State and any applicable lower-tier entities for reporting MOE and keeping appropriate documentation to substantiate or validate yearly MOE levels. Note: All entities contributing to MOE should do an annual certification for their files of their MOE contribution to the State.

12. How do we know if our State or lower-tier entities have an MOE requirement in a given year?

Each State has an MOE obligation in every fiscal year that it spends HAVA Requirements Payment funds. Depending upon how a State decides to meet its annual MOE contribution, a lower-tier entity may need to meet MOE in a fiscal year during which it receives Requirements Payments through the State.

APPENDIX F

MOE Policy

13. What are the recordkeeping requirements associated with MOE?

Pursuant to Section 902(a) of HAVA, each State is required to keep records consistent with sound accounting principles, which would include MOE. Appropriate documentation, including documentation described in the State's MOE plan, must be kept on file by the State and made available to EAC staff during site visits, auditors, or duly authorized representatives during an audit or investigation.

14. Should our State provide a single, aggregate baseline amount for MOE, or a series of MOE baseline amounts for each eligible local jurisdiction?

EAC requests that States provide a single baseline and report an annual aggregate MOE amount. However, tracking MOE for any lower tier entities that are required by the State to contribute to MOE may assist States in demonstrating compliance with MOE.

15. Do States have any flexibility in how much is spent annually in each of the cost categories identified by the plan, or do they have to maintain expenditures in each of the categories?

Yes, States do have flexibility in how much is spent annually in each of the cost categories. A State's MOE plan should track expenditures by category to identify the MOE baseline and annual contributions. However, this policy does not require States and eligible lower-tier entities to maintain specific expenditures within the identified cost categories. It is EAC's intent that only the aggregate State MOE levels need to be met in a fiscal year during which HAVA Section 251 funds are expended.

In meeting the MOE baseline of spending, it is left to the State to determine how that baseline is met, as an aggregate. For example, a State spent HAVA 251 funds in 2008. In that fiscal year, that State may have chosen to expend more of its State funds on its voter registration database and less of its State funds on providing voting information (as defined in Section 302(b)(2) of HAVA) at the polls than it did in the fiscal year ending prior to November 2000. As long as the total baseline MOE is met by adding up all eligible spending categories, as an aggregate, spending for a single category does not have to equal the exact amount spent on that category in the base year.

16. What happens if our State fails to meet its MOE?

Any audit findings related to a State not meeting its MOE requirements will be addressed through EAC's Audit Resolution Process. The State's MOE plan and EAC's assessment of it will be a factor in how EAC resolves any questioned costs or policies related to MOE arising from Inspector General or single State audits.

17. How can States establish the baseline MOE for local jurisdictions where those jurisdictions lack the records or detailed accounting needed to determine the level of spending on elections in the base year?

In general, only State appropriated funds for HAVA-eligible activities in the base year need to be identified and counted towards the baseline MOE. States may propose an alternative measure for estimating spending in the base year, but only after demonstrating that accurate records are not attainable. Some alternative measures might include budgeted or appropriated amounts, contract amounts, or similar means compiled from available records from the base year. States might also estimate spending based on average increases over time, but must provide adequate justification and documentation to support the estimate.

APPENDIX F

MOE Policy

18. Do States have to collect MOE information every year from lower-tier entities?

It would depend on how a State determines how it wants to meet its MOE obligation. Once the baseline is established by the State, by identifying all covered expenditures with State funds in the base year that would have been allowable costs under HAVA, the State will need to determine how it would like to meet that MOE obligation on an annual basis. If lower-tier entities are enlisted by the State to help meet MOE (similar to how some counties contribute to State match obligations for Requirement Payments) those enlisted entities will need to make available to the State appropriate documentation to substantiate their MOE contributions. In short, any entity (State or lower tier) contributing to the annual MOE obligation in a year during which the State expends Requirements Payments should keep appropriate documentation to demonstrate compliance with MOE.

19. How should States address capital expenditures in the base year? For example, several counties purchased equipment in the base year, which appears to establish an unreasonable MOE baseline for those jurisdictions.

Section 254(a)(7) of HAVA does not make a distinction between capital expenditures and other expenditures associated with election administration that were incurred in the base year with regards to establishing the baseline MOE.

20. The year before FY 2000 was not an election year and the election administration costs in that year were lower than in an election year. Should we still use the fiscal year ending prior to November 2000?

Yes. HAVA is clear that the timeframe for setting the baseline MOE is the fiscal year ending prior to November 2000.

21. Does the EAC have any suggestions for how to enforce MOE requirements with lower-tier entities?

EAC can only make general suggestions since States are the legal recipient of HAVA funds. The ability to enforce MOE requirements as well as State preferences for how lower-tier entities may expend funds, rests with the State, through any administration action available to the State. States should have several mechanisms available to ensure compliance with MOE requirements, for instance: a sub grant agreement may be modified to contain MOE requirements and instructions, or including such a requirement in agreements to buy and transfer equipment or services to a lower-tier entity.

22. What type of assistance and training can the States expect from the EAC to help implement this policy?

EAC grants staff will be available to provide optional support and technical assistance to States on their MOE plans and in particular any deficiencies noted in EAC's assessment of each plan. In addition, EAC plans to develop tools and templates to help capture and track MOE. EAC will also publish sample MOE plans from States willing to share their work with others as an effective practices guideline.

23. What authority in HAVA allows EAC to implement this policy?

Section 202(4) of HAVA includes as part of the EAC's duties that EAC provide information and training on the management of payments and grants provided through HAVA. This policy defines MOE and provides States with a voluntary set of guidelines and practices for developing a baseline MOE and tracking yearly progress towards meeting that obligation.

APPENDIX F

MOE Policy

24. When should States submit their voluntary State MOE plans to EAC and what is the process for submission?

EAC would like to receive MOE plans, which can be submitted outside of the State plan, within 12 months of passage of this policy. Once your plan is received, EAC's grants department will offer optional technical assistance to your State to ensure that the plan provides for a reasonable, well documented basis for the MOE baseline and on-going MOE obligations. EAC's goal is to have MOE plans developed by each State that chooses to participate in this process in place within this timeframe. EAC will provide technical assistance, including easy to use templates and checklists for developing State MOE plans, by early summer 2010. Deadlines can be extended by EAC upon request by the chief election official in the State.

APPENDIX G

MOE Checklist

MOE PLAN SUBMISSION CHECKLIST			
STATE:			
#	Item	Staff/Date	Yes/No
1	Does the plan identify date parameters for the 'fiscal year ending prior to November 2000' as described in HAVA?		
Comments:			
2	Does the plan state the specific cost factors and fund sources that make up the baseline MOE, or proposed alternative method(s) for determining the baseline MOE and why the alternative is adequate?		
Comments:			
3	Does the plan establish an MOE baseline dollar level that is an aggregation of MOE expenditures: by the State and by lower-tier jurisdictions receiving appropriated funds from the State for the fiscal year ending prior to November 2000? If funds appropriated to lower-tier jurisdictions were counted as part of the State expenditure, then they do not have to be counted a second time as an appropriation to the lower-tier entity.		
Comments:			
4	Does the plan include all election expenditures allowable under Section 251 of HAVA to calculate the MOE baseline?		
Comments:			
5	Does the plan provide a description of how the MOE will be collected, including what documentation will be provided to track receipt of funds to cover the MOE, as well as the timeline for collecting all the pertinent information?		
Comments:			
6	Does the plan describe the back-up documentation that must be maintained and made available for inspection by EAC upon request? For a State plan that calls for lower-tier jurisdictions to contribute to MOE, documentation showing the MOE baseline and annual MOE contribution levels from these entities.		
Comments:			
7	Does the plan clearly state the roles and responsibilities of the State and any applicable lower-tier entities for reporting MOE and keeping appropriate documentation to substantiate or validate yearly MOE levels?		
Comments:			
8	This plan should be submitted by the recommended date of June 28, 2011 in order to receive timely review.		
Comments:			