



UNITED STATES
ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Administration of Grant Funds
Authorized by the
Help America Vote Act of 2002
(HAVA)

National Association of Secretaries of State
February 2009



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HAVA Funds Management

TOPICS

- Section 101 Funds
- Section 102 Funds
- Section 251 Funds
 - Section 251(b)(2) Certifications
 - Matching Funds
 - Maintenance of Effort
 - New 251 Funding
 - State Plans
- Fiscal Management
- EAC Approvals of Capital Costs
- Financial and Performance Reports
- EAC Responsibilities



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HAVA Funds Management

TITLE I, SECTION 101 FUNDS

Availability and Use

- Money is available until expended
- Funds may be used for:
 - 1) Meeting HAVA Title III requirements:
 - ✓ Voting Systems Standards
 - ✓ Provisional Voting
 - ✓ Voter Information
 - ✓ State-wide Voter Registration Database
 - ✓ Voter Identification for First-time Voters



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HAVA Funds Management

TITLE I, SECTION 101 FUNDS

Availability and Use

- 2) Improving the administration of Federal elections
- 3) Educating voters on voting rights, voting procedures and voting technology.
- 4) Training election officials and poll workers
- 5) Developing state plans
- 6) Improving, acquiring, leasing or replacing voting equipment



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HAVA Funds Management

TITLE I, SECTION 101 FUNDS

Availability and Use

- 7) Improving the accessibility and quality of polling places.
 - ✓ Includes accessibility for voters with limited English proficiency
- 8) Hotlines for voters to obtain election information and/or report complaints of fraud or voting rights violations



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HAVA Funds Management

TITLE I, SECTION 102 FUNDS

Availability and Use

- **Deadlines for using the funds:**
 - Date of first Federal election in November 2004 for Alabama, Arizona, Florida, Georgia, Maryland, Oregon, and South Carolina
 - Date of first Federal election after March 1, 2008 for 22 other states that waived the 2004 date.



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HAVA Funds Management

TITLE I, SECTION 102 FUNDS

Availability and Use

- Funds distributed using a precinct-based formula specified in HAVA.
- State may use funds only to replace punch card and lever voting machines.



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HAVA Funds Management

TITLE I, SECTION 102 FUNDS

Repayment of Funds

- States that did not comply with Section 102 must pay to the EAC any unspent funds and/or an amount based on the number of precincts that did not install the new equipment in time for the election.
- EAC will distribute any returned funds to all states as Section 251 funds.



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HAVA Funds Management

TITLE I, SECTION 102 FUNDS

Repayment of Funds

- To determine the amount to be repaid, EAC will compute the noncompliant precinct percentage by dividing the number of qualifying precincts that failed to meet the deadline by the total number of qualifying precincts. The resulting percentage will then be multiplied by the total 102 payments to the state.



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HAVA Funds Management

TITLE I, SECTION 102 FUNDS

Status of Repayments

- For 8 states subject to the 2004 date, EAC will determine whether any repayments are due on the basis of a previous certification filed with EAC.
- For the 22 states that waived the 2004 date, EAC will issue a new certifications this spring.



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HAVA Funds Management

TITLE II, SECTION 251 FUNDS

Availability and Use

- Money is available until expended.
- Funds may be used for:
 - Meeting HAVA Title III requirements:
 - ✓ Voting Systems Standards
 - ✓ Provisional Voting
 - ✓ Voter Information
 - ✓ State-wide Voter Registration Database
 - ✓ Voter Identification for First-time Voters



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HAVA Funds Management

TITLE II, SECTION 251 FUNDS

Availability and Use

- If a state certifies that it has met the requirements of Title III or that it will spend only up to the minimum payment amount (\$13,021,803) under Section 251, it may also use the funds to improve the administration of Federal elections
- A certification submitted by a state covers costs incurred from date of receipt of the Section 251 funds until the funds are exhausted.



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HAVA Funds Management

TITLE II, SECTION 251 FUNDS

Matching

- States must appropriate and deposit into a state election fund matching funds of 5 percent of the total Federal and state money available for the program.
- The formula for determining the amount of state matching funds based on the Federal funds requested is: $(\text{Federal Dollars} / .95) = \text{Federal Dollars} + \text{State Match}$



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TITLE II, SECTION 251 FUNDS Matching

- States may use funds provided by local units of government to help meet the matching fund requirement.



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TITLE II, SECTION 251 FUNDS

Maintenance of Effort (MOE)

- The EAC commissioners suspended the prior guidance about the MOE requirement until new guidance is established.



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TITLE II, SECTION 251 FUNDS

New Funding

- Congress appropriated \$115 million for Section 251 payments for FY 2008; \$100 million for FY 2009 and \$75 million for FY 2010.
- State Plan budgets must show how new funds will be spent.
- If new funds are used to purchase voting systems, it can only be for systems that meet the standards for disability access.



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HAVA Funds Management

HAVA FUNDS Fiscal Management

- Grantees and subgrantees must manage funds in accordance with the standards in the Common Rule, *Uniform Administrative Requirements for Grants and Cooperative agreements with State and Local Governments*.
- Until EAC publishes its version of the Common Rule in the Code of Federal Regulations (CFR), recipients should refer to 41 CFR 105-71.



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HAVA Funds Management

HAVA FUNDS Fiscal Management

- Key requirements in the Common Rule are that Grantees and Subgrantees:
 - Account for grant funds separately.
 - Conduct procurements competitively.
 - Track and secure equipment adequately.
 - Account for revenue earned from the use of equipment purchased with grant funds



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HAVA Funds Management

HAVA FUNDS Fiscal Management

- Fiscal control and accounting procedures must be sufficient to:
 - Permit preparation of reports required by EAC
 - Permit the tracing of funds to a level of expenditures adequate to determine that funds have not been used in violation of Federal restrictions (HAVA and OMB) and that they comply with the State plan



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HAVA Funds Management

HAVA FUNDS Fiscal Management

- Accounting records must be supported by source documents, such as:
 - Cancelled checks
 - Invoices and paid bills
 - Payroll records and employee time sheets or semi-annual certifications
 - Contract and sub-award documents
 - Records sufficient to detail history of procurements



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HAVA Funds Management

HAVA FUNDS Fiscal Management

- Grantees and subgrantees must follow OMB Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*.
- OMB Circular A-87 can now be found at 2 CFR 225.



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HAVA Funds Management

HAVA FUNDS Fiscal Management

- All expenditures made with HAVA funds **MUST** be:
 1. Allowable - used for a purpose authorized by HAVA
 2. Allocable - only the proportionate share of the cost may be charged to the grant/subgrant
 3. Reasonable - must be necessary and economical for the efficient performance of the grant



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HAVA Funds Management

FISCAL MANAGEMENT

HAVA Funds Do's:

- ✓ Only use HAVA funds to pay costs that are reasonable and necessary for the performance and administration of the program under which the funds were awarded.
- ✓ Only use HAVA funds to pay costs that comply with the State plan, applicable State laws, and OMB circulars.



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HAVA Funds Management

FISCAL MANAGEMENT

HAVA Funds Do's:

- ☑ Establish internal financial controls.
- ☑ Develop a detailed implementation plan for all HAVA projects and activities, if this is not already provided by the State plan.
- ☑ Designate individuals responsible for these activities and for ensuring implementation of the plan.



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HAVA Funds Management

FISCAL MANAGEMENT

HAVA Funds Do's:

- Use procurement procedures that reflect applicable Federal, State, and local laws and regulations
 - Use a competitive bid process, where possible, restricting the use of exemptions to justified situations
 - Implement written standards of conduct to avoid the appearance or occurrence of conflicts of interest



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HAVA Funds Management

FISCAL MANAGEMENT

HAVA Funds Do's:

- Take affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.
- Give preference to the purchase of products containing recycled materials identified in guidelines published by the U.S. Environmental Protection Agency.



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HAVA Funds Management

FISCAL MANAGEMENT

HAVA Funds Do's:

- ✓ Specify the amount of Federal funds that will be used to finance contracts with an aggregate value in excess of \$500,000.
- ✓ Follow control procedures for the review and approval of contracts to ensure that contracts include a detailed description of the scope of work, specific services and work products, and performance measures



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HAVA Funds Management

FISCAL MANAGEMENT

HAVA Funds Do's:

- Maintain a contract administration system that ensures contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- Remember to credit refunds, rebates, discounts, and adjustments for overpayments or erroneous charges to the appropriate HAVA funding program.



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HAVA Funds Management

FISCAL MANAGEMENT

HAVA Funds Do's:

- ✓ Follow State law and procedures when administering HAVA funds and awarding them to sub-recipients.
- ✓ Implement procedures to minimize the time elapsed between the transfer of funds to sub-recipients and disbursement for Federal program purposes.



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HAVA Funds Management

FISCAL MANAGEMENT

HAVA Funds Don'ts:

- ❌ Use HAVA funds when the principal purpose of the transaction is not to accomplish a purpose authorized by the provisions in HAVA under which the payment was made.
- ❌ Use HAVA funds in a manner not anticipated by the State plan submitted to EAC.



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HAVA Funds Management

FISCAL MANAGEMENT

HAVA Funds Don'ts:

- ❌ Charge a cost against one HAVA program and later charge it against a different HAVA program solely to overcome fund deficiencies, avoid restrictions imposed by law, or the terms of the Federal award.
- ❌ Does not prohibit shifting costs allowable under HAVA that have been provided for in the submitted State plan, or in a revised plan after it has been amended in accordance with HAVA provisions.



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HAVA Funds Management

FISCAL MANAGEMENT

HAVA Funds Don'ts:

- ❌ Use HAVA funds for expenditures that are part of the required maintenance of effort.
- ❌ Make any HAVA award or permit any HAVA award (sub-award or contract) at any tier to any person that is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."



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HAVA Funds Management

FISCAL MANAGEMENT

HAVA Funds Don'ts:

- ❌ Use HAVA funds for lobbying.
- ❌ Use HAVA funds for partisan political purposes.
- ❌ Use HAVA funds for campaigns for office or ballot issues.
- ❌ Use HAVA funds for alcoholic beverages.



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HAVA Funds Management

FISCAL MANAGEMENT

HAVA Funds Don'ts:

- ❌ Use HAVA funds for the cost of entertainment.
- ❌ Use HAVA funds for fundraising.
- ❌ Use HAVA funds for litigation or the payment of fines.



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EAC APPROVALS

Do I Need permission before I buy things?

Grantees/Subgrantees must request preapproval for:

1. Capital expenditures over \$5,000
 - Exception: not applicable for voting system purchases and purchases related solely to the implementation of the statewide voter registration list, as these are provided for by HAVA
2. ALL expenditures related to renovations or purchases of real property



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HAVA Funds Management

EAC APPROVALS

Written Justification Required

- ✓ Specify which HAVA funds will be used (§101 or §251).
- ✓ Provide amount of each purchase, with a detailed description of the item and a justification for the purchase
- ✓ If using §251 funds, description of how expenditure coincides with state plan



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HAVA Funds Management

EAC APPROVALS

Written Justification Required

- ✓ Determine whether all costs are allocable to HAVA. If not, only request approval for that portion of costs that represents the time the equipment will be used for HAVA activities.
- ✓ Make sure the costs are reasonable
- ✓ If the submission is coming from a county, the state needs to sign off on the request first



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REPORTING - 2009 Use of Funds

- EAC is implementing different reporting requirements for 2009 and forward. The change is to accommodate a new OMB report form and to simplify the process. OMB replaced the existing financial reporting forms, including SF 269, with one form.
- The new form is called the Federal Financial Report (FFR), SF 425. OMB required Federal agencies to transition to the new form no later than October 1, 2009, and to use the FFR for all financial reports submitted after it makes the transition.



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HAVA Funds Management

REPORTING – FY 2009 Use of Funds

<i>Due Date</i>	<i>Fund Type</i>	<i>CFDA No.</i>	<i>Report Period</i>	<i>Report Form and Contents¹</i>
12/31/09	101	39.0111	1/1/09 to 9/30/09	Submit a FFR with an attached list of expenditures for each category of activities described for the permissible use of funds in HAVA Section 101(b), including the number and type of voting equipment purchased.
12/31/09	102	39.0111	1/1/0 to 9/30/09	There may be additional reporting on 102 funds if, for example, counties liquidated subgrant funds or returned to the state unspent subgrant funds during the period. Also, states may have liquidated prior period obligations.



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PROPOSED REPORTING - 2009 Use of Funds

<i>Due Date</i>	<i>Fund Type</i>	<i>CFDA No.</i>	<i>Report Period</i>	<i>Report Form and Contents</i>
12/31/09	Old 251	90.401	10/1/08 to 9/30/09	Submit a FFR with an attached list of expenditures for each category of activities described for the permissible use of funds in HAVA Section 251, including the number and type of voting equipment purchased.
12/31/09	New 251	TBD	10/1/08 to 9/30/09	Submit an FFR with an attached list of expenditures for each category of activities described for the use of funds in HAVA Section 251, including the number and type of equipment purchased. Separate reports for old and new 251 funds are required because of different uses of funds.



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REPORTING - TRANSPARANCY ACT

- States and other recipients of HAVA funds in excess of \$25,000 will soon be required to submit information on subgrantees, according to the Federal Funding Accountability and Transparency Act of 2006 (the Act).
- The Act requires a central website, www.USAspending.gov, that makes information available to the public on entities that receive Federal financial assistance. The Act requires data on subawards to be posted on the existing website (currently showing Federal awards to direct grantees) beginning in January 2009. OMB, however, has not yet issued implementing regulations, so the requirement has been delayed. Once OMB issues final regulations, States and other qualifying grantees will be required to submit data to EAC or to a central Federal website.



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REPORTING

Send annual reports to:

State HAVA Funding Reports
U.S. Election Assistance Commission
1225 New York Avenue, NW, Suite 1100
Washington, DC 20005



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HAVA Funds Management

EAC MAJOR RESPONSIBILITIES

- Disperse HAVA Funds
- Provide guidance on use and management of funds
- Respond to requests for approval of capital expenditures and renovations made with HAVA funds
- Monitor the fiscally responsible use of HAVA funds by grantees/subgrantees through reviews of annual financial reports, site visits, and audit resolutions



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EAC SITE VISITS

- Site visits to grantees and subgrantees help ensure that HAVA funds are used efficiently and effectively and for only authorized purposes.
- EAC schedules site visits to provide technical assistance or to address problems such as grantee difficulty in achieving or complying with HAVA objectives and fiscal irregularities. EAC identifies problem areas by reviewing financial and performance reports, correspondence, allegations, and newspaper articles.



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HAVA Funds Management

EAC AUDIT RESOLUTION

- EAC determines how audit findings are resolved in single audit reports and in reports issued by the EAC Inspector General.
- EAC has identified three methods for resolving questioned costs:
 - (1) expenditures that were identified as permissible under HAVA and Federal cost principles, but did not follow appropriate procedures do not have to be repaid;
 - (2) expenditures that may have been permissible under HAVA but lacked adequate documentation must be repaid to the state election fund, which was created in accordance with HAVA section 254(b)(1); and



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HAVA Funds Management

EAC AUDIT RESOLUTION

- 3) expenditures that were clearly not permissible under HAVA or Federal cost principles must be repaid to the State Election Fund.
- In addition to repayment of funds, the EAC may require future reporting by a state to ensure that proper internal controls and procedures have been established to prevent future problems.
 - EAC issues its management decisions on audits to the chief state election official, who is responsible for corrective action. The State official may appeal the EAC decision to the Commissioners.



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HAVA Funds Management

Questions? Contact:

Grants Division

U.S. Election Assistance Commission
1225 New York Avenue, NW, Suite 1100
Washington, DC 20005
202-566-2166 (toll free)
Fax: 202-566-3127
<http://www.eac.gov>