



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

Funding Advisory Opinion FAO-08-010

Date Issued:

September 26, 2008

Requestor:

Office of the California Secretary of State (AOR-08-020)

Question:

Does the Election Assistance Commission's (Commission) March 20, 2008 policy regarding replacement of voting systems purchased with Help America Vote Act (HAVA) funds allow HAVA funds to be used for reimbursement of the costs of optical scan and peripheral equipment, as shown below, needed to replace DRE's (direct-recording electronic voting machines) previously purchased with HAVA funds?

1. High-speed, central-count, optical scan tabulators.
2. Precinct-based optical scan tabulators.
3. Voting booths (polling place booths to ensure that voters can mark paper ballots in private).
4. Paper-ballot processing carts (to assist with storing, moving, sorting and processing paper ballots).
5. Ballot boxes (to securely store ballots at the polling place and for transport to central tabulation facilities).
6. Privacy sleeves (to ensure the secrecy of the marked box).

Answer:

States may use either Section 101 or Section 251 funds to replace voting systems previously purchased with HAVA funds as long as the replacement system meets the requirements for voting systems identified in Title III of HAVA.

Discussion:

The Commission's March 20, 2008 policy on replacement of voting systems says that:

. . . the Commission determines that it is "reasonable" pursuant to the OMB [Office of Management and Budget] circulars for state governing jurisdictions to use HAVA funds to replace voting systems purchased with HAVA funds, as long as such purchases comply with HAVA. States will have the flexibility and opportunity to use HAVA funds to meet the requirements of title III or to improve the administration of elections for Federal office.



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Based on this policy, States may use either Section 101 or Section 251 funds to replace voting systems previously purchased with HAVA funds as long as the replacement system meets the requirements for voting systems identified in Title III of HAVA. In this regard, voting systems include the components of a voting system and the peripheral equipment necessary to meet the voting system standards for security and privacy, such as voting booths and ballot boxes.