



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

**U.S. Election Assistance Commission (EAC)
Funding Advisory Opinion
FA0-09-005**

Date Issued: October 09, 2009

Requestor: New York State Board of Elections (AOR-09-006)

Question: May Niagara County, New York (County) use Help America Vote Act (HAVA) funds to purchase a van for use in voter education?

Answer: EAC finds that the County may use HAVA funds¹ to purchase a van for use in voter education, although the State of New York Office of Secretary of State, as the direct recipient of EAC funds has final discretion to either allow or not allow the purchase of the van.

Discussion: The Office of Management and Budget (OMB) Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*, requires EAC to consider three factors when determining whether or not to approve a request by a grantee to use Federal funds to purchase equipment costing \$5,000 or more. The cost must be (1) allowable; (2) allocable; and (3) reasonable. Here, the County requested that EAC pre-approve the purchase of a motor vehicle² (\$35,891) to educate voters concerning voting procedures, voting rights, and voting technology by traveling to various public venues to demonstrate the use of the Ballot Marking Device.

A cost is allowable if it meets the criteria for authorized expenditures specified in the applicable statute and cost principles. The purchase of a motor vehicle to support an ongoing program to educate voters is an allowable expense under both section 101 and section 251 of HAVA. Attachment B of OMB Circular A-87 lists several items of cost and the limits on their allowability. A motor vehicle is an example of “General Purpose Equipment” which is a cost that is considered conditionally allowable³ under OMB Circular A-87, attachment B, subsection 15(a)(4).

¹ The County did not specify what funds it has available (Section 101 funds or Section 251 funds) to purchase the motor vehicle. If the County plans to use section 251 funds to purchase the motor vehicle the State must first file the appropriate certification with the EAC, pursuant to Section 251(b)(2) of HAVA.

² All State and local entities that use HAVA funding to acquire vehicles must adhere to the Common Rule (41 CFR § 105-71.132, §105-71.136), which describes how States and local jurisdictions must procure property and services, and use, manage, and dispose of equipment acquired under a federal grant in accordance with State laws and procedures.

³ General Purpose Equipment is “unallowable as a direct charge, except where approved in advance by the awarding agency”. OMB Circular, Attachment B, subsection 15(b)(1).

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A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received. OMB Circular A-87, attachment C, subsection 3(a). The benefits received from the purchase of the motor vehicle must be directly related to the purpose of the expenditure to be fully allocated to HAVA funding.⁴ The County stated that the motor vehicle will be used exclusively to educate voters concerning voting procedures, voting rights and voting technology pursuant to section 101(b)(1)(c) of HAVA.

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 prevailing at the time the decision was made to incur the cost”. OMB Circular A-87, section C, subsection 2. The County states that a motor vehicle is necessary to educate voters concerning voting procedures, voting rights, and voting technology because it would allow the County officials to travel to various public venues to demonstrate the use of the Ballot Marking Device. The purchase and use of a motor vehicle to further the goals of HAVA and improve the overall administration of federal elections does not exceed an amount which would be incurred by a prudent person under similar circumstances.

Therefore, EAC concludes that the County has provided sufficient information to show the purchase of an F-350 Extended Van or like vehicle (\$35,891) to support the county’s ongoing program to educate voters is an allowable, allocable, and reasonable expense for the successful administration of federal elections in their jurisdiction. EAC also notes that it is within the State’s discretion to make a determination that limits the amount of funds local jurisdictions spend on items allowable under HAVA funds and that it is at the State’s discretion to allow or not allow the purchase of items pre-approved through EAC’s Advisory Opinion process.

⁴ The use of the vehicle for non-HAVA related activities will result in sharing the costs with the other activities on the basis of the benefits received. EAC discusses the issues and challenges of purchasing vehicles with HAVA funds in further detail in question six of its *Frequently Asked Questions Regarding Appropriate Uses of HAVA Funds* (Rev. Oct. ‘06), which can be found at: www.eac.gov/election/hava-reporting.

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