

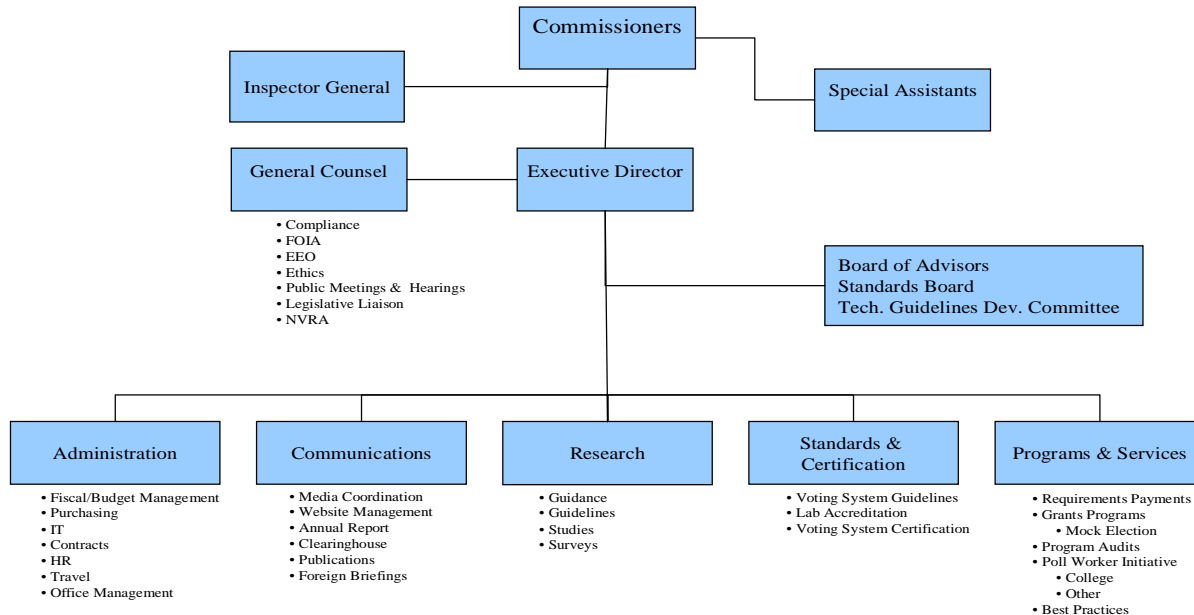


## INTRODUCTION

Thank you Mr. Chairman and Members of the Subcommittee for the opportunity to submit testimony regarding the work of the U.S. Election Assistance Commission (EAC) and its budgetary needs to continue assisting the states in implementing the Help America Vote Act of 2002 (HAVA) and the National Voter Registration Act of 1993 (NVRA) in Fiscal Year 2007 .

EAC is a bipartisan commission consisting of four members: [Paul DeGregorio](#), chairman; [Ray Martinez III](#), vice chairman; [Donetta Davidson](#); and [Gracia Hillman](#). In addition to the four commissioners, EAC employs 19 full time staff persons.

### U.S. Election Assistance Commission 2006 Organizational Chart



HAVA instructs the EAC to develop and update national voluntary voting system guidelines and manage the Federal government’s first voting system certification program. EAC is also charged with assisting the 50 states, four territories and the District of Columbia in implementing provisional voting, updated and upgraded voting equipment, statewide voter registration lists, administrative complaint procedures, and voter identification requirements and procedures.

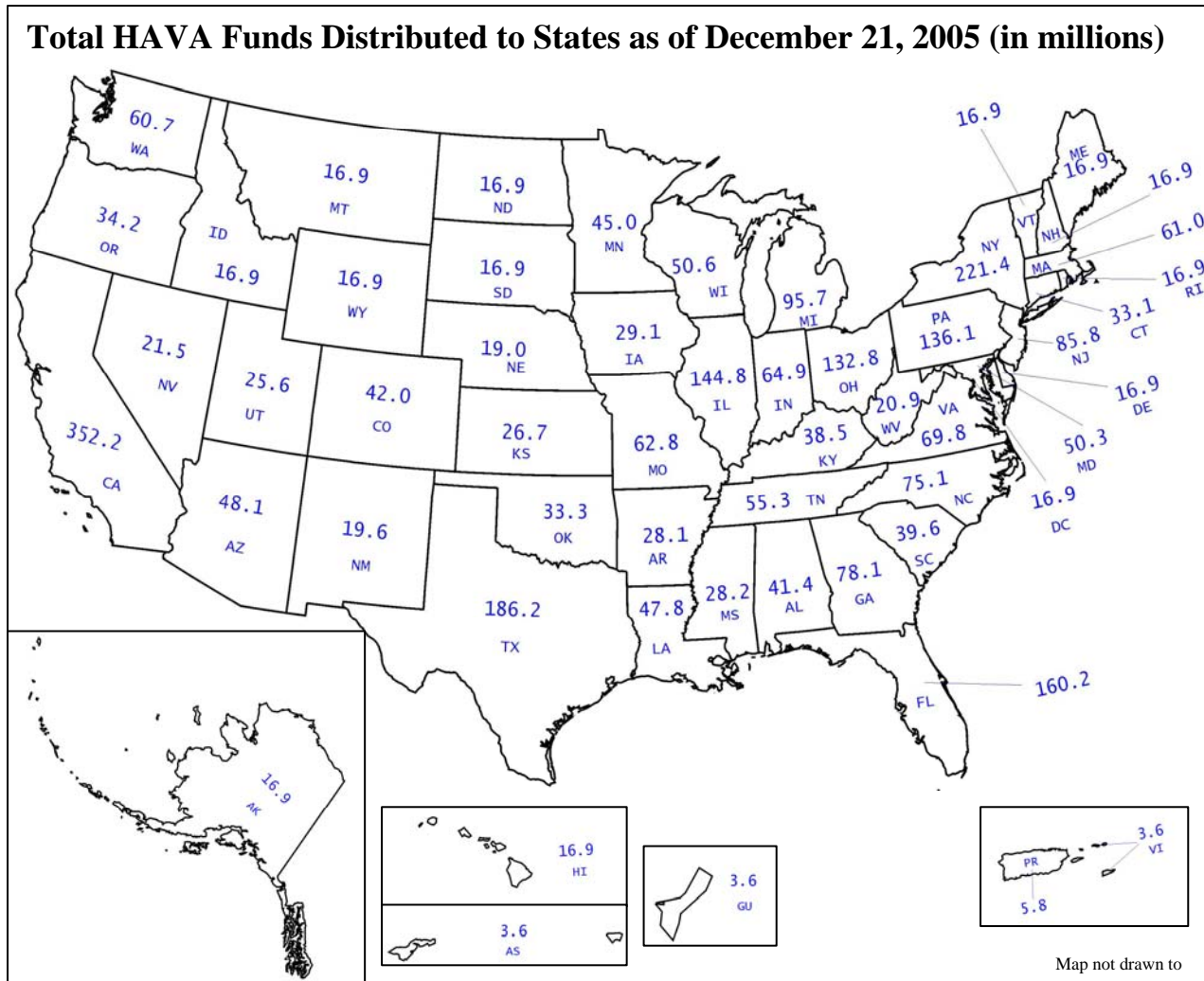
Under the NVRA, the EAC develops the National Voter Registration form, collects information for Congress and advises states of their responsibilities. Below is a discussion of each EAC program and the financial and human resources needed in FY 2007 for EAC to continue its work in improving the administration of Federal elections.



The following four program areas reflect the agency's mandates under HAVA: (1) distribution and management of HAVA funds; (2) aiding in the improvement of voting systems; (3) national clearinghouse of election information; and (4) guidance and information to the states. EAC conducts its activities in these program areas in an efficient and cost effective manner to ensure maximum value of the funds appropriated to the agency by the U.S. Congress.

## DISTRIBUTION AND MANGEMENT OF HAVA FUNDS

Congress appropriated more than \$3,000,000,000 to help states meet the requirements of HAVA and improve the administration of Federal elections. All HAVA sections 101, 102 and 251 funds appropriated have been distributed. The tables located on EAC's website ([Title II Requirements Payments](#) & [Early Money](#)) show the disbursement of funds by category and fiscal year. The graphic below shows the funds distributed to each state, including funds distributed by the Department of Health and Human Services under Section 261 of HAVA.





## **Responsible Stewardship of HAVA Funds**

Now that the election reform funding has been distributed, EAC is working to ensure that states are good stewards of these Federal funds. To monitor the use of these funds, EAC issues guidance and answers questions on the appropriate use of HAVA funds, reviews reports submitted by the states and territories on expenditure of the funds, and conducts assessments and audits of the states.

## **Appropriate Uses of HAVA Funds**

HAVA specifically limits the use of funds distributed under the various funding programs. These uses include purchasing voting equipment to replace punch card or lever voting systems, implementing provisional voting, purchasing equipment and software to build statewide voter registration databases, as well as various activities aimed at improving the administration of Federal elections. To help clarify the appropriate uses of HAVA funds, EAC and GSA applied OMB Circulars [A-87](#), [A-102](#), and [A-133](#). In addition, EAC provided [guidance and information](#) on the appropriate use of HAVA funds in response to questions from the states. Even with these resources, EAC must answer questions daily from the fifty states, four territories and the District of Columbia about allowable expenses under HAVA.

EAC requires that states, territories and the District of Columbia report their uses of HAVA funds. In the second quarter of each year, states report on their use of both Title I and Title II funds. The Title II report includes: (a) a list of expenditures for each category of activities described in Title III; (b) the number and types of voting equipment obtained with the funds; and (c) an analysis and description of the activities funded to meet HAVA requirements and how such activities conform to the state plan. Title I reports require states to (1) disclose, in separate reports for section 101 and 102 funds, the financial activity for the previous calendar year on a Standard Form 269; and (2) provide the same detail on the expenditures that is required for the reports on Title II requirements payments. EAC conducts a detailed review of each report to validate that the expenditure of funds met the requirements of HAVA and was in accordance with plans filed by the state or territory. The states' Title I and Title II reports are available to the public upon request.

## **Auditing**

Section 902 of HAVA gives EAC and other HAVA granting agencies the authority to conduct regular audits of HAVA funds. EAC's audit activity will be conducted through EAC's Office of the Inspector General (OIG), which currently consist of two types of reviews to determine if the states are exercising sufficient controls and using the funds distributed under HAVA for appropriate purposes. One is an [assessment](#) of procedures each state uses to administer and monitor HAVA funds, as well as a review of certain critical elements such as whether the state has maintained sufficient matching funds. On a concurrent track, OIG will commission [audits](#) of several states each year to more fully review the state's internal controls, processes, procedures, and transactions to ensure compliance with Government Auditing Standards.



In addition to EAC's regular audits, HAVA also provides for two other means of extraordinary audit authority – (a) funds are subject at least once during the term of the program to an audit by the Comptroller General; and (b) section 902(b)(6) of HAVA allows EAC to conduct a “special audit” or “special examination” of the funds that are subject to regular audit under Section 902(b)(1). This special audit authority covers every HAVA program, including funds distributed under Title I, Title II, and programs administered by the Department of Health and Human Services. If EAC determines that a [special audit](#) is warranted, by vote of the Commission, EAC will refer the matter to the OIG for review.

The OIG currently employs one full time staff person. Two additional persons have been provided to EAC by the Department of Interior via a Memorandum of Understanding (MOU). These persons are responsible for conducting the majority of the state assessments discussed above, monitoring outside contracts for audits, reviewing EAC's internal operations, and coordinating investigations of complaints, as necessary.

### **Financial and Human Resources Needs for Management of HAVA Funds in FY 2007**

In FY 2006, EAC has budgeted \$2.5 million for these activities. Of that, \$1.65 million is allocated to the OIG for auditing the use of HAVA funds and assessing state controls. At this level of funding, EAC anticipates that it will be able to fund the MOU for the two persons provided by the Department of Interior, conduct assessments of four or five states, and begin four or five full audits of states. The remaining \$550,000 is budgeted for management activities such as reviewing reports submitted by the states, answering questions related to the proper use of HAVA funds, and reviewing states' indirect cost proposals. Three full time equivalents (FTE) and two staff persons via MOU with the Department of Interior currently serve these functions.

In FY 2007, EAC anticipates allocating the same amount of funding and personnel to this function, including pay and non-pay adjustments (\$2.6 million). At this rate, EAC will be able to continue assessing and auditing states at the rate projected for FY 2006. Availability of personnel will depend on the willingness of the Department of Interior or other agencies to continue providing assistance through an MOU. It is essential that EAC maintain the current level of staff support (5 persons), either through FTE or MOU in order to assure that the use of HAVA funds is monitored appropriately.

## **AIDING IN THE IMPROVEMENT OF VOTING SYSTEMS**

One of the most enduring effects of HAVA will be the change in voting systems used throughout the country. All major HAVA funding programs can be used by states to replace outdated voting equipment. HAVA also provides for the development and maintenance of testable standards against which voting systems can be evaluated. It also provides for Federal certification according to these standards. EAC is responsible for and committed to improving voting systems through these vital programs.



## **Voluntary Voting System Guidelines**

One of EAC's most important mandates is the testing, certification, decertification and recertification of voting system hardware and software. Fundamental to implementing this key function is the development of updated voting system guidelines, which prescribe the technical requirements for voting system performance and identify testing protocols to determine how well systems meet these requirements. EAC along with its Federal advisory committee, the Technical Guidelines Development Committee (TGDC), and the National Institute of Standards and Technology (NIST), work together to research and develop voluntary testing standards.

On December 13, 2005, EAC adopted the first iteration of the [Voluntary Voting System Standards \(VVSG\)](#). This document was an initial update to the 2002 Voting System Standards focusing primarily on improving the standards for accessibility, usability and security. These testing guidelines also incorporated standards for reviewing voting systems equipped with voter verifiable paper audit trails (VVPAT) in recognition of the many states that now require this technology. VVSG also establishes the testing methods for assessing whether a voting system meets the guidelines.

Significant work remains to be done to fully develop a comprehensive set of standards and testing methods for assessing voting systems and to ensure that they keep pace with technological advances. In FY 2007, EAC along with TGDC and NIST, will revise sections of the VVSG dealing with software, functional requirements, independent verification, and security and will develop a comprehensive set of test suites or methods that can be used by testing laboratories to review any piece of voting equipment on the market.

## **Accreditation of Voting System Testing Laboratories**

HAVA Section 231 requires EAC and NIST to develop a national program for accrediting voting system testing laboratories. The National Voluntary Laboratory Accreditation Program (NVLAP) of NIST will provide for the initial screening and evaluation of testing laboratories and will perform periodic re-evaluation to verify that the labs continue to meet the accreditation criteria. When NIST has determined that a lab is competent to test systems, the NIST director will recommend to EAC that a lab be accredited. EAC will then make the determination to accredit the lab. EAC will issue an accreditation certificate to the approved labs, maintain a register of accredited labs and post this information on its website.

In July 2005, NVLAP advertised for the first class of testing laboratories to be reviewed under the NVLAP program and accredited by EAC. Five laboratories have applied for the accreditation program. Pre-assessments of these laboratories began in April 2006 and formal review will proceed thereafter. NVLAP anticipates that those laboratories will be reviewed and those that are eligible to be recommended for accreditation will be delivered to EAC in fall 2006.

Because testing of voting systems cannot be delayed, there must be some interim review and accreditation of laboratories. In late 2005, EAC invited laboratories that were accredited through the National Association of State Election Directors (NASED) program as Independent Testing Authorities (ITAs) to apply for interim accreditation. All three ITAs have applied for interim





accreditation. Interim accreditation reviews by EAC contractors will begin in the Spring 2006. ITAs will be accredited on an interim basis until the first class of laboratories is accredited through the NVLAP process. After that time, all testing labs must be accredited through the NVLAP evaluation process.

### **Voting System Certification**

In 2006, EAC is assuming the duty of certifying voting systems according to national testing standards. Previously, NASED qualified voting systems to both the 1990 and 2002 Voting System Standards. EAC's certification process will constitute the Federal government's first efforts to standardize the voting system industry. EAC's program will encompass an expanded review of voting systems. It will utilize testing laboratories and EAC technical reviewers. The program will also include assessments of quality control, field monitoring, vendor registrations, and enhanced public access to certification information.

Historically, voting system qualification has been a labor intensive process. In 6 months, NASED received 38 separate voting system test reports for review and qualification. All requests must be received, processed and monitored while the testing laboratory is assessing compliance. Once a test report is produced, technical reviewers must analyze the reports prior to recommending systems for certification. Based upon the NASED data, this process will take anywhere from four to 120 hours per report. In addition, EAC's enhanced testing and certification program will require reviewers to evaluate voting system technical data packages prior to testing, which will take an additional four to 20 hours per voting system.

### **Financial and Human Resources Needs for FY 2007**

In FY 2006, EAC has budgeted \$3.95 million for its work to aid in improving voting systems used throughout the country. Of that amount, \$2.772 million is transferred to NIST for its research for and support of the TGDC. The remaining \$1.178 million is dedicated to the development, implementation, and operation of a voting system certification program and laboratory accreditation program. EAC currently employs one FTE to support all of these functions. In addition, EAC anticipates hiring several contractors to serve as technical reviewers in the voting system certification program and one contractor to assist with the development of the VVSG and administration of the voting system certification and laboratory accreditation programs.

In FY 2007, EAC has requested \$6.421 million, which represents an increase of \$2.471 in this program. Of that amount, \$4.95 million, which includes an increase of \$2.178 million, will go to NIST to complete work on the VVSG prior to the 2008 presidential election. The needed work includes updating and revising the testing standards and the development of testing protocols to assess whether a voting system meets the standards. The remaining \$1.471 million will be applied to administering the voting system certification, voluntary voting system guidelines, and laboratory accreditation programs. This includes an increase of \$293,000 to hire two additional FTE to manage the day to day operations of the voting system certification and laboratory accreditation programs, including work to assess vendor facilities and processes to assure that



quality control provides equipment that is consistent with the caliber of the samples that are certified under the EAC program.

## **NATIONAL CLEARINGHOUSE OF ELECTION INFORMATION**

HAVA establishes EAC as a national clearinghouse of election information, which means EAC studies and makes research available on a range of issues including best practices in election administration, hours and places for voting, and election data. EAC has conducted extensive research on a variety of topics related to election administration, has begun an ongoing process of collecting election related data, and has compiled election-related resources such as statutes and regulations. This information is presented to the election community and to the public through the EAC's website as well as through formal reports on studies and data collections. Through this clearinghouse, EAC positions itself as a primary source of information about Federal elections.

### **Research and Study**

HAVA requires EAC to conduct a number of studies and provides considerable discretion to research other election administration issues to assist states in their efforts to improve election reform. EAC uses its Federal advisory committees to assist in prioritizing research topics that are important to and that will assist election officials. In 2006, EAC will produce guidance, best practices and reports on recruiting, training and retaining poll workers; usability of ballots and information provided to voters; procedures for counting and recounting ballots; provisional voting; voter identification; voter fraud and intimidation; as well as launching a legal resources database that will provide election officials and the public with access to election laws and regulations from each of the 50 states. In addition, EAC will also issue election management guidelines as a companion to the VVSG.

In FY 2007, EAC will focus on completing the research required by HAVA on the use of social security numbers in voter registration, standards for internet voting, and the possibility of postage-free absentee voting. EAC will also collect and analyze data from the 2006 Federal elections including voter turnout, absentee voting, voter registration and military and overseas citizen voting. The 2006 Election Day Survey will provide comprehensive data indicating the progress states have made in implementing HAVA.

### **EAC's Website as a Clearinghouse**

Using EAC's website as its main means of transmitting information to the public is a useful, accessible and cost effective tool. As its studies, guidance and best practices are completed, EAC will have an increasing amount of information to store and display through its website. EAC will also use the website to provide information about the voting system standards and certification program. EAC currently has a memorandum of understanding with the General Services Administration for its information technology (IT) support including servers to maintain EAC data. In addition, EAC contracts for the hosting and maintenance of its website. To accommodate the expanding clearinghouse, EAC will need to expand its IT capabilities by either



enhancing its contracts for web services and IT support or by considering bringing those services in house.

### **Financial and Human Resources Needs for FY 2007**

In FY 2006, EAC budgeted \$2.5 million for its research and study. In FY 2007, EAC anticipates spending \$2.13 million on required research projects, data collection and analysis, development of best practices documents, and expansion and maintenance of its technical resources to host a clearinghouse on its website.

## **GUIDANCE AND INFORMATION TO THE STATES**

HAVA established EAC to provide guidance and assistance to the states on implementation of the law and transferred to EAC the responsibility of implementing the National Voter Registration Act (NVRA). EAC has provided valuable [guidance](#) to the states on what HAVA means, implementing the law, and appropriate use of HAVA funds. In FY 2007, EAC will continue that work by developing election management guidance, expanding on its voter registration data base guidance, and by updating and revising the NVRA regulations and national voter registration form. The election management guidance is a comprehensive companion document to the VVSG that will assist states in managing an election from receipt of voting equipment to the reporting of results to the canvass or recount that follows. EAC's continued work on voter registration databases will focus on studying the appropriate use of security measures, verification of voter information using appropriate matching protocols, and sharing information with other state agencies and, ultimately, with other states. EAC will address issues involving voter registration using the Federal form by updating the NVRA regulations and the Federal registration form.

### **Financial and Human Resources Needs for FY 2007**

EAC has budgeted \$750,000 in FY 2006 for these activities. In FY 2007, EAC anticipates spending \$1.2 million on providing guidance and assistance to the states.

## **ADMINISTRATION**

The administration objective represents the efforts of EAC, internally or through contracts and MOUs, to support the mission and work of this agency and meet the HAVA-imposed mandates. These costs include rent, equipment, supplies, human resources functions, finance and budget, computers, telephones, publication, and printing. This objective includes maintaining the leadership and support staff for the agency. Charges for salaries and benefits for the Commissioners and non-programmatic support staff are included in this category. In addition, the administrative objective includes supporting the efforts of EAC's two Federal advisory committees, the Board of Advisors and Standards Board. Between these two boards there are 147 members who meet at least once in each fiscal year to fulfill their responsibilities under HAVA. The leadership of these Boards meets more frequently, approximately once each quarter.





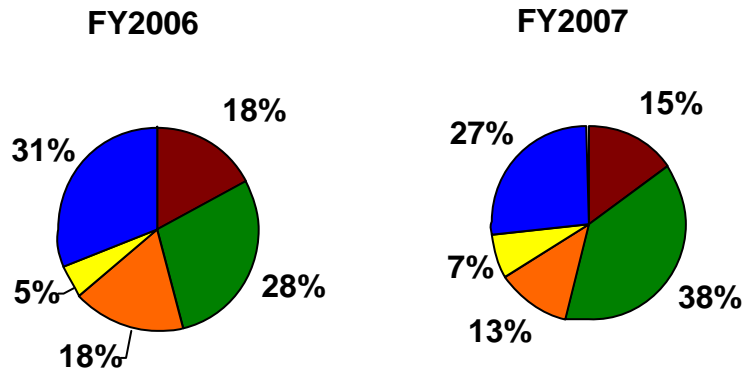
### Financial and Human Resources Needs for FY 2007

In FY 2006, EAC has budgeted \$4.4 million for these activities. In FY 2007, EAC anticipates spending a similar amount, including pay and non-pay adjustments (\$4.55 million).

### CONCLUSION

In the first two years of EAC's existence, the main focus was expeditiously completing the distribution of more than \$3 billion in HAVA funds to the states to purchase voting equipment and implement other election administration improvements. During this time, EAC also adopted the 2005 Voluntary Voting System Guidelines within the HAVA-prescribed nine month timeframe. The completion of these activities generates a new set of related priorities: 1) monitoring and auditing the use of HAVA funds; 2) making sure the VVSG keep pace with technology by updating them periodically, especially in the areas of security and usability; and 3) establishing the Federal government's first voting system certification program.

Consequently, EAC will direct more funding in FY 2007 to its audit program, the VVSG and the certification program.



- Distribution and Management of HAVA Funds
- Aiding in the Improvement of Voting Systems
- National Clearinghouse of Election Administration
- Guidance and Information to the States
- Administration

EAC will also continue to conduct research about election administration issues and make that information available to election officials to assist them in making policy decisions at the local



level. EAC will assure that all HAVA funds are used properly to effectuate the required election reforms.

The EAC appreciates the opportunity to provide this testimony regarding our needs for FY 2007. If you have any questions regarding these activities and allocations of funding, we will be happy to address them.