

NEW HAMPSHIRE
DEPARTMENT OF STATE

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February 25, 2021

Ms. Mona Harrington
Executive Director
U.S. Election Assistance Commission
1335 East West Highway, Suite 4300
Silver Spring, MD 20910

Re: Narrative and Budget for the 2018 and 2020 HAVA Election Security Funds for the period March 23, 2018 until funds are expended

Dear Ms. Harrington:

Please find herewith New Hampshire's Narrative and Budget describing our plans to use the 2018 Election Reform Program and the 2020 Election Security payments. In August of 2020, the EAC combined these two funds for federal reporting purposes. They are together referred to herein as HAVA Election Security Funds. This narrative and budget relate to the period March 23, 2018 until the HAVA Election Security Funds are expended. The EAC's earlier five-year limitation no longer applies.

This Narrative and Budget revises the September 27, 2019 Revision to the Input Plan, Narrative, and Budget for the period October 1, 2019 through March 22, 2023, pursuant to the 2018 Election Reform Program payments authorized by the U.S. Congress in the Consolidated Appropriations Act of 2018. This Narrative is an addendum to the September 27, 2019 Narrative and presents the changes that have been made in order to incorporate combined funding, match, timelines and priorities for combined HAVA Election Security Funds.

I. User Input Plan

Following Congress's passage of the 2018 Election Reform Program, the Secretary of State gathered input for this plan in a large number of sessions at multiple locations throughout the State with voters, state election officials, moderators, clerks, supervisors of the checklist, state cybersecurity officials, and individuals with disabilities.

In addition to what were enumerated in the earlier narratives, the Secretary of State has expanded interviews and listening sessions with moderators, clerks, supervisors of the checklist and other election officials in 2020. The Secretary of State has:

Assessed the State's election needs in the context of the wider scope of election security;

- Assessed continuity of operations planning at the local level;
- Assessed the need for personal protective equipment and safety considerations and protocols to address the COVID 19 pandemic;
- Assessed priorities for training in light of higher absentee ballot volume in 2020;
- Assessed local budget needs in light of higher absentee ballot volume; and
- Assessed new proposals, legislative and otherwise, for their impact on the State's cybersecurity attack surfaces.

II. Narrative

Based on the above input and assessments, the Secretary of State has identified and prioritized needs for security, information technology improvements and maintenance, as reflected in this narrative.

The omnibus Federal laws establishing the HAVA Election Security Funds provided for two additional permissible uses of Title I funds:

- I. Enhance election technology; and
- J. Make election security improvements. (Security improvements include cybersecurity expenditures and other efforts aimed at keeping our elections secure and credible.)

A. Match

The EAC combined 2018 and 2020 HAVA Election Security Funds for reporting purposes in August of 2020. This created a total match obligation of \$851,189 for New Hampshire and necessitated the following revised approach to achieving the match.

To meet the match requirement, direct expenditures of \$155,113 were paid in FFY 2019, with the entire amount going toward elections-related cybersecurity.

The State's remaining match obligation is \$696,076. This amount has not been appropriated by the New Hampshire Legislature. HAVA Election Security Funds cannot be spent until the State match has been identified. It may take a number of years to secure the necessary state match using direct expenditures from other accounts, indirect costs, re-directed costs due to the pandemic, and in-kind contributions from third parties.

Direct expenditure match: Direct expenditures from other accounts have been spent on cybersecurity and new technology equipment enabling ballots to be read from a distance

and recounts to be carried out during the pandemic. Similar direct expenditures will be used as match in the future.

In-kind match: The accounting firm Berry, Dunn, McNeil & Parker LLC has provided a donation of their in-kind uncompensated efforts to help administer and account for payments to the towns and cities to cover increased absentee ballot costs during the pandemic. This in-kind match, which has been invoiced at fair market rates for similar services provided, has been split between the HAVA Cares Act and 2018 and 2020 HAVA Security Funds. In-kind matches may be employed as match in the future.

Indirect costs match: The office expects to use indirect costs (roughly equivalent to overhead) as match for HAVA Election Security Funds starting in Federal Fiscal Year 2021 and beyond. The EAC states in their 2020 guidance, *"(Indirect costs) can be claimed as a state match. Any election office that has never had a federal negotiated indirect cost rate can claim a de minimum (sic) 10% of modified total direct costs (MTDC) as match."* Indirect costs are employed as match in FFY 2020 and thereafter.

Redirected costs match: Another source of match is the time of regular employees (not funded by HAVA or other federal funds) whose efforts in FFY 2020 and FFY 2021 were re-directed to addressing the pandemic. See the EAC's "Guidance on Meeting the Match in CARES Act Grants under HAVA." Redirected costs may be used in the future due to a pandemic or similar event.

HAVA Election Security Funds may be used to respond to the COVID 19 Pandemic. Since the above sources of match are used to improve election administration generally, ensuring elections are carried out effectively in a pandemic in light of existing challenges, they are an appropriate source of match for HAVA Election Security Funds. The EAC states, in their 2020 CARES Act FAQs, *"HAVA neither expressly authorizes nor prohibits the use of section 101 or section 251 funds for expenditures necessary to protect against and respond to a pandemic. Both sections provide payments for the purposes of improving the administration of elections for federal office, which can include expenditures that would protect staff and poll workers, secure physical locations, and address unexpected expenses due to the COVID 19 pandemic during a federal election." "...costs associated with ensuring physical security and improving the administration of federal elections are allowable expenditures and can be paid for with either federal or match funds under either the 2018 or 2020 Election Security grants. If you are not claiming some costs on the CARES grant, you can apply the excess as match on other grants."*

To avoid onerous allocation ratios and accounting complexity and to avail the office of other funding opportunities, some elections-related security and information technology expenses are paid from accounts other than the Election Fund.

B. Achieving Goals to improve Election Administration, Resilience, Accessibility, Observability and Cybersecurity

1. In view of the above budget considerations, the goals of spending these funds include maintenance of existing systems and training programs.
2. The following represent New Hampshire's ongoing goals to achieve accessibility, cybersecurity and improvement of election administration, including methods

employed to achieve them in order to maintain the trustworthiness, security and legitimacy of elections:

- Continue to make improvements to conduct orderly and trustworthy elections, avoiding disruption and confusion, focusing on:
 - Getting absentee ballots sent out and processed on schedule
 - Keeping election workers and voters safe;
 - Achieving timely processing of absentee ballots;
 - Achieving timely and accurate reporting of election results;
 - Avoiding long lines at the polls;
 - Avoiding election official and voter confusion;
 - Conducting orderly and transparent recounts;
 - Preventing a loss in voter confidence.
- Enhance the accessibility of the existing voter look-up capability on the website, including:
 - Voter registration and party status;
 - Absentee ballot tracking;
 - Polling place locator;
 - Accessible sample ballots;
 - Clerk contact information.
- Create accessible election-related documents throughout the website;
- Further develop accessible voting system that enables persons with print disabilities to mark and print a ballot by enabling them to use a computer and printer of their choosing;
- Many of the above goals require staff to work longer and harder at executing existing protocols under existing laws, some of which have been revised to address the pandemic. Achieving consistency avoids confusion but demands extensive additional:
 - On-line training and help desk services to assist election officials;
 - Voter education, including mailing to and help desk services for the general public;
 - Personal protective equipment and requisite logistics under pandemic conditions; and
 - Accessibility training.
- Expand resilience preparation for election officials (refer to September 27, 2019 Revision to Input Plan and Narrative);
 - Encourage development of local Continuity of Operations Plans by providing draft of sample plan;
 - Operate a polling place without dependence on the electrical grid;
 - Conduct quick and accurate hand counting;
 - Complete effective reconciliation to enable accurate reporting of election results;

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- Save and print checklists before election day;
 - Prepare SOS staff and election officials to be ready with clear answers to all voters' and election officials' questions;
 - Make available technology and resources available to field calls from voters and election officials, prepare clear answers for all voters' questions;
 - Encourage and assist local election administrations to recruit, budget for, train a replacement pool of election officials and workers who can substitute for any who are absent;
 - Improve communications mechanisms to enable the Secretary of State and the Attorney General to contact each polling place and for polling places to contact the Secretary of State and Attorney General;
 - Provide incident response training: establish mechanisms for local election officials to report events to Secretary of State and Attorney General, e.g. loss of power at polling place, excessive wait times for voters, vote counting device malfunctions on election day, lack of staff to complete counts and report timely election results;
 - Acquire personal protective equipment (PPE) and coordinate distribution with the National Guard;
 - Create accessible fillable PDF forms to complete on line;
 - Improve checklist notation to speed absentee ballot processing;
 - Provide accounting resources needed to fund towns and cities to process a large number of additional absentee ballots; and
 - Improve browser compatibility for election resources made available on-line.
- Before creating new attack surfaces, conduct rigorous analysis and dynamic testing of new technology offered in the following areas:
- On-line voter registration
 - On-line absentee ballot applications
 - Electronic poll books
 - Emailed or faxed back absentee ballots
 - Ballot marking devices using browsers
 - Ballot counting devices
 - Election management systems
- Leverage existing cybersecurity programs offering free services (same as September 27, 2019 Revision to the Input Plan and Narrative), including information sharing with states and local governments;
- Vulnerability assessment and remediation (same as September 27, 2019 Revision to the Input Plan and Narrative) to include dark web monitoring;
- Enhance election observability, enabling election observers who may be unfamiliar with procedures to ask questions and obtain answers;
- Harden databases and servers;
- Address challenges regarding electronic ballot counting devices;

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➤ State employee planning, training, monitoring, and testing, including:

- Avoiding inadvertent creation of new attack vectors
- Testing redundancy within state server network
- Practicing restarting databases from back-ups
- Updating browser interfaces
- Creating accessible documents
- Conference calls with:
 - State health officials
 - New Hampshire National Guard
 - Homeland Security officials, State and Federal

For over 16 years, the Secretary of State's office has proactively sought to avoid creation of new attack surfaces and conduct cybersecurity and resilience training in a variety of formats, encouraging informed self-reliance at the local level. Security and resilience training continues to be integrated into procurement, procedures, training, help desk services, hardware and software, and election protocols. This focus will continue in every aspect of the office's election duties.

C. Maintenance

The Election Assistance Commission has advised states that expenditures made to protect election security generally is a justifiable way to spend HAVA Election Security Funds. This includes maintaining systems and continuing efforts to conduct orderly and trustworthy elections in a range of scenarios.

Consistent with the September 27, 2019 Revision to the Plan, Narrative and Budget, the Secretary of State will continue to spend HAVA Election Security Funds to achieve technology and security goals and maintain systems in a manner that enables it to comply with the 12X maintenance standard established by New Hampshire state law. (RSA 5:6-d.) HAVA Election Security Funds are required by federal law to be deposited in the State's Election Fund. RSA 5:6-d applies to this fund and requires the state not to expend *"any monies in the Election Fund unless the balance in the fund following such expenditures shall be at least 12 times the estimated annual cost of maintaining the programs established to comply with (HAVA)."*

As effectively required under RSA 5:6-d, some of the 2019 and 2020 spending of HAVA Election Security Funds was for the cost of maintaining programs established to comply with HAVA, referred to hereafter as "maintenance costs." A small portion of the uses of HAVA Election Security Funds related to conducting elections in a pandemic are one-time expenditures and not part of the cost of maintaining HAVA programs.

Election Fund maintenance costs have risen to support a new accessible voting system that enables persons with print disabilities to mark and print a ballot using a computer and printer of their choosing. This system was introduced in response to the COVID 19 pandemic, but will continue as a regular service to voters.

Maintenance costs are rising to enable accessible navigation and use of election-related material on the State's website, to train staff and prepare vendors to create and present accessible documents throughout the website and to update the State's on-line voter look-up site that helps voters to ascertain their registration and party status, track their absentee ballot, access a sample ballot, obtain local clerk contact information, and determine their polling place location.

Maintenance costs are rising to respond to expectations and challenges concerning electronic ballot counting devices.

As a result, annual Election Fund maintenance costs, assuming the office addresses existing challenges and fills open staff positions or contracts similar expertise, have risen to about \$1,200,000.

HAVA CARES Act funds totaling \$3,269,494 have been received and fully expended in calendar year 2020. One-time pandemic-related expenditures are not subject to the maintenance threshold in RSA 5:6-d.

In 2020, the State received \$3,480,379 in 2020 HAVA Election Security Funds, an amount that was added to the Election Fund balance. If CARES Act receipts and expenditures are excluded as one-time events, the June 30, 2020 balance in the Election Fund can be adjusted to \$14,645,988. Using the 12X multiplier required by law, this amount would accommodate annual spending of \$1,220,499 per annum going forward. HAVA Election Security Funds will continue to provide a substantial portion of Election Fund maintenance costs.

This narrative and budget represent the Department of State's plan to assure that New Hampshire elections remain free and fair.

Sincerely yours,



William M. Gardner

CC: Kinza Ghaznavi, U.S. Election Assistance Commission