



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

**Managing, Reporting, and
Proper Recordkeeping of Funds
Received Under the
Help America Vote Act of 2002
(HAVA)**

**NASS 2007 Winter Conference
Washington, DC**



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

What is the U.S. Election Assistance Commission (EAC)?

- An independent, bipartisan federal agency created by HAVA to provide assistance to states by
 - dispersing Federal funds to states to implement HAVA requirements
 - auditing the use of HAVA funds
 - adopting the *Voluntary Voting System Guidelines (VVSG)*
 - serving as a national clearinghouse of information regarding election administration
 - accrediting testing laboratories and certifying, decertifying, and recertifying voting systems



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

What Responsibilities Does the EAC Have Related to HAVA Funds?

- Disperse HAVA Section 101, 102, and 251 funds to states
- Provide guidance to states on proper management and reporting of HAVA funds
- Monitor the fiscally responsible use of HAVA funds by the states through annual financial reports



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

What Responsibilities Does EAC Have Related to HAVA Funds?

- Review and approve or decline requests for capital expenditures made with HAVA funds
- Review and approve or decline requests to use HAVA funds for construction or alteration of property
- Audit states' usage of HAVA funds
- Resolve issues identified in audits



Title I, Section 101

- “Early money” for election administration improvements
- Least restrictive type of HAVA funding
- No fiscal year restriction
 - The money is available until it’s spent



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Uses of Section 101 Funds

- Meeting HAVA Title III requirements
 - Voting Systems Standards
 - Provisional Voting
 - Voter Information
 - State-wide Voter Registration Database
 - Voter Identification for First-time Voters
- Improving the administration of Federal elections



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Limited Use of Section 101 Funds

- Educating voters on voting rights, voting procedures and voting technology
- Training election officials, workers, and volunteers
- Developing state plan
- Improving, acquiring, leasing or replacing voting equipment



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Limited Use of Section 101 Funds

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



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Title I, Section 102 Funds

- Voluntary incentive program
- Very restrictive - can only use funds to replace punch card and lever voting machines
- Distributed using a precinct-based formula specified in HAVA
- Specific deadline for using the funds



UNITED STATES
ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Title I, Section 102 Funds



**The deadline for obligating
HAVA section 102 funds
has passed!**



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

What happens if a state did not comply with HAVA section 102?

- EAC is currently reviewing certifications from states to determine compliance and any necessary repayment
- Any returned §102 funds will be distributed to states as §251 Requirements Payments
 - all states will be eligible to receive this funding, even those which have to return section 102 funds



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Title II, Section 251 Requirements Payments

- Requires state plan, administrative complaint procedures, 5% match, maintenance of effort (MOE), and state certification
- No fiscal year restriction
 - The money is available until it's spent
- Limited uses of the funds



Limited Uses of Section 251 Funds

- Meeting Title III Requirements
 - Voting Systems Standards
 - Provisional Voting
 - Voter Information
 - State-wide Voter Registration Database
 - Voter Identification for First-time Voters
- Improve the administration of Federal elections



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Filing a Certification with EAC under §251(b)(2)

Requirements payments can only be used to improve the administration of federal elections **AFTER** the Chief State Election Official certifies to EAC that either:

1. The state has met all requirements of Title III
 - Copy of certification will be sent to Dept. of Justice (DOJ) to assist in enforcement of HAVA Title III
 - Certification will be posted on EAC website
2. The state will not use more than minimum requirements payment amount (\$11,596,803) until all Title III requirements are met



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Maintenance of Effort (MOE)

- States must calculate and report MOE
 - MOE calculated on a state fiscal year basis
- EAC will be issuing an advisory addressing MOE issues this year



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Restrictions on spending HAVA funds

- HAVA restrictions
- State plan restrictions
 - applicable to §251 funds
- OMB Circulars (pay special attention to A-87)
- Common Rule (41 CFR 105-71)
- Cash Management Improvement Act (CMIA)
 - applicable to §101 and §102 funds
- State laws and procedures



3 words to live by when using HAVA funds

- All expenditures made with HAVA funds **MUST** be:
 1. Allowable
 2. Allocable
 3. Reasonable



Managing 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.



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Managing 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.



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Managing 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



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Managing 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.



Managing 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



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Managing 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.



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Managing HAVA Funds: Do's

- ✓ Follow State law and procedures when administering HAVA funds and awarding them to sub-recipients.
- ✓ Ensure that sub-recipients are aware of requirements imposed upon them by State and Federal statute, and OMB circulars.



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Managing HAVA Funds: Do's

- ❑ Implement procedures to minimize the time elapsed between the transfer of funds from the U.S. Treasury and disbursement for Federal program purposes for section 101 and 102 funds (CMIA).



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Managing 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.



Managing 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.



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Managing 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."



Managing 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.



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Managing 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.



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Can I claim indirect costs on HAVA funds?

- A state may only claim indirect costs if it has negotiated an indirect cost rate with EAC or is covered under another indirect cost rate agreement with a federal agency
- Detailed information about applying for an indirect cost rate is available upon request



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Do I have to ask permission before I buy things with HAVA funds?

States **MUST** request PRE-approval for:

1. Capital expenditures over \$5000
 - Exception: EAC Commissioners waived this requirement for voting system purchases and purchases related solely to the implementation of the statewide voter registration list, so pre-approval is not required for those purchases
2. ALL expenditures related to renovations or purchases of real property



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Checklist for Capital Expenditure and Real Property Approvals

- ✓ Explanation of which HAVA funds will be used (§101 or §251)
 - ✓ Remember §102 funds can only be used for purchasing voting systems
- ✓ Detailed description and justification for the purchase
- ✓ If using §251 funds, description of how expenditure coincides with state plan



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Checklist for Capital Expenditure and Real Property Approvals

- ✓ Certification the state has conducted allocability analysis and determined the amount allocable to HAVA funds
 - ✓ If any portion is not allocable to HAVA funds, guarantee that the state will not charge that portion to HAVA funds
- ✓ Certification the state has conducted reasonableness analysis and deems the expenditure to be reasonable



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Proper Recordkeeping

HAVA section 902 requires each recipient of HAVA funds to keep records consistent with sound accounting principles to facilitate an effective audit.



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Proper Recordkeeping

- 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



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Proper Recordkeeping

- 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



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Reporting Title I Funds

- Separate reports due for Section 101 and, if the State received any, Section 102 funds
- Each report must cover the activities of the previous **calendar year** until all funds (including interest earned) have been expended



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Reporting Title I Funds

Use Standard Form 269 (SF 269) and include:

- a detailed list of expenditures by program, function, or task (including dollar amount) made with respect to each category of activities described for the permissible use of funds in HAVA section 101 or 102
- the number and type of voting equipment obtained with the funds



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Reporting Section 251 Funds

- In accordance with HAVA section 258:
 - Must cover the activities of the previous **Federal fiscal year** (October 1 of the year before last to September 30 of last year) until all funds (including interest earned and 5% match) have been expended



Reporting Section 251 Funds

Use Standard Form 269 (SF 269) and include:

- an analysis and description of the activities funded to meet HAVA requirements and how activities conform to the official State plan
- the number and type of voting equipment obtained with the funds



Checklist for HAVA Reports

- ✓ SF 269 – Long Form
- ✓ Detailed narrative of expenditures
- ✓ Individual transaction log



Reporting HAVA Funds

- Standard Form 269 may be found on the Office of Management and Budget's website:
<http://www.whitehouse.gov/omb/grants/sf269.pdf>
- Model SF 269s and model narratives may be found on the EAC website under the "Funding for States" section: www.eac.gov



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

HAVA REPORTS 2007 SCHEDULE

<i>Due Date</i>	<i>HAVA Title & Section</i>	<i>CFDA #</i>	<i>Coverage Dates</i>
February 28, 2007	Title I, Section 101	39.011	January 1, 2006 – December 31, 2006
February 28, 2007	Title I, Section 102	39.011	January 1, 2006 – December 31, 2006
March 30, 2007	Title II, Section 251	90.401	October 1, 2005 – September 30, 2006



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Reporting HAVA Funds

Send annual reports to:

State HAVA Funding Reports

U.S. Election Assistance Commission

1225 New York Avenue, NW, Suite 1100

Washington, DC 20005



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

EAC Audit Resolution Process

- After audit findings are issued, EAC is responsible for ensuring issues identified during an audit are resolved
 - This includes state single audits, regular audits conducted by EAC Inspector General, and special audits ordered by vote of EAC Commissioners



UNITED STATES ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Repayment will be required!

- States must repay misspent funds!
- States must repay expenditures that don't have proper documentation!
- If a sub-recipient misspends HAVA funds, the state is responsible!





UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

EAC Audit Resolution Process

- Resolution may require:
 - Changes in state procedures
 - Additional and more frequent financial reporting, including more supporting documentation
 - Repayment of misspent funds
 - Referral to Department of Justice or appropriate State or Federal law enforcement agency if possible violations of civil or voting rights or criminal activity are identified



UNITED STATES

ELECTION ASSISTANCE COMMISSION

HAVA Funds Management

Questions? Contact:

Edgardo Cortés

Election Research Specialist

U.S. Election Assistance Commission

1225 New York Avenue, NW, Suite 1100

Washington, DC 20005

866-747-1471 (toll free)

Fax: 202-566-3127

ecortes@eac.gov

<http://www.eac.gov>