

The State of Texas



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The Office of The Secretary of State

HELP AMERICA VOTE ACT PROVIDE THE SAME OPPORTUNITY FOR ACCESS AND PARTICIPATION TO INDIVIDUALS WITH DISABILITIES

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Part A – General

SECTION 1. AUTHORITY

- 1.1. This agreement is made by COUNTY (“COUNTY”) to the STATE OF TEXAS, OFFICE OF THE SECRETARY OF STATE (“SOS”) and is authorized pursuant to Title II, Subtitle D, Section 261 of the Help America Vote Act (HAVA) (42 U.S.C. 15461).

SECTION 2. SOURCE

- 2.1. The federal awarding agency is the US Department of Health and Human Services, the CFDA No. is 93.617, and the funding covered under this agreement is from the 2003, 2004, 2005, and 2006 appropriation of HAVA funds outlined in Section 1.1.

SECTION 3. APPLICABILITY

- 3.1. By accepting the grant as outlined in Section 9.1.2, the terms and conditions set forth in this agreement apply to and must be adhered to by the COUNTY.

SECTION 4. ADOPTIONS BY REFERENCE

- 4.1. Although the SOS has attempted to highlight the most relevant rules and guidelines through this agreement, the COUNTY must abide by the applicable Office of Management and Budget (OMB) Circulars and the Uniform Grant Management Standards (UGMS) adopted pursuant to the Uniform Grant and Contract Management Act of 1981, Chapter 783, Texas Government Code (see Texas Administrative Code Title 1, Part 1, Chapter 5, Subchapter A, Division 4, §§5.141 - 5.167).
- 4.2. UGMS incorporates the relevant OMB Circulars as outlined below:
 - 4.2.1. Cost Principles for State and Local Governments and Other Affected Entities (Chapter II of UGMS, which incorporates OMB Circular A-87).
 - 4.2.2. State Uniform Administrative Requirements for Grants and Cooperative Agreements (Chapter III of UGMS, which incorporates OMB Circular A-102 and “Common Rule,” Administrative Requirements, 53 FR 8087, March 11, 1988).
 - 4.2.3. State of Texas Single Audit Circular (Chapter IV of UGMS, which incorporates OMB Circular A-133).
- 4.3. The OMB Circulars can be found at <http://www.whitehouse.gov/omb/circulars/> and UGMS can be accessed through the Governor’s Office website at <http://www.governor.state.tx.us/>.
- 4.4. The COUNTY must abide by the following regulations from Title 45 of the Code of Federal Regulations (CFR):
 - 4.4.1. 45 CFR Part 16 – Procedures of the Departmental Grant Appeals Board;
 - 4.4.2. 45 CFR Part 30 – Claims Collection;
 - 4.4.3. 45 CFR Part 76 – Debarment and Suspension from Eligibility for Financial Assistance (Nonprocurement);
 - 4.4.4. 45 CFR Part 80 – Nondiscrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services, Effectuation of Title VI of the Civil Rights Act of 1964;
 - 4.4.5. 45 CFR Part 81 – Practice and Procedure for Hearings Under part 80 of this Title;
 - 4.4.6. 45 CFR Part 84 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance;
 - 4.4.7. 45 CFR Part 86 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance;
 - 4.4.8. 45 CFR Part 87 – Equal Treatment for Faith-Based Organizations;
 - 4.4.9. 45 CFR Part 91 – Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance;

- 4.4.10. 45 CFR Part 92 – Uniform Administrative Requirements for Grants and Cooperative Agreements to State, and Local, and Tribal Governments;
- 4.4.11. 45 CFR Part 93 – New Restriction on Lobbying;
- 4.4.12. 45 CFR Part 100 – Intergovernmental Review of Department of Health and Human Services Programs and Activities.

SECTION 5. GRANT OFFICIALS

- 5.1. Authorized Official – The COUNTY judge must serve as the authorized official for the COUNTY and must be designated as such in the resolution (see Section 10.1.3 of this agreement). The authorized official has signing authority on behalf of the COUNTY and is responsible for ensuring the necessary forms are submitted through the Texas HAVA online grant system (see 9.1 of this agreement).
- 5.2. Election Official(s) – The COUNTY election official(s) include the executive officer(s) of the offices(s) responsible for conducting elections and maintaining the voter registration list in the COUNTY (e.g., the elections administrator or the COUNTY clerk and/or voter registrar). The election official(s) of the COUNTY must be consulted and concur with all expenditures pursuant to this agreement (see Section 10.1.1 of this agreement).
- 5.3. Financial Officer – The COUNTY auditor or treasurer must serve as the financial officer for the COUNTY. The financial officer is responsible for establishing and maintaining financial records to accurately account for funds awarded to the COUNTY. These records shall include both federal funds and all matching funds of state and local organizations, when applicable. The financial officer is also responsible for requesting payments through the Texas HAVA online grant system (see Section 13 of this agreement).

SECTION 6. FUNDING PURPOSE AREAS

- 6.1. The COUNTY may expend funds for the following items:
 - 6.1.1. Magnifiers.
 - 6.1.2. Signature guides.
 - 6.1.3. Accessible voting booths or tables.
 - 6.1.4. Seats to accommodate persons who have difficulty standing for long periods of time.
 - 6.1.5. Telephones in order to allow the use of all Relay Texas services including speech-to-speech relay.
 - 6.1.6. Informational material to be written in large print and in Braille.
 - 6.1.7. Other projects that improve polling place accessibility deemed reasonable and necessary by the SOS.
- 6.2. Funds used for permanent improvements such as repaving sidewalks and curb cuts may only be applied to county owned property utilized for a polling location used during a federal election.

SECTION 7. ELIGIBLE FUNDING BY PURPOSE AREA

- 7.1.1. Using polling location statistics for the 2006 March Primary, the COUNTY may apply for funding not to exceed the following amounts:
 - a) \$2,000 for COUNTIES with 10 polling locations or less;
 - b) \$2,500 for COUNTIES with 50 polling locations or less; and,
 - c) \$3,000 for COUNTIES with polling locations of more than 50.

SECTION 8. CONDITION OF FUNDING

- 8.1.1. “A copy of the Americans with Disabilities Act (ADA) Checklist for Polling Places” must be completed and kept on file with the County Clerk or Election Administrator for the COUNTY. A copy of the checklist can be found at <http://www.usdoj.gov/crt/ada/votingck.htm>.

Part B – Pre-Award Requirements

SECTION 9. GRANT AWARD PROCESS

- 9.1. The COUNTY judge, as authorized official for the COUNTY, has the authority to submit a budget via the Texas HAVA online grant system (<http://hava.tamu.edu/>). The COUNTY judge may designate the responsibility of completing the online forms at his or her discretion.
 - 9.1.1. The COUNTY judge will use the same user ID and password that was used for previous HAVA funding requests (e.g., voting system acquisition funding). If a new password is needed, email hava@sos.state.tx.us.
 - 9.1.2. The judge creates a grant application and enters a budget. Prior to submitting the budget for SOS approval, the judge must check a box that affirms acceptance of the terms and conditions contained in this agreement. The electronic affirmation of the terms and conditions of this agreement is equivalent to signing a paper agreement.
 - 9.1.3. Upon SOS approval, the system notifies the COUNTY officials described in Sections 5.1, 5.2, and 5.3 of this agreement via email that the grant has been approved.
 - 9.1.4. The COUNTY must submit its budget via the Texas HAVA online grant system no later than April 30, 2008. If the COUNTY does not submit a budget via the online grant system by April 30, 2008, its funding will be forfeited. A COUNTY that submits a budget for a portion of the funding for which it is eligible will not forfeit the unbudgeted amount and may submit a grant adjustment prior to the expiration of the funding period to allocate the remaining balance.
- 9.2. The SOS reserves the right to require additional information as needed.

SECTION 10. RESOLUTION FROM THE GOVERNING BODY

- 10.1. The resolution that was adopted by the COUNTY Commissioners Court pursuant to the HAVA award agreement for the acquisition of a HAVA-compliant voting system issued on September 14, 2004 applies to this award agreement as well. As such, the COUNTY commits to the following:
 - 10.1.1. The expenditure of the funds in accordance with any agreement between the COUNTY and the State of Texas, Office of the Secretary of State pursuant to Title 1, Section 101 and Title II, Section 251 of the Help America Vote Act (HAVA), Public Law 107-252, October 29, 2002; 42 U.S.C. 15301 shall be, or, in the case of retroactive payments, was in consultation and agreement with the COUNTY election official(s) and the COUNTY financial officer of the COUNTY.
 - 10.1.2. The COUNTY agrees that in the event of loss, misuse, or noncompliance pursuant to any grant award agreement with the Secretary of State, the COUNTY assures that the funds will be returned to the Office of the Secretary of State in full.
 - 10.1.3. The COUNTY has agreed that the COUNTY judge will serve as the COUNTY authorized official. The authorized official is the signing authority on behalf of the COUNTY.

SECTION 11. CERTIFIED ASSURANCES

- 11.1. By accepting the terms and conditions of this grant and as the duly authorized representative of the COUNTY, the COUNTY judge certifies that the COUNTY:
 - 11.1.1. Complies with the required assurances listed in Chapter III (State Uniform Administrative Requirements for Grants and Cooperative Agreements), Subpart B, Section 14 of the Uniform Grant Management Standards.
 - 11.1.2. Will not construe the availability of these funds to authorize or require conduct prohibited under any of the following laws, or to supersede, restrict, or limit the application of such laws: the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.); the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.); the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.); the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.); the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

- 11.1.3. Will allow the SOS, the Comptroller General of the United States, the State Auditor's Office, any successor agency, or duly authorized representative to audit or investigate the expenditure of funds under this agreement. The COUNTY further agrees to cooperate fully with the audit or investigation, including providing all records requested such as papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives. The COUNTY will ensure that this clause concerning the authority to audit or investigate state funds received indirectly by subcontractors through the COUNTY, along with the requirement to cooperate, is included in any subcontract it awards.
- 11.1.4. Will obtain the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
- 11.1.5. Will comply with federal retention requirements of maintaining records for at least three years following the submission of the final expenditure report. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.
- 11.1.6. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program – including the Uniform Grant Management Standards published by the Texas Governor's Office of Budget and Planning and applicable OMB Circulars.

Part C – Post-Award Requirements

SECTION 12. FINANCIAL MANAGEMENT STANDARDS

- 12.1. The financial management system of the COUNTY must meet the following standards:
 - 12.1.1. Financial reporting. Accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant award.
 - 12.1.2. Accounting records. The COUNTY must maintain records which adequately identify the source and application of funds provided for financially-assisted activities. These records must contain information pertaining to grant awards and authorizations, obligations, un-obligated balances, assets, liabilities, outlays or expenditures, and income.
 - 12.1.3. Internal control. Effective control and accountability must be maintained for all grant award cash, real and personal property, and other assets. The COUNTY must adequately safeguard all such property and must assure that it is used solely for authorized purposes.
 - 12.1.4. Budget control. Actual expenditures or outlays must be compared with budgeted amounts for each grant award. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant award agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.
 - 12.1.5. Allowable cost. Applicable OMB cost principles, agency program regulations, and the terms of grant award agreement will be followed in determining the reasonableness, allowability, and allocability of costs.
 - 12.1.6. Source documentation. Accounting records must be supported by such source documentation as canceled checks, paid bills, payrolls, time and attendance records, contract and grant award documents, etc.
- 12.2. The SOS or its designee may review the adequacy of the financial management system of any applicant for financial assistance as part of a pre-award review or at any time subsequent to award.

SECTION 13. PAYMENT

- 13.1. All payments will be made on a cost reimbursement basis.
 - 13.1.1. The COUNTY may charge to the award only costs resulting from obligations during the funding period described in Section 15.1.
 - 13.1.2. A grantee must liquidate all obligations incurred under the award not later than 90 days after the end of the funding period.
 - 13.1.3. Payments shall be requested by the COUNTY financial officer via the Texas HAVA online grant system.
- 13.2. Earned program income for the period in which funds are being requested must be reported with the request.

SECTION 14. ALLOWABLE COSTS

- 14.1. Grant funds must be expended in accordance with Chapter II (Cost Principles for State and Local Governments and Other Affected Entities) of UGMS.
- 14.2. Grant funds may be used only for activities approved through the grant award process.
- 14.3. The following are some of the unallowable costs outlined in Chapter II of UGMS (refer to UGMS to review all unallowable costs):
 - 14.3.1. Membership dues for individuals (the membership must be for the governmental unit).
 - 14.3.2. Costs of promotional items including, but not limited to, hats, drink coolers, t-shirts, toys, pens, pencils, jackets, frisbees, emery boards, fans, dominoes, windshield shades, change purses, and other such novelties or items of nominal value.
 - 14.3.3. Costs of advertising and public relations designed solely to promote the governmental unit.
 - 14.3.4. Costs of publicizing or directing attention to any individual official or employee of the COUNTY.
 - 14.3.5. Costs associated with influencing the outcome of any election, or the passage or defeat of any legislative measure.
- 14.4. In addition to the unallowable costs outlined in Chapter II of UGMS, the following uses are not eligible for funding:
 - 14.4.1. Personnel costs.
 - 14.4.2. Indirect costs.
- 14.5. The following are guidelines that must be adhered to for travel reimbursements:
 - 14.5.1. The COUNTY will be held to the state lodging, mileage, and per diem rates or the COUNTY rates, whichever is less.
 - 14.5.2. All reimbursements are limited to the actual cost of meals.
 - 14.5.3. Claims may not include: alcoholic beverages, tips, room service, or expenses for any person other than the traveling employee.
 - 14.5.4. Claims may be made only for travel outside of the employee's headquartering city.
- 14.6. The following are the applicable state rates for travel:
 - 14.6.1. Lodging: Up to \$85.00 per day.
 - 14.6.2. Meals: Overnight Travel - up to \$36.00 per day; Non-overnight Travel - \$0.
 - 14.6.3. Mileage: 50.5 cents per mile (as of January 1, 2008).
- 14.7. This agreement automatically adopts any legislative change to the rates at the time of the legislative effective date.
- 14.8. The following receipts must be retained for audit purposes:

- 14.8.1. Lodging - check-out document reflecting zero balance due.
- 14.8.2. Parking fees incurred for personal vehicle or car rental.
- 14.8.3. Taxi fares - date, destination, and amount.
- 14.8.4. Gasoline purchased for rental car.
- 14.8.5. Auto rental contract and receipt.
- 14.8.6. Air fare receipt.

SECTION 15. PERIOD OF AVAILABILITY OF FUNDS (GRANT PERIOD)

- 15.1. Obligations for eligible expenditures must be incurred during the following time period:
January 1, 2005 through December 31, 2009
- 15.2. Obligations means the amounts of orders placed, contracts, goods and services received, and similar transactions during the grant period that require payment by the COUNTY.

SECTION 16. PROGRAM INCOME

- 16.1. Program income means gross income received by the COUNTY directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. "During the grant period" is the time between the effective date of the award and the ending date of the award reflected in the final reimbursement request.
- 16.2. Program income earned during the grant period must be reported when requesting reimbursements as described in Section 13.2 of this agreement.

SECTION 17. AUDIT

- 17.1. During the grant period, for each COUNTY fiscal year in which the COUNTY expends \$500,000 or more of combined federal funding, the COUNTY is responsible for obtaining an audit in accordance with the Single Audit Act (Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." Any such audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits.
- 17.2. If, after a fiscal year in which grant funds are expended, the COUNTY determines an audit is not required according to OMB Circular A-133, the COUNTY shall make such certification through the Texas HAVA online grant system. The COUNTY'S chief financial officer shall make the certification within 60 days of the end of the COUNTY'S fiscal year.

SECTION 18. CHANGES

- 18.1. The following post-award changes in budgets and projects require prior authorization through the grant system in the form of a grant adjustment.
 - 18.1.1. Cumulative transfers among direct cost categories which exceed ten percent of the current award.
 - 18.1.2. Transfer of funds allotted for training allowances to other expense categories.
 - 18.1.3. Any needs for additional funding or extension of grant period.
 - 18.1.4. Any revision of the scope or objectives of the project.
- 18.2. All grant adjustment requests must be submitted prior to the end of the grant period.
- 18.3. The SOS reserves the right to make changes to the grant award at any time. The COUNTY will be notified in writing or through the Texas HAVA online grant system of all changes prior to the change taking effect.

SECTION 19. PROPERTY MANAGEMENT

- 19.1. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, at a minimum, meet the following requirements:

- 19.1.1. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date and cost of the property, percentage of the SOS participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
- 19.1.2. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
- 19.1.3. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated. Certain types of equipment are classified as “controlled assets”. The Comptroller’s State Property Accounting User Manual, available on the Internet, contains the most current listing.
- 19.1.4. Adequate maintenance procedures must be developed to keep the property in good condition.
- 19.1.5. If the COUNTY is authorized to sell the property, proper sales procedures must be established to ensure the highest possible return.

SECTION 20. COPYRIGHTS

- 20.1. The SOS reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal or state government purposes:
 - 20.1.1. The copyright in any work developed pursuant to this grant award; and
 - 20.1.2. Any rights of copyright to which the COUNTY purchases ownership with this grant award.

SECTION 21. PROCUREMENT

- 21.1. The COUNTY shall use its own procurement procedures and regulations, provided that the procurement conforms to applicable laws and the standards identified in Chapter III (State Uniform Administrative Requirements for Grants and Cooperative Agreements), Subpart C, Section 36 of the Uniform Grant Management Standards.

SECTION 22. REPORTS

- 22.1. Grantees must submit required financial expenditure reports and performance reports.
 - 22.1.1. Payment request must be based on actual expenditures (see Section 13 of this agreement); therefore, reimbursement requests will serve as financial reports.
 - 22.1.2. Additional reports shall be submitted via the Texas HAVA online grant system.
 - 22.1.3. Instructions and due dates will be prescribed via the website.
 - 22.1.4. SOS may place a financial hold on a grantee’s funds for delinquent reports.

SECTION 23. RECORDS RETENTION

- 23.1. The COUNTY must maintain records for at least three years following the submission of the final expenditure report.
- 23.2. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

SECTION 24. MONITORING

- 24.1. Monitoring reviews include programmatic monitoring, financial monitoring, and financial auditing.
- 24.2. The SOS reserves the right to conduct its own audit or contract with another entity to audit the COUNTY.

- 24.3. The SOS or its designee may conduct monitoring reviews throughout the existence of a grant or conduct an audit after the grant period has ended. The COUNTY must make all grant-related records available to the SOS or its representatives unless the information is sealed by law.
- 24.4. Monitoring reviews may be on-site or desk reviews and may include any information that the SOS deems relevant to the project.
- 24.5. The SOS, or its designee, may make unannounced visits at any time.

SECTION 25. REMEDIES FOR NONCOMPLIANCE

- 25.1. If a COUNTY fails to comply with any term or condition of this agreement or any applicable statutes, rules, regulations, or guidelines, SOS may take one or more of the following actions:
 - 25.1.1. Require the return of funds if disbursements have already been made.
 - 25.1.2. Temporarily withhold all payment to the COUNTY pending correction of the deficiency by the COUNTY.
 - 25.1.3. Temporarily withhold all payments for other HAVA grant funds awarded to the COUNTY pending correction of the deficiency by the COUNTY.
 - 25.1.4. Disallow all or part of the cost of the activity or action that is not in compliance.
 - 25.1.5. Impose administrative sanctions, other than fines, on the COUNTY.
 - 25.1.6. Withhold further HAVA grant funds from the COUNTY.
 - 25.1.7. Terminate the agreement in whole or in part.
 - 25.1.8. Exercise other remedies that may be legally available.

Part D – After-the-Grant Requirements

SECTION 26. CLOSEOUT

- 26.1. The SOS will close out the award when it determines that all applicable administrative actions and all required work of the grant have been completed. The SOS will provide any necessary additional information on closeouts.
- 26.2. The closeout of a grant does not affect:
 - 26.2.1. The SOS’s right to disallow costs and recover funds on the basis of a later audit or other review;
 - 26.2.2. The COUNTY’S obligation to return any funds due as a result of later refunds, corrections, or other transactions;
 - 26.2.3. Records retention as required in Section 23 of this agreement;
 - 26.2.4. Property management requirements outlined in Section 19 of this agreement; and
 - 26.2.5. Audit requirements prescribed in Section 17 of this agreement.

SECTION 27. COLLECTION OF AMOUNTS DUE

- 27.1. Any funds paid to the COUNTY in excess of the amount to which the COUNTY is finally determined to be entitled under the terms of the award constitutes a debt to the SOS. If not paid within 30 days after demand, the federal or state agency may reduce the debt by:
 - 27.1.1. Making an administrative offset against other requests for reimbursements;
 - 27.1.2. Withholding payments otherwise due to the COUNTY; or
 - 27.1.3. Other action permitted by law.
- 27.2. Except where otherwise provided by statutes or regulations, the federal government may charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (4 CFR Ch. II). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.