



U.S. ELECTION ASSISTANCE COMMISSION
1201 New York Ave. NW – Suite 300
Washington, DC 20005

**U.S. Election Assistance Commission (EAC)
Funding Advisory Opinion
FAO-10-001**

Date Issued: May 5, 2010

Requestor: Oregon (AO-10-001)

Question: May Oregon (state) use Help America Vote Act (HAVA) Section 251 funds to purchase and install closed circuit surveillance cameras in thirty-six county election offices throughout the state? Oregon is a Vote-by-Mail state and vote tabulation is done using central count optical and digital scanning devices located within the county election offices. Using a Request for Information process we estimate that the total cost for purchase and installation of closed circuit surveillance cameras in thirty-six county election offices should not exceed \$162,000 or an average of \$4,500 per county.

Answer: EAC finds that purchase and installation of closed circuit surveillance cameras is an allowable expenditure using Section 251(b)(2) funds and that Oregon may proceed with acquisition of the requested equipment as discussed below.

Discussion: Per Office of Management and Budget (OMB) Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*, EAC generally considers three factors when determining whether or not to approve a request by a grantee to use federal funds to finance equipment purchases over \$5,000.¹ The cost must be (1) allowable, (2) allocable, and (3) reasonable. Oregon is a Vote-by-Mail state and vote tabulation is done using central count optical and digital scanning devices located within the county election offices.

Legislation signed into law in June of 2009 (2009 Or. Laws Chapter 592) allows county election officials to begin scanning received ballots up to seven days prior to Election Day. A requirement of the legislation is for counties to submit detailed security plans related to their vote tabulation equipment and the vote tally process. To help ensure maximum security and prevent the early release of tabulation totals, the Secretary of State desires that the county security plans and corresponding facilities used for vote tabulation incorporate closed circuit surveillance cameras. Using a request for information process, the state estimated that the total cost for purchase and installation of closed circuit surveillance cameras in thirty-six county election offices should not exceed \$162,000 or an average of \$4,500 per county.

¹ See Attachment B of OMB A-87, Section 15. Equipment and other capital expenditures.



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States may use Section 251 funds in three instances. First, states may use Section 251 funds to comply with the requirements in Title III of HAVA. After a state certifies compliance with the Title III requirements, a state may also use Section 251 funds “to carry out other activities to improve the administration of elections for Federal office...” Finally, a state may use its minimum payment amount for the improvement of the administration of federal elections. A state’s purchase of security cameras likely does not meet any of the requirements of Title III. Accordingly, the use is allowable only if it is considered to be an improvement to the administration of federal elections. Oregon has filed a certification with the EAC that they are compliant with the requirements of Title III.

EAC previously held that Section 251(b)(2) funds could be used to pay for improvements to a warehouse that was used to store voting equipment in order to protect the voting equipment from exposure to temperatures outside the manufacturers’ recommendations.² In addition, EAC previously established policy by allowing Section 251(b)(2) funds to be used to make modifications to a storage space in order to provide appropriate storage for voting equipment, which included measures to secure and store ballots. Similarly, Oregon seeks to use Section 251 funds to ensure maximum security and prevent the early release of tabulation results by funding the purchase and installation of closed circuit surveillance cameras in county election offices throughout the state. Therefore, EAC finds that the use of Section 251(b)(2) funds by the state to purchase and install closed circuit surveillance cameras in county election offices is an allowable expenditure.

The state will need to follow state procurement policies and guidance offered in OMB Circular A-87 to ensure that the cost of any equipment purchased for this purpose is reasonable³ and that costs are allocated appropriately to HAVA funds.

² See FAO-09-008 (<http://www.eac.gov/election/advisories%20and%20guidance>).

³ The standard in OMB Circular A-87 Attachment A, Section C(2) is whether the cost is one which would exceed the amount which would be incurred by a prudent person under similar circumstances.