



**U.S. ELECTION ASSISTANCE COMMISSION**  
 1225 New York Ave. NW – Suite 1100  
 Washington, DC 20005

**U.S. Election Assistance Commission (EAC)  
 Funding Advisory Opinion  
 FAO-09-015**

**Date Issued:** January 11, 2010

**Requestor:** Alaska (AO-09-016)

**Question:** May Help America Vote Act (HAVA) section 251 funds be used to modify existing office space to construct a secure storage room?

**Discussion:** The Office of Management and Budget (OMB) Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*, requires EAC to consider three factors when determining whether or not to approve a request by a grantee to use Federal funds to finance capital improvements<sup>1</sup>. The cost must be (1) allowable; (2) allocable; and (3) reasonable. Here, Alaska (the State) is requesting EAC approval to use HAVA section 251 funds to modify existing office space to construct a secure storage room at its Headquarters location in Juneau, Alaska. Alaska's election security study recommended strengthening storage facilities for voting machines and other system components with alarms, motion sensors, self locking doors and other features to prevent forced entry. The storage room will also be used to store voting equipment as well as voted ballots.

A cost is allowable if it meets the criteria for authorized expenditures specified in the applicable statute and cost principles. Section 251(b)(2) allows States to use section 251<sup>2</sup> funds "to carry out other activities to improve the administration of elections for Federal office..." EAC previously held that section 251 funds may be used to pay for improvements to a warehouse that is used to store voting equipment.<sup>3</sup> In addition, previously established EAC policy allows section 251 funds to be used to make modifications to a storage space in order to provide appropriate storage for voting equipment.<sup>4</sup> Thus, the renovation of the existing office space to create an environment to better protect and maintain existing voting equipment used in Federal elections is an allowable expense.

A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received. OMB Circular A-87, A-87 Attachment A, Section C(3). The benefits received from the

<sup>1</sup> A capital improvement is an improvement to any structure or component erected as a permanent fixture on real property that adds to its value and useful life. See *Page 9 of Frequently Asked Questions Regarding Appropriate Uses of HAVA Funds* (Rev. Oct. '06), which can be found at [www.eac.gov/election/hava-reporting](http://www.eac.gov/election/hava-reporting).

<sup>2</sup> Alaska has filed the appropriate certification with the EAC, pursuant to Section 251(b)(2) of HAVA.

<sup>3</sup> FAO-09-008

<sup>4</sup> See *Question 7 and 18 of Frequently Asked Questions Regarding Appropriate Uses of HAVA Funds* (Rev. Oct. '06), which can be found at [www.eac.gov/election/hava-reporting](http://www.eac.gov/election/hava-reporting).



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modification of the existing office space must be directly related to the purpose of the expenditure to be fully allocated to HAVA funding. The estimated cost of the renovation is \$37,750: \$35,000 for Construction and Demolition; \$2,000 for Security System; and \$750 for Ballot Shelves.<sup>5</sup> The State plans to use the modified storage room to provide a secure location to store and maintain election equipment and voted ballots used in Federal elections, thus the costs of the renovation are fully allocable to section 251 funds.

A cost is reasonable if “...in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost”. OMB Circular A-87, Attachment A Section C(2). In making a reasonableness determination, the awarding agency must consider whether the cost is one typically necessary for performance under the Federal award and whether the entity approving the expenditure acted prudently in the circumstances. If the modification of the existing office space furthers the goals of the statute and a prudent person would make the same decisions, then the cost is likely reasonable. Strengthening the security of the storage facilities for voting machines and other system components furthers the goals of HAVA by improving the overall administration of Federal elections.

EAC concludes that the use of section 251 funds to finance the modification of the existing office space to construct a secure storage room to store voting equipment and voted ballots used in Federal elections is an allowable, allocable, and reasonable expense.

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<sup>5</sup> The State also requested approval of the purchase of \$8,000 worth of furniture. The cost of furniture is not a capital improvement and will not be considered in this request. For more information on the allowability of furniture See *question 6 of Frequently Asked Questions Regarding Appropriate Uses of HAVA Funds* (Rev. Oct. '06), which can be found at [www.eac.gov/election/hava-reporting](http://www.eac.gov/election/hava-reporting)