



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

STATEMENT OF VICE CHAIR DONETTA DAVIDSON

DATE: December 2, 2008

SUBJECT: Maintenance of Effort (MOE) Policy

Over the past year, the Election Assistance Commission (EAC) has discussed in-depth Maintenance of Effort (MOE) and county and local governments.¹ The Commissioners have worked hard to reach a final decision; however, no consensus has been reached to date.

The EAC provides information on the proper management of funds provided under the Help America Vote Act (HAVA). Therefore, we have a responsibility to resolve the MOE issue immediately.

The challenge before us is to achieve the proper balance between the EAC's responsibility to protect the use of taxpayer dollars and the flexibility HAVA provided to states regarding the use of those funds. I do not believe that the EAC's previous advisory or the existing MOE proposals provide the acceptable balance we need. Therefore, I propose a new MOE policy to reconcile these two distinct concepts in a manner that provides sufficient deference to the states while ensuring proper management of Federal dollars.

I give due credit to the tremendous work of my colleagues over the past months towards creating an agreed-upon policy, and my policy is built upon their efforts. It is my hope that each Commissioner will see this policy as a compromise but one that does not compromise our responsibility.

Consistent with the agency's recently passed policy for [Notice and Public Comment](#), I will post my proposed policy for a comment period of 35 days. This publication serves as notice on the EAC website for the acceptance of public comment. Interested parties may submit public comments by email to havafunding@eac.gov until 5:00PM (Eastern) January 6, 2009. Please write "MOE Advisory 09-001" in your subject line. A notice will be published in the Federal Register and be sent to the EAC's stakeholder list as part of the weekly email newsletter. At the close of the comment period, comments will be compiled, reviewed and considered, and made available for public viewing. I am optimistic that with this timeframe, we will be able to have both a meaningful and final discussion on the topic of MOE at the January 2009 public meeting of the Commission.

¹ During the April 2008 public meeting, the Commissioners voted to suspend [EAC Advisory 07-003A](#) to the extent that it required a state to include local and county government expenditures in its MOE baseline, until such time as an amended advisory was approved. Also at this meeting, former Commissioner Caroline Hunter offered a [proposed policy modification](#) to EAC Advisory 07-003A, later adopted by Chair Rosemary Rodriguez. A few months later, Commissioner Gracia Hillman introduced a separate proposed policy [EAC Advisory 07-003B](#), which superseded and replaced EAC Advisory 07-003A. The EAC has received [numerous comments](#) on the proposed policies.

In April 2008 and September 2008, EAC met with the Office of Management and Budget (OMB). OMB advised EAC that HAVA Requirements Payments should be considered grants, that States are the grantees, and clarified the applicability of Federal circulars on the management of Federal funds. At the [September 18, 2008 public meeting](#) Commissioner Hillman detailed key points agreed upon by the Commissioners following the OMB meetings.