



U.S. ELECTION ASSISTANCE COMMISSION
1335 EAST-WEST HIGHWAY, SUITE 4300
SILVER SPRING, MD 20910

April 6, 2020

To: Chief State Election Officers
From: Mona Harrington, Acting Executive Director
CC: State Election Directors
Re: 2020 HAVA Coronavirus Aid, Relief and Economic Security (CARES) Act Grants

The EAC is committed to providing as much flexibility as possible to the states to access and expend funds appropriated under the Coronavirus Aid, Relief and Economic Security (CARES) Act. As we have done with the 2018 and 2020 Election Security grants, EAC is making the funds available for immediate access and use, subject to the contingencies found in the attached Notice of Grant Award (NGA). States may expend the funds as of March 28, 2020, the start date for the project and budget period on the notice of grant award and in advance of your request for disbursement. In addition, the funding request and application requirements are minimal.

We are aware many of you are concerned about meeting the match requirement under the grant and find the two-year period to make the match available confusing. Under a supplemental appropriation, the requirements in the original appropriation apply unless changed by the supplemental. Therefore, CARES Act appropriations are subject to requirements in the Consolidated Appropriations Act of 2020, as well as those in the CARES Act.

Under the Consolidated Appropriations Act, states must make a 20% match available within two years of receiving the funds. While the CARES Act did not address the two years allowed to make the match available, the activities for which the funds are authorized are limited to the 2020 federal elections. The definition of match in GAO-06-382SP, Principles of Federal Appropriations Law state "A matching share provision is one under which the grantee is required to contribute a portion of the total project cost." In this case, the project is the activities for which a state incurs costs *"to prevent, prepare for, and respond to coronavirus, domestically or internationally, for the 2020 Federal election cycle."*

EAC wants to provide as much flexibility as we can under the law for states to meet the match. The attached instructions provide additional guidance to ensure maximum flexibility. We will also host a webinar within the next two weeks to address the issue and will work with states to identify existing costs the state incurs that can be used to meet the matching requirement.

Please request the funds immediately. You may use the template described in the attached instructions to submit your request. The funds are solely focused on costs states incur as a result of the pandemic affecting 2020 federal elections. Therefore, instead of requiring a separate program narrative and budget, states will describe the major areas in which they expect to expend the funds in the CARES Disbursement

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Toll free: 1 (866) 747-1471

Request Letter. We provide guidance on allowable costs in the attached instructions and states may request guidance related to other costs as needs arise.

Finally, I am pleased to inform you that we have hired a grants manager, Kinza Ghaznavi, who started on March 30, 2020. She has extensive experience in federal grants management and is coming quickly up to speed on HAVA and HAVA grants. For at least the next three weeks as she becomes familiar with the EAC and HAVA grants, please continue to address your questions to me or to Peg Rosenberry at prosenberry@eac.gov.

2020 HAVA CARES Act Grants

I. Purpose and Use of Funds. The CARES Act makes clear that grant funds are for additional costs associated with the national emergency related to coronavirus and are to be spent “*to prevent, prepare for, and respond to coronavirus, domestically or internationally, for the 2020 Federal election cycle.*” The EAC has previously provided guidance on allowable uses of funds related to the pandemic. Those allowable uses include, but are not limited to:

- Printing of additional ballots and envelopes for potential higher levels of absentee or vote by mail processes
- Registration List Activities to improve the accuracy and currency of registrant addresses
- Upgrades of statewide or local databases to allow for online absentee or mail ballot requests or change of address
- Additional mailing and postage costs, including ballot tracking software
- Acquisition of additional voting equipment, including high speed or central count tabulators and hardware and software associated with signature comparison of returned absentee or mail ballots
- Installation and security for absentee or mail drop-boxes
- Temporary elections office staffing
- Cleaning supplies and protective masks and equipment for staff and poll workers in early voting, vote center, or election day polling places
- Overtime salary and benefit costs for elections staff and poll workers
- Training of poll workers on sanitization procedures for in-person voting
- Public communication of changes in registration, ballot request options, or voting procedures, including information on coronavirus precautions being implemented during the voting process.
- Mailings to inform the public on changes or determination of procedures of coronavirus precautions, options in voting, and other voting information.
- Pre- and post-election deep cleaning of polling places
- Leasing of new polling places when existing sites must be closed
- Additional laptops and mobile IT equipment
- Additional automated letter opening equipment

This list is not exhaustive and states may encounter other costs. States will determine allowable costs within the parameters of the CARES Act, and EAC staff is available to provide guidance as needed. EAC has established a specific email address, CARESFunding@eac.gov, for all correspondence related to the funding.

II. Submitting the CARES Act Disbursement Request Letter: Please submit your Disbursement Request Letter (Attachment A below) and the signed Standard Certifications (Attachment B below) by April 14, 2020. Send your documents to CARESFunding@eac.gov. EAC will process your request and forward it to the Bureau of Fiscal Services for disbursement within 24 hours. You will include a description in the letter describing the major costs you anticipate incurring based on the pandemic and how you will provide funds to local election jurisdictions.

We recognize states may have state procedures and requirements that will preclude submitting by April 14. If so, by April 14, please send an explanation for the delay and expected submission date to EAC to the CARESFunding@eac.gov. The template for the letter is on the EAC website at:

https://www.eac.gov/sites/default/files/paymentgrants/cares/Template_StateCARES_Disbursement_Request_Letter.docx

III. Project and Budget Periods: The CARES Act makes clear that states must spend all federal funds by December 31, 2020 or return any unspent funds as of that date to the U.S. Treasury. The law also indicates states have two years to make the match available. The project period on the Notice of Grant Award is March 28, 2020 through March 27, 2022. However, states cannot spend any federal funds on activities after December 31, 2020. The budget period for the federal funds ends on the Notice of Grant Award on December 31, 2020.

IV. Match Requirement of 20%: Under a supplemental appropriation, the requirements in the original appropriation apply unless changed by the supplemental. Therefore, CARES Act appropriations are subject to requirements in the Consolidated Appropriations Act of 2020 as well as those in the CARES Act. Under the Consolidated Appropriations Act, states must make a 20% match available within two years of receiving the funds. While the language hasn't changed related to the two years, the activities for which the funds are authorized are limited to the 2020 federal elections. The definition of match in GAO-06-382SP, Principles of Federal Appropriations Law state "A matching share provision is one under which the grantee is required to contribute a portion of the total project cost." In this case, the project is the activities for which a state incurs costs *"to prevent, prepare for, and respond to coronavirus, domestically or internationally, for the 2020 Federal election cycle"*

To address the conflicting requirements, EAC is setting a two-year project period on the grant. This will allow states to count costs as match they may incur in 2021 that are related to the effects of the coronavirus on the 2020 federal elections. For example, there may be an unexpected need for additional post-election audits or additional costs to deep clean facilities where ballots will be stored. States cannot expend federal funds after December 31, 2020, but will track and report on state funds expended over the remainder of the project period.

States should make every effort to meet the required match by December 31. A state that expends its full federal allocation by December 31 without also meeting the match by that same date, may have to repay federal funds if they are unable to match the full amount within the two-year project period. EAC will schedule a webinar on meeting the match requirements within the next two weeks and will expand on ways to meet the match already on the EAC website.

States may meet the matching requirements through the agency's existing budget authority or with other emergency state funds allocated to the agency. EAC will work with states to identify costs within their existing budget authority that would be eligible matching funds.

V. Reporting Requirements. The CARES Act requires that states receiving funding under the Act "shall provide to the Election Assistance Commission, within 20 days of each election in the 2020 Federal election cycle in that State, a report that includes a full accounting of the State's uses of the payment and an explanation of how such uses allowed the State to prevent, prepare for, and respond to coronavirus." EAC will issue specific instructions for the report format within two weeks. Reports are due as follows:

A. States that have already conducted their primaries: One report due after the November general election on November 23, 2020.

B. States with upcoming primaries: One report due 20 days after each primary and a report due on November 23 after the general election.

C. December Federal Financial Report (FFR): States will submit an FFR for the period ending December 31, 2020 by February 28, 2021. EAC will use this report to identify any unexpended amounts that will be due back to the U.S. Treasury.

D. **Additional Federal Financial Reports and Progress Reports:** States will submit a final Progress Report on February 28, 2021 if they have met their 20% match by that date. For any state that does not meet the match by December 31, 2020, EAC will require semi-annual FFRs and progress reports until the full match is met, but no later than March 27, 2022.

Template for State Requests for 2020 CARES Funds

Submit on Agency Letterhead to CARESFunding@eac.gov

Areas in brackets in the letter are for state input

Mona Harrington, Acting Executive Director
U.S. Election Assistance Commission
1335 East-West Highway, Suite 4300
Silver Spring, MD 20910

Dear Ms. Harrington:

The purpose of this letter is to certify that the state of *[Name]* will use the funds provided under the Notice of Grant Award, Agreement # *[Number]*, for activities consistent with the laws described in Section 906 of HAVA and will not use the funds in a manner that is inconsistent with the requirements of Title III of HAVA.

We further certify that we have reviewed and accept the terms of the award as specified in the Notice of Grant Award. Our UEI number (formerly DUNS) is *[UEI number]* and the signed Certifications are enclosed.

We are requesting *[\$ amount]*. We will use the funds to prevent, prepare for, and respond to coronavirus, domestically or internationally, for the 2020 Federal election cycle. To address the effects of the coronavirus on the election we.....

[Include here a brief description of the needs and challenges the state faces related to the coronavirus effects on the 2020 elections. Include information about any costs already incurred and briefly describe the major areas on which you expect to expend the funds in the coming months, including how you will support local election jurisdictions. It does not have to be more than a paragraph or two.]

If you have any questions about this request, please contact *[name of person in the state with knowledge of the request]* at *[phone number]* or *[email]*.

Sincerely,

[Chief Election Official Name]
[Title]

Cc.
Kinza Ghaznavi, Grants Manager

To: US Election Assistance Commission

Standard Certifications

Certification Regarding Lobbying for Contracts, Grants, Loans and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Certification Regarding Trafficking in Persons

The undersigned certifies to his or her understanding that this grant is subject to the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. § 7104) as follows:

- I. Provisions applicable to a recipient that is a private entity.
 - A. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not:
 1. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 2. Procure a commercial sex act during the period of time that the award is in effect; or
 3. Use forced labor in the performance of the award or subawards under the award.

- B. We as the federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity
 - 1. Violates a prohibition in paragraph A of this award term; or
 - 2. Has an employee who violates a prohibition in paragraph A of this award term through conduct that is either:
 - a. Associated with performance under this award; or
 - b. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, “OMB guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)”.
- II. Provisions applicable to a recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is not a private entity—
 - A. Is determined to have violated an applicable prohibition of paragraph I.A of this award term; or
 - B. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph I.A of this award term through conduct that is –
 - 1. Associated with performance under this award; or
 - 2. Imputed to you using the standards and due process for imputing conduct of an individual to an organization that are provided in 2 CFR Part 180, “OMB 12 Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR Part 2200.
- III. Provisions applicable to any recipient.
 - A. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph I A of this award term.
 - B. Our right to terminate unilaterally that is described in paragraph (1) and (2) of this section:
 - 1. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - 2. Is in addition to all other remedies for noncompliance that are available to us under this award.
 - C. You must include the requirements of paragraph I A of this award term in any subaward you make to a private entity.
- IV. Definitions. For purposes of this award term:
 - A. “Employee” means either:
 - 1. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - 2. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose service are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

B. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

C. "Private entity":

1. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR §175.25.
2. Includes:
 - a. A nonprofit organization, including any non-profit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR § 175.25(b).
 - b. A for-profit organization. d. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102

Printed Name

Title

Organization

Signature

Date