

## **U.S. Election Assistance Commission (EAC) Funding Advisory Opinion Request**

**Date Issued:** July 28, 2015

**Requestor:** South Dakota Secretary of State

**Question:** Would the use of HAVA funds for an in-person absentee voting location be an approved expense from the South Dakota Help America Vote Act funds? If so, would South Dakota be required to amend its current State plan to reflect those uses?

**Discussion:** The EAC Grants Office has responsibility to apply the Office of Management and Budget (OMB) Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments to all requested expenditures, which includes ensuring that the expenditures are (1) allowable; (2) allocable; and (3) reasonable. In general, HAVA allows states to 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 applicable to a state under Section 252(c) 42 U.S.C. § 15401(b)(2) for the improvement of the administration of federal elections. HAVA section 101 funds may be used to improve the administration of Federal elections.

South Dakota state law currently allows for no excuse absentee voting 46 days before a primary and general election. South Dakotans may complete an absentee ballot application form and request a ballot to be mailed to them. State law also allows an absentee ballot request in-person at the office of their county auditor in the county courthouse. South Dakota has 66 counties. Two of those counties do not have a county courthouse.

The Office of Grants Management has determined this is an appropriate improvement to the administration of Federal elections. The cost is allowable, allocable and reasonable.

South Dakota amended its state plan in 2014 to include in-person absentee voting locations.

**Commissioner Answer:** EAC finds that establishing in-person absentee voting locations is an allowable expense under HAVA.