



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

March 20, 2007

**EAC Advisory 07-002 – Program Income and Set-off of Cost Incident to Program Income**

Question 1: What is program income?

Response 1: Program income “includes income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under a grant agreement, and from payments of principal and interest on loans made with grant funds. Except as otherwise provided in regulations of the Federal agency, program income does not include interest on grant funds, rebates, credits, discounts, refunds, etc. and interest earned on any of them.”  
Common Rule, 41 C.F.R. 71.125, Program Income.

The Common Rule establishes three possible treatments of program income: deduction, addition, or cost sharing. Deduction is used when, as in most Federal grants, there are additional funds to distribute to the grantee. In the instant situation, the States have received all of the funds to which they are entitled of those funds that have been appropriated by Congress. Similarly, the cost sharing methods that are required by HAVA have already been satisfied by the States. Thus, the only appropriate treatment of program income under the HAVA funding program is for the State or county that earns the program income during the grant period to dedicate the income to uses permitted under HAVA, Section 251. Section 251 allows the use of HAVA funds to implement the requirements of Title III and, after those requirements are met, to improve the administration of elections for federal office.

After the expiration of the grant period, program income may be used by the State or county as it chooses. EAC has established the grant period for HAVA Title II funds as the period beginning on the date of disbursement of the funds to the State and ending when the State and/or a political subdivision of the State expends all of the funds distributed by EAC to the

State, all matching funds, and all interest earned on either the federal funds or state matching funds.

Question 2: Can a State set off costs incident to the generation of program income?

Response 2: The Common Rule permits the Federal agency granting the funds to allow a grantee to set off costs incident to the program income from the gross program income, thereby reducing the amount of program income that must, in this case, be re-dedicated to use for purposes expressly allowed under Section 251 of HAVA. The concept of costs incident to the program income is more complicated than it may appear. There must be a determination of what costs are incident to the program income and which are not. Likewise, there must be documentation to justify these costs.

The following are examples of costs incident to program income generated from the lease of voting systems to a local jurisdiction. Costs associated with the following activities, if appropriately documented, may be deducted from the gross program income to determine the "net program income" that must be returned to the election fund for use consistent with Section 251 of HAVA:

- Costs of storing voting systems prorated to the local government and the particular election;
- Costs of maintaining and/or upgrading voting systems prorated to the local government and the particular election;
- Costs of transporting voting systems to polling places for the particular election;
- Costs of programming voting systems for the particular election;
- Costs associated with any election function performed by the county on behalf of the local government incident to the specific election, including but not limited to auditing the election, producing poll books for the election, and hiring and compensating poll workers.

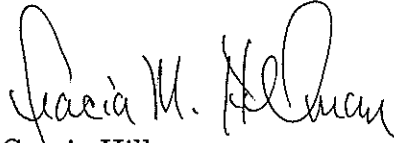
This list is not exclusive; however it represents EAC's thinking on the types of costs that can be deducted from program income related to leasing voting equipment.

Another common form of program income is income generated from charging counties or local governments for the use of or services related to the state-wide voter registration database. For example, a state may derive income from charging counties to print poll books from the state-wide voter registration database. Actual, documented costs associated with the printing, production and delivery of those poll books can be deducted from the program income.

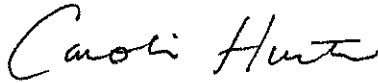
If a State has program income generated from other sources and/or other costs that it believes should be considered as incident to the generation of program income, those types of costs, an explanation of how they are derived, and an argument in favor of why they should be considered incident to the program income and therefore deductible should be forwarded to the EAC for consideration.



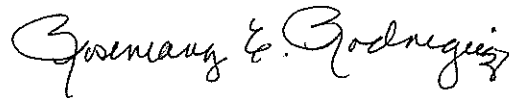
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