

Guidance on Meeting Match in CARES Act Grants under HAVA

Almost all federal grants require some level of match or cost sharing. The regulations at 2 CFR §200.306 indicate that any cost sharing or match to a federal award, including cash and third-party in-kind contributions must be accepted as part of the state's cost sharing and must meet specific criteria stipulated in section 200.306. Allowable match follows the same requirements as allowable costs for use of federal funds under the grant as addressed in Subpart E-Cost Principles, 2 CFR 200.400. Federal funds and match expended must be reasonable and necessary for the performance of the grant and verifiable from the grantee's or subgrantee's records. There are two other stipulations for match: The expenditures cannot be included as contributions in other federal awards, and they cannot be paid for by the federal government under another federal award.

EAC does not require states to seek separate funds authority from the state to meet the matching requirement for CARES Act funds authorized under Section 101 of HAVA. A state may require separate authority, but it is not a federal requirement. States can meet the matching requirements with allowable costs within the agency's existing budget authority. There may also be other state funds allocated to the agency related to the emergency that could be used as match. However, matching contributions must be tracked, recorded and verifiable from a grantee's records. For example, if the salaries and benefits of staff working on the grant are being paid out of state funds, the state must be able to document the time spent working on the grant, following guidelines in 2 CFR.430 Compensation-personal services.

Any cost allowable under the grant that is paid for with federal funds could also be paid with state funds or with a combination of state and federal funds. Costs the state and local jurisdictions have already incurred in response to the pandemic, such as printing higher numbers of ballots, buying face masks and disinfectants, or leasing additional polling places are all eligible as federal or state matching cost. Many states and local jurisdictions will have incurred costs prior to the actual receipt of the CARES Act funds. Those costs are eligible as federal expenses or match on the grant if they were incurred after March 28, 2020. States are also approved to claim costs as match they incurred as a result of the pandemic any time after January 20 when the Public Health Emergency Period began.

Some additional examples of allowable matching funds under CARES Act grants are:

Indirect Costs: Most states are not claiming indirect costs as part of their HAVA federal share through a state allocation plan or negotiated indirect cost rate. They can be claimed as a state match. Any election office that has never had a federal negotiated indirect cost rate can claim a de minimis 10% of modified total direct costs (MTDC) as match. EAC will provide additional information on claiming indirect costs in an upcoming webinar.

The definition of modified total direct cost is contained in 2 CFR §200.68. They are defined as all the direct costs claimed under a grant with a few exceptions. They include direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and subawards and subcontracts up to the first \$25,000 of each subaward or subcontract. MTDC excludes equipment, capital expenditures, and other charges that don't usually apply to HAVA grants such as patient care, rental costs, tuition remission, scholarships and fellowships, participant support.

Staff Salaries: The portion of the salary and benefits the state is paying for staff who have been re-directed to work on pandemic issues is a legitimate match. States will need to have records that document the amount of time each staff person spent on pandemic activities, e.g. timesheets that allocate a staff person's time to specific activities. Elements that should be part of appropriate documentation are found in 2 CFR §200.430 paragraph (i) Standards for Documentation of Personnel Expenses.

In-kind Contributions: The state or local jurisdictions may get donations and contributions related to the pandemic. These are in-kind contributions donated by a third-party for eligible activities under the grant, e.g. plexiglass shields a company would normally sell are donated for poll workers that are necessary to protect poll workers from exposure to the virus.

Individuals may also donate their time or 3rd party organizations can donate paid staff to do election work. The amount claimed as match should be valued at rates they normally charge, or are paid, for similar services or at fair market rates that would normally be paid for similar services.

States may document these kinds of contributions by getting some kind of statement from the donor about the value of the donation and amounts they would normally charge for the product or service or determine appropriate fair market amounts or rates. The state must also determine if the value is appropriate before claiming it as match.

Subgrantee Match: States that subgrant HAVA funds to local jurisdictions and require the local jurisdictions to cost share can count that cost share as match on the grant.

Reimbursement to Local Jurisdictions: Some states reimburse local jurisdictions for costs they incur to buy additional supplies and equipment because of the pandemic. If the state does not reimburse the local jurisdiction for 100% of the cost, the unreimbursed amount can be counted towards the state match.

Frequently Asked Questions

If the state provides subgrants to local election jurisdictions, to determine the local match, can it use standard costs to establish the local effort on a pre-determined rate, using a professional sampling discipline used by accountants?

The state should follow the regulations at 2 CFR 200 related to the requirements for match documentation. They apply to subgrantee as well as grantees and the grantee is responsible for ensuring subgrantees are following the regulations and maintaining appropriate expenditure documentation. That said, the regulations do not prohibit such an approach. Therefore, yes, if that is a state's strategy to identify and document match after considering the timeliness and expense of such an approach.

If the state doesn't meet its matching requirement, will it have to pay all the funds back to the federal government?

The state will have to pay back the portion of expended federal funds for which they could not meet the match, e.g. if you received and expended \$5,000,000 under the CARES Act and were able to provide \$800,000 in match, you were able to match \$4,000,000 of the total. You would only have to pay back the

appropriate portion of the expended funds to make up the match shortfall. In these cases, EAC will work with the state to determine the amount owed.

Can the matching requirement we apply to our subgrantees be used to meet the state match overall or only the portion of the match that would apply to that subgrant?

Yes, It can apply to the state's overall match. The match on a federal grant is not tracked by subgrant, only by the overall grant. Grantees are responsible for ensuring they have verifiable records of the match.

We have bought facemasks, wipes, disinfecting solution for our primary that was just postponed until June. Can the state funds we used to purchase those supplies be counted as match if the emergency is over by then and we don't need them?

Yes, you bought those supplies to respond to the pandemic as a preventative measure. They are still a legitimate match to the grant.

If we have an indirect cost rate that has not been negotiated in several years, can we still use it to meet the matching requirement?

Yes, OMB has eased administrative requirements on grantees under the pandemic and EAC can delay the process to negotiate a rate with grantees. You may claim the rate as part of your match and negotiate at a later date.

What documentation would we need if we chose to use allowable staff salaries as match?

You will need to establish a way to document the amount of time the staff person spent on activities supported under the grant. Generally, this would be some kind of timekeeping system that documented all the hours the employee worked and allocated hours to different cost centers, such as the CARES grant, the Election Security grant, etc.

What documentation is required for indirect cost expenses?

If you have never had a negotiated indirect rate and are using the de minimus 10%, there is no documentation to maintain. Otherwise, the documents specifying your negotiated rate serve as the documentation.

After in-kind and such, what if a state can only get 50% of the match after its legislature meets in the spring of 2021? How can we pay for 2020 elections expenses (incurred by November 23, 2020) when you only get the money in May 2021?

While the law limits expenditures to costs resulting from the effects of the pandemic on the 2020 elections, it still allows states two years to make the match funds available. However, it is difficult to see what costs could arise related to the 2020 elections in 2021 or 2022. Therefore, EAC encourages states to meet the match as they expend the federal funds before December 31, 2020. There could be costs associated with deep cleaning and sanitizing storage facilities or for post-election auditing that might occur in 2021.

Please explain the \$25,000 limit of each subaward as it relates to indirect costs. Is that a limit to indirect costs for a particular subgrantee?

This limit is applied on each subgrantee. The maximum amount a state can include in its modified total direct rate is \$25,000 for each subgrantee. E.g., if you have one subgrantee that gets \$40,000 and another that gets \$20,000, the amount you can include in the calculation of modified total direct costs is \$45,000 (\$25,000 + \$20,000).

In addition, subgrantees might also have indirect costs they could claim under the grant, either as federal share or local match. However, the state is responsible for determining if local offices have a negotiated indirect cost rate or could claim a de minimus 10%. There can also be local election offices that do not have any indirect costs; in which case, there would be no percentage to claim. The grantee must make those determinations before allowing subgrantees to claim indirect costs.

We are going to be giving subgrants to all the counties and they will be required to provide a match that we will then use as the state match. What type of documentation do we need from the counties for their subgrant funds? Also, do the subgrants also need to be expended by the counties by the end of the year?

The regulations at 2 CFR 200 and the requirements under the CARES Act flow down to the subgrantees. Therefore, the documentation requirements for subgrantees are the same as they are for the states and any federal funds awarded to the subgrantees must be spent by December 31, 2020. The match, whether from the state or the counties can be spent after the end of the year, but it must be on allowable activities under the grant related to the effects of the pandemic on 2020 federal elections.