

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section in this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section in this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* Applicants selected for funding will be required to submit to the Department an annual report that includes the information from section 5227(b) of the ESEA and any other information the Secretary may require.

Grantees must also cooperate and assist the Department with any periodic financial and compliance audits of the grantee, as determined necessary by the Department. The specific Performance Agreement between the grantee and the Department may contain additional reporting requirements.

At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c).

4. *Performance Measures:* The performance measures for this program are: (1) The amount of funding grantees leverage for charter schools to acquire, construct, and renovate school facilities and (2) the number of charter schools served. Grantees must provide this information as part of their annual performance reports.

## VII. Agency Contacts

### FOR FURTHER INFORMATION CONTACT:

Valarie Perkins or Jim Houser, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W258, Washington, DC 20202-6140. Telephone: (202) 260-1924 or by e-mail: [charter.facilities@ed.gov](mailto:charter.facilities@ed.gov).

If you use a TDD, call the FRS, toll free, at 1-800-877-8339.

## VIII. Other Information

*Alternative Format:* Individuals with disabilities can obtain this document and a copy of the application package in an alternative format (e.g., braille, large

print, audiotape, or computer diskette) on request to the program contact persons listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice.

*Electronic Access to This Document:* You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

Dated: December 9, 2008.

**Amanda L. Farris,**

*Assistant Deputy Secretary for Innovation and Improvement.*

[FR Doc. E8-29501 Filed 12-11-08; 8:45 am]

**BILLING CODE 4000-01-P**

## ELECTION ASSISTANCE COMMISSION

### Notice: Request for Public Comment on Proposed Advisory 09-001 Maintenance of Effort Funding

**AGENCY:** United States Election Assistance Commission.

**ACTION:** Notice: request for public comment.

**SUMMARY:** The EAC seeks public comment on the proposed policy "Advisory 09-001 Maintenance of Effort Funding." This advisory supersedes Advisories 07-003 and 07-003A and fulfills the Election Assistance Commission's (EAC) ongoing responsibility to provide information on the management of Federal funds provided under the Help America Vote Act (HAVA). EAC issues this notice according to a policy adopted on September 18, 2008 that requires EAC to provide notice and an opportunity for public comment on, among other things, advisories being considered for adoption by the U.S. Election Assistance Commission.

**DATES:** Comments must be received by 5 p.m. EST on January 6, 2009.

**ADDRESSES:** Comments may be submitted: Via e-mail at

[havafunding@eac.gov](mailto:havafunding@eac.gov), Via mail addressed to the U.S. Election Assistance Commission 1225 New York Ave, NW., Suite 1100, Washington, DC 20005, or by fax at 202/566-3127.

Commenters are encouraged to submit comments electronically and include "MOE Advisory 09-001" in the subject line, to ensure timely receipt and consideration.

**SUPPLEMENTARY INFORMATION:** The following is the complete text of the proposed Advisory 09-001 Maintenance of Effort Funding the EAC is seeking public comment on.

### Proposed Advisory 09-001 Maintenance of Effort Funding EAC ADVISORY 09-001 MAINTENANCE OF EFFORT FUNDING

*Date Issued:* DRAFT.

## I. General

This advisory supersedes Advisories 07-003 and 07-003A and fulfills the Election Assistance Commission's (EAC) ongoing responsibility to provide information on the management of Federal funds provided under the Help America Vote Act (HAVA). For recipients of HAVA Title II Requirements Payments, this advisory specifies the entities to which the Maintenance of Effort (MOE) requirement applies, explains how to calculate the MOE base level amount, and describes how to satisfy the continuing requirement for MOE.

MOE is a means by which Congress, and thereby the Federal Government, requires a recipient to share in the funding of a particular endeavor by requiring that the Federal funding actually increases the amount of financial support to a particular program or task. Specifically, MOE requirements are used to ensure that the recipient is not replacing or supplanting its prior level of spending on a particular program or task with Federal dollars.

## II. Applicability to HAVA

Section 254(a)(7) of HAVA establishes the requirement for MOE, as follows:

How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000 (hereinafter referred to as state fiscal year 2000).

The MOE requirement is defined by a pre-determined "base level of expenditure" expended in state fiscal year 2000 for election administration

costs funded by HAVA Requirements Payments.<sup>1</sup> Recipients of HAVA Requirements Payments are required to maintain this expenditure level, in addition to spending of HAVA dollars, as a condition of receipt of funds.

### III. Applicability to Recipients of Title II, Section 251 Requirements Payments

Per HAVA Sections 253 and 254(a)(7), MOE is applicable to recipients of HAVA Requirements Payments. State election offices in each of the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and American Samoa ("States") are the grant recipients of Requirements Payments. As the grant recipients, State election offices are required to meet the MOE requirements and maintain appropriate supporting documentation.

### IV. Calculation of Base Level of Expenditure

Per HAVA Section 254(a)(7), each State's State Plan must include a description of how the State intends to meet the MOE requirements. Although not required, the EAC encourages that State Plans specify whether the State had expenditures in state fiscal year 2000 that triggered MOE, identify the amount expended in state fiscal year 2000, and explain how the State intends to meet the MOE requirements. That notwithstanding, if a State had expenditures that triggered MOE, it must maintain documentation to support the determination of the base level of expenditure for state fiscal year 2000 for audit purposes. States may calculate the base level of expenditure for state fiscal year 2000 in either of two manners:

1. Identify the total expended by the State on all election administration activities in state fiscal year 2000.<sup>2</sup>

Or

<sup>1</sup> Activities funded by HAVA Title II Requirements Payments include: (1) Procuring voting systems that comply with the requirements of HAVA Title III, Section 301, (2) developing, operating, and/or maintaining a computerized statewide voter registration list, (3) providing required information to voters at the polling place for Federal elections, (4) implementing and/or operating a system of provisional voting during Federal elections; (5) implementing identification requirements for first-time voters who register to vote by mail, and (6) improving the administration of elections for Federal office. Therefore, if a State was spending money on any of these types of activities in the state fiscal year 2000, it will be subject to the MOE requirement.

<sup>2</sup> With this method, a State may use its entire budget for election-related activity in state fiscal year 2000 to establish the base level of expenditure. It is not necessary to break out activities related to Title III.

2. Identify the total expended by the State for each Title III-related activity in state fiscal year 2000.<sup>3</sup>

**Note:** If no funds were expended by the State in state fiscal year 2000 for activities related to Title III, the State shall maintain a record of such determination.

### V. Satisfaction of MOE

Per HAVA Section 254(a)(7), a State must meet the MOE requirement in each applicable fiscal year in which it expended Title II Requirements Payments. If no Requirements Payments are used in a fiscal year, there is no applicable MOE requirement for that year.

A State may determine that it has met the MOE requirement in an applicable Federal fiscal year by expending the same or greater amount of State funds<sup>4</sup> than the base year level of expenditure on either:

1. All election administration activities.<sup>5</sup>

Or

2. Each HAVA activity (or activities) on which the state expends funds as the corresponding base year activity (or activities).<sup>6</sup>

### VI. Sub-Award of HAVA Title II Requirements Payments and MOE

State election offices may sub-award HAVA funds to counties or local units of government per HAVA Section 254(a)(2). However, if a State sub-awards Requirements Payments to counties or local units of government, then the county or local unit of government is also subject to the requirements of MOE. In accordance with the "Common Rule," which requires States to ensure sub-recipients comply with the requirements of Federal statutes, the State election office

<sup>3</sup> With this method, a State needs to identify separately the amount spent on any of the following activities in state fiscal year 2000: voting equipment, voter registration database, ID requirements, provisional voting, and voter information.

<sup>4</sup> State funds used to meet an MOE requirement may not include funds provided as the State's 5 percent match.

<sup>5</sup> If the total State dollars expended on election-related activities for a given fiscal year is the same or greater than the total base level for state fiscal year 2000, the State will have met the MOE requirement for that year.

<sup>6</sup> The State, for example, would need to document that the State expended in a given fiscal year the same or more on each activity on which Requirements Payments are expended than the amount spent in each allowable area in state fiscal year 2000: Voting equipment, voter registration database, ID requirements, provisional voting, and voter information. If the State does not spend any Requirements Payments on an activity (say, voting equipment) in a particular fiscal year, then the MOE requirement for that activity (voting equipment) would not apply.

is responsible for ensuring that a sub-recipient is not replacing or supplanting its prior level of spending on a particular program or task with Federal dollars.

The State Plan must include a description of the distribution and monitoring of these sub-awards, including MOE requirements. Although not required, the EAC encourages States to provide detailed and specific information in the State Plan on the manner in which the State intends to account for MOE by sub-recipient. In any event, if a State sub-awards Requirements Payments, it must maintain documentation to support its monitoring methods, including determinations of MOE base levels of sub-recipients, for audit purposes.

### VII. Calculation of Base Level of Expenditure for Sub-Recipients

If a State sub-awards grants to county or local units of government for a specific activity (or activities), then the county's or local unit government's base level of expenditure for state fiscal year 2000 may be calculated in either of two manners:

1. Identify the total expended by the sub-recipient on all election administration activities.<sup>7</sup>

Or

2. Identify the total expended by the sub-recipient on the specific activity (activities) for which Federal funds were provided.<sup>8</sup>

**Note:** If no funds were expended by the sub-recipient in state fiscal year 2000 for the activity (activities) related to Title III, the State shall maintain a record of such determination.

If a State sub-awards grants to a sub-recipient for a non-specific activity, other than all activities allowed by HAVA, then the sub-recipient's base level of expenditure for state fiscal year 2000 may be calculated in either of two manners:

1. Identify the total expended by the sub-recipient on all election administration activities in the state fiscal year 2000.<sup>9</sup>

<sup>7</sup> With this method, a sub-recipient may use its entire budget for election-related activity in state fiscal year 2000 to establish the base level of expenditure. It is not necessary to break out activities related to Title III.

<sup>8</sup> For example, if a State provides a sub-grant for the purchase of voting equipment, the base level calculation does not need to include all expenditures toward activities allowed by HAVA, but rather the calculation includes only the expenditures on voting equipment by the recipient county or local unit of government in state fiscal year 2000.

<sup>9</sup> With this method, a sub-recipient may use its entire budget for election-related activity in state

Or

2. Identify the total expended by sub-recipient for each Title III-related activity in state fiscal year.<sup>10</sup>

**Note:** If no funds were expended by the sub-recipient in state fiscal year 2000 for the activities related to Title III, the State shall maintain a record of such determination.

### VIII. Satisfaction of MOE by Sub-Recipients

As the grant recipient, the State is ultimately responsible for ensuring compliance with the MOE, including compliance by sub-recipients. The MOE requirement is applicable to sub-recipients in each fiscal year in which the sub-recipient expends Title II Requirements Payments. If no Requirements Payments are used in a fiscal year, there is no applicable MOE requirement for that year. The State may determine compliance with the MOE requirements by its sub-recipients in either of two manners:

1. The State may hold each sub-recipient individually responsible for meeting an applicable MOE requirement by determining the sub-recipient expends the same or greater local funds than the sub-recipient's base level of expenditure<sup>11</sup> on either:

a. All election administration activities.<sup>12</sup>

Or

b. Each HAVA activity (or activities) on which the sub-recipient expends funds as the corresponding base year activity (or activities).<sup>13</sup>

Or

2. The State may assume responsibility for meeting the MOE

fiscal year 2000 to establish the base level of expenditure. It is not necessary to break out activities related to Title III.

<sup>10</sup>With this method, a sub-recipient needs to identify separately the amount spent on any of the following activities in state fiscal year 2000: Voting equipment, voter registration database, ID requirements, provisional voting, and voter information.

<sup>11</sup>In this method, the sub-recipient county or local unit of government would be responsible for the applicable MOE for any Requirements Payments expended in a given fiscal year.

<sup>12</sup>If the total local dollars expended by the sub-recipient on election-related activities for a given fiscal year are the same or greater than the total base level, the sub-recipient will have met the MOE requirement for that year.

<sup>13</sup>The sub-recipient, for example, would need to document that the sub-recipient expended in a given fiscal year the same or more on each activity on which Requirements Payments are expended than the amount spent in each allowable area in state fiscal year 2000: Voting equipment, voter registration database, ID requirements, provisional voting, and voter information. If the sub-recipient does not spend any Requirements Payments on an activity (say, voting equipment) in a particular fiscal year, then the MOE requirement for that activity (voting equipment) would not apply.

requirements of its sub-recipients by expending State dollars in an amount equal or greater than the sub-recipient's base level of expenditure, in addition to any MOE applicable to the State, in each Federal fiscal year that HAVA funds are used by the sub-recipient<sup>14</sup> on either:

a. All election administration activities.<sup>15</sup>

Or

b. Each HAVA activity (or activities) on which the sub-recipient expends funds as the corresponding base year activity (or activities).<sup>16</sup>

**Donetta L. Davidson,**

*Vice-Chair, U.S. Election Assistance Commission.*

[FR Doc. E8-29442 Filed 12-11-08; 8:45 am]

**BILLING CODE 6820-KF-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 785-018]

#### Consumers Energy Company; Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

December 8, 2008.

Take notice that the following hydroelectric license application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New License.

b. *Project No.:* P-785-018.

c. *Date Filed:* April 4, 2008.

d. *Applicant:* Consumers Energy Company.

e. *Name of Project:* Calkins Bridge Hydroelectric Project.

f. *Location:* On the Kalamazoo River in Allegan County, Michigan. The project does not occupy federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* James R. Coddington, Consumers Energy

<sup>14</sup>In this method, the State will absorb responsibility by expending State dollars, in excess of the State's MOE requirement, to account for a sub-recipient's MOE.

<sup>15</sup>The State, for example, must expend the same or more State dollars in each applicable fiscal year than the sub-recipient's total base level.

<sup>16</sup>The State in each applicable fiscal year, for example, must expend the same or more in each allowable area than the amount spent by the sub-recipient in each allowable area in state fiscal year 2000: Voting equipment, voter registration database, ID requirements, provisional voting, and voter information. If the sub-recipient does not spend any Requirements Payments on an activity (say, voting equipment) in a particular fiscal year, then the MOE requirement for that activity (voting equipment) would not apply.

Company, One Energy Plaza, Jackson, MI 49201, (517) 788-2455.

i. *FERC Contact:* Tim Konnert, (202) 502-6359 or [timothy.konnert@ferc.gov](mailto:timothy.konnert@ferc.gov).

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

*All documents (original and eight copies) should be filed with:* Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project.

Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments, recommendations, terms and conditions, and prescriptions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (<http://www.ferc.gov>) under the "eFiling" link.

k. This application has been accepted, and is ready for environmental analysis at this time.

l. The existing Calkins Bridge Project consists of: (1) A 42-foot-high, 1,330-foot-long dam, consisting of a 1,100-foot-long earth embankment section and a 230-foot-long concrete integral powerhouse-spillway section; (2) an 8.5-mile-long, 1,550-acre reservoir with a normal water surface elevation of 615.0 feet above mean sea level; (3) a powerhouse containing three generating units with a total installed capacity of 2,550 kilowatts; (4) three 64-foot-long, 24-kilovolt buried transmission cables connected to the regional grid; and (5) appurtenant facilities. The estimated average annual generation of the project is 13,041 megawatt-hours.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at 1-866-208-3676, or for TTY, (202) 502-8659. A copy is also available