

# Supplanting Guidance for HAVA Formula Grants

U.S. Election Assistance Commission | Effective July 15, 2024

Under the Help America Vote Act of 2002 (HAVA), the U.S. Election Assistance Commission (EAC) administers grants for the purpose of improving or supplementing existing state election activities. **HAVA awards are not permitted to replace or supplant state or local funding.**

The EAC Office of Grants Management (OGM) has created this guide to help states determine if a specific activity is supplanting and understand how HAVA funding can be used to supplement their existing programming.

## Supplanting

Supplanting occurs when a state or locality reduces state or local funds for an activity, specifically because HAVA funds are available or expected to be available without reallocating the reduced funds to another HAVA-related activity. HAVA-related activities include all election expenditures that are allowable under HAVA.

## Supplementing

Supplementing occurs when federal HAVA funds are used to enhance existing state or local funds for program activities.

### ➤ Supplemental Use of HAVA Funds

The Help America Vote Act gives states discretion on how to use HAVA funding to improve the administration of federal elections. HAVA Section 101 provides broad categories of expenditures for which states are allowed to use HAVA funding. The use of funds is further defined by federal regulations, specifically 2 CFR 200 also known as the Uniform Guidance. Where the law and federal regulations do not otherwise specify prohibited or authorized use of funding, the EAC OGM determines whether an expenditure is reasonable and necessary to the purpose of HAVA.

**For the purposes of HAVA formula grants, supplanting is the act of replacing state or local (election) funds with HAVA funds without reallocating the local funds to another HAVA-related activity.** When HAVA grants are properly used to supplement state election operations, the overall amount of state funding that is allocated for HAVA activities is not reduced by the availability of HAVA funds. In other words, the state maintains its effort on a budgetary level.

### ➤ Program Supplanting Exceptions

Supplanting, as described above, is unallowable under HAVA. However, states may show a reduction in state or local election budgets under certain circumstances. States referencing the provided exceptions must maintain adequate supporting documentation. This documentation would need to prove how the reduction in financial effort was unrelated to the availability of HAVA funding. Allowed exceptions include:

**a) The program or activity would not have been provided if HAVA funds were not available.**

*Example: Historically State X has been responsible for purchasing and mailing absentee ballots. Due to the pandemic, the number of absentee ballots drastically increased, and the additional postage and processing costs far exceeded the state budget. HAVA funds may be used to cover the costs for mailing and processing the ballots.*

**b) The state or local funds that had been paying for this program or activity in years past are no longer available.**

*Example: Due to decreased revenue, State X's budget has been cut across many agencies including elections. The state has, up until this point, paid for annual voting machine maintenance with local*

*funds. The expense has been cut from the budget and routine maintenance no longer occurs. HAVA funds may be used to continue or re-implement the voting machine maintenance.*

➤ **Salaries and Supplanting Exceptions**

Generally, reallocating salaries for existing positions that have been paid for with state or local dollars to HAVA grants is considered supplanting and is unallowable. However, there may be rare circumstances where states pay for salaries with their own nonfederal budgets and find it necessary and reasonable to move salaries either partially or fully to HAVA grants. These circumstances and the application of the EAC supplanting guidance are noted in the two exceptions below:

- a) **Budget reduction:** If the state experienced a reduction within their own budget(s) and lost revenue to continue paying for salaries programmatically aligned with HAVA and critical to election administration, they would be eligible to use HAVA funding to fill the salary gaps and ensure program continuity. As outlined in the exceptions above, the budget reduction should be well documented and recorded in grant files and with the EAC.
- b) **New or back-filled personnel and salaries:** In keeping with expenses related to new and necessary activities allowable and allocable under HAVA, salary costs related to new and necessary personnel would be considered allowable (with the consideration of allocation where necessary) and not supplanting. If a position that was previously funded with local dollars is moved to HAVA, but the original position is back-filled locally, there would be no local reduction of HAVA related expenses and would not be considered supplanting.

➤ **Supplementing vs. Supplanting**

Determining whether a specific spending decision is supplanting can be confusing. The provided chart is intended to help states avoid supplanting.

<b>Supplementing</b>	<b>Supplanting <i>(prohibited)</i></b>
<b>Example 1</b>	
<p>State X receives HAVA funding and decides to use grant funds for the previously planned purchase of Electronic Poll Books (EPBs). Subsequently, State X shifts state funding that had been budgeted for the EPBs to instead purchase more ballot boxes for the upcoming federal elections.</p> <p>HAVA funds are effectively used to supplement State X’s existing program because local funding was reallocated to an activity that is allowable under HAVA and confers a benefit to federal elections.</p>	<p>State X receives HAVA funding and decides to use grant funds for the previously planned purchase of Electronic Poll Books (EPBs). Subsequently, State X shifts state funding that had been budgeted for the EPBs to instead purchase a civics curriculum for the local elementary school.</p> <p>HAVA funds were used to replace state funds that were budgeted for an allowable HAVA expenditure. The state then reallocated local funding for an activity that does not benefit the administration of federal elections and is not allowable under HAVA.</p>

Example 2	
<p>State X uses HAVA funds to fully pay for one employee's salary. As a result of an additional HAVA grant, State X decides to use HAVA funds to pay for another existing employee who has the same job responsibilities. State X uses the "freed up" state funds to hire a third new employee to work on improvements to voter education.</p> <p>By expanding State X's services, HAVA funds are effectively used to supplement its existing program.</p>	<p>State X uses HAVA funds to pay for one employee's salary. As a result of an additional HAVA grant, State X decides to use HAVA funds to pay for another existing employee who has the same job responsibilities. State X uses the "freed up" state funds to hire a new employee to work on campaign finance activities.</p> <p>HAVA funds cannot be used for campaign finance, therefore, State X has used federal funds to supplant state funding previously budgeted for their HAVA program.</p>
Example 3	
<p>State X purchased voting machines ten years ago using HAVA funds and pays the annual maintenance fee using state funds. State X decides to phase out the old machines and to purchase new machines and pay for their annual maintenance using HAVA funds.</p> <p>State X's purchase is an improvement to current voting systems, therefore HAVA funds have been effectively used to supplement State X's existing program.</p>	<p>State X uses state funds to pay an annual maintenance fee for its voting machines. After learning that HAVA funds can be used to improve election systems, the state decides to move the expense to HAVA and use the extra state funds for the Secretary of State's Business Directory fees.</p> <p>Federal funds have replaced state funds, and the reduced amount went to activities outside of HAVA. This is supplanting and is prohibited.</p>
Example 4	
<p>State X used state funds to print ballots for an upcoming federal election, but the printer made an error on the standard ballot form that requires a reprint. State X does not have the funding to pay for the reprint before the election and uses HAVA funds instead.</p> <p>State X's expenditures were not reduced using HAVA funds to reprint the ballots, and the expenditure was necessary for the administration of federal elections.</p>	<p>State X historically uses state funds to print ballots. After receiving HAVA funds, the state decides to use HAVA funds to pay for printing for an upcoming federal election. State X allocates funding that would've been used for printing the ballots to postage costs for local election mailers.</p> <p>State funds were shifted to pay for one-time local election costs after receiving HAVA funds. Costs that only benefit local or state elections are not allowed under HAVA. HAVA expenditures must benefit the administration of federal elections, therefore this is supplanting.</p>

### Why Supplanting Applies to Your Grant

All federal grant recipients and subrecipients must understand how supplanting can negatively impact their program and be able to identify potential supplanting, as identified in the Code of Federal Regulations (2 CFR 200), known as the Uniform Guidance. If supplanting occurs, it may be necessary to return grant funds to the EAC. Through thoughtful planning and documentation, the return of funds may be avoided.

## **How the EAC Monitors for Supplanting**

The EAC OGM is staffed by Grant Specialists who administer and monitor the use of all HAVA grant funds. The EAC Grant Specialists are responsible for conducting regular monitoring activities throughout the grant lifecycle, from disbursement to closeout. These activities include approving grant applications, reviewing financial and progress reports, reviewing and approving budget revisions, responding to grantee inquiries, providing technical assistance to grantees, and managing the closeout of grants. Grant Specialists may identify potential supplanting during regular monitoring activities. If so, the Grant Specialist will investigate further to determine if supplanting is a risk or has already occurred and if corrective action is needed, such as a collection for unallowed costs or additional technical training.

Supplanting may also be identified during an audit of a grantee's HAVA grants. The EAC Office of Inspector General (OIG) conducts annual audits of the states' use of HAVA funding and selects which states to audit based on certain criteria including the last time an audit was conducted, noncompliance with grant requirements, and other risk factors. If the OIG determines that supplanting likely occurred, then the assigned Grant Specialist will work with the grantee to further investigate and identify the appropriate corrective action needed. When supplanting is confirmed, corrective action is usually a debt collection for unallowed costs and improvements to a state's grants management policies to ensure supplanting does not happen in the future.

## **Maintenance of Effort**

The term Maintenance of Effort (MOE) refers to a requirement that is found in some federal grant programs. An MOE requirement stipulates that a state or locality demonstrates that the level of local funding for a particular program remains relatively constant from year to year. The EAC OGM uses the general principles of MOE to help determine whether HAVA funds are being used to supplant rather than supplement state/local funding. When monitoring the use of HAVA grant funds, OGM staff are looking to see whether a state election budget is being reduced in response to HAVA funding, in which case the state's level of effort is not being maintained.

## **Additional Regulatory Guidance**

This guide is intended to help states make informed decisions about how to effectively use HAVA funds to enhance their existing election programs. The EAC OGM encourages all grantees to reach out to the EAC with specific questions regarding the allowable use of HAVA funds and potential supplanting scenarios by emailing [grants@eac.gov](mailto:grants@eac.gov).

[2 CFR Part 200, Appendix XI Compliance Supplement](#) (see page 100)

[Factors affecting allowability of costs per 2 CFR 200.403](#)