

NEW HAMPSHIRE  
DEPARTMENT OF STATE

William M. Gardner  
*Secretary of State*



Robert P. Ambrose  
*Senior Deputy Secretary of State*

David M. Scanlan  
*Deputy Secretary of State*

Patricia D. Piccuch  
*Elections Director*

April 14, 2020

Mona Harrington, Acting Executive Director  
U.S. Election Assistance Commission  
1335 East-West Highway, Suite 4300  
Silver Spring, MD 20910

Re: Request for funds under Coronavirus Aid, Relief, and Economic Security (CARES)  
Act (Public Law 116 – 136)

Dear Ms. Harrington:

The purpose of this letter is to certify that the State of New Hampshire will use the payments provided under the Notice of Grant Award, Agreement # NH20101CARES (CFDA # 90.404), for activities consistent with the laws described in Section 906 of HAVA and will not use the payments in a manner that is inconsistent with the requirements of Title III of HAVA.

We further certify that we have reviewed and accept the terms of the award as specified in the Notice of Grant Award. Our UEI number (formerly DUNS) is 36-1857758 and the signed Certification Regarding Lobbying is enclosed. I have attached an accompanying letter which expresses my reservations about the Election Assistance Commission's authority to issue requirements and regulations for these payments.

We are requesting the amount of \$3,262,422 at this time. We will use the funds to prevent, prepare for, and respond to coronavirus, domestically or internationally, for the 2020 Federal election cycle. To address the effects of the coronavirus, our primary funding goal is to support local election jurisdictions to send and process additional absentee ballots, to purchase personal protective equipment, and to get prepared for the State Primary and General Election.

We are continuing to explore avenues for meeting the match requirement. Our plan remains uncertain until we hear a definitive description of options regarding the state match requirement from Federal authorities.

If we do not receive an acceptable response regarding state match requirements, or if the State does not expend these funds, it will return any federal funds that cannot be matched or spent for the purposes set forth in this Act.

If you have any questions about this request, please contact Patricia Piecuch at (603) 271-8238 or [patricia.piecuch@sos.nh.gov](mailto:patricia.piecuch@sos.nh.gov).

Sincerely,



William M. Gardner  
Secretary of State

cc: Kinza Ghaznavi, Election Assistance Commission  
Peg Rosenberry, Election Assistance Commission

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April 14, 2020

Ms. Mona Harrington  
Acting Executive Director  
U.S. Election Assistance Commission  
1335 East-West Highway, Suite 400  
Silver Spring, MD 20910

Re: Reservations on forms

Acknowledgement of Notice of Grant Award/Grant Package

Dear Ms. Harrington,

I look forward to receiving the payment authorized by Congress under the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law 116 – 136.)

With reference to Mark Robbins' letter dated November 4, 2011, which documented the agreement between the Election Assistance Commission and my office for previous payments, the following are my reservations regarding my signature today on the above referenced letter and form which your office requires to be signed in order for the State of New Hampshire to receive payments it is owed under the CARES Act of 2020.

HAVA Section 209: " The Election Assistance commission shall not have any authority to issue any rule, promulgate any regulation, or take any other action which imposes any requirement on any State or unit of local government, except to the extent permitted under section 9(a) of the National Voter Registration Act of

State House Room 204, 107 N. Main St., Concord, NH 03301  
Phone: 603-271-8238 Fax: 603-271-8242  
TDD Access: Relay NH 1-800-735-2964  
[www.sos.nh.gov](http://www.sos.nh.gov) email: [NHVotes@sos.nh.gov](mailto:NHVotes@sos.nh.gov)

1993 (42 U.S.C. 1973gg-7(a)). To my knowledge, the Election Assistance Commission has not adopted regulations, except those related to the National Voter Registration Act. Accordingly, any EAC requirements in the Notice of Grant Award appear to be an unauthorized regulation.

In signing the enclosed forms subject to the above express reservations, the State reserves the right to contest the applicability of the above-referenced forms.

Sincerely,



William M. Gardner  
Secretary of State  
New Hampshire

Encl: Letter from Mark A. Robbins, EAC General Counsel, Nov. 4, 2011.



U.S. ELECTION ASSISTANCE COMMISSION  
1201 NEW YORK AVENUE, N.W., SUITE 300  
WASHINGTON, D.C. 20005

November 4, 2011

Anthony Stevens  
Assistant Secretary of State  
State of New Hampshire 107 North Main Street, Suite 204  
Concord, NH 03301

Dear Secretary Stevens:

This will confirm the substance of our discussion on September 21, 2011 in which we tentatively agreed, pending the approval of our supervisors, to move beyond the present impasse between the U.S. Election Assistance Commission (EAC) and New Hampshire's Secretary of State with regard to the distribution of §251 Help America Vote Act (HAVA) requirements payments for the years 2008-2010.

The State of New Hampshire (State) objects to the EAC requirement that it enter into a grant agreement which requires certification of compliance with various Federal laws and regulations concerning the use of Federal money. The State contends that the EAC is limited in its ability to require certification to those provisions contained in HAVA. The EAC believes that it is obligated to follow not just the requirements of HAVA when distributing the requirements payments, but also guidance issued by other relevant and controlling Federal authorities, including circulars issued by the Office of Management and Budget.

Further complicating this pending matter is the EAC's present lack of a quorum of commissioners.

I have agreement from the current remaining two commissioners and the executive director to offer the following compromise to move this matter forward. If the State will execute the grants agreement without any iteration, but accompanies it with a formal protest outlining its objections (in line with correspondence we have already exchanged), the EAC will release the 2008-2010 requirements payments allotted to New Hampshire, and will agree to present this issue to the full Commission when a quorum is restored, and request its referral of the matter to a body of competent jurisdiction for resolution, such as the U.S. Government Accountability Office, or any other such entity that the EAC and the State agree upon. In the meantime, the EAC will formally note the State's protest and will not take the position that the signed grant agreement in any way estops the State from asserting its stated position.

If these terms are acceptable to the State, please proceed with execution of the grant agreement, and I will instruct EAC staff to begin processing transfer of the State's 2008-2010 requirements payments.

Sincerely,

A handwritten signature in black ink that reads "Mark A. Robbins".

Mark A. Robbins  
General Counsel

cc: U.S. Department of Justice  
Civil Rights Division, Voting Section  
U.S. Attorney for the District of New Hampshire