

**STATE OF MICHIGAN
MICHIGAN DEPARTMENT OF STATE
AND**

City of Rochester Hills

**Help America Vote Act (HAVA) Grant Application⁴³⁰
Optical Scan Voting Tabulators & Election Management
Systems (EMSs)**

RE: Master Contracts

**071B4200233 (Diebold Election Systems, Inc.);
071B4200234 (Election Systems and Software, Inc.);
071B4200254 (Sequoia Voting Systems, Inc.)**

This Grant Application is the mechanism by which Counties, Cities, and Townships apply to the State of Michigan to receive federal HAVA funds to purchase optical scan voting systems (tabulators) and EMS, pursuant to HAVA.

Definitions:

“*Local Unit of Government*” means any city or township within the State of Michigan.

“*County*” means any county within the State of Michigan.

“*Applicant*” and “*Grant Applicant*” mean local unit of government or county.

“*Department*” means the Michigan Department of State.

“*Deliverables*” means all tangible, physical products delivered or to be delivered to the Grant Applicant under the contract between the vendor and the Grant Applicant.

1. Period of Application

The Grant Application process applies to uniform optical scan voting system purchases occurring between February 1, 2005 and January 1, 2006.

2. Program, Budget and Application

This Grant Application is to implement the federal Help America Vote Act of 2002 (HAVA), Michigan election law and Public Act 91 of 2002, by establishing a grant

⁴³⁰ Detailed information on this Federal program and uses of funding can be found in the Catalog of Federal Domestic Assistance (CFDA) 39.011 – Election Reform Payments (www.cfda.gov; search for program number 39.011)

program to use HAVA funds to acquire and implement a uniform optical scan voting system throughout the state. Each County, with the involvement of the local units of government within the County, will develop a countywide implementation plan to update its voting system by selecting one Contractor for the entire County. The Department will determine quantities of required equipment, per jurisdiction, based on information provided by the Grant Applicant. The information will be incorporated into this Grant Application. Once the county implementation plan and Grant Application are signed and approved, the Department will verify the number of voting systems authorized for purchase using HAVA funds. If changes are required, instructions for amending the Grant Application will be provided and the Grant Applicant will be required to resubmit the application.

This grant program only deals with the acquisition and implementation of the uniform optical scan voting system selected by each County; as well as Election Management Systems (EMSs), software systems used to define and design ballots, program tabulators, and accumulate votes.

The Michigan Department of Management and Budget has entered into a Master Contract with each approved vendor, which has established statewide prices for voting equipment and EMS. Each County will communicate the county's agreed-upon vendor selection to the Department.

All contractors will be required to enter into a contractual "purchase agreement" with each local jurisdiction and county that selects that vendor for their choice. Typically, this document is the purchase agreement provided by the vendor. The terms and conditions of this agreement shall not contradict the Master Contract. The terms of the Master Contract will supercede any conflicting terms in the purchase agreement.

Each vendor will enter into a software license agreement with the counties and any local jurisdictions that receive EMS. The license agreement shall not contradict any terms contained in the Master Contract. The terms of the Master Contract supercede any conflicting terms in the license agreement.

Once equipment and EMS have been delivered, tested, and accepted by each Grant Applicant in the County according to the County Plan, the Department, through the Michigan Department of Management and Budget, will release the HAVA funds to the Contractor.

3. General

The individual submitting the Grant Application must have the proper authority to do so. Proof of authority must be submitted with the Grant Application. Examples of authority include but are not limited to, a resolution from the Board of County Commissioners, City Council or Township Board authorizing purchase and contracting authority.

4. Performance

Each Applicant will fill out the Grant Application and forward it to the Department at the address indicated in the instructions provided. The Department will review and, once approved, will provide the Applicant with a copy of this fully-executed Grant Application, which will serve as Notice of the Grant Award. The Department will initiate equipment orders directly with the Contractor, and will provide the Applicant with the *Acceptance Certificate & Payment Authorization Form*, which must be submitted by the Applicant to the Department within 10 days of equipment delivery. This form indicates acceptance of equipment and payment authorization.

The Applicant is responsible for overseeing its contractual agreement with the Contractor and is responsible for ensuring Contractor performance. Any subsequent malfunction or performance issue with voting equipment and EMS must be addressed by the Applicant. The Grant Applicant is responsible for maintaining any and all Contractor performance records. The Applicant has the sole responsibility to verify Contractor compliance with delivery dates, terms and conditions of delivery, and equipment verification and testing in accordance with the statewide Master Contract for the Applicant's selected vendor. The Grant Applicant will be responsible for maintenance, repairs, or additional costs incurred that are not covered by warranty provisions in the Master Contract.

5. Testing, Acceptance and Payment

1. Successful acceptance testing of the optical scan tabulators and EMS software should be completed within 10 calendar days from the date of delivery.
2. Upon completion of all acceptance testing, the Applicant must fill out the *Acceptance Certificate & Payment Authorization Form* and forward the completed form to the Department.
3. This form will indicate date of delivery, successful testing, and authorization to the Department to release funds to the Contractor.
4. Payment to the Contractor shall be made in accordance with the Master Contract with the Applicant's selected vendor.

6. Ownership of Equipment and Software Purchases: Title

Any equipment and EMS software purchased pursuant to this Grant Application is the property of the Applicant submitting the Grant Application.

7. Optional Purchases

If the Grant Applicant desires to purchase additional items beyond those authorized in this Grant Application, it may do so at its sole expense, outside of this Grant Application. No HAVA funds will be available for such purchases. Prices established via the Master Contract will be extended to counties and local units of government by the vendors for these purposes.

8. Records Maintenance/Retention

The Grant Applicant will maintain a complete set of records and files related to the ordering of voting equipment, EMS, delivery, testing, maintenance and repairs. The Applicant shall assure all the terms of this Grant Application are adhered to and that records and detailed documentation regarding this grant shall be maintained for a period of not less than six (6) years from the date of termination, the date of submission of the final expenditure report or until any litigation and audit findings have been resolved.

9. Authorized Access

The Grant Applicant will permit, upon reasonable notification and at reasonable times, access to all records regarding this Grant Agreement by representatives duly authorized by State or federal law.

10. Mandatory Conditions

A. Statutory or Regulatory Requirements

The Master Contract for the Applicant's selected Contractor must be incorporated and made a part of the ensuing contract between the Applicant and the Contractor, as a condition for grant approval. The Applicant will comply with applicable federal and state laws, guidelines, rules and regulations in carrying out the terms of this Grant Application.

Laws

This is a State of Michigan Grant Application and is governed by the laws of the State of Michigan. Any dispute arising as a result of this application shall be resolved in the State of Michigan.

Validity

This Grant Application is valid upon approval by the State Administrative Board and approval and execution by the Department.

Funding

This Grant Application is subject to and contingent upon the availability and appropriation of federal funds and any necessary State appropriation.

Costs

The State will not assume any responsibility or liability for costs incurred in relation to this grant.

Cancellation

The Department may cancel the Grant Application upon failure to comply with the terms of this grant.

Entire Agreement

The Grant Application shall represent the entire agreement between the State and Grant Applicant and supercedes any prior oral or written agreements, and all other representations between the parties relating to this subject. The State reserves the right to require Counties and local units of government to attend required training sessions with regard to new equipment purchases made under HAVA.

Adherence to Terms

The failure of a party to insist upon strict adherence to any term of this Grant Application shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term, or any other term of the Grant Application.

B. Other

Additional terms and conditions may be negotiated in the contract between the Grant Applicant and the Contractor as long as they do not conflict with the required terms and conditions of this Grant Application and Master Contracts with the Applicant's selected vendor.

11. Administration of Agreement

The Grant Manager on behalf of the Department for this Grant Application and the final Grant Agreement will be:

Timothy Hanson, Director
Elections Liaison Division
Bureau of Elections
PO Box 20126
Lansing, MI 48901-0726
HansonT@Michigan.gov

All questions, comments and correspondence regarding this grant process, the grant application and the final Grant Agreement must be submitted in writing to the Grant Manager.

12. Complete Application

In order to complete this Grant Application, it must be filled out in its entirety by completing all indicated fields below. It must be signed by the individual authorized by the county or local unit of government to enter into this agreement, and the Authority or Resolution authorizing purchase and contracting authority must be attached as described in section 3 above.

13. Voting Systems Authorization

Note: Grant Applicant to fill in all fields indicated (*) below:

This Grant Agreement is between the Michigan Department of State and:

City of Rochester Hills, Oakland County

*Grant Manager for County, City, or Township (point of contact for the State):

_____ (printed name)

*Business Address:

*Business Telephone: _____ *Fax Number: _____

*e-mail address: _____

Authorized Voting Equipment Totals:

Number of Precinct Tabulators Authorized for Purchase: 29

Number of Absentee Voter Counting Board Tabulators Authorized for Purchase: 3

EMS Software Authorized for Purchase: Yes

14. Special Certification/Signature

The following signatory certifies that the person signing is authorized to sign this application, certify, review, and agree to the above Grant Application conditions and has personally examined and is familiar with the information submitted herein, and believe this request is true, accurate and complete. Furthermore, the signatory represents and agrees to the terms and conditions in this Grant Application and the requirements of the Help America Vote Act, under which this grant has been submitted.

For the LOCAL UNIT OF GOVERNMENT or COUNTY:

Name (print) Title (print) Date

Signature

For the STATE OF MICHIGAN, DEPARTMENT OF STATE:

Joseph P. Pavona, Administrative Officer

Signature Date