



**U.S. ELECTION ASSISTANCE
COMMISSION
OFFICE OF INSPECTOR GENERAL**

FINAL REPORT:

**ADMINISTRATION OF HELP AMERICA
VOTE ACT FUNDS BY THE MARYLAND
STATE BOARD OF ELECTIONS**

MAY 1, 2003 THROUGH DECEMBER 31, 2005

**Report No.
E-HP-MD-08-06
June 2007**



U.S. ELECTION ASSISTANCE COMMISSION
OFFICE OF INSPECTOR GENERAL
1225 New York Ave. NW - Suite 1100
Washington, DC 20005

June 5, 2007

Memorandum

To: Thomas Wilkey
Executive Director

From: Curtis Crider
Inspector General

Subject: Final Audit Report on the Administration of Help America Vote Act Funds by the Maryland State Board of Elections (Assignment No. E-HP-MD-08-06)

This report presents the results of the subject audit. The objectives of the audit were to determine whether Maryland (1) expended Help America Vote Act (HAVA) payments in accordance with HAVA and related administrative requirements and (2) complied with the HAVA requirements for replacing punch card or lever voting machines, for appropriating a 5 percent match for requirements payments, for establishing an election fund, and for maintaining state expenditures for elections at a level not less than expended in fiscal year 2000.

The report concluded that Maryland generally complied with requirements and identified the following areas needing management attention:

- ✓ **Reporting of Costs** - Maryland included the same expenditures totaling \$250,554 in its annual financial reports for both HAVA Section 101 and Section 251 programs.
- ✓ **Accounting for Costs** - Maryland did not separately account for costs incurred under HAVA Sections 101, 102, and 251 as required by the *Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments*.
- ✓ **Accounting for Equipment** - Maryland did not maintain a comprehensive equipment managements system or have written policies and procedures to ensure that property acquired with HAVA funds was inventoried and properly controlled.
- ✓ **Use of Funds** - Maryland used a portion of Section 251 requirements payments for activities related to improving the administration of elections for Federal office, such as storing and transporting voting equipment. Such use of

funds is permissible but only if the state submits one of two certifications to the Election Assistance Commission.

Maryland's response to the audit (Appendix 3) indicates that corrective action has been completed or is in process for all areas.

Please provide us with your written response to the recommendations included in this report by August 6, 2007. Your response should contain information on actions taken or planned, including target dates and titles of EAC officials responsible for implementing the recommendations

Section 5(a) of the Inspector General Act (5 U.S.C. § App.3) requires the Office of Inspector General to list this report in its semiannual report to Congress.

If you have any questions regarding this report, please call me at (202) 566-3125.

BACKGROUND

HELP AMERICA VOTE ACT

The Help America Vote Act of 2002 (HAVA or the Act) created the U.S. Election Assistance Commission (EAC or Commission) to assist states and insular areas with the improvement of the administration of Federal elections and to provide funds to states to help implement these improvements. HAVA authorizes payments to states under Titles I and II, as follows:

- ✓ Title I, Section 101 payments are for activities such as complying with Title III of HAVA for uniform and nondiscriminatory election technology and administration requirements, improving the administration of elections for Federal office, educating voters, training election officials and poll workers, and developing a state plan for requirements payments.
- ✓ Title I, Section 102 payments are available only for the replacement of punchcard and lever action voting systems.
- ✓ Title II, Section 251 requirements payments are for complying with Title III requirements for voting system equipment; and for addressing provisional voting, voting information, statewide voter registration lists, and voters who register by mail.

Title II also requires that states must:

- ✓ Have appropriated funds “equal to 5 percent of the total amount to be spent for such activities [activities for which requirements payments are made].” (Section 253(b)(5)).
- ✓ “Maintain the expenditures of the State for activities funded by the [requirements] 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.” (Section 254 (a)(7)).
- ✓ Establish an election fund for amounts appropriated by the state “for carrying out the activities for which the requirements payment is made,” for the Federal requirements payments received, for “such other amounts as may be appropriated under law,” and for “interest earned on deposits of the fund.” (Section 254 (b)(1)).

**FUNDING FOR
MARYLAND**

HAVA funds received and expended by Maryland are as follows:

<i>TYPE OF PAYMENT</i>	<i>AMOUNT RECEIVED</i>	<i>OUTLAYS</i>	
		<i>AMOUNT</i>	<i>AS OF</i>
101	\$5,636,731	\$1,114,563	12/31/05
102	1,637,609	1,637,609	12/31/05
251	42,478,430	24,931,033	12/31/05
Totals	\$49,752,770	\$27,683,205	

**FINANCIAL
MANAGEMENT
REQUIREMENTS**

Within the State of Maryland, HAVA programs are principally administered by the State Board of Elections (SBE). To account for the HAVA payments, the Act requires recipients to maintain records that are consistent with sound accounting principles, that fully disclose the amount and disposition of the payments, that identify project costs financed with the payments and with other sources, and that will facilitate an effective audit.

In addition, the Commission notified states of other management requirements. Specifically, that states must:

- ✓ Comply with the *Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments* (also known as the “Common Rule”).¹
- ✓ Expend payments in accordance with cost principles for establishing the allowability or unallowability of certain items of cost for federal participation issued by the Office of Management and Budget (OMB) in Circular A-87.
- ✓ Submit annual financial reports on the use of Title I and Title II payments.

¹ Our audit cites the Uniform Administrative Requirements for Grants and Cooperative Agreements with States and Local Governments promulgated by the U.S. General Services Administration (GSA) in Section 41 of the Code of Federal Regulations (CFR), Part 105 – 71. We use this citation because GSA disbursed the HAVA funds on behalf of EAC and because the EAC was not authorized to issue regulations.

OBJECTIVE

The objectives of our audit were to determine whether Maryland (1) expended HAVA payments in accordance with the Act and related administrative requirements and (2) complied with the HAVA requirements for replacing punch card or lever voting machines, for establishing an election fund, for appropriating a 5 percent match for requirements payments, and for maintaining state expenditures for elections at a level not less than expended in fiscal year 2000. Specifically, we audited expenditures from May 1, 2003 through December 31, 2005, and reviewed controls to assess their adequacy over the expenditure of HAVA funds. We also evaluated compliance with certain HAVA requirements for the following activities:

- ✓ Accumulating financial information reported to EAC on the Financial Status Reports (Standard Forms number 269).
- ✓ Accounting for property.
- ✓ Purchasing goods and services.
- ✓ Accounting for salaries.
- ✓ Charging indirect costs.
- ✓ Spending by counties.

We also determined whether Maryland had complied with the requirements in HAVA applicable to Section 251 requirements payments for:

- ✓ Establishing and maintaining the election fund.
- ✓ Sustaining the State's level of expenditures for elections.
- ✓ Appropriating funds equal to five percent of the amount necessary for carrying out activities financed with Section 251 requirements payments.

RESULTS OF AUDIT

SUMMARY

We concluded that Maryland properly established the State election fund, sustained the appropriate level of State expenditures for elections, and satisfied the 5 percent matching requirement for Section 251 funds. In addition, we found that Maryland needed to adjust its annual financial reports for expenditures of \$250,554 that it reported under both Sections 251 and 101, improve accounting for HAVA-funded expenditures and equipment, and submit a certification to EAC regarding its use of a portion of its Section 251 funds for improving the administration of elections for Federal office.

**QUESTIONED
COSTS**

Duplicate Costs. Maryland reported costs of \$250,554 twice - once as an expenditure of 101 funds and again as an expenditure of 251 funds. The costs represent payments to BSC Systems, Inc. for acceptance testing. Although Maryland paid BSC Systems only once, it reported the payments as expenditures under both Sections 101 and 251. As a result, we classified costs of \$250,554 as questioned.

Recommendation:

1. We recommend that the EAC resolve the questioned costs.

SBE Response:

SBE advised that it had “submitted corrected annual financial report for its Section 101 and 251 funds and has cleared up any reporting errors.”

OIG Comments:

We reviewed the revised reports and supporting information and determined that the State made proper adjustments to eliminate the duplicate costs. No further action is required.

**ACCOUNTING
FOR
EXPENDITURES**

The SBE did not separately account for costs incurred under Sections 101, 102, and 251 of the HAVA. Instead, SBE established two Program Cost Account (PCAs) codes in the State’s accounting system to track HAVA funds, one for voter registration information technology costs and one for everything else. Because the PCAs did not correspond to the three HAVA sections, SBE had to extract transaction detail from the accounting system to report outlays on the Financial Status Reports (SF-269) submitted to the EAC for each of the three HAVA sections.

Part 41 CFR 105–71.120, Standards for financial management systems, (a) requires that: “Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to—

- (1) Permit preparation of reports required by this part and the statutes authorizing the grant, and
- (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.”

Further, Maryland’s *Accounting Procedures Manual* requires State agencies to establish an effective system of internal controls to ensure

there is “adequate support for all billings and financial status reports sent to the Federal government.” SBE personnel, however, did not establish the accounting procedures to facilitate the preparation of SF-269 reports and allow the tracing of reported amounts to supporting documentation.

Recommendations:

We recommend that EAC require SBE:

2. To establish accounting records for HAVA Sections 101, 102, and 251 funds in accordance with requirements.

SBE Response:

SBE said that it is “working to establish separate Program Cost Analysis (PCA) codes for each section of HAVA funding.”

OIG Comments:

None.

***EQUIPMENT
MANAGEMENT
CONTROLS***

During Maryland’s State fiscal years 2004 and 2005, the SBE did not maintain a comprehensive equipment management system or have written policies and procedures to ensure that property acquired with HAVA funds was properly controlled and inventoried. The inventory database maintained by SBE did not contain control accounts identifying beginning or ending balances and consisted of multiple spreadsheets that were not reconciled with the State’s property management system. In addition, although we were told that a physical inventory of SBE’s property was conducted during 2004 and 2005, we were not provided adequate documentation to support the taking of the inventory or the results of the verification process. As such, there is little assurance that the spreadsheet listing of property is accurate because it has not been updated based on the results of physical inventories.

According to 41 CFR 105-71.132, Equipment, (b) States should “use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures.” Maryland’s Department of General Services Inventory Control Manual Section II describes the controls and record keeping requirements for capital equipment considered sensitive or non-sensitive. Section II.03 requires that a complete physical inventory shall be taken at least once each year for sensitive items and every 3 years for non-sensitive items. In addition, the Manual requires that records of the taking of the physical inventory as well as control accounts (beginning and ending balances) be maintained and a final control account reconciliation be certified to by the State agency.

The property management responsibilities for SBE are performed as a collateral duty substantially by one employee who could not ensure that all property acquired with HAVA funds was recorded in the spreadsheets. As such, we believe that improvements in property management are needed to ensure that property acquired with HAVA funds is adequately controlled.

Recommendations:

We recommend that the EAC require SBE:

3. To develop and maintain an equipment management system in accordance with State requirements that will record, identify and track equipment purchased with HAVA funds.
4. To develop written policies and procedures that describe, with regard to HAVA equipment, how SBE will comply with the State's Inventory Control Manual.
5. To conduct, during this current year (2007), a physical inventory of HAVA-funded equipment, reconcile the physical inventory to the acquisition records of equipment purchased with HAVA funds, and adjust and update the property management records on the basis of the reconciliation.

SBE Response:

SBE agreed with the general finding and said it was working to rectify the problem. SBE also said that it believes "the inventory purchased with federal funds is accounted for through the extensive testing of the equipment before and after each election as well as the in-depth chain of custody procedures followed by the State and every local jurisdiction."

OIG Comments:

None.

***CERTIFICATION
FOR THE USE OF
SECTION 251
FUNDS***

The SBE used Section 251 funds of about \$5.2 million to pay Diebold Election Systems, Inc. for various activities such as warehousing and transporting voting machines, training election officials and precinct workers, acceptance testing, and providing on-site technicians during the conduct of elections. All of these activities represent allowable uses of Section 251 funds. However, some of them, such as warehousing voting machines may be financed with Section 251 funds only if:

the State certifies to the Commission that—(A) the State has implemented the requirements of title III; or (B) the amount expended with respect to such other activities does not exceed an amount equal to the minimum payment amount applicable to the State under section 252(c).

Recommendation:

We recommend that the EAC require SBE to:

6. Submit the required certification for its use of Section 251 funding.

SBE Response:

SBE said that it “recently [May 15, 2007] certified to EAC that Maryland has implemented the requirements of Title III.”

OIG Comments:

No further action is required.

SCOPE AND METHODOLOGY

To accomplish our objective, we reviewed:

- ✓ The prior single audit report and other reviews related to the State's financial management systems and the HAVA program for the last 2 years.
- ✓ Policies, procedures and regulations for the Maryland State Board of Election's management and accounting systems as they relate to the administration of HAVA programs.
- ✓ Inventory lists of equipment purchased with HAVA funds.
- ✓ Major purchases.
- ✓ Supporting documents maintained in the accounting system for payments made with HAVA funds.
- ✓ Certain Maryland laws that impacted the election fund.
- ✓ Appropriations and expenditure reports for State funds used to maintain the level of expenses for elections at least equal to the amount expended in fiscal year 2000 and to meet the five percent matching requirement for section 251 requirements payments.
- ✓ Information regarding source/supporting documents kept for maintenance of effort and matching contributions.

We also interviewed appropriate Division employees about the organization and operation of the HAVA program.

We conducted our review in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. As such, we included tests and procedures as considered necessary under the circumstances to evaluate SBE's controls over the administration of HAVA payments. Because of inherent limitations, a study and evaluation made for the limited purposes of our review would not necessarily disclose all weaknesses in administering HAVA payments.

MONETARY IMPACT

<u><i>Description</i></u>	<u><i>Questioned Costs</i></u>
Duplicate Costs	<u>250,554</u>

SBE Response To Federal Audit of HAVA Funds

Questioned Costs

Since the time of the audit, SBE submitted corrected SF-269 financial reports for its Section 101 and 251 funds and has cleared up any reporting errors. It is important to note that, although the \$250,554 may have originally been reported twice, the vendor was not paid twice.

Accounting for Expenditures

SBE is currently working to establish separate Program Cost Analysis (PCA) codes for each section of HAVA funding. However, SBE strongly disagrees that the outlays reported on the SF-269 were not reconciled with expenditures recorded in the accounting system. Expenses for HAVA and for all agency functions are reconciled *monthly* with the State accounting system. This reconciliation is the basis for reporting SF-269 expenditures. In fact, SBE uses accounting system records for all federal and State reporting, budget preparation and each fiscal year closeout.

Equipment Management Controls

SBE agrees with the general finding that the inventory database does not contain control accounts and consists of multiple spreadsheets not reconciled with the State's property management system. However, SBE disagrees with the effect that property acquired with HAVA funds have not been adequately controlled to identify if the equipment is lost, damaged, stolen or no longer needed to support the administration of Federal elections.

In fact, the inventory purchased with federal funds is accounted for through the extensive testing of the equipment before and after each election as well as the in-depth chain of custody procedures followed by the State and every local jurisdiction. Reconciling the inventory control account with the State's property management system is an administrative function that SBE is currently rectifying. However, the implication that Maryland cannot account for its equipment because this reconciliation has not taken place is wrong, as it does not consider the strict property control procedures that ensure the integrity and security of all voting equipment.

Certification For The Use of Section 251 Funds

SBE recently certified to the EAC that Maryland has implemented the requirements of Title III. This certification allows the State to use Section 251 funds for the general improvement of election administration. With this certification, the audit's recommendation has been satisfied.