



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

FINAL REPORT:

**ADMINISTRATION OF PAYMENTS
RECEIVED UNDER THE HELP
AMERICA VOTE ACT BY THE
NORTH CAROLINA STATE BOARD
OF ELECTIONS**

MAY 13, 2003 THROUGH DECEMBER 31, 2007

**Report No.
E-HP-NC-04-08
October 2008**



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

October 31, 2008

Memorandum

To: Thomas Wilkey
Executive Director

From: Curtis W. Crider *Curtis W. Crider*
Inspector General

Subject: Final Audit Report - Administration of Payments Received Under the Help America Vote Act by the North Carolina State Board of Elections
(Assignment Number E-HP-NC-04-08)

We contracted with the independent certified public accounting firm of Clifton Gunderson LLP (Clifton Gunderson) to audit the administration of payments received under the Help America Vote Act (HAVA) by the North Carolina State Board of Elections (SBE). The contract required that the audit be done in accordance with U.S. generally accepted government auditing standards. Clifton Gunderson is responsible for the attached auditor's report and the conclusions expressed therein.

In its audit of the SBE, Clifton Gunderson concluded that, except for the accounting and reporting of interest and state matching of funds, and the filing of comprehensive financial reports, the audit concluded that the SBE generally accounted for and expended HAVA funds in accordance with the HAVA requirements and complied with the financial management requirements established by the U.S. Election Assistance Commission. The SBE also complied with section 251 requirements.

In its July 16, 2008 and October 17, 2008 responses to the draft report (Appendix A), the SBE agreed with the report's findings and recommendations, and provided corrective actions.

Please provide us with your written response to the recommendation included in this report by December 1, 2008. Your response should contain information on actions taken or planned, including target dates and titles of EAC officials responsible for implementing the recommendation.

The legislation, as amended, creating the Office of Inspector General (5 U.S.C. § App.3) requires semiannual reporting to Congress on all audit reports issued, actions taken to implement audit recommendations, and recommendations that have not been implemented. Therefore, this report will be included in our next semiannual report to Congress.

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

PERFORMANCE AUDIT REPORT
ADMINISTRATION OF PAYMENTS RECEIVED
UNDER THE
HELP AMERICA VOTE ACT
BY THE
NORTH CAROLINA STATE BOARD OF ELECTIONS

May 13, 2003 Through December 31, 2007

UNITED STATES ELECTION
ASSISTANCE COMMISSION



Clifton
Gunderson LLP
Certified Public Accountants & Consultants

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**U.S. Election Assistance Commission
Performance Audit of the Administration of Payments Received Under the
Help America Vote Act by the State of North Carolina**

EXECUTIVE SUMMARY

Clifton Gunderson LLP was engaged by the U.S. Election Assistance Commission (EAC or the Commission) Office of Inspector General to conduct a performance audit of the North Carolina State Board of Elections (SBE) for the period May 13, 2003 through December 31, 2007 to determine whether the SBE used payments authorized by Sections 101, 102, and 251 of the Help America Vote Act of 2002 (HAVA or the Act) in accordance with HAVA and applicable requirements; accurately and properly accounted for property purchased with HAVA payments and for program income, and met HAVA requirements for Section 251 funds for an election fund and for a matching contribution. We did not include a determination of whether the SBE and its subgrantees met the requirements for maintenance of a base level of state outlays because the Commission is reviewing its guidance on the applicability of the maintenance of a base level of state outlays to the SBE's subgrantees.

In addition, the Commission requires states to comply with certain financial management requirements, specifically:

- Comply with the *Uniform Administrative Requirements For Grants And Cooperative Agreements With State And Local Governments* (also known as the "Common Rule") as published in the Code of Federal Regulations 41 CFR 105-71.
- Expend payments in accordance with cost principles for establishing the allowance or disallowance of certain items of cost for federal participation issued by the Office of Management and Budget (OMB) in Circular A-87.
- Submit detailed annual financial reports on the use of Title I and Title II payments.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on the audit objectives. 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.

Except for the accounting and reporting of interest and state matching of funds, and the filing of comprehensive financial reports, our audit concluded that SBE generally accounted for and expended HAVA funds in accordance with the requirements mentioned above for the period from May 13, 2003 through December 31, 2007. The exceptions needing SBE's management attention are as follows:

- Interest is owed the election fund by the counties that failed to disburse HAVA Section 102 funds timely.

- As of December 31, 2007, there was a shortfall of \$2,067 in the amount of funds provided by the state as matching funds, as well as lost interest earnings because of a delay in providing the matching funds.
- The state's financial status report to the EAC on HAVA Section 251 funds did not include all of the required information.

We have included in this report the SBE managements' formal response to the findings and recommendations dated July 16, 2008 and to the draft report dated October 17, 2008. The SBE officials agreed with the recommendations and provided corrective action.

BACKGROUND

HAVA created the 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 punch card 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)].

AUDIT OBJECTIVES

The objectives of our audit were to determine whether the North Carolina State Board of Elections:

1. Used payments authorized by Sections 101, 102, and 251 of HAVA in accordance with HAVA and applicable requirements;
2. Accurately and properly accounted for property purchased with HAVA payments and for program income;
3. Met HAVA requirements for Section 251 funds for an election fund and for a matching contribution. We did not determine whether the SBE met the requirement for maintenance of a base level of state outlays, because the Commission is reviewing its guidance on the applicability of the maintenance of a base level of state outlays to subgrantees of the SBE.

In addition, to accounting for HAVA payments, the Act requires states to maintain records that are consistent with sound accounting principles that fully disclose the amount and disposition of the payments, that identify the project costs financed with the payments and other sources, and that will facilitate an effective audit. The Commission requires states receiving HAVA funds to comply with certain financial management requirements, specifically:

1. Comply with the *Uniform Administrative Requirements For Grants And Cooperative Agreements With State and Local Governments* (also known as the "Common Rule") as published in the Code of Federal Regulations at 41 CFR 105-71.
2. Expend payments in accordance with cost principles for establishing the allowance or disallowance of certain items of cost for federal participation issued by the OMB.
3. Submit detailed annual financial reports on the use of Title I and Title II payments.¹

SCOPE AND METHODOLOGY

We audited the HAVA funds received and disbursed by the SBE from May 13, 2003 through December 31, 2007.

Funds received and disbursed from May 13, 2003 (program initiation date) to December 31, 2007 (55-month period) are shown below:

TYPE OF PAYMENT	FUNDS RECEIVED				FUNDS DISBURSED	DATA AS OF
	EAC PAYMENT	STATE MATCH	INTEREST EARNED	TOTAL AVAILABLE		
101	\$7,887,740	\$ 0	\$555,586	\$8,443,326	\$6,825,359	12/31/2007
102	893,822	0	0	893,822	893,822	12/31/2007
251	65,477,808	3,444,133	5,769,043	74,690,984	51,322,849	12/31/2007
	<u>\$74,259,370</u>	<u>\$3,444,133</u>	<u>\$6,324,629</u>	<u>\$84,028,132</u>	<u>\$59,042,030</u>	12/31/2007

Our audit methodology is set forth in Appendix B.

¹ EAC requires states to submit annual reports on the expenditure of HAVA Sections 101, 102, and 251 funds. For Sections 101 and 102, reports are due on February 28 for the activities of the previous calendar year. For Section 251, reports are due by March 30 for the activities of the previous fiscal year ending on September 30.

AUDIT RESULTS

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on the audit objectives. 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.

Except for the accounting and reporting of interest and state matching of funds, and the filing of comprehensive financial reports, our audit concluded that SBE generally accounted for and expended HAVA funds in accordance with the requirements mentioned above. This includes compliance with section 251 requirements for an election fund. The SBE has taken action on or is working to resolve the exceptions described below as set forth in Appendix A:

I. Interest due from Subgrantees

The State election fund is owed interest of an undetermined amount as a result in the delays by the counties in disbursing the HAVA Section 102 funds.

In August 2003 the State distributed \$893,822 of Section 102 funds to 13 counties to replace lever and/or punch card voting equipment. At the time the disbursements were made to the counties, the State had not yet certified voting equipment, and all but one of the counties retained the funds for varying lengths of time up to 36 months. In August 2006, the SBE discovered that nine of the counties either still had undisbursed funds or had disbursed the funds for items other than replacement equipment, including voting booths, storage carts, lockable ballot bags, and PCMCIA cards. The State paid for voting equipment to ensure that the SBE could certify that the State was in compliance with HAVA prior to the May 2, 2006 primary election. The SBE Director sent the counties a letter requiring them to remit payment to the voting equipment vendor for the entire amount of Section 102 funds received. Since the State had already paid for the equipment, the voting equipment vendor issued credits to the State for the overpayments, which were applied to subsequent billings. This action resulted in the proper use of Section 102 funds, although it was delayed compliance.

The Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments, 41 CFR 105-71, also known as the Common Rule states in 41 CFR 105-71.120(b)(7) that "procedures for minimizing the time elapsing between the transfer of funds from the U. S. Treasury and disbursement by grantees and subgrantees must be followed whenever advance payment procedures are used. Grantees must establish reasonable procedures to ensure the receipt of reports on subgrantees' cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency."

Further, 41 CFR 105-71.121(b) states that "methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee, in accordance with Treasury regulations at 31 CFR part 205."

Recommendation:

Direct the counties to compute the interest that should have been earned on the Section 102 funds from the date of receipt to the date they were expended on qualifying purchases, namely the replacement of punch card and lever voting machines, and make restitution to the election fund.

SBE's Response:

The SBE concurred with the recommendation, based on their understanding of the EAC's acceptance of the following:

1. Counties will be able to offset any interest liability it might owe on these funds by offsetting any county expenditures made by county funds to improve election administration allowed under Title I and Title II of HAVA.
2. There will be no interest charged to counties that properly spent these Section 102 funds within 30 days after receipt.
3. That any interest on the Section 102 funds paid by counties will be deposited into the State HAVA Fund.

II. Financial Reporting

The Section 251 Financial Status Reports, SF 269, did not include all of the required information. Interest earned was only reported for the current year, and maintenance of effort and state matching funds financial data were not reported on Forms SF 269 for any reporting period through September 2006.

HAVA, Section 254(b)(1), Requirements for Election Fund states that, "For purposes of subsection (a)(5), a fund described in this subsection with respect to a State is a fund which is established in the treasury of the State government, which is used in accordance with paragraph (2), and which consists of the following amounts: (D) Interest earned on deposits of the fund." Since interest is included in the fund balance, it should also be reported with the federal funds authorized on the SF 269, line 10h, and explained in Line 12, Remarks.

Beginning with the September 2006 SF 269, information on the state's maintenance of effort and state matching compliance was required to be included as set forth in guidance provided in the fall of 2006 on the EAC's website at <http://www.eac.gov/docs/Model 269 Title II final.pdf>.

Recommendation:

Ensure that the Financial Status Report, SF 269 contains complete and accurate information prior to filing, as identified on EAC's website at <http://www.eac.gov/docs/Model 269 Title II final.pdf>.

SBE's Response:

The SBE concurred with the recommendation and revised the reports to reflect the required information.

III. State Matching Funds

As of December 31, 2007, there is a \$2,067 shortfall in the amount of state matching funds required to augment Section 251 HAVA funds received. The method of computing the amount of the state matching funds, as set forth in HAVA Section 253(b)(5), is to divide the requirements payments to be received from the federal government by 95%, and then multiply the grossed up number by 5%. For North Carolina, the \$65,477,808 Section 251 proceeds, divided by 95%, equals \$68,924,008. The difference between the two numbers is the state matching requirement of \$3,446,200, compared to the amount provided by the state totaling \$3,444,133. In addition, there is lost interest on the shortfall, which has not been quantified, that will accrue from the date the state matching funds were deposited until the date the shortfall is added to the election fund.

SBE's Response:

The SBE concurred with the recommendation and stated that the shortfall will be appropriated in the 2009 Legislative Session.

We provided a draft of our report to the appropriate individuals of the North Carolina State Board of Elections, and the United States Election Assistance Commission. We considered any comments received prior to finalizing this report.

CG performed its work between February 5, 2008 and February 28, 2008.

Clifton Henderson LLP

Calverton, Maryland
August 24, 2008



STATE BOARD OF ELECTIONS
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GARY O. BARTLETT
Executive Director

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October 17, 2008

Mr. Curtis Crider
Inspector General
U.S. Election Assistance Commission
1225 New York Ave NW-Suite 1100
Washington, D.C. 20005

Re: North Carolina Comments to Draft Audit Report of August 25, 2008.

Dear Inspector General Crider,

Thank you for the opportunity to comment on the draft EAC Audit Report, dated August 25, 2008, on the HAVA funds received by North Carolina.

Our comments regarding items II and III of the audit results set out in the draft remain the same.

As a result of our phone conversation the last week of September, we wish to revise our comments to item I. This is based upon the EAC allowing counties that may owe interest on Title 1 Section 102 to the State HAVA Fund to offset such liabilities by proof of expenditures made by county funds that further the purposes and mandates of Title I and Title II allowed by HAVA. It was further confirmed by the EAC that interest on Section 102 funds should not be charged to counties when the counties made immediate use of those funds within a short period of time such as 30 days.

It was further agreed in our conversation, that as soon our schedule permits, this agency will canvass the counties that received Section 102 funds and determine any interest liability and allowed offsets. Once that information is collected, it will be shared with the EAC and collection of such interest will begin by this agency with the interest payments being deposited into the State HAVA Fund.

With this understanding, this agency revises its previous comments related to Item I to read as follows:

The North Carolina State Board of Elections believes that neither the state nor the counties were given notice that interest on Title I Section 102 held by counties until expended would have to be paid by the counties, it will not object to the charging of interest to the counties, if the following is correct:

1. Counties will be able to offset any interest liability it might owe on these funds by offsetting any county expenditures made by county funds to improve election administration allowed under Title I and Title II of HAVA.
2. There will be no interest charged to counties that properly spent these Section 102 funds within 30 days after receipt.
3. That any interest on the Section 102 funds paid by counties will be deposited into the State HAVA Fund.

If this amended comment does not reflect your recall of the consensus reached by the EAC and this agency on this issue, please contact me at once. I appreciate the willingness of the EAC to discuss this issue with us in such a way that it appears to be resolved.

Sincerely,



Gary O. Bartlett
Executive Director



STATE BOARD OF ELECTIONS

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GARY O. BARTLETT
Executive Director

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July 16, 2008

Re: Response to EAC NFR 0800.02
From: Gary O. Bartlett, Executive Director

The State Board of Elections does not dispute the Notice of Findings and Recommendations 0800.02. The issue listed was the State Board of Elections had not included all the required information on its Section 251 Financial Status Report, SF 269 for 2006 and prior years. As noted in the NFR, the reports have already been corrected to reflect accurate information. This was completed during the course of the audit.

July 16, 2008

Re: Response to EAC NFR 0800.04
From: Gary O. Bartlett, Executive Director

The State Board of Elections does not dispute the Notice of Findings and Recommendations 0800.04. The issue listed was the State Board of Elections had not received the proper amount of state matching funds in its budget.

We have been informed by North Carolina Legislative Fiscal Staff that the shortfall of \$2,067 will be appropriated in the 2009 Legislative Session.

We note that the state auditors conducting a prior single audit of HAVA funds found the shortfall, but informed me that the amount of the shortfall was too small to report under the reporting guidelines they followed.

AUDIT METHODOLOGY

Our audit methodology included:

- Assessing audit risk and significance within the context of the audit objectives.
- Obtaining an understanding of internal control that is significant to the administration of the HAVA funds.
- Understanding relevant information systems controls as applicable.
- Identifying sources of evidence and the amount and type of evidence required.
- Determining whether other auditors have conducted, or are conducting, audits of the program that could be relevant to the audit objectives.

To implement our audit methodology, below are some of the audit procedures we performed:

- Interviewed appropriate SBE employees about the organization and operations of the HAVA program.
- Reviewed prior single audit report and other reviews related to the state's financial management systems and the HAVA program for the last 2 years.
- Reviewed policies, procedures and regulations for the SBE's management and accounting systems as they relate to the administration of HAVA programs.
- Analyzed the inventory lists of equipment purchased with HAVA funds.
- Tested major purchases and supporting documentation.
- Tested randomly sampled payments made with the HAVA funds.
- Verified support for reimbursements to local governments (counties, cities, and municipalities).
- Reviewed certain state laws that impacted the election fund.
- Examined 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.
- Evaluated compliance with the requirements for accumulating financial information reported to the Commission on the Financial Status Reports, Form SF-269, accounting for property, purchasing HAVA related goods and services, and accounting for salaries.
- Verified the establishment and maintenance of an election fund.

- Conducted site visits of selected counties to perform the following:
 - Observe equipment purchased with HAVA funds for proper accounting and safeguarding
 - Test disbursement of HAVA funds for allowability and compliance
 - Test cash receipts from SBE to ensure proper cash management
 - Test procurement of voting equipment for competitive bid process
 - Ensure compliance with HAVA Act.

MONETARY IMPACT AS OF DECEMBER 31, 2007

<i>Description</i>	<i>Questioned Costs</i>	<i>Additional Funds for Program</i>
State matching funds	\$0	\$2,067
Totals	<u>\$0</u>	<u>\$2,067</u>

Note: In addition to the amounts shown in the schedule above, additional funds for the HAVA program should be made available as a result of the resolution of issues related to interest earnings as discussed in the report.

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