



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

**ADMINISTRATION OF PAYMENTS
RECEIVED UNDER THE HELP AMERICA
VOTE ACT BY THE SOUTH CAROLINA
ELECTION COMMISSION**

**Report No.
E-HP-SC-11-06
January 2007**



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

January 11, 2007

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 South Carolina Election Commission (Assignment Number E-HP-SC-11-06)

This report presents the results of the subject audit. The objectives of the audit were to determine whether South Carolina (1) expended Help America Vote Act (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 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 South Carolina generally complied with requirements and identified the following areas needing management attention:

- ✓ South Carolina did not obtain required prior approval from EAC for the acquisition of a vehicle with a capitalized cost of \$92,506. As a result, we classified the \$92,506 as a questioned cost
- ✓ Counties did not keep records that sufficiently accounted for equipment purchased with HAVA funds.
- ✓ South Carolina miscalculated the matching fund requirement, and did not deposit into the State election fund interest earned on the matching funds which it had appropriated. Consequently, South Carolina understated its matching fund requirement by \$85,319 and owes the election fund interest estimated at \$29,475.
- ✓ South Carolina was unable to provide supporting documentation to show that it had met its maintenance of effort requirement for activities funded by

Section 251 payments at a level not less than expended in the state fiscal year ending June 30, 2000.

In its December 22, 2006 response to the draft report (Appendix 3), South Carolina agreed with the audit findings and indicated that corrective action was in process. In particular, South Carolina advised that it had requested approval from the EAC for the vehicle purchase, informed counties of the steps needed to comply with property accountability requirements, sought further guidance from EAC on which funds should be deposited into an interest bearing account, and started to quantify its maintenance of effort costs.

Please provide us with your written response to the recommendations included in this report by March 9, 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.1) 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) 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
SOUTH
CAROLINA**

HAVA funds received and expended by South Carolina are as follows:

<i>TYPE OF PAYMENT</i>	<i>AMOUNT RECEIVED</i>	<i>OUTLAYS</i>	
		<i>AMOUNT</i>	<i>AS OF¹</i>
101	\$4,652,412	\$1,520,877	12/31/05
102	2,167,518	1,998,330	12/31/05
251	32,421,280	31,646,471	09/30/05
Totals	\$39,241,210	\$35,165,678	

**FINANCIAL
MANAGEMENT
REQUIREMENTS**

Within South Carolina, HAVA programs are administered by the State Election Commission. 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, EAC 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”).
- ✓ Expend payments in accordance with *Cost Principles for State, Local and Indian Tribal Governments*. These Principles establish the allowability or unallowability of certain items of cost for federal participation and were 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.

OBJECTIVE

The objectives of our audit were to determine whether South Carolina (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.

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.

Specifically, we audited claimed expenditures from July 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 administrative 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 South Carolina had complied with the requirements in HAVA applicable to Section 251 requirements payments for:

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

RESULTS OF AUDIT

SUMMARY

We concluded that South Carolina generally administered funds in accordance with financial management requirements. However, it did not obtain required prior approval from EAC for the acquisition of a vehicle with a capitalized cost of \$92,506 or make sure that counties kept required property records of equipment purchased with HAVA-funds. As a result, we classified the \$92,506 as a questioned cost and determined that county property records did not contain all required management information.

Regarding the compliance requirements associated with Section 251 payments, we found that South Carolina properly established a State election fund. On the other hand, we found that it miscalculated the matching fund requirement, and did not deposit into the State election fund interest earned on the matching funds which it had appropriated. Consequently, South Carolina understated its matching fund requirement by \$85,319 and owes the election fund interest estimated at \$29,475. Finally, we were not able to determine whether South Carolina satisfied the maintenance of effort requirement because it did

not identify its base-year level of effort or subsequent years spending of state funds pertaining to Section 251-type activities.

**QUESTIONED
EQUIPMENT
COSTS**

South Carolina used HAVA funds to purchase and outfit a bus to serve as a mobile training unit to educate voters on the new voting system and regulations. South Carolina capitalized the bus as a \$92,506 item in its equipment inventory. The \$92,506 consists of the purchase price of \$63,900 plus outfitting costs of \$28,606. We questioned the costs of \$92,506 because South Carolina did not obtain prior approval from EAC, as required by OMB Circular A-87, before purchasing the bus. Specifically, Attachment B to Circular A-87, Part 15, requires that agencies receive advance approval for the purchase of general purpose equipment or special purpose equipment with a unit cost of \$5,000 or more.

During our audit, the State Election Commission requested from EAC approval for the bus purchase.

Recommendation:

1. We recommend that EAC resolve the questioned costs of \$92,506.

South Carolina Response:

South Carolina stated that it is awaiting a response from EAC to a September 1, 2006 request for retroactive approval of the vehicle purchase.

PROPERTY

The standards specify that property records must be maintained that include a description of the property; a serial number or other identification number; the source of property; who holds the title; the acquisition date; cost of the property; percentage of Federal participation in the cost of the property; the location, use and condition of the property; and any ultimate disposition data including the date of disposal and sale price of the property. Although the counties maintained a list of voting machines with serial numbers, they did not keep other required information necessary to adequately manage property. State Election Commission officials told us that they were not aware of the Federal requirements, and thus did not pass them on to the counties.

Recommendation:

2. We recommend that the EAC ensure that the South Carolina State Election Commission requires all counties to comply with the Federal equipment management requirements.

South Carolina Response:

South Carolina advised that it has informed the counties of the requirements for property records and that it requested county directors to certify that the county is in compliance with the federal requirements.

OIG Comments:

The State procedures should also include a means to verify the accuracy of the certifications. This could be done on a test basis.

MATCHING

South Carolina (a) understated its matching contribution by approximately \$85,319 and (b) did not deposit its matching funds into the State's election fund, resulting in lost interest of \$29,475.

As a condition to receiving requirements payments, Section 253 (b)(5) of HAVA requires states to have:

. . . appropriated funds for carrying out the activities for which the requirements payment is made in an amount equal to 5 percent of the total amount to be spent for such activities (taking into account the requirements payment and the amount spent by the State) . . .

South Carolina understated its matching funds because it miscalculated its matching requirement. In doing so, it applied the 5 percent to only the Federal payment of \$32,421,280. This resulted in South Carolina appropriating \$1.6 million. The correct calculation is to first divide the Federal payment by 95 percent to determine the total federal and state funds of \$34,127,663. Then, to arrive at the state match, deduct the Federal payment (\$32,421,280) from the total funds. This results in a state matching requirement of \$1,706,383, or \$85,319 more than the state actually appropriated.

HAVA, in Section 254 (b)(1), also requires states to deposit the funds appropriated to match the requirements payment into a state election fund, described as follows:

. . . 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:

(A) Amounts appropriated or otherwise made available by the State for carrying out the

activities for which the requirements payment is made to the State under this part.

- (B) The requirements payment made to the State under this part.
- (C) Such other amounts as may be appropriated under law.
- (D) Interest earned on deposits of the fund.

We found that South Carolina did not, however, deposit the \$1.6 million that it had appropriated into its election fund. This occurred because state officials were not aware of the requirement to deposit matching funds into the state election fund. As a result, South Carolina lost interest that it would have earned had it deposited its full matching fund requirement into the state fund. We estimated that the election fund earned interest at an annual rate of approximately 3 percent. Using the 3 percent interest rate, we computed lost interest to be about \$29,475.

Recommendation:

3. We recommend that the EAC require the South Carolina State Election Commission to deposit state funds of \$114,794 (\$85,319 under match plus interest of \$29,475) into the state election fund.

South Carolina Response:

South Carolina replied that appropriated funds are available to provide the full match and the forgone interest. The response also said that the Assistant Treasurer for South Carolina requested clarification on the HAVA requirement for depositing state matching funds and related interest into the election fund. To respond to the Assistant Treasurer's request, South Carolina requested guidance for EAC on November 9, 2006 and stated that it would "proceed with the matter based on the response we receive."

***MAINTENANCE
OF EFFORT***

South Carolina's State Plan did not identify the amount of state funds expended in the base year (State fiscal year 2000) for activities funded by Section 251 requirements payments. In addition, the Plan did not indicate how the State would maintain its expenditures at or above that base-year level in subsequent fiscal years.

HAVA Section 254 (a)(7) specifies that a state plan must describe how the state, in using Section 251 requirements payments, will "maintain

the expenditures of the State for activities funded by the 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.”

South Carolina’s State Plan says that “in using any requirements payment, South Carolina will maintain expenditure of the State for activities funded by the payment at a level equal or greater than the level of such expenditures in State Fiscal Year 2000.” However, we found that South Carolina did not have a process to identify state expenditures for Section 251-type activities.

As a result, South Carolina had not determined the appropriate state expenditures in the base year or the qualifying expenditures in subsequent years. As such, we could not verify that South Carolina complied with the maintenance of effort requirement.

Recommendations:

We recommend that EAC:

4. Require South Carolina to identify its base year expenditures for activities related to HAVA Section 251 requirements payments, and the annual expenditures for these activities for subsequent fiscal years.
5. Identify any appropriate actions to be taken based on the information submitted by South Carolina.

South Carolina Response:

South Carolina replied that its understanding of the maintenance of effort “was that we were not to use federal funds to pay for any items that were not previously funded with the federal funds. Special care has been taken to ensure that no HAVA funds have been used to fund prior commitments or any items not specifically relevant to HAVA.” The response also said that South Carolina was “in the process of determining the actual dollar amount and will submit that figure to your office when it has been determined.”

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 State'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 South Carolina 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 Election Commission 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 the Division'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>Description</u>	<u>Questioned Costs</u>	<u>Additional Funds for Program</u>
Bus	\$92,506	
Matching:		
Under match		\$ 85,319
Interest		29,475
Totals	<u>\$92,506</u>	<u>\$114,794</u>



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December 22, 2006

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

Re: Audit of Help America Vote Act funds received by South Carolina

Dear Mr. Crider:

Your office recently conducted an audit of Help America Vote Act (HAVA) funds to determine whether South Carolina:

- expended Help America Vote Act payments in accordance with the Act and related administrative requirements
- complied with the HAVA requirements for:
 - replacing punch card or lever voting machines
 - appropriating a 5 percent match for requirements payments
 - establishing an election fund
 - maintaining state expenditures for elections at a level not less than expended in fiscal year 2000

I will respond to the results of the Office of Inspector’s (OIG) audit in the order listed on the summary of the report. The report concluded that South Carolina generally administered funds in accordance with financial management requirements. However, the following items were noted:

Questioned Equipment Costs

South Carolina did not receive prior approval from the EAC before purchasing a vehicle with a capitalized cost of \$92,506. The State Election Commission (SEC) was not aware of the requirement that prior approval be granted before purchasing equipment exceeding \$5,000. The vehicle purchase was included in a contract which was bid through the South Carolina Budget

and Control Board's Materials Management Office. On September 1, 2006 we wrote Peggy Sims, Research Analyst with the EAC, to request approval for the previously purchased vehicle. We have not, to date, received a response.

Property

OIG auditors visited five randomly selected counties in South Carolina to ensure property records for equipment purchased with HAVA funds contained the required information. Per the audit finding, the counties maintained a list of all equipment with serial numbers, but they did not keep other required information necessary to adequately manage property. We were advised, as a result of the audit, that the Code of Federal Regulations (at 41 CFR 105-71.132(d)) lists the minimum elements required for property records.

On August 29, 2006 a story was posted on our agency's Intranet system which informed the counties of the minimum elements. The Intranet system is used to correspond between the agency and all county voter registration/election offices throughout the State. Also, a memo with the same information was sent to all county directors and chairpersons on September 21, 2006 and they were requested to certify, in writing, to the SEC that their county was in compliance with the federal regulations. Several counties have responded, and we will be following up with those counties that have not done so.

Matching

OIG auditors reported that South Carolina understated its matching contribution by approximately \$85,319 and also did not deposit its matching funds into the State's election fund, resulting in lost interest of \$29,475. The understated match was the result of using an incorrect formula. During the audit, we were advised of the proper way to calculate the matching portion.

We were originally advised that South Carolina should receive approximately \$49M dollars in federal funds for the HAVA project. With that information, we requested \$2.1M in matching funds. The final year of federal funding for HAVA has not been authorized; therefore, unless the final funds are received, the necessary matching funds will be less than originally estimated. The full \$2.1M was appropriated by the S. C. General Assembly so the funds are available to provide the full match in the amount of \$1,706,383 and also to provide interest lost in the amount of \$29,475.

The SEC was not aware that the matching funds should be earning interest. The draft report by your office cited Section 254 (b) (1) of the Act. The SEC has contacted Mr. Paul Jarvis, Assistant Treasurer for South Carolina, and requested that the matching funds be deposited into the appropriate account in order for interest to be earned on the funds. Mr. Jarvis responded to our office concerning the applicable section and he would like clarification on which funds should be earning interest before he complies with our request to deposit the matching funds into the interest bearing account.

Response to Federal Audit of Federal Funds
Page Three
December 22, 2006

An email was sent to Ms. Peggy Sims on November 9, 2006 regarding this matter and we are waiting on a response. When we receive the response, we will contact Mr. Jarvis and proceed with the matter based on the response we receive.

Maintenance of Effort

Per the audit, South Carolina did not identify the amount of state funds expended in the base year (2000) for activities funded by Section 251 requirements payments. We were not aware before the federal audit that we were required to determine a specific dollar amount. Our understanding of "maintenance of effort" was that we were not to use federal funds to pay for any items that were not previously funded with the federal funds. Special care has been taken to ensure that no HAVA funds have been used to fund prior commitments or any items not specifically relevant to HAVA. We are in the process of determining the actual dollar amount and will submit that figure to your office when it has been determined.

I appreciate the opportunity to respond to the audit findings. While I agree with the findings in your report, I would like to ensure you that we at the South Carolina Election Commission have worked diligently to comply with all federal requirements when administering HAVA in our State. We will make any necessary corrections as recommended per the audit and will strive to comply with all federal requirements in the future.

Sincerely,



Marci Andino
Executive Director

MBA/jr

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