U.S. ELECTION ASSISTANCE COMMISSION
OFFICE OF INSPECTOR GENERAL

FINAL REPORT:

Administration of Payments Received Under the Help America Vote Act by the Michigan Department of State

MAY 1, 2003 THROUGH FEBRUARY 28, 2009

Report No.
E-HP-MI-01-08
April 2010

U.S. ELECTION ASSISTANCE COMMISSION
OFFICE OF INSPECTOR GENERAL
1201 New York Ave. NW - Suite 300
Washington, DC 20005

April 23, 2010

Memorandum

To: Thomas Wilkey
Executive Director

From: Curtis W. Crider
Inspector General

Curtis W. Crider

Subject: Final Audit Report - Administration of Payments Received Under the Help America Vote Act by the Michigan Department of State (Assignment Number E-HP-MI-01-08)

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 Michigan Department of State (MDOS). 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 MDOS, Clifton Gunderson concluded that, except for the failure of MDOS to deposit Section 251 state matching funds in the HAVA fund as required and the shortfall in interest on this amount, our audit concluded that the SOS 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 MDOS also complied with section 251 requirements.

In its September 18, 2009 response (Appendix A), the MDOS agreed with the report's finding and recommendations, and provided corrective action. In their response to the draft report on March 22, 2010, MDOS management stated that they had no additional comments.

Please provide us with your written response to the recommendation included in this report by June 23, 2010. 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 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 STATE OF MICHIGAN

May 1, 2003 Through February 28, 2009

UNITED STATES ELECTION ASSISTANCE COMMISSION

Clifton Gunderson LLP
Certified Public Accountants & Consultants

TABLE OF CONTENTS

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

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 Michigan Department of State (MDOS) for the period May 1, 2003 through February 28, 2009 to determine whether the MDOS 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 MDOS 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 MDOS'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 failure of MDOS to deposit Section 251 state matching funds in the HAVA fund as required and the shortfall in interest on this amount, which is discussed below, our audit concluded that MDOS generally accounted for and expended HAVA funds in accordance with the requirements mentioned above for the period from May 1, 2003 through February 28, 2009. The exception needing MDOS's management attention is as follows:

> The state did not deposit required matching funds into the election fund prior to receipt of each of the four Section 251 distributions from the EAC. The state's legislature appropriated the required matching funds, but retained the dollars in the general fund until a qualifying HAVA Section 251 expenditure invoice was received, at which time the state would

contribute 5% of the total amount billed. The state had a matching fund requirement of $4,155,814, and, as of February 28, 2009, total payments of $3,002,555 had been applied against this total, resulting in a $1,153,259 shortfall of matching funds in the election fund. In addition, the HAVA election fund has lost interest which would have been earned if the matching funds had been deposited timely. The MDOS staff has calculated this interest total to be $348,956 through February 28, 2009.

We have included in this report the MDOS managements' formal response to our findings and recommendations dated September 18, 2009, which was included in our draft report submitted October 31, 2009. In their response to the draft report on March 22, 2010, MDOS management stated they had no additional comments. Although we have included management's written responses to our findings and recommendations, such responses have not been subjected to the audit procedures and, accordingly, we do not provide any form of assurance on the appropriateness of the responses or the effectiveness of the corrective actions described therein. The MDOS 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 Michigan Department of State:

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 MDOS 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 MDOS.

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]

---

[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.

SCOPE AND METHODOLOGY

We audited the HAVA funds received and disbursed by the MDOS from May 1, 2003 through February 28, 2009.

Funds received and disbursed from May 1, 2003 (program initiation date) to February 28, 2009 (70-month period) are shown below:

	FUNDS RECEIVED						
TYPE OF PAYMENT	EAC PAYMENT	PROGRAM INCOME	STATE MATCH	INTEREST EARNED	TOTAL AVAILABLE	FUNDS DISBURSED	DATA AS OF
Section 101	$ 9,207,323	$ 0	$ 0	$ 1,405,040	$10,612,363	$2,194,720	02/28/09
Section 102	6,531,284	0	0	408,529	6,939,813	6,432,323	02/28/09
Section 251	78,960,474	0	3,034,121 1	6,506,450 2	88,501,045	60,682,414	02/28/09
Total	$94,699,081	$0	$3,034,121	$8,320,019	$106,053,221	$69,309,457	02/28/09

Notes: 1) The required state match is $4,155,814. As discussed below, MDOS did not deposit this amount in its HAVA fund prior to the receipt of Section 251 funds. Instead, MDOS used its general fund to pay for five percent of each expenditure as they occurred. As of February 28, 2009, the state's share of these expenditures totaled $3,034,121. As a result there is a $1,121,693 shortfall in the HAVA account plus interest that should have been accrued.

2) The $6,506,450 of interest earned on Section 251 funds is based on the HAVA funds disbursed to the State of Michigan. Because of the way in which MDOS matched Section 251 payments no interest has been accrued and credited to the HAVA fund on the state match.

Our audit methodology is set forth in Appendix B.

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 failure of the MDOS to deposit the state match and related interest earnings in the HAVA fund as required, and the determination of whether the SOS and its subgrantees met the requirement for maintenance of a base level of state outlays which were specifically omitted from our scope of work as explained above, our audit concluded that MDOS generally accounted for and expended HAVA funds in accordance with the requirements mentioned above. The MDOS has taken action on or is working to resolve the exceptions described below as set forth in Appendix A:

HAVA Section 251 Fund State Match

MDOS established an election fund to hold HAVA funds in accordance with the requirements of HAVA Section 254. The HAVA also requires that the election fund hold the five percent state matching funds that enabled MDOS to qualify for federal HAVA Section 251 funds. Furthermore, interest earned from the investment of the money in the election fund must also be deposited into the election fund. The timely deposit of the state match and of monthly interest earnings increases the election fund balance upon which each subsequent month's interest earnings is based, resulting in a compounding effect that adds additional funds to the program.

MDOS determined that the state had a requirement to provide matching funds totaling $4,155,814 to be eligible to receive Section 251 funds. MDOS, however, did not deposit the State matching funds into its election fund. The matching funds were appropriated by the State but remained in the general fund until expended. The state then paid five percent of each Title II qualifying expenditure from its general fund. Thus, as of December 31, 2008. the state had only expended $3,011,296 of general funds against the state matching requirement, resulting in a shortfall of $1,144,518. Further, the state did not transfer any interest earned on the balances in the general funds into the HAVA election fund as required.

Sec. 253(b)(5) states that, as a condition for receipt of funds (Requirements Payments), the state has 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) and, in the case of a state that uses a requirements payment as a reimbursement under section 251(c)(2), an additional amount equal to the amount of such reimbursement.

Section 254(b)(1) of the HAVA requires that the following monies be deposited into its election fund:

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 (*the state five percent match of HAVA Section 251 funds*).

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.

MDOS officials told us that rather than deposit the state match in the HAVA account these funds were deposited into the MDOS general fund. They then programmed their accounting system to automatically charge both the HAVA fund and the MDOS general fund to record Section 251 expenditures. The HAVA fund is charged for ninety-five percent of the expenditure and the MDOS general fund is charged for the remaining five percent. When the Section 251 funds received from EAC are expended, only the compounded interest will remain in the HAVA fund. MDOS will then request an appropriation adequate to allow it continue to pay the five percent state match against the accumulated interest.

Recommendations:

We recommend that the Secretary of State's Office:

1) Comply with HAVA by depositing into the election fund the state match shortfall of $1,144,518 or such amount as determined at the date of the transfer.
2) Determine the amount of compounded interest that would have been earned on the state matching funds from the date they should have been timely deposited in the election fund through the date of the transfer, and periodically deposit these interest earnings.

MDOS's Response:

The MDOS said that the Michigan Office of Financial Management would deposit the state match balance as of September 31, 2009 into a new interest-bearing HAVA fund on October 1, 2009. As of August 31, 2009, the state match balance was $1,103,885.35.

The amount of lost interest was determined to be $348,955.98. The MDOS stated that they do not plan to deposit this lost interest into the election fund since MDOS has increased the amount paid for HAVA maintenance of effort activities by state funds by significantly more than this amount. According to information provided to us by the MDOS, Michigan had made cumulative expenditures toward maintenance of effort activities of $1,947,525.69 in excess of its required maintenance of effort from Fiscal Years 2004 through 2008.

Auditor's Response:

EAC should review the reasonableness of MDOS's assertion that excess maintenance of effort from Fiscal years 2004 through 2008 could be used to offset the lost interest of $348,955.98.

****

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

CG performed its initial field work between October 13, 2008 and October 24, 2008; however questions arose concerning the maintenance of effort at the local jurisdictions, and the completeness of inventory records of five jurisdictions we visited. The issues concerning the inventory records were resolved, and, as mentioned above, the EAC is developing guidelines on how maintenance of effort should be assessed. Therefore, we performed followup fieldwork between April 6, 2009 and April 17, 2009 to address inventory and to update financial data through February 28, 2009.

Clifton Gunderson LLP

Calverton, Maryland
December 18, 2009

Appendix A

SECRETARY OF STATE RESPONSE

1) The Michigan Office of Financial Management will deposit the state match balance as of September 31, 2009 into a new interest-bearing HAVA fund on October 1, 2009. As of August 31, 2009, the state match balance is $1,103,885.35. (NFR Attachment 1)

2) Based on the response above, the state match balance will begin earning interest on October 1st, 2009. The $348,955.98 in lost interest (NFR Attachment 1) will not be deposited into the election fund since MDOS has increased the amount paid for HAVA maintenance of effort with state funds by significantly more than this amount. (NFR Attachment 2)

Auditor Note:

The two attachments noted above are Excel spreadsheets that are not included with this report:

NFR Attachment 1 is the detailed computation of the interest shortfall of $348,955.98.

NFR Attachment 2 is a listing of the state's totals by year for MOE, that shows an excess aggregate total of $1,947,525 which the SOS contends should be offset against the shortfall in interest shown above.

Appendix B

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 MDOS 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 MDOS'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.
- 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 MDOS to ensure proper cash management
  - Test procurement of voting equipment for competitive bid process
  - Ensure compliance with HAVA Act.

MONETARY IMPACT AS OF JULY 31, 2009

Description	*Questioned Costs*	*Additional Funds for Program*
Interest on state matching funds	$0	$348,956
Totals	$0	$348,956

Note: The interest total above is the amount due through July 31, 2009, and additional interest would be due for the lapse of time to when the shortfall is deposited.

OIG's Mission

The OIG audit mission is to provide timely, high-quality professional products and services that are useful to OIG's clients. OIG seeks to provide value through its work, which is designed to enhance the economy, efficiency, and effectiveness in EAC operations so they work better and cost less in the context of today's declining resources. OIG also seeks to detect and prevent fraud, waste, abuse, and mismanagement in these programs and operations. Products and services include traditional financial and performance audits, contract and grant audits, information systems audits, and evaluations.

Obtaining Copies of OIG Reports

Copies of OIG reports can be requested by e-mail. (eacoig@eac.gov).

Mail orders should be sent to:

U.S. Election Assistance Commission
Office of Inspector General
1201 New York Ave. NW - Suite 300
Washington, DC 20005

To order by phone: Voice: (202) 566-3100
Fax: (202) 566-0957

To Report Fraud, Waste and Abuse Involving the U.S. Election Assistance Commission or Help America Vote Act Funds

By Mail: U.S. Election Assistance Commission
Office of Inspector General
1201 New York Ave. NW - Suite 300
Washington, DC 20005

E-mail: eacoig@eac.gov

OIG Hotline: 866-552-0004 (toll free)

FAX: 202-566-0957