



EAC MANAGEMENT DECISION:

Resolution of the OIG Audit Report on the Administration of Payments Received Under the Help America Vote Act by California's Secretary of State, for the Period January 1, 2005 Through December 31, 2008, Report No. E-HP-CA-01-09

September 30, 2010

BACKGROUND

The EAC is an independent, bipartisan agency created by the Help America Vote Act (HAVA). EAC assists and guides state and local election officials in improving the administration of elections for Federal office. EAC distributes HAVA funds to States for the acquisition of voting systems, and supports the establishment of statewide voter registration lists, and other activities to improve the administration of elections for Federal office. EAC monitors State use of HAVA funds to ensure funds distributed are being used for authorized purposes. To help fulfill this responsibility, the EAC determines the necessary corrective actions to resolve issues identified during Single Audit Act and Department of Inspector General (OIG) audits of state administration of HAVA funds. The EAC OIG has established a regular audit program to review the use of HAVA funds by States. The OIG's audit plan and audit reports can be found at www.eac.gov.

The EAC Audit Follow-up Policy authorizes the EAC Executive Director to issue the management decision for OIG audits of Federal funds to state and local governments, to non-profit and for-profit organizations, and for single audits conducted by state auditors and independent public accountants (external audits). The Executive Director has delegated the evaluation of final audit reports provided by the OIG and single audit reports to the Director of the HAVA Grants Division of EAC. The Division provides a recommended course of action to the Executive Director for resolving questioned costs, administrative deficiencies, and other issues identified during an audit. The EAC Executive Director issues the EAC Management Decision that addresses the findings of the audit and details corrective measures to be taken by the State.

States may appeal the EAC management decisions. The EAC Commissioners serve as the appeal authority. A State has 30 days to appeal the EAC management decision. All appeals must be made in writing to the Chair of the Commission. The Commission will render a decision on the appeal no later than 60 days following receipt of the appeal or, in the case where additional information is needed and requested, 60 days from the date that the information is received from the State. The appeal decision is final and binding.

AUDIT HISTORY

The OIG issued an audit report on the administration of payments received under the Help America Vote Act (HAVA) by California's Secretary of State (SOS) on December

14, 2009. With noted exceptions, the audit concluded 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 (EAC). The SOS also complied with Section 251 requirements. The exceptions noted in the audit were:

- There were errors in Financial Status Reports (SF 269) submitted to the EAC during the audit period for Section 101 funds.
- Section 102 funds were transferred to Los Angeles County that were not spent timely because of a delay in the state's voting system certification process, and the interest earned on idle funds was not deposited into the HAVA election fund.
- Property records at six of the seven counties the auditors visited were not adequate, because they did not contain all of the information required by the Common Rule, and two of the counties were unable to locate some of the equipment selected for physical observation.
- The state spent \$81,374 to print voter registration cards to be sent to each high school and university student in the state, which are questioned costs.

All corrective actions required in this audit are to be completed before November 30, 2010.

I. Accounting and Reporting Errors

The SOS submitted incorrect Financial Status Reports (SF-269s) for Section 101 funds from 2004 through 2008. The amounts reported did not match amounts shown in the State's financial accounting system. In its most recent SF-269 submitted on February 27, 2009, Cumulative Total Outlays were overstated by \$141,204. Previous year's SF-269's were understated by \$1,265,894.49 in 2004 and by \$5,285,407.69 in 2005. They were overstated by \$391,106.26 in 2006 and by \$141,204 in 2007.

RECOMMENDATION:

The SOS should coordinate with the EAC regarding the filing of amended forms SF 269 to report the correct information and ensure that future Section 101 financial reports reconcile to the election fund as of the date of the report.

SOS'S RESPONSE:

The SOS disagreed with some elements of the finding, contending that the various differences cited were a result of timing and miscoding of expenditures, and the reporting thereof, and not the result of inappropriate use of HAVA funds, as set forth in Appendix A. The SOS also stated that they have internal controls regarding the appropriate review of financial reports prior to filing. However, they did agree that the cumulative reporting error needed to be corrected and a revised report was filed with the EAC on September 22, 2009.

AUDITORS' RESPONSE:

The auditors commended the SOS for implementing internal control procedures through segregation of duties to comply with the financial requirements of the HAVA, and encouraged the SOS to implement reconciliation procedures that will ensure financial reports filed with the EAC reflect accurate amounts for appropriate assessment of the HAVA program in California.

EAC MANAGEMENT DECISION

The SOS has internal controls regarding the appropriate review of financial reports prior to filing. The EAC has reviewed the most recent SF 269 reports submitted by the SOS. The most recent financial reports are complete and accurate. The EAC will ensure that the revised reports are on file for the period in question and that reconciliation procedures are fully implemented.

II. Financial Management System – Interest

The SOS transferred \$15.8 million in Section 102 funds to Los Angeles County in May 2004. The County was required to use these funds to replace its punch card voting system. However, because of a delay in the State's voting certification process, the County did not completely spend these advanced funds until fiscal year 2007. The County's single audit for the fiscal year ended June 30, 2007 found that during that period, the advanced funds and the related cumulative interest of about \$858,000 was retained by the County in its general fund.

The County requested guidance from the California Secretary of State's office as to the disposition of the interest income. The SOS responded to this request on August 27, 2008. The SOS advised the county that under HAVA it could retain the interest earned and use the funds for Section 102 HAVA related expenses. As of March 18, 2009, the County had not deposited the accumulated interest in a HAVA account. County election officials indicated they were working with the County's Auditor-Comptroller's office to have the funds transferred.

RECOMMENDATION:

The SOS should direct the County of Los Angeles to determine the interest income which has accrued in the County's general fund because of the delay in disbursing Section 102 funds and to deposit this amount in the County's HAVA fund to be used for expenses related to the replacement of punch card voting machines. The SOS should also verify the interest calculations made by the County to assure the correct amount is returned to the HAVA fund. We also recommend that in the future the SOS provide funds to counties only to reimburse prior county expenditures or when it is clear that the counties will be able to spend the funds on a timely basis.

SOS'S RESPONSE:

The SOS agreed that there is accumulated interest on the undisbursed Section 102 funds advanced to the County, and that it needs to be transferred to the credit of HAVA funds. However, the SOS took exception with the characterization that potential interest income had been lost.

The SOS worked with Los Angeles county officials to ensure that all interest earned on the advanced HAVA funds was transferred to the county's HAVA election fund. The County will also be required to submit an annual financial report of the beginning and ending balances in the election fund, including support that all expenditures during the period comply with Section 102 requirements for voting machine replacement.

EAC MANAGEMENT DECISION:

The EAC will verify that all interest earned on the advanced funds was transferred to the county's HAVA election fund. EAC will also ensure that the SOS verifies County interest calculations. Additionally, the EAC will review the SOS's policy for providing funding to counties.

III. Property Management

Six of the seven counties visited did not maintain adequate records of equipment purchased with HAVA funds in compliance with the Common Rule. Part 41 CFR 105-71.132 states 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 title, the acquisition date, and 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 of the property. The Common Rule also requires that a physical inventory of the property must be taken and the results reconciled with the property records at least once every two years. Further, the Common Rule requires that a control system must be developed to ensure adequate safeguards to prevent loss, damage or theft of the property. Any loss, damage or theft shall be investigated.

At each of the seven counties visited, the auditors selected a random sample of the voting machines and traced the machines to the warehouse. At two counties, auditors were unable to find all of the machines in the sample. At one of the counties, the specific location within the warehouse of each machine in the inventory was not identified in the inventory listings maintained by the county. The County stored over two thousand voting machines in the warehouse. Warehouse staff did have informal records of the specific locations of some of the machines. However, only two of the 30 items in the sample were listed on the informal records. As a result, auditors were able to find only two of the 30 items in the sample.

RECOMMENDATION:

The SOS should insure that property management records of the counties have the information required by the Common Rule. The SOS should require Riverside and Sacramento counties to conduct a physical inventory of all HAVA-funded equipment in their possession and use the results to correct their property records. The SOS should also verify that other counties in the State are in compliance with federal regulations.

SOS’S RESPONSE:

Although the SOS took exception with certain elements of the finding regarding the applicability of the “Common Rule” and other guidance to counties, and the determination of the dollar values to be included in the inventory records, they agreed to work with the counties to ensure that HAVA property inventories reflect the standards as set forth in the guidance.

EAC MANAGEMENT DECISION:

EAC will work with the SOS to ensure property inventories reflect standards as set forth in the Common Rule and guidance to counties. EAC will verify the correction of incorrect property records.

IV. Procurement

The State improperly spent \$81,374 to print voter registration forms to be sent to every college and high school student in the State. California’s *Student Voter Registration Act of 2003*, (AB 593, ch819, Stats 2003) requires that the Secretary of State annually provide every high school, community college, California State University and University of California campus with voter registration forms. The act requires that the number of forms shall be consistent with the number of students enrolled at each school.

RECOMMENDATION:

The SOS should resolve with the EAC the issue of whether the costs associated with the printing of voter registration forms sent to state high schools and colleges are allowable HAVA expenditures. EAC should also require the State to determine if additional HAVA funds beyond the \$81,374 identified have been used to print voter registration forms for the same purpose.

SOS’S RESPONSE:

The SOS disagreed that the payment for the registration forms should not be allowed stating that the cost was incurred two years before definitive guidance in the form of frequently asked questions (FAQs) was issued by the EAC regarding the appropriate use of HAVA funds, and that the FAQs did not address the specific issue using HAVA funds for registration forms until August 2008. They also state that the printed forms contain

customized information directed at high school and college graduating seniors on how to register to vote, that is allowable based on the EAC's FAQ 08-005. This FAQ also disallows the cost of printing voter registration forms.

AUDITORS' RESPONSE:

The SOS is correct in that the voter registration forms provide information instructing individuals on how to register to vote; however, the EAC guidance is clear that the cost of printing voter registration forms is not allowed. We encourage the SOS to work with the EAC to evaluate the \$81,374 payment to determine if all or a part of the expense is an appropriate use of HAVA funds.

EAC MANAGEMENT DECISION:

The EAC will determine if additional HAVA funds beyond the \$81,374 identified have been used to print voter registration forms. Additionally, EAC will work with the SOS to determine if all or part of the \$81,374 expense is an appropriate use of HAVA funds.