



U.S. ELECTION ASSISTANCE COMMISSION
1225 NEW YORK AVENUE, N.W., SUITE 1100
WASHINGTON, D.C. 20005

March 30, 2007

Mark Ritchie
Secretary of State
180 State Office Bldg.
100 Constitution Avenue
St. Paul, Minnesota 55155-1299

Dear Secretary Ritchie:

Attached is the final audit resolution report of the U.S. Election Assistance Commission (EAC) regarding the single audit of Help America Vote Act (HAVA) funds expended by Minnesota. The resolution is based upon the information provided by the audit conducted by the Minnesota Office of Legislative Auditor.

After careful consideration of all the facts presented, EAC has determined that the state must repay \$30,177.00 to the state election fund due to inaccurate allocation of payroll expenses to HAVA funds. The state must revise its policies and procedures to timely request and use §261 funds rather than using §101 funds that will be reimbursed later. The state must amend its financial status reports to indicate the amount of funds reimbursed to §101 funds for each fiscal year that this practice was utilized. Minnesota must submit documentation showing that the state has implemented new policies and procedures to ensure that the list of suspended and debarred vendors will be checked prior to the award of any contract that utilizes HAVA funds.

The state shall have 30 days to appeal EAC's management decision. The appeal must be made in writing to the Chairman of the EAC. Within 30 days of receiving the appeal, the Commission may hold a hearing to consider the appeal, take evidence or testimony related to the appeal, and render a decision on the appeal, if appropriate at that time. The Commission will render a final and binding decision on the appeal no later than 60 days following the receipt of the appeal or the receipt of any requested additional information. If the state does not file an appeal, this decision will become final and binding at the expiration of the appeal period.

We appreciate your cooperation in this matter as we work together to ensure that HAVA funds are used in accordance with the law.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Wilkey", written over a circular stamp or seal.

Thomas R. Wilkey
Executive Director



U.S. ELECTION ASSISTANCE COMMISSION
1225 New York Ave. NW – Suite 1100
Washington, DC 20005

Final Audit Resolution Report
Minnesota Single Audit – Assignment No. E-SA-MN-26-06
Issued March 30, 2007

Summary of Decision

The U.S. Election Assistance Commission (EAC or Commission) has determined that the state must repay \$30,177.00 to the state election fund due to inaccurate allocation of payroll expenses to HAVA funds. The state must revise its policies and procedures to timely request and use §261 funds rather than using §101 funds that will be reimbursed later. The state must amend its financial status reports to indicate the amount of funds reimbursed to §101 funds for each fiscal year that this practice was utilized. Minnesota must submit documentation showing that the state has implemented new policies and procedures to ensure that the list of suspended and debarred vendors will be checked prior to the award of any contract that utilizes HAVA funds.

Background

The EAC is an independent, bipartisan agency created by Help of America Vote Act of 2002 (HAVA). It assists and guides state and local election administrators in improving the administration of elections for federal office. EAC provides assistance by dispersing federal funds to states to implement HAVA requirements, adopting the voluntary voting system guidelines, and serving as a national clearinghouse and resource of information regarding election administration. EAC is also responsible for the accreditation of testing laboratories and the certification, decertification, and recertification of voting systems.

In addition to EAC's role in distributing HAVA funds, the agency is responsible for monitoring the fiscally responsible use of HAVA funding by the states. The EAC seeks to ensure funds distributed under HAVA are being utilized for the purposes mandated by HAVA to ultimately improve the administration of federal elections. To fulfill this responsibility, the EAC conducts periodic fiscal audits of state HAVA fund expenditures and determines the any corrective actions necessary to resolve issues identified during audits. EAC is also responsible for resolving issues identified during state single audits conducted under the Single Audit Act. The EAC Office of Inspector General (OIG) has established a regular audit program in order to review the use of HAVA funds by states. The OIG's audit plan and audit findings can be found at www.eac.gov.

The Audit Follow-up Policy approved by the Commission authorizes the EAC Executive Director to issue the management decision for external audits and single audits. The Executive Director has delegated the evaluation of final audit reports provided by the OIG and single audit reports issued by the states to the EAC Programs and Services Division. 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 a Final Audit Resolution (management decision) that addresses the findings of the audit and details corrective measures to be taken by the state.

When an audit identifies questioned costs, the EAC considers not only whether the state followed proper procurement procedures, but also whether the expenditures actually served to further the goals of HAVA. EAC has identified three methods of resolution regarding questioned costs: 1) Expenditures that were identified as permissible under HAVA and federal cost principles, but did not follow appropriate procedures do not have to be repaid; 2) Expenditures that may have been permissible under HAVA but lacked adequate documentation must be repaid to the state election fund, which was created in accordance with HAVA section 254(b)(1); and 3) Expenditures that were clearly not permissible under HAVA or federal cost principles must be repaid to the U.S. Treasury. In addition to repayment of funds, the EAC may require future reporting by a state to ensure that proper internal controls and procedures have been established to prevent future problems.

States may appeal the EAC management decision. The EAC Commissioners serve as the appeal authority. A state has 30 days to appeal EAC's 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 Minnesota Office of Legislative Auditor conducted an audit under the Single Audit Act that covered the use of HAVA funds provided to Minnesota. The single audit report (Assignment No. E-SA-MN-26-06) for Minnesota for the state fiscal year that ended June 30, 2005 identified three issues that require EAC resolution.

Audit Resolution

The following categories explain the results of the audit outlined in the final audit report and how the EAC reached its final audit resolution regarding the issues identified by the OIG.

State did not ensure an accurate allocation of payroll expenses to HAVA funds

EAC agrees with the finding that the state did not have an appropriate process to ensure an accurate allocation of payroll expenses to HAVA funds and to promptly correct errors. Within 30 calendar days, the state must submit to EAC documentation to show the payroll reconciliation process has been implemented effectively. The state must also repay the state election fund \$30,177.00 owed as a result of payroll allocation errors made by the state.

Cash management practices did not maximize the state's use of federal funds

EAC agrees with the findings that the state did not utilize cash management practices that would maximize the use of federal funds. Although HAVA §101 funds can be used for "improving the accessibility and quantity of polling places," the funds also

have several other uses which funds given out under §261 do not have. EAC has contacted the Department of Health and Human Services (DHHS), which administers funds given out under §261, to determine if using §261 funds to reimburse the state for §101 expenditures is allowable under that respective grant program. This management practice negatively impacts the state by reducing the amount of interest earned on §101 funds that are spent awaiting the draw down of §261 funds. The state must revise its policies and procedures to timely request and use §261 funds rather than using §101 funds that will be reimbursed later. In addition, the state must amend its financial status reports to indicate the amount of funds reimbursed to §101 funds for each fiscal year that this practice was utilized.

The Secretary of State did not check the suspended and debarred contractor list before awarding contracts

We agree with the findings that the state did not check potential contractors and vendors against the list of vendors suspended or debarred from participating in federal programs. Within 30 calendar days, Minnesota must submit documentation showing that the state has implemented new policies and procedures to ensure that the list of suspended and debarred vendors will be checked prior to the award of any contract that utilizes HAVA funds.

Final Management Decision

EAC has determined that the state must repay \$30,177.00 to the state election fund. Repayment cannot be funded by the state's five percent match for requirements payments or the state's maintenance of effort funding. The state must submit a certification verifying repayment has been made to the state election fund, including supporting documentation.

The state must revise its policies and procedures to timely request and use §261 funds rather than using §101 funds that will be reimbursed later. In addition, the state must amend its financial status reports to indicate the amount of funds reimbursed to §101 funds for each fiscal year that this practice was utilized. Minnesota must submit documentation showing that the state has implemented new policies and procedures to ensure that the list of suspended and debarred vendors will be checked prior to the award of any contract that utilizes HAVA funds. Repayment verification, amended financial status reports, and all additional information requested from the state must be submitted to the EAC within 30 calendar days.

Minnesota shall have 30 days to appeal EAC's management decision. The appeal must be made in writing to the Chairman of the EAC. Within 30 days of receiving the appeal, the Commission may hold a hearing to consider the appeal, take evidence or testimony related to the appeal, and render a decision on the appeal, if appropriate at that time. The Commission will render a final and binding decision on the appeal no later than 60 days following the receipt of the appeal or the receipt of any requested additional information. If the state does not file an appeal, this decision will become final and binding at the expiration of the appeal period.

Final Audit Resolution Report

Minnesota Single Audit – Assignment No. E-SA-MN-26-06

Attachment 1



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

May 19, 2006

Memorandum

To: Thomas Wilkey
Executive Director

From: Roger La Rouche
Acting Inspector General

Handwritten signature of Roger LaRouche in black ink.

Subject: Resolution of Findings in the Minnesota Financial and Compliance Report on Federally Assisted Programs, for the Year Ended June 30, 2005 (Assignment No. E-SA-MN-26-06)

The subject single audit report contains reportable conditions¹ (Attachment) applicable to the administration of Help America Vote Act (HAVA) funds by the Minnesota Office of the Secretary of State (Office). The audit was performed by the Minnesota Office of Legislative Auditor, which is responsible for the report's findings.

The reportable conditions and recommendations are summarized below and presented in further detail in the attachment.

CONDITION 05-40-3

Finding: "The Office of the Secretary of State did not have a process to ensure an accurate allocation of payroll expenses charged to the HAVA grant." In this regard, the reports "identified various allocation errors" with a net effect "that the General Fund owed the HAVA account \$30,177." **Recommendation:** "The Office should generate periodic payroll summaries and promptly correct identified allocation errors." In response, the Office said that a payroll "reconciliation process was planned for the end of the biennium, which was after the audit period," and that fiscal "staff have been directed to generate reports that reflect the auditor's allocation coding preferences."

CONDITION 05-40-4

Finding: "The office's cash management practices for the Election Assistance for Individuals with Disabilities (EAID) grant did not maximize the state's use of federal funds." The Office disbursed \$170,000 of the \$202,382 grant amount to local units of

¹ According to the audit report, "reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of internal control over compliance that, in our judgment, could adversely affect the State of Minnesota's ability to administer a major federal program in accordance with applicable requirements of laws, regulations, contracts, and grants."

government. However, the Office used "Title I HAVA moneys" to reimburse local units of government instead of timely drawing down and using the EAID grant funds. In a related matter, the audit also found that the Office did not accurately report EAID grant disbursements on its federal financial status report. **Recommendations:** The Office should draw the federal share of its EAID grant as expenditures are incurred to minimize the use of Title I funds and ensure it submits accurate financial status reports. The Office responded, in part, that "Following the auditor's recommendation would have resulted in less money being available to local governments and for polling place improvements" and would have delayed disbursements to the local governments. The Office also said that "The EAID grant funds will be deposited in and will augment the other Federal funds in the HAVA Account as required" by State law.²

CONDITION 05-40-5

Finding: "The Office of the Secretary of State did not have a process to ensure that no federal funds were paid to suspended or debarred vendors." **Recommendation:** The Office should establish procedures to make sure it does not pay suspended or debarred vendors and include standard language relating to suspension and debarment in its subgrantee contracts. The Office replied that it had not awarded any contracts to debarred or suspended vendors and that it had established a procedure to review the Federal list of debarred and suspended vendors "prior to contracting with any vendor when Federal funds are used."

OFFICE OF INSPECTOR GENERAL RECOMMENDATIONS TO THE EAC:

1. Ensure that the payroll reconciliation process was implemented effectively.
2. Ensure that any adjustments to payroll charges to the General Fund and the HAVA account resulting from the payroll reconciliation are completed.
3. Ensure that all the EAID grant funds are deposited in the HAVA account.
4. Ensure that the procedure to check the list of suspended and debarred vendors before awarding a contract with HAVA funds has been implemented.

Please provide us a response to this memorandum by July 24, 2006. If you have any questions about this matter, please call me at (202) 566-3121.

cc: Chairman, U.S. Election Assistance
Commission
Minnesota HAVA Project
Administrator

Attachment

² Minnesota Session Laws 2003, 1st Special Session – Chapter 7, S.F. No. 8 established, among other things, the Help America Vote Act account in the state treasury for the deposit of all "money received from the federal government under the Help America Vote Act . . . money appropriated from the general fund to meet the matching requirement . . . [and] money earned from investing the assets of the account"

State of Minnesota
Financial and Compliance Report on Federally Assisted Programs
Fiscal Year Ended June 30, 2005

Minnesota Office of the Legislative Auditor
Schedule of Findings and Questioned Costs
Section III: Federal Program Audit Findings

Report 05-40

State Agency: Minnesota Office of the Secretary of State

Federal Agency: U. S. Election Assistance Commission

CFDA Number/Program Name:

90.401 Help America Vote Act (HAVA)

Questioned Costs: Nonquantifiable

Finding 05-40-3 Salary allocations not accurately made.

3. The Office of the Secretary of State did not have a process to ensure an accurate allocation of payroll expenses charged to the HAVA grant.

The Office of the Secretary of State did not allocate fringe benefits consistently for employees directly and indirectly charged to the HAVA program. In addition, the office did not correct other allocation errors pertaining to overtime charges and posting of actual hours worked. The office designed a labor distribution spreadsheet to meet federal requirements governing payroll allocation. The labor distribution spreadsheet captured both estimated and actual hours worked by employees charged to the HAVA program. We identified various allocation errors totaling \$114,000. The net affect of the errors was that the General Fund owed the HAVA account \$30,177.

Currently, the office does not produce or review monthly allocation summaries that would help identify posting errors. Office of Management and Budget (OMB) Circular A-87, *Cost Principles for State Governments*, requires that the allocation system provide periodic reports to identify and adjust estimated versus actual amount variances. The office explained that the allocation system, which began recording charges on July 1, 2003, was not fully operational. Periodic reports could provide management with the opportunity to detect posting errors and inconsistencies in hours reported for overtime and other fringe benefits.

Recommendation

- *The office should generate periodic payroll summaries and promptly correct identified allocation errors.*

Minnesota Office of the Legislative Auditor
Schedule of Findings and Questioned Costs
Section III: Federal Program Audit Findings – Continued

Minnesota Office of the Secretary of State Response:

Payroll tracking for the HAVA program was the concern in Finding 3. The Office monitored payroll reconciliation reports to detect or correct errors. The reconciliation process was planned for the end of the biennium, which was after the audit period.

Fiscal staff have been directed to generate reports that reflect the auditor's allocation coding preferences.

Person Responsible: Kathy Hjelm

Estimated Completion Date: June 30, 2005

Minnesota Office of the Legislative Auditor
Schedule of Findings and Questioned Costs
Section III: Federal Program Audit Findings – Continued

Report 05-40

State Agency: Minnesota Office of the Secretary of State

Federal Agency: U. S. Election Assistance Commission

CFDA Number/Program Name:

90.401 Help America Vote Act (HAVA)

Questioned Costs: None – Procedural Finding Only

Finding 05-40-4 *Financial status report not accurate.*

4. The office's cash management practices for the Election Assistance for Individuals with Disabilities (EAID) grant did not maximize the state's use of federal funds.

As part of the HAVA program, the office received a separate \$202,382 grant for improving access to and participation by individuals with disabilities in the election process. The office awarded approximately \$190,000 to 126 local units of government to improve polling place accessibility. The awards ranged from \$90 to \$3,500.

The office did not draw down the federal funds in a timely manner. The office began disbursing the grants to local units of government in July 2004. As of April 26, 2005, the office had disbursed about \$170,000 of the grant award, but had not requested any reimbursement from the federal government. Instead, the office used Title 1 HAVA moneys to fund these costs. The office should have requested the federal EAID reimbursements as it made disbursements, in order to maximize investment income on accumulated balances.

In addition, the office did not accurately report its financial activity for this program to the federal government. The federal government's A-133 Compliance Supplement, Letter L, requires each recipient to report disbursement activity as prescribed by the awarding federal agency. The office submitted its financial status report, dated November 17, 2004, to the federal government for the period September 1, 2003, through August 31, 2004. Although the office had disbursed about \$9,400, it did not show this on the financial status report.

Recommendations

- *The Office of the Secretary of State should draw down the federal share of its EAID grant expenditures as incurred to minimize the use of Title 1 funds.*

Minnesota Office of the Legislative Auditor
Schedule of Findings and Questioned Costs
Section III: Federal Program Audit Findings – Continued

- *The office should establish appropriate controls to ensure it submits accurate financial status reports to applicable federal agencies.*

Minnesota Office of the Secretary of State Response:

In the HHS grant project for polling place access discussed in Finding 4, the Office allocated EAID funds in such a way to maximize benefits to the public, through local government and to improve polling place accessibility as broadly as possible. Over \$170,000 in project funding was sent to local government and all of the administrative costs for the polling place accessibility project were absorbed by the Title I fund money. Following the auditor's recommendation would have resulted in less money being available to local governments and for polling place improvements and that money being delayed in disbursement. It should also be noted that premature draw-down results in the payment of interest to the Federal government.

There were no state funds used in the grant process. All HAVA activities in fiscal years 2003 and 2004 only use Federal funds. The EAID grant funds will be deposited in and will augment the other Federal funds in the HAVA Account as required by Laws 2003, First Special Session, chapter 7, and they are unavailable for direct expenditure by the Office or subrecipients.

Person Responsible: Kathy Hjelm

Estimated Completion Date: July 31, 2005

Minnesota Office of the Legislative Auditor
Schedule of Findings and Questioned Costs
Section III: Federal Program Audit Findings – Continued

Report 05-40

State Agency: Minnesota Office of the Secretary of State

Federal Agency: U. S. Election Assistance Commission

CFDA Number/Program Name:

90.401 Help America Vote Act

Questioned Costs: None – Procedural Finding Only

Finding 05-40-5 *Lack of contractor suspension and debarment verification.*

- 5. The Office of the Secretary of State did not have a process to ensure that no federal funds were paid to suspended or debarred vendors.**

The Office of the Secretary of State did not have a process to determine whether a potential vendor had been suspended or debarred by the federal government prior to obligating federal funds. Federal regulations prohibit states from using federal money to procure goods or services from vendors who are suspended or debarred. In addition, the federal government requires state agencies to ensure that subgrantees certify that they refrain from contracting with suspended or debarred vendors. The federal government suspends or debar vendors when it determines, or is informed, that the vendors have abused public trust or violated program provisions. The federal government has a process to identify suspended or debarred vendors, and requires states to prevent those vendors from receiving federal funds in the future. Without following proper certification or verification procedures, the department is liable for all disallowed costs resulting from any payments to suspended or debarred vendors.

Recommendations

- *The Office of the Secretary of State should establish procedures to ensure it does not pay suspended or debarred vendors.*
- *The office should include standard language relating to suspension and debarment in its subgrantee contracts.*

Minnesota Office of the Legislative Auditor
Schedule of Findings and Questioned Costs
Section III: Federal Program Audit Findings – Continued

Minnesota Office of the Secretary of State Response:

Finally, with regard to the last finding (Finding 5), the Office of the Secretary of State did not contract with any vendor subject to suspension and debarment. The Office has now established a procedure to assure that the Federal suspension and debarment list is reviewed prior to contracting with any vendor when Federal funds are used.

Person Responsible: Kathy Hjelm

Estimated Completion Date: June 30, 2005

In addition, legal staff have been directed to include this suspension and debarment language as standard in all future contracts where Federal funds are used.

Persons Responsible: Bert Black
Katie Battle-Sayles

Estimated Completion Date: June 30, 2005