



EAC MANAGEMENT DECISION:

Resolution of the OIG Audit Report on the Administration of Payments Received Under the 2008 Election Data Collection Grant Program Award Number: 08-EDC-800168, State of Ohio (Assignment Number E-GR-OH-02-12)

November 26, 2013

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 Office 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.

In December 2007 Congress authorized the fiscal year 2008 Omnibus Appropriations Act (Public Law 110-161, Title V), which directed the EAC to award grants of \$2 million to each of five eligible states to improve the collection of precinct level data relating to the November 2008 Federal elections. The act provided for the creation of the Election Data Collection Grant Program, the purpose of which was to:

- Develop and document a series of administrative and procedural best practices in election data collection that can be replicated by other States;
- Improve data collection processes;
- Enhance the capacity of States and their jurisdictions to collect accurate and complete election data; and
- Document and describe particular administrative and management data collection practices, as well as particular data collection policies and procedures.

The States were to use the Grant funds to implement programs to improve the collection of data relative to the November 2008 Federal general election and to improve the reporting of election data at the precinct level. The Grants were awarded in May 2008 and were for a period of 13 months.

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.

Please note with four Commissioner vacancies, the Commission presently lacks a quorum to conduct appeals. The 30 day period to file an appeal remains in place. However, the 60 day period for a decision will toll until a Commission quorum is reestablished.

AUDIT HISTORY

The OIG issued an audit report on the administration of payments received under the Help America Vote Act (HAVA) by the Ohio Secretary of State (SOS) on September 12, 2012. Based on the audit procedures performed, except for the matters discussed below, the auditors concluded that the SOS accounted for and expended the Grant funds in accordance with *Generally Accepted Government Auditing Standards* for the period from May 27, 2008 through June 30, 2010.

Finding 1 – Interest Earned on Federal Funds

Untimely crediting of interest earnings to the EAC Data Collection Grant (DCG) fund resulted in lost interest earnings to the fund.

Cash management requirements as set forth in 41 CFR §105-71.121 (f) address the effect of interest income on grant payments, and states that “grantees and subgrantees shall disburse program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.”

Due to State Statutes (Title 1, Chapter 126.07) which require a certification of available funds before contracts can be validated, the EAC allowed the State to receive advance payments of DCG funds prior to incurring the related expenditures. However, the EAC advised the Secretary of State (Office) in an August 7, 2008 communication that DCG monies were to be accounted for in a separate fund and that interest earned on those monies was to be credited to the fund and used to offset the amount of DCG monies requested.

Grant funds amounting to \$1,500,000 were received on September 4, 2008. The Office calculated the interest earned on these grant funds to be credited to the DCG fund. On September 23, 2009 the Accounting Division of the State’s Office of Budget and Management posted a journal entry to record interest of \$16,245 to the DCG fund. The calculation supporting the entry applied a rate of interest to the available balances in the DCG fund each month. The calculation should have recognized the effect of increasing the balance of the DCG fund by the interest that would have been earned each month, had the fund balances been invested and credited with interest during the course of the Grant award. However, the journal entry did not recognize the fact that compound interest would have also been earned on the recalculated higher balances each month.

The Office requested the State Controlling Board on July 21, 2008 to create a new fund and establish appropriation authority of \$2.0 million for the EAC DCG. While the Controlling Board has statutory authority to create funds, it does not have authority to designate what funds are to receive interest earnings; only the General Assembly has that authority through legislative action. As part of the State’s budgetary process for fiscal year 2010-2011, the Ohio Legislature passed a bill which provided for the transfer of interest that should have been earned and credited during fiscal year 2009 to the DCG fund. However, the amount transferred as calculated by the Office did not include consideration of the amounts that would have been earned had the interest been credited to the DCG fund on a timely basis. The Office subsequently requested that the Ohio Office of Budget and Management calculate the interest in accordance with the standard methodology used for all other State funds participating in the State’s investment pool. This calculation, which utilizes quarterly rather than monthly investment balances of the participating funds, resulted in an amount of interest earned on the DCG monies which supports the adequacy of the amount credited by the State. Accordingly, as this methodology is a structured, documented and accepted methodology used by the State, the auditors accept the resulting calculation of interest earnings as reasonable.

Recommendation:

We recommend that the EAC require the Office to adopt procedures to ensure future calculations of interest earnings on Federal funds be performed in a manner consistent with the methodology used by the Ohio Office of Budget and Management.

Office of Secretary of State Response:

The Office noted that, ideally, the calculation of interest earned should have been performed by the Ohio Office of Budget and Management consistent with the normal business practices of the State. The Office concurred with the auditor's suggestion that the interest amount credited to the DCG fund be accepted and no further adjustment made. The Office also agreed to request the Ohio Office of Budget and Management to perform future interest calculations should a similar situation arise.

Auditor's Response:

We appreciate the additional effort expended by the Office to obtain an appropriate calculation of interest earnings consistent with the methodology used for other participants in the State's investment pool. We agree with the Office's conclusion and its expressed intent to ensure future interest calculations are consistent with the State's adopted methodology.

EAC Response:

EAC reviewed the state's actions and concurs with the auditor's response. **EAC considers this matter closed.**

Finding 2 – Inadequate Invoice Documentation

The Office paid invoices which did not have adequate detail of hours and hourly rates as outlined in the agreed-upon contract provisions.

Per Secretary of State Contract Number 2009-005, Article II, 2.01(a) the Secretary agreed to "Pay the Contractor, upon submission of appropriately detailed and accurate invoices for services performed by the contractor".

Per the State Term Contract, Terms and Conditions 2.6 "To be a proper invoice, the invoice must include the following information... (e) A description of the Deliverables, including, as applicable... unit price, quantity, and total price of the Deliverables".

The sample selection of four payments for contractual services found one payment for which the invoice did not have the required detailed information to support the invoiced amount. Specifically, this vendor, which provided project management services, agreed to be paid on an hourly basis yet submitted a lump sum invoice without the necessary detail of hours worked and price per hour charged. As a result, the audit testwork was expanded to include all nine disbursements made to this vendor, totaling \$299,674. The tests revealed that none of the invoices submitted by the vendor had the required detail. Accordingly, it was not possible to determine whether the vendor incurred a sufficient number of hours to support the costs billed. Therefore, these costs were considered to be unsupported and the total amount of \$299,674 was initially questioned. It should be noted that compensation to the above contractor did not exceed the contractual amounts, and the Board's project manager asserted that the contractors met all deliverables outlined in the statement of work.

Requiring the vendor to provide unit price and quantity detail provides assurance that billings are based upon and are consistent with the contractually agreed upon rates and services. Subsequent to

this audit, the Office requested and obtained from the vendor the detail of labor hours which support the vendor invoices. Accordingly, the related costs of \$299,674 are accepted as adequately supported. The Office's internal controls over the processing of vendor invoices were not sufficient to ensure that those involved in the approval and payment of invoices were aware of and considered the terms of the vendor's contract. The Office's policy was to pay an invoice after it is approved by a director or higher level administrator responsible for the area. Accordingly, because the contractor invoices were approved by the IT Director and he was in charge of the project, the invoices were paid by the Finance Division as submitted.

Recommendation:

We recommend that the EAC address and resolve the following recommendation that the Ohio Secretary of State's Office implement procedures to ensure that all invoices are in compliance with the agreed upon contractual provisions before being approved for payment. The Office should document appropriate policies and procedures in written manuals and also provide training to personnel involved in the administration of contracts as necessary to ensure that the expenditure of future Federal award funds is adequately supported.

Office of the Secretary of State Response:

The SOS agreed with the finding and requested and obtained from the vendor *Billing Detail Reports* showing dates, number of hours worked and other details for all nine invoices totaling \$299,674. The SOS states that this information was validated and provides documentation that no excess funds were paid to the vendor. The SOS also asserts that it has already implemented procedures requiring Finance division employees to first review and verify that an invoice meets contractual requirements before it is forwarded to the director or senior level administrator for their approval. The SOS commits to update its written payable policies to include these new requirements and to ensure that current and future SOS employees handling contract invoices will receive communications and training to ensure awareness of them.

Auditor's Response:

We commend the SOS for promptly obtaining the information necessary to validate and support the award charges. The policy changes as described and the planned means of implementing them should adequately address the concern identified during the audit. Further, we inspected the additional detailed information provided by the Office to validate the nine invoices in question and found them to provide adequate support for the award charges.

EAC Response:

EAC has reviewed the actions taken by the SOS. We consider them adequate support to resolve the finding. **EAC considers this matter closed.**