



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

FINAL AUDIT REPORT:

**ADMINISTRATION OF PAYMENTS
RECEIVED UNDER THE HELP AMERICA
VOTE ACT BY THE ILLINOIS STATE
BOARD OF ELECTIONS**

**Report No.
E-HP-IL-07-06
October 2006**



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

October 18, 2006

Memorandum

To: Thomas Wilkey
Executive Director

From: Curtis Crider *Curtis W. Crider*
Inspector General

Subject: Final Audit Report on the Administration of Payments Received Under the Help America Vote Act by the Illinois State Board of Elections (Assignment No. E-HP-IL-07-06)

This report presents the results of the subject audit. The objectives of the audit were to determine whether Illinois (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 Illinois generally complied with requirements except as noted below:

- ✓ Counties did not keep records that sufficiently accounted for equipment purchased with HAVA funds.
- ✓ Illinois advanced HAVA funds to counties and to the Office of the Secretary of State that exceeded the recipients immediate cash needs. This resulted in lost interest of about \$36,000 to State Vote Fund.
- ✓ Illinois expended HAVA funds of \$3,889 for activity booklets intended to provide students with an understanding about electing the President. We questioned the costs because the booklets appeared to be targeted to children and not voters.
- ✓ Illinois miscalculated its matching fund requirement for Section 251 payments, and did not deposit into the Vote Fund interest earned on the matching funds which it had appropriated. Consequently, Illinois owes the Vote Fund additional matching funds \$189,223 and interest of \$227,996

In an October 2, 2006 response to the draft report (Appendix 2), Illinois agreed with the findings on equipment records and cash management and disagreed with the findings on the activity booklets and the matching funds.

Please provide us with your written response to the recommendations included in this report by December 22, 2006. 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 or Commission) to assist states and insular areas with 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
ILLINOIS**

HAVA funds received and expended by Illinois are as follows:

<i>TYPE OF PAYMENT</i>	<i>AMOUNT RECEIVED</i>	<i>OUTLAYS</i>	
		<i>AMOUNT</i>	<i>AS OF¹</i>
101	\$11,129,030	\$6,215,718	12/31/05
102	\$33,805,617	\$22,810,128	12/31/05
251	\$98,595,252	\$0	09/30/05
Totals	\$143,529,899	\$29,025,846	

**FINANCIAL
MANAGEMENT
REQUIREMENTS**

In Illinois, HAVA payments are administered by the State Board of Elections (Board). To account for the payments, HAVA requires states 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, the Commission notified Illinois 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” and published in 41CFR105-71).
- ✓ Expend payments in accordance with cost principles for establishing the allowability or unallowability of certain items of cost for federal participation issued by the Office of Management and Budget in Circular A-87.
- ✓ Submit annual financial reports on the use of Title I and Title II payments.

OBJECTIVE

The objective of our audit was to determine whether Illinois (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, and for maintaining state expenditures for elections at a level not less than expended in fiscal year 2000. Specifically, we covered fiscal years 2003 through 2006 and reviewed controls to assess their adequacy over the expenditure of HAVA funds

¹ EAC requires states to submit annual reports on the expenditure of 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 federal fiscal year.

and compliance with certain HAVA 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 Illinois had complied with the requirements in HAVA 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.

See Appendix 1 for the audit scope and methodology.

RESULTS OF AUDIT

SUMMARY

We concluded that the Board generally accounted for and expended HAVA funds in accordance with requirements. However, we identified:

- ✓ a need for the Board to improve its cash and property management procedures and/or processes to ensure that subrecipients expend HAVA funds in a timely manner and account for property in accordance with Federal requirements. Disbursing funds from its interest-bearing Help Illinois Vote Fund² to subrecipients sooner than needed resulted in lost interest of about \$36,000 to the Vote Fund.
- ✓ a questionable state expenditure of \$3,889 for an unauthorized activity.

Regarding significant HAVA compliance requirements, we found that the Board miscalculated its matching fund requirement for Section 251 payments, and did not deposit into the Vote Fund interest earned on the

² HAVA requires states to establish an election fund, which Section 254(b)(1) of HAVA describes as containing all requirements payments, state appropriations for carrying out activities for which requirements payments are made, other appropriations, and interest earned on deposits of the fund.

matching funds which it had appropriated. Consequently, Illinois owes the Vote Fund additional matching funds \$189,223 and interest of \$227,996.

**CASH
MANAGEMENT**

The Board advanced HAVA funds to counties and to the Office of the Secretary of State that exceeded the recipients immediate cash needs. The cash management requirements included in 41 CFR 105-71.120 provide that the time elapsing between the transfer of funds and the subsequent disbursement should be minimized. In addition, the State Board of Elections incorporated a provision in its agreements with the counties that the funds provided should be expended within 30 days. The Board’s agreement with the Office of the Secretary of State identified the funding and expected quarterly expenditures but did not include provisions for cash management.

We found that two of the three counties we visited did not expend all funds granted by the Board, and that the Office of the Secretary of State did not expend funds at its forecasted rate of spending. Further, despite the Board’s requests, neither the counties nor the Office of the Secretary of State returned the unspent funds. As a result, we estimated that the State’s Help Illinois Vote Fund did not accumulate interest totaling about \$36,071 on excess advances of approximately \$1.6 million from the Vote Fund, as follows.

<u>Recipient</u>	<u>UNEXPENDED ADVANCES</u>		
	<u>Outstanding Since:</u>	<u>Amount Outstanding</u>	<u>*Estimate of Lost Interest</u>
Champaign County	October 7, 2004	\$37,037	\$2,136
Rock Island County	March 2, 2006	1,217,986	15,301
Secretary of State	December 31, 2005	353,057	**18,634
		<u>\$1,608,080</u>	<u>\$36,071</u>

*We used three percent for estimating purposes because the Chief Fiscal Officer, State Board of Elections, advised us that the Vote Fund earned interest at an annual rate of approximately three percent.

**Interest began to accrue on March 31, 2005, the date of the first advance payment to the Secretary of State. Total payments to the Secretary of State were \$1,592,374.

During our review, Champaign County returned the unexpended HAVA funds.

Recommendations:

We recommend that the EAC require the Board to:

1. Recover the unexpended funds from the Office of the Secretary of State and Rock Island County.
2. Reimburse the Illinois Vote Fund for the interest lost on the outstanding advances to Champaign and Rock Island Counties and to the Office of the Secretary of State.
3. Determine the extent of any other outstanding advances to counties and take the appropriate action as discussed in Recommendations 1 and 2.
4. Reinforce with the entities receiving HAVA funds, the Federal and Board requirements regarding the time frame for expending HAVA funds.

PROPERTY

The three counties we visited did not maintain adequate records of equipment purchased with HAVA funds in compliance with 41 CFR 105-71.132. Part 41 CFR 105-71.132 stipulates 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 data of disposal and sale price of the property.

The Board's agreements with the counties did not include a provision to comply with Federal regulations regarding the management of equipment. As a result, at the counties we visited, we found that the property records did not contain all the required information. For example, Tazewell, Adams, and Cook³ counties did not maintain formalized inventory records that included the required data such as funding source, cost, and acquisition date. Instead, the counties maintained records of equipment that was assigned to the various voting precincts. Although these informal records did allow the counties to track the location of the equipment, they did not satisfy all of the control requirements in the CFRs.

Recommendations:

We recommend that the EAC require the Board to:

5. Ensure that the counties comply with the Federal equipment management requirements.
6. Include in future agreements the specific Federal equipment management requirements.

³ Cook County was in the process of developing an inventory database for the equipment.

**QUESTIONED
COSTS**

The Board used \$3,889 of Section 101 funds to purchase activity booklets intended to provide students with an understanding about electing the President. The Board distributed the booklets during the Illinois state fair. While the booklet did provide information related to voting, it appeared to be directed at grade school children. Section 101(b)(1)(C) of the Help America Vote Act states that the funds can be used for educating voters concerning voting procedures, voting rights, and voting technology. In addition, number 23 of EAC's frequently asked questions states that Section 101 funds must be expended to educate voters or groups of people who meet state voting requirements. Since the activity booklets appear to be intended for students not yet eligible to vote, we questioned the States purchase cost for the booklets of \$3,889.

The Board disagreed with this finding. Its response stated that

. . . we believe the benefit [of the activity books] was not only for the children but also for the parents to work with the children in teaching them the importance of the voting process. We believe the benefit to the parents has a value that was sufficient enough to qualify as a HAVA expense.

Recommendation:

7. We recommend that the EAC resolve the questioned costs totaling \$3,889.

MATCHING

Illinois (a) understated its matching contribution by approximately \$189,000 and (b) did not deposit into the State's Help Illinois Vote Fund (Vote Fund) the \$5,000,000 that it had appropriated to match the Help America Vote Act (HAVA) requirements payment. 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) . . .

Illinois understated its matching funds because it miscalculated its matching requirement. In doing so, it applied the 5 percent to only the Federal payment of \$98,595,252. This resulted in Illinois appropriating \$5 million. The correct calculation is to first divide the Federal

payment by 95 percent to determine the total federal and state funds of \$103,784,476. Then, to arrive at the state match, deduct the Federal payment (\$98,595,252) from the total funds. This results in a state matching requirement of \$5,189,223, or \$189,223 more than the state actually appropriated.

The Board disagreed with this portion of the finding. Its response stated:

During the implementation process, many questions have arisen regarding the interpretation of the Act [HAVA] or supporting Federal rules. These questions (including state match questions) have been posed to authoritative bodies on the subject (including EAC staff), and the answers to these questions to this point had not indicated that our calculation of the State Match requirement was incorrect or insufficient relative to the HAVA Law. The SBE [State Board of Elections] also respectfully submits that the HAVA language regarding this match calculation is somewhat confusing and ambiguous, and therefore could be interpreted by a reasonable person in a manner different than that used by EAC.

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 Illinois did not, however, deposit the \$5,000,000 into its Vote Fund. This occurred because state officials were not aware of the requirement to deposit the funds in the Vote Fund and because State law required the funds to be deposited in the Illinois capital

development fund. As a result, Illinois lost interest that it would have earned had it deposited its full matching fund requirement into the Vote Fund.

According to Chief Fiscal Officer, State Board of Elections, the Vote Fund earned interest at an annual rate of approximately 3 percent. Using the 3 percent interest rate, we estimated lost interest to be about \$227,996.⁴

The Board did not agree with this portion of the finding. Its response stated

. . . SBE respectfully submits that the sometimes confusing and ambiguous language in this area of the HAVA legislation is a significant factor in SBE's assumption that amounts 'otherwise made available' (as opposed to direct appropriations and deposit) would be sufficient to meet the State match contribution rule. In addition, the significant fiscal crunch being experienced by the State of Illinois (as well as other states) severely limited the possible sources for this sizable State contribution.

Recommendation:

8. We recommend that the EAC require the Board to deposit state funds of \$417,219 (\$189,223 under match plus interest of \$227,996) into the Vote Fund.

⁴ We calculated the \$227,996 by applying the 3 percent rate to outstanding monthly balances of the matching fund appropriation through the final disbursement of funds in February 2006.

SCOPE AND METHODOLOGY

To accomplish our objective, we reviewed:

- ✓ The prior single audit report and other reviews related to the Board's financial management systems and the HAVA program for the last 2 years.
- ✓ Policies, procedures and regulations for Illinois' management and accounting systems as they relate to the administration of HAVA programs.
- ✓ Inventory lists of all equipment purchased with HAVA funds.
- ✓ Major purchases.
- ✓ Supporting documents maintained in the accounting system for payments made with HAVA funds.
- ✓ Support for reimbursements to counties.
- ✓ Certain Illinois laws that impact 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 Board employees about the organization and operation of the HAVA program.

We conducted our audit 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 Board'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

<i>Description</i>	<i>Funds to be Put to Better Use</i>	<i>Questioned Costs</i>	<i>Additional Funds for Program</i>
Cash Management	\$36,071		
Activity Booklet		\$3,889	
Matching:			
Under match			\$189,223
Interest			227,996
Totals	<u>36,071</u>	<u>3,889</u>	<u>417,219</u>

STATE BOARD OF ELECTIONS
STATE OF ILLINOIS

Appendix 3
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October 2, 2006

Roger La Rouche, Acting Inspector General
U.S. Election Assistance Commission
1225 New York Avenue NW - Suite 1100
Washington, DC 20005

Mr. La Rouche:

The Illinois State Board of Elections (SBE) has evaluated the findings contained in your draft EAC audit report of Help America Vote Act (HAVA) activities dated September 1, 2006. Please find below the State Board of Elections' responses to these tentative findings:

Finding #1: Cash management - return of unexpended advances from specific counties.

SBE Response: Concur. The SBE will take steps to correct this finding and recover outstanding funds and interest lost in the HAVA fund due to entities not spending the funds provided to them within the required 30-day period. The SBE will also notify the appropriate County Boards and County Auditors of each jurisdiction in question in order to facilitate payment of outstanding amounts and an estimate of lost interest which will be in turn deposited into the HAVA fund.

Finding #2: Grant sub-recipients did not maintain adequate property control records for equipment purchased with HAVA grant monies.

SBE Response: Concur. SBE did contain language in original sub-recipient grant agreements that expenditures made by local election sub-recipients with HAVA grant monies must be recorded and maintained according to all applicable Federal and State statutes. SBE will initiate additional communications with all sub-recipient counties to further explain specific Federal property control requirements and distribute Federal property control guidelines for corrective action purposes. SBE has already enhanced sub-recipient grant application documents to place added emphasis on compliance with Federal property control rules as a condition of receiving HAVA sub-recipient monies. Furthermore, SBE will also monitor sub-recipient feedback from future grant activities to help ensure that these rules are being applied to HAVA-purchased equipment items at the local jurisdiction level.

Finding #3: Questioned Costs (student activity booklets).

SBE Response: Disagree. Although the SBE understands the Election Assistance Commission's philosophy on the issue of the activity books, we believe there are benefits not just to the children. We believe that the benefit was not only for the children but also for the parents to work with the children in teaching them the importance of the voting process. We believe the benefit to the parents has a value that was sufficient enough to qualify as a HAVA expense.

Findina #4: Undercalculation of State Match requirement and deposit into dedicated HAVA fund.

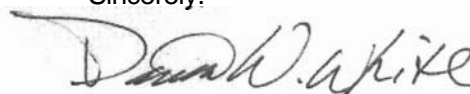
SBE Response: Disagree. During the tenure of the HAVA program, the SBE has taken great care to ensure that the language and mandates of the Help America Vote Act of 2002 have been interpreted and implemented in an accurate and reasonable manner. During this implementation process, many questions have arisen regarding interpretation of the Act or supporting Federal rules. These questions (including State match questions) have been posed to authoritative bodies on the subject (including EAC staff), and the answers to these questions to this point had not indicated that our calculation of the State Match requirement was incorrect or insufficient relative to the HAVA law. The SBE also respectfully submits that the HAVA language regarding this match calculation is somewhat confusing and ambiguous, and therefore could be interpreted by a reasonable person in a manner different than that used by the EAC. SBE continues to place high priority on full compliance with all Federal mandates in our implementation of HAVA program objectives, and would like to initiate discussion with the EAC on other possibilities to 'make up' this deficiency in the State match calculation. Such possibilities include, but are not limited to, inclusion of surplus SBE 'maintenance of effort' spending over FY2000 levels and excess local jurisdiction contributions in fulfillment of HAVA State/local contribution quotas.

With regards to the deposit of State match contributions directly into the dedicated HAVA fund, SBE respectfully submits that the sometimes confusing and ambiguous language in this area of the HAVA legislation is a significant factor in SBE's assumption that **amounts** 'otherwise made available' (as opposed to direct appropriation and deposit) would be sufficient to meet the State match contribution rule. In addition, the significant fiscal crunch being experienced by the State of Illinois (as well as other states) severely limited the possible sources for this sizeable State contribution. As a result it was the Illinois legislature, acting in good faith and not the SBE who directed that a spending authority contribution 'made available' from a shared bond fund would be the most **economically** feasible source. This funding option was decided by the Illinois legislature as the best compliant resource, and not recommended by the SBE. Spending from this fund is restricted, however, and can not be 'transferred' over to other funds prior to direct expenditure to vendors.

Other issues also factor in to SBE's opinion on this draft finding. A complete discussion of each of these issues, however, would be outside the scope of this summary document. Consequently, the SBE would also like to open a dialogue with the EAC to examine potential solutions to this particular issue.

The SBE's primary goal in resolving each of the findings listed above is a solution that is compliant, fair, and does not put unreasonable financial hardship on either the EAC or the State. We await word from your office as to the next process step in resolving these findings. Until then, if you have any questions regarding these responses or other HAVA issues, please feel free to contact our office at (217) 782-4141.

Sincerely,



Daniel W. White
SBE Executive Director

Cc: Becky Glazier, HAVA Operations Manager
Michael Roate, Chief Fiscal Officer

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