



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

FINAL REPORT:

**ADMINISTRATION OF PAYMENTS
RECEIVED UNDER THE HELP
AMERICA VOTE ACT BY THE OHIO
SECRETARY OF STATE**

**Report No.
E-HP-OH-09-06
May 2007**



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

May 3, 2007

Memorandum

To: Thomas Wilkey
Executive Director

From: Curtis W. Crider
Inspector General

A handwritten signature in blue ink that reads "Curtis W. Crider".

Subject: Final Audit Report - Administration of Payments Received Under the Help America Vote Act by the Ohio Secretary of State (Assignment Number E-HP-OH-09-06)

This report presents the results of the subject audit. The objectives of the audit were to determine whether Ohio (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 Ohio generally complied with requirements and identified the following areas needing management attention:

- ✓ Ohio did not deposit interest of approximately \$7 million earned on HAVA payments and State matching funds in the State election fund in accordance with HAVA Section 254(b)(1).
- ✓ Ohio advanced HAVA funds to counties that exceeded the counties' immediate cash needs. Advancing funds before they were needed reduced the interest that was earned by the election fund.
- ✓ Ohio incorrectly charged salary costs and fringe benefits to the HAVA accounts resulting in a minor overpayment of \$875.

In a March 20, 2007 response to the draft report (Appendix C), the Ohio Secretary of State agreed with the report's findings. Regarding the interest due on the HAVA funds, the Secretary of State indicated that Ohio had deposited \$6.8 million into the State HAVA fund. In addition, the Secretary of State proposed that additional interest due be offset against Ohio's appropriation of excess matching funds for the Federal requirements

payments. The response also said that counties would be required to return any unspent HAVA grant monies to the Secretary of State and adjustments had been made for the overcharged salary and fringe benefit costs.

Please provide us with your written response to the recommendations included in this report by July 6, 2007. 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 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 do the following:

- ✓ Appropriate funds for carrying out the activities for which requirements payments are made “equal to 5 percent of the total amount to be spent for such activities.” (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 OHIO

HAVA and State matching funds received and expended by Ohio are as follows:

<i><u>TYPE OF PAYMENT</u></i>	<i><u>AMOUNT RECEIVED</u></i>	<i><u>EXPENDITURES</u></i>	
		<i><u>AMOUNT</u></i>	<i><u>AS OF</u></i>
101	\$10,384,931	\$10,384,931	6/30/2006
102	30,667,664	30,667,664	6/30/2006
251	90,992,517	67,889,088	6/30/2006
State Match	5,800,000	5,800,000	6/30/2006
Totals	<u>\$137,845,112</u>	<u>\$114,741,683</u>	

FINANCIAL MANAGEMENT REQUIREMENTS

Within the Office of the Ohio Secretary of State (Office), HAVA programs are administered by the Elections Division and HAVA payments are made by the Finance Division. 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 States of other management requirements. Specifically, that States must do the following:

- ✓ 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 41 CFR 105-71).
- ✓ Expend payments in accordance with cost principles for establishing the allowability of certain items of cost for Federal participation issued by the Office of Management and Budget (OMB) 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 the Office (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, for obtaining a 5 percent match of the funds for activities financed with Section 251 requirements payments from the State, and for maintaining State expenditures for elections at a level not less than expended in fiscal year 2000.

Specifically, we audited expenditures for Ohio's fiscal years 2004 through 2006 and reviewed controls to assess their adequacy over the expenditure of HAVA funds. We also evaluated compliance with certain HAVA requirements for the following activities:

- ✓ Accumulating financial information reported to EAC on the Financial Status Reports (Standard Form number 269).
- ✓ Accounting for property.
- ✓ Purchasing goods and services.
- ✓ Accounting for salaries.
- ✓ Spending by counties.

We also determined whether the Office had complied with the requirements in HAVA applicable to Section 251 requirements payments for the following activities:

- ✓ Establishing and maintaining the election fund.
- ✓ Appropriating funds equal to 5 percent of the amount necessary for carrying out activities financed with Section 251 requirements payments.
- ✓ Sustaining the State's level of expenditures for elections.

RESULTS OF THE AUDIT

SUMMARY

We concluded that the Office generally administered HAVA funds in accordance with requirements. We also found that Ohio properly established the State election fund, appropriated and deposited into the election fund its matching monies, and sustained the appropriate level of State expenditures for elections. Ohio did not, however, deposit into the election fund, as required by HAVA, interest earned on the HAVA payments and on State matching funds. Based on our inquiries, the Ohio legislature instructed the Director of Ohio's Office of Budget and Management (OBM) to deposit into the election fund interest of \$6.8 million earned on the HAVA funds. Interest earned on the State matching funds is not yet resolved.

We also found that the Office needs to improve its administrative procedures to minimize the time between its advance and county expenditure of HAVA funds and to accurately identify salaries financed with HAVA funds.

INTEREST

The Office did not deposit interest earned on HAVA payments and State matching funds in the State election fund in accordance with requirements. HAVA, in Section 254(b)(1) requires States to deposit requirements payments, funds appropriated to match the requirements payment, and interest 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.

The General Services Administration electronically transferred the HAVA Sections 101, 102, and 251 funds to a State account in Key Bank. The State Controlling Board set up several funds for the Office to receive and expend the appropriation of these HAVA funds. It also set up a fund to receive and expend the appropriation of the State matching funds of \$5.8 million. Section 254 (b)(2) of HAVA requires that amounts "in the fund shall be used by the State exclusively to carry out the activities for

which the requirements payment is made to the State under this part.” Thus, interest earned on HAVA payments and State matching funds must be used only for authorized activities. However, we found that the State deposited interest earned on HAVA and the matching funds into the General Revenue Fund (GRF) of the State, which was not reserved of use only on HAVA-related activities. .

The interest issue occurred because Ohio law¹ requires that all interest earned on deposits with the State Treasurer be credited to the GRF unless specific State legislation provides otherwise. Also, staff of the Office inquired of the OBM whether interest earned would be deposited into the HAVA fund accounts. The OBM stated that no interest would be paid to the HAVA fund accounts unless the State statute authorizing the funds specifically stated that interest was to be earned on the fund deposits.

According to responses to our inquiries, the Office and the OBM agreed that interest on HAVA funds should be credited to and deposited in the HAVA funds. OBM calculated that the State earned approximately \$6.8 million as of June 30, 2006, on HAVA sections 101, 102, and 251 funds. It did not, however, compute the interest on the State matching funds of \$5.8 million, which was appropriated by the State legislature effective March 14, 2003.

Subsequently, the 126th General Assembly of the Ohio legislature passed Amended Substitute House Bill 699, which required the Director of OBM to transfer the \$6.8 million in interest earned on HAVA funds through June 30, 2006, and subsequent interest earnings into the HAVA funds accounts. We noted, however, that had the State Treasurer credited the interest quarterly to the HAVA funds instead of depositing the interest into the GRF, the HAVA fund balance on which the interest would be calculated would have been larger. Thus, the amount of interest earned would be greater than the \$6.8 million plus subsequent interest earnings authorized by the Ohio legislature.

Recommendation

We recommend that the EAC require the Office to request legislative approval to:

1. Calculate and pay interest on the State matching funds of \$5.8 million to the HAVA requirements fund accounts.

¹ Section 113.09 of the Ohio Revised Code states: “Except as provided in section 113.10 of the Revised Code, all moneys deposited with the treasurer of state, the disposition of which is not otherwise provided for by law, shall be credited to the general revenue fund, which is hereby created in the state treasury . . . All investment earnings on moneys deposited in the state treasury shall be credited to the general revenue fund unless (A)The disposition of the earnings is otherwise provided for by law; ...”

2. Calculate the additional interest that would have been earned on the HAVA funds from 2004 to December 2006 had interest been deposited to the HAVA fund accounts on a quarterly basis.
3. Deposit the interest on the State Match and the additional interest on the HAVA funds into the appropriate HAVA Section 251 fund account.

Secretary of State Response

The Secretary of State agreed with the findings and said that \$6.8 million had already been deposited into Ohio's HAVA funds to resolve the interest due on the State's matching funds. The Secretary of State also stated that she believed it would be "overly burdensome, expensive, and manually laborious" to calculate additional interest. As an alternative, she proposed using the state's approximate \$1 million overmatch of HAVA requirements payments to offset the additional interest. The OBM estimated the additional interest to be about \$212,290.

Office of Inspector General Comments

The Secretary of State's proposal to resolve the additional interest appears reasonable. However, the EAC must make the final determination on the appropriateness of the proposed solution.

CASH MANAGEMENT

The Office advanced HAVA funds to counties that exceeded the counties' immediate cash needs. This practice is not consistent with the cash management requirements included in 41 CFR 105-71.120(b)(7), which provide that a State should have procedures for "minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees . . . whenever advance payment procedures are used." Advancing funds before they are needed reduces the interest that is earned by the election fund.

This situation occurred because the OBM had advised the Office that they could not retain interest and because the Office did not incorporate any cash management provisions in its county grants for voter registration. In addition, while the voter education and poll worker training grants incorporated by reference the Federal administrative requirements for grants, they did not specify any cash management guidelines. Such guidance could explain how soon advances must be used; whether they may be invested until needed; what to do with interest earned on the advanced funds, if any; and whether unused funds and earned interest should be returned to the Office. Instead, once grants were signed, the Office, in most instances, sent checks to the counties for the entire amount of the grants.

Overall, the Office advanced \$5.4 million in HAVA funds to counties for voter education, poll worker training, and the voter registration system. A review of the three largest Ohio counties (Cuyahoga, Hamilton, and Franklin) revealed that the counties did not expend a significant portion of the advanced funds for extensive periods of time. Further, the counties had not returned the unspent funds to the Office.

UNEXPENDED ADVANCES			
Recipient and Grant Type	Grant Check Date	Quarters Outstanding*	Amount Outstanding
<u>Cuyahoga County</u>			
Voter education and poll worker training	06/03/05	4	257,933
Voter registration	12/01/03	2	150,000
<u>Franklin County</u>			
Voter education and poll worker training	07/19/05	3	198,963
Voter registration	04/20/04	1	352,959
		1	317,584
		7	264,522
<u>Hamilton County</u>			
Voter education and poll worker training	06/16/05	2	158,378
		2	156,973
Voter registration	12/11/03	3	130,577
		7	91,319

*We calculated the quarters outstanding by using the time elapsed from the date of the grant check to the date the funds were reported as expended, or until June 30, 2006, if the funds had not been reported as expended. We rounded the result to the nearest quarter of a year.

Recommendations

We recommend that the EAC require the Office to:

4. Reimburse the Ohio HAVA funds for the interest lost on the excess advances made to Cuyahoga, Franklin, and Hamilton Counties where the time between the advance and the disbursement of the funds exceeded more than 3 days.
5. Determine the extent of any other outstanding advances to counties and reimburse the Ohio HAVA funds for the interest lost

on the advances made in excess of 3 days from the time the counties spent them.

6. Develop policies and procedures for minimizing the time elapsing between the transfer of funds from the Ohio Treasury and disbursement by grantees whenever advance payment procedures are used.
7. Inform the counties receiving HAVA funds of the 41 CFR 105-71.120(b)(7) requirement for minimizing the time elapsing between the transfer of funds from the Ohio Treasury and disbursement by grantees and the policies and procedures developed as a result of Recommendation 6 above.

Secretary of State's Response

The Secretary of State generally agreed with the finding said that it will “develop policies and procedures - and inform the counties of these policies - to minimize the time elapsing between the transfer of funds from the Secretary’s Office to the counties and the counties’ use of those funds.”

The Secretary of State also said that implementing the other recommendations would not only be “logistically difficult to implement, it would also unduly punish Ohio’s counties for failing to follow federal administrative rules of which they were not fully aware, or which were not adequately enforced by the previous administration in the Ohio Secretary of State’s Office.”

As with the other interest-related finding, the Secretary of State proposed using the State’s overmatch of the requirements payments as an offset to estimated additional interest due of \$263, 800. Finally, the response advised that all counties would be required to return any unspent HAVA grant monies to the Secretary of State.

Office of Inspector General Comments

We believe that the Secretary of State has proposed a reasonable alternative to resolve the additional interest due. As with the previous finding, EAC must determine whether the alternative is also in accordance with all criteria.

SALARIES AND FRINGE BENEFITS

Weaknesses in recording hours to be financed with HAVA funds resulted in minor overcharges to the HAVA accounts. We compared hours worked by 52 HAVA full-time and part-time staff with the hours recorded in the State’s official payroll system. For 49 employees, the hours recorded on

their timesheets matched the hours recorded in the Payroll Disbursement Journal. For three of the employees, the hours recorded on their timesheets were less than the hours reported in the Payroll Disbursement Journal. For example, one employee's timesheet identified 70.5 hours on HAVA activities yet 80 hours were charged to HAVA. The three errors totaled \$664 in salary costs for hours worked that were in excess of time recorded on timesheets. Fringe benefit costs of \$211 were associated with the \$664 in incorrectly financed salary costs.

Timekeepers recorded in the official Ohio State Payroll System hours worked for each employee. Because of the errors (a 5.8 percent error rate), we concluded that the controls over recording hours worked on HAVA should be improved. Specifically, an independent reviewer should confirm the accuracy of the hours input by the timekeeper.

The Office agreed with our findings and recommendations. In that regard, we confirmed that the Office made adjustments to resolve the issue of the overcharged salary (\$664) and fringe benefit (\$211) costs. The following two recommendations, however, have not yet been implemented.

Recommendation:

We recommend that the EAC require the Office to:

8. Implement a process by which an independent reviewer compares HAVA hours recorded in the official Ohio payroll system to employees' timesheets to ensure the accuracy of the data in the official payroll system. The reviewer should indicate on the timesheets or in the payroll system that the review was completed.
9. Compare HAVA hours recorded on employees' timesheets with HAVA hours recorded in the Payroll Disbursement Journal for prior pay periods in which HAVA salaries were claimed (other than pay periods ending June 25, 2005, and July 9, 2005), and make adjustments to the HAVA Section 101 fund to reflect salary and fringe benefit costs associated with any hours that were recorded incorrectly. The applicable Financial Status Reports should be adjusted accordingly.

Secretary of State Response

The Secretary of State responded that Recommendation 8 will be implemented and that her Office had completed the review and adjustments resulting from Recommendation 9.

SCOPE AND METHODOLOGY

To accomplish our objective, we reviewed the following:

- ✓ The prior single audit report and other reviews related to the Secretary of State's financial management systems and the HAVA program for the past 2 years.
- ✓ Policies, procedures, and regulations for the Ohio Secretary of State's management and accounting systems as they relate to the administration of HAVA programs.
- ✓ A sample of inventory lists of equipment purchased with HAVA funds.
- ✓ Major purchases.
- ✓ A sample of supporting documents maintained in the accounting system for payments made with HAVA funds.
- ✓ A sample of grants and advances to counties.
- ✓ Certain Ohio laws that impacted the HAVA funds.
- ✓ 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 5 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 Elections Division and Finance Division employees about the organization and operation of the HAVA program.

We conducted our review 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 Divisions' controls over the administration of HAVA programs and 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

<u><i>Description</i></u>	<u><i>Questioned Costs</i></u>	<u><i>Additional Funds for Program</i></u>
Interest		\$6,800,000
Salary costs	<u>\$875</u>	<u></u>
Totals	<u>\$875</u>	<u>\$6,800,000</u>



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March 20, 2007

Mr. Curtis W. Crider
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 1225 New York Ave. NW – Suite 1100
 Washington, D.C. 20005

RE: Response to Draft Audit Report: Administration of Payments Received Under The Help America Vote Act, Report No. E-HP-OH-09-06

Dear Mr. Crider:

The Office of the Ohio Secretary of State (the “Secretary’s Office”) has reviewed the U.S. Election Assistance Commission’s (the “EAC”), Office of Inspector General, “Draft Audit Report: Administration of Payments Received Under The Help America Vote Act,” Report No. E-HP-OH-09-06. I understand that this response will be included in the final report submitted to the EAC, and I submit the following responses to your audit findings for the EAC’s consideration.

I wish to first express my appreciation for the opportunity to respond to your audit findings. As you are probably aware, I was elected in November 2006 and took office on January 8, 2007. Because this audit covers HAVA expenditures from 2003 through June 2006, the audit findings result from decisions made by my predecessor, J. Kenneth Blackwell. This is the first opportunity of my administration to comment on the audit findings. While I cannot fully explain why my predecessor made some of the decisions cited in the report, I can confirm that this administration is fully committed to addressing and resolving any issues set forth in the audit report and to complying with HAVA’s statutory and administrative requirements.

EAC Audit Finding No. 1: Interest

The EAC Office of Inspector General has concluded that the Secretary’s Office did not deposit interest earned on state HAVA accounts and the state matching fund into the appropriate state election fund in accordance with HAVA. The Inspector General has acknowledged that after the EAC auditors discovered this problem, the former administration in the Secretary’s Office worked with Ohio’s Office of Budget and Management (“OBM”) and the Ohio General Assembly to calculate and deposit into an election fund the correct amount of interest earned on HAVA payments. As a result of these actions, \$6.8 million was recently deposited into one or more accounts for Ohio’s HAVA funds in an attempt to resolve the issue. The Inspector General

has concluded, however, that the former administration incorrectly calculated the interest amount. Additionally, the former administration omitted transferring the interest earned on the state matching fund. The Inspector General recommends that the Secretary's Office request legislative approval to:

1. Calculate and pay interest on the state matching funds of \$5.8 million to the appropriate HAVA accounts.
2. Calculate the additional interest that would have been earned on the HAVA funds from 2004 to December 2006 had interest been deposited to the HAVA fund accounts on a quarterly basis.
3. Deposit the interest on the state match and the additional interest on the HAVA funds into the appropriate HAVA section 251 fund account.

Secretary of State Response

I agree that the \$6.8 million already transferred into the appropriate HAVA accounts was incorrectly calculated. Similarly, I agree that the former administration did not calculate and pay interest on the state matching funds to the appropriate HAVA account. However, OBM advises my office that calculating the correct interest amounts would be overly burdensome, expensive, and manually laborious. Thus, rather than expending more HAVA funds to correctly calculate this interest amount, I propose an alternative. Specifically, I propose that any uncalculated interest, i.e. "lost interest," be offset by the amount Ohio contributed to the state match fund in excess of federal HAVA requirements.

We calculate that the State of Ohio over-appropriated \$1,010,919 to the state match fund. This over-match occurred because Ohio's 5% matching contribution was based on the Congressional Research Service's estimate that Ohio would receive \$116,423,155 in Title II funding. However, Ohio ultimately received only \$90,992,517 in Title II funding. Thus, Ohio's statutorily required matching contribution was more than HAVA required, resulting in an over-match of \$1,010,919.

This over-appropriation of \$1 million exceeds the sum of interest lost as a result of incorrectly calculating the amount already transferred and any interest earned on the state match fund. OBM has provided its best estimate for the correct amount of interest lost from the former administration's failure to correctly deposit the interest on the federal and state match funds. OBM has estimated that \$43,386 in additional interest – above the already transferred \$6.8 million – and \$168,903 in interest from the state match fund should have been deposited in the appropriate election funds if interest had been calculated correctly from the initial disbursement of federal money.¹ These amounts are clearly within the \$1 million that Ohio over-appropriated to the state match.

¹ In calculating these estimates, OBM first determined the approximate annual interest rate for fiscal years 2004 through the first half of fiscal year 2007 of similarly categorized funds in the state treasury that kept their interest. The rate was calculated by dividing the interest earned into the average daily balance. Finally, OBM calculated the estimated interest due on the HAVA interest by multiplying the approximate annual interest rate with the average

Because Ohio has already contributed more to HAVA election reform than was required by federal law and the amount of that over-match exceeds the amount of disputed interest, we request that Ohio not be required to more precisely calculate disputed interest earned on HAVA funds. We believe that this offset proposal is within the spirit of and serves to meet HAVA's requirements.

EAC Audit Finding No. 2: Cash Management

The EAC Office of Inspector General has concluded that the former administration in the Secretary's Office advanced HAVA funds to counties that exceeded the counties' immediate cash needs, which is inconsistent with cash management requirements included in 41 CFR 105-71.120(b)(7). Because advancing funds before they are needed reduces the amount of any interest earned by the election fund, the EAC Inspector General recommends that the EAC require the Secretary's Office to:

1. Reimburse the Ohio HAVA funds for the interest lost on excess advances made to Cuyahoga, Franklin, and Hamilton counties where the time between the advance and the disbursement of the funds exceeded more than 3 days.
2. Determine the extent of any other outstanding advances to counties and reimburse the Ohio HAVA funds for the interest lost on the advances made in excess of 3 days from the time the counties spent them.
3. Develop policies and procedures for minimizing the time elapsing between the transfer of funds from the Ohio Treasury and disbursement by grantees whenever advance payments procedures are used.
4. Inform the counties receiving HAVA funds of the 41 CFR 105-71.120(b)(7) requirement for minimizing the time elapsing between the transfer of funds from the Ohio Treasury and disbursement by grantees and the policies and procedures developed as a result of the recommendation above.

Secretary of State Response

I agree that as the primary recipient of the federal funds, this office was responsible for ensuring that the funds were used according to federal requirements. Therefore, this office will develop policies and procedures – and inform the counties of these policies – to minimize the time elapsing between the transfer of funds from the Secretary's Office to the counties and the counties' use of those funds.

As with the previous response, however, the former administration's decisions complicate this administration's response to the audit finding. The former administration neither accounted for the interest on HAVA funds nor enforced federal cash management guidelines. Instead, the former administration disbursed HAVA money to the counties well before they were prepared to

daily balance of the interest that would have been earned on the HAVA funds. Documentation of OBM's calculations is available upon request.

immediately spend the money. As your audit discovered, the former administration allowed interest on the unspent funds to be earned and collected at the county level. A literal implementation of the audit recommendations would require this office to demand each Ohio county to calculate and return any lost interest amount. Not only would this plan be logistically difficult to implement, it would also unduly punish Ohio's counties for failing to follow federal administrative rules of which they were not fully aware, or which were not adequately enforced by the previous administration in the Ohio Secretary of State's office.

Similar to my first response, I have concluded that calculated amounts of interest to be recouped at the county level will be offset by the state's over-appropriation to the matching fund. We have roughly estimated that the interest lost on the improper advances equals \$263,800.² This amount is well within the \$1 million Ohio over-appropriated to the state match – even taking into account the estimated amounts of \$43,386 and \$168,903 in lost interest under the first audit finding.

As further demonstration of my commitment to obtaining full HAVA compliance, I am requiring that all counties immediately return any remaining HAVA grant monies to the Secretary of State. Thus, after April 2007, there should be no remaining grant funds in county accounts, and all future interest will accrue to HAVA accounts.

Similarly to my previous suggestion, we believe this offset proposal is sufficient to address Audit Finding No. 2, as the State of Ohio has already contributed more to HAVA election reform than

² This estimate is based on a nine county sample of three typical "small," "medium," and "large" Ohio counties. We calculated the actual lost interest amount for each county, using a 3% interest rate, for any advances made in excess of three days from the time the counties spent the money. Once we had the actual interest calculations, we found the average for a typical "small," "medium," and "large" Ohio county. We then extrapolated the average to come up with an estimated total lost interest amount for the state. Specifically, we assumed that Ohio is made of forty "small" counties, forty "medium" counties, and eight "large" counties. We then multiplied the averages by these amounts to approximate that the HAVA interest lost because of advance payments to counties was about \$263,800.

We used Holmes, Belmont, and Meigs as the three typical "small" Ohio counties. These counties earned, in total, about \$1,136 in interest on the voter registration grant money and \$1,559 in interest on the voter education and poll worker training grant money. The total amount of lost interest for the three small counties was about \$2,700. Therefore, the "small" county average was \$900 per county. Assuming that Ohio has forty "small" counties, we estimate that the amount of lost interest for Ohio's small counties is \$36,000 (40 x \$900).

We used Lake, Licking, and Greene as the typical "medium" counties. These counties earned, in total, about \$5,432 in interest on the voter registration grant money and \$4,212 in interest on the voter education and poll worker training grant money. The total amount of lost interest for the three typical medium counties was about \$9,700. Therefore, the "medium" county average was about \$3,250 per county. Assuming that Ohio has forty "medium" counties, we estimate that the amount of lost interest for Ohio's medium counties is \$130,000 (40 x \$3,250).

Finally, we used Franklin, Cuyahoga, and Montgomery as the typical "large" counties. These counties earned, in total, about \$15,131 in interest on the voter registration grant money and \$21,539 in interest on the voter education and poll worker training grant money. The total amount of lost interest for the three large counties was about \$36,675. Therefore, the "large" county average was about \$12,225 per county. Assuming that Ohio has eight "large" counties, we estimate that the amount of lost interest for Ohio's large counties is \$97,800 (8 x \$12,225).

Thus, the total estimated amount of lost interest at the county level is \$263,800 (\$36,000 + \$130,000 + \$97,800).

was required by federal law, and that excess contribution is more than any amount of interest not recouped from counties.

EAC Audit Finding No. 3: Salaries and Fringe Benefits

The EAC Office of Inspector General has concluded that weaknesses in the process of recording HAVA employee hours in the Ohio Secretary of State's office resulted in overcharges to the HAVA accounts. The auditors recommended that the EAC require the Ohio Secretary of State's Office to:

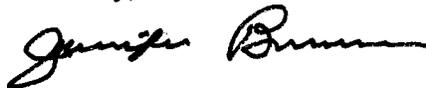
1. Implement a process where HAVA hours recorded in the official Ohio payroll system are compared to individual employee time sheets and confirmed by someone other than the person recording the HAVA hours in the official payroll system in order to ensure the accuracy of the data in the official payroll system. The reviewing person should indicate on the time sheets or in the payroll system that the review was completed.
2. Compare HAVA hours recorded on employee time sheets with HAVA hours recorded in the Payroll Disbursement Journal for prior pay periods where HAVA salaries were claimed (other than pay periods ending June 25, 2005 and July 9, 2005), and make adjustments to the HAVA section 101 fund to reflect salary and fringe benefit costs associated with any hours that were recorded incorrectly. The applicable Financial Status Reports should be adjusted accordingly.

Secretary of State Response

I agree with the finding and recommendations. This office will implement the recommended process and has already conducted the recommended review and adjustment of reports.

Thank once you again for the opportunity to comment on your report. We believe our suggestions meet the needs of the EAC in seeking full compliance and are fair and reasonable. We are willing to work with the EAC to explore further solutions if necessary. If you have any questions – especially about the alternatives proposed in my response – please do not hesitate to contact Elections Counsel Erick Gale or me.

Sincerely,



Jennifer Brunner
Ohio Secretary of State

cc: Donetta L. Davidson, Chair, U.S. Election Assistance Commission
Thomas R. Wilkey, Executive Director, U.S. Election Assistance Commission

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