



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

**ADMINISTRATION OF PAYMENTS
RECEIVED UNDER THE HELP AMERICA
VOTE ACT BY THE SECRETARY OF THE
COMMONWEALTH OF PENNSYLVANIA**

**Report No.
E-HP-PA-10-06
January 2007**



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

January 10, 2007

Memorandum

To: Thomas Wilkey
Executive Director

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

Subject: Final Audit Report - Administration of Payments Received Under the Help America Vote Act by the Secretary of the Commonwealth of Pennsylvania (Assignment Number E-HP-PA-10-06)

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

- ✓ Pennsylvania did not have adequate documentation to support salary charges for six positions financed with HAVA funds resulting in questioned costs of \$562,513.
- ✓ Counties did not keep records that sufficiently accounted for equipment purchased with HAVA funds.
- ✓ Pennsylvania was unable to provide supporting documentation to show that it had met its maintenance of effort requirement for activities funded by Section 251 payments at a level not less than expended in the state fiscal year ending June 30, 2000.

In its December 18, 2006 response to the draft report (Appendix 3), Pennsylvania indicated that actions were underway to address the issues identified in the report. Regarding the \$526,513 in questioned costs for salaries, Pennsylvania certified that the

individuals in question were working on HAVA programs and established procedures for the completion of semiannual certifications for all HAVA funded positions. Pennsylvania also indicated that it was drafting policies and procedures to address the property related issues. Finally, based on a review of expenditures for its base year, Pennsylvania believes that it met the maintenance of effort requirement.

Please provide us with your written response to the recommendations included in this report by March 9, 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 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
PENNSYLVANIA**

HAVA funds received and expended by Pennsylvania are as follows:

<i>TYPE OF PAYMENT</i>	<i>AMOUNT RECEIVED</i>	<i>OUTLAYS</i>	
		<i>AMOUNT</i>	<i>AS OF¹</i>
101	\$11,323,168	\$ 7,292,798	12/31/05
102	22,916,952	0	12/31/05
251	100,578,829	10,166,601	09/30/05
Totals	\$134,818,949	\$17,459,399	

**FINANCIAL
MANAGEMENT
REQUIREMENTS**

Within the Pennsylvania Department of State (Department), HAVA programs are administered by the Bureau of Commissions, Elections and Legislation. To account for the HAVA payments, the Act 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:

- ✓ 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 or unallowability 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 objectives of our audit were to determine whether Pennsylvania (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 appropriating a 5 percent match for requirements payments, and for maintaining state expenditures for

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.

elections at a level not less than expended in fiscal year 1999.²

Specifically, we audited reported outlays shown on page 2 and reviewed controls to assess their adequacy over the expenditure of HAVA funds. We also evaluated compliance with certain administrative 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 Pennsylvania 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.

RESULTS OF AUDIT

SUMMARY

We concluded that the Department generally accounted for and expended HAVA funds in accordance with requirements. However, we identified a need for the Department to improve its management procedures and/or processes to ensure that expenditures for payroll are adequately supported and equipment is properly managed and safeguarded. Because of insufficient supporting documentation, we classified expenditures for payroll of \$562,513 as questioned costs.

Regarding significant HAVA compliance requirements, we found that the Department met the requirements for establishing a state election fund and appropriating matching funds. We were not, however, able to determine whether the Department satisfied the requirement for maintaining state expenditures for activities funded by Section 251 payments at a level not less than expended in the state fiscal year ending June 30, 2000. This occurred because the state did not identify

² Pennsylvania uses the calendar year in which the fiscal year begins to designate the fiscal year; for example, fiscal year 1999 began on July 1, 1999, and ended on June 30, 2000.

fiscal year 1999 operations and expenditures for activities currently funded by Section 251 requirements payments and did not monitor State spending for such activities in subsequent years.

PAYROLL

The Department did not adequately support salary charges for six staff positions funded 100 percent by Help America Vote Act (HAVA) payments for the two-year period January 2004 through December 2005. Requirements for time distribution records are included in Office of Management and Budget Circular A-87, Appendix B.8.h (3). Specifically, Circular A-87 states that where employees are expected to work solely on a single Federal award, charges for their salaries and wages will be supported by semiannual certifications that the employees worked exclusively on that program for the period covered by the certification. The Department had not developed sufficient policy and procedures to ensure that semiannual certifications were prepared and submitted. The Department calculated that the total cost for salaries and benefits for these six positions for the period from January 2004 to December 2005 was \$562,513, and we classified this amount as a questioned cost.

Recommendations:

We recommend that the EAC require the Department to:

1. Establish policy and procedures to ensure that semiannual certifications are submitted.
2. Resolve the questioned costs of \$562,513.

Department Response:

The Department agreed that it did not prepare semiannual certifications during the period January 2004 through December 2005. To address the finding, the Department submitted a certification from the Commissioner of the Bureau of Commissions, Elections and Legislation. The Commissioner certified that the six employees whose salaries were questioned had worked full-time on HAVA programs. Also, the Department responded that it had established policies and procedures to ensure that the semiannual certifications are prepared.

OIG Comments:

We believe the actions taken by the Department are sufficient to support the questioned costs and to resolve Recommendation 1.

PROPERTY

The Department and six Counties we visited did not maintain adequate records of equipment purchased with Help America Vote Act (HAVA) funds in compliance with the Common Rule. 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 Department had not developed sufficient policy and procedures to account for equipment purchased with HAVA payments. In addition, the Department's agreements with the counties did not include a requirement to comply with Federal regulations regarding the management of equipment. As a result, the Department was unable to provide its policy for inventory control or a formal inventory that included HAVA-funded equipment. Further, at the six counties we visited, we found that property records were not maintained or did not contain all the required information.

- Chester, Luzerne, Cambria and Westmoreland counties had not maintained a formalized inventory record for HAVA-funded equipment that included the required data such as funding source, cost, and acquisition date.
- Allegheny County did not maintain any property records for voting machines delivered prior to the May 2006 primary election because the vendor had borrowed some of the machines for use in another state.
- Philadelphia had established property management policy that generally met Common Rule requirements but had not inventoried all components of its voting system and had not captured the extent of Federal participation in the value of upgraded voting equipment.

Recommendations:

We recommend that the EAC require the Department to:

3. Establish policy and procedures to account for equipment purchased with HAVA payments.
4. Ensure that the counties comply with the Federal equipment management requirements.
5. Include in future agreements the specific Federal equipment management requirements.

Department Response:

The Department agreed that it was unable to provide a policy for inventory control or a formal inventory of HAVA-funded equipment. To address this finding, the Department responded that it is updating its inventory to comply with the Common Rule, incorporating in future agreements with counties a provision requiring compliance with the Common Rule, drafting policies and procedures that will require counties to record equipment purchased with HAVA funds, requiring counties to submit updated lists of property on an annual basis, and performing random site visits to assess county equipment lists.

OIG Comments:

We believe the Department's response is sufficient to resolve the recommendations.

***MAINTENANCE
OF EFFORT***

The Department did not identify fiscal year 1999 (base year) expenditures for activities funded by Section 251 requirements payments and did not monitor State spending for such activities in subsequent years. Further, in its amended State Plan, the Department recognized the State's obligation to maintain programs at base year levels but did not state whether or not this commitment had been met. Section 254 (a)(7) of HAVA requires the State to maintain expenditures for activities funded by requirements payments 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.

The Department told us that it had taken a holistic approach to monitoring the maintenance of effort required by HAVA; monitoring the total budget appropriation provided to the Department of State rather than identifying and tracking election-specific expenditures. The Department also believed that the generalized statements included in the amended State Report were sufficient to meet the reporting requirement of Section 254 (a) (7).

As the Pennsylvania Department of State had not quantified spending for its base year and subsequent years levels of effort, we could not determine whether it satisfied the maintenance of effort requirement. However, we obtained and analyzed expenditure data for fiscal years 1999, 2003 and 2004. Our analysis included costs of the Bureau of Commissions, Elections, and Legislation general operations and the costs of its Election and Voter Registration Divisions.

Based on total costs of these organizational units, as shown below, it appears that the State may not have met the maintenance of effort

requirement established by Section 254 (a)(7) of HAVA.

Organizational Unit	Base Year FY 1999	FY 2003	FY 2004
Bureau of Commissions, Elections & Legislation	\$344,565	\$301,841	\$230,522
Election Division	\$393,535	\$394,183	\$413,595
Voter Registration Division	\$737,000	\$487,548	\$493,297
Totals	\$1,475,100	\$1,183,572	\$1,137,414

Recommendations:

We recommend that EAC:

6. Require the Department to identify its base year expenditures for activities related to HAVA Section 251 requirements payments and annual expenditures for these activities for the fiscal years 2003 and 2004.
7. Identify any appropriate actions to be taken based on the information submitted by the Department.

Department Response:

Although the Department agreed to identify its applicable base year (state fiscal year ending prior to November 2000) expenditures; it did not agree that it may not have met the maintenance of effort requirement imposed by HAVA. In that regard, it believes that the costs of the Department's election related programs shown in the audit as pertaining to the base year and fiscal years 2003 and 2004 includes the costs of activities that are not related to requirements payments. Its response also stated that there is no requirement to identify the base year costs.

OIG Comments:

We agree that there is no provision in HAVA that specifically requires the identification of base year costs. However, without quantification of a state base year costs pertaining to activities currently funded by requirements payments, it is not possible to determine whether a state met the maintenance of effort requirement. Thus, a state must quantify its base year costs. Also, we recognize that the costs analysis

in our report pertaining to maintenance of effort may include costs not related to activities funded by requirements payments. We presented the costs based on available information and to demonstrate the importance for states to specifically identify their costs related to implementing Section 251 of HAVA.

The Department needs to document the results of the analysis its base year and subsequent years costs pertaining to Section 251 and provide the results to the EAC.

SCOPE AND METHODOLOGY

To accomplish our objective, we reviewed:

- ✓ The prior single audit report and other reviews related to the Department's financial management systems and the HAVA program for the last 2 years.
- ✓ Policies, procedures and regulations for Pennsylvania's management and accounting systems as they relate to the administration of HAVA programs.
- ✓ Inventory lists of equipment purchased with HAVA funds to the extent these documents were produced.
- ✓ Major purchases.
- ✓ Supporting documents maintained in the accounting system for payments made with HAVA funds.
- ✓ Support for reimbursements to counties.
- ✓ Certain Pennsylvania 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 1999 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 Department 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 Department'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

<u><i>Description</i></u>	<u><i>Questioned Costs</i></u>
Payroll	<u>\$562,513</u>



COMMONWEALTH OF PENNSYLVANIA
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December 18, 2006

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Dear Mr. Crider:

The Pennsylvania Department of State (Department) has reviewed the draft report entitled “Administration of Payments Received Under the Help America Vote Act by the Secretary of the Commonwealth of Pennsylvania,” Assignment No. E-HP-PA-10-06. The Department’s written comments to the report findings and recommendations are provided below.

PAYROLL

The Department agrees that semiannual certifications were not prepared for the two-year period January 2004 through December 2005. The Department, however, did establish policies and procedures to ensure that semiannual certifications are submitted effective January 1, 2006. Certifications for the six HAVA funded positions for the period January 2006 through December 2006 were prepared and signed on December 30, 2006. The Department will continue to prepare and submit semiannual certifications for all HAVA funded positions.

In order to resolve the questioned costs of \$562,513, the following certifications have been obtained:

- Judith L. Holjes, Federal Grant Administrator, signed a certification on November 27, 2006 (attached), certifying that for the period of September 11, 2004 through December 31, 2005, she worked solely on the Department of State’s Help America Vote Act of 2002 (HAVA) program.
- Harry VanSickle, Commissioner of the Bureau of Commissions, Elections and Legislation, signed a certification on December 15, 2006 (attached), certifying that the employees of the Bureau’s Division of the Help America Vote Act worked solely on

[Attachments withheld by the Office of Inspector General]

