



## **EAC MANAGEMENT DECISION:**

*Resolution of the OIG Audit Report on the Administration of Payments Received Under the Help America Vote Act by the Nevada Secretary of State for the Period April 30, 2003 Through December 31, 2010 Report No. E-HP-NV-02-11*

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November 9, 2011

### **BACKGROUND**

The EAC is an independent, bipartisan agency created by the Help America Vote Act of 2002 (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 Department 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](http://www.eac.gov).

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 two 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 Nevada Secretary of State (SOS) on September 30, 2011. Except for the lack of personnel certifications, discrepancies in property management records, the failure to transfer interest, improper property usage, and unallowable voter registration expenses, the audit concluded that the SOS generally accounted for and expended HAVA funds in accordance with requirements mentioned for the period from April 30, 2003 through December 31, 2010.

### **Finding 1 – Lack of Personnel Certifications**

The SOS charged a total of \$894,306 in payroll expenses to the Help America Vote Act (HAVA) election fund between May 2003 and December 31, 2010. The total was comprised of \$794,331 paid to SOS staff working full-time on HAVA activities and \$99,975 paid to information technology (IT) staff working part-time on the statewide voter registration system (SVRS).

The auditors selected a sample of six (6) full-time staff pay periods for testing with total payroll charges of \$32,191. The auditors questioned \$28,180 of the total payroll charges tested because of lack of documentation to support the salaries as required by OMB Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*. The questioned payroll charges were for the SOS full-time staff that did not have semi-annual certifications that they worked only on HAVA related activities, or the time cards did not indicate that the work was for HAVA related activities. The SOS began requiring the semi-annual certifications for the six month period ended December 31, 2010, which provided support for the \$49,437 full-time payroll charges.

Based on the internal control weaknesses and exceptions explained above, the auditors questioned all full-time staff's payroll charges from inception to June 30, 2010 for lack of appropriate documentation. These charges amounted to \$744,894 (\$794,331 less \$49,437 total supported charges).

### **Recommendation:**

1. The auditors recommended that EAC resolve with the SOS the appropriate corrective action regarding the completion of the semi-annual certifications.

### **SOS Response:**

The SOS official stated that the personnel costs were paid from a legislatively approved special revenue account, Election Fund, established for the specific purpose of segregating funds from other state accounts or general funds. The salaries for the full-time HAVA staff were paid solely from this account, and only work on HAVA related activities qualified for these expenditures. The SOS official confirmed that the full-time HAVA employees only performed related activities. They stated that since notification

of the missing certifications, the documentation had been completed for the last six months of 2010 and the first six months of 2011, and a calendaring system had been implemented to ensure semi-annual certifications are completed. They also indicated the SOS office was open to suggestions from the Inspector General or EAC regarding assurances for salaries for past HAVA-related work.

**EAC Response:**

EAC has noted that the salaries for the full-time HAVA staff were paid solely from the legislatively approved special revenue account. Only work on HAVA-related activities qualified for expenditures from this account. The SOS official confirmed that the full-time HAVA employees only performed related activities. Additionally, EAC has reviewed sample documentation submitted by the SOS. EAC considers this matter closed.

**Finding 2 – Property Management**

The auditor’s review of statewide master inventory records disclosed that the records for the different locations did not contain all information in varying degrees as required in 41 CFR §105-71.132(d)(1), referred to as the Common Rule. The following discrepancies were noted:

- One county – Records were missing source, title, acquisition date, unit price, and use and condition.
- Ten counties – Records were missing acquisition date and unit price.
- One county – Records were missing source, title, acquisition date, unit price, federal percentage, location, and use and condition.
- Two counties – Records were missing acquisition date, unit price, and location.
- One county – Records are missing unit price.
- Las Vegas Secretary of State Storage – Three (3) inventory items listed and selected for testing had been transferred to another location, and were improperly reported as being held in the Las Vegas storage location.

Also, in the site visit to five counties, the auditors identified the following discrepancies in two locations’ equipment records:

- Las Vegas Secretary of State Storage – One (1) F-5 DNS Controller 520 was not located.
- One county – One (1) Sequoia Audio Headset was not located.

**Recommendations:**

The auditors recommended that the SOS:

2. Ensure that the counties document at least the minimum information in the property records in accordance with 41 CFR§105-71.132(d) (1).

3. Require counties to conduct a physical inventory of all HAVA funded equipment in their possession and provide these results to the state for reconciliation with and updating of the statewide master inventory list.

**SOS Response:**

The SOS official stated that county property records have been formatted to capture the required Common Rule information, and will be distributed to the counties to conduct a physical inventory of all HAVA funded equipment in their possession. County officials will be required to sign an acknowledgment annually regarding the accuracy of the list, date it, and provide the results for the state to use to update the statewide master inventory list.

**EAC Response:**

EAC has worked with the SOS to ensure compliance with the Common Rule. The county property records have been modified to capture minimum requirements of the Common Rule. Counties are required to conduct a physical inventory of all HAVA funded equipment and provide the results annually. The SOS provided a sample property inventory list to EAC for review. EAC considers this matter closed.

**Finding 3 – Interest Earnings**

Nevada established an election account to hold HAVA funds in accordance with the requirements of HAVA Section 254(b) (1). HAVA also requires the interest earned from the investment of the monies be deposited into the election account. The timely deposit of interest earnings produces a compounding effect that adds additional funds to the program.

Nevada received a Section 101 installment payment of \$5,000,000 on April 30, 2003; however, the state treasurer did not begin transferring interest earned on these funds into the election account until July 2003. Based on rates provided to the auditors by the state treasurer, the auditors determined that there is a total of \$16,777 of interest that should be transferred to the election account for May and June 2003, plus the compounded interest on these funds until the date of the transfer.

**Recommendation:**

4. The auditors recommended that EAC work with Nevada officials to verify and transfer the amount of interest owed to the election account for the period from May 1, 2003 through June 30, 2003, plus the additional compounded interest as of June 30, 2003, and any additional compounded interest owed through the date of transfer.

**SOS Response:**

The SOS' office determined that the election fund is eligible for the interest, and sent a letter to the Treasurer's office asking that correct deposits be made to the HAVA account, including the compounding interest, and requested that the calculations used to determine the interest shortfall be provided to ensure the correct amount is transferred.

The Treasurer's office has transferred \$20,838.37 to the HAVA account covering the period from May 1, 2003 through June 30, 2003 plus the compounded interest through the date of the transfer.

**EAC Response:**

The SOS provided documentation showing that \$20,838.37 including compounded interest was transferred to the HAVA account. EAC considers this matter closed.

**Finding 4 – Property Usage**

During observation and testing of property and equipment in one of the county municipal offices, the auditors noted that the state's inventory listing included HAVA funded computer equipment, totaling \$16,434 that was acquired for Statewide Voter Registration System (SVRS) access. However, these computers are primarily used for daily operations, and are not restricted to HAVA related activities. A determination could not be made as to what portion of these costs is an appropriate use of HAVA funds.

**Recommendation:**

5. The auditors recommended that EAC work with the state to determine the allowability of the noted equipment costs.

**SOS Response:**

The SOS' office responded that they understood the requirement that the HAVA funded equipment could only be used to benefit state's HAVA program, and noted that they sent correspondence to the counties on December 19, 2006 and May 12, 2009 stating that the federally funded equipment was restricted in its use, and "...its non-HAVA use, even de minimis use, will not be allowed." They further stated that since the state had consistently advised counties as to the limitations of HAVA purchased equipment, they requested the state not be held accountable for the de minimis use contrary to direct instructions from their office.

**EAC Response:**

EAC will work with the SOS to ensure appropriate corrective action.

### **Finding 5 – Unallowable Expenses**

On August 25, 2006, the SOS awarded a grant for \$20,000 of HAVA Section 101 funds to be used to support National Women’s Suffrage Day (NWSD) activities in 2007. The funds were used for promoting the NWSD activities through paid advertising, and providing funds to youth theater groups for planned rehearsals and necessary stage props for performances of a play to tell the history of women’s struggles to get the right to vote. The grant application stated that the “target audiences are elementary school-age children and their parents residing in Clark County in July 2007.” Review of the grant-related activities concluded that, although there were some aspects of the NWSD program that encouraged parents to register to vote, many of the events and activities were directed at non-voting age children and did not meet the HAVA definition of educating voters on voting procedures, voting rights, and voting technology.

#### **Recommendation:**

6. The auditors recommended that EAC resolve the issue with the SOS whether the costs associated with NWSD qualify for HAVA funding.

#### **SOS Response:**

The SOS’ office considers the costs an allowable expenditure of HAVA funds and provided their rationale in the response in Appendix A-1, citing various aspects of the program as justification, including the diverse audience to which it was directed.

#### **EAC Response:**

EAC will work with the SOS and gather additional documentation to determine appropriate corrective action.

### **Finding 6 – Unallowable Expenses**

The SOS used Section 101 HAVA funds totaling \$25,000 for video segments that may not be allowable, since not all of the content of the programs was directed at voter education. Some of the videos were designed to encourage voter registration, which is allowable as determined by EAC; however, the videos also included get out the vote messages. The programs ended with references to two websites labeled Silverstate08.com and RaiseYourVoice.org.

#### **Recommendation:**

7. The auditors recommended that EAC resolve the issue with the SOS whether the costs associated with this grant qualify for HAVA funding.

**SOS Response:**

The SOS' office considers the costs an allowable expenditure of HAVA funds and provided their rational in the response in Appendix A-1, citing the educational aspects of the websites to which the videos direct the viewer.

**EAC Response:**

The EAC will work with the SOS to determine which costs qualify for HAVA funding.