



EAC MANAGEMENT DECISION:

Resolution of the OIG Audit Report on the Administration of Payments Received Under the Help America Vote Act by the Michigan Department of State, for the Period May 1, 2003 Through February 28, 2009, Report No. E-HP-MI-01-08

September 30, 2010

BACKGROUND

The EAC is an independent, bipartisan agency created by the Help America Vote Act (HAVA). EAC assists and guides state and local election officials in improving the administration of elections for Federal office. EAC distributes HAVA funds to States for the acquisition of voting systems, and supports the establishment of statewide voter registration lists, and other activities to improve the administration of elections for Federal office. EAC monitors State use of HAVA funds to ensure funds distributed are being used for authorized purposes. To help fulfill this responsibility, the EAC determines the necessary corrective actions to resolve issues identified during Single Audit Act and 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.

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.

AUDIT HISTORY

The OIG issued an audit report on the administration of payments received under the Help America Vote Act (HAVA) by the Michigan Department of State (MDOS) on April 23, 2010. The audit concluded that, except for the failure of MDOS to deposit Section 251 state matching funds in the HAVA fund as required and the shortfall in interest on this amount, MDOS generally accounted for and expended HAVA funds in accordance with the HAVA requirements and complied with the financial management requirements established by the U.S. Election Assistance Commission. The MDOS also complied with Section 251 requirements.

HAVA Section 251 Fund State Match

The State did not deposit required matching funds into the election fund prior to the receipt of each of the four Section 251 distributions from the EAC. The State's legislature appropriated the required matching funds, but retained the dollars in the general fund until a qualifying HAVA Section 251 expenditure invoice was received, at which time the State would contribute 5% of the total amount billed. The State had a matching fund requirement of \$4,155,814, and as of February 28, 2009, total payments of \$3,034,121 had been applied against this total, resulting in a \$1,121,693 shortfall of matching funds in the election fund. In addition, the HAVA election fund had lost interest which would have been earned if the matching funds had been deposited timely. The MDOS staff calculated this interest total to be \$348,956 through February 28, 2009.

RECOMMENDATION:

The audit recommended that the MDOS:

1. Comply with HAVA by depositing into the election fund the State match shortfall of \$1,144,518 or such amount as determined at the date of the transfer.
2. Determine the amount of compounded interest that would have been earned on the state matching funds from the date they should have been timely deposited in the election fund through the date of the transfer, and periodically deposit these interest earnings.

MDOS'S RESPONSE:

The MDOS said the Michigan Office of Financial Management would deposit the State match balance as of September 30, 2009 into a new interest-bearing HAVA fund on October 1, 2009. As of August 31, 2009, the State match balance was \$1,103,885.35.

The amount of lost interest was determined to be \$348,955.98. The MDOS stated that they do not plan to deposit this lost interest into the election fund since MDOS has increased the amount paid for HAVA maintenance of effort activities by State funds by significantly more than this amount. According to information provided to us by the MDOS, Michigan had made cumulative expenditures toward maintenance of effort

activities of \$1,947,525.69 in excess of its required maintenance of effort from Fiscal Years 2004 through 2008.

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The EAC has reviewed MDOS's assertion that excess maintenance of effort from Fiscal Years 2004 through 2008 could be used to offset the lost interest of \$348,955.98. The EAC has determined that MDOS has allowable HAVA expenditures, in excess of the maintenance of effort calculation, which can be used to offset the lost interest. EAC considers this matter closed.