EAC MANAGEMENT DECISION:

Resolution of the OIG Audit Report on the Administration of Payments Received Under the Help America Vote Act by the North Dakota Secretary of State for the Period April 29, 2003 Through September 30, 2012 Report No. E-HP-ND-08-12

January 16, 2014

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 Office 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.

Please note with four Commissioner 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 North Dakota Secretary of State on November 6, 2013. Based on the audit procedures performed, except for the matters discussed below, the auditors concluded that the North Dakota Secretary of State's Office (Office) generally accounted for and expended the Grant funds in accordance with grant and audit requirements for the period from April 29, 2003 through September 30, 2012.

Finding 1 – Financial Reporting

The auditors found that the North Dakota Secretary of State's Office (Office) submitted financial reports for Section 101 and Section 251 funds that could not be supported by underlying accounting records.

The terms and conditions of the HAVA awards require the submission of accurate and complete Federal Forms 269 (Financial Status Report) and 425 (Federal Financial Report) which reflect the uses of award funds and the interest and program income generated from those funds. HAVA Title IX, Section 902. AUDITS AND REPAYMENT OF FUNDS, Part (a) – Recordkeeping Requirement states, "Each recipient of a grant or other payment made under this Act shall keep such records with respect to the payment as are consistent with sound accounting principles, including records which fully disclose the amount and disposition by such recipient of funds, the total cost of the project or undertaking for which funds are used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records will facilitate an effective audit."

Recommendation:

The auditors recommend that the EAC address and resolve the following recommendation that the North Dakota Secretary of State's Office:

(a) Perform a reconciliation of the grant activity for the Section 101 funds and ensure that all interest earned and expenditures incurred are fully disclosed.

(b) Prepare and submit revised financial reports to the EAC for Section 101 and Section 251 activities as of September 30, 2012.

Secretary of the State's Response:

The Office believes that the interest earned and expenditures incurred for Section 101 funds have been previously verified through processes independent of this Office. The Office stated that prior to the previous accounting software being closed, all records in the system were reconciled by the Office and audited by the State Auditor. After the retention period expired, the records were purged according to state law. The Office also indicated that the state auditors conducted an audit of the administration of the HAVA funds every two years and no findings were reported in any of those audits. Due to the fact that the early accounting records have been purged the auditors were provided spreadsheets used by the HAVA coordinator for the sole purpose of the general tracking of expenditures and income. These spreadsheets were not intended for accounting purposes.

The Office has submitted a revised financial report for Section 251 as of September 30, 2012 as a result of the finding.

EAC Response:

EAC will work with the Secretary of State to determine the status of interest earned and expenditures incurred for Section 101 funds. EAC will ensure corrective action.

Finding 2 – Inadequate Equipment Management

The auditors found that the Office's equipment management is inadequate in regards to property records.

The *Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments* 41 CFR § 105-71.132 (d) (the "Common Rule") section states that, (1) "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, and 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 and (2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years."

Recommendation:

The auditors recommend that the EAC require the Office to ensure that the equipment listing is updated as necessary and a physical inventory be conducted every two years through the use of county or state personnel. An analysis should also be performed to ensure that all purchases have been ultimately recorded through the inventory.

Secretary of State's Response:

The Office could not initially provide the inventory records for all counties since the data had not been uploaded to the inventory system. The Office uploaded the data for all the counties and verified the data with each county and provided a complete inventory list to the auditors.The inventory listing was substantiated by the auditors through their on-site visits.

The Office does conduct a physical inventory annually in conjunction with the yearly billing process for each county's share of equipment maintenance costs. The statements sent to the counties and payments received are compared and any differences are resolved and reconciled to maintain accurate lists.

EAC Response:

As noted by the auditors the Secretary of State has updated the inventory records for the equipment purchased with HAVA funds. The Office has also conducted a physical inventory. **EAC considers this matter closed.**

Finding 3 – Documentation of Policies and Procedures

The auditors found that key internal control policies affecting financial management activities including purchasing, payment, payroll, Federal financial reporting, monthly budgetary and reconciliation reviews, and Federal grant oversight and administration, have not been addressed in a departmental policy and procedure document. Due to the few personnel involved in award administration, accounting and financial reporting, policies and procedures have been developed informally over the years.

Federal regulations, specifically 41 CFR 105-71.120 – *Post-Award Requirements/Financial Administration, Standards for Financial Management Systems, Internal Control*, require that:

(a) A State must expand and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds, and

(b) Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets.

Recommendation:

The auditors recommend that the EAC require the Office to complete and document internal control procedures and other appropriate policies in written manuals and also provide training to personnel involved in the administration of Federal awards. Specifically, these policies and procedures should address financial management activities including purchasing, payment, payroll, Federal financial reporting, monthly budgetary and reconciliation reviews, and Federal grant oversight and administration. Additionally, these procedures should be reviewed and updated on a regular basis.

Secretary of State's Response:

The Office established an Internal Control Policy plan as of September 6, 2013 to address the concern.

EAC Response:

EAC has reviewed the Secretary of State's Internal Control Policy. Once EAC receives confirmation of its implementation, this matter will be closed.

Finding 4: Matching Contributions

The auditors found that the Office deposited a portion of the state matching funds into the election fund subsequent to receipt of certain requirements payments.

HAVA Section 254(b)(1) requires that the following monies be deposited into the state's election fund:

(a) Amounts appropriated or otherwise made available by the State for carrying out the activities for which the requirement 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.

Recommendation:

The auditors recommend that the EAC address and resolve the following recommendation that the North Dakota Secretary of State's Office:

(a) Calculate the amount of interest to transfer to the election fund for the untimely deposit of matching funds. This calculation should consider the period from the date the requirements payments were received through the date the matching requirement was met and include any compound interest through the date of the transfer.
(b) Perform an analysis of the amount invoiced to the counties to ensure that the election fund has received all county required matching contributions.

Secretary of the State's Response:

The Office agreed with the $26,316 matching contribution not being deposited into the election fund. There was a coding error made that inadvertently credited the match approved by the Legislative Assembly to the Office's general fund. The Office will submit a funding request to the Governor, which will be ultimately considered by the 2015 Legislative Assembly to appropriate $26,316 plus the compound interest on that amount through the date of transfer.

The Office disagrees that interest was not properly accounted for on the other state matching dollars figures of $113,421, $57,867 and $18,421. To obtain the matching funds, the Governor and Secretary of State must first certify that the state match has been provided. The EAC would not have released the requirements payments to North Dakota until it was certain that the Office and state had met the necessary requirements. Therefore, the Office believes that the matching funds and applicable interest for these funds were correctly accounted for and that no further discovery is warranted.

EAC Response:

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

Finding 5 – Inadequate Invoice Approval

The auditors found that the Office paid invoices which did not have adequate review and approval to ensure that costs are accurate and appropriate for HAVA funds.

North Dakota Management and Budget Fiscal and Administrative Policy 216 – Internal Control & Fraudulent/Significant Dishonest Acts states, “Internal controls play an important role in the prevention and detection of fraud. Examples of internal controls are, but not limited to: Authorization of transactions – review of particular transactions by an appropriate person.” It further states, “Each state agency has a particular role to play and is ultimately responsible for implementing proper internal controls within their organization.”

Proper internal controls include assurance that documented support exists for costs charged to Federal awards are commensurate with the value received. The Office’s internal controls, as described, identify the Deputy Secretary of State as the person with the primary role of reviewing and approving invoices for allowability and allocability to the grant.

Recommendation:

The auditors recommend that the EAC require the Office to implement procedures to ensure that all payments made with Federal funds are reviewed to ensure that costs are reasonable, allowable and allocable.

Secretary of State’s Response:

Although the audit identified a few isolated invoices that did not have any evidence of being reviewed or approved directly noted on the invoices themselves, the Office did and does have procedures in place for review and approval of expenditures. The initial procedure involved the Accounting/Budget Specialist reviewing the invoices and then providing them to the Deputy Secretary of State for approval and signature. The Office subsequently implemented additional controls for the review and approval process for expenditures. The Deputy Secretary of State and the Accounting Director approve the claim for payment and the Accounting/Budget Specialist reviews and processes payment based on the claim for payment and documentation provided. Although a few earlier invoices missed having a notation of being reviewed, all payments were correctly and accurately processed and accounted for or they would not have been paid. In addition, the audit did not have any findings of unreasonable, unallowable or non-allocable expenditures.

EAC Response:

EAC will work with the Secretary of State to ensure appropriate corrective action.