



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

FINAL REPORT:

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

MAY 7, 2003 THROUGH SEPTEMBER 30, 2013

**Report No.
E-HP-ME-05-14
February 2015**



U.S. ELECTION ASSISTANCE COMMISSION
OFFICE OF INSPECTOR GENERAL
1335 East West Highway - Suite 4300
Silver Spring, MD 20910

Memorandum

February 2, 2015

To: Alice Miller
Acting Executive Director

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

Subject: Final Performance Audit Report – Administration of Payments Received Under the Help America Vote Act by the Maine Secretary of State (Assignment Number E-HP-ME-05-14)

We contracted with the independent certified public accounting firm of McBride, Lock & Associates to audit the administration of payments received under the Help America Vote Act (HAVA) by the Maine Secretary of State (Office).

In its audit, McBride, Lock & Associates concluded that the Office generally accounted for and expended the HAVA funds in accordance with applicable requirements for the period from May 7, 2003 through September 30, 2013. However the following exceptions were identified:

1. The Office did not have established policies and procedures addressing financial management activities including purchasing, payment, payroll, Federal financial reporting and Federal grant oversight and administration.
2. The Office did not adequately support all salaries and wages charged to the grant award.
3. The Office expended \$103,964 of HAVA funds for purposes that are not allowable under the award's terms and conditions or HAVA regulations. The Office purchased paper ballots in 2006.
4. The Office's equipment management was inadequate in regards to the maintenance of property records and the performance of a physical observation of inventory.

In the report, McBride, Lock & Associates summarized the Office's response to the recommendations, as well as their comments on the responses after the recommendations. The Office did not agree with Finding No. 3 that HAVA funds were spent for unallowable purposes. The Office felt that the HAVA funds spent in 2006, for paper ballots, should be considered an allowable cost. The EAC indicated that it would work with the Office to resolve the issues in the report. The Office's complete response is included as Appendix A-1 and the EAC's complete response is included as Appendix A-2.

We would appreciate being kept informed of the actions taken on our recommendations as we will track the status of their implementation. Please respond in writing to the findings and recommendation included in this report by April 2, 2015. Your response should include information on actions taken or planned, targeted completion dates, and titles of officials responsible for implementation.

To fulfill our responsibilities under Government Auditing Standards, the Office of Inspector General:

- Reviewed McBride, Lock & Associates' approach and planning of the audit;
- Evaluated the qualifications and independence of the auditors;
- Monitored the progress of the audit at key points;
- Reviewed the audit report, prepared by McBride, Lock & Associates to ensure compliance with Government Auditing Standards; and
- Coordinated issuance of the audit report.

McBride, Lock & Associates is responsible for the attached auditor's report and the conclusions expressed in the report. We do not express any opinion on the conclusions presented in McBride, Lock & Associates' audit report.

The legislation creating the Office of Inspector General requires that we report to Congress semiannually on all audit reports issued, actions taken to implement our recommendations, and recommendations that have not been implemented.

If you have any questions regarding this report, please call me at (301) 734-3104.

Attachment

cc: Director of Grants and Payments

Performance Audit Report

**Administration of Payments Received Under the Help America Vote Act by
the Maine Secretary of State**

Prepared for

**The United States Election Assistance Commission (EAC)
Office of Inspector General**

By

McBride, Lock & Associates, LLC

October 2014

McBRIDE, LOCK & ASSOCIATES, LLC

CERTIFIED PUBLIC ACCOUNTANTS
KANSAS CITY

**Performance Audit Report
Administration of Payments Received Under the Help America Vote Act by
the Maine Secretary of State**

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**U.S. Election Assistance Commission
Performance Audit Report
Administration of Payments Received Under the Help America Vote Act by
the Maine Secretary of State**

EXECUTIVE SUMMARY

McBride, Lock & Associates, LLC was engaged by the United States Election Assistance Commission (EAC) Office of the Inspector General to conduct a performance audit of the Maine Secretary of State's Office (Office) from inception in May 7, 2003 through September 30, 2013 to determine whether the Office used payments authorized by Sections 101, 102, and 251 of the Help America Vote Act of 2002 (the HAVA) in accordance with HAVA and applicable requirements; accurately and properly accounted for property purchased with HAVA payments and for program income; maintained state expenditures at a level not less than the level maintained in the fiscal year ending prior to November 2000; and met HAVA requirements for Section 251 funds for an election fund and for a matching contribution.

In addition, the Commission requires states to comply with certain financial management requirements, specifically:

- Comply with the *Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Government*, 41 CFR 105-71, (originally Office of Management and Budget Circular A-102, also known as the "Common Rule").
- Expend payments in accordance with cost principles set forth in *Cost Principles for State and Local Governments*, 2 CFR 225, (originally Office of Management and Budget Circular A-87) for establishing the allowability or unallowability of certain items of cost for federal participation.
- Follow the requirements of the Federal Cash Management and Improvement Act.
- Submit detailed annual financial reports on the use of Title I and Title II payments.
- Comply with the provisions of *Audits of States, Local Governments and Non-Profit Organizations* (Office of Management and Budget Circular A-133).

We conducted this performance audit in accordance with *Generally Accepted Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on the audit objectives.

Based on the audit procedures performed, except for the matters discussed below, we concluded that the Office generally accounted for and expended the Grant funds in accordance with the

requirements mentioned above for the period from May 7, 2003 through September 30, 2013. The exceptions are as follows:

1. The Office does not have established policies and procedures addressing financial management activities including purchasing, payment, payroll, Federal financial reporting and Federal grant oversight and administration.
2. The Office did not adequately support all salaries and wages charged to the grant award.
3. The Office expended \$103,964 of HAVA funds for purposes that are not allowable under the award's terms and conditions or HAVA regulations.
4. The Office's equipment management is inadequate in regards to the maintenance of property records and the performance of a physical observation of inventory.

We have included in this report as Appendix A, the Secretary of State's written response to the draft report. Such response has not been subjected to the audit procedures and, accordingly, we do not provide any form of assurance on the appropriateness of the response or the effectiveness of the corrective actions described therein.

BACKGROUND

The Help America Vote Act of 2002 (HAVA) created the U.S. Election Assistance Commission (Commission) to assist States and insular areas (hereinafter referred to as States) with improving the administration of federal elections and to provide funds to States to help implement these improvements. The Commission administers payments to States authorized by HAVA under Titles I and II, as follows:

- Title I, Section 101 payments are for activities such as complying with HAVA requirements for uniform and nondiscriminatory election technology and administration requirements (Title III), 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 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 five percent of the total amount to be spent for activities for which requirements payments are made.
- Maintain the expenditures of the State for activities funded by the requirements payment at a level that is not less than the expenditures maintained by the State for the fiscal year ending prior to November 2000.
- Establish an election fund for amounts appropriated by the State for carrying out activities for which requirements payments are made, for the Federal requirements payments received, for other amounts as may be appropriated under law and for interest earned on deposits of the fund.

The Awardee – The Maine Secretary of State

The HAVA funds were awarded to the Maine Secretary of State. The Secretary of State is the chief state election official, and has central authority to oversee the application of the State's election laws and procedures; approve voting machines for use by municipalities; train and advise municipal election officials in the proper conduct of statewide elections; design, prepare and distribute ballots and other election forms in a consistent format for all municipalities; collect and compile statewide reports of election results and voter registration figures; and conduct recounts centrally following uniform procedures. The staff of the Division of Elections carries out these election activities on behalf of the Secretary of State.

Help America Vote Act State of Maine State Plan

The State of Maine's development committee consisted of 14 individuals representing a cross-section of election stakeholders. The committee was selected by the Secretary of State.

The main objectives of the project funded by HAVA, as set forth in the state plan, were to purchase, implement, administrate and maintain compliant voting systems; and purchase, implement, administrate and maintain a computerized statewide voter registration list.

The Secretary of State established and is maintaining an election fund for the exclusive purpose of carrying out activities of HAVA. The fund consists of a federal account (for the receipt and expenditure of federal funds) and a state dedicated account (for the receipt of and expenditure of state match funds). Each account in the fund is non-lapsing and accrues interest earned. Additionally, the Office has managed all expenditures funded by HAVA and has not distributed any of the requirements payments to the local units of government.

AUDIT OBJECTIVES

The objectives of our audit were to determine whether the Office:

1. Used payments authorized by Sections 101, 102, and 251 of the Grant in accordance with Grant and applicable requirements;
2. Accurately and properly accounted for property purchased with Grant payments and for program income;
3. Met HAVA requirements for Section 251 funds for creation of an election fund, providing required matching contributions, and meeting the requirements for maintenance of a base level of state outlays, commonly referred to as Maintenance of Expenditures (MOE).

In addition to accounting for Grant payments, the Grant requires states to maintain records that are consistent with sound accounting principles that fully disclose the amount and disposition of the payments, that identify the project costs financed with the payments and other sources, and that will facilitate an effective audit. The Commission requires states receiving Grant funds to comply with certain financial management requirements, specifically:

- Comply with the *Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Government*, 41 CFR 105-71, (originally Office of Management and Budget Circular A-102, also known as the “Common Rule”).
- Expend payments in accordance with cost principles set forth in *Cost Principles for State and Local Governments*, 2 CFR 225, (originally Office of Management and Budget Circular A-87) for establishing the allowability or unallowability of certain items of cost for federal participation.
- Follow the requirements of the Federal Cash Management and Improvement Act.
- Submit detailed annual financial reports on the use of Title I and Title II payments.
- Comply with the provisions of *Audits of States, Local Governments and Non-Profit Organizations* (Office of Management and Budget Circular A-133).

SCOPE AND METHODOLOGY

We audited the Grant funds received and disbursed by the Office from May 7, 2003 through September 30, 2013 as shown in the following table:

Description	HAVA Section 101	HAVA Section 102	HAVA Section 251	Total
Funds Received from EAC	\$ 5,000,000	\$ -	\$ 13,021,803	\$ 18,021,803
State Matching Funds	-	-	802,483	802,483
Program Income	600,698	-	1,517,024	2,117,722
Total Funds	\$ 5,600,698	\$ -	\$ 15,341,310	\$ 20,942,008
Less Disbursements	(4,043,652)	-	(13,874,237)	(17,917,889)
Fund Balance	\$ 1,557,046	\$ -	\$ 1,467,073	\$ 3,024,119

AUDIT RESULTS

We conducted this performance audit in accordance with *Generally Accepted Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on the audit objectives.

Based on the audit procedures performed, except for the matters discussed below, we concluded that the Office accounted for and expended the HAVA funds in accordance with the requirements mentioned above for the period from May 7, 2003 through September 30, 2013. The exceptions to applicable compliance requirements are described below.

Finding No. 1 – Documentation of Policies and Procedures

Key internal control policies affecting financial management activities including purchasing, payment, payroll, Federal financial reporting and Federal grant oversight and administration, have not been addressed in policy and procedure documentation. The Office relies heavily on written documentation set forth in State manuals, and electronic controls implemented in the accounting system. Due to the few personnel involved in award administration, accounting and financial reporting, policies and procedures have developed informally over the years.

Federal regulations, specifically 41 CFR § 105-71.120 – Standards for Financial Management Systems 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.

The State Administrative & Accounting Manual (SAAM), issued by the Maine Office of the State Controller, 20.20.20a states, "Each agency is responsible for establishing and maintaining an effective system of internal control through the organization as required by Title 5, Chapter 143, Section 1541, Subsection 10-A."

Maine Revised Statutes, Title 5, Chapter 143, Section 1541, Subsection 10-A, states, "Internal control systems of state agencies and departments are to be clearly documented and readily available for examination. Documentation of a state agency's or department's internal control systems must include internal control procedures, internal control accountability systems and identification of the operating cycles. Documentation of the state agency's or department's internal control systems must appear in management directives, administrative policy, procedures and manuals."

A key aspect of maintaining an effective system of internal controls is the documentation of related policies and procedures to ensure these criteria are current, approved, communicated, incorporated into training materials, and updated when appropriate.

The lack of documented internal control policies and procedures may result in a lack of awareness, consistency in application, and compliance of regulations, which could allow for noncompliance with grant terms and conditions to occur and not be detected.

The Office recently developed a formalized internal control procedure and policy manual to address the concern. However, these policies were not formalized during the period under review.

Recommendation

We recommend that the EAC resolve with the Office the adequacy of the recently developed internal control procedures. Specifically, these policies and procedures should address financial management activities including purchasing, payment, payroll, Federal financial reporting and Federal grant oversight and administration. Additionally, the EAC should require the Office to provide training to personnel involved in the administration of Federal awards to ensure and understanding of the new policies. Further, these procedures should be reviewed and updated on a regular basis.

Secretary of State Response:

The Office believes that we have consistently had effective internal controls in place for both the conduct of grant management and our regular day-to-day business practices. As noted in the Finding No. 1 narrative, the Office does rely heavily on written documentation set forth in State manuals, particularly the State Administrative & Accounting Manual (SAAM) and the myriad electronic controls built into its accounting and budget management systems. The knowledge that we are relying on these formally documented procedures and system controls provides a level of assurance that we are applying the rules and controls appropriately and consistently. The narrative also notes that "few personnel" are "involved in award

administration, accounting and financial reporting, policies and procedures” which has led, over the years, to the informal development of local procedures. The Office believes that the procedures we have applied at the agency level are consistent with the intent of the SAAM and further that having had few personnel involved in the grant management process over the life of the award has in fact enhanced familiarity and consistency in the interpretation and application of both State and EAC rules and regulations relating to execution of the HAVA Program.

With that as a preface, the State acknowledges that the absence of a separate agency instruction detailing the daily processes and practices conducted to properly manage grant awards means that it was technically not in full compliance with the SAAM.

While the office has had a Grants Management Manual in place for the last several years; it addresses the administration and management of grant programs more broadly and lacks the detail called for by the SAAM. Fortunately, because the lack of a detailed instruction was raised as a concern early enough in the audit process, the Office has had the opportunity to develop an agency specific internal control instruction which captures many of the practices already in place while also addressing the requirements outlined in the SAAM for accounting for grant funds in accordance with State laws and procedures and providing the controls and accountability necessary for grants, real and personal property, and other assets. Specifically, the document identifies objectives, risks, and prescribed practices for administering internal controls in numerous functional areas including accounts payable and receivable, cash handling, purchases and ledger reviews, among others. In addition, the instruction notes best practices in each functional area as it relates to the State’s Advantage accounting system.

As part of the process for implementing the instruction, it will be further vetted with the State Controller’s Office – which is charged with updating and maintaining the SAAM – to ensure it adequately addresses SAAM requirements.

Auditor’s Response:

The Office has implemented agency specific internal control instructions which should be considered by EAC in resolving the finding.

Finding No. 2 – Unsupported Payroll Costs Charged to the Grant

The Office did not adequately support all salaries and wages charged to the grant award.

Office of Management and Budget Circulars and Guidance, Cost Principles for State, Local, and Indian Tribal Governments 2 CFR § 225, Appendix B.8.h.(3) states that “Where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the employee or supervisory official having first-hand knowledge of the work performed by the employee.”

Appendix B.8.h.(4), states that “Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets the standards in subsection (5)... Such documentary support will be required where employees work on... (b) A Federal award and a non Federal award”

Appendix B.8.h.(5), states that “Personnel activity reports or equivalent documentation must meet the following standards: (a) They must reflect an after the fact distribution of the actual activity of each employee, (b) They must account for the total activity for which each employee is compensated, (c) They must be prepared at least monthly and must coincide with one or more pay periods, (d) They must be signed by the employee, and (e) Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards but maybe used for interim accounting purposes.”

The sample selection of eleven payroll periods found that up until the June 20, 2012 payroll distribution the Office did not have an adequate work effort certification system. Prior to June 20, 2012, effort allocations were determined by work title and were based on an estimate of the amount of effort to be spent on the HAVA project. There was no semi-annual certification for those employees whose time was allocated 100% to HAVA or an after the fact adjustment made for those employees whose time was split on multiple projects in accordance with A-87.

Payroll costs (salaries and fringe benefits) from award inception to June 20, 2012 were determined to be \$606,180 during this period. Indirect costs associated with these costs totaled \$29,396.

After June 20, 2012, the Office started using the project reporting capabilities of the timekeeping system to account for certain employees time worked on HAVA projects. Of the sample selection of eleven payroll periods four of these were subsequent to the change in the timekeeping system. We evaluated the effort reports for two employees for each of the four periods selected. It was noted that five of the eight did not adequately record their time to effort expended on HAVA projects. This resulted in unsupported payroll costs of \$11,959 for the sample reviewed. Accordingly, indirect costs of \$564 are unsupported.

The Office has provided retroactive certifications signed by the employee and supervisor to certify that the time charged to the grant was an accurate reflection of the time expended on HAVA projects.

Recommendation:

We recommend that EAC address and resolve the following recommendations that the Maine Secretary of State’s Office:

- (a) Transfer into the election fund \$618,139 for the questioned payroll charges and \$29,960 for the applicable indirect costs as cited above.

- (b) Perform and provide additional analysis for all payroll charges allocated to HAVA subsequent to the June 20, 2012 payroll distribution to determine the extent of any unsupported payroll costs.
- (c) Implement written policies and provide training to ensure that employees who expend efforts on Federal activities to accurately record their time in the Office's timekeeping system.

Secretary of State Response:

With regard to Recommendation (a) - the Office recognizes that the identified funds were, in the opinion of the auditors, insufficiently documented to reflect that any work performed was on behalf of the HAVA grant. However, we strongly disagree that any financial assessment should be made as we believe that throughout the life of the grant, the office has acted in good faith to ensure that all incumbents holding positions funded by HAVA did properly record time worked, and we are confident that the work of these employees was performed in support of the HAVA grant.

We would note that near the end of State of Maine Fiscal Year 2014 (May/14), the agency was able to restore 1.5 HAVA funded positions to the General Fund and that there are no remaining positions funded by the grant. Prior to that, like all agency employees, staff who were paid through the HAVA award were required to electronically record their time on a biweekly basis in the State's Time and Attendance Management System (TAMS). After the time is recorded, each employee asserts that "By entering my electronic signature and pressing 'Accept/Sign', I am certifying that I have worked on the indicated cost objectives/activities/programs." Following submission of this certification, a supervisor reviews the submission and having confirmed its accuracy, electronically signs the timecard thus approving it for payroll processing.

It has been the longstanding practice in this Office that the activities or programs being worked on by respective staff are reflected in their Functional Job Analysis which is essentially a position description identifying specific position responsibilities and no additional breakdown of what they worked on is required on the timesheet. In applying the process as described above, we believed we were satisfying our obligation to provide documentation reflecting and accounting for the actual activity of each employee.

The Finding No. 2 narrative contains the following excerpt from the Office of Management and Budget Circulars and Guidance, Cost Principles for State, Local, and Indian Tribal Governments 2 CFR § 225, Appendix B.8.h.(3) stating that "Where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the employee or supervisory official having first-hand knowledge of the work performed by the employee."

Again, as we believed that because the staff to whom this applied complied with the reporting requirements by virtue of submitting their bi-weekly electronic timecards, we did not require the semiannual certifications.

Appendix B.8.h.(4), is also excerpted stating that: “Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets the standards in subsection (5)... Such documentary support will be required where employees work on... (b) A Federal award and a non Federal award.” In the case of this office, Appendix B.8.h.(4) applied to a single staff person who, like other agency staff, substantiated time worked in the manner detailed above and which we believed was sufficient for compliance.

However, following participation in a 2012 EAC webinar, we realized that since one position had duties that were split between two funding sources, we should be delineating the respective work performed for HAVA and non HAVA cost activities. We changed the reporting process to allow for that staff member to reflect the breakdown, at which point we believed we had reestablished compliance.

While we do feel that our actions in substantiating and electronically certifying the work performed under HAVA have been essentially correct and that we acted quickly when we became aware of the issue regarding the staff member whose time was split between HAVA and non HAVA work; after the auditor identified this as an issue, we reached out to each of the employees who previously performed in HAVA roles. The employees fully paid from HAVA have all retroactively certified for each six month period of employment that 100% of their work was performed in the execution of HAVA duties as detailed in each of their respective position descriptions, while the employee whose time was split between HAVA and non HAVA work has retroactively certified for each two month period of employment that at least 50% of her work was performed in the execution of HAVA duties as detailed in her position description.

This follow-up action further supports the electronic timekeeping documentation for the affected periods and confirms that staff performed work wholly on HAVA related tasks. In light of this we do not believe that the EAC would have adequate grounds for seeking to recoup any of these personnel funds, which were in fact spent in support of the HAVA mission.

Regarding Recommendation (b), we invite EAC to look over any of the payroll records subsequent to June 20, 2012 and stipulate that the findings will mirror those for the period reviewed during the audit. That is, the time associated with the split position will be recorded in a manner consistent with what the auditors have outlined as the preferred method, and the time worked by the dedicated position continued to be recorded as it was for the period prior to June, 2012.

Finally, with regard to Recommendation (c), we have updated the agency's Manual for Federal Grants Management to reflect the requirement for properly accounting/certifying any time worked on a grant in TAMS and referenced OMB Circular A-133.

Auditor's Response:

We acknowledged above that the Office corrected their timekeeping method for partially-funded employees, and that work efforts were retroactively certified. The Office's corrective action plans are responsive to the remaining concerns.

Finding No. 3– Unallowable Costs

The Office expended HAVA funds for purposes that are not allowable under the award's terms and conditions or HAVA regulations.

HAVA Section 101(b)(1) states, "A State shall use the funds provided under a payment made under this section to carry out one or more of the following activities: (B) Improving the administration of elections for Federal Office."

The EAC, in its Funding Advisory Opinion FAO-10-002, concluded that, "The purchase of paper ballots... cannot be viewed as an improvement to the election process."

The Office expended HAVA funds on two separate occasions in 2006 to purchase paper ballots. The two transactions amounted to \$99,005 costs. Indirect costs associated with these costs totaled \$4,959.

It was indicated that the majority of costs incurred for the 2006 paper ballots for the Primary and General Elections (i.e. 84%) were covered by the State's general fund. The State was still in the process of implementing the new computerized central voter registration system and was working under a consent decree with the Department of Justice. In the absence of complete statewide voter registration data, and in order to assure that there would be enough ballots for each registered voter, the State determined it necessary to order more ballots than had been budgeted from the general funds. The excess cost of \$99,005 was charged to HAVA Title I funds.

Recommendation:

We recommend that the EAC require the Office to transfer to the election fund \$103,964 for the questioned cost and associated indirect costs as cited above.

Secretary of State Response:

With regard to Finding No. 3, the Office disagrees that Funding Advisory Opinion FAO-10-002 has direct applicability in this instance.

FAO-10-002 related to the State of Tennessee seeking to use Help America Vote Act (HAVA) Section 251 funds to purchase paper ballots for federal elections. The EAC issued a decision that Tennessee could not use Section 251 funds to purchase paper ballots for federal elections since this expenditure would not have met any of the requirements of Title III of HAVA nor would the purchase have satisfied the provision for allowing the minimum payment amount applicable to a state under Section 252(c) 42 U.S.C. § 15401(b)(2) for the improvement of the administration of federal elections.

In the absence of Title III certification, the EAC noted as part of its reasoning that “the purchase of the paper ballots in Tennessee are currently funded by the counties and were funded and provided for by the counties prior to the passage of HAVA and, thus, cannot be viewed as an improvement to the election process.”

Tennessee’s proposed action would have been in lieu of their normal process. In issuing its decision, we believe the EAC was concluding that the use of HAVA funds by Tennessee to replace a ballot procurement process already in place in the state would, in effect, be tantamount to forgoing the Maintenance Of Effort (MOE) required of all states to conduct their elections processes at or above the same budgetary levels applicable prior to the receipt of any HAVA awards.

The facts in Maine’s case are completely different. In Maine, ballot procurement is a responsibility of the state, and state funds were budgeted and expended for this purpose in 2006 as in previous elections. Therefore the State had already met its MOE obligations at the time the decision was made to purchase additional ballots, and the State was not looking to supplant its regularly funded ballot processes with federal grant funds.

Instead, Maine had a well-reasoned basis for making the purchase of the additional ballots for the primary and general elections in 2006 and we believe that the use of the funds for this purpose did in fact, “improve” the elections process by ensuring there would be no shortage of ballots for eligible voters.

Some background: at the time of purchase, the State (working under a consent decree with the U.S. Department of Justice) was still in the process of implementing a computerized central voter registration system and was experiencing problems with the system vendor that would eventually lead to termination of the vendor’s contract for cause by the State. In light of these issues, Maine lacked confidence in the information provided by the vendor, including the validity of the voter registration numbers and the reported figures for expected turnout. The State was concerned that the vendor’s numbers did not provide a basis for accurately determining the appropriate number of ballots to procure. Absent complete statewide voter registration data, and in order to ensure there would be enough ballots for each registered voter, it was determined that more ballots than had been budgeted from general funds were necessary. The cost of \$99,005 to print those additional ballots was charged to HAVA Title I funds.

Before using HAVA funds to purchase the additional ballots, Maine had followed its normal process for procuring ballots and had met its MOE obligations. However, the

extenuating circumstances created by the lack of accurate voter registration figures and turnout data necessitated a risk mitigation action to ensure that any registered voters desiring to vote would be able to. The basis for the action to purchase additional ballots for the elections in question was the legitimate concern for the potential impact from a shortage of ballots.

In closing, we would point out three additional considerations. First, at the time the State expended the HAVA funds to purchase additional ballots the EAC had not issued any guidance that indicated such an expenditure would not be an improvement to the election process. In the absence of explicit guidance, the methods of compliance are left to the discretion of the State. Moreover, the Funding Advisory Opinion FAO-10-002 was not issued until four years after Maine's expenditure decision. Second, neither previous nor subsequent to this one period has the state utilized HAVA funds for such purposes, thus confirming that the 2006 action was due to extenuating circumstances. Third, the State did identify the purchase of these ballots in its annual report to EAC for the period 1/1/2006 to 12/31/2006 in Section 101(b)(1)(B) - Administration of Elections for Fed Office Improvements on the line titled "Federal Election Ballot Costs (above MOE)" and never received any questions or comments or any guidance contrary to its actions. In light of all these considerations, the office does not believe it should be required to transfer monies back to the Election Fund and would ask the EAC to find the same.

Auditor's Response:

We recommend that EAC provide further guidance on the allowability of the purchase of paper ballots.

Finding No. 4 – Inadequate Equipment Management

The Office's equipment management is inadequate in regards to the maintenance of property records and the performance of a physical observation of inventory.

The State Administrative & Accounting Manual (SAAM) Chapter 30.10.40, states that, "Departments are responsible for developing internal control policies and procedures to protect and control the use of all Fixed Assets." At a minimum, the Department must maintain a Fixed Asset Inventory system that include records for all inventorial assets. Per SAM Chapter 30.40.30, "the official asset record is the Advantage Accounting System" further, the list should contain the following categories: Department Name and Code Number, Account, Acquisition Date, Cost, Depreciation, Description, Disposal Authorization, Inventory Control Number, Location Code, Salvage Value, and Useful Life." Finally, SAAM Chapter 30.45.10 requires Departments to "conduct physical inventories annually for all inventorial assets."

The Office has documented internal control policies and procedures for equipment management. However, the current Office policy does not comply with the SAAM in the area of Inventory Record Requirements. The policy does not require the use of the Advantage Accounting System or maintenance of all required detail categories.

Additionally, two of the fourteen invoices selected for equipment testing had inventorial assets that were not included on an inventory list. Three assets were identified over \$5,000 for a total of \$35,184 that should have been included in the inventory system. Finally, the Office has not conducted a physical inventory on an annual basis for all inventorial assets.

The deficiencies in equipment management result from the Office not implementing policies meeting the minimum state requirements for the protection and control of Fixed Assets.

Recommendation

We recommend that EAC address and resolve the following recommendations that the Maine Secretary of State's Office:

- (a) Modify their equipment management policies and procedures to fully comply with SAAM Chapter 30.
- (b) Implement procedures to ensure a physical inventory is conducted on an annual basis and such inventory be adequately documented.

Secretary of State Response:

With regard to Recommendation (a), we will take action to assign and document a Property Officer. Additionally, although we do maintain agency inventory records, we will update the Agency inventory management policy to bring it into compliance with the SAAM, Chapter 30 guidance so that it calls for purchases meeting the applicable thresholds to be recorded as fixed assets in the state's accounting system in accordance with the Controller policy.

With regard to Recommendation (b), we do recognize the requirement for an annual physical inventory, but we believe that the annual equipment and preparation check that we do via letter or telephone prior to each year's elections satisfies the requirement. We lack the personnel and budgetary resources to conduct annual onsite visits to over 500 municipalities and do not believe that intensive level of effort is necessary to achieve the objectives of the inventory requirement. We would ask that the EAC confirm whether our approach to performing the inventory is acceptable.

Additionally, we realize the procedures currently utilized for retaining documentation relating to these inventory events needs to be strengthened and we will update the agency instruction accordingly to better define the process for retention of the inventory records.

Auditor's Response:

The corrective action, pending approval from EAC, is responsive to the concerns.

We provided a draft of our report to the appropriate individuals of the Office of the Maine Secretary of State. We considered any comments received prior to finalizing this report.

The Office responded on December 16, 2014 and generally agreed with the report's findings and recommendations. The EAC responded on December 16, 2014 and stated they will work with the Office to ensure appropriate corrective action. The Office's complete response is included as Appendix A-1 and the EAC's complete response as Appendix A-2.

McBride, Lock & Associates, LLC performed the related audit procedures between June 5, 2014 and October 21, 2014.

(Original Signed by McBride, Lock & Associates, LLC)

McBride, Lock & Associates, LLC

October 21, 2014

Appendix A-1



Department of the Secretary of State

Bureau of Corporations, Elections and Commissions

Matthew Dunlap
Secretary of State

Julie L. Flynn
Deputy Secretary of State

December 16, 2014

Curtis Crider
Office of Inspector General
1335 East West Highway
Suite 4300
Silver Spring, MD 20910

Re: Maine Response to Draft HAVA Performance Audit Report

Dear Inspector General Crider,

The Secretary of State appreciates this opportunity to submit a written response to the draft report entitled *Performance Audit Report – Administration of Payments Received Under the Help America Vote Act by the Maine Secretary of State*, which was provided to this office on November 18, 2014. We understand that the comments we provide herein to each of the report's findings will be copied from this response into the final report.

Finding No. 1 – Documentation of Policies and Procedures

The Office believes that we have consistently had effective internal controls in place for both the conduct of grant management and our regular day-to-day business practices. As noted in the Finding No. 1 narrative, the Office does rely heavily on written documentation set forth in State manuals, particularly the State Administrative & Accounting Manual (SAAM) and the myriad electronic controls built into its accounting and budget management systems. The knowledge that we are relying on these formally documented procedures and system controls provides a level of assurance that we are applying the rules and controls appropriately and consistently. The narrative also notes that “few personnel” are “involved in award administration, accounting and financial reporting, policies and procedures” which has led, over the years, to the informal development of local procedures. The Office believes that the procedures we have applied at the agency level are consistent with the intent of the SAAM and further that having had few personnel involved in the grant management process over the life of the award has in fact enhanced familiarity and consistency in the interpretation and application of both State and EAC rules and regulations relating to execution of the HAVA Program.

With that as a preface, the State acknowledges that the absence of a separate agency instruction detailing the daily processes and practices conducted to properly manage grant awards means that it was technically not in full compliance with the SAAM.

While the office has had a Grants Management Manual in place for the last several years; it addresses the administration and management of grant programs more broadly and lacks the detail called for by the SAAM. Fortunately, because the lack of a detailed instruction was raised as a concern early enough in the audit process, the Office has had the opportunity to develop an agency specific internal control instruction which captures many of the practices already in place while also addressing the requirements outlined in the SAAM for accounting for grant funds in accordance with State laws and procedures and providing the controls and accountability necessary for grants, real and personal property, and other assets. Specifically, the document identifies objectives, risks, and prescribed practices for administering internal controls in numerous functional areas including accounts payable and receivable, cash handling, purchases and ledger reviews, among others. In addition, the instruction notes best practices in each functional area as it relates to the State's Advantage accounting system.

As part of the process for implementing the instruction, it will be further vetted with the State Controller's Office – which is charged with updating and maintaining the SAAM – to ensure it adequately addresses SAAM requirements.

A copy of the new instruction as well as the Grant Management Manual has been included as part of this response.

Finding No. 2 – Unsupported Payroll Costs Charged to the Grant

With regard to Recommendation (a) - the Office recognizes that the identified funds were, in the opinion of the auditors, insufficiently documented to reflect that any work performed was on behalf of the HAVA grant. However, we strongly disagree that any financial assessment should be made as we believe that throughout the life of the grant, the office has acted in good faith to ensure that all incumbents holding positions funded by HAVA did properly record time worked, and we are confident that the work of these employees was performed in support of the HAVA grant.

We would note that near the end of State of Maine Fiscal Year 2014 (May/14), the agency was able to restore 1.5 HAVA funded positions to the General Fund and that there are no remaining positions funded by the grant. Prior to that, like all agency employees, staff who were paid through the HAVA award were required to electronically record their time on a biweekly basis in the State's Time and Attendance Management System (TAMS). After the time is recorded, each employee asserts that "By entering my electronic signature and pressing 'Accept/Sign', I am certifying that I have worked on the indicated cost objectives/activities/programs." Following submission of this certification, a supervisor reviews the submission and having confirmed its accuracy, electronically signs the timecard thus approving it for payroll processing.

It has been the longstanding practice in this Office that the activities or programs being worked on by respective staff are reflected in their Functional Job Analysis which is essentially a position description identifying specific position responsibilities and no additional breakdown of what they worked on is required on the timesheet. In applying the process as described above, we believed we were satisfying our obligation to provide documentation reflecting and accounting for the actual activity of each employee.

The Finding No. 2 narrative contains the following excerpt from the Office of Management and Budget Circulars and Guidance, Cost Principles for State, Local, and Indian Tribal Governments 2 CFR § 225, Appendix B.8.h.(3) stating that “Where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the employee or supervisory official having first-hand knowledge of the work performed by the employee.”

Again, as we believed that because the staff to whom this applied complied with the reporting requirements by virtue of submitting their bi-weekly electronic timecards, we did not require the semi-annual certifications.

Appendix B.8.h.(4), is also excerpted stating that: “Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets the standards in subsection (5)... Such documentary support will be required where employees work on... (b) A Federal award and a non Federal award.” In the case of this office, Appendix B.8.h.(4) applied to a single staff person who, like other agency staff, substantiated time worked in the manner detailed above and which we believed was sufficient for compliance.

However, following participation in a 2012 EAC webinar, we realized that since one position had duties that were split between two funding sources, we should be delineating the respective work performed for HAVA and non HAVA cost activities. We changed the reporting process to allow for that staff member to reflect the breakdown, at which point we believed we had reestablished compliance.

While we do feel that our actions in substantiating and electronically certifying the work performed under HAVA have been essentially correct and that we acted quickly when we became aware of the issue regarding the staff member whose time was split between HAVA and non HAVA work; after the auditor identified this as an issue, we reached out to each of the employees who previously performed in HAVA roles. The employees fully paid from HAVA have all retroactively certified for each six month period of employment that 100% of their work was performed in the execution of HAVA duties as detailed in each of their respective position descriptions, while the employee whose time was split between HAVA and non HAVA work has retroactively certified for each two month period of employment that at least 50% of her work was performed in the execution of HAVA duties as detailed in her position description.

This follow-up action further supports the electronic timekeeping documentation for the affected periods and confirms that staff performed work wholly on HAVA related tasks. In light of this we do not believe that the EAC would have adequate grounds for seeking to recoup any of these personnel funds, which were in fact spent in support of the HAVA mission.

Regarding Recommendation (b), we invite EAC to look over any of the payroll records subsequent to June 20, 2012 and stipulate that the findings will mirror those for the period reviewed during the audit. That is, the time associated with the split position will be recorded in a manner consistent with what the auditors have outlined as the preferred method, and the time worked by the dedicated position continued to be recorded as it was for the period prior to June, 2012.

Finally, with regard to Recommendation (c), we have updated the agency's Manual for Federal Grants Management to reflect the requirement for properly accounting/certifying any time worked on a grant in TAMS and referenced OMB Circular A-133.

Finding No. 3 – Unallowable Costs

With regard to Finding No. 3, the Office disagrees that Funding Advisory Opinion FAO-10-002 has direct applicability in this instance.

FAO-10-002 related to the State of Tennessee seeking to use Help America Vote Act (HAVA) Section 251 funds to purchase paper ballots for federal elections. The EAC issued a decision that Tennessee could not use Section 251 funds to purchase paper ballots for federal elections since this expenditure would not have met any of the requirements of Title III of HAVA nor would the purchase have satisfied the provision for allowing the minimum payment amount applicable to a state under Section 252(c) 42 U.S.C. § 15401(b)(2) for the improvement of the administration of federal elections.

In the absence of Title III certification, the EAC noted as part of its reasoning that “the purchase of the paper ballots in Tennessee are currently funded by the counties and were funded and provided for by the counties prior to the passage of HAVA and, thus, cannot be viewed as an improvement to the election process.”

Tennessee’s proposed action would have been in lieu of their normal process. In issuing its decision, we believe the EAC was concluding that the use of HAVA funds by Tennessee to replace a ballot procurement process already in place in the state would, in effect, be tantamount to forgoing the Maintenance Of Effort (MOE) required of all states to conduct their elections processes at or above the same budgetary levels applicable prior to the receipt of any HAVA awards.

The facts in Maine’s case are completely different. In Maine, ballot procurement is a responsibility of the state, and state funds were budgeted and expended for this purpose in 2006 as in previous elections. Therefore the State had already met its MOE obligations at the time the decision was made to purchase additional ballots, and the State was not looking to supplant its regularly funded ballot processes with federal grant funds.

Instead, Maine had a well-reasoned basis for making the purchase of the additional ballots for the primary and general elections in 2006 and we believe that the use of the funds for this purpose did in fact, "improve" the elections process by ensuring there would be no shortage of ballots for eligible voters.

Some background: at the time of purchase, the State (working under a consent decree with the U.S. Department of Justice) was still in the process of implementing a computerized central voter registration system and was experiencing problems with the system vendor that would eventually lead to termination of the vendor’s contract for cause by the State. In light of these issues, Maine lacked confidence in the information provided by the vendor, including the validity of the voter registration numbers and the reported figures for expected turnout. The State was concerned that the vendor’s numbers did not provide a basis for accurately determining the appropriate number of ballots to procure. Absent complete statewide voter registration data, and in order to ensure there would be enough ballots for each registered voter, it was determined that more ballots than had been budgeted from general funds were necessary. The cost of \$99,005 to print those additional ballots was charged to HAVA Title I funds.

Before using HAVA funds to purchase the additional ballots, Maine had followed its normal process for procuring ballots and had met its MOE obligations. However, the extenuating circumstances created by the lack of accurate voter registration figures and turnout data necessitated a risk mitigation action to ensure that any registered voters desiring to vote would be able to. The basis for the action to purchase additional ballots for the elections in question was the legitimate concern for the potential impact from a shortage of ballots.

In closing, we would point out three additional considerations. First, at the time the State expended the HAVA funds to purchase additional ballots the EAC had not issued any guidance that indicated such an expenditure would not be an improvement to the election process. In the absence of explicit guidance, the methods of compliance are left to the discretion of the State. Moreover, the Funding Advisory Opinion FAO-10-002 was not issued until four years after Maine's expenditure decision. Second, neither previous nor subsequent to this one period has the state utilized HAVA funds for such purposes, thus confirming that the 2006 action was due to extenuating circumstances. Third, the State did identify the purchase of these ballots in its annual report to EAC for the period 1/1/2006 to 12/31/2006 in Section 101 (b)(1)(B) - Administration of Elections for Fed Office Improvements on the line titled "Federal Election Ballot Costs (above MOE)" and never received any questions or comments or any guidance contrary to its actions. In light of all these considerations, the office does not believe it should be required to transfer monies back to the Election Fund and would ask the EAC to find the same.

Finding No. 4 – Inadequate Equipment Management

With regard to Recommendation (a), we will take action to assign and document a Property Officer. Additionally, although we do maintain agency inventory records, we will update the Agency inventory management policy to bring it into compliance with the SAAM, Chapter 30 guidance so that it calls for purchases meeting the applicable thresholds to be recorded as fixed assets in the state's accounting system in accordance with the Controller policy.

With regard to Recommendation (b), we do recognize the requirement for an annual physical inventory, but we believe that the annual equipment and preparation check that we do via letter or telephone prior to each year's elections satisfies the requirement. We lack the personnel and budgetary resources to conduct annual onsite visits to over 500 municipalities and do not believe that intensive level of effort is necessary to achieve the objectives of the inventory requirement. We would ask that the EAC confirm whether our approach to performing the inventory is acceptable.

Additionally, we realize the procedures currently utilized for retaining documentation relating to these inventory events needs to be strengthened and we will update the agency instruction accordingly to better define the process for retention of the inventory records.

We have included three other documents with this response: Maine's *Manual for Federal Grants Management*, *Internal Control Policy for Business Office Practices* and a copy of the FY06 Title I Financial Report showing the expenditure of HAVA funds to pay for additional ballots for the 2006 Primary and General Elections. These documents are referenced in the State's response to the applicable finding in the draft report.

We would like to repeat our thanks and appreciation for the professionalism of the McBride, Lock team during their visits to Maine, as well as their assistance with reviewing the amended FY13 Title I and Title II Financial Reports that we will submit to the U.S. Elections Assistance Commission as a result of the audit reconciliation. We look forward to receiving the final report and response from the EAC as well as any feedback on the two instruction manuals we have created (i.e. Internal Control Policy) or updated (i.e. Grants Management manual) as a result of the audit and subsequent findings.

Please let us know if you have any questions or need clarification regarding this response.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Dunlap", written in a cursive style.

Matthew Dunlap,
Secretary of State

pc: Julie L. Flynn, Deputy Secretary of State

Appendix A-2



EAC RESPONSE TO THE DRAFT AUDIT:

OIG Performance Audit Report on the Administration of Payments Received Under the Help America Vote Act by the Maine Secretary of State for the Period May 7, 2003 through September 30, 2013.

December 16, 2014

MEMORANDUM

To: Curtis Crider
Inspector General

From: Alice P. Miller, Chief Operating Officer &
Acting Executive Director 

Subject: Draft Performance Audit Report – “Administration of Payments Received Under the Help America Vote Act by Maine Secretary of State”

Thank you for this opportunity to review and respond to the draft audit report for the Maine Secretary of State (SOS).

The Election Assistance Commission (EAC) will work with the SOS to ensure appropriate corrective action.

Appendix B

AUDIT METHODOLOGY

Our audit methodology included:

- Assessing audit risk and significance within the context of the audit objectives.
- Obtaining an understanding of internal control that is significant to the administration of the HAVA funds and of relevant information systems controls as applicable.
- Identifying sources of evidence and the amount and type of evidence required.
- Determining whether other auditors have conducted, or are conducting, audits of the program that could be relevant to the audit objectives.

To implement our audit methodology, below are some of the audit procedures we performed.

- Interviewed appropriate Office employees about the organization and operations of the HAVA program.
- Reviewed prior single audit reports and other reviews related to the State's financial management systems and the HAVA program for the period under review.
- Reviewed policies, procedures and regulations for the Office management and accounting systems as they relate to the administration of the HAVA program.
- Analyzed the inventory lists of equipment purchased with HAVA funds
- Tested major purchases and the supporting documentation.
- Tested randomly sampled payments made with HAVA funds.
- Tested amounts charged as indirect costs by verifying the approved rate and the reasonableness of the base.
- Evaluated compliance with the requirements for accumulating financial information reported to the Commission on the financial status reports and progress reports, accounting for property, purchasing HAVA related goods and services, and accounting for salaries.
- Verified the establishment and maintenance of an election fund.
- Verified the State expenditures met the Maintenance of Expenditures requirement
- Conducted site visits of selected counties to observe physical security/safeguard of equipment purchased with HAVA funds and ensure compliance with federal regulation.
- Verified that the matching requirement was timely met and matching expenditures met the prescribed criteria and allowability requirements of HAVA.
- Verified program income was properly accounted for and not remitted to the State's general fund.

Appendix C

MONETARY IMPACT AS OF SEPTEMBER 30, 2013

<u>Description</u>	<u>Questioned Costs</u>	<u>Additional Funds for Program</u>
Unsupported Payroll Costs	\$ 648,099	\$ -
Unallowable Ballot Costs	<u>103,964</u>	<u>-</u>
Total	<u>\$ 752,063</u>	<u>\$ -</u>

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Silver Spring, MD 20910

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