



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

FINAL REPORT:

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

JANUARY 1, 2006 THROUGH NOVEMBER 30, 2010

**Report No.
E-HP-TX-01-11
August 2011**



U.S. ELECTION ASSISTANCE COMMISSION
OFFICE OF INSPECTOR GENERAL
1201 New York Ave. NW - Suite 300
Washington, DC 20005

August 22, 2011

Memorandum

To: Thomas Wilkey
Executive Director

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

Subject: Final Audit Report - Administration of Payments Received Under the Help America Vote Act by the Texas Secretary of State (Assignment Number E-HP-TX-01-11)

We contracted with the independent certified public accounting firm of Clifton Gunderson LLP (Clifton Gunderson) to audit the administration of payments received under the Help America Vote Act (HAVA) by the Texas Secretary of State (SOS). The contract required that the audit be done in accordance with U.S. generally accepted government auditing standards. Clifton Gunderson is responsible for the attached auditor's report and the conclusions expressed therein.

In its audit of the SOS, Clifton Gunderson concluded that, except for unsupported payroll charges, failure to transfer interest on program income to the election fund, property management issues and failure to record interest on insurance proceeds, our audit concluded that the SOS 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 SOS also complied with section 251 requirements.

In their March 31, 2011 response (Appendix A-1), SOS management generally agreed with the report's finding and recommendations, and provided corrective action. However, they disagreed that one county which did not earn interest on its program income should be required to calculate the amount of the lost interest and deposit that amount into the county's election fund, and they disagreed with the recommendation that interest on the insurance proceeds from HAVA equipment destroyed in a fire should be calculated and deposited into the county's election fund.

Also, we have included in the report the EAC response to the draft report (Appendix A-2), dated July 15, 2011, which stated the action proposed to assist the SOS in resolving the finding and recommendations. 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 finding and recommendation included in this report by October 24, 2011. Your response should include information on actions taken or planned, targeted completion dates, and titles of officials responsible for implementation.

The legislation, as amended, creating the Office of Inspector General (5 U.S.C. § App.3) requires semiannual reporting to Congress on all audit reports issued, actions taken to implement audit recommendations, and recommendations that have not been implemented. Therefore, this report will be included in our next semiannual report to Congress.

If you have any questions regarding this report, please call me at (202) 566-3125.

PERFORMANCE AUDIT REPORT
ADMINISTRATION OF PAYMENTS RECEIVED
UNDER THE
HELP AMERICA VOTE ACT
BY THE
STATE OF TEXAS

January 1, 2006 Through November 30, 2010

UNITED STATES ELECTION
ASSISTANCE COMMISSION

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

EXECUTIVE SUMMARY

Clifton Gunderson LLP was engaged by the U.S. Election Assistance Commission (EAC or the Commission) Office of Inspector General (OIG) to conduct a performance audit of the Texas Secretary of State (SOS) for the period January 1, 2006 through November 30, 2010 to determine whether the SOS used payments authorized by Sections 101, 102, and 251 of the Help America Vote Act of 2002 (HAVA or the Act) in accordance with HAVA and applicable requirements; accurately and properly accounted for property purchased with HAVA payments and for program income, and met HAVA requirements for Section 251 funds for an election fund and for a matching contribution. In addition, we were engaged to conduct a performance audit of the election fund receipts from May 1, 2003 to December 31, 2005.

EAC OIG conducted a performance audit of SOS's expenditures, but not the receipts, of the HAVA program from inception through December 31, 2005, and issued a report dated October 18, 2006. We have reviewed SOS's corrective actions with respect to the findings and recommendations included in the EAC OIG report. We found that the recommendations have been implemented.

Our audit did not include a determination that the SOS met the requirements for maintenance of a base level of state outlays, commonly referred to as Maintenance of Expenditures (MOE). On June 28, 2010, the Commission issued a revised definitive policy on the requirements for the MOE. The policy included a provision that the states will have 12 months from the date of the revised policy to voluntarily submit a revised MOE plan to the EAC. Accordingly, our scope of audit did not include a determination of whether the SOS and its subgrantees met the requirements for MOE.

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 Governments* (also known as the "Common Rule") as published in the Code of Federal Regulations 41 CFR 105-71.
- Expend payments in accordance with cost principles for establishing the allowance or disallowance of certain items of cost for federal participation issued by the Office of Management and Budget (OMB) in Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*.
- Submit detailed annual financial reports on the use of Title I and Title II payments.

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. Because of inherent limitations, a study and evaluation made for the limited purposes of our review would not necessarily disclose all weaknesses in administering HAVA payments.

Except for the issues discussed below, our audit concluded that the SOS generally accounted for and expended HAVA funds in accordance with the requirements mentioned above for the period from January 1, 2006 through November 30, 2010. The exceptions needing SOS's management attention are as follows:

1. The state of Texas charged a total of \$1,747,062 in payroll to the HAVA election account during the period of January 1, 2006 through July 31, 2010. We tested five pay periods totaling \$102,677 and found that none of the charges were supported by payroll certifications or timecards indicating they were for HAVA purposes. Because the SOS followed the same procedures for the untested pay periods, we are questioning 100% of the personnel costs for the audit period.
2. All seven of the counties we visited earned program income from the rental of HAVA funded voting equipment. There were two of these counties that did not transfer interest earned on program income into a HAVA election account. Interest earned by one of these counties was deposited into the county treasury and used for non-HAVA purposes, and the other county did not earn interest on its HAVA program income.
3. In one county 38 HAVA funded laptop computers were stolen from the county election office warehouse. These laptop computers had been purchased in August 2006 and August 2008 for an average cost of approximately \$1,500 each. The equipment was not insured against theft and the county has not replaced the equipment.
4. In August 2010 a fire destroyed HAVA funded voting equipment at one county. The county had insured the equipment against loss and received insurance proceeds within a few weeks after the fire. The insurance proceeds were used to replace the HAVA funded voting equipment; however, interest earned on proceeds between the dates they were received and when they were paid out was not transferred into the HAVA election account.

We have included in this report, as Appendix A-1, the SOS management's formal response to the findings and recommendations dated March 31, 2011. On July 8, 2011, SOS management responded in an email that they "were okay with the [draft] report as is" and did not include any further comments. Although we have included management's written responses to our findings and recommendations, such responses have not been subjected to the audit procedures and, accordingly, we do not provide any form of assurance on the appropriateness of the responses or the effectiveness of the corrective actions described therein. The SOS generally agreed with our recommendations, however they disagreed that one county which did not earn interest on its program income should be required to calculate the amount of the lost interest and deposit that amount into the county's election fund. The state also disagreed with our recommendation that interest on the insurance proceeds from HAVA equipment destroyed in a fire should be calculated and deposited into the county's election fund.

BACKGROUND

HAVA created the Commission to assist states and insular areas with the improvement of the administration of Federal elections and to provide funds to states to help implement these improvements. HAVA authorizes payments to states under Titles I and II, as follows:

- Title I, Section 101 payments are for activities such as complying with Title III of HAVA for uniform and nondiscriminatory election technology and administration requirements,

improving the administration of elections for Federal office, educating voters, training election officials and poll workers, and developing a state plan for requirements payments.

- Title I, Section 102 payments are available only for the replacement of punch card and lever action voting systems.
- Title II, Section 251 requirements payments are for complying with Title III requirements for voting system equipment; and for addressing provisional voting, voting information, statewide voter registration lists, and voters who register by mail.

Title II also requires that states must:

- Have appropriated funds “equal to 5 percent of the total amount to be spent for such activities [activities for which requirements payments are made].” [Section 253(b) (5)].
- “Maintain the expenditures of the state for activities funded by the [requirements] payment at a level that is not less than the level of such expenditures maintained by the state for the fiscal year ending prior to November 2000.” [Section 254 (a) (7)].
- Establish an election fund for amounts appropriated by the state “for carrying out the activities for which the requirements payment is made,” for the Federal requirements payments received, for “such other amounts as may be appropriated under law,” and for “interest earned on deposits of the fund.” [Section 254)(b)(1)].

AUDIT OBJECTIVES

The objectives of our audit were to determine whether the Texas SOS:

1. Used payments authorized by Sections 101, 102, and 251 of HAVA in accordance with HAVA and applicable requirements;
2. Accurately and properly accounted for property purchased with HAVA payments and for program income;
3. Met HAVA requirements for Section 251 funds for an election fund and for a matching contribution except for the requirements for maintenance of a base level of state outlays, commonly referred to as Maintenance of Expenditures (MOE). On June 28, 2010, the Commission issued a revised definitive policy on the requirements for the MOE. The policy included a provision that the states will have 12 months from the date of the revised policy to voluntarily submit a revised MOE plan to the EAC. Accordingly, our scope of audit did not include a determination of whether the SOS and its subgrantees met the requirements for MOE.

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

1. Comply with the *Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments* (also known as the “Common Rule”) as published in the Code of Federal Regulations at 41 CFR 105-71.
2. Expend payments in accordance with cost principles for establishing the allowance or disallowance of certain items of cost for federal participation issued by the OMB.
3. Submit detailed annual financial reports on the use of Title I and Title II payments.¹

SCOPE AND METHODOLOGY

We audited the HAVA funds received from May 1, 2003 through November 30, 2010, and disbursements made by SOS from January 1, 2006 through November 30, 2010.

Funds received and disbursed by the HAVA program from inception, August 27, 2003, through November 30, 2010 (85-month period) are shown in the following table:

| TYPE OF PAYMENT | FUNDS RECEIVED | | | | | FUNDS DISBURSED | DATA AS OF |
|-----------------|--------------------|----------------|--------------------|---------------------|-----------------------|----------------------|------------|
| | EAC PAYMENT | PROGRAM INCOME | STATE MATCH | INTEREST EARNED | TOTAL AVAILABLE | | |
| Section 101 | \$ 17,206,595 | \$ 0 | \$ 0 | \$ 3,017,784 | \$20,224,379 | \$9,739,750 | 11/31/2010 |
| Section 102 | 6,269,521 | 0 | 0 | 307,880 | 6,577,401 | 6,266,685 | 11/31/2010 |
| Section 251 | 180,155,706 | 0 | 8,166,906 | 12,622,922 | 200,945,534 | 164,118,981 | 11/31/2010 |
| Total | <u>203,631,822</u> | <u>\$ 0</u> | <u>\$8,166,906</u> | <u>\$15,948,586</u> | <u>\$ 227,747,314</u> | <u>\$180,125,416</u> | 11/31/2010 |

Our audit methodology is set forth in Appendix B.

¹ EAC requires states to submit annual reports on the expenditure of HAVA Sections 101, 102, and 251 funds. Through December 31, 2008, for Sections 101 and 102, reports were due on February 28 for the activities of the previous calendar year, and, for Section 251, reports were due by March 30 for the activities of the previous fiscal year ending on September 30. Beginning in calendar year 2009, all reports will be effective as of September 30, 20XX for the fiscal year ended that date and will be due by December 31, 20XX.

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. Because of inherent limitations, a study and evaluation made for the limited purposes of our review would not necessarily disclose all weaknesses in administering HAVA payments.

Except for unsupported payroll charges, interest on program income, property management and interest on insurance proceeds, our audit concluded that the SOS generally accounted for and expended HAVA funds in accordance with the requirements mentioned above. The SOS is taking action to resolve the exceptions discussed below as set forth in Appendix A-1.

I. Unsupported Payroll Charges

The state of Texas charged a total of \$1,747,062 in payroll expenditures to the HAVA election fund during the period from January 1, 2006 through November 30, 2010. Of this amount, we question all \$102,677 of salary for the five pay periods we tested. The \$102,677 included \$56,672 for employees whose full salaries were paid with HAVA funds and \$46,005 for employees whose salaries were partially paid with HAVA funds. The full-time salaries were questioned because these employees did not have semi-annual certifications that they worked only on HAVA related activities or their time cards did not indicate that the work was on HAVA related activities. The part-time salaries were questioned because their time cards did not indicate the hours worked on HAVA related activities.

Based on the internal control weakness and exceptions noted above, additional unsupported payroll charges could be as much as \$1.6 million (\$1,747,062 less the test sample of \$102,677) for the pay periods not tested during which the same procedures were in effect.

OMB Circular A-87, in Attachment B Section 8(h) (3) requires 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 firsthand knowledge of the work performed by the employee.

Where employees work on multiple activities or cost objectives, a distribution of their salaries will be supported by personnel activity reports or equivalent documentation which meets the standards in Subsection (5) of this section.

Subsection (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, and
- (d) They must be signed by the employee

Recommendation:

1. We recommend that the EAC work with the SOS to determine the appropriate corrective action regarding the lack of periodic payroll certifications and inadequate documentation of time charged to HAVA.

SOS's Response:

The state agreed that payroll charges were not supported. Prior to September 1, 2009 Election Division staff were 100 percent HAVA funded. The state said that appropriate supervisors will certify to the time periods in which employees who were HAVA funded did work full time on HAVA-related activities. Currently IT and Election Division staff members assigned to HAVA work part time on HAVA activities and part time on other election activities. For questioned costs related to part-time HAVA employees the state will either transfer state funds to the HAVA election account or identify state-funded HAVA-eligible expenditures equal to the amount in question. In the future, any personnel who are charged partially to HAVA will be documented accordingly on the employee's timesheet.

II. Interest on Program Income

Each of the seven counties we visited earned program income from the rental of the HAVA funded voting equipment to local jurisdictions within their counties. Pursuant to instructions from the SOS, all seven counties deposited this income into an election account held by their county treasuries. These funds are used only for HAVA related activities such as maintenance of HAVA funded voting equipment.

Five of these counties' election accounts earn interest which is deposited into an election account for HAVA purposes. One county's election account earns interest, but the interest is deposited into the county treasury and used for non-HAVA purposes. The other county's election account did not earn interest.

Section 254(b)(1) of the HAVA requires that the following monies be deposited into its election fund:

- A. Amounts appropriated or otherwise made available by the State for carrying out the activities for which the requirements payment is made to the State under this part (the State five percent match of HAVA Section 251 funds).
- B. The requirements payment made to the State (HAVA Section 251 funds).
- C. Such other amounts as may be appropriated under law.
- D. Interest earned on deposits of the fund.

Recommendation:

2. We recommend that the EAC work with the SOS to resolve the issue of lost interest on program income.

SOS's Response:

The state agreed that interest should be earned on program income and that interest should be used for HAVA eligible expenditures. The state will advise all Texas counties of this policy. The state said that the county that earned interest on its program income and deposited those funds into a county fund will be instructed to transfer that amount into the county's election fund.

The state disagrees that the one county which did not earn interest on program income should have to go back and calculate the potential lost interest, and put that amount in an election fund. The state said that when they set up HAVA sub-grants, counties were required to expend county funds, and then seek reimbursement from the HAVA election fund. The state told counties they could not hold HAVA funds which could earn interest. The state believes it is reasonable that the county interpreted the restriction against earning interest on grant payments to also apply to program income. They also said that in a previous EAC audit of HAVA funds in Texas the issue of program income was dealt with extensively. EAC did not raise the issue of the deposit of program income in an interest bearing account during the audit resolution process. The state also believes that the language in HAVA regarding interest appears to be permissive. That is, a state may earn interest on HAVA funds but there is no language in HAVA requiring interest to be earned.

Auditor's Response:

The *Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments* 41 CFR § 105-71.125(g)(2) states that program income shall be used for the same purposes and under the conditions of the grant agreement. Because Section 254(b)(1) of the HAVA requires that amounts appropriated or otherwise made available by the state be placed in an election fund which earns interest on the deposits of the fund, we believe program income earned by the counties should conform to the same rules.

EAC should resolve with the state the issue of whether the one county should be required to calculate interest on program income from the prior period and deposit that amount into the county's election account.

III. Property Management

In one of the counties we visited, 38 HAVA funded laptop computers were stolen from the county election office warehouse in January 2009. These laptops had been purchased in August 2006 and August 2008 for an average cost of about \$1,500 each. The county notified local police of the theft, but the crime was never solved. SOS officials told us that the county did not insure the HAVA funded equipment against loss or damage. The county has not replaced the stolen equipment.

The *Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments* 41 CFR § 105-71.132(d) (3) ("the Common Rule") states that a control

system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.

Recommendation:

3. We recommend that EAC work with the SOS to resolve the issue of the reimbursement to the HAVA account for the cost of the stolen laptop computers.

SOS's Response:

The state agreed with this finding and said that the county will be instructed to determine the depreciated value of the stolen equipment and given the option to either demonstrate it has spent county funds on HAVA-eligible expenditures equal to the depreciated value of the stolen equipment or use county funds equal to the depreciated value of the stolen equipment towards replacement equipment. The county will use program income to fund the balance of the replacement equipment.

IV. Interest on Insurance Proceeds

In August 2010 a fire destroyed the warehouse where Harris County stored its HAVA funded voting equipment. In addition to the HAVA voting equipment, county vehicles and other county equipment and supplies used in elections were destroyed. According to the SOS officials, the county used its own funds to purchase an insurance policy on the building and its contents. The insurance policy provided funds for the replacement cost of the building and all of the contents. A Harris County official told us that the insurance proceeds had been received in September 2010 and placed in a special fund with the county treasurer. Interest has been earned on the insurance proceeds and deposited into this special fund.

Interest earned on the proceeds used to purchase HAVA replacement voting equipment between the dates the insurance funds were received and when they were paid out should be credited to the HAVA election account instead of the special fund.

Sec. 254(b)(1) of the HAVA requires that the following monies be deposited into its election fund:

- E. Amounts appropriated or otherwise made available by the State for carrying out the activities for which the requirements payment is made to the State under this part (the State five percent match of HAVA Section 251 funds).
- F. The requirements payment made to the State (HAVA Section 251 funds).
- G. Such other amounts as may be appropriated under law.
- H. Interest earned on deposits of the fund.

Recommendation:

4. We recommend the EAC work with the SOS to determine the amount of interest earned on the insurance proceeds which were used to purchase new voting equipment, and assure that the county transfers that amount into the HAVA election account.

SOS's Response:

The state said that the county used its own funds to purchase the insurance policy and the proceeds and associated interest related to HAVA and non-HAVA election equipment are comingled. They said it is virtually impossible to determine interest earned on proceeds that replaced HAVA-funded equipment. They also pointed out that both the proceeds and the interest will be spent on election related expenses, both HAVA and non-HAVA.

We provided a draft of our report to the appropriate individuals of the Texas SOS, and the United States EAC. We considered any comments received prior to finalizing this report.

The EAC responded on July 15, 2011 and generally agreed with the report's findings and recommendations. The EAC stated that they would work with the SOS to gather additional information and ensure corrective action. The EAC's complete response is included as Appendix A-2

CG performed its work between December 6, 2010 and January 14, 2011.

Clifton Henderson LLP

Calverton, Maryland
February 13, 2011

Texas Secretary of State Response to Findings and Recommendations

Finding #1 – Payroll Charges

Condition: SOS did not prepare semi-annual certifications for fulltime HAVA employees and did not maintain time records detailing hours spent on HAVA activities for employees whose salaries were charged partially to HAVA.

SOS Response: Up until September 1, 2009, all HAVA-funded staff worked exclusively on HAVA-related activities. Since then, some of the IT and Election Division staff members assigned to HAVA have been funded from both HAVA and non-HAVA sources depending on the employee's responsibilities. The activities of IT staff members are project-oriented with non-HAVA activities readily identifiable, which have been documented accordingly on their timesheets. However, the daily duties of Election Division staff members assigned to HAVA tend to be integrated with multiple program activities making it difficult to parse out how much time is spent on HAVA versus non-HAVA activities. In an effort to distribute the costs proportionately, the salaries of those staff members were split 50% to HAVA and 50% to other state sources.

SOS Proposed Resolution: The appropriate supervisors will certify to the time periods in which HAVA-funded staff worked 100% on HAVA-related activities. That will account for most of the \$1.6MM in potential unsupported payroll charges. For the remaining \$102,677 in unsupported payroll charges, the SOS will make the necessary expenditure transfers from state funds to the Election Improvement Fund (HAVA dedicated account) or identify state-funded HAVA-eligible expenditures equal to the amount in question. Moving forward, any personnel that are charged partially to HAVA will be documented accordingly on the employee's timesheet.

Finding #2 – Interest on Program Income

Condition: Two counties did not properly manage interest earned on program income. In one instance, a county did not earn interest on program income at all, and in the other the county deposited interest earned on program income in the county treasury as opposed to an election fund.

SOS Response: Texas set up its HAVA sub-grants with the counties on a reimbursement basis. Accordingly, counties were told they should not be earning interest on HAVA funds. Although it is prudent and sensible for counties to earn interest on program income, it is reasonable that a county interpreted the restriction against earning interest on grant payments to also apply to program income. Additionally, program income was dealt with extensively in the 2007 EAC audit of Texas, and depositing program income in an interest bearing account was never raised as an issue. Accordingly, the 2007 audit resolution, which was approved by the EAC, did not require that interest be earned on program income. Lastly, although it is advisable to earn interest on program income, the language in HAVA regarding interest appears to be permissive. In other words, a state may earn interest on HAVA funds but there is no language in HAVA requiring interest to be earned.

Proposed Resolution: The state agrees that interest should be earned on program income and that interest should be used for HAVA eligible expenditures. Further, this will be the state's policy moving forward, which the state will communicate to all Texas counties. However, for the reasons outlined above, the state disagrees that the county that did not earn interest on program income should have to go back and calculate the potential lost interest and put that amount in an election fund.

The county that earned interest on program income and deposited those funds into a county fund will be instructed to transfer that amount back into an election fund.

Finding #3 – Property Management

Condition: 38 uninsured laptops were stolen from a county warehouse.

SOS Response: The county made significant security upgrades to the warehouse in response to an SOS monitoring review in 2007 (well before the most recent EAC audit). The county suspected an "inside job" but no arrests were made due to lack of evidence. The county has taken additional steps to protect the equipment. For example, security cameras can be viewed remotely at the county election headquarters.

Proposed Resolution: The county wishes to replace the laptops. The county will be instructed to determine the depreciated value of the stolen equipment. The county will be given two options: the county can demonstrate it has spent county funds on HAVA-eligible expenditures equal to the depreciated value of the stolen equipment; or, the county will have to use county funds equal to the depreciated value of the stolen laptops toward replacement equipment. The county will use program income to fund the balance of the replacement equipment.

Finding #4 – Interest on Insurance Proceeds

Condition: A fire destroyed the entire facility housing both HAVA and county-funded election equipment. The county had purchased an insurance policy that replaces all of the destroyed property. The insurance proceeds were placed in an interest bearing account; however, it's not clear how much interest has been earned on insurance proceeds to replace HAVA-funded equipment.

SOS Response: Because the insurance policy was for a total replacement of all of the lost property, the insurance revenue and the replacement expenditures are comingled. In addition, the insurance was purchased with county funds. Although the county has an obligation to protect the federal investment in the HAVA-funded equipment, which it did, the interest earned on the county investment (i.e. the insurance policy) should remain with the county. It should be noted that all of the interest earned has been and will be spent on election expenses, which may or may not be specific to HAVA.

Proposed Resolution: Due to the nature of the county's insurance policy, it is virtually impossible to determine interest earned on insurance proceeds that replaced HAVA-funded equipment.



EAC RESPONSE TO THE DRAFT AUDIT:

OIG Performance Audit Report on the Administration of Payments Received Under the Help America Vote Act by the State of Texas, for the Period January 1, 2006 Through November 30, 2010

July 15, 2011

MEMORANDUM

To: Curtis Crider
Inspector General

From:  Thomas Wilkey
Executive Director

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

Thank you for this opportunity to review and respond to the draft audit report for Texas.

The Election Assistance Commission (EAC) generally concurs with the results of the review and recommendations. The EAC will work with the Texas Secretary of State to gather additional information and ensure appropriate corrective action.

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.
- Understanding 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 SOS employees about the organization and operations of the HAVA program.
- Reviewed prior single audit report and other reviews related to the state's financial management systems and the HAVA program for the last 2 years.
- Reviewed policies, procedures and regulations for the SOS's management and accounting systems as they relate to the administration of HAVA programs.
- Analyzed the inventory lists of equipment purchased with HAVA funds.
- Tested major purchases and supporting documentation.
- Tested randomly sampled payments made with the HAVA funds.
- Verified support for reimbursements to local governments (counties, cities, and municipalities).
- Reviewed certain state laws that impacted the election fund.
- Examined appropriations and expenditure reports for state funds used to meet the five percent matching requirement for section 251 requirements payments.
- Evaluated compliance with the requirements for accumulating financial information reported to the Commission on the Financial Status Reports, Forms SF-269 and 425, accounting for property, purchasing HAVA related goods and services, and accounting for salaries.
- Verified the establishment and maintenance of an election fund.
- Conducted site visits of selected counties/towns to perform the following:
 - Observe equipment purchased with HAVA funds for proper accounting and safeguarding
 - Ensure compliance with HAVA Act.

MONETARY IMPACT AS OF NOVEMBER 30, 2010

| <i>Description</i> | <i>Questioned Costs</i> | <i>Additional Funds for Program</i> |
|----------------------------------|--------------------------------|---|
| Unsupported HAVA-funded salaries | \$1,747,062 | \$0 |
| Stolen HAVA-funded computers | \$0 | \$57,000 |
| Totals | <u>\$1,747,062²</u> | <u>\$57,000</u> |

² There is an undetermined amount of interest income to be transferred to the election account for interest on program income at two counties and interest income earned on insurance proceeds from HAVA funded equipment destroyed in a fire.

OIG's Mission

The OIG audit mission is to provide timely, high-quality professional products and services that are useful to OIG's clients. OIG seeks to provide value through its work, which is designed to enhance the economy, efficiency, and effectiveness in EAC operations so they work better and cost less in the context of today's declining resources. OIG also seeks to detect and prevent fraud, waste, abuse, and mismanagement in these programs and operations. Products and services include traditional financial and performance audits, contract and grant audits, information systems audits, and evaluations.

Obtaining Copies of OIG Reports

Copies of OIG reports can be requested by e-mail.
(eacoig@eac.gov).

Mail orders should be sent to:

U.S. Election Assistance Commission
Office of Inspector General
1201 New York Ave. NW - Suite 300
Washington, DC 20005

To order by phone: Voice: (202) 566-3100
Fax: (202) 566-0957

To Report Fraud, Waste and Abuse Involving the U.S. Election Assistance Commission or Help America Vote Act Funds

By Mail: U.S. Election Assistance Commission
Office of Inspector General
1201 New York Ave. NW - Suite 300
Washington, DC 20005

E-mail: eacoig@eac.gov

OIG Hotline: 866-552-0004 (toll free)

FAX: 202-566-0957

