



EAC MANAGEMENT DECISION:

Resolution of the OIG Audit Report on the Administration of Payments Received Under the Help America Vote Act by the Kansas Secretary of State for the Period April 29, 2003 Through December 31, 2010 Report No. E-HP-KS-03-11

October 20, 2011

BACKGROUND

The EAC is an independent, bipartisan agency created by the Help America Vote Act of 2002 (HAVA). EAC assists and guides state and local election officials in improving the administration of elections for Federal office. EAC distributes HAVA funds to States for the acquisition of voting systems, and supports the establishment of statewide voter registration lists, and other activities to improve the administration of elections for Federal office. EAC monitors State use of HAVA funds to ensure funds distributed are being used for authorized purposes. To help fulfill this responsibility, the EAC determines the necessary corrective actions to resolve issues identified during Single Audit Act and Department of Inspector General (OIG) audits of state administration of HAVA funds. The EAC OIG has established a regular audit program to review the use of HAVA funds by States. The OIG's audit plan and audit reports can be found at www.eac.gov.

The EAC Audit Follow-up Policy authorizes the EAC Executive Director to issue the management decision for OIG audits of Federal funds to state and local governments, to non-profit and for-profit organizations, and for single audits conducted by state auditors and independent public accountants (external audits). The Executive Director has delegated the evaluation of final audit reports provided by the OIG and single audit reports to the Director of the HAVA Grants Division of EAC. The Division provides a recommended course of action to the Executive Director for resolving questioned costs, administrative deficiencies, and other issues identified during an audit. The EAC Executive Director issues the EAC Management Decision that addresses the findings of the audit and details corrective measures to be taken by the State.

States may appeal the EAC management decisions. The EAC Commissioners serve as the appeal authority. A State has 30 days to appeal the EAC management decision. All appeals must be made in writing to the Chair of the Commission. The Commission will render a decision on the appeal no later than 60 days following receipt of the appeal or, in the case where additional information is needed and requested, 60 days from the date that the information is received from the State. The appeal decision is final and binding.

Please note, with two vacancies the Commission presently lacks a quorum to conduct appeals. The 30 day period to file an appeal remains in place. However, the 60 day period for a decision will toll until a Commission quorum is reestablished.

AUDIT HISTORY

The OIG issued an audit report on the administration of payments received under the Help America Vote Act (HAVA) by the Kansas Secretary of State (SOS) on August 22, 2011. Except for failure to maintain adequate equipment/property maintenance records, lost interest on the state match not made timely, use of HAVA program income to meet state match, and unallowable expenses charged to the HAVA funds, the audit concluded that the SOS generally accounted for and expended HAVA funds in accordance with the requirements mentioned for the period from April 29, 2003 through December 31, 2010.

Finding 1 – Property Records

The Election Voter Information System equipment listings received from the Kansas SOS, and HAVA voting equipment listings from three of the six counties visited did not conform to the requirements of 41 CFR 105-71.132(d)(1), the Common Rule.

Various data were missing from the property records, including the source of property; who holds the title; the acquisition date and cost of the property; percentage of Federal participation in the cost of the property; the location; use and condition of the property; and any ultimate disposition data such as the date of disposal and sale price of the property.

Recommendation:

1. The auditors recommended that EAC work with the SOS to ensure that the SOS and counties maintain property records with minimum information required by the Common Rule.

SOS's Response:

The SOS agreed that HAVA inventory records do not meet the standards of the Common Rule. The SOS stated that prior to the audit, the office was not aware of this requirement. The state is working on policies to bring HAVA equipment records into compliance and will work on compliance moving forward. The SOS said the requirements have been communicated to counties and an inventory template will be provided to counties. Counties will be required to submit records to the SOS yearly.

EAC Response:

The SOS has developed policies and a template to meet the standards of the Common Rule. The county clerks received information regarding property records and the template at a conference in May 2011. EAC has reviewed the template. Additionally, counties will submit inventory records in December of each year. EAC considers this matter closed.

Finding 2 – Interest on State Match

Kansas received \$13,748,141 in Section 251 funds on November 29, 2004. The state's matching funds requirement was \$723,587, of which \$434,152 was provided by the state and \$289,435 was provided by the counties. The county matching funds consisted of payments to the SOS, which were deposited into the state's election account. However, not all of the counties' contributions were received by the state prior to the receipt of the Section 251 requirements payments. A total of \$197,236 was received between December 13, 2004 and April 4, 2005, resulting in an undetermined amount of lost interest earnings for the period from November 29, 2004 to the date the matching funds were deposited in the election account. Furthermore, until the state transfers this interest in the election account, the interest due to the account increases for additional interest.

Recommendation:

2. The auditors recommended that EAC work with Kansas officials to calculate the amount of interest to transfer to the election account for the period from November 29, 2004 through April 4, 2005, plus the additional compounded interest as of April 4, 2005, and any additional compounded interest owed through the date of transfer.

SOS's Response:

The SOS said that its office was not aware of the requirement to make matching fund payments prior to the receipt of the requirements payment. The state will work with EAC and the state's Accounts and Reports division to calculate the amount of interest and compounded interest.

EAC Response:

EAC agrees to work with the state's Accounts and Reports division to calculate the amount of interest and compounded interest.

Finding 3 – State Matching Funds

Kansas received additional Section 251 requirements payments for 2009 and 2010, which required state matching funds. Kansas used HAVA program income to meet the matching requirement. However, the Common Rule allows the use of program income as state match only when authorized. EAC does not have a policy authorizing the use of program income as state match, and Kansas did not have authorization from EAC to use program income as state match.

The HAVA program income collected from Kansas counties as fees to access the HAVA funded state Election Voter Information System. Kansas transferred matching funds of \$48,241 and \$33,769 for a total of \$82,010 from its HAVA program income account to the HAVA state matching account on September 14, 2010. There were no new funds

received for the state match, because the transfer was from one HAVA account to another HAVA account instead of funds coming from the state general fund. As a result interest on the \$82,010 was not earned for the HAVA program.

Recommendations:

The auditors recommended that EAC require Kansas officials:

3. To transfer state funds totaling \$82,010 to restore the program income funds that were used to satisfy the state matching requirement.
4. To calculate the amount of interest that would have been earned on the shortfall in the program income account and include that amount in the transfer, plus the additional compounded interest that should have been earned from September 14, 2010 to the date of the transfer.

SOS's Response:

The SOS agreed with the corrective action recommended and will work with the EAC to resolve the issue. The SOS believes, however, that the program income derived from county payments is similar in nature to county payments for the state match made in 2004 and 2005 and is therefore allowable for state match purposes. The state also requests that EAC choose to allow the use of program income to meet matching requirements as allowed by the Common Rule.

EAC Response:

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

Finding 4 – Unallowable Expenses

Kansas used Section 101 Help America Vote Act (HAVA) funds totaling \$20,000 for the Kids Voting Kansas program. The expenses included \$19,000 for the curriculum and teaching guides and \$1,000 to reimburse travel for implementation of the program. The purpose of this program was to inform school age children about the voting process and to increase voter turnout in participating localities, since the parents would be involved in assisting the children with the program.

Kansas also used \$949.51 in Section 101 HAVA funds to print voter registration forms in Spanish. EAC has determined that the use of HAVA funds for such purposes is not an allowable cost.

Recommendation:

5. The auditors recommended that EAC work with the SOS to decide whether to allow or disallow the costs associated with the Kids Voting Kansas program and the printing of voter registration forms.

SOS's Response:

The SOS disagrees with the finding that providing funds to Kids Voting Kansas would fall outside the scope of voter education. The SOS office believes that it is a worthwhile goal to educate future voters on the registration process and the election process in general. Moreover, educating students often educates and motivates their parents to participate in the election process. Because the National Student and Parent Mock Election grant program was authorized in HAVA, Kansas decided to support the program's efforts to educate the voting public of today and tomorrow.

The SOS agrees with the finding related to printing of Spanish language voter registration cards. The SOS said that Spanish cards were funded with HAVA money in an effort to ensure the accessibility of its election process to alternative language voters.

EAC Response:

The EAC will work with the SOS to determine appropriate corrective action.