



EAC MANAGEMENT DECISION:

Resolution of the OIG Audit Report on the Administration of Payments Received Under the 2008 Election Data Collection Grant Program Award Number: 08-EDC-800166, State of Minnesota (Assignment Number E-GR-MN-04-12)

November 26, 2013

BACKGROUND

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

In December 2007 Congress authorized the fiscal year 2008 Omnibus Appropriations Act (Public Law 110-161, Title V), which directed the EAC to award grants of \$2 million to each of five eligible states to improve the collection of precinct level data relating to the November 2008 Federal elections. The act provided for the creation of the Election Data Collection Grant Program, the purpose of which was to:

- Develop and document a series of administrative and procedural best practices in election data collection that can be replicated by other States;
- Improve data collection processes;
- Enhance the capacity of States and their jurisdictions to collect accurate and complete election data; and
- Document and describe particular administrative and management data collection practices, as well as particular data collection policies and procedures.

The States were to use the Grant funds to implement programs to improve the collection of data relative to the November 2008 Federal general election and to improve the reporting of election data at the precinct level. The Grants were awarded in May 2008 and were for a period of 13 months.

The EAC Audit Follow-up Policy authorizes the EAC Executive Director to issue the management decision for OIG audits of Federal funds to state and local governments, to non-

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

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

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

AUDIT HISTORY

The OIG issued an audit report on the administration of payments received under the Help America Vote Act (HAVA) by the Minnesota Secretary of State (SOS) on September 12, 2013. Based on the audit procedures performed, except for the matters discussed below, the auditors concluded that the Office generally accounted for and expended the Grant funds in accordance with *Generally Accepted Government Auditing Standards* for the period from May 27, 2008 through June 30, 2010.

Finding 1 – Inadequate Equipment Management

The Minnesota Secretary of State Office's (Office) equipment management is inadequate in regards to maintaining adequate property records.

The *Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments* 41 CFR § 105-71.132 (d)(1) (the "Common Rule") section states that, "Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds the title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the data of disposal and sale price of the property."

The database used as the Office's inventory system only includes a description of the property, a serial number, source of property, who holds the title, acquisition date, cost of the property and percentage of Federal participation and does not include fields for location, or use and condition of inventory items. The Office has not disposed of any grant funded assets. Accordingly, no disposition data was disclosed in the inventory listing. The Office conducts a physical inventory on an annual basis where the Network Administrator creates a spreadsheet documenting all equipment maintained in each office and then compares his spreadsheet with the inventory system and any discrepancies are reconciled with the Fiscal Services Supervisor. The Office is not able to adequately track any movement of equipment purchased with grant funds without identifying the location in the inventory system and verifying that location during the physical inventory. Additionally, equipment may be inoperable and need to be replaced or retired. The audit sampled five invoices of equipment purchases which accounted for approximately 68% of the \$232,574 charged to the grant. The sampled items were able to be physically observed and were in working condition.

Adequate property records aid in the safeguarding of equipment purchased with federal funds and in the performance of the physical inventory. The Office's lack of adequate records as required by the Common Rule may allow assets to become inoperable or to go missing without timely detection.

Recommendation:

We recommend that the EAC require the Office to update its inventory system to include fields detailing location, the use and condition of inventory items and provide a copy to EAC in order to close out this finding. We further recommend the Office develop written procedures that specify the information to be included in the Office's property records for Federally-financed capital assets.

Office of Secretary of State Response:

The Office will add fields to the existing inventory system to identify the location and use and condition of equipment purchased. Additionally, the Office has adopted policy with respect to equipment reporting.

EAC Response:

The SOS is transitioning to a new inventory system that should meet the standards contained in the Common Rule. The SOS will forward a template from the new system to EAC for review. The SOS expects to have everything updated by end of the calendar year. EAC will work with the SOS to ensure a proper equipment management system is in place.

Finding 2 – Unsupported Payroll Costs Charged to the Grant

The Office did not accurately charge payroll costs to the grant based on percentage of effort for each of the State employees.

Office of Management and Budget (OMB) Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, Attachment 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 firsthand knowledge of the work performed by the employee.”

Attachment 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”

Attachment 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, and (d) They must be signed by the employee.”

The Office requires a timesheet (Time Tracker) to be prepared by employees who work on multiple activities or cost objectives in order to allocate payroll charges to the appropriate funds. A review of the payroll allocations to the grant disclosed that actual hours were charged to EAC as opposed to the relative percentage of effort expended on grant activities. For example, it was noted that the Chief Information Officer worked a total of 103.75 hours during a two week period. Of the 103.75 hours worked, only 23 (22.17%) were related to the Grant. However, the employee is paid wages based on an 80 hour bi-weekly pay period and the grant was charged 23 direct hours which is 28.75% (23/80) of total salary. This resulted in an over-allocation of \$412 for this employee for that payroll period.

Based on analysis provided by the Office for all employees charged to the grant, a total of \$6,547 was over-allocated to the grant. Additionally, \$21,123 was charged for one full-time staff person that worked solely on this grant and the Office was not able to provide labor certifications to support the payroll charges. Therefore, \$27,670 of the \$192,242 total salary charged was either over allocated or unsupported and therefore considered questioned costs. The Office also

charged \$54,713 in fringe benefits to the grant and based on the same analysis an estimated \$3,475 of fringe benefits are considered questioned costs. In total \$31,145 of payroll costs are identified as questioned costs. The Office did provide additional analysis to support that there were hours worked on the grant that were not charged due to the limited available grant funds.

Recommendation:

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

- (a) Refund \$31,145 of questioned costs arising from unsupported or over-allocated payroll costs.
- (b) The Office should document appropriate policies and procedures in written manuals and also providing training to personnel involved in the payroll process as necessary to ensure that the expenditure of future Federal award funds is adequately allocated and supported.

Office of the Secretary of State Response:

You cite Office of Management and Budget (OMB) Circular A-87, particularly Attachments B.8.h. (3), (4) and (5).

1. You indicate that Attachment (3) requires that there be a certification semi-annually that the employee worked full-time on a single federal award or cost objective. It is true that OSS has been unable to locate any such certification in the records of the Office. The individual who was the supervisor of the project left the office over two years ago. We have, however, located the job description of the employee in question which clearly delineates the job responsibilities of the position as tasks which were entirely under the EAC EDC Project. That document is attached. Again, the employee in question has been gone from employment for, in her case, nearly three years.
2. You indicate that Attachments (4) and (5) require a certain allocation of salary and fringe expenses based on reports by the personnel in question. You indicated that in your opinion, the number of hours charged to the Federal grant should not have been the number of actual hours, but only a proportion of the actual hours worked for the Federal grant as compared to the total hours worked for both the Federal grant and on non-Federal work. It is not clear to OSS what is the basis for this portion of the finding, because there is nowhere in the policies cited in this finding, a statement to this effect. The policies indicate that there must be records of the time worked on various matters, but there is no indication in the finding that the employees working on both the Federal and non-Federal work did not keep the necessary records. We would appreciate a more complete description of the basis in rule for not allowing the full amount of the time worked for a Federal grant to be charged to a Federal grant.
3. In your finding you indicate "The Office did provide additional analysis to support that there are hours worked on the grant that were not charged due to the limited available grant funds." OSS completed the EAC EDC Project in June, July, August and September 2009 by spending \$79,561.42 of State money, over and above the amounts charged to the Federal grant. This sum would have been charged to the Federal grant if sufficient Federal funds had been

available. If EAC determines that \$31,145 should not have been spent from Federal grant funds based upon this finding, OSS asks EAC to allow OSS to allocate the above referenced \$79,561.42 to the grant, thus resulting in a setoff where no funds would be exchanged. The spreadsheet which we had previously provided is again attached to this response. It shows in the “Worked Not Billed” tab the total amounts broken down by pay period and employee. They are quite significant. If it had been clear that there would have been disallowances of claims against the grant, we certainly would have claimed a portion of these amounts from the Federal grant.

EAC Response:

- (a) EAC disallows \$31,145 in questioned costs arising from unsupported or over-allocated payroll costs. The SOS has provided \$79,561 in allowable offsetting state expenditures. **EAC considers this matter closed.**

- (b) The SOS has forwarded policies and procedures to EAC for review. Additionally, the SOS has indicated that personnel involved in the payroll process of future federal awards will be adequately trained to ensure funds are properly allocated and supported. **EAC considers this matter closed.**

Finding 3 – Documentation of Policies and Procedures

Key internal control policies affecting financial management activities including purchasing, payment, Federal financial reporting, property management process and Federal grant oversight and administration, have not been addressed in a departmental policy and procedure document. The Office relies on written guidelines set forth in State manuals, statutes and other publications and written job descriptions that provide tasks and responsibilities. Accordingly, documented internal control policies at the departmental level are minimal.

Federal regulations, specifically 41 CFR 105-71.120(b)(3) *-Post-Award Requirements/Financial Administration, Standards for Financial Management Systems, Internal Control*, require that:

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

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

Minnesota Management and Budget (MMB) Statewide Operating Policy 0102-01 states, “The head of each executive branch state agency (excluding the Minnesota State Colleges and University system) must design, implement, and maintain an effective system of internal controls. This system must: (3) Require documentation of internal control procedures over financial management activities, provide for analysis of risks, and provide for periodic evaluation of control procedures to satisfy the MMB Commissioner that these procedures are adequately designed, properly implemented, and functioning effectively.”

Additionally, the Minnesota Department of Administration revised statewide policy, *Property Management Reporting and Accountability*, states that each agency is required to establish departmental policies to account for property acquired for use in a work location and off-site.

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 departmental internal control policies and procedures may result in lack of awareness and compliance of regulations, and could allow noncompliance with grant terms and conditions to occur and not be detected.

Recommendation:

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

Secretary of State Response:

The Office has adopted seven new policies to address financial management activities, including purchasing, payment, Federal financial reporting, property management and Federal grant oversight and administration.

EAC Response:

The SOS has developed seven new financial management policies. EAC has received the policies and procedures produced by the SOS. EAC will review the documents and ensure appropriate personnel are provided training as necessary.