

IOWA AUDIT RESOLUTION

June 14, 2010

BACKGROUND

The U.S. Election Assistance Commission (EAC) is an independent, bipartisan federal 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, 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 Audit Follow-up Policy approved by the Commissioners 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 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 decision. 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.

Audit History:

The following addresses the findings, recommendations and questioned costs in the final audit report issued by the EAC Office of Inspector General, Report No. E-HP-IA-06-08, issued September 30, 2009. The audit addressed the administration of payments received under HAVA by the Iowa Secretary of State and expenditures during the period of April 10, 2003 through April 30, 2008. The following proposed resolution addresses the 10 categories of findings, recommendations and questioned costs in the audit.

All corrective actions required in this audit resolution are to be completed before December 10, 2010.

1. Interest on State Matching Funds

Iowa initially only partially met its 5% matching requirements and later provided additional funding for the shortfall and interest thereon. However, due to miscalculation of principal and primarily interest, the OIG auditor determined that another \$12,182 of principal and interest was due.

EAC Management Decision

EAC agrees with the finding and recommendation and the Iowa SOS also agreed and transferred the amount of \$12,382 to the election fund as documented for the auditor.

Corrective action is complete.

2. Cash Management on Grants to Counties

Prior to spring 2007, Iowa provided grant funds to counties to acquire voting systems. Funds were deposited in county accounts; however, interest accrued was neither reported nor returned to the Iowa SOS HAVA fund. The OIG recommended: 1) obtaining data on interest earned; 2) revising the HAVA Section 251 financial reports to reflect interest earned; and 3) informing the counties that the interest earned must either be returned interest or used for HAVA activities.

EAC Management Decision

EAC agrees with the OIG finding and recommendations. Iowa has prepared a notice to counties which owe interest in accord with OMB Circular A-102 requirements. Iowa SOS can then make the decision of whether to return the interest to the Iowa HAVA fund or allow counties to retain the funds to spend on other defined allowable activities and continue to earn interest until fully expended.

Iowa will report back to EAC their determination of interest earned and reported and decision on disposition of earned interest either returning it to the HAVA fund or using it for other allowable HAVA expenditures at the county level. Alternatively, counties may identify offsetting expenditures not previously counted as match that are allowable under Section 251 of HAVA.

3. Property Management

The OIG auditor found that the Iowa SOS and the counties that had purchased voting or voting registration system equipment had not maintained an accurate current inventory of such equipment because their capitalization thresholds to determine accountable property were based on the acquisition cost and/or current value of each item of equipment of \$5,000 dollars or more. Based on the OMB Common Rule, the OIG auditor recommended that:

- a physical inventory be conducted of all HAVA equipment at the Secretary of State's Office and with the counties using the criteria that the items of equipment were part of

a voting system or voter registration system and should be considered in total for establishing the threshold for maintenance of inventory and accountable property at cost value of \$5,000 or more and update results to correct its property records;

- property management records of the counties have at least the minimum information required in the Common Rule; and
- the Iowa SOS seeks guidance from the EAC on the definition of sensitive property to clarify whether voting equipment not meeting the capitalization threshold (accountable property) should be tracked and accounted for as set forth in the Federal Management Regulation (FMR), the successor regulator to the Federal Property Management Regulation.

EAC Management Decision

EAC disagrees with the findings and recommendations of the OIG report which is based on interpretation of both the OMB Common Rule and the Federal Management Regulation (FMR). The OMB Common Rule (41 CFR 105-71.132) clearly defines equipment as tangible, nonexpendable, personal property with a value of \$5,000 or more *per unit* and a life of 1 or more years. While EAC FAO-08-007 states that equipment should be valued collectively as a voting system or in support of a voter registration system, this guidance was not issued until 2008 and these equipment purchases occurred prior to that period. The OMB Circulars do not address accumulating equipment value to determine the threshold for accountable property, but clearly set the value of the individual unit as the standard.

The OIG report cited and referenced the FMR as the basis for the recommendation that the EAC determine if equipment less than the \$5,000 capitalization threshold should be determined to be 'sensitive' equipment and tracked and accounted for. The FMR is a regulation applicable to federal agencies and federally owned property. The equipment purchased by Iowa SOS and the counties is not federal equipment and is titled to the state or county.

EAC agrees that an inventory of capital equipment would be useful for the Iowa SOS to maintain and useful to manage oversight of their grant and voting equipment purchases and replacement. SOS has agreed and initiated inventory reconciliation at the state level and with the counties with the individual equipment items considered as part of a voting or voter registration system. Per OMB uniform administrative requirements [41 CFR 105.71.132], the minimum standards for equipment inventory to be updated every two years are:

- Description of the equipment, identification number, who holds title
- Acquisition date and source of property
- Cost and % federal
- Location
- Use and condition
- Ultimate disposal date and sale or trade-in price
- Safeguards to prevent loss, damage, theft

Iowa SOS will report to the EAC when final action on inventory is completed.

4. Accessibility Grants to Counties

The OIG audit found that Iowa SOS provided HAVA funds to counties to make polling places accessible and questioned the total amount of \$369,740 because Iowa did not obtain EAC approval to spend funds on capital improvements.

EAC Management Decision

We do not agree that this set of accessibility grants constituted capital improvements nor that prior approval from EAC was needed for these expenditures. The EAC FAQ, issued after these expenditures were made and cited as the basis for such determination defines *Capital Improvement* as an improvement to any structure (building) or component erected as a permanent fixture on real property (land) that adds to its value and useful life while also referring to Attachment B of OMB Circular A-87 now codified as 2 CFR 225 Attachment B. Attachment B states that the improvement must *materially* increase the value or useful life of the building. Iowa grants for accessibility provided a maximum of \$2,500 to make voting sites accessible. This amount of improvement would neither extend the useful life of the structure nor add materially to its value. In the same EAC FAQ under question 16, an inquiry about using HAVA funds to make polling places accessible to people with disabilities is answered with the statement that ‘generally, making polling places accessible is an allowable costs under Section 101 or Section 251(b) with no caveat about pre-approval.’ Further, Iowa’s State Plan Amendment in 2005 clearly indicated the intent to expend HAVA funds ‘to reimburse counties for the costs of making improvements to increase accessibility.’ Attachment B to OMB A-87 only requires prior agency approval for capital improvements which materially increase the life of the land, building or equipment.

Finally, the recent HAVA Section 251(b)(2) Certification by Iowa covered the period for which these accessibility grants were expended; Iowa SOS has provided a supplemental explanation that the maximum level of expenditures under Section 251(b)(2) had not been exceeded at the time of these accessibility grants and that the accessibility grants were within the statutory guidelines for expenditure of Section 251 funds on Section 101 activities.

We accept the \$369,740 in expenditures to make polling places accessible.

Reference	Category	Questioned	Allowed	Disallowed
Note	Accessibility Grants	\$369,740	\$369,740	0

5. Procurement

The OIG audit report followed up on findings in the 2006 Single Audit report concerning procurements for goods and services awarded by SOS on a sole source basis with several vendors. The OIG audit report further concluded that although the Iowa SOS office may not have been required to follow the administrative laws and regulations of the State of Iowa for purchases, the following sole source awards were not fully documented as to contractor selections or reasonableness of contract fees negotiated. SOS maintained documentation as to the reasons for use of sole source awards, but not as to why the particular contractors were selected.

As a result, the OIG report questioned all costs associated with sole source procurements by Iowa SOS made without full justification and where Iowa SOS did not have procurement standards and requirements for full and open competition, special selection considerations, cost and pricing analysis and financial Conflict of Interest codes. The contracts and costs questioned are as follows:

- State Public Policy Group (SPPG) \$ 763,702
 - Iowa State University (ISU) 276,241
 - Woodbury County Auditor (SEAT) 182,558
- TOTAL \$1,222,501

The OIG report recommended that the Secretary of State:

- Resolve the questioned costs with the EAC.
- Adopt policies and procedures for procurement activities and for the SOS staff involved in procurement and contract administration, or allow the Department of Administrative Services to provide procurement support

EAC Management Decision

EAC agrees with the OIG recommendations.

- Procurement activities and policies:

The Iowa Secretary of State has determined that its office will follow the State’s procurement requirements and administrative rule and regulations when expending federal funds and will avail itself of state contract purchasing and of the services of the Department of Administrative Services. The Iowa Secretary of State will follow Iowa Ethics laws specifically pertaining to conflict of interest related to procurements and involved staff. SOS will report back when implemented.

- Resolution of questioned costs:

EAC has reviewed the auditor’s spreadsheet work papers which recorded their review of specific costs invoiced, approved by SOS and paid to the contractors.

Based on this review and our analyses, EAC is resolving questioned costs incurred by the 3 entities (SPPG, ISU and SEAT) cited under Procurement in the OIG report as follows:

A. State Public Policy Group (SPPG)

As noted in the audit and in subsidiary spreadsheets, the total amount of \$763,702 in HAVA payments to SPPG was questioned. Of the total, \$74,764 of these questioned costs is addressed separately in the section of the audit on Celebrate Voting, leaving the remaining \$ 688,938 to be addressed under this finding.

In the spring of CY 2003, SPPG under contract by the Iowa SOS provided necessary staffing and support to the Secretary of State's Office for its immediate urgent efforts in planning the implementation of HAVA requirements. Early-on, this involved facilitating the rapid start-up of the planning process and drafting and completing the preliminary Iowa State Plan which involved HAVA State Plan Advisory Committee meetings, development of an overall work plan for implementation, data bases, etc. and public education and outreach including media and public meetings. These arrangements were made through sole source contracts to SPPG due to time exigencies and were paid from state election funds separate from the match.

For several years after 2003 until June 2006, Iowa SOS continued contracting with SPPG to provide on-going support and staffing to the SOS in implementing the HAVA State Plan paying for these activities with section 251 and 101 HAVA funds. This effort was continued in subsequent years providing support arranging statewide meetings, assisting in developing a new voter registration system, RFPs, strategies to replace lever voting machines, project management, statewide surveys, implementation activities for the state plan, newsletters, developing poll worker and auditor trainings, videos, public education, outreach and a host of related activities.

A letter from the Iowa Deputy Attorney General who met with former SOS officials and contractor staff involved in the development and award of these contracts asserts that the SOS office and SPPG 'negotiated' amounts for each task in the contracts based primarily on estimates of the time that would be involved in accomplishing the tasks covered by the contract factoring in the experience and expertise of the SPPG personnel needed to be devoted to the tasks.' The estimates roughed out on paper by SPPG were not retained. Staff and their billing rates have also been subsequently identified but their actual time - hours/days committed to the project - were not recorded as the contract service was fixed price, not requiring detailed reporting of time.

The following is an analysis of the information and documentation provided in the audit and subsequent material provided by Iowa SOS addressing either the justification for the sole source contracts to SPPG or the basis for the cost or prices established in the SPPG contracts awarded by Iowa SOS.

(1) The Iowa - SPPG initial contract contains a detailed scope of work indicating the tasks and urgency of work begun in 2003:

'...SPPG is to provide comprehensive and integrated facilitation, staffing and coordination of a time-sensitive planning process. The Office of the Secretary of State is responsible to deliver a preliminary plan for Iowa's implementation of the Help America Vote Act by May 31, 2003....'

- The contract was signed by SPPG on May 2, 2003 and by the Office of Iowa Secretary of State on May 4, 2003.
- 11 specific tasks are defined and individually priced in the contract at amounts ranging from \$2,500 (3) to \$7,500 (3) for a total of \$ 50,000.

- The contract was questioned in the audit because it was ‘sole-source’ and the sole source documentation did not adequately support the determination that SPPG was the only entity capable of doing this work.
- Submitted with the contract is a Sole Source Procurement Justification providing rationale justifying the sole source on the basis of urgency, why the particular vendor was selected and research conducted with other state agencies on SPPG performance and pricing. The document was signed by the Department Contract Authority and the (SOS) Agency Head on April 3, 2003 certifying that ‘... the above-described procurement was required to be a sole source and that it satisfies the requirements of applicable law including the Iowa Department of General Services 401 IAC-Chapter 12.’

This provides a basis and certification by both agency head and agency contracting authority of the need and justification for sole-source and rationale for SPPG and that the procurement met Iowa General Service’s requirements. There is no explicit statement that no other source could do this work in this constrained time-frame and with appropriate qualification as indicated by the auditor. However, that is the implication of the written rationale and determination appropriately executed for the contract action (a requirement from which Iowa SOS has cited its exemption). The sole source discusses background research on SPPG with other agencies to determine their performance and work product.

(2) Additional documents submitted provide some further relevant material on various working group meetings and dates and staff involved. The 11 tasks in the contract are each fixed priced at modest, reasonable amounts for the work considering the defined efforts to be performed.

- HAVA Training and Education Work Group Meetings and Meeting Summary provide information on SPPG staff in attendance and work products developed.
- HAVA Finance & Budget Work Group Meetings # 1 & #3 also provide evidence of SPPG in attendance and presenting material, timelines, etc.
- Advisory Committee Meeting Agenda also reflect SPPG staff in attendance supporting the meeting and committee.
- The Preliminary State Plan developed by the various working groups and Advisory Committee cited the following on page 33:
“The State Public Policy Group (SPPG) facilitated the open and public meetings in compliance with Iowa’s open meetings laws. Meetings were held on February 28, March 21, April 17, May 8 and May 16. SPPG also facilitated the following work groups: Public Policy, Finance and Budget, Training and Education, Technology (Voting Equipment) and Technology (Voter Registration System).”

(3) The contract was extended by amendment to complete the state plan facilitation process through the end of calendar year 2003 for an amount of \$39,500. The contract was also supported by a similar Sole Source Procurement Justification providing the rationale and signed by the Department Contract Authority and the (SOS) Agency Head. The contract also

had a detailed scope of task to be performed including County User Group Meetings, State Agency User Group Meetings, List Purchaser Group Meetings and reports on user group recommendations and subsequent support for the Advisory Committee Meeting and pre-meeting of Budget & Finance Work Group. The tasks were individually fixed priced at modest amounts.

Documentation supporting the carrying-out of these tasks and work products was provided to support contract performance:

- County User Group Meetings...
- State Agency User Group Meetings...
- List Purchaser Group Meetings...
- Budget & Finance Work Group...
- Advisory Committee Meeting...

(4) Iowa SOS also initiated in 2003 a separate sole source HAVA Public Education contract to develop and conduct statewide public education and outreach regarding HAVA.

Recommendation: Based on the above, EAC accepts the invoiced costs for the 2003 SPPG contracts of \$50,000 and \$39,500 for HAVA Facilitation of the State Plan and \$50,000 for HAVA Public Education as offsets against the questioned costs for SPPG in the OIG audit report. The Iowa SOS office went through a process to obtain contractual services on an urgent basis providing rationale and justification that demonstrates intent to adhere to state contract requirements. The contractor, SPPG, delivered the timely services necessary for the Iowa SOS to form committees and working groups, staff them, hold public meetings and deliver a strategic state plan to implement HAVA in a very short time frame as acknowledged in the state plan itself. The contract worked performed was acknowledged by the Advisory Committee in their final report. The EAC accepts the basis for the initial contract awards and the reasonableness of \$50,000 invoiced for the 11 tasks and \$39,500 invoiced for 9 tasks under the HAVA Facilitation contracts and the \$50,000 invoice for the 11 tasks under the Public Education contract. These contracts were awarded and completed by the end of CY 2003.

Beginning in CY 2004, Iowa SOS initiated new procurements with SPPG focused on implementing the state plan developed in 2003. No sole source determinations were provided to EAC to substantiate the urgency of these procurements which continued through 2006 in various contract amounts ranging from \$46,000 to \$243,600. After 2003 the exigent need for immediate staffing and support from SPPG decreased. In addition, SPPG aside from detailed expenses began invoicing professional fees up to \$22,145 a month in 2005 decreasing in 2006 as the contract effort wound down. No documentation for the contract pricing of these monthly fees nor after-the-fact records have been provided to substantiate the amount of effort or days provided by various SPPG staff at differing levels of expertise and pricing.

During the audit resolution and corrective action stage, EAC is willing to examine source material, other documentation or basis for the professional fees in these SPPG contracts. Determining after-the-fact, the basis and the reasonableness of the fixed payments established under these continuing contracts may be more difficult than for the first three contracts. The amounts of these fees are included in the unallowable

costs below until such time that adequate documentation provides a reasonable basis for reconsidering them.

EAC does note the extensive effort and support that SPPG provided to the Iowa SOS over these years. However, without additional documents to adequately support the pricing basis for consideration of professional fees paid to SPPG, EAC has no basis for accepting the reasonableness of fees paid to SPPG. SPPG did, however, submit invoices for reimbursement detailing expenses incurred in carrying out the contract in support of Iowa SOS. After reviewing the payment details and separating the professional fees and fixed project amounts, the expenses detailed on the auditor's review spreadsheet total \$98,112. These expenses met the OIG auditor's review criteria of: 1) being covered by the contract, 2) not ineligible (unallowable); and, 3) in agreement with the amounts invoiced. These expenses were billed separately without overhead or fee, reviewed by SOS staff (Financial Analyst and program staff) and approved, or additional clarification obtained when necessary. In addition, SPPG expenses reviewed and not questioned as unallowable under Celebrate Voting (less professional fees) total \$ 7,820.53.

EAC allows these expenses totaling \$105,932.53 as appropriately supported charges to HAVA funds.

Regarding professional fees and fixed amount projects such as voter education in the total amount of \$444,005 EAC recognizes that SPPG provided timely and necessary support and staffing for Iowa SOS to effectively initiate HAVA implementation efforts. However, without some form of documentation to support the basis for the continuing contracts and amounts invoiced, EAC cannot accept the full amounts paid to SPPG. Absent identification of additional documentation that allows EAC to identify a reasonable basis for the fixed amounts charged for professional fees and/or significant fixed project amounts, the State will need to reimburse its HAVA fund up to \$444,005. EAC will review any additional documentation submitted and decide upon any additional costs to be allowed by December 10, 2010.

Reference	Category	Questioned	Allowed	Disallowed
Note	Procurement - SPPG	\$688,938	\$ 245,433	\$ 443,505

B. Iowa State University (ISU)

The OIG questioned all costs for this contract in the amount of \$276,241 based on the sole source criteria used to award the contract. However, the auditor reviewed the expenses invoiced and paid to ISU using the same criteria as above. Based on this detailed review, four invoices did not meet criteria 1. Covered by the contract but none were ineligible (unallowable) expenses or unsupported. These amounts of \$33,950; \$31,850; \$100; and \$76 were incurred for SEAT Training II; SEAT Registration Fees; and poll worker training, respectively. The expenses were either for services before contract date or not specifically covered in the contract.

EAC Management Decision

SOS maintains that this is an interagency contract with ISU as a state entity to provide state election official, pollworker and other training and certification. Furthermore, these agreements with ISU were often agreements between SEAT and ISU cooperatively addressing the training curriculum and courses necessary for election official training. The appropriate award vehicle for such training activity probably should have been an SOS training grant similar to that provided to SEAT below. As cited by the OIG auditor, during the initial period of this contract, it was managed and payments were reviewed by an intermediary—an official with the Woodbury County Auditor’s Office acting on behalf of SEAT, before reimbursement by Iowa SOS. While this initial oversight process may not be typical, it doesn’t negate the performance of necessary and appropriate work by ISU. The costs associated with the intermediary are addressed in the section below pertaining to the Woodbury County Auditor contract.

After reviewing the auditor’s detailed spreadsheet and application of the auditor’s criteria, EAC accepts \$210,265 in expenses billed, including \$65,976 for tasks not covered by the date range in the contract, but ratified by the IA SOS as legitimate expenses.

Reference	Category	Questioned	Allowed	Disallowed
Note	Procurement	\$276,241	\$276,241	0

C. SEAT (Woodbury County Auditor)

The auditor questioned all costs, \$182,558, based on the sole source nature of the ‘contract’. Under this agreement, Woodbury County paid the travel and expenses of precinct election officials being trained through Iowa State University’s program. Payments were made directly to the county for reimbursement of county employees being trained.

EAC Management Decision

The only payment questioned for reasons other than sole source was the payment of an administrative fee under a contract to the Woodbury County auditor to administer these payments, as well as administer payments for Iowa SOS under the SOS contract with Iowa State University (above) for election official training. This intermediary arrangement was terminated in 2007 when the SOS assumed direct review and payment for these services. A partial amount of \$3,575 was paid to the intermediary for past services provided and termination. The Deputy Iowa SOS deemed this amount reasonable to end services and provide compensation for services rendered to date.

The primary issue raised by the auditors is that of the ‘sole source’ procurement of this contract. However, the SEAT Woodbury County Auditor contract has an unusual genesis. SEAT was established as a 28E entity under Iowa state law.

28E Agreement –

A 28E Agreement is established under Chapter 28E of the Code of Iowa. Relevant sections of this chapter are as follows:

28E.1 Purpose.

The purpose of this chapter is to permit state and local governments in Iowa to make efficient use of their powers by enabling them to provide joint services and facilities with other agencies and to cooperate in other ways of mutual advantage. This chapter shall be liberally construed to that end.

28E.4 Agreement with other agencies.

Any public agency of this state may enter into an agreement with one or more public or private agencies for joint or cooperative action pursuant to the provisions of this chapter, including the creation of a separate entity to carry out the purpose of the agreement. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies involved shall be necessary before any such agreement may enter into force.

Further, as expressly stated in the award document, this particular agreement is a grant between Iowa SOS and SEAT (a subgrant under the EAC grant to Iowa SOS) entitled “HAVA Election Official and Precinct Election Official Training Grant Program.” As such, it is not subject to the procurement regulations but recognizes an already established partnership with the Iowa SOS office for developing curriculum, training elections officials and other election workers and continuing education. The SEAT entity was established to be the key component in the state for the training and certification for Iowa election officials and was and is responsible for development and maintaining a training and certification plan in accordance with the new HAVA requirements. SEAT was designated in the preliminary state plan adopted by Iowa in 2003 to carryout such activities.

We accept the grant agreement as an appropriate vehicle to accomplish the necessary training of county officials and as the basis for award within the context of the Iowa state code. Specific costs of \$182,558 incurred under the grant were not questioned by the auditor and are accepted as reasonable and allowable.

Reference	Category	Questioned	Allowed	Disallowed
Note	Procurement	\$182,558	\$182,558	0

6. Celebrate Voting

The OIG audit questioned \$118,224 spent on activities related to a program called “Celebrate Voting”. Of this amount, \$61, 238 were identified in the independent auditor’s report of 2006 (OMB A-133 Audit).

“Celebrate Voting” was envisioned as a celebration of the 40th anniversary of the Voting Rights and legacy of voting rights in Iowa. The events occurred with a kick-off on August 5th and 6th and continued activities at universities, concluding in November in Waterloo and Iowa City. HAVA funds were spent on a traveling exhibit that told the story of the long and

difficult struggle for voter rights. Other expense included speakers, entertainer, supplies, medallions for honorees, children's activities, a gala, travel and space rental.

The OIG report concluded that the portion of the costs for "Celebrate Voting" identified as questioned did not meet the HAVA definition of educating voters on voting rights, voting procedures and voting technology. The report recommended that SOS resolve the cost issues with the EAC and that all of the expenditures be reviewed by EAC for propriety.

EAC Management Decision

EAC agrees with the findings and recommendations of the OIG report. Many of the costs identified related to the "Celebrate Voting" activities would not be allowable as HAVA activities or in some cases not allowable as costs to a federal grant under OMB Common Rule and Cost Circulars (2 CFR §225). In addition, we agree with the OIG recommendation that costs related to voter education activities be reviewed and resolved by EAC.

The independent OMB A-133 audit report issued for the year ending June 30, 2006 questioned costs in the amount of \$61,237.50 as entertainment or other unallowable expenses or not allowable as education expenses under HAVA. The EAC agreed in its Management Decision of May 4, 2007 requiring the Iowa SOS to repay the HAVA fund in the amount of \$61,237.50.

Of the remaining \$56,986 in additional costs questioned in the OIG audit report, EAC has considered the issue of HAVA support for voter education activities. HAVA Section 101 funds can be used for "Educating voters concerning voting procedures, voting rights and voting technology". In addition, HAVA Section 254 State Plan requires a description of "how the State will provide for programs for voter education...which will assist the State in meeting the requirements of title III."

We have reviewed the activities and costs questioned by the OIG in conjunction with "Celebrate Voting" and agree with most of the activities identified as questioned costs which focused on non-voters or activities with no clear identification as education of voters on rights, procedures or technology with the exception of the following:

- The film produced under contract by Full Spectrum on voter rights history and development. This would include any ancillary costs for travel and production. After viewing the film, EAC has concluded that the purpose was within the context of HAVA, primarily fostering voter education on voting rights.
- The Hot Topics Discussion Guide partially addresses pertinent voter education allowable under HAVA: absentee balloting; secrecy; eligibility of elderly, college students away, poll workers, transient people and restoration of felons; rights to vote. However, other aspects of this guide while addressing interesting questions and discussions focused on internet voting, voter turnout reasons and other thought-provoking topics are not considered as part of voter education on voting rights, procedures and technology allowable under HAVA.
- The contract with Ron Walters to provide an education component on voter rights with the presentation approved by the Iowa SOS may also be allowable if the SOS can

verify the content of the presentation or outline supporting that it addresses allowable voter education.

In addition to the costs associated with the specific activities identified above as allowable or unallowable or a mix of both, the Iowa SOS can elect to review other specific activities and expenses related to and questioned for “Celebrate Voting” and provide documentation for any items that clearly indicate that they constituted an educational component on voter rights excluding ‘get out the vote or voter registration’. EAC will review any such submissions that meet the criteria for final determination and resolution. Iowa SOS has already indicated that it cannot provide a breakout of the costs of the film addressed above from the filming of the gala activities. Unless subsequent documentation is provided by December 10, 2010 for consideration of any of the above, these costs will continue to be considered disallowed.

Reference	Category	Questioned	Allowed	Disallowed
Note	Celebrate Voting	\$118,224	0	\$118,224

7. Marketing Costs

As identified in the A-133 audit report for FY 2007 and iterated in the OIG audit report, marketing costs of \$14,000 for 30-second spots for a radio campaign urging voters to get out and vote was identified as unallowable. EAC guidance does not allow ‘get out the vote’ activities and related costs under HAVA. EAC agrees with the findings and determines that \$14,000 must be repaid to the state HAVA election fund.

Reference	Category	Questioned	Allowed	Disallowed
Note	Marketing costs	\$14,000	0	\$14,000

8. Personnel Costs

The OIG audit report found that \$885,573 of employees’ salaries and benefits were charged to HAVA. Timesheets were kept for all employees’ time and leave and signed by supervisors. However, the SOS failed to make after-the-fact certifications required by the OMB Common Rule for states that the employees worked on the HAVA-related activities. The auditors reviewed the position descriptions of the employees and based on their review determined that they were assigned to HAVA-related activities.

The OIG report recommended that Iowa SOS either return the questioned costs of \$885,573 or resolve with the EAC the appropriate corrective action regarding the lack of periodic certification.

EAC Management Decision

EAC agrees with the OIG findings that the Iowa SOS office did not maintain the standards for timekeeping for staff charged to HAVA funds and with the OIG recommendation to resolve the issue with EAC by appropriate corrective action.

Iowa SOS obtained individual notarized affidavits for all state employees and contract staff charged to HAVA from Charles Krogmeier, First Deputy Secretary of State who served from June 2004 through December 2006 and was responsible for supervising and determining allocations of employee salaries and benefits to HAVA funds. Essentially, the affidavits asserted for most employees that they worked full-time and in the case of a few employees part-time on HAVA identifying the specific responsibilities. In the case of several employees working full-time on HAVA, it was noted that they were only charged partially to HAVA funds, with the State of Iowa paying the remaining payroll costs. According to the Iowa SOS as documented in current time-keeping records, the practice of not fully charging HAVA funds for employees working full-time on HAVA activities continues today.

More importantly, the SOS has taken corrective action by implementing a time-keeping policy and system that meets and exceeds the requirements of the OMB Circular for state employee working and being charged to federal funds. The protocol requires that employees record their time on a daily basis, including time spent on HAVA-related work. It is called “program management” and each employee logs in daily also listing the work they performed. A signature line has been added on the weekly program management report for both the employee’s and the supervisor’s signature, verifying the jobs performed by that employee.

These activity reports, not bi-annual certifications, for state HAVA staff not only capture time for HAVA activities, but also a description of work performed during the bi-weekly payroll reporting period. This resolves the issue of current timekeeping for state employees working on and charging costs to HAVA.

The standard for state employees working solely on a single federal grant is defined in 2 CFR § 225 Appendix B. 8. h., Support for Salaries & wages:

Charges will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification at least semi-annually, signed by the employee or supervisory official having first hand knowledge of the work performed by the employee.

The above requirements for state employee certification every 6 month is a minimal bar to meet. One of the factors contributing to states not meeting the minimum 6 month general time certifications is that most SOS offices have not had federal grants prior to the HAVA funding and thus have not been aware of the specific process to meet this minimal OMB requirement.

EAC accepts the corrective action implemented by the Iowa SOS office specifically implementing a detailed time tracking system for employees and accepts the affidavit certifications and costs for employees charged to HAVA during the period of this audit.

Reference	Category	Questioned	Allowed	Disallowed
Note 8	Personnel	\$ 885,573	\$ 885,573	0

9. County equipment Lease Payment

The OIG auditor questioned \$21,000 retained out of a lease of \$115,500 when the lease was replaced by purchase of compliant voting equipment. Apparently, the lease was initially arranged as a contingency so that the county could meet the requirement that it have a compliant voting system in place by the deadline of January 1, 2006 while it awaited the manufacturer of its voting equipment to obtain certification of their machines. Subsequently, the county contracted with the new vendor to buy compliant equipment. During the interim period, it turns out the county did not have need for equipment for federal election. The OIG auditor questioned the \$21,000 stating that the EAC requires costs be allowable, allocable and reasonable under OMB Circulars A-87 102, 122 and 133.

EAC Management Decision

The Iowa SOS office states that it was required that counties be compliant by January 1, 2006 and supported the short term lease as a reasonable strategy to be compliant in case of an unscheduled election, essentially insuring against noncompliance. There is no inherent prohibition in the OMB circulars which would prevent such an expense from being allowable, allocable or reasonable. Therefore, the EAC accepts the rationale provided by the SOS for such expenditure and finds the costs of \$21,000 are not unreasonable or unallowable and are allocable to HAVA funds.

Reference	Category	Questioned	Allowed	Disallowed
Note	Lease payment	\$ 21,000	\$ 21,000	0

10. Financial Reporting

The OIG audit report found numerous instances of costs inaccurately reported or not included on the SF-269s for HAVA funds submitted to the EAC. The report also recommended that the Iowa SOS also improve internal controls over the accounting and reporting of HAVA financial reports and that an official other than the preparer sign them and spreadsheets of HAVA expenditures be updated and reconciled with the accountings system at least monthly. Revised financial report should be submitted to the EAC.

EAC Audit Resolution

EAC agrees with the finding and recommendation. Iowa SOS will address these issues of updated financial reports and supporting data along with improved internal controls as part of their corrective action and submit revised reports and implemented controls to the EAC. Updated financial reports will also reflect cost determinations in the audit resolutions reflected in this document.

SUMMARY OF QUESTIONED & RESOLVED COSTS

Description	Questioned Costs	Allowed Costs	Disallowed Costs
Interest on matching funds (\$11,741 due)	NA	NA	NA
State matching shortfall (\$441 due)	NA	NA	NA
Accessibility Grants	369,740	369,740	0
Procurements (net of "Celebrate Voting")	1,147,737	704,232	443,505
"Celebrate Voting"	118,224	0	118,224
Marketing Costs	14,000	0	14,000
Personnel costs	885,573	885,573	0
Equipment lease	21,000	21,000	0
TOTALS	\$ 2,556,274	\$1,980,545	\$575,729