



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

FINAL REPORT:

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

APRIL 29, 2003 THROUGH DECEMBER 31, 2010

**Report No.
E-HP-KS-03-11
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 Kansas Secretary of State (Assignment Number E-HP-KS-03-11)

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 Kansas 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 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 questioned costs charged to the HAVA funds, 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 Election Division also complied with section 251 requirements.

In his July 6, 2011 response to the draft report (Appendix A-1) and his March 24, 2011 response to the findings and recommendations (Appendix A-2), the SOS was in general agreement; however, he believes that the Kids Voting Kansas was an appropriate use of HAVA funds. The SOS stated that they would work with the EAC to resolve the issues, and requested a timely resolution to avoid additional costs from the compounding of interest.

Also, we have included in the report the EAC response to the draft report (Appendix A-3), dated July 6, 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 creating the Office of Inspector General (5 U.S.C. § App.3), as amended, 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 KANSAS

April 29, 2003 Through December 31, 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 Kansas**

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 Kansas Secretary of State (SOS) for the period April 29, 2003 through December 31, 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.

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 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, our audit concluded that the SOS generally

accounted for and expended HAVA funds in accordance with the requirements mentioned above for the period from April 29, 2003 through December 31, 2010. The exceptions needing SOS's management attention are as follows:

1. Records for HAVA funded equipment for the SOS election voter information system and for voting equipment at three counties did not conform to 41 C.F.R. 105-71.132 (d) (1), (the Common Rule). Missing elements in the records included the source of the property, percentage of federal participation in the cost of the property, the location, use, and condition, and any ultimate disposition data such as date of disposal and sale price of the property.
2. A portion of the state matching funds were deposited into the election fund after the receipt of the 2004 requirements payment, resulting in lost interest to the election fund.
3. HAVA program income funds of \$82,010 were used to meet the 2009 and 2010 state match requirements without EAC approval.
4. Unallowable SOS HAVA expenses of \$20,000 for the Kids Voting Kansas program and \$949.51 for printing voter registration forms.

We have included in this report, as Appendix A-1, the SOS management's formal response to the draft report dated July 5, 2011, which expanded on their responses to the findings and recommendations dated March 24, 2011 (Appendix A-2). Although we have included management's written responses to our notices of 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 except for the questioned costs for Kids Voting Kansas. The SOS believes that it is a worthwhile goal to educate future voters on the registration process and the election process in general. Also, the SOS's reiterated the necessity to resolve all questioned costs through the use of unclaimed matching funds and that his office and the counties have spent non-HAVA monies on HAVA activities in amounts far greater than the amounts mentioned as reimbursable in this report.

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 Kansas Secretary of State:

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 payments¹

SCOPE AND METHODOLOGY

We audited the HAVA funds received and disbursed by the SOS from April 29, 2003 through December 31, 2010 (92-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	\$ 5,000,000	\$ 8,730	\$ 0	\$1,279,081	\$6,287,811	\$1,911,595	12/31/2010
Section 102	0	0	0	0	0	0	12/31/2010
Section 251	24,022,045	1,376,675	\$1,264,319	2,391,757	29,054,796	21,536,541	12/31/2010
Total	<u>\$29,022,045</u>	<u>\$1,385,405</u>	<u>\$1,264,319</u>	<u>\$3,670,838</u>	<u>\$35,342,607</u>	<u>\$23,448,136</u>	12/31/2010

Our audit methodology is set forth in Appendix B.

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 the maintenance of adequate property records, interest on the state match, use of program income to meet the state match, and unallowable costs for educating children about voting and printing of voter registration cards, our audit concluded that the SOS generally accounted for and expended HAVA funds in accordance with the requirements mentioned above. The SOS has taken action on or is working to resolve the exceptions described below as set forth in Appendix A-1 and A-2:

I. Property Records

The Election Voter Information System equipment listings we received from the Kansas SOS, and HAVA voting equipment listings from three of the six counties we 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

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.

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.

The *Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments* 41 CFR § 105-71.132(d)(1), referred to as the Common Rule, 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, 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 date of disposal and sale price of the property.

Recommendation:

1. We recommend that the 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. He stated that prior to the audit his 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.

II. 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

HAVA Section 254 (b) (1) requires that the following monies be deposited into the state's 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 matching requirement of five percent of the federal HAVA Section 251 funds).
- B. The requirements payment made to the State (the federal 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 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 the transfer.

SOS's Response:

The SOS said that his 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.

III. 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 was 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.

The *Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments* 41 CFR § 105-71.125(g)(3), referred to as the Common Rule, states that: "When authorized, program income may be used to meet the cost sharing or matching requirement of the grant agreement."

Recommendations:

We recommend that the 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.

Auditor's Response:

The income earned by allowing counties to access the HAVA funded Election Voter Information System does meet the definition of program income in the Common Rule and is different from the funds provided to meet the state match. Matching payments are funded from state resources as a requirement to receive federal funds. Program income payments were made to allow access to federally funded services (the state Election Voter Information System). The use of such program income to meet the state match is not allowable unless authorized by EAC.

IV. 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.

HAVA Section 101(b) Use of Payment describes the qualifying expenditures and includes, in part:

- (1)(B) Improving the administration of elections for federal office
- (1)(C) Educating voters concerning voting procedures, voting rights, and voting technology
- (1)(D) Training election officials, poll workers, and election volunteers

EAC *Funding Advisory Opinion FAO-08-005* states that:

Neither Section 101 nor 251 funds may be used to print, copy, or revise State voter registration forms. Providing forms is an activity that States have been carrying out for years, is not a requirement imposed by HAVA, is not educational (even if there are instructions on the form), is not an improvement to the administration of elections for Federal office and must continue to be funded by the State.

Recommendation:

5. The EAC should work with the SOS to decide whether to allow or disallow the costs associated with the Kids Voting Kansas 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.

For exceptions II through IV above, the SOS reiterated the necessity to resolve all questioned costs through the use of unclaimed matching funds. His office and many of the 105 counties have spent non-HAVA monies on HAVA activities in amounts far greater than the amounts mentioned as reimbursable in this report. The SOS requested a timely resolution of the issues by the EAC to avoid further compounding of interest.

Auditor's Response:

EAC has determined that the use of HAVA funds to educate non-voters and to increase voter turnout is not allowed under HAVA.

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

The EAC responded on July 6, 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 to enhance their understanding of the state's use of program income to satisfy state matching requirements. The EAC's complete response is included as Appendix A-3

CG performed its work between January 31, 2011 and February 18, 2011.

Clifton Henderson LLP

Calverton, Maryland
March 2, 2011

KRIS W. KOBACH
Secretary of State



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STATE OF KANSAS

July 5, 2011

Mr. Curtis Crider
Inspector General
U.S. Election Assistance Commission
1201 New York Ave. NW – Suite 300
Washington, DC 20005

Dear Mr. Crider:

Thank you for the opportunity to respond to the draft report from Clifton Gunderson LLP. My staff and I have reviewed this report and wish to make several comments.

On report items 2-4: the repayment of lost interest, the use of program income for the required state match payments, and all questioned costs, I would like to reiterate the necessity to resolve these issues through the use of unclaimed matching funds. This office and many of our 105 counties have spent non-HAVA monies on HAVA activities in amounts far greater than the amounts mentioned as reimbursable in this report. My staff will provide whatever documentation the Election Assistance Commission finds necessary to demonstrate these expenditures.

Secondly, I would like to suggest a correction on the amount discussed in item three of the report. The report indicates that a total of \$82,026 in program income was used to meet the state match requirements for FY09 and FY10. Actual state match required and transferred was \$82,010 (48,241; \$33,769). Documentation of the required amounts is included with this letter.

Finally, if my office is to be held responsible for compounded interest on the amounts in question, I request that the EAC move forward with its recommendations in a timely manner. Each day that these issues remain unresolved adds to the amounts in question. Having been told not to take any corrective action until directed by the EAC, I will wait to act until such time; however, a timely resolution is requested if we will be required to cover the compounding interest while waiting on the EAC to act.

I thank you for the opportunity to comment on this draft report and look forward to a speedy resolution of the items discussed in this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Kris W. Kobach".

KRIS W. KOBACH
Kansas Secretary of State

KRIS W. KOBACH
Secretary of State



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STATE OF KANSAS

March 24, 2011

Mr. Curtis Crider
Inspector General
U.S. Election Assistance Commission
1201 New York Ave. NW – Suite 300
Washington, DC 20005

Dear Mr. Crider:

Thank you for the opportunity to respond to the four Notices of Findings and Recommendations from the recent audit of Kansas's HAVA program. I took office on January 10, 2011, only 21 days before the auditors arrived; consequently the issues discussed below pre-date my tenure as Kansas Secretary of State. However, my staff and I have reviewed these findings in detail. We submit the following response and look forward to working with the Election Assistance Commission to resolve these issues.

One – Property management

While my staff agrees that our inventory records do not meet the standards laid out in the Common Rule, this requirement was never communicated to our state prior to the arrival of the auditors. In conversations with the on-site auditors and after a review of other audit reports on your website, we realize that failure to comply with this portion of the Common Rule is a common occurrence among the various states. This speaks not only to the detailed nature of the inventory requirements, but also to the fact that these requirements were never communicated to the states.

That said, my staff is working on policies to bring our records into compliance with the requirements of the Common Rule and will work to maintain compliance moving forward. These requirements have already been communicated to our counties through a quarterly newsletter and will be communicated again at our annual HAVA training. We will provide inventory templates to our counties and require that they submit records to our office yearly. In addition, we welcome the EAC's suggestions on best practices for creating and maintaining compliant inventory records.

Two – Interest on state match

With the announcement of additional HAVA funds in 2004, Kansas counties provided 2 percent of the required state match. However, not all county payments were received before the federal money was deposited into our fund. Our office was unaware that this was a requirement, and we continued to deposit checks as they arrived at our office.

Having been made aware of this issue, we are willing to work with the EAC and our state's Accounts and Reports division to calculate the amount of interest and compounded interest.

Three – State matching funds

In August of 2010 the previous administration made a decision to use money from Kansas counties to meet the required state matches for the 2009 and 2010 requirements payments. This decision was made after the legislature denied a request by this agency for a state general fund appropriation in 2009. The money used was derived from an annual fee counties pay to our office, which is deposited into a state fund as determined by the Secretary of State and the State Division of Accounts and Reports. At the time this decision was made this office did not consider this to be program income. In fact, it did not become clear that this fee might meet the definition of program income until this office began the reporting process in December 2010. This is indicated by the fact that it was not reported until the FFY2010 reports. Until that time, we viewed this money exactly like the money provided by counties to meet early state match requirements.

This office agrees with the corrective action recommended in the NFR and will work with the EAC to resolve this issue. However, we request that the EAC choose to allow the use of program income to meet matching requirements as allowed by the Common Rule. This office feels that this is fair, particularly when this fee by any other name would be no different than the county money used to meet matching requirements in 2003 and 2004.

Four – Questioned costs

Kids Voting Kansas

In principal this office disagrees with the finding that providing funds to Kids Voting Kansas would fall outside the scope of voter education. This 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 was authorized in HAVA, it was decided to support the program's efforts to educate the voting public of today and tomorrow.

Voter registration cards

On the questioned costs for Spanish voter registration cards, we disagree with the finding with respect to the dollar amount. According to our records, only \$949.51 was spent on the printing of the relevant voter registration cards. We suspect that the \$1,558 was derived by adding in the cost for English cards that were paid off the same payment voucher but funded with state money. The policy of the previous administrations has been to print English cards with state money. Spanish cards were funded with HAVA money in an effort to ensure the accessibility of our election process to alternative language voters.

Proposed solution to any final monetary claims

We recognize that three of the issues in our audit report may require the state of Kansas to reimburse our HAVA funds for any amounts we are not able to resolve through working with the EAC. We also recognize that the current fiscal situation in Kansas makes it extremely unlikely that we will receive a state general fund appropriation to meet these requirements, nor will our agency's fee funds be able to absorb such an unbudgeted expense. Therefore, we request that any unresolved balances be charged against HAVA-related expenditures paid for with state and local money during our implementation of HAVA. We see this taking two forms: 1) Money paid by counties for voting equipment in excess of their HAVA allotment. 2) HAVA expenses paid for out of Secretary of State fee funds, including but not limited to salary, benefits, computers and other equipment used to carry out the requirements of the Help America Vote Act within the state of Kansas. While we have not

compiled a figure at this point, we believe this total to be substantial enough to cover all items discussed in this audit report.

Finally, we would like to take this opportunity to thank you and the team from Clifton Gunderson. From the beginning of this audit process, our requests and questions were answered promptly with respect and professionalism. The on-site auditors, John Borrelli and K.B. Mandefro, were flexible and understanding, yet thorough in their audit, explaining their findings as we progressed. Their competence and professionalism made the audit process go smoothly for all involved.

We look forward to working with the EAC to resolve these issues and thank you for the opportunity to respond to these NFRs. Across three administrations, multiple financial systems, and four HAVA coordinators, we are proud of the work that we have done to implement HAVA in the state of Kansas. We will continue to work hard to make sure that elections in Kansas are the most secure, fair and accessible elections in the country.

Sincerely,

A handwritten signature in black ink, appearing to read "Kris W. Kobach". The signature is fluid and cursive, with a large, sweeping flourish at the end.

KRIS W. KOBACH
Kansas Secretary of State



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 Kansas, for the Period April 29, 2003 Through December 31, 2010

July 6, 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 Kansas”.

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

The Election Assistance Commission (EAC) has reviewed the preliminary audit results and recommendations. While we generally concur with the findings, we will work with the Kansas Secretary of State to gather additional information to enhance our understanding of the state’s use of program income to satisfy state matching requirements.

AUDIT METHODOLOGY

Our audit methodology included:

- Assessing audit risk and significance within the context of the audit objectives.
- Obtaining an understanding of internal control significant to administration of 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 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.
- 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.
- 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 DECEMBER 31, 2010

<i>Description</i>	<i>Questioned Costs</i>	<i>Additional Funds for Program</i>
Program Income Used for Matching	\$0	\$82,010
Kids Voting Kansas Promotion	\$20,000	\$0
Printing Voter Registration Forms	\$950	\$0
Totals	<u>\$20,950</u>	<u>\$82,010²</u>

² There is an undetermined amount of interest income to be transferred to the election account on delayed deposit of state matching funds, on re-imbusement of program income, and on any questioned costs that the EAC requires re-payment to the election fund.

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