



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

FINAL REPORT:

**Administration of Payments Received
Under the Help America Vote Act by the
Utah Office of Lieutenant Governor**

APRIL 29, 2003 THROUGH JULY 31, 2010

**Report No.
E-HP-UT-09-10
March 2011**



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

March 31, 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 Utah Office of Lieutenant Governor
(Assignment Number E-HP-UT-09-10)

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 Utah Office of Lieutenant Governor (OLG). 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 OLG, Clifton Gunderson concluded that the OLG 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. However, the audit disclosed that the OLG failed to maintain adequate property records for HAVA funded equipment, submitted financial reports to the EAC that included errors, retained interest earnings on HAVA and state matching funds in the general fund, and did not deposit program income into the election fund.

In its December 16, 2010, response to the draft report (Appendix A-1), the OLG agreed with the report's findings and recommendations, which they confirmed in a February 28, 2011, email response to the draft report.

On March 14, 2011, the EAC response (Appendix A-2) indicated general agreement with the report findings and recommendations, and stated that they would work with the state to ensure corrective action, including the implementation of required federal record retention policies. 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 May 31, 2011. Your response should include information on actions taken or planned, targeted completion dates, and titles of officials responsible for implementation.

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

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

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

April 29, 2003 Through July 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 Utah**

EXECUTIVE SUMMARY

Clifton Gunderson LLP was engaged by the U.S. Election Assistance Commission (EAC or the Commission) Office of Inspector General to conduct a performance audit of the Utah Office of the Lieutenant Governor (OLG) for the period April 29, 2003 through July 31, 2010 to determine whether the OLG 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 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 OLG and its subgrantees met the requirements for MOE.

In addition, the Commission requires states to comply with certain financial management requirements, specifically:

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

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on the audit objectives. Because of inherent limitations, a study and evaluation made for the limited purposes of our review would not necessarily disclose all weaknesses in administering HAVA payments.

Except for the maintenance of adequate property records for HAVA funded equipment, financial accounting and reporting errors, interest on HAVA and state matching funds, and the failure to deposit program income into the election fund as discussed below, our audit concluded that the OLG generally accounted for and expended HAVA funds in accordance with the requirements mentioned above for the period from April 29, 2003 through July 31, 2010. The exceptions needing OLG’s management attention are as follows:

- Inventory listings of voting equipment did not conform to the requirements of 41 C.F.R. 105-71.132 (d) (1), (the Common Rule) at the seven counties we visited. The listings did not include required elements such as use and condition of the property, or the federal, state, or county percentage of ownership.
- Amounts reported to EAC on financial status reports did not reconcile to the state's financial accounting system or the state treasury reports. A report of HAVA funds received and expended by the OLG through July 31, 2010 showed a balance that was \$1,958 higher than the amount in the election fund deposited in the state treasury.
- Utah state policy requires state agencies which deposit funds into the state's Public Treasury Investment Fund (PTIF) to set aside in the state's general fund a minimum of \$50,000 or 10 percent of the amount deposited. Interest on the \$50,000 of HAVA funds deposited in the general fund has been retained as a management fee by the PTIF instead of being transferred into the election fund.
- The state used in-kind expenditures to satisfy its state matching requirements for the 2003 and 2004 requirements payments. However, the in-kind expenditures were not made prior to receipt of the requirements payments. As a result there is lost interest to the election fund because of the delayed payments. In addition the state did not have support for some of the in-kind payments. The state received a requirements payment on August 26, 2009. The required matching payment of \$70,975 was not transferred into the election fund until December 1, 2009, resulting in lost interest to the election fund.
- Program income generated from the sale of HAVA funded T-shirts was not deposited into the election fund as required by federal regulations.

We have included in this report as Appendix A-1 the OLG managements' December 16, 2010, formal response to our findings and recommendations (NFRs). In a February 28, 2011 email response to the draft report, OLG management stated they had no additional comments. Although we have included management's written responses to our NFRs, 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.

OLG officials generally agreed with the findings and recommendations and provided corrective action; however, they noted the following:

- They followed state guidelines regarding the retention of documentation, which was destroyed subsequent to audits conducted by the State Auditor.
- They followed state guidelines regarding the requirement to maintain \$50,000 in the PTIF.

The draft report, including the OLG response, was provided to the Executive Director of the EAC for review and comment. The EAC responded on March 14, 2011, and generally concurred with the report's findings and recommendations. The EAC stated that they will work with the OLG to ensure appropriate corrective action, including the implementation of required federal record retention policies. The EAC's complete response is included as Appendix A-2.

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 Utah Office of the Lieutenant Governor:

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. We did not determine whether the OLG met the requirement 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 OLG and its subgrantees met the requirements for MOE.

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

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

SCOPE AND METHODOLOGY

We audited the HAVA funds received and disbursed by the OLG from April 29, 2003 through July 31, 2010 (87-month period) as 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	\$ 3,090,943	\$ 0	\$ 0	\$ 555,725	\$ 3,646,668	\$2,723,911	7/31/2010
Section 102	5,726,844	0	0	536,464	6,263,308	6,263,308	7/31/2010
Section 251	17,986,710	0	946,669 ²	631,640	19,565,019	19,089,658	7/31/2010
Total	<u>\$26,804,497</u>	<u>\$ 0</u>	<u>\$ 946,669</u>	<u>\$1,723,829</u>	<u>\$29,474,995</u>	<u>\$28,076,877</u>	7/31/2010

Our audit methodology is set forth in Appendix B.

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

²Utah’s state match contribution consisted of a combination of in-kind expenditures totaling \$866,669 for voting systems and other HAVA related expenditures as well as an \$80,000 cash contribution for its 2008 and 2009 requirements payment. The in-kind expenditures have been included with the expenditures in the Funds Disbursed column.

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, financial accounting and reporting errors, interest on HAVA and state matching funds, and failure to deposit program income, our audit concluded that the OLG generally accounted for and expended HAVA funds in accordance with the requirements mentioned above. The OLG has taken action on or is working to resolve the exceptions described below as set forth in Appendix A:

I. Property Records for HAVA Funded Equipment

The equipment listings from the seven counties we visited did not conform to the requirements of 41 C.F.R. 105-71.132 (d)(1), (the Common Rule). We noted that the listings included a description of the equipment, serial number and the location, but did not include the federal, state, or county percentage of ownership, source of the property, who holds title, use and condition of the property, acquisition date, cost, and percentage of federal participation in the cost.

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.”

OLG election officials informed us that they were not aware of the detailed recordkeeping requirements of the Common Rule.

Recommendation:

1. We recommend that EAC require that the OLG ensure that the property records at counties include the minimum information required by the Common Rule.

OLG's Response:

OLG management concurred with the finding and stated that they would work with the counties to implement the recommendation.

II. Financial Accounting and Reporting Errors

Amounts reported on the financial status reports (FSRs), Forms SF269 and SF425, did not reconcile to the state's financial accounting system or the state treasury reports.

During our review of the annual FSRs the following exceptions were noted:

- Expenditures reported for Section 101 as of September, 30 2009 totaled \$2,671,131, compared to actual expenditures of \$2,854,365, resulting in an unexplained difference not reported on the SF-425 by \$183,234.
- Our recalculation of the state's matching funds indicated that the amount reported was understated by \$53,740.
- Interest earnings do not agree to detailed worksheets nor to statements from the PTIF for the period ended September 30, 2009. Based on the state treasury statements, the interest reported on the SF-425s is understated by \$8,154.62

We also reviewed the state prepared reconciliation of all HAVA funds received and expended from the inception of the program through 7/31/10. The ending balance on this reconciliation for Section 101 funds was \$1,958 higher than the balance in the treasurer's report.

HAVA Section 902. AUDITS AND REPAYMENT OF FUNDS, Part (a) – Recordkeeping Requirement states that:

“each recipient of a grant or other payment made under this Act shall keep such records with respect to the payment as are consistent with sound accounting principles, including records which fully disclose the amount and disposition by such recipient of funds, the total cost of the project or undertaking for which such funds are used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.”

In addition, the EAC has provided guidance on the preparation of the annual reports on its website at: http://www.eac.gov/payments_and_grants/reporting.aspx

Recommendations:

We recommend that:

2. EAC work with the OLG to determine whether it is necessary to file revised annual reports.
3. OLG officials develop procedures to ensure that the HAVA accounting records and reports are accurate.

OLG's Response:

OLG officials expressed reservations regarding the finding, because accounting records had been destroyed pursuant to state retention schedules after state auditors had completed audits and issues had been resolved. They stated that measures had been implemented which are intended to improve the record keeping system and to maintain the appropriate documentation.

III. Interest

Utah deposited its HAVA funds into the state's PTIF. State policy requires users of the PTIF to maintain a minimum uninvested cash balance of \$50,000, or ten percent of the investing fund's cash and investment balance. Interest earned on this uninvested cash balance is retained by the PTIF as a fee for the use of the PTIF. This policy is inconsistent with provisions of the Help America Vote Act which requires that interest on HAVA funds be deposited in the election fund.

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

D. Interest earned on deposits of the fund.

Recommendation:

4. We recommend that the EAC work with the OLG to determine whether the fee paid to PTIF, equal to the interest on the \$50,000, is an allowable HAVA expenditure. If not, the cumulative interest should be allocated and credited to the HAVA election fund.

OLG's Response:

OLG officials stated that they were complying with state policy, because it is a requirement to maintain deposits in PTIF.

IV. State Matching Funds

The OLG asserted that it used in-kind expenditures to meet part of its state matching funds requirement; however, the state did not expend the amounts necessary to support this requirement prior to receiving 2003 and 2004 Section 251 funds. The state certified on July 6, 2004 and August 4, 2009 that it was in compliance with the requirements of Section 253(b) of the Help America Vote Act even though they had not deposited or expended sufficient funds to meet the state matching requirement by these dates.

- When Utah received the 2003 and 2004 Section 251 payments on December 27, 2004, the state should have already deposited the required matching funds of \$866,694. However, the state expended only \$130,162 of in-kind expenditures by December 27, 2004. Because not all of the in-kind expenditures were made prior to receipt of Section 251 funds, the cumulative match payments were below the required amount from December 27, 2004 through 2005. During 2006 the state made additional in-kind expenditures which exceeded the state match required by \$86,935. The state believes that this amount exceeds the interest due the election fund from the delayed in-kind expenditures.
- The state received an additional Section 251 payment on August 26, 2009. However, at the time of receipt, the state had not deposited the required \$70,975 match payment in the election fund. The matching funds were deposited on December 1, 2009, causing the election fund to lose three months of interest.

In addition, we were not able to test the full balance of in-kind expenditures. The state claimed that they had made a total of \$953,624 of in-kind payments, used primarily for payment for voting equipment, state salaries, payroll expenses for HAVA related activities, and consulting services for development of the state-wide voter registration system. We tested a sample of in-kind expenditures totaling \$835,042 of which \$658,934 were tested without exception. The state was unable to provide to us the support for \$176,108 of claimed in-kind expenditures, because records had been destroyed in accordance to the state's records retention policy.

HAVA Section 253(b)(5) requires, as a condition for receiving requirements payments, that:

"the state has appropriated funds for carrying out the activities for which the requirements payment is made in an amount equal to 5 percent of the total amount to be spent for such activities (taking into account the requirements payment and the amount spent by the State) and, in the case of a State that uses a requirements payment as a reimbursement under section 251(c)(2), an additional amount equal to the amount of such reimbursement."

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

"D. Interest earned on deposits of the fund."

HAVA Section 902. AUDITS AND REPAYMENT OF FUNDS, Part (a) Recordkeeping Requirement states that:

"Each recipient of a grant or other payment made under this Act shall keep such records with respect to the payment as are consistent with sound accounting principles, including records which fully disclose the amount and disposition by such recipient of funds, the total cost of the project or undertaking for which such funds are used, and the amount of that portions of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit."

Further, EAC's website section for Frequently Asked Questions answers the following question regarding record retention requirements:

Question 40: When does the grant period end and the record keeping requirement start for HAVA funds?

EAC's response: The record keeping requirement begins upon the close of the grant period, when the last and closing report is filed. The grant period closes when the state (or political subdivisions of the state on its behalf) has expended all federal, state and interest funds contained in the election fund.

Recommendations:

We recommend the EAC work with the state:

5. to determine the amount of interest earnings that were not transferred to the election fund, because matching funds in-kind payments were not expended timely.
6. to resolve the issue of missing documentation on in-kind expenditures.

OLG's Response:

OLG officials believe that the excess matching funds of \$86,935 will be adequate to offset any interest earnings that might be due, and they also believe they complied with state guidelines regarding the destruction of supporting documentation.

v. Program Income

The state of Utah used HAVA funds to purchase T-shirts with the word "VOTE" on the front and an internet address, *leaveyourprint.com*, on the back. The internet address linked to the Office of the Lieutenant Governor's website, which provided information about voting. The T-shirts were given to individuals who came to voter education events such as demonstrations of the state's HAVA funded voting machines. The election office also sold 1,010 of these T-shirts to counties for \$5 per shirt or a total of \$5,050. The income from these sales was deposited into the state's general fund rather than the HAVA election fund as required by the Common Rule.

The *Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments*, 41CFR § 105-71.125, states that program income means gross income received by the subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. Costs incident to the generation of program income may be deducted from gross income to determine net program income.

The *EAC Advisory 07-002 – Program Income and Set-off of Cost Incident to Program Income* authorizes states to dedicate program income to the HAVA grant and use the income for purposes and under conditions of the grant.

The *Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments*, 41CFR § 105-71.141 states that each grantee will report program outlays and program income on a cash or accrual basis as prescribed by the awarding agency.

Recommendation:

- 7. We recommend that EAC work with the state to determine the net program income from the sale of T-shirts, and require the state to transfer that amount into the election fund, plus any interest earnings that would have accrued on the funds.

OLG's Response:

OLG officials agreed with the finding and will implement the recommendation.

We provided a draft of our report to the appropriate individuals of the Utah Office of the Lieutenant Governor, and the Commission. We considered any comments received prior to finalizing this report.

The EAC responded on March 14, 2011 and generally concurred with the report's findings and recommendations, and stated that they would work with the OLG to ensure appropriate corrective action, including the implementation of required federal record retention policies.

CG performed its work between August 9, 2010 and August 27, 2010.

Clifton Henderson LLP
Calverton, Maryland
October 15, 2010

STATE OF UTAH
OFFICE OF THE LIEUTENANT GOVERNOR



GREG BELL
LIEUTENANT GOVERNOR

December 16, 2010

Curtis Crider
Office of Inspector General
Election Assistance Commission
ccrider@eac.gov

Dear Mr. Crider,

Thank you for extending our response deadline an additional week.

Enclosed you will find Utah's responses to the Notification of Findings and Recommendation.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Thomas".

Mark Thomas
Director of Elections

Enclosure

UTAH'S RESPONSES TO THE NOTICE OF FINDING AND RECOMMENDATIONS

December 16, 2010

NFR #1-Property Management

The Office of the Lieutenant Governor (OLG) agrees with this NFR. Having now been made aware of the requirement to record certain information about property, the OLG will work with each Utah county to properly develop and maintain an inventory listing of all applicable equipment in accordance with 41 C.F.R. 105-71.132 (d)(1).

NFR #2-Financial Accounting and Reporting Errors

Initial testing of financial accounting and reporting was for 2009 and 2010. The auditors then deemed it necessary to go back to 2003, the inception of the grant. There is some uneasiness regarding the findings due to records having been destroyed per state retention schedules and after an audit performed by the State Auditor for this period.

Each year the Financial Manager and the Deputy Chief of Staff for the OLG verified the reports submitted to the EAC. All differences were reconciled and corrected or new reports were submitted. In 2006, the State Auditor found no errors or undocumented items in their HAVA election fund audit. After six years many of the records had been destroyed per state retention schedules.

In regards to the recommended action, the OLG has implemented measures intended to improve the record keeping system and will follow this system in the future as well as keeping copies of all documentation with the grant reports.

NFR #3-Interest on Deposits of Federal Funds

Utah initially invested all federal funds from the three HAVA grants into one investment account. When the OLG discovered that interest needed to incur on each grant separately, the funds were transferred from one investment account into three separate investment accounts. This included the separate grant principle and the percentage of interest earned in direct relationship to the principle.

The OLG followed Utah State policy, which requires all users of the Public Treasury Investment Fund to maintain a balance of \$50,000. If the OLG did not follow this policy, there would be no other mechanism available to the OLG to earn interest. State law does not allow state agencies to open or utilize separate bank accounts.

~~The OLG disputes Effect #2. The \$467,182 reported in this effect continued to earn interest in the general fund during the 35 days it was not quickly transferred to the HAVA election fund. The interest earned in those 35 days was transferred, along with the \$467,182, into the HAVA election fund. We do not believe there was a loss of interest earnings during this timeframe.~~

Auditor Note: The finding and recommendation pertaining to the crossed out OLG response was resolved satisfactorily and, therefore, was excluded in this final report.

NFR #4 State Matching Funds

A State Single Audit made the OLG aware of the requirement of depositing matching money into the HAVA investment fund. After being made aware of the issue the OLG insured from that point forward matching funds would be deposited with the investment. This was done for the additional \$1,599,503 received as soon as permission was received by the State Legislature to transfer the matching funds.

The State Single Audit did not make a Notice of Finding on this issue since all matching requirements had previously been made- most of them as an in-kind match. The OLG, followed state policy on retention and destroyed much of the past paperwork on the match. At this time the state has exceed state match requirements by \$86,935. OLG does not dispute that interest was lost, but suggest that the \$86,935 of exceed state match money, be used towards the lost interest.

One of the purposes of the Single Audit was for other Federal Auditors to rely on the Single Audit auditors. With this in mind, after the audit was complete the past paperwork was destroyed if it met the state's retention schedule.

NFR #5- Program Interest

The OLG purchased t-shirts that were given to individuals, free of charge, during a variety of voter education events. Subsequently many county clerks asked to purchase t-shirts for staff and poll workers. OLG charged \$5 per t-shirt. In June and July of 2006, 951 t-shirts were sold and 59 more were sold since that time, for a total of 1,010 shirts (\$5,050).

The original intent was not to sell any t-shirts, but rather give them out free of charge, consequently the OLG did not identify the requirement to deposit the money generated from the sale into the HAVA election fund.

OLG agrees with this finding and will agree to pay \$5,050 into the HAVA election fund. In addition, the loss interest, calculated from the present back to the sale, will also be paid.



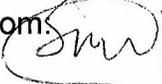
EAC RESPONSE TO THE DRAFT AUDIT:

OIG Performance Audit Report on the Administration of Payments Received Under the Help America Vote Act by the State of Utah, for the Period April 29, 2003 Through July 31, 2010.

March 14, 2011

MEMORANDUM

To: Curtis Crider
Inspector General

From:  Thomas R. Wilkey
Executive Director

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

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

The Election Assistance Commission (EAC) generally concurs with the results of the review and recommendations. The EAC will work with the Office of Lieutenant Governor for the State of Utah (OLG) to ensure appropriate corrective action including the implementation of required federal record retention policies.

AUDIT METHODOLOGY

Our audit methodology included:

- Assessing audit risk and significance within the context of the audit objectives.
- Obtaining an understanding of internal control that is significant to the administration of the HAVA funds.
- Understanding relevant information systems controls as applicable.
- Identifying sources of evidence and the amount and type of evidence required.
- Determining whether other auditors have conducted, or are conducting, audits of the program that could be relevant to the audit objectives.

To implement our audit methodology, below are some of the audit procedures we performed:

- Interviewed appropriate OLG 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 OLG's management and accounting systems as they relate to the administration of HAVA programs.
- Analyzed the inventory lists of equipment purchased with HAVA funds.
- Tested major purchases and supporting documentation.
- Tested randomly sampled payments made with the HAVA funds.
- Verified support for reimbursements to local governments (counties, cities, and municipalities).
- Reviewed certain state laws that impacted the election fund.
- Examined appropriations and expenditure reports for state funds used to meet the five percent matching requirement for section 251 requirements payments.
- Evaluated compliance with the requirements for accumulating financial information reported to the Commission on the Financial Status Reports, Forms SF-269 and 425, accounting for property, purchasing HAVA related goods and services, and accounting for salaries.
- Verified the establishment and maintenance of an election fund.

- Conducted site visits of selected counties/towns to perform the following:
 - Observe equipment purchased with HAVA funds for proper accounting and safeguarding
 - Ensure compliance with HAVA Act.

MONETARY IMPACT AS OF JULY 31, 2010

<i>Description</i>	<i>Questioned Costs</i>	<i>Additional Funds for Program</i>
Unsupported in-kind expenditures for state matching funds	\$176,108	\$0
Underreported expenditures on SF425	186,234	0
Underreported state matching funds on SF425	53,740	0
Estimated Interest earnings not reported on SF425 (Note)	0	8,155
Total	\$416,082	\$8,155

Note: There is an undetermined amount of interest earnings due the election fund on late payments of state matching funds, HAVA funds that remain in the general fund, and program income that has not been transferred to the election fund.

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