

SEMIANNUAL REPORT TO CONGRESS

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



*For the Period:
April 1, 2011, through
September 30, 2011*



A Message from the Inspector General

This report is submitted to Congress pursuant to the Inspector General Act of 1978, as amended. It summarizes the activities of the Office of Inspector General (OIG) for the six-month period ending September 30, 2011.

During this semiannual reporting period, we issued seven reports on the states' uses of Help America Vote Act (HAVA) funds. The audits of states' uses of HAVA funds show continued problems with maintaining adequate inventory records of equipment purchased with Federal funds, common problems with obtaining and maintaining records to support personnel charges to the HAVA grants, and frequent failures to deposit funds timely into the interest-bearing election fund resulting in an interest deficit in the election fund. States should take note of these recurring audit findings and amend their policies, procedures and practices to ensure that they can demonstrate that grant funds are spent properly.

We are pleased to see the strides that EAC has made in these areas and will continue to work with EAC and its grant recipients to resolve concerns related to the use of grant funds distributed by EAC.

Submitted October 31, 2011

Curtis W. Crider
Inspector General

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Election Assistance Commission Profile

The U.S. Election Assistance Commission (EAC or Commission) is a bipartisan, independent commission consisting of four members. There are two sitting commissioners: Donetta Davidson and Gineen Bresso, and two vacancies on the Commission due to the resignations of commissioners in February 2009 and December 2010. The Commission currently lacks a quorum needed to hold meetings, conduct business and make policy decisions.¹

The EAC was created by the Help America Vote Act of 2002 (HAVA) to assist states with improving the administration of elections for Federal office. The EAC accomplishes this mission by providing funding, innovation, guidance and information to be used by the states to purchase voting equipment, train election personnel, and implement new election programs. The EAC has distributed approximately \$3.23 billion in grant funding to the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam and American Samoa (hereinafter referred to as “states”). With those funds, the states have purchased voting equipment, established statewide voter registration lists, implemented provisional voting, provided informational material to voters at the polling place, and implemented a program to verify the identity of voters using the statewide voter registration list in combination with other state and Federal databases.

HAVA made EAC responsible for the first Federally-run testing and certification program for voting systems. The testing and certification program was begun in 2006. Through this program, the EAC develops standards for voting equipment, accredits laboratories, and reviews and certifies voting equipment based upon the tests performed by the accredited laboratories.

The EAC is responsible for administering the National Voter Registration Act (NVRA) by promulgating regulations for the content and use of the National Mail Voter Registration form. The EAC published proposed changes to the

¹ According to documents prepared by the EAC General Counsel, the EAC is capable of conducting a large portion of its business through delegations of authority to the Executive Director and other agency officers.

NVRA regulations and accepted comments through November 23, 2010. The EAC has not published final changes to those regulations.

Office of Inspector General Profile

HAVA required the appointment of an inspector general for the EAC and amended the Inspector General Act (IG Act) of 1978 (5 U.S.C.A. App. 3) to identify the EAC as a designated Federal entity (DFE). The Commission appointed its first inspector general in August 2006 and the EAC's Office of Inspector General (OIG) was created.

The OIG has always been a very small office. At many times over the past four years, the only employee of the OIG has been the inspector general. Assistance has been provided by detailing employees from other agencies, contracting for audits to be conducted by independent CPA firms, and, finally, by hiring permanent staff to the OIG. The OIG currently has two employees: inspector general and an assistant inspector general for audits.

Despite our small size, we perform all of the duties required of the inspector general under the IG Act, including:

- Conducting and supervising audits, investigations, and other services (e.g., evaluations) relating to the programs and operations of the EAC;
- Providing leadership and coordination and recommending actions to management, which (1) promote economy, efficiency, and effectiveness in agency programs and operations; and (2) prevent and detect fraud, waste, abuse, and mismanagement of government resources; and
- Keeping the Commission, management, and Congress fully informed regarding problems and deficiencies, and the progress of corrective actions.

We have used detailees and contract auditors to augment our staff and to conduct many of the state and agency audits. In addition, when conducting an investigation, we work with other Federal government agencies to detail or contract for investigative services. While the OIG had previously planned to reduce its reliance on contractors by hiring some additional in-house auditors and an investigator, the current budget climate will require that we continue to use the services of contractors and other Federal agencies to assist with our auditing and investigative needs.

The OIG's program to ensure economy, efficiency and integrity in the use of funds is not exclusively translated into audits of the EAC and its grant recipients. The OIG also investigates allegations of waste, fraud, abuse and mismanagement in EAC programs and operations. The OIG operates a hotline to receive complaints regarding EAC, its programs, and its funding recipients.

State Audits

HAVA funds have been distributed by the EAC to states for use to improve the administration of Federal elections by purchasing new equipment, establishing and operating statewide voter lists, implementing provisional voting, and verifying the identity of persons who wish to register to vote. The OIG conducts audits of the states' use of HAVA funds. Through those audits, the OIG examines:

- whether the recipient used HAVA funds in accordance with HAVA and other applicable Federal requirements;
- whether the recipient has properly accounted for purchases made with HAVA funds and any income derived from those purchases;
- whether grant funding was maintained and accounted for in keeping with HAVA; and
- Whether the recipient provided sufficient matching funds and maintained Federal monies in a separate, interest-bearing election fund.

During the reporting period, the OIG contracted with the professional auditing

firm to conduct the HAVA funds audits. Seven reports were issued based upon those audits. Below are summaries of those audits:

Nevada: Except for the lack of personnel certifications, inadequate property records maintenance, failure to transfer interest earnings to the election fund, using computer equipment for non-HAVA related purposes and the questionable use of HAVA funds for promotional activities, the audit concluded that the Secretary of State (SOS) generally accounted for and expended HAVA funds in accordance with HAVA requirements. Specifically the audit found that:

- The State of Nevada charged \$744,894 in payroll expenses to the HAVA election account which were not supported by documentation to verify that the employees worked on HAVA activities.
- The state's inventory listings of voting equipment located at the counties did not include all of the information required by federal regulations.
- The state treasurer did not transfer interest earnings totaling \$16,777 to the HAVA election account for May and June 2003.
- One of the five counties we visited was using the HAVA funded computer equipment acquired for the Statewide Voter Registration System, costing \$16,434, primarily for daily operations rather than restricting its use to HAVA related activities.
- Using \$20,000 in HAVA funds to support National Women's Suffrage Day activities in 2007 was unallowable.
- Using \$25,000 in HAVA funds to produce videos to promote voting participation and to conduct other events and programs to encourage registration and participation in upcoming elections in 2008 was unallowable.

The SOS did not agree with the finding and questioned costs related to the promotional activities, but has taken action on or is working to resolve the

other exceptions. The EAC indicated that it would work with Nevada to resolve the findings.

Texas: Except for the issues discussed below, the audit concluded that the Secretary of State (SOS) generally accounted for and expended HAVA funds in accordance with HAVA requirements.

The exceptions needing SOS's management attention are as follows:

- The state did not have adequate documentation to support personnel charges to HAVA grants.
- All seven of the counties we visited earned program income from the rental of HAVA funded voting equipment. Two of the counties did not transfer interest earned on program income into a HAVA election account. Interest earned by one of the counties was deposited into the county treasury and used for non-HAVA purposes, and the other county did not earn interest on its HAVA program income.
- In one county, 38 HAVA-funded laptop computers were stolen from the county election office warehouse. The equipment was not insured against theft and the county has not replaced the equipment.
- In August 2010, a fire destroyed HAVA-funded voting equipment at one county. The county had insured the equipment against loss. The insurance proceeds were used to replace the HAVA-funded voting equipment; however, interest earned on proceeds between the dates the insurance proceeds were received and when they were paid out was not transferred into the HAVA election account.

SOS management generally agreed with the report's finding and recommendations, and provided corrective action. However, they disagreed that the one county that did not earn interest on its program income should be required to calculate the amount of the lost interest and deposit that amount into the county's election fund, and they disagreed with the recommendation

that interest on the insurance proceeds from HAVA equipment destroyed in a fire should be calculated and deposited into the county's election fund. The EAC indicated that it would work with Texas to resolve the issues identified in the report.

Arizona: Except for the questionable use of HAVA funds for promotional activities, the lack of personnel certifications, and the maintenance of adequate property records the audit concluded that the Secretary of State (SOS) generally accounted for and expended HAVA funds in accordance with the HAVA requirements.

The exceptions needing SOS's management attention are as follows:

- SOS incurred unallowable HAVA expenses of \$20,000 for the Kids Voting Arizona program.
- SOS did not prepare the semi-annual certifications as for the salary and expenses of \$147,141.
- Records for HAVA funded equipment for one of the six counties we visited did not conform to federal regulations.

The SOS generally agreed with the findings and recommendations, except for the questioned costs for Kids Voting Arizona. The SOS disagreed with the finding that providing funds to Kids Voting Arizona would fall outside the scope of voter education. The SOS believes that all three programs were targeted to high school students, ages 16 to 18, which would be eligible to vote in the next general election. The SOS also believes that the programs were in line with the intent of HAVA Section 295, the National Student and Parent Mock Elections section, the goals of which were to educate high school age students on the voting process and to also encourage participation in elections. The EAC indicated that it would work with Arizona to resolve the issues.

Kansas: This audit of the Kansas Secretary of State (SOS) disclosed that 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 EAC. The SOS also complied with Section 251 requirements. There were some exceptions to this general finding:

- Records for HAVA funded equipment for the SOS election voter information system and for voting equipment at three counties did not conform to federal requirements.
- Only 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.
- Program income on HAVA funds of \$82,010 was used to meet the 2009 and 2010 state match requirements without EAC approval.
- Using \$20,000 in HAVA funds for the Kids Voting Kansas program and \$949.51 for printing voter registration forms was unallowable.

The SOS was in general agreement with the findings and recommendations; however, the SOS 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. The EAC indicated that it would work with Kansas to resolve the issues.

New Jersey: Except for the failure to maintain adequate equipment/property maintenance records (property records), the failure to use formal solicitation procedures to purchase voting equipment and the failure to deposit the appropriated match and the interest earned on the match to the election account, the audit concluded that the Department of State (DOS) generally accounted for and expended HAVA funds in accordance with the requirements established by HAVA and the EAC.

The exceptions needing the DOS's management included:

- Property records for statewide voter registration system equipment purchased by the DOS and the voting equipment purchased by the counties were not maintained in accordance with federal regulations.
- The counties we visited did not use formal solicitation procedures to purchase voting equipment in accordance with federal regulations.
- The DOS did not deposit the appropriated match and the interest earned on the match in the election account.

The DOS agreed with the report's audit results, and described the proposed actions to be taken, or that had been taken, to resolve the issues. The EAC indicated general agreement with the report findings and recommendations, and stated that they would work with the state to ensure corrective action.

Illinois: The audit concluded that, except for the maintenance of comprehensive property records, the State Board of Elections (SBOE) generally accounted for and expended HAVA funds in accordance with the HAVA requirements and complied with the financial management requirements established by the EAC. The SBOE also complied with section 251 requirements. The SBOE agreed with the report's finding and recommendation, and provided corrective action. The EAC indicated general agreement with the report finding and recommendation, and stated that they would work with the state to ensure corrective action.

Pennsylvania: The audit concluded that the Pennsylvania Bureau of Commissions, Elections and Legislation (BCEL) generally accounted for and expended HAVA funds in accordance with the HAVA requirements and complied with the financial management requirements established by the EAC. However, the audit disclosed that the BCEL failed to maintain adequate property records over HAVA funded equipment, possessed unexpended Section 102 funds after the deadline and lacked certifications for payroll expenditures. The BCEL generally agreed with the report's findings and recommendations. The EAC indicated general agreement with the report findings and recommendations, and stated that they would work with the state to ensure corrective action.

Other Activities

Reviews of Legislation, Rules, Regulations and Other Issuances

The OIG conducts regular monitoring of EAC program activities and policy-making efforts. We provide comment to significant policy statements, rulemaking and legislation that affects the EAC. During a large part of the reporting period, the EAC did not have a quorum and did not issue any policy determinations. The Administration issued several pieces of guidance and Executive Orders during the reporting period, which we reviewed. Last, we participated in surveys and data calls issued by the Council of Inspectors General on Integrity and Efficiency.

Non-Federal Audits

OMB Circular A-133 establishes audit requirements for State and local governments, receiving Federal awards. Covered entities that expend \$500,000 or more a year in Federal awards are required to obtain an annual organization-wide audit “single audit”. The audits are conducted by non-Federal auditors, such as public accounting firms and State auditors. OIG reviews the resulting audit reports, findings and questioned costs related to EAC awards.

During this reporting period, the OIG referred the following single audits to the EAC:

- Commonwealth of Virginia Single Audit for the Year Ended June 30, 2010
- Bullitt County Fiscal Court for the Year Ended June 30, 2010

Hotline Complaints

The OIG received 25 complaints during the reporting period. Eighteen of those complaints did not warrant an investigation by the OIG given the nature of the complaint. One complaint was referred to another government agency for

response. Five of the complaints are currently under review. Finally, we attempted to obtain additional information regarding one complaint and received no response from the complainant. The complaint was closed for lack of sufficient information.

Matters Referred to Prosecuting Authorities

We are reporting no activities in this category during the reporting period.

Denial of Access to Records

We are reporting no activities in this category during the reporting period.

Peer Review Reports

The EAC OIG was subject to a peer review in 2009. The review was conducted by the Federal Maritime Commission Office of Inspector General (FMC OIG). The report detailing that review was issued on June 10, 2009. The FMC OIG gave the EAC OIG a “pass” rating. No material deficiencies were noted. However, the FMC OIG did address four issues in its letter of comment:

- Complete independent statements in keeping with audit policy;
- Monitor continuing professional education requirements of auditors detailed from other OIGs;
- Use work paper check list to ensure that work papers have sufficient support for audit documentation and supervisory review; and
- Ensure technical checklist for monitoring audits performed by independent public accountants is used for each such audit.

Each of these recommendations has been implemented. There are no outstanding recommendations.

The EAC OIG is scheduled for its next peer review in March of 2012.

Reports Issued

State Audits

1. Administration of Payments Received Under the Help America Vote Act by the Nevada Secretary of State (Assignment Number E-HP-NV-02-11), September 2011
2. Administration of Payments Received Under the Help America Vote Act by the Texas Secretary of State (Assignment Number E-HP-TX-01-11), August 2011
3. Administration of Payments Received Under the Help America Vote Act by the Arizona Secretary of State (Assignment Number E-HP-AZ-04-11), August 2011
4. Administration of Payments Received Under the Help America Vote Act by the Kansas Secretary of State (Assignment Number E-HP-KS-03-11), August 2011
5. Administration of Payments Received Under the Help America Vote Act by the New Jersey Department of State (Assignment Number E-HP-NJ-11-10), June 2011
6. Administration of Payments Received Under the Help America Vote Act by the Illinois State Board of Elections (Assignment Number E-HP-IL-12-10), May 2011

7. Administration of Payments Received Under the Help America Vote Act by the Pennsylvania Bureau of Commissions, Elections and Legislation (Assignment Number E-HP-PA-10-10), May 2011

EAC Audits None

Investigations None

Monetary Impact of Audit Activities

Questioned Costs*	\$ 25,472,676
Potential Additional Program Funds	\$ 607,901
Funds to Be Put to Better Use	\$ 0
Total	<u>\$ 26,080,577</u>

*Unsupported costs are included in questioned costs.

Reports With Questioned Costs

<u>Category</u>	<u>Number</u>	<u>Questioned Costs</u>	<u>Unsupported Costs</u>
A. For which no management decision had been made by the beginning of the reporting period.	5	\$1,436,062	\$ 0
B. Which were issued during the reporting period.	6	\$25,472,676	\$ 0
Subtotals (A + B)	11	\$26,908,738	\$ 0
C. For which a management decision was made during the reporting period.	4	\$ 1,125,115	\$ 0
(i) Dollar value of recommendations that were agreed to by management.		\$ 26,459	\$ 0
(ii) Dollar value of recommendations not agreed to by management.		\$ 1,098,656	\$ 0
D. For which no management decision has been made by the end of the reporting period.	7	\$25,783,623	\$ 0

Reports With Potential Additional Program Funds

<u>Category</u>	<u>Number</u>	<u>Dollar Value</u>
A. For which no management decision had been made by the beginning of the reporting period.	3	\$ 1,991,118
B. Which were issued during the reporting period.	4	\$ 607,901
Subtotals (A+B)	7	\$ 2,599,019
C. For which a management decision was made during the reporting period.	3	\$ 1,991,118
(i) Dollar value of recommendations that were agreed to by management.		\$ 1,988,723
(ii) Dollar value of recommendations that were not agreed to by management.		\$ 2,395
D. For which no management decision has been made by the end of the reporting period.	4	\$ 607,901

Summary of Reports More Than Six Months Old Pending Corrective Action at September 30, 2011

The following is a list of audit and evaluation reports that are more than six months with management decisions for which corrective action has not been completed. It provides report number, title, issue date, and the number of recommendations without final corrective action.

I-EV-EAC-01-07B	Assessment of the U.S. Election Assistance Commission's Program and Financial Operations, February 2008, 8 Recommendations
E-HP-UT-09-10	Administration of Payments Received Under the Help America Vote Act by the Utah Office of Lieutenant Governor, March 2011, 1 Recommendations
E-HP-HI-01-10	Administration of Payments Received Under the Help America Vote Act by the Hawaii Office of Elections, February 2011, 11 Recommendations
E-HP-AL-06-10	Administration of Payments Received Under the Help America Vote Act by the Alabama Secretary of State, January 2011, 2 Recommendations

Summary of Reports More Than Six Months Old Pending Management Decision at September 30, 2011

This listing includes a summary of audit and evaluation reports that were more than 6 months old on September 30, 2011 and still pending a management decision. It provides report number, title, and number of unresolved recommendations.

None.

Reporting Requirements of the IG Act

<u>Section of Act</u>	<u>Requirement</u>	<u>Page</u>
Section 4(a)(2)	Review of Legislation and Regulations	9
Section 5(a)(1)	Significant Problems, Abuses, and Deficiencies	None
Section 5(a)(2)	Recommendations for Corrective Action With Respect to Significant Problems, Abuses, and Deficiencies	None
Section 5(a)(3)	Significant Recommendations From Agency's Previous Report on Which Corrective Action Has Not Been Completed	16
Section 5(a)(4)	Matters Referred to Prosecuting Authorities and Resulting Convictions	None
Section 5(a)(5)	Matters Reported to the Head of the Agency	None
Section 5(a)(6)	List of Reports Issued During the Reporting Period	11
Section 5(a)(7)	Summary of Significant Reports	3
Section 5(a)(8)	Statistical Table – Questioned Costs	14
Section 5(a)(9)	Statistical Table – Recommendations That Funds Be Put to Better Use	None
Section 5(a)(10)	Summary of Audit Reports Issued Before the Commencement of the Reporting Period for Which No Management Decision Has Been Made	None
Section 5(a)(11)	Significant Revised Management Decisions Made During the Reporting Period	None
Section 5(a)(12)	Significant Management Decisions With Which the Inspector General Is in Disagreement	None
Section 5(a)(13)	Information Described Under Section 804(b) of the Federal Financial Management Improvement Act of 1996	None
Section 5(a)(14)(A)	Peer Review Reports Conducted on U.S. Election Assistance Commission Office of Inspector General during the Reporting Period	None

<u>Section of Act</u>	<u>Requirement</u>	<u>Page</u>
Section 5(a)(14)(B)	Statement of Peer Review Conducted on the U.S. Election Assistance Commission Office of Inspector General during a Prior Reporting Period	<u>10</u>
Section 5(a)(15)	Outstanding Recommendations from a Peer Review Report on the U.S. Election Assistance Commission Office of Inspector General	None
Section 5(a)(16)	Peer Review Reports Conducted by the U.S. Election Assistance Commission Office of Inspector General	None

OIG's Mission

Help to ensure efficient, effective, and transparent EAC operations and programs

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Washington, DC 20005

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Fax: (202) 566-0957

To Report Fraud, Waste and Abuse Involving the U.S. Election Assistance Commission or Help America Vote Act Funds

By Mail: U.S. Election Assistance Commission
Office of Inspector General
1201 New York Ave. NW – Suite 300
Washington, DC 20005

E-mail: eacoig@eac.gov

OIG Hotline: 866-552-0004 (toll free)

On-Line Complaint Form: www.eac.gov/inspector_general

FAX: 202-566-0957





Inspector General

U.S. Election Assistance Commission

This report, as well as other OIG reports and testimony, are available on the internet at:
www.eac.gov/inspector_general