



**DEBRA BOWEN** | SECRETARY OF STATE | STATE OF CALIFORNIA  
1500 11th Street, 6th floor | Sacramento, CA 95814 | Tel (916) 653-7244 | Fax (916) 653-4620 | www.sos.ca.gov

April 18, 2008

Mr. Michael Genest  
Finance Director  
Department of Finance  
915 L Street  
Sacramento, CA 95814

Dear Mr. Genest:

Pursuant to the Budget Act of 2007, Item 0890-001-0890, Provision 3, the Secretary of State (SOS) is submitting this quarterly report to provide the status of the implementation of the Help America Vote Act (HAVA).

In the third quarter, SOS activity continued in several areas: 1) Reimbursement to counties under HAVA Sections 301, 303, and 261 contracts; 2) Planning and procurement efforts related to the HAVA 303 requirements to create a statewide voter registration database; 3) Meeting administrative requirements for the HAVA program; 4) Providing voter education, and 5) Monitoring county compliance with HAVA requirements through the Election Day Observation Program.

County Reimbursements: County requests for reimbursements slowed during this quarter, even though the administrative workload increased, for several reasons:

Pursuant to budget authorization, the Secretary of State initiated 78 new contracts with counties for the balance remaining for each county of the aggregate \$195 million for voting system upgrades and related costs and for remaining funding to improve polling place accessibility for voters with disabilities; the need to execute new contracts required a suspension of activities at the county level between the time the old contract lapsed and the new contract was executed.

The Legislature's decision to create a separate stand-alone February 5, 2008, Presidential Primary caused counties to devote the vast majority of time and resources to conducting a previously unplanned, statewide election.

Counties needed to modify the deployment of voting equipment, and incorporate new voting system security and use procedures in response to the August 3, 2007, Secretary of State-issued voting system decertification and recertification orders on an expedited basis in recognition of the approaching February 5, 2008, Presidential Primary.

The Secretary of State, with input from counties, sought guidance from the US Election Assistance Commission (EAC) regarding the allowable use of HAVA funding to defray the costs associated with voting system modifications pursuant to the August 3, 2007, decertification and recertification orders issued by the Secretary of State. (No written guidance has been issued by the EAC yet.)

Mr. Michael Genest

Page 2

April 18, 2008

Counties that intend to use HAVA funding to defray the costs associated with voting system modifications, such as poll worker training and voter education efforts, needed to develop, pursuant to the contract executed with the Secretary of State, plans detailing those programs. Secretary of State staff was required to review these plans to determine that the plans were complete.

Statewide Voter Registration Database (VoteCal): The Secretary of State is continuing the procurement process for the statewide voter registration database (VoteCal) project, which is required pursuant to the November 2, 2005, MOA executed with US Department of Justice (US DOJ) and HAVA Section 303.

Pursuant to an approved Feasibility Study Report (FSR), the Secretary of State, with the participation of and in close consultation with the Department of General Services, conducted confidential bidder discussions pursuant to the solution-based procurement process provided for in state law. In addition to working closely with required consultants (IPOC, IV&V and project and contract managers), the Secretary of State consulted extensively with county representatives (conducting five regional meetings and attending regularly scheduled California Association of Clerks and Election Officials (CACEO) monthly meetings) and with a stakeholder advisory committee comprised of subject-matter experts, election rights advocates and county election officials following the December 13, 2007, release of the Request for Proposal (RFP). During this quarter, confidential bidder discussions continued, and addenda to the RFP were issued based on input, comments and questions from all sources – county election officials, the advisory committee, and vendors that have expressed an interest in submitting a bid.

2008 February Presidential Primary: As previously noted, activities related to the 2008 election cycle were conducted that included processing some county invoices for HAVA related expenses incurred for voter education, voting system procurement, and poll worker training. Preparations (recruiting and training Secretary of State personnel, and working with counties) for an Election Day Observation/poll monitoring program in 31 counties during the February Presidential Primary Election were initiated (see also "Election Day Observation" below). The work necessary to respond to new security measures and use procedures for voting systems (providing counties with a "trusted build" version of voting system software, modifying use procedures, reconfiguring election tally servers as a safeguard against infection of the voting system by malicious code, etc.) in response to issues raised during a comprehensive top-to-bottom review and in anticipation of the February 5, 2008, Presidential Primary were completed. Voter education activities included partial funding for publication and translation of both an Easy Voter Guide and a Smart Voter webpage that provides voters with comprehensive information on candidates and ballot measures, and Election Day procedures. SOS personnel assisted the League of Women Voters and other organizations in the production and distribution of these resources to individuals and to community groups interested in performing voter outreach. HAVA also supported the Voter Hotline, which received tens of thousands of inquiries from voters leading up to the Presidential Primary, including more than 20,000 phone calls from voters on Election Day, February 5, 2008. Voters called the hotline to find polling places, to ask questions about Election Day processes and procedures, and to lodge complaints about problems encountered at polling places.

Mr. Michael Genest

Page 3

April 18, 2008

Election Day Observation Program: The Secretary of State recruited, trained and dispatched 37 employees to 31 counties throughout the State to observe county implementation of HAVA requirements and other required Election Day procedures. Observers reported on challenges and problems encountered, as well as innovative programs initiated by poll worker and county elections personnel that could be shared with other counties. Observers were asked to verify whether or not the polling places they visited and voting procedures being followed met the requirements set forth in HAVA. The report of these findings is posted on the SOS website at [http://www.sos.ca.gov/elections/elections\\_pub.htm](http://www.sos.ca.gov/elections/elections_pub.htm)

Administration: In addition to the activities previously mentioned (see also "County Reimbursements" above), Secretary of State staff responded to new guidance issued by the EAC on September 6, 2007, on HAVA's "maintenance of effort" (MOE) that required labor-intensive, data-gathering from counties on past election-related expenditures dating back eight years. The Secretary of State also filed all required reports to state and federal officials, including: An annual report to the Legislature on HAVA activities; three annual narrative reports to the federal Department of Health and Human Services (DHHS) and the EAC on HAVA spending during the past calendar and federal fiscal years; monthly reports to the US Department of Justice on progress toward implementing the Statewide Voter Registration Database pursuant to a Memorandum of Agreement executed (see also "Statewide Voter Registration Database (VoteCal)" above); and quarterly reports to the EAC and the Department of Finance.

During this time, the Secretary of State also secured additional federal funding provided by Congress in an omnibus appropriations bill. The funding is administered through the federal DHHS for the purpose of improving polling place accessibility for voters with disabilities. In that same appropriations bill, Congress provided additional HAVA funding to meet Title III requirements (voting system upgrades, provisional voting rights, voter information requirements and statewide voter registration database mandates). California is slated to receive \$12.9 million of the Title III appropriation, according to the EAC. In order to receive the funding, California (and all other states) will first be required to update State Plans that detail implementation of HAVA to date and the state plans for expending new funding. Developing a State Plan, as provided for in HAVA, is a multi-step process that requires the appointment of and consultation with an advisory committee with specified membership to develop the State Plan; publication of the State Plan for comment at the state level; submission of the State Plan to the EAC for publication in the Federal Register; and submission of a specified certification to the EAC that a State Plan has been submitted pursuant to the process described and that the state is in compliance with other federal election laws, such as the Voting Rights Act.

Via a January 24, 2008, letter, the EAC provided states with official notification of the appropriation, including each state's proportionate share, and information on the process for qualifying for the funds (as outlined above). The Secretary of State is currently considering the most effective process to develop and submit a State Plan, while recognizing that county elections officials and voting rights advocates – the very people who would be most interested in this endeavor and who would serve on the required advisory committee – are actively involved in conducting and participating in a Presidential election cycle that, for the first time, includes three statewide elections (in February, June and November).

Mr. Michael Genest

Page 4

April 18, 2008

Finally, California, along with representatives of the National Association of State Election Directors, provided testimony to the EAC at its March 20, 2008, hearing regarding the states' perspective on EAC oversight and guidance, including: auditing procedures, MOE guidance, allowable expenses, allocable expenses and state matching fund requirements. It appears that EAC Commissioners are following up on those issues and may be offering new or modified guidance as a result of state input.

The following table summarizes the first quarter expenditures by activity for the current and prior fiscal years:

Activities	3 <sup>rd</sup> Quarter FY 05/06 * (in thousands)	3 <sup>rd</sup> Quarter FY 06/07* (in thousands)	3 <sup>rd</sup> Quarter FY 07/08* (in thousands)	Total Spent 2 <sup>nd</sup> Quarter (in thousands)
Voting Systems (including AVVPAT)	\$76	\$1,888	\$17	\$1,981
Statewide Database (VoteCal)	\$0	\$0	\$294	\$294
VoteCal Redirected Staff	\$0	\$0	\$37	\$37
Interim Solution - SOS	\$0	\$0	\$4	\$4
Interim Solution - County Retrofit	\$0	\$113	\$88	\$201
Voter Education	\$0	\$0	\$25	\$25
Voting System Technology	\$0	\$0	\$0	\$0
Source Code Review	\$0	\$0	\$0	\$0
Poll Monitoring	\$0	\$0	\$56	\$56
EAID Compliance	\$107	\$0	\$0	\$107
Administration	\$0	\$0	\$103	\$103
Parallel Monitoring	\$0	\$0	\$0	\$0
Total	\$183	\$2,001	\$624	\$2,808

\*Prior year expenditures for 07-08 include the actual expenditures for accruals reported on the 06-07 fourth quarter report.

If you have any questions regarding this report, please contact Dora Mejia, Chief of Management Services Division, at 653-1471.

Sincerely,

  
Janice Lumsden  
Deputy Secretary of State, Operations

cc: Honorable Denise Moreno Ducheny, Chair Joint Legislative Budget Committee  
Ms. Robin Baker, Department of Finance  
Mr. Larry Yanni, Department of Finance  
Mr. Chris Reynolds, Deputy Secretary of State, HAVA Activities  
Ms. Dora Mejia, Secretary of State, Chief Management Services Division  
Mr. Tony Lee, Secretary of State, Budget Officer  
Ms. Shigeko Shibata, Secretary of State, Accounting Manager