



DEBRA BOWEN | SECRETARY OF STATE | STATE OF CALIFORNIA

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July 31, 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 fourth quarter, SOS activity continued in several areas: 1) Reimbursement to counties under HAVA Sections 301 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 and assisting counties by seeking ways to improve the elections process via a Poll Worker Training Observation Program.

County Reimbursements: County requests for reimbursements increased somewhat, as counties returned signed contracts and expended funds for materials and poll worker training or voter education for the June Statewide Primary Election. However, the short timeframe between the February and June primaries did not allow counties much time to process these requests. It is anticipated that such requests will increase following the November election.

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, is conducting 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, attending regularly scheduled California Association of Clerks and Election Officials (CACEO) monthly

meetings and making a formal presentation at the CACEO biannual, summer conference). The Secretary of State also continued confidential discussions with a stakeholder advisory committee comprised of subject-matter experts, election rights advocates and county election officials that was formed prior to the release of the Request for Proposal (RFP) on December 13, 2007. 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 final bid. Draft proposals were received from potential bidders and were reviewed in detail by the project's proposal evaluation team. Detailed, written feedback was submitted for each such proposal and provided to the appropriate bidder(s) in preparation for upcoming multi-day, post-draft evaluation confidential discussions with the bidders.

2008 Statewide 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 a Poll Worker Training Observation program in 38 counties during the June Statewide Primary Election were initiated. (see also "Poll Worker Training Observation" below). 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 Statewide Primary, including more than 2,100 phone calls from voters on Election Day, June 3, 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.

Poll Worker Training Observation Program: Secretary of State recruited, trained and dispatched 20 employees to 38 counties throughout the State to observe poll worker training. The program was initiated in response to issues that arose in the February Presidential Primary. Problems associated with confusion about ballot choices of non-partisan (Decline to State) voters, uncertainty about the use of provisional ballots, failure to post required signs, and confusion about certain equipment security procedures, prompted the Secretary of State to create a program to determine the effectiveness of poll worker training in the counties. Although poll worker training guidelines were published by Secretary of State in 2006, there was no system in place to know how closely counties were implementing the voluntary guidelines. In addition, counties have spent more than \$6 million in HAVA funds for poll worker training and voter education. In

previous years, Poll Monitoring was used as a tool for assessing the effectiveness of these expenditures. However, the Election Day Observation (Poll Monitoring) program had not looked specifically at the level and effectiveness of poll worker training. The Poll Worker Training Observation program analyzed content, training techniques, interest level of poll workers, and effectiveness of training in certain areas of interest as measured by actual Election Day practices. Observers were asked to verify whether or not the training sessions they visited and voting procedures being taught met the requirements set forth in HAVA. The report of these findings will be posted soon on the SOS website at http://www.sos.ca.gov/elections/elections_pub.htm

Administration: In the third quarter, 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. Despite its best efforts to comply with the EAC guidance, outstanding issues remained; so in addition to including the data in its annual report submitted in March, the Secretary of State requested clarification on MOE reporting requirements from the EAC. In response to the inquiry by California, and numerous other states, the EAC suspended its MOE policy and began the process to consider a new policy. At present, the new policy has not been issued, but is still under consideration. Most recently, the EAC Chair solicited state interest in participating in a task force to discuss these issues; California has been invited to participate and has accepted. No other details about the task force are available at this time.

In addition to actively participating in joint federal and state efforts regarding the MOE policy, the Secretary of State renewed its request for additional guidance from the EAC on use of HAVA funds for voting system upgrades, and for voter education and poll worker training efforts necessary to ensure full implementation of HAVA requirements.

The Secretary of State also filed all required reports to state and federal officials, including: Responding to a request for clarification on accounting for the required five percent state matching funds reported in the annual report to the EAC on HAVA spending during the past calendar and federal fiscal years; issuing 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 submitting monthly Independent Project Oversight Reports to the Legislature.

During this quarter, the Bureau of State Audits (BSA) published its report and findings on its audit of federal programs, including HAVA. Pursuant to the recommendations from BSA, the Secretary of State amended the HAVA contracts with counties for voting system upgrades and polling place accessibility

improvements to include a reference to the Catalog of Federal Domestic Assistance, and sought additional guidance on complying with the EAC MOE policy, as noted above. These recommendations were the result of the most substantive findings of the three issues raised in the audit.

Although not directly related to HAVA, the BSA also initiated, at the request of the Legislature, an audit of poll worker training in a number of counties. Over the course of several months, via e-mail and in about a half a dozen face-to-face meetings, auditors asked detailed questions about the Secretary of State's role in poll worker training, including any connection between poll worker training and the HAVA program. Secretary of State responded orally and in writing to numerous questions, as well as being responsive to numerous requests for documentation on HAVA and other Secretary of State programs.

In the third quarter, the Secretary of State secured additional federal funding of just over \$1 million provided by Congress via an omnibus appropriations bill enacted at the end of calendar year 2007. The Secretary of State is currently in the process of considering a competitive grant program for use of these funds. As that effort gets underway, the Secretary of State is in the process of closing out contracts with counties that provided funding for improving polling place accessibility under a per capita formula from previous federal allocations totaling \$3.345 million. Reminders were sent to the county and guidance was offered on using these funds, which will be reclaimed by the federal Department of Health and Human Services if they are not expended within five federal fiscal years.

The Secretary of State is also, pursuant to HAVA spending plan authorization, considering entering into a contract with the state Department of Health and Human Services to update guidelines issued pursuant to federal law on polling place accessibility for the elderly and voters with disabilities. The multi-year contract would provide the Secretary of State with expertise necessary to update guidelines (last issued in 2001), create a survey instrument to measure polling place accessibility; and to provide training to county elections officials on assessing polling place accessibility.

In the third quarter, the United States Congress also appropriated 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 provide the state's "best estimate" for expending 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 has named the State Plan advisory committee members as required and is currently considering the most effective process to develop, review through the advisory process, publish and submit a State Plan to the EAC, while recognizing that county elections officials and voting rights advocates – the very people who would be most interested in this endeavor and who will 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).

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

Activities	4 th Quarter FY 06/07* (in thousands)	4 th Quarter FY 07/08* (in thousands)	Total Spent 4 th Quarter (in thousands)
Voting Systems (including AVVPAT)	\$3,792	\$3,905	\$7,697
Statewide Database (VoteCal)	\$0	\$291	\$291
VoteCal Redirected Staff	\$0	\$40	\$40
Interim Solution – SOS	\$26	\$67	\$93
Interim Solution - County Retrofit	\$2	\$42	\$44
Voter Education	\$0	\$103	\$103
Voting System Technology	\$0	\$0	\$0
Source Code Review	\$512	\$0	\$512
Poll Monitoring	\$0	\$6	\$6
EAID Compliance	\$0	\$323	\$323
Administration	\$0	\$190	\$190
Parallel Monitoring	\$0	\$0	\$0
Total	\$4,332	\$4967	\$9,299

*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,

Mr. Michael Genest
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Janice Lumsden
Deputy Secretary of State, Operations

cc: Honorable Denise Moreno Ducheny, Chair Joint Legislative Budget
Committee
Ms. Robin Baker, Department of Finance
Mr. Kia Cha, Department of Finance
Mr. Chris Reynolds, Secretary of State, HAVA Coordinator
Ms. Dora Mejia, Secretary of State, Chief Management Services Division
Ms. Shigeko Shibata, Secretary of State, Accounting Administrator I