



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 17, 2021

Anthony J. Casale
Douglas A. Kellner
Peter S. Kosinski
Andrew J. Spano
Commissioners
Board of Elections
40 North Pearl Street, Suite 5
Albany, NY 12207-2729

Re: Use of Federal Funding for Election
Technology and Security
Report 2020-S-18

Dear Commissioners Casale, Kellner, Kosinski, and Spano:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have conducted an audit of the Board of Elections to determine whether it utilized available funding from the 2018 Help America Vote Act Election Security Grant to enhance the security of the State's election technology and infrastructure. The audit covered the period from May 1, 2018 to February 11, 2021.

Background

The Board of Elections (BOE) is responsible for administering and enforcing election laws in the State. To fulfill these responsibilities, the BOE supports 57 County Boards of Elections and the New York City Board of Elections (County Boards). Congress passed the Help America Vote Act of 2002 (HAVA) to help reform the nation's voting process. HAVA established minimum election administration standards and created the U.S. Election Assistance Commission (EAC) to aid in the administration of federal elections. The EAC provides funds to states to help them meet these standards and secure and improve election systems. In 2018, the EAC made the HAVA Election Security Grant (HAVA Security Grant) available to help states improve and enhance election administration, technology, and security at both the state and county levels.

To receive funds, the BOE was required to submit a narrative describing its plan for spending the funds. The BOE used its ARMOR cybersecurity plan (**A**ssess risk, **R**emediate vulnerabilities, **M**onitor **O**perations, and **R**espond to incidents) as the basis for the narrative, with funds to be used to improve election infrastructure and security. ARMOR is a long-term, ongoing strategy to continually assess, monitor, and improve election security. In June 2018, the BOE received \$19.5 million in HAVA Security Grant funds.

Results of Audit

Generally, the BOE has utilized available funding from its HAVA Security Grant to enhance the State's election technology and infrastructure. Specifically, the BOE has planned for and spent funds for the activities described in its ARMOR cybersecurity plan, as outlined in its HAVA Security Grant application. Although a portion of the funds remains unspent as of February 2021, the BOE has designated the remaining funds for ongoing, multi-year initiatives that continue to address constantly evolving cybersecurity threats and enhance election infrastructure and security.

Utilization of HAVA Security Grant Funds

As of February 2021, the BOE has planned for or made expenditures totaling \$18.8 million, of the \$19.5 million in HAVA Security Grant funds, to implement its ARMOR plan and make other election infrastructure and security improvements. The BOE's key initiatives based on the ARMOR plan included assessing risks to election systems throughout the State, assisting County Boards with developing plans to address those risks, and allocating funds to reimburse County Boards for their costs to implement those plans. For example, the BOE used HAVA Security Grant funds to hire a contractor to assess election system risks at all the County Boards. The BOE then contracted with another vendor to provide consultation services and assist County Boards with developing and implementing plans to remediate those risks. As of December 2020, the BOE had approved remediation plans for all the County Boards. We reviewed risk assessments and the corresponding remediation plans for ten County Boards and determined that each approved plan addressed the vulnerabilities identified in the risk assessments.

To further improve and enhance election security, the BOE allocated funds to support staffing in its Secure Election Center (SEC). The SEC is tasked with assisting County Boards with formulating, implementing, and evaluating security measures, regulations, and policies relative to election infrastructure. Among other actions, the SEC has disseminated uniform regulatory standards for cybersecurity, developed training tools for County Boards, conducted regional tabletop exercises that simulate cyber events, and developed a comprehensive incident response plan for the BOE and County Boards to triage, coordinate, and respond to cyber incidents. The BOE also utilized HAVA Security Grant funds for network monitoring services, training, and equipment.

As of February 2021, actual HAVA Security Grant spending totaled \$10.6 million, as summarized in the following table. The remaining \$8.9 million either is designated for expenses associated with ongoing contracts and activities (\$8.2 million) or has not yet been designated for use (\$700,000).

HAVA Security Grant Spending as of February 2021

Key Area	Spending (in millions)		
	Planned	Actual	Remaining
County mitigation activities	\$3.3	\$0.0	\$3.3
Support for county remediation plan development and implementation*	3.0	1.2	1.9
SEC*	2.8	1.6	1.1
Risk assessment	1.7	0.5	1.2
Other consulting contracts	1.3	0.6	0.7
Equipment/training/other	0.8	0.7	0.1
Intrusion detection/network monitoring	6.0	6.0	0.0
Total planned grant spending	\$18.8	\$10.6	\$8.2
Amount not yet allocated	0.7	–	0.7
Totals	\$19.5	\$10.6	\$8.9

*Actual spending plus remaining spending does not equal planned spending due to rounding for reporting purposes. Total spending amounts are accurate.

The largest portion of remaining HAVA Security Grant funds, \$5.2 million, is related to County Boards' implementation of their risk remediation plans. The BOE has designated \$3.3 million to reimburse County Boards for implementing the activities included in their remediation plans. County Boards must spend their own funds and then submit claims for reimbursement to the BOE for eligible expenses. County Boards were generally still in the process of implementing their plans, and as of March 2021, only seven had submitted initial claims for reimbursement. In their response to our preliminary findings, BOE officials noted they have implemented a plan to review claims submitted by County Boards and had conducted initial reviews of these claims, but none had been paid. According to BOE guidance, County Boards must submit claims for payment by December 31, 2021. We recommend the BOE carefully review County Boards' claims for reimbursement to ensure they are for approved remediation plan activities. Another \$1.9 million is designated for consulting services to assist County Boards with plan implementation.

BOE officials noted that cybersecurity is an ongoing responsibility that doesn't end at a particular point in time. As new threats emerge, continued vigilance is necessary to protect against them. There is no time restriction on the HAVA Security Grant, and funds will not expire. As such, the BOE will continue to use the remaining funds for the designated ongoing initiatives that further enhance election infrastructure and security in a constantly evolving threat landscape.

Recommendation

1. Continue to review County Boards' claims for reimbursement to ensure they are for approved remediation plan activities and that County Boards are moving forward with the needed security measures.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine if the BOE utilized available funding from the HAVA Security Grant to enhance the security of the State's election technology and infrastructure. The audit covered the period from May 1, 2018 to February 11, 2021.

To accomplish our audit objective, we reviewed relevant State laws and the HAVA Security Grant application. We also assessed the BOE's internal controls as they related to oversight of HAVA Security Grant funds. We interviewed BOE personnel to obtain an understanding of the processes for planning and making expenditures of HAVA Security Grant funds. We obtained and reviewed BOE accounting records related to HAVA Security Grant expenditures, and reviewed a random sample of transactions representing \$1.7 million of the \$10.6 million (16 percent) spent as of February 2021 to determine if the transactions were properly supported. We also reviewed risk assessments and remediation plans for a judgmental sample of ten County Boards (Albany, Chenango, Erie, Monroe, Oneida, Onondaga, St. Lawrence, Suffolk, Westchester, and the NYC Board) to determine if plans addressed the identified risks. Factors for selection included geographic region and size of voter rolls within the region. Our testing results apply only to those items in our samples and cannot be projected. Additionally, we interviewed officials at two of the County Boards (Chenango, Monroe) to understand the risk assessment and remediation plan development processes.

We conducted our 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 objective. We believe that the evidence obtained provides a reasonable basis for the limited findings and conclusions we made based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our professional judgment, these duties do not affect our ability to conduct this independent performance audit of the BOE's use of federal funding for election technology and security.

Reporting Requirements

A draft copy of the report was provided to BOE officials for their review and comment. Their comments were considered in preparing this final report and are attached in their entirety to the end of this report. BOE generally agreed with our recommendation and indicated it has taken steps to implement the recommendation.

Within 180 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioners of the Board of Elections shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendation contained herein, and if the recommendation was not implemented, the reasons why.

Major contributors to this report were Bob Mainello, Brian Krawiecki, Phil Boyd, Nicole Cappiello, and Brindetta Cook.

We wish to thank the management and staff of the Board of Elections for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

Nadine Morrell, CIA, CISM
Audit Director

Agency Comments

Peter S. Kosinski
Co-Chair

Anthony J. Casale
Commissioner

Todd D. Valentine
Co-Executive Director



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Douglas A. Kellner
Co-Chair

Andrew J. Spano
Commissioner

Robert A. Brehm
Co-Executive Director

June 15, 2021

Nadine Morrell, Audit Director
NYS Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, New York 12236-0001

Re: Response to Draft Audit Report 2020-S-018

Dear Ms. Morrell,

We have reviewed the draft report of the New York State Office of the State Comptroller – IT Security and Federal Reimbursements for the period of May 1, 2018 to February 11, 2021. First, we note the Report acknowledges that NYS Board of Elections is making progress toward its obligations utilizing 2018 HAVA grant funds to improve cybersecurity surrounding election infrastructure at both the state and local level.

Thank you for the opportunity to comment.

Recommendation No. 1:

Implement a system of monitoring controls to ensure that County Boards are completing the activities on their approved remediation plans and only submitting claims for allowable expenses.

The State Board has implemented a comprehensive plan to review all County Board cybersecurity claim for payments to verify that same are complete with supporting documentation and to verify that the products and services are being claimed line up to the remediation plan and are eligible expenses within the plan.

Regards,

A blue ink signature of Todd D. Valentine, written in a cursive style.

Todd D. Valentine
Co-Executive Director

A blue ink signature of Robert A. Brehm, written in a cursive style.

Robert A. Brehm
Co-Executive Director