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*Via Hand Delivery*

February 5, 2007

The Honorable Mary Taylor  
 Auditor of State  
 88 E. Broad Street, 5<sup>th</sup> floor  
 Columbus, OH 43215

**RE: Request for complete financial audit of Ohio Secretary of State's office and for clarification of current HAVA audit undertaken by State Auditor**

Dear State Auditor Taylor:

The purpose of this letter is to follow up our earlier conversations wherein I requested a complete financial audit of the Ohio Secretary of State's office. You and I had discussed the possibility of a performance audit, but you recommended that our work in transition is accomplishing what a performance audit would with respect to a complete review of the operations of the office. With all due respect to your current workload and other and previous commitments, I am asking you to complete this audit within ninety (90) days if at all possible and pledge to you the prompt cooperation of my office for information you may need to complete this process.

I learned last week that on December 7, 2006, the prior Auditor of State presented a letter of arrangement to Dilip Mehta, Chief Financial Officer for the previous Secretary of State to "audit the governmental activities, business-type activities, aggregate discretely presented component units, each major fund, and aggregate remaining fund information of the State of Ohio as of and for the period ended June 30, 2006." This audit was for the period July 1, 2004 through June 30, 2006. (See copy enclosed, marked as "A".) Only an audit of the "Help America Vote Act Requirements Payments (HAVA); CFDA# 90.401" for fiscal year (FY) 2006 was undertaken. We have no record of other biennial audit activities for the Secretary of State's office and believe, based on the copy of the January 30, 2007 electronic mail from Francis R. Schwinne of your office, that it was not the past practice of the State Auditor's office to complete a biennial audit of the Secretary of State's office, despite the acknowledgement of the statutory requirement to do so, because there were not "specific areas of either financial or single audit (federal program) activities that needed to be tested," and because the Secretary of State "has not, in recent years, been material financially to the state's financial statements of federal grant schedule." (See enclosed copy of electronic mail, marked as "B".)

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It is my understanding that Mr. Mehta refused to sign the December 7, 2006 letter of arrangement and that the HAVA audit was undertaken regardless, while a similar audit was being performed by the Office of Inspector General of the U.S. Elections Assistance Commission.<sup>1</sup>

Subsequently, on December 16, 2007, James J. Kennedy, Chief Auditor, State Region, transmitted a letter to Mr. Mehta attempting to answer questions of Mr. Mehta and referenced the previously noted two-year audit but indicated that, "For fiscal year 2006, your Office meets the criteria of having a major federal program under the state of Ohio single audit." (See enclosed copy of letter, marked as "C".) It is our reading of the law that biennial audits are performed without charge to the Secretary of State and include all accounts, including the audit of a major federal program, such as HAVA, but special audits are subject to payment by the office being audited. We have been presented with an Intrastate Transfer Voucher #K-02533 in the amount of \$8170.75 for performance of the above described HAVA audit (see enclosed copy of invoice, marked as "D"), but pose the following questions:

1. Was the FY 2006 HAVA special audit undertaken in place of the FY 2005-2006 biennial audit; our records show that no such biennial audit has been performed, and that a biennial audit must be performed at no cost to the office being audited. (Therefore, we believe that we are not obligated to pay Voucher #K-02533 as it is a required part of the biennial audit.)
2. Were biennial financial and performance audits performed for FY 2005-2006? Again, our records show that none was performed.

Therefore, to clarify, we request that the following audits be performed in the office of Secretary of State:

1. Biennial financial audit of the Secretary of State's office for the period from July 1, 2004 through June 30, 2006.<sup>2</sup>
2. Special financial audit of the Secretary of State's office for the period beginning July 1, 2006 through January 7, 2007.

If the information above is correct, we believe that we are to be charged only for the requested special audit for July 1, 2006 through January 7, 2007, and that this would include all funds, including HAVA funds, since the current HAVA audit that is outstanding encompassed only the period through June 30, 2006.

I wanted to bring to your attention specific concerns that have prompted this inquiry and request. While the concerns listed below are not exhaustive, and we believe we may yet discover other concerns, I have provided specific instances for your consideration and further investigation:

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<sup>1</sup> I note that a Draft Audit Report has been submitted to the Ohio Secretary of State by the U.S. election Assistance Commission with a deadline for response of February 20, 2007

<sup>2</sup> We are aware that no financial statements have been prepared by the former Secretary of State for some time, and that generally, the audit performed is of the financial statement. We are also aware that the next previously completed audit was of expenditures. We ask that you perform as complete an audit as possible in light of these circumstances and others stated in this letter.

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1. Upon taking office we learned that, as of January 1, 2007, approximately 31% (\$5.87 million dollars) remained of the current year's budget for the second half of the fiscal year, necessitating the seeking of additional funding prior to the expiration of the current fiscal year FY 2007 to meet budgetary obligations and avoid staff layoffs.<sup>3</sup>
2. It was discovered on January 11, 2007, that former Secretary of State Blackwell paid in excess of \$80,000 in bonuses to outgoing unclassified and one recently designated provisional employees; only one of these employees remains employed in the Secretary of State's office, having been moved after the November 7, 2006 election to a classified position from a sensitive, unclassified position in the Administration section of Mr. Blackwell's office. (See enclosed documentation, marked as "E".)
3. Initially, during the last week of transition, Mr. Blackwell offered to allow an incoming staff person to be placed on payroll in the Secretary of State's office to assist with the transition, so long as he approved of the proposed employee. An incoming employee of the office whom Mr. Blackwell approved of, spent half of one day in the office until I directed that she leave the office. (She was not permitted to take any documents from the office without prior review of them by Mr. Blackwell's staff and was informed that she would not be paid for any time away from the office despite her role in transition.) During her half-day in the office, the incoming employee observed many shredding machines in operation. Those shredders are no longer in the office, despite representations of current employees that they were purchased by the office. We are still looking for invoices to document their purchase and/or lease. We have also been informed by staff in the office that some of the shredding of documents was outsourced to an outside vendor, Iron Mountain. We hope that this does not affect your ability to perform the complete and thorough audit that we request.
4. Mr. Blackwell's Chief of Staff, Sherrie Dembinski, represented to my current chief of staff, Tom Worley, to Rick Brunner, transition chair, and to me, on November 17, 2006, that transition documents for each division of the office would be provided to the Brunner transition team as part of the transition. Ms. Dembinski provided us with an outline of what would be detailed in the documents (see enclosed, marked as "F"). These documents were never provided to the Brunner transition team, and Cassandra Hicks, as Transition Team Leader, informed Mr. Worley that she did not believe that the documents had been completed. Subsequently, a current Secretary of State employee who prepared the documents for publication during the tenure of the Blackwell administration, notified Patrick Gallaway, her supervisor, that she had heard Mr. Gallaway on the radio speak of the documents as not being completed. She notified Mr. Gallaway that she had retained a copy of the documents for her portfolio, as she had performed design and formatting of the documents. She subsequently supplied the documents to Mr. Gallaway, who was able to reproduce them for each division of the office during the week of January 22 through 26, 2007.

<sup>3</sup> We are at the same or lower staffing level than the previous secretary of state, who augmented his full time equivalent (FTE) positions with contractors for matters such as liaison work with the county boards of elections and other in-office positions.

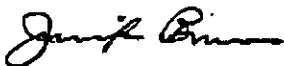
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5. Corporations that fail to pay their corporate franchise tax after receiving notification from the Ohio Department of Taxation, are subject to cancellation of their corporate charter. When the Ohio Department of Taxation notifies the Ohio Secretary of State that such corporations are delinquent, the Secretary of State must, by law, cancel the corporate charters of such corporations. The best information we have indicates that such "tax cancellations" of corporate charters had not been carried out since 1999, Mr. Blackwell's first year of office in the Secretary of State's office. Beginning in August 2006, nine thousand (9000) letters canceling corporate charters were mailed, followed by another seven thousand (7000) in December 2006. On or about January 4, 2007, prior to his leaving the office, approximately 50,000 more letters were produced notifying corporations they had been tax cancelled. The letters had been imaged and posted on the agency's website for public review on or about January 4, 2007, as if they had been mailed. (Approximately 15,000 more are in the verification stages and will be sent when information is verified.) Envelopes to mail these letters were removed and/or destroyed by the Blackwell administration prior to the mailing of the 50,000 letters. My staff discovered these unsent letters on or about January 16, 2007, ordered the printing of more envelopes, produced a letter to accompany these tax cancellation letters to explain the tardiness in sending the Blackwell letters, and by January 29, 2007, mailed all approximately 50,000 letters. We do not understand why no tax cancellations were made during Mr. Blackwell's tenure until January 4, 2007, and we anticipate that, a) there will soon be a glut of reinstatement requests to the Ohio Department of Taxation and thereafter to the Secretary of State's office; b) the failure to timely tax cancel corporations may affect some corporations that are parties to existing litigation, and c) corporations that did not pay their franchise tax within the last 8 years have still been operating with no further payment of taxes when assumed by the Ohio Department of Taxation to have been cancelled. This carries ramifications for the assessment and collection of unpaid corporate franchise taxes and the equity of the *de facto* waiver of the payment of corporate franchise taxes for some corporations because of the prior Secretary's failure to carry out his statutory duties.

My staff and I are available to answer any questions you or your staff may have, and I appreciate your willingness to promptly undertake this review.

Sincerely,



Jennifer Brunner  
Ohio Secretary of State

Enclosures

cc: The Honorable Ted Strickland, Governor  
The Honorable Marc Dann, Attorney General  
The Honorable Richard Cordray, Treasurer  
The Honorable Jon Husted, Speaker, Ohio House of Representatives  
The Honorable Joyce Beatty, Minority Leader, Ohio House of Representatives

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The Honorable Bill Harris, President, Ohio Senate  
The Honorable Teresa Fedor, Minority Leader, Ohio Senate  
Pari Sabety, Director, Office of Budget and Management  
Richard Levin, Director, Ohio Department of Taxation  
Christopher Nance, Assistant Secretary of State  
G. Thomas Worley, Chief of Staff, Ohio Secretary of State  
David Farrell, Deputy Assistant Secretary of State



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