

LINN COUNTY AUDITOR'S OFFICE  
Joel Miller | Auditor  
Rebecca Shoop | First Deputy

JEAN OXLEY LINN COUNTY PUBLIC SERVICE CENTER  
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July 16, 2019

Iowa Secretary of State's Office, Elections Division  
Lucas Building, 1<sup>st</sup> Floor  
321 E 12<sup>th</sup> St  
Des Moines, IA 50319



**Re: HAVA Complaint Alleging that Iowa Secretary of State Paul Pate has Failed to Comply with HAVA Regulations.**

On July 1, 2019, Linn County Auditor Joel Miller submitted a FOIA to the Iowa Secretary of State pursuant to Iowa Code Chapter 22. A copy of the FOIA letter is attached. Ten business days have passed without any response.

This serves as official communication of a HAVA complaint. The complaint alleges that Iowa Secretary of State Paul Pate has failed to comply with HAVA regulations. It also outlines the potential steps Auditor Joel Miller is considering.

**Background/ Statement of Facts:**

Linn County's voter registration data is stored on I-Voters, a system owned and operated by the State of Iowa. This system is very old and potentially vulnerable to cyber threats – especially prior to the 2020 presidential election.

In 2016, the Iowa Secretary of State's office gathered feedback on I-Voters from county auditors. The goal was to set the framework for a new I-Voters system. Around January 2018, the Secretary of State hired Christy Wilson. Her position was meant to lead the creation of the new I-Voters system.

In June 2018, then Deputy Commissioner of Elections Ken Kline emailed all county auditors. He noted that Governor Reynolds had allocated \$1.05 million in FY19 and \$7 million total to update or re-write the voter registration system. The Secretary of State acknowledged that a new or updated system was needed.

A full year has passed since that allocation. It is Auditor Miller's understanding that the Iowa Secretary of State's Office has taken no action. Auditor Miller has received no communication detailing any progress over the year. Instead, Auditor Miller's only recent communication was a June 2019 conversation with Christy Wilson. Ms. Wilson indicated that the Secretary of State had not created nor sent out any Requests for Proposals (RFPs). Ms. Wilson also indicated that she did not expect anything to be done prior to the 2020 general election. Ms. Wilson ended her employment with the Iowa Secretary of State in June 2019.

**Law Providing Support for Complaint:**

**Federal:**

- Help America Vote Act (HAVA) of 2002: <https://www.govinfo.gov/content/pkg/PLAW-107publ252/pdf/PLAW-107publ252.pdf>

**Iowa:**

- Iowa Code Sections 9 (Secretary of State) and 48 (Voter Registration)  
<https://www.legis.iowa.gov/law/iowaCode/sections?codeChapter=9&year=2019>  
<https://www.legis.iowa.gov/law/iowaCode/sections?codeChapter=48A&year=2019>

**FEDERAL LAW:**

**HAVA:**

In Iowa, county auditors previously could maintain their own voter registration information. The federal *Help America Vote Act (HAVA)* of 2002 changed that. It required that:

...each state, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level... (H.R. 3295-43 (Sec. 303(a)(1)(A)).

In other words, counties had to use the state's system.

However, in creating HAVA, the federal government required states to follow certain standards. One of those standards required "Technological Security."

**TECHNOLOGICAL SECURITY OF COMPUTERIZED LIST.** – The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section. (H.R. 3295-43 (Sec. 303(a)(3)).

This included...

Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters (H.R. 3295-43 (Sec. 303(a)(4)(B)).

It is Auditor Miller's contention that the current I-Voters system does not meet these standards. For example, one of the concerns for the 2020 election is that hackers will remove, change, or modify voter registration records. Details of this concern will not be discussed in this brief due to confidentiality concerns. However, there is reason to believe that a credible threat exists.

If hackers are able to remove, change or modify voter registration records, the results could be upending. This could lead to chaos at the polls and distrust of election results. It could also disenfranchise many voters.

Until an improved or new database is in place, the Secretary of State's office is not complying with HAVA legislation.

**HAVA Funding:**

The Iowa Secretary of State is bound to HAVA guidelines.

In August 2018, the Iowa Secretary of State announced his plans to utilize a \$4.8 million grant from the U.S. Election Assistance Commission (under the Department of Homeland Security) utilizing the Help America Vote Act (HAVA). See: [https://sos.iowa.gov/news/2018\\_08\\_23.html](https://sos.iowa.gov/news/2018_08_23.html)  
A variety of cybersecurity initiatives were outlined. None specifically mentioned updating or replacing I-Voters.

Nonetheless, by accepting HAVA-related funds, the Secretary of State should be bound to its technology security mandates.

**Cause for Complaint:**

Iowa Code states that each county auditor is responsible for voter registration records.

**Iowa Code 48A.35 Voter registration records under control of the commissioner**

1. The county commissioner of elections shall be responsible for the maintenance and storage of all paper and electronic voter registration records in the commissioner's custody...

Since Auditor Miller is the custodian of Linn County voter registrations, he has a cause of action to protect those records.

**HAVA Complaint:**

There is a remedy for individuals who note a violation has occurred, is occurring, or is about to occur, to file a complaint. We hereby file such complaint in compliance with IAC 721-25.

Sincerely,

Joel Miller, Linn County Auditor and Commissioner of Elections

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July 1, 2019

Dear Iowa Secretary of State Paul Pate:

I am requesting a copy of the following information pursuant to Iowa Code Chapter 22, the Open Records law.

On June 28, 2018, then-Deputy Commissioner of Elections Ken Kline emailed all Iowa Auditors regarding Governor's Reynold's allocation of \$1.05 million in FY19 and \$7 million total over five years to update/rewrite a voter registration/election management system (commonly referred to as Ivoters).

The email indicated that over the next year - since June 2018 - a list of specs and an RFP would be created. The email also shared survey data from 2016.

A full year has passed, and we have no indication as to how that \$1.05 million has been used nor whether any steps have been made to update or rewrite Ivoters.

I am seeking all correspondence regarding Ivoters development from January 2018 to the present date. I am specifically looking for emails between Secretary of State staff, potential vendors, and any auditors or public officials.

This is a routine request. We expect a response quickly and at the most within 10 business days. Email transcripts are acceptable. However, please inform me if there will be a fee higher than the \$100.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joel D. Miller', with a long, sweeping underline.

Joel D. Miller  
Linn County Auditor and Commissioner of Elections