

UNITED STATES
ELECTION ASSISTANCE COMMISSION
OFFICE OF INSPECTOR GENERAL



SEMIANNUAL REPORT TO CONGRESS

*For the Period:
April 1, 2015 Through
September 30, 2015*



U.S. Election Assistance Commission
Office of Inspector General
1335 East-West Highway, Suite 4300
Silver Spring, MD 20910

October 30, 2015

To: Chairman, U.S. Election Assistance Commission

The Office of Inspector General (OIG) limited the start of new audit work during this semiannual period. This occurred primarily because of the retirement of Inspector General Curtis Crider on September 30, 2015 and the uncertainty over a successor.

The U.S. Election Assistance Commission (EAC) hired me as Deputy Inspector General on September 7, 2015. I am the sole employee in the OIG and will serve through December 2015. My primary tasks during this coming period will be to coordinate with the newly appointed Commissioners in seeking ways for the EAC to continue to satisfy the requirements of the Inspector General Act and to complete in-process audits.

For the last few years, the OIG accomplished its mission by contracting for audits with independent public accounting firms and buying services from other Federal agencies. Contracted audits covered the use of Help America Vote Act (HAVA) funds paid to states, the accuracy and presentation of EAC financial statements, and EAC compliance with the Federal Information Security Management Act.

During this period, our audits of states identified payments of about \$1.5 million that states used for questionable purposes. The audits also identified interest of approximately \$5 million that state officials agreed should be returned to state election funds and used for HAVA authorized purposes. In addition, we completed an investigation of the circumstances surrounding an

Antideficiency Act violation that we reported on during the last semiannual period.

The Inspector General Act of 1978 (Public Law 95-452), as amended, calls for the preparation of semiannual reports to the Congress summarizing the activities of the OIG for the six-month periods ending each March 31 and September 30. I am pleased to present the report for the period from April 1, 2015 to September 30, 2015.

The Act requires that you transmit the report to the appropriate committees of the Congress within 30 days of receipt, together with any comments you may wish to make.

Sincerely,

A handwritten signature in blue ink that reads "Roger La Roche". The signature is written in a cursive, flowing style.

Roger La Roche
Deputy Inspector General

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Election Assistance Commission Profile

Congress established the U.S. Election Assistance Commission (EAC or Commission) through the passage of the Help America Vote Act of 2002 (HAVA). EAC is an independent, bipartisan commission that serves as a national clearinghouse and resource for the compilation of information and review of procedures for the administration of Federal elections. EAC is authorized to have four commissioners who are appointed by the President and approved by the U.S. Senate. Commissioners serve four-year terms. EAC currently has three commissioners.

EAC's principal duties include maintaining a national clearinghouse of information on election administration, testing and certifying/decertifying/recertifying voting systems, adopting voluntary voting system guidelines, and administering payments and grants authorized by HAVA. EAC has distributed over \$3 billion in payments and grants to the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam and American Samoa (hereinafter referred to as "states"). States use the funds to purchase voting equipment, establish statewide voter registration lists, implement provisional voting, educate voters, train officials and poll workers, improve polling places, and recruit poll workers.

Office of Inspector General Profile

HAVA required the appointment of an inspector general for the EAC and amended the Inspector General Act (IG Act) of 1978 (5 U.S.C.A. App. 3) to identify the EAC as a Designated Federal Entity (DFE). EAC appointed its Inspector General in 2006. The Office of Inspector General currently consists of one employee, the Deputy Inspector General.

Despite its small size, the OIG performs all of the duties required of the inspector general under the IG Act, including:

- Conducting and supervising audits, investigations, and other services (e.g., evaluations) relating to the programs and operations of the EAC;
- Providing leadership and coordination and recommending actions to management, which (1) promote economy, efficiency, and effectiveness in agency programs and operations; and (2) prevent and detect fraud, waste, abuse, and mismanagement of government resources; and
- Keeping the Commission, management, and Congress fully informed regarding problems and deficiencies, and the progress of corrective actions.

The OIG's program to ensure economy, efficiency and integrity in the use of funds does not exclusively translate into audits of the EAC or of its payment and grant recipients. The OIG also investigates allegations of waste, fraud, abuse and mismanagement in EAC programs and operations. The OIG operates a hotline to receive complaints regarding EAC, its programs, and its funding recipients.

Audits

OIG issued one audit on the use of HAVA funds from April 14, 2003 through September 30, 2013, by Delaware. We used the professional auditing firm of McBride, Lock & Associates to conduct the audit.

The principal objectives of the audit were to determine whether the recipient used and accounted for HAVA funds according to HAVA and other applicable Federal requirements, provided required matching funds, and maintained Federal monies in a separate, interest-bearing election fund.

The report on Delaware concluded that the Delaware Commissioner of Elections Office (Office) generally accounted for and expended the HAVA funds according to applicable requirements. The report also identified numerous deficiencies. Specifically, that the Office:

- Lacked policies and procedures addressing financial management activities including purchasing, payment, payroll, equipment management, Federal financial reporting and Federal grant oversight and administration.
- Submitted financial reports that were not supported by underlying accounting records.
- Inadequately supported all salaries and wages charged to the grant award.
- Exercised poor equipment management regarding maintenance of property records and the performance of a physical observation of inventory.
- Failed to credit interest timely and did not support the accuracy of interest credited to its election fund.
- Overstated indirect costs by including capital expenditures as direct costs to which indirect costs were applied.
- Did not adequately document the allowability of certain expenditures.
- Expended \$725,045 of HAVA funds for purposes that were not allowable under the award's terms and conditions or HAVA.
- Awarded contracts that were not competitively bid.

Investigations

On our behalf, the United States Postal Service OIG investigated the circumstances surrounding an Antideficiency Act¹ violation by the EAC. We identified the violation during our audit of the EAC's financial statements for fiscal year 2013. The audit determined that EAC disbursed \$2,266,085 from a fiscal year 2008 fund after the U.S. Treasury canceled the fund on September 30, 2013. The payment was liquidated directly from Treasury's General Fund, which caused EAC to be in violation of the Antideficiency Act and to make an improper payment.

The Consolidated Appropriations Act of 2008 included a one-year appropriation of \$115 million for EAC to make payments to states. States could use the payments to meet the requirements of HAVA and otherwise improve the administration of elections for Federal office. EAC obligated the funds, which remained available for disbursement to states through September 30, 2013. Tennessee requested a payment of \$2,266,085 in September 2013. In conjunction with its request, Tennessee asked whether it had to do anything else by September 30. EAC responded that there was "not a timeframe to request the money."

On September 30, EAC told Tennessee that it had to submit two administrative forms before it could disburse the funds. Tennessee submitted the forms on October 1. Congress shut the government down and EAC furloughed all its personnel from October 1, through October 16, 2013. On October 17, 2013, EAC requested that Treasury disburse the funds to Tennessee. Treasury disbursed the funds on October 25. Treasury subsequently recovered the funds from Tennessee through offsets against other Federal grants to Tennessee.

¹ The Antideficiency Act prohibits federal employees from making or authorizing an expenditure from any appropriation or fund in excess of the amount available in the appropriation or fund unless authorized by law. 31 U.S.C. § 1341(a)(1)(A).

EAC's Acting Executive Director and Chief Operating Officer, the Chief Financial Officer, the Accounts Director, and the Director of Grants Management all signed the approval for the disbursement. According to the investigation, the Acting Executive Director, Accounts Director, and Director of Grants Management said that they did not know that the funds were from a one-year appropriation (all other appropriations to EAC for these type of payments to states are no-year appropriations). The Chief Financial Officer stated that she knew the funds were one-year funds that would expire on September 30. The official also said that she believed she had until the afternoon of October 1 to complete the disbursement request; and because of the Government shutdown, she treated October 17 as the first day of the next fiscal year.

We provided the investigative report to the EAC Commissioners on August 26, 2015.

Other Activities

Reviews of Legislation, Rules, Regulations, and Other Issuances

The OIG conducts regular monitoring of EAC program activities and policy-making efforts. We provide comment to significant policy statements, rulemaking and legislation that affects the EAC.

Matters Referred to Prosecuting Authorities

We referred the Antideficiency Act violation to the U.S. Attorney's Office. The Office declined to open a criminal prosecution.

Denial of Access to Records

We are reporting no activities in this category during the reporting period.

Peer Review Activity

Section 989C of the Dodd–Frank Act contains additional semiannual reporting requirements pertaining to peer review reports. Federal Inspectors General are required to engage in peer review processes related to both their audit and investigative operations. In keeping with Section 989C, the EAC OIG is reporting the following information related to its audit peer review activities. These activities cover our role as both the reviewed and the reviewing OIG.

Audit Peer Reviews

On a 3–year cycle, peer reviews are conducted of an OIG’s audit organization’s system of quality control in accordance with the *CIGIE Guide for Conducting External Peer Reviews of the Audit Organizations of Federal Offices of Inspector General*, based on requirements in the *Government Auditing Standards*.

During this semiannual reporting period, another OIG organization did not conduct a peer review of the EAC OIG. Further, the EAC OIG did not perform a peer review on other OIGs. EAC OIG is scheduled for its next peer review in the fall of 2015. Listed below is information concerning peer review activities during previous reporting periods.

The Federal Labor Relations Authority, Office of Inspector General (FLRA OIG) peer reviewed the EAC OIG in 2012. In an FLRA OIG report dated July 31, 2012, the EAC OIG received a peer review rating of *pass*. In the FLRA OIG’s opinion, the system of quality control for the EAC OIG audit organization in effect for the year–ended March 31, 2012, had been suitably designed and complied with to provide EAC OIG with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects.

Reports Issued

EAC Audits

None.

State Audits

Administration of Payments Received Under
the Help America Vote Act by the Delaware
Commissioner of Elections Office
(Assignment Number E-HP-DE-03-14),
April 2015

Monetary Impact of Audit Activities

Questioned Costs*	\$ 1,462,101
Potential Additional Program Funds	\$ 25,020
Funds to Be Put to Better Use	\$0
Total	<u>\$ 1,487,121</u>

*Unsupported costs are included in questioned costs.

Reports With Questioned Costs

<u>Category</u>	<u>Number</u>	<u>Questioned Costs</u>	<u>Unsupported Costs</u>
A. For which no management decision had been made by the beginning of the reporting period.	4	\$ 3,376,448	\$ 0
B. Which were issued during the reporting period.	1	\$ 1,462,101	\$ 0
Subtotals (A + B)	5	\$ 4,838,549	\$ 0
C. For which a management decision was made during the reporting period.	3	\$3,269,541	\$ 0
(i) Dollar value of recommendations that were agreed to by management.		\$ 360,453	\$ 0
(ii) Dollar value of recommendations not agreed to by management.		\$ 2,909,088	\$ 0
D. For which no management decision has been made by the end of the reporting period.	2	\$ 1,569,008	\$ 0

Reports With Potential Additional Program Funds

<u>Category</u>	<u>Number</u>	<u>Dollar Value</u>
A. For which no management decision had been made by the beginning of the reporting period.	1	\$ 4,939,000
B. Which were issued during the reporting period.	1	\$ 25,020
Subtotals (A+B)	0	\$ 4,964,020
C. For which a management decision was made during the reporting period.	0	\$ 4,964,020
(i) Dollar value of recommendations that were agreed to by management.		\$ 4,964,020
(ii) Dollar value of recommendations that were not agreed to by management.		\$ 0
D. For which no management decision has been made by the end of the reporting period.	0	\$ 0

Reports With Funds to Be Put to Better Use

<u>Category</u>	<u>Number</u>	<u>Dollar Value</u>
A. For which no management decision had been made by the beginning of the reporting period.	0	\$ 0
B. Which were issued during the reporting period.	0	\$ 0
Subtotals (A+B)	0	\$ 0
C. For which a management decision was made during the reporting period.	0	\$ 0
(i) Dollar value of recommendations that were agreed to by management.		\$ 0
(ii) Dollar value of recommendations that were not agreed to by management.		\$ 0
D. For which no management decision has been made by the end of the reporting period.	0	\$ 0
E. Reports for which no management decision was made within six months of issuance.	0	\$ 0

Summary of Reports More Than Six Months Old Pending Corrective Action at September 30, 2015

The following is a list of audit and evaluation reports that are more than six months with management decisions for which corrective action has not been completed. It provides report number, title, issue date, and the number of recommendations without final corrective action.

I-EV-EAC-01-07B	Assessment of the U.S. Election Assistance Commission's Program and Financial Operations, February 2008, 4 Recommendations
E-HP-VI-01-13	Election System of the Virgin Islands' Compliance with the Help America Vote Act of 2002, October 2013, 4 Recommendations

**Summary of Reports More Than Six Months Old
Pending Management Decision at September 30, 2015**

None.

Reporting Requirements of the IG Act

<u>Section of the Act</u>	<u>Requirement</u>	<u>Page</u>
Section 4(a)(2)	Review of Legislation and Regulations	8
Section 5(a)(1)	Significant Problems, Abuses, and Deficiencies	None
Section 5(a)(2)	Recommendations for Corrective Action With Respect to Significant Problems, Abuses, and Deficiencies	None
Section 5(a)(3)	Significant Recommendations From Agency's Previous Report on Which Corrective Action Has Not Been Completed	15
Section 5(a)(4)	Matters Referred to Prosecuting Authorities and Resulting Convictions	None
Section 5(a)(5)	Matters Reported to the Head of the Agency	None
Section 5(a)(6)	List of Reports Issued During the Reporting Period	10
Section 5(a)(7)	Summary of Significant Reports	3
Section 5(a)(8)	Statistical Table – Questioned Costs	12
Section 5(a)(9)	Statistical Table – Recommendations That Funds Be Put to Better Use	14
Section 5(a)(10)	Summary of Audit Reports Issued Before the Commencement of the Reporting Period for Which No Management Decision Has Been Made	None
Section 5(a)(11)	Significant Revised Management Decisions Made During the Reporting Period	None
Section 5(a)(12)	Significant Management Decisions With Which the Inspector General Is in Disagreement	None
Section 5(a)(13)	Information Described Under Section 804(b) of the Federal Financial Management Improvement Act of 1996	None
Section 5(a)(14)(A)	Peer Review Reports Conducted on U.S. Election Assistance Commission Office of Inspector General during the Reporting Period	None

Reporting Requirements of the IG Act

<u>Section of the Act</u>	<u>Requirement</u>	<u>Page</u>
Section 5(a)(14)(B)	Statement of Peer Review Conducted on the U.S. Election Assistance Commission Office of Inspector General during a Prior Reporting Period	8
Section 5(a)(15)	Outstanding Recommendations from a Peer Review Report on the U.S. Election Assistance Commission Office of Inspector General	None
Section 5(a)(16)	Peer Review Reports Conducted by the U.S. Election Assistance Commission Office of Inspector General	None

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By Mail: U.S. Election Assistance Commission
Office of Inspector General
1335 East West Highway – Suite 4300
Silver Spring, MD 20910

E-mail: eacoig@eac.gov

OIG Hotline: 866-552-0004 (toll free)

On-Line Complaint Form: www.eac.gov/inspector_general/
FAX: (301) 734-3115





Inspector General

U.S. Election Assistance Commission

This report, as well as other OIG reports and testimony, are available on the internet at:
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