U.S. ELECTION ASSISTANCE COMMISSION
OFFICE OF INSPECTOR GENERAL

FINAL REPORT:

ELECTION ASSISTANCE COMMISSION POLICY REVIEW

EAC IG Report No.
I-PA-EAC-03-17
August 2017

U.S. ELECTION ASSISTANCE COMMISSION
1335 EAST-WEST HIGHWAY, SUITE 4300
SILVER SPRING, MD 20910

OFFICE OF THE INSPECTOR GENERAL

MEMORANDUM

To: Matthew Masterson, Chairman
Brian Newby, Executive Director

From: Patricia L. Layfield, Inspector General
Date: August 17, 2017
Subject: Final Performance Audit Report – Election Assistance Commission Policy Review (EAC OIG Assignment Number I-PA-EAC-03-17)

INTRODUCTION

The U.S. Election Assistance Commission's Office of Inspector General (EAC OIG) entered into an interagency agreement with the OIG of the U.S. Postal Service (U.S. Postal OIG) to conduct an audit of the EAC's decision-making policies. The objective of the audit was to determine whether decision-making controls of the EAC were properly designed, placed in operation, and operating effectively to provide reasonable assurance that key EAC decision-making policies met their objectives. The enclosed report presents the results of that audit. The U.S. Postal OIG conducted the audit in accordance with generally accepted government auditing standards for performance audits.

BACKGROUND

The EAC OIG received several complaints through the OIG hotline as a result of the EAC Executive Director's January 2016 decisions to modify state-specific instructions of the National Mail Voter Registration Form (the Federal form) on behalf of Alabama, Georgia, and Kansas to include proof of citizenship as a requirement to register to vote. Complaints specifically requested the EAC OIG to review the Executive Director's coordination of those actions with the Secretaries of State of the three states versus the requirements of EAC's Ex Parte Communications Policy, which states: "No

Commissioner or staff member with decision making authority shall communicate ex parte with any prohibited individual regarding a particular matter before the Commission."

In response to these communications, the EAC OIG undertook an analysis to assess the risk that the Executive Director's actions had violated the EAC's Ex Parte Communications Policy. The analysis revealed that EAC excluded actions related to the Federal form from the agency's Ex Parte Communications Policy because Section 9(a)(2) of the National Voter Registration Act (NVRA, P.L. 103-31) stated that the agency: "…*in consultation with the chief election officers of the States*, shall develop a mail voter registration application form for elections for Federal office…." [emphasis added] Thus, EAC was required by law to consult with the Secretaries of State of the three states when modifying the form so no violations of the Ex Parte Communications Policy were noted.

However, the analysis also showed that some of EAC's policies governing decision-making activities were potentially outdated and might no longer be consistent with the *Organizational Management Policy Statement* the Commission adopted in February 2015. This audit was designed to assess EAC's decision-making policies and whether those policies provided reasonable assurance of meeting the policies' objectives.

RESULTS OF AUDIT

The U.S. Postal OIG found that EAC's decision-making controls were not always properly designed, placed in operation, and operating effectively. Specifically, they found the policies did not always have clear, structured, and consistent guidance for making decisions and that EAC did not always maintain adequate documentation to support decisions made.

They also noted that issues dating back as far as 2008 remained unresolved as of the date of this audit[1], including the need for strategic planning, organizational structure, internal controls based on risk assessments, and policies and procedures.

The report contains three recommendations for corrective action:

[1] Appendix A, beginning on page 11 of the U.S. Postal OIG report, explains that the EAC lacked a quorum on the Commission from December 2010 until the current Commissioners were confirmed in January 2015. In the absence of a quorum, the EAC's ability to take action on issues regarding policy development was limited.

- Develop, document, and implement a 5-year strategic plan.
- Enhance the record management system to document Election Assistance Commission decisions, operations, policies, procedures, and practices.
- Establish a project plan to include timelines and resources needed to accomplish the planned corrective actions on outstanding prior audit recommendations.

EAC management generally agreed with the findings and recommendations and had already begun corrective actions at the time the audit was done. Management responded that they are currently drafting a 5-year plan and FY 2019 operational plan. They have also developed plans to enhance EAC's records management system to properly reflect the appropriate records and documentation that support the executive director's daily operational decisions, as appropriate. The response stated that management has already developed a timeline to accomplish planned corrective actions on outstanding prior recommendations.

The EAC OIG would appreciate being kept informed of the actions taken on the recommendations in this report in order to track the status of their implementation. Please provide an updated response in writing to the EAC OIG on the status of the recommendations included in this report by October 20, 2017. Your response should include information on actions taken or planned, targeted completion dates, and titles of officials responsible for implementation.

Recommendations require EAC OIG concurrence before closure. The EAC OIG will close the recommendations once management provides written confirmation, with appropriate supporting documentation, that all corrective actions are complete.

EAC OIG Reliance on the U.S. Postal Service Office of Inspector General Audit Work

To fulfill our responsibilities under *Government Auditing Standards*, the EAC OIG:

- Reviewed the U.S. Postal OIG's approach and planning of the audit;
- Evaluated the qualifications and independence of the auditors;
- Monitored the progress of the audit at key points;
- Participated actively in interviews of the Commissioners and Executive Director concerning their interpretations of EAC policies;
- Engaged in discussions with the U.S. Postal OIG on the message to be conveyed by the report;
- Performed a comprehensive review of the U.S. Postal OIG audit working papers;

- Reviewed the audit report, prepared by the U.S. Postal OIG to ensure compliance with *Government Auditing Standards*; and
- Coordinated issuance of the audit report.

The U.S Postal OIG is responsible for the attached auditor's report and the conclusions expressed in the report. However, based on the EAC IG's extensive involvement in and review of the audit, the EAC OIG concurs with the findings and conclusions contained in the audit report.

REPORT DISTRIBUTION

The legislation creating the Office of Inspector General requires that we report to Congress semiannually on all audit reports issued, actions taken to implement our recommendations, and recommendations that have not been implemented.

If you have any questions regarding this report, please call me at (301) 734-3104.

Attachment

cc: Thomas Hicks, Vice Chairman
Christy McCormick, Commissioner
The Honorable Ron Johnson, Chairman, U.S. Senate Homeland Security and Government Affairs Committee
The Honorable Claire McCaskill, Ranking Member, U.S. Senate Homeland Security and Government Affairs Committee
The Honorable Rob Portman, Chairman, Chairman U.S. Senate, Homeland Security and Government Affairs Committee, Permanent Subcommittee on Investigations
The Honorable Thomas R. Carper, Ranking Member, U.S. Senate Homeland Security and Government Affairs Committee, Permanent Subcommittee on Investigations

OFFICE OF INSPECTOR GENERAL
UNITED STATES POSTAL SERVICE

AUDIT REPORT

Election Assistance Commission Policy Review

August 11, 2017

Report Number FT-AR-17-010

BACKGROUND:

The Election Assistance Commission (EAC) was established by the Help America Vote Act (HAVA) of 2002 to assist states regarding HAVA compliance and distribute funds to the states. The EAC is an independent, bipartisan commission responsible for creating voting system guidelines and operating the voting system certification program. The EAC maintains the national voter registration form, conducts research, and administers a national election clearinghouse to include shared practices, voter information, and resources to improve elections.

Currently, the EAC has three commissioners and an executive director who reports directly to the commissioners. The commissioners' role is to take action in areas of policy. The executive director prepares policy, implements policy, and is responsible for administrative matters. The EAC's mission is to assist the effective administration of federal elections.

The Office of Management and Budget requires agencies to establish a strategic plan, goals and objectives, maintain internal controls, and to identify risks.

In February 2016, a group of plaintiffs filed a lawsuit against the EAC regarding a decision made by the EAC's Executive Director. As a result of hotline complaints and additional concerns stemming from the lawsuit and related issues, the EAC Inspector General engaged the U.S. Postal Service Office of Inspector General to audit the EAC decision-making policies and procedures.

In fiscal year 2016, the EAC made 16 decisions. Twelve decisions were made by the commissioners, and four were made by the executive director. We reviewed nine of the 16 decisions: five by the commissioners and four by the executive director.

Our objective was to determine whether decision-making controls of the EAC were properly designed, placed in operation, and operating effectively to provide reasonable assurance that key EAC decision-making policies met their objectives. The intent of our audit was to determine whether the policies and procedures were followed when making decisions, and not to determine whether the decisions made were the correct decisions.

WHAT THE OIG FOUND:

The EAC's decision-making controls were not always properly designed, placed in operation, and operating effectively. For example, the EAC:

- Did not always have clear, structured, and consistent guidance for making decisions.
- Did not always maintain adequate documentation to support decisions made.

Also, some issues identified in a 2008 audit report still exist today and

contributed to the issues we found during the current audit.

This occurred because the EAC did not have basic controls in place, such as a current strategic plan with well-defined goals and objectives that would help to define decision-making policies and procedures. In addition, the EAC lacked commissioner oversight for about 4 years.

Without a strategic plan and documented policies, procedures, and records, the EAC diminishes its decisions to support program objectives and reduces its ability to retain institutional knowledge. Additionally, this leaves the EAC susceptible to stakeholders questioning its actions and decisions.

WHAT THE OIG RECOMMENDED:
We recommended the EAC develop, document and implement a 5-year strategic plan and enhance the record management system to document decisions, operations, policies, procedures, and practices.

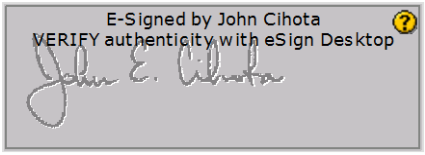
We also recommended EAC establish a project plan to include timelines and resources needed to accomplish the planned corrective actions on outstanding prior audit recommendations.

Link to review the entire report

OFFICE OF INSPECTOR GENERAL
UNITED STATES POSTAL SERVICE

August 11, 2017

MEMORANDUM FOR: PATRICIA L. LAYFIELD
INSPECTOR GENERAL
ELECTION ASSISTANCE COMMISSION



FROM: John E. Cihota
Deputy Assistant Inspector General
for Finance, Pricing and Investments

SUBJECT: Audit Report – Election Assistance Commission Policy Review (Report Number FT-AR-17-010)

On November 15, 2016, the U.S. Postal Service Acting Inspector General entered into a memorandum of understanding with the Election Assistance Commission (EAC) Inspector General to perform an audit at the EAC Inspector General's request. This report presents the results of our audit of the EAC Policy Review (Project Number 17BG004FT000).

We appreciate the cooperation and courtesies provided by the EAC. If you have any questions or need additional information, please contact Lorie Nelson, Director, Finance, or me at 703-248-2100.

Attachment

TABLE OF CONTENTS

Introduction

This report presents the results of our audit of the Election Assistance Commission (EAC) Policy Review (Project Number 17BG004FT000). The report responds to a request from the EAC Inspector General (IG) to review the decision-making policies of the EAC. Our objective was to determine whether decision-making controls of the EAC were properly designed, placed in operation, and operating effectively to provide reasonable assurance that key EAC decision-making policies met their objectives. See Appendix A for additional information about this audit.

The EAC was established by the Help America Vote Act (HAVA) of 2002[1] to assist in the administration of federal elections and provide assistance with the administration of federal election laws and programs. The EAC is an independent, bipartisan commission. The EAC assists states regarding HAVA compliance and distributes HAVA funds to the states. Four full-time commissioners,[2] appointed by the President and confirmed by the U.S. Senate, guide the EAC. HAVA states the EAC shall have an executive director, general counsel, and other staff to assist in carrying out its duties.

The EAC is responsible for creating voting system guidelines and operating the federal government's first voting system certification program. The EAC also maintains the national voter registration form, conducts research, and administers a national clearinghouse on elections to include shared practices, voter information, and resources to improve elections. The EAC's mission is to assist the effective administration of federal elections. The commissioners establish policy regarding the mission, goals, and objectives of the EAC. Any action which the EAC is authorized to carry out under HAVA, may be carried out only with the approval of at least three commissioners.

In February 2016, the League of Women Voters of the U.S. filed a lawsuit[3] alleging the EAC Executive Director acted outside of his authority by granting requests to modify state-specific instructions on the national voter registration form. As a result of the lawsuit and related press coverage, the EAC Office of Inspector General (OIG) received several complaints concerning the executive director's actions. In response to analyses of the complaints and the risks associated with the executive director's actions, the EAC IG engaged the U.S. Postal Service OIG to conduct an audit of the EAC decision-making policies and procedures. During the course of the audit, the judge cited the EAC's current organizational policy as ambiguous and asked the EAC to provide "…a reasonable interpretation of the executive director's authority…" by June 1, 2017. On that date, the EAC responded to the court's request; however, the commissioners were unable to reach a consensus on whether or not the executive director acted within his authority.

[1] Public Law 107-252.
[2] Currently, the EAC has three commissioners.
[3] *League of Women Voters of the United States v. Newby*, 195 F.Supp.3d 80 (D.D.C. 2016), *rev'd per curiam*, No. 16-5196 (D.C. Cir. Sept. 9, 2016) (order reversing court below and granting preliminary injunction), *and* 838 F.3d 1 (D.C. Cir. 2016) (opinion).

In fiscal year (FY) 2016, the EAC made 16 decisions.[4] Twelve of the decisions were made by the commissioners, and four were made by the executive director. See Appendix B for a complete list of the decisions made in FY 2016. We reviewed nine of the 16 decisions: five by the commissioners and four by the executive director.

Summary

The EAC's decision-making controls were not always properly designed, placed in operation, and operating effectively. For example, the EAC:

- Did not always have clear, structured, and consistent guidance for making decisions.
- Did not always maintain adequate documentation to support decisions made.

Also, the EAC OIG identified issues in FY 2008, some of which still exist today and contributed to the issues we found during the current audit.

These issues occurred because the EAC did not have basic controls in place, such as a current strategic plan[5] with well-defined goals and objectives that would help to define decision-making policies and procedures. In addition, the EAC lacked commissioner oversight for about 4 years.[6]

Strategic planning is a valuable tool for communicating to agency managers, employees, delivery partners, suppliers, Congress, and the public a vision for the future. An agency's strategic goals and objectives should be used to align resources and guide decision-making to accomplish priorities to improve outcomes.

Without a strategic plan and documented policies, procedures, and records, the EAC diminishes its decisions supporting program objectives and reduces its ability to retain institutional knowledge. Additionally, this leaves the EAC susceptible to challenges of its actions and decisions by outside entities.

Guidance

The EAC did not always have clear, structured and consistent guidance for making decisions. The *EAC's Organizational Management Policy Statement*[7] did not clearly define which decisions were the responsibility of the commissioners and which decisions were the responsibility of the executive director.

[4] For purposes of this report, a decision is defined as an actionable item that requires approval by the commissioners or executive director to establish or implement a policy or program.
[5] The EAC's strategic plan expired in 2014. We recognize that at that time, the EAC had no commissioners; therefore, no official actions were possible. Three new commissioners were appointed in January 2015 and were primarily focused on the 2016 presidential election.
[6] From December 2010 through November 2011, the EAC commissioners operated without a quorum and, from December 2011 through December 2014, the EAC operated without any commissioners.
[7] Adopted February 24, 2015.

The Office of Management and Budget (OMB)[8] requires agencies to:

- Establish a strategic plan, performance plan, and performance report for agencies to communicate progress in achieving their missions.
- Establish goals and objectives around operating environments and ensure compliance with relevant laws and regulations.
- Establish and maintain internal controls[9] to achieve specific internal control objectives related to operations, reporting, and compliance.
- Identify risks and consider those risks as part of the annual strategic review process.

The current organizational policy superseded a prior policy[10] which identified specific roles and responsibilities of the commissioners and the executive director. For example, prior policy identified specific matters requiring a vote of the commissioners which included:

- Adoption of the National Voter Registration Act of 1993[11] regulations, voluntary guidance under HAVA, voluntary voting system guidelines, program manuals, and other policies of general applicability that impact parties outside of the EAC.
- Adoption of an annual EAC research plan.
- Issuance of EAC advisories.
- Issuance of policy directives.

Also, prior organizational policy delegated specific responsibilities to the executive director, such as:

- Provide for the overall administration of the EAC consistent with the agency's strategic plan and any applicable commissioner adopted policies to include:
    - Establish, maintain and amend the EAC's organizational structure and staffing as necessary to implement the EAC's mission, goals, objectives, and policies.
    - Develop and adopt the EAC's annual performance plans, consistent with the EAC's strategic plan.

[8] OMB Circulars Nos. A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, and A–11, *Preparation, Submission, and Execution of the Budget*.
[9] Internal controls are processes effected by an entity's oversight body, management, and other personnel providing reasonable assurance that the objectives of an entity will be achieved.
[10] *The Roles and Responsibilities of the Commissioners and Executive Director of the U.S. Election Assistance Commission*, dated September 15, 2008.
[11] Public Law 103-31.

- Provide for the overall direction and administration of the EAC's operating units and programs, consistent with the agency's strategic plan and any applicable commissioner adopted policies, to include implementing and interpreting policy directives, regulations, guidance, guidelines, manuals, and other policies of general applicability issued by the commissioners.

- Manage the EAC clearinghouse program consistent with EAC policies.

The current organizational policy established the following division of authority regarding policymaking and day-to-day operations:

- The commissioners shall make and take action in areas of policy. Policymaking is a determination setting an overall agency mission, goals and objectives, or otherwise setting rules, guidance or guidelines. Policymakers set organizational purpose and structure, or the ends the agency seeks to achieve. The EAC makes policy through the formal voting process.

- The executive director in consultation with the commissioners is expected to: (1) prepare policy recommendations for commissioner approval, (2) implement policies once made, and (3) take responsibility for administrative matters. The executive director may carry out these responsibilities by delegating matters to staff.

The current policy does not identify the specific roles and responsibilities of the commissioners and the executive director. One commissioner stated the current organizational policy lays out the overall high-level guidelines the EAC should follow without being overly burdensome on the staff should the agency find itself without a quorum of commissioners in the future.

Further, the commissioners and executive director stated HAVA was their guidance for making decisions. HAVA established the duties the EAC should carry out as follows:

- Adoption of voluntary voting system guidelines.

- Testing, certification, decertification, and recertification of voting system hardware and software.

- Conducting studies and carrying out other activities to promote the effective administration of federal elections.

- Providing election assistance, information, and training on the management of the payments and grants.

- Adoption of voluntary guidance.

- Developing and carrying out the Help America Vote College Program.

However, the purpose of HAVA is not to provide guidance on implementing such duties or decisions associated with them. That responsibility lies with the EAC.

Having clear, structured, and consistent guidance allows the EAC to execute and support decisions with accountability and integrity and reduces the risk of outside entities questioning its actions and decisions.

Documentation

The EAC did not always maintain adequate documentation to support the decisions made.[12] For the decisions reviewed, the EAC randomly provided a wide range of documents. For example:

- General email communication.
- Meeting agendas.
- Event schedule.
- Concept plan.
- Tally votes.
- Public meeting agendas.
- Federal register notices regarding public meetings.

The commissioners and executive director stated they held informal conversations that were not documented. Further, although agendas, event schedules, and concept plans existed, none of these established a formal record of the discussions, action items, or approvals that occurred. For example, the EAC provided an email agenda as evidence of its decision to design and implement the #BeReady16 program (see Figure 1).

[12] The EAC maintained adequate documentation for decisions regarding certifying and modifying voting machines.

Figure 1. Evidence of #BeReady16 Program Decision

[redacted]

From: [redacted]
Sent: Monday, August 01, 2016 2:29 PM
To: EAC Leadership
Subject: Posting Call 3PM EDT [redacted]

Agenda below, although it might just be me and [redacted]

If so, we'll look to reschedule for later next week, if possible, because I will be in North Carolina during our next Monday time.

Agenda:

a. Calendar Sync
b. Update from meeting with the House today
c. Cyber Discussion
d. General Discussion

Time: 3 PM EDT
Phone Number and PIN: [redacted]

Take care,

[redacted]

Source: EAC.

An EAC commissioner stated that decisions not requiring a vote by the commissioners are very informal, such as face-to-face; therefore, any decisions made were not documented. The EAC commissioner also stated that decisions requiring a vote by the commissioners are documented on the EAC website in meeting minutes as these decisions are made at public meetings. However, we could not identify any decisions from the meeting minutes we obtained from the website.

According to federal regulations,[13] agencies, in order to meet obligations for adequate documentation, must prescribe the creation and maintenance of records that:

- Document the persons, places, things, or matters dealt with by the agency.
- Facilitate action by agency officials and their successors in office.
- Make possible a proper scrutiny by the Congress or other duly authorized agencies of the Government.
- Protect the financial, legal, and other rights of the Government and of persons directly affected by the Government's actions.

[13] Code of Federal Regulations, Title 36, Chapter XII, Subchapter B, Part 1222, *Creation and Maintenance of Federal Records*.

- Document the formulation and execution of basic policies and decisions and the taking of necessary actions, including all substantive decisions and commitments reached orally (person-to-person, by telecommunications, or in conference) or electronically.

- Document important board, committee, or staff meetings.

According to the *EAC Administrative Manual*,[14] commissioners' actions are documented through either a vote to adopt a specified document (such as a report or a budget request to Congress), a stated action, or an issuance of a policy directive. A government standard[15] states documentation is required for the effective design, implementation, and operating effectiveness of an entity's internal control system.

Effective documentation assists in management's design of internal control by establishing and communicating the who, what, when, where, and why of internal control execution to personnel. Documentation also provides a means to retain organizational knowledge and mitigate the risk of having that knowledge limited to a few personnel, as well as a means to communicate that knowledge as needed to external parties.

Outstanding Prior Audit Recommendations

The EAC OIG identified issues[16] in FY 2008 that still exist today. The previous audit report disclosed the EAC lacked:

- Short and long-term strategic plans, performance goals, and measurements to guide the organization and its staff.

- An organizational structure that clearly defined areas of responsibility and an effective hierarchy for reporting.

- Appropriate and effective internal controls established on the bases of risk assessments.

- Policies and procedures in all program areas to document governance and accountability structure and practices in place.

The EAC addressed and implemented 25 of the 29 recommendations from the prior EAC audit report. However, the EAC lost its quorum of commissions in 2010. Because of this disruption in the commissioners' oversight during this time, the remaining

[14] Effective September 30, 2010.
[15] *Standards for Internal Control in the Federal Government*, U.S. Government Accountability Office, by the Comptroller General of the United States, dated September 2014.
[16] *Assessment of the U.S. Election Assistance Commissioner's Program and Financial Operations, February 26, 2007 to September 15, 2007,* dated February 13, 2008.

four recommendations were not implemented. In March 2017, the EAC provided a status of the recommendations as shown in Table 1.

Table 1. Status of Prior Audit Report Recommendations

Recommendation	Status as of March 2017
Develop a communication strategic plan and goals, and written policies and procedures to ensure authorized and consistent implementation of EAC communications.	A communications/clearinghouse plan has been drafted but the actual programmatic approach with timelines and deliverables needs to be developed. EAC expects to complete this as part of the 2018 tactical plan by September 30, 2017.
Develop written policies and procedures to minimize the impact of human capital loss, if any, to its operations of the communications division.	Converted to a new website, and policies and procedures for editing and updating the website are being developed and should be completed by September 30, 2017.
Establish policies and procedures related to the research process and the clearinghouse function to include developing (1) a formal peer review process for the research methodology and results and (2) policies and procedures related to the research process from initiation through reporting.	The EAC does not envision conducting or authorizing new primary research, given funding constraints, in the short term, but the EAC does expect to leverage the Election Administration Voting Survey to drive new research techniques. Policies and procedures for components in this area will be addressed and completed by September 30, 2017.
Establish policies and procedures to comply with the National Voter Registration Act of 1993.	National Voter Registration Act policies were drafted for the commissioners' consideration. However, to date the commissioners have not yet reached an agreement on the policy.

Source: EAC IG.

The EAC developed and adopted a 5-year strategic plan in FY 2009 but did not update it upon its expiration in FY 2014. Also, the EAC adopted policy to identify the specific roles and responsibilities of the executive director and its four commissioners to improve the operations of the agency in September 2008. Had they implemented recommendations and updated the strategic plan, issues found during the current audit may not have existed.

Recommendations

We recommend the commissioners of the Election Assistance Commission, in coordination with the executive director:

1. Develop, document, and implement a 5-year strategic plan.

2. Enhance the record management system to document Election Assistance Commission decisions, operations, policies, procedures, and practices.

3. Establish a project plan to include timelines and resources needed to accomplish the planned corrective actions on outstanding prior audit recommendations.

Management's Comments

Management agreed with the findings and recommendations. Management stated they began addressing the issues before the audit and continued to take corrective action while the Postal Service OIG conducted the audit. Management's efforts to improve internal controls and procedures are focused on establishing:

- A communication plan and procedures for distributing information to stakeholders for the clearinghouse function.

- Procedures for processing state requests associated with the National Voter Registration Form.

- A distinction on what requires a vote by the commissioners and what constitutes activities of the executive director.

- Proper documentation to better reflect decisions of the executive director.

In addition, management is completing strategic planning activities and performance planning actives related to the core functions of the EAC.

Regarding recommendation 1, management is in the process of drafting its 5-year plan and FY 2019 operational plan. Management commented that in the March 2017 *Semiannual Report to Congress*, the EAC OIG stated that management had developed a communications and clearinghouse plan.

Regarding recommendation 2, management plans to enhance its record management system to properly reflect the appropriate records and documentation that support the executive director's daily operational decisions, as appropriate. Management expects to complete these actions by December 31, 2017.

Regarding recommendation 3, management has already developed a timeline to accomplish its planned corrective actions on outstanding prior recommendations.

Further, management commented that the EAC OIG acknowledged this timeline in the March 2017 *Semiannual Report to Congress*.

See Appendix C for management's comments in their entirety.

Evaluation of Management's Comments

The Postal Service OIG considers management's comments responsive to all of the recommendations and corrective actions should resolve the issues identified in the report.

In the March 2017 *Semiannual Report to Congress*, the EAC OIG included the status of outstanding prior recommendations, as reported by management, and stated that management had drafted a communications and clearinghouse plan. However, the timeline for this plan remained undeveloped as of March 31, 2017. As of August 11, 2017, the EAC OIG has not received sufficient documentation to close the outstanding prior recommendations. Management expects to complete the FY 2018 communications and clearinghouse plan before September 30, 2017.

All recommendations require EAC OIG concurrence before closure. Consequently, the EAC OIG requests written confirmation when corrective actions are completed. The EAC OIG will close the recommendations once management provides written confirmation, with appropriate supporting documentation, that all corrective actions are complete.

Appendix A: Additional Information

Background

To foster election assistance programs and to promote and enhance voting for U.S. citizens, HAVA established the EAC. The EAC is an independent, bipartisan commission. Per HAVA, the EAC shall serve as a national clearinghouse and resource for the compilation of information and review of procedures with respect to the administration of federal elections.

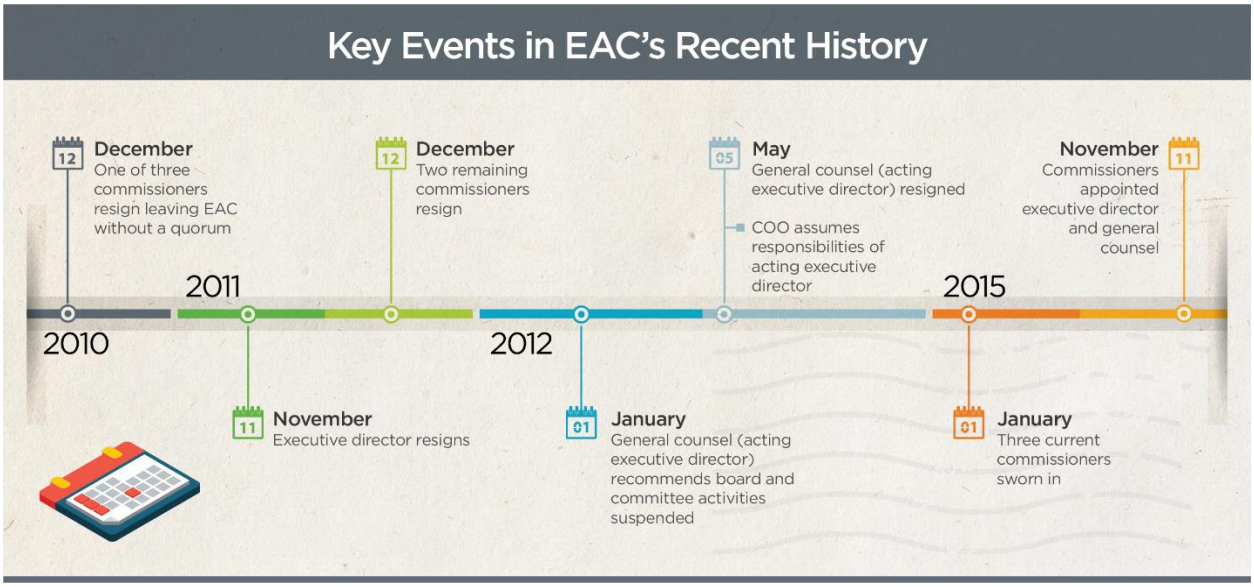
HAVA established the Standards Board[17] and the Board of Advisors[18] to advise the EAC through review of the voluntary voting systems guidelines. HAVA also established the Technical Guidelines Development Committee[19] to assist the EAC in the development of the voluntary voting system guidelines. Each committee is administered by an EAC staff member serving as the designated federal officer for that committee. The committees meet in person or through other means based on the work each committee has to complete, availability of resources, and scheduling.

HAVA specifies that four commissioners are nominated by the President. No more than two commissioners may belong to the same political party. The commissioners may serve two consecutive terms and shall continue to serve past their expired term until a successor takes office. Pursuant to HAVA, at least three commissioners must approve any authorized action.

As shown in Figure 2, starting in December 2010, the EAC operated without a quorum of commissioners. From December 2011 through December 2014, the EAC operated without any commissioners. The U.S. Senate voted unanimously to confirm three commissioners and, in January 2015, the commissioners were formally appointed by the President and took the oath of office, giving the EAC a quorum of commissioners for the first time since December 2010.

[17] HAVA designates a 110-member Standards Board to assist EAC in carrying out its mandates under the law. The board consists of 55 state election officials selected by their respective chief state election official, and 55 members of local election officials selected through a process supervised by the chief state election official.
[18] HAVA designates a 37-member Board of Advisors to assist EAC in carrying out its mandates under the law. The board consists of members from 15 different groups, such as the National Governors Association; National Conference of State Legislatures, and the U.S. Department of Justice, Office of Public Integrity, and the Civil Rights Division.
[19] The committee is composed of the Director of the National Institute of Standards and Technology (NIST), who serves as chair to the committee, along with 14 other individuals appointed jointly by the EAC and the director of NIST.

FIGURE 2. EAC'S LEADERSHIP HISTORY



Source: EAC IG.

Objective, Scope, and Methodology

The objective of the audit was to determine whether decision-making controls of the EAC were properly designed, placed in operation, and operating effectively to provide reasonable assurance that key EAC decision-making policies met their objectives. The intent of our audit was to determine whether the policies and procedures were followed when making decisions and not to determine whether the decisions made were the correct decision.

To achieve our objective, we:

- Identified and reviewed laws and regulations and policies and procedures related to the EAC and extracted relevant information related to EAC decision-making.
- Identified and reviewed OMB requirements related to management's responsibility for risk management, internal controls, and strategic planning.
- Identified federal regulations related to creating and maintaining federal records.
- Examined documentation related to decisions made by the EAC in FY 2016, including the EAC website.
- Interviewed key EAC personnel to discuss decision-making processes and procedures.

We conducted this performance audit from December 2016 through August 2017 in accordance with generally accepted government auditing standards and included such

tests of internal controls as we considered necessary under the circumstances. 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 our findings and conclusions based on our audit objective. We discussed our observations and conclusions with management on July 17, 2017, and included their comments where appropriate.

The scope of this audit was to review key decision-making policies in place at the EAC and test and evaluate controls to comply with key decision-making policies. Policies and documentation provided by the EAC for decisions did not include any computer-generated data. Therefore, we did not assess the reliability of any computer-generate data for the purposes of this report.

Prior Audit Coverage

The Postal Service OIG did not perform any prior audits or reviews related to the objective of this audit.

Appendix B: Additional Information

FY16 Election Assistance Commission Decisions[20]

Commissioner Decisions

1. Appointment of the executive director.✦
2. Appointment of the general counsel.
3. (Temporary) appointment of the IG.
4. Appointment of the IG.✦
5. Appointment of the chairman and vice-chairman.✦
6. Convene the 2016 Language Summit - a summit of speakers who spoke about language access.
7. Public hearing on accessible voting to hear from voters with disabilities.
8. Design 2016's programs around the theme #BeReady16 - a theme for which its goal was to help election administrators prepare for the 2016 general election.✦
9. Convene Standards Board meeting in April 2016.
10. Convene Advisory Board meeting in May 2016.
11. Convene Public Meetings on January 6, 2016; May 25, 2016; September 8, 2016; and December 15, 2016.✦
12. Convene roundtable discussion between election administrators from battleground jurisdictions.

Executive Director Decisions

1. Implement Commissioner's directive to design programs around the theme #BeReady16.✦

[20] ✦Represents decisions the Postal Service OIG reviewed during the audit.

2. Certify or Modify Voting Machines:✦
   a. EAC Certification of the Election Systems and Software (ES&S) Election Systems and Software Voting System (EVS) (ES&S EVS) 5.2.1.1 voting machine.
   b. EAC Certification of the ES&S EVS 5.2.0.4 voting machine.
   c. EAC Certification of the ES&S Unity 3.4.1.4 voting machine.
   d. EAC Certification of the Hart Verity Voting 2.0.
   e. EAC Certification of the Hart Verity Voting 2.2.

3. Update the National Voter Registration Form's State Specific Instructions with the requested updates from Kansas, Alabama, and Georgia.✦

4. Create the "Your Federal Voting Rights" cards and distribute the cards to the accessibility community.✦

Appendix C: Management's Comments

U.S. ELECTION ASSISTANCE COMMISSION
1335 EAST-WEST HIGHWAY, SUITE 4300
SILVER SPRING, MD 20910

MEMORANDUM

To: Patricia Layfield, Inspector General

From: Matthew V. Masterson, Chairman
Brian D. Newby, Executive Director

Date: August 4, 2017

Subject: Draft Audit Report – Election Assistance Commission Policy Review
(U.S. Postal OIG Report No. FT-AR-17-DRAFT)

Thank you for the opportunity to review and respond to the draft audit.

The Election Assistance Commission (EAC) has reviewed the detailed findings and recommendations outlined in the draft audit report and, as noted in our response, has been taking actions consistent with the recommendations for some time. Therefore, some of the items are underway, but we expect to have project plans developed in all cases by the end of calendar year 2017.

Should you have questions or concerns regarding, please do not hesitate to contact one or both of us.

CC: Thomas Hicks, Vice Chair
Christy McCormick, Commissioner
Cliff Tatum, General Counsel

Response to Draft Audit Report
Election Assistance Commission Policy Review
(U.S. Postal OIG Report No. FT-AR-17-DRAFT)
August 4, 2017

Submitted to:
Patricia Layfield
Inspector General
Election Assistance Commission

Submitted by:
Matthew V. Masterson, Chairman
Brian D. Newby, Executive Director
Election Assistance Commission

EAC's Responses to Audit Report

The Election Assistance Commission (EAC) has reviewed the Draft Audit Report—Election Commission Policy Review and provides the following responses and proposed recommendations.

The audit objective was to determine whether decision-making controls of the EAC were properly designed, placed in operation, and operating effectively to provide reasonable assurances that key EAC decisions-making policies met their objectives. The auditors reviewed two types of decisions made by the agency: (1) decisions made by the Commissioners and (2) decisions made by the Executive Director.

The IG report concludes that the agency did not always have clear, structured, and consistent guidance for making decisions; did not always maintain adequate documentation to support decisions made; and identified issues from a 2008 audit that remained opened because the Commission did not have Commissioners for 4 years.

Overall, we note that the IG report agrees with and supports observations and recommendations identified by the EAC Commissioners and Executive Director during the audit fieldwork interviews. Once the EAC leadership reconstructed in 2015, the EAC began addressing these issues, before the audit, and has continued to take corrective action during the time in which the audit was conducted. The goals of these actions have been: improving policies and internal control procedures pertaining decision making processes, right sizing the EAC staff and personnel necessary for achieving its mission in a strategic and judicious manner, documenting policies and procedures, documenting the agency's compliance with these policies and procedures, and documenting decisions and activities of the agency. As to specific functions of the agency, the EAC's efforts to improve internal controls and procedures are focusing on the following:

Clearinghouse Function

- Establishing a communication plan for the Clearinghouse function; and
- Establishing procedures for the distribution of information to stakeholders.

NVRA Function

- Establishing procedures for processing state requests for changes to the State-Specific Instructions associated with the National Voter Registration Form; and
- Establishing a cleaner line of demarcation on what requires a vote by the Commissioners and what constitutes activities of the Executive Director (not requiring Commissioner action).

Agency Activities in General

- Completing strategic planning activities and performance planning for the core functions of the agency; and
- Establishing proper documentation to better reflect decisions of the Executive Director regarding agency activities that do not require Commissioner action.

EAC's Specific Responses to Audit Recommendations

Recommendation 1: The EAC develop document and implement a 5-year strategic plan

EAC Response

The EAC agrees that the Agency should develop, document and implement a 5-year strategic plan. Before the initiation of the audit, the EAC brought on staff to help it plan the longer term. The EAC is in the process of drafting its 5-year plan and its FY2019 operational plan, is an active participant in the government-wide planning community including the inter-agency working group on strategic planning, is actively working with OMB to find ways in which the EAC's planning efforts can contribute to the government-wide reform effort, and met all OMB-mandated planning deadlines for 2016.

The EAC's planning efforts extend beyond the agency perspective and include departmental planning. In an effort to develop planning protocols, processes, and products as quickly as possible the EAC has concurrently initiated and continued its agency-wide and departmental planning. An example of this is reflected in the IG's Semi-annual audit report to Congress. Here the IG notes

that the agency has developed a communications/clearinghouse plan. This plan is operational with a 24-month horizon, intended to be updated annually. The plan was developed by EAC's director of communications and public affairs, in coordination with the EAC's planning and strategy lead, to enhance alignment with the Agency's long-term planning efforts, including (not limited to) the development of the Agency's 5-year strategic plan.

Recommendation 2: The EAC enhance the record management system to document Election Assistance Commission decisions, operations, policies, procedures and practices

EAC Response

The EAC agrees with the recommendation to enhance its record management system to better document decisions, operations, policies, procedures and practices. Currently, the EAC captures, records, and publishes Commissioner decisions on its website, including all meeting notices, agendas, minutes and actions taken at a meeting; Tally votes that are conducted by the Commissioners are maintained in office and are public records. The EAC has not actively published all operational decisions made by the Executive Director in a corresponding manner. However, the EAC will use the observations and recommendations of the Inspector General to enhance its record management system to properly reflect the appropriate records and documentation that support the daily operational decisions made by the Executive Director to the extent it is capable and appropriate to do so.

Recommendation 3: The EAC establish a project plan to include timelines and resources needed to accomplish the planned corrective actions on outstanding prior audit recommendations.

EAC Response

EAC agrees with recommendation, and in anticipation of this need, EAC has taken necessary actions in preparation for developing a timeline for accomplishing the planned corrective actions. As reflected in the OIG's semi-annual report, the EAC already has established a timeline for implementing corrective action for several areas of its operation that overlap with the areas of review covered in this audit. To that end, the EAC is committed to its timeline and the implementation of a plan to accomplish its identified objectives.