



U.S. ELECTION ASSISTANCE COMMISSION
OFFICE OF INSPECTOR GENERAL
1335 East West Highway - Suite 4300
Silver Spring, MD 20910

October 17, 2017

Memorandum

To: Matthew Masterson
Chairman, U.S. Election Assistance Commission

A handwritten signature in blue ink that reads "Patricia L. Layfield".

From: Patricia L. Layfield
Inspector General

Subject: Inspector General's Statement Summarizing the Major Management and Performance Challenges Facing the U.S. Election Assistance Commission

In accordance with the Reports Consolidation Act of 2000, I am submitting our annual statement summarizing the areas which the Office of Inspector General considers to be the most serious management and performance challenges facing the U.S. Election Assistance Commission. This list is based upon our audit, inspection and evaluation work; and general knowledge of the agency's operations.

Two of this year's management challenges are the same as last year: (1) performance management and accountability and (2) records management. We have noted the progress that EAC has made on each of the challenges identified.

For fiscal year 2017, I am reporting a new challenge: the effect on EAC of the Department of Homeland Security's designation of election systems as critical infrastructure.

If you have any questions or need additional information, please contact me at (301) 734-3104 or at playfield@eac.gov.

Attachment

cc: Commissioner Thomas Hicks, U.S. Election Assistance Commission
Commissioner Christy A. McCormick, U.S. Election Assistance Commission
Brian Newby, Executive Director, U.S. Election Assistance Commission
Cliff Tatum, General Counsel, U.S. Election Assistance Commission
Annette Lafferty, Chief Financial Officer, U.S. Election Assistance Commission



**U.S. ELECTION ASSISTANCE COMMISSION
OFFICE OF INSPECTOR GENERAL**

U.S. ELECTION ASSISTANCE COMMISSION MAJOR MANAGEMENT AND PERFORMANCE CHALLENGES

Introduction

The Reports Consolidation Act of 2000 requires the Office of Inspector General (OIG) to report annually on what it considers to be the most serious management and performance challenges facing the U.S. Election Assistance Commission (EAC). Management challenges are derived from cross-cutting issues that arise during our regular audit, evaluation and investigatory work. They are also influenced by our general knowledge of the agency's operations and the works of other evaluative bodies such as the Government Accountability Office (GAO).

For fiscal year 2017, the OIG is reporting on two management and performance challenges facing the EAC that have been reported in prior years.

- Performance Management and Accountability
- Records Management

We have added one additional challenge for 2017: the designation of the nation's elections systems as critical infrastructure its effects.

CHALLENGE 1: PERFORMANCE MANAGEMENT AND ACCOUNTABILITY - ISSUED IN 2008

In February of 2008, the OIG issued a report that identified long-standing and overarching weaknesses related to EAC operations. The assessment disclosed that the EAC needed to establish:

- Short and long-term strategic plans, performance goals and measurements to guide the organization and staff.
- An organizational structure that clearly defines areas of responsibility and an effective hierarchy for reporting.
- Appropriate and effective internal controls based on risk assessments.
- Policies and procedures in all program areas to document governance and accountability structure and practices in place. It is imperative that the Commissioners define their roles and responsibilities in relationship to the daily operations of the EAC and to assume the appropriate leadership role.

Effective management and accountability are integral to any operation and must start with senior management. The Help America Vote Act (HAVA), which created EAC, specified that direction and management are carried out by four full-time Commissioners, an Executive Director, and General Counsel,. Generally, the Commissioners establish policy and the



U.S. ELECTION ASSISTANCE COMMISSION OFFICE OF INSPECTOR GENERAL

executive director carries out policy by administering the day-to-day operations of the organization. The Help America Vote Act requires that any action of the Commissioners be carried out by the approval (vote) of at least three. For almost five years through December 2014, EAC lacked a quorum and from May 2012 until December 2014, EAC leadership consisted solely of the Chief Operating Officer, acting as Executive Director. Thus, critical business requiring a quorum of Commissioners was not carried out during that period. These conditions and some confusion over the roles and responsibilities of the Commissioners and the Executive Director resulted in a leadership vacuum, an inability of EAC to focus on key duties, a failure to hold people accountable, and a decline in staff morale.

Prior to the loss of its quorum, EAC had taken some actions to address the OIG reported findings. In September 2008, the Commission adopted a document titled *Roles and Responsibilities of the Commissioners and Executive Director of the U.S. Election Assistance Commission Policy*. In March 2009, the Commission adopted the *United States Election Assistance Commission Strategic Plan, Fiscal Years 2009 Through 2014*. However, by the time the next strategic plan was due, the Commission had lost its quorum, so no official actions on a new strategic plan were possible.

EAC's Progress

Since the description of Challenge 1 was written in 2008, EAC has acquired an entirely new slate of three Commissioners, a new Executive Director and a new General Counsel. Together, they have made significant progress toward meeting this challenge. They have developed a comprehensive communications strategic plan. The agency has also developed policies and procedures for the Communications Division and the research process. An OIG audit completed in August 2017 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 practice. EAC reported they had made significant progress in strategic planning when, in April 2017, the new Administration issued guidance requiring development of Agency Reform Plans across the government.

CHALLENGE 2: RECORDS MANAGEMENT - ISSUED IN 2010

Maintaining complete and accurate records of the operations, policies, procedures and practices are critical to effective agency performance. Furthermore, retention of government records is mandated by federal law. Without these records, an agency cannot retain an institutional knowledge. In that regard, since its inception in December 2003, the EAC has seen eight commissioners, two general counsels, and program directors come and go.

The EAC did not have documented policies and procedures for management and retention of records. The OIG first noted the EAC's lack of a records management system in 2008, when it issued the Assessment of EAC's Program and Financial Operations.



U.S. ELECTION ASSISTANCE COMMISSION OFFICE OF INSPECTOR GENERAL

The lack an approved system for records retention leaves the EAC vulnerable to lawsuits by information requesters and susceptible to waste, fraud, or abuse of its resources and the intentional destruction of government records in violation of federal law. The EAC should take steps to complete its remaining records retention schedules, obtain approval of those schedules as needed from the National Archives and Records Administration (NARA), and train its staff on the proper retention of federal government records.

EAC's Progress

In March 2013, the Executive Director of EAC signed a document titled, *U.S. Election Assistance Commission (EAC) Records Management Standard Operating Procedures*. EAC has completed the records retention schedules for the Office of Inspector General, Human Resources, the Executive Director, the Commissioners, the General Counsel, the Chief Financial Officer, and Grants and Communications and submitted the schedules to NARA as needed. The schedules for the Research Division and Testing and Certification have been developed. EAC had begun to plan for a system to organize and archive EAC emails, which was due to be completed by December 31, 2016. The EAC is currently researching whether NARA intended its approval of one of the existing records retention schedules to be approval of an agency-wide records retention schedule. If EAC finds that it has an approved agency-wide retention schedule, management plans to begin staff training and implementation.

CHALLENGE 3: ELECTIONS SYSTEMS AS CRITICAL INFRASTRUCTURE – ISSUED IN 2017

Citing the vital role elections play in the country, the Department of Homeland Security (DHS) designated elections systems as critical infrastructure in January 2017. EAC possessed the subject matter expertise, the relationships with state and local elections officials, and the in-depth understanding of local election operations necessary to provide much-needed support to DHS in implementing that designation. As such, EAC has played a key role in helping DHS understand the elections sub-sector. The agency has also used its communication channels with state and local elections officials to educate officials and the public on critical infrastructure concepts, roles, responsibilities and DHS' capabilities to apply cybersecurity intelligence to hardening the nation's elections systems against intrusion, disruption, and loss. As the nation's clearinghouse for election administration information, EAC has taken on the challenge of supporting DHS as a crucial partner in spite of having limited human and financial resources that have steadily decreased over the past few years due to decreases in congressional appropriations.

Interacting with a new Federal partner and introducing it to the members of a newly-created Critical Infrastructure sector has required a significant effort and resources. To demonstrate the scope of this task, note that according to *The Election Administration and Voting Survey*, in the 2016 election cycle, states and territories comprised of 6,467 jurisdictions operated 116,990



U.S. ELECTION ASSISTANCE COMMISSION OFFICE OF INSPECTOR GENERAL

physical polling places nationwide. In addition, jurisdictions operated more than 8,500 early voting locations in the days leading up to the election. The systems DHS seeks to protect are located across the nation and include a number of sub-systems that help election officials conduct elections, such as voter registration systems, e-poll book systems, and vote tabulation systems. The DHS designation has broad effect and the EAC is a central resource to DHS as it learns about and interacts with the elections industry.