



# 2012 Activities Report

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# VOTE

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**U. S. ELECTION ASSISTANCE COMMISSION**

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# Introduction

The U.S. Election Assistance Commission's focus in FY 2012 was on building upon its core mission work: developing guidance to meet the Help America Vote Act (HAVA) requirements, adopting voluntary voting system guidelines, serving as a national clearinghouse of information on election administration and finalizing human capital and records management handbooks.

EAC has been without a quorum of commissioners since December 10, 2010 and has been without commissioners since December 2011. The agency functions by following the order of succession in the Roles and Responsibilities document adopted by the Commission in September 2008, and the organization chart in the Strategic Plan 2009-2014 adopted in March of 2009. Under the present structure, if EAC is without an Executive Director or General Counsel, as is the case, the Chief Operating Officer assumes the responsibilities of the Executive Director in an acting capacity. Agency staff is authorized by the Roles and Responsibilities document to perform activities such as managing the voting systems certification/decertification process, conducting roundtable meetings and disbursing Requirements Payment grant funds. The agency cannot process second level audit appeals, issue advisory opinions to States on use of Help America Vote Act funds or adopt policy without a quorum of commissioners.

During FY 2012, EAC made a great deal of progress in achieving the program area goals described in its Strategic Plan, which is based on the mandates of the Help America Vote Act (HAVA) of 2002:

## Grants Management

In FY 2012 highlights include:

- Section 251 funds were included in the Election Reform Programs no-year appropriation. Congress appropriated \$115 million in FY 2008, \$100 million in FY 2009 and \$70 million in FY 2010. In FY 2012, EAC disbursed \$575,000 from the FY 2008 appropriation, \$500,000 from the FY 2009 appropriation and \$2,464,199 from the FY 2010 appropriation. EAC also paid \$435,808 from funds made available in FY 2011 that were previously undistributed requirements payments or returned Section 102 funds. These funds were requested by the States by September 30, 2012. The funds are distributed according to a formula based on the voting age population of the State per the last Census and the total voting age population of all States. In order to draw the funds, the States certify that they are in compliance with applicable laws and requirements per HAVA Section 253.
- To date, EAC has awarded 89 grants totaling \$3.1 million to recruit and train college poll workers since the College Program was established in 2004. In FY 2012, EAC closed the College Poll Worker grants awarded in FY 2009. EAC continued to monitor and work with the 2010 College Poll Worker grantees to help them carry out successful programs. The grants are three-year awards.

- Mock Election Program grants are authorized under HAVA Section 295. To date, EAC has awarded grants totaling \$998,820 to organizations under this program since the Mock Election program was established in 2004. The grants allow students to become familiar with voting processes and technologies so that when they become eligible to vote they will be more comfortable with their civic duties. In FY 2012, EAC closed the Mock Election grants awarded in FY 2009. EAC continued to monitor and work with the 2010 Mock Election Program grantees to help them carry out successful programs. The 2010 grants are three-year awards.
- The purpose of the Voting System Pre-Election Logic and Accuracy Testing & Post-Election Audit Initiative is to develop and document processes and best practices for coordinating quality and cost-effective: 1) voting system pre-election logic and accuracy testing (L&A), and 2) post-election audits. Outcomes will include tool kits, guides, best practices, research findings and recommendations that could be disseminated widely within the election community. In FY 2011, EAC awarded \$1,463,074 to 12 award recipients. EAC did not award the remaining \$1,536,926 on no-year funded L&A grants in FY 2012 pending a quorum of the commissioners to approve the Notice of Funding Availability.
- The purpose of the Accessible Voting Technology Initiative is to support research and development activities to increase the accessibility of new, existing, and emerging technological solutions in areas such as assistive technologies, interoperability, and the design of voting systems. Funding supports research for: 1) promising technologies and practices; 2) technology testing and adoption; and 3) development of administrative processes and training improvements to increase accessibility of existing voting procedures and election systems.

### Voting Systems Testing and Certification

In FY 2012 EAC:

- Certified five new or modified voting systems;
- Drafted and published six Requests for Interpretation (RFIs) to Voluntary Voting System Guidelines (VVSG);
- Drafted and published two Notices of Clarification to Testing & Certification Program Manuals;
- Published a Final Formal Investigation Report on a voting system;
- Developed and implemented major updates to the EAC's Virtual Review Tool (VRT). EAC is currently rolling out the addition of the ECO Database to the VRT tool to track engineering change orders for all EAC certified voting systems;
- Published the Certification Timeline for the Elections Systems & Software (ES&S) Unity 3.4.0.0 voting system;
- Conducted a Unisyn Manufacturer Facility audit of the manufacturing process;
- Observed the installation and acceptance testing of a voting system in Cuyahoga County, Ohio; and
- Observed the acceptance testing of a voting system in Arlington, Virginia.

There are currently four voting systems in active test campaigns.

- In the area of Voluntary Voting System Guidelines (VVSG) and Test Suites, in FY 2012, EAC received a new revised version of VVSG 1.1 from the National Institute of Standards and Technology (NIST). EAC incorporated NIST comments and new Request for Interpretations (RFI's) into VVSG 1.1. EAC posted the second draft version of VVSG 1.1 for a 90 day Public

Comment period beginning September 6, 2012. In light of the Presidential General Elections the comment period was extended from 90 days to 130 days.

- Regarding laboratory accreditation in FY 2012, EAC performed two laboratory accreditation renewal audits and EAC and National Voluntary Laboratory Accreditation Program (NVLAP) performed an initial laboratory audit.
- Further, in FY 2012, EAC attended meetings with NASED; Election Center; EVN, Pennsylvania State Election Officials; the Technical Guidelines Development Committee (TGDC); NIST; and the USENIX conference. EAC organized and attended technical reviewer meetings, manufacturer meetings, the State Certification Symposium (Indianapolis, IN), and kick off meetings for new test campaigns. EAC staff also witnessed Primary and General Election Day activities in a number of jurisdictions.

### Research, Policy and Programs

In FY 2012 highlights include:

#### *Research:*

- Releasing the results of the 2010 Election Administration and Voting Survey to Congress and the general public. This included a data overview and summary, along with a survey FAQ.
- Completed the final draft of a study on the use of Social Security numbers for the purpose of voter registration.
- Completed the final draft of a study on Vote Recounts and Contests describing laws and procedures in each state.
- Awarded a contract to perform research on administering elections in urban and rural areas.
- Completed the process for updating the 2012 Election Administration and Voting Survey (EAVS).
- Awarded a contract to administer and analyze the data for the 2012 EAVS.
- Conducted research on new jurisdictions and languages covered by Section 203 of the Voting Rights Act as determined by the 2010 census and considered its application to various minority language election resources.

#### *Policy:*

- Administered provisions of the National Voter Registration Act of 1993 (NVRA) that relate to the content of the national mail voter registration form and the submissions of biennial reports to Congress on the impact of the NVRA.
- Developed an interim procedure for processing state requests to modify state-specific instructions on the national mail voter registration form. The procedure was approved by the General Counsel and the Executive Director. The interim procedure will be used by Staff to process such requests until a quorum is established on the Commission.
- Received and processed State requests for modifications to the state-specific instructions on the National Mail Voter Registration Form from Delaware, Florida, Illinois, Maine, Louisiana, Virginia and Washington State.
- Made a series of minor technical corrections to the NVRA form so that it was more accessible and easy to complete (fillable) when downloaded from EAC's website.
- Reviewed and provided input into the 2012 General Accounting Office (GAO) report on voter registration.

*Programs:*

- Program staff conducted presentations and distributed material highlighting EAC educational resources at conferences and workshops. For example, presentations by program staff at workshops and conferences highlighted key best practices and tips gathered from EAC research on topics such as poll worker recruitment and training, designing ballots, making contingency plans, ensuring voting accessibility and communicating with the public.
- In recognition of September as Voter Registration month, EAC staff developed a guide, "Voting Tips To Enhance Your Voting Experience". In an effort to enhance the November voting experience, EAC distributed 30,000 of these voter's guides to each of the 55 State election offices.
- Program staff assisted in planning and executing a June roundtable discussion on EAC's clearinghouse of educational resource materials and was a regular contributor to EAC blog posts that offered helpful tips and best practices on effective election administration procedures.
- Responded to requests from state and local election officials, Congress, the media and the public-at large for a range of materials including: Voter's Guides to Elections; Glossaries of Election Terms in various foreign languages; NVRA registration forms and accompanying state instructions for completing the form; and educational resources on designing ballots, recruiting and training poll workers and managing the elections process.
- Clarified various data reported in the biennial EAC Election Administration and Voting Survey;
- Provided assistance regarding the completion of the Federal NVRA form; and
- Responded to requests to clarify certain technical aspects of election procedures and processes.

Communications & Clearinghouse

In FY 2012 highlights include:

- The Communications and Clearinghouse division focused its efforts on providing information and best practices to election officials and voters in preparation for the 2012 federal election cycle. The goal was to build a community of knowledge and expertise that would save election officials time and money as they faced the challenge of providing more services to voters with fewer resources and more budget constraints. EAC embraced the tenets of Government 2.0 and established a robust network of information sharing for election officials and professionals.

**EAC.gov Resources**

- The Election Official Exchange: an online resource built by EAC to help local election officials connect and leverage their collective knowledge by sharing best practices and knowledge
- Enhanced and improved search tool: based on usability studies and user feedback, EAC's search tool is an intuitive and user friendly way for the public to find information.
- Events finder: a comprehensive presentation of all EAC public events, including meetings, hearings and roundtable discussions.
- Webcasts: public events are offered live. On demand webcasts are available within 24 hours.
- Customized program updates: a listserv for EAC's newsletter and automatic program updates. Users are notified daily or weekly when new documents are posted based on their delivery preferences.

## **Social Media and Stakeholder Updates**

- The EAC Blog: allows EAC to provide periodic election updates and highlight program activities. Weekly Election Updates summarize information on upcoming primaries, special elections, and the general election in 2012.
- @EACgov on Twitter: another tool used to communicate with stakeholders and the public on EAC activities and election information. The number of EAC Twitter followers grew from 250 to over 900 from October, 2011 through September, 2012.
- #BReady2012: a Twitter hashtag hosted and created by EAC provided an online meeting place for election officials and the public to gather and discuss preparation for the next federal election.
- EAC maintains and emails a public list of election officials and has used the platform to inform thousands of people about program activities.

## **Preparing for the 2012 Elections: The Roundtable Series of Public Discussions**

- EAC continued the series of public roundtable discussions begun in FY 2011 about topics and initiatives in preparation for the 2012 federal election cycle. In the two fiscal years (2011-2012), EAC hosted nine roundtables and the discussions were webcast live and featured a live Twitterfall. Four roundtable discussions were held in FY 2012. Questions and comments were taken from the public through the webcasts. Participants included election officials and subject matter experts who provided real world solutions to the issues facing election officials and voters in preparation for the 2012 elections. EAC distributed press advisories to national media daybooks and contacts, and to the home state/local media outlets representing roundtable participants. Roundtables included: 2012 Voting System Preparation (November 17, 2011); EAC Clearinghouse (March 20, 2012); Getting Ready for November (June 19, 2012); Veterans Voting This November (September 13, 2012).

# Operations

## **The U.S. Election Assistance Commission**

EAC is an independent, bipartisan agency created by the Help America Vote Act (HAVA) that assists and provides guidance to state and local election administrators in improving the administration of elections for federal office. EAC provides assistance by disbursing federal funds to states to implement HAVA requirements, auditing the use of HAVA funds, adopting the Voluntary Voting System Guidelines (VVSG) and serving as a national clearinghouse and resource of information regarding election administration. EAC also accredits voting system testing laboratories and certifies, decertifies and recertifies voting systems.

At the beginning of FY 2012 EAC had two commissioners serving, Gineen Bresso and Donetta Davidson, and two vacancies. Commissioners, who are nominated by the President and confirmed by the U.S. Senate, may serve only two consecutive terms. Commissioners serve staggered terms. No more than two commissioners may belong to the same political party.

Commissioner Gineen Bresso resigned on December 21, 2011 and Commissioner Donetta Davidson resigned on December 31, 2011.

## **Executive Director**

Thomas Wilkey was named executive director of EAC in May 2005 by a unanimous vote of the commissioners and was unanimously reappointed to the post in June 2009 for an additional 4-year term. His duties included managing daily operations, preparing program goals and long-term plans, managing VVSG development, reviewing reports and studies and overseeing EAC staff appointments. On November 30, 2011, Thomas Wilkey resigned as executive director.

## **General Counsel**

Mark Robbins was appointed by the Commission in September, 2010 as EAC General Counsel. In accordance with HAVA, the general counsel is appointed to a 4-year term and may serve additional terms by a vote of EAC. As EAC's chief legal officer, Mr. Robbins provided advice to commissioners and senior leadership on legal issues affecting EAC's activities and operations. On December 1, 2011, Mark A. Robbins assumed the duties as General Counsel and Acting Executive Director. Mark Robbins resigned as General Counsel.

## **Chief Operating Officer**

Alice P. Miller serves as chief operating officer for the EAC, a position she has held since June, 2008. Ms. Miller oversees the day-to-day operations at EAC in all program areas and serves as EAC's acting executive director, managing an \$11.5 million budget. Since her arrival, Ms. Miller's leadership role at EAC has enabled the agency to serve its mission while developing and integrating policies and procedures aimed at improving efficiency and transparency.

Ms. Miller came to EAC after serving as the former general counsel and executive director of the District of Columbia Board of Elections and Ethics. On May 16, 2012, Alice P. Miller assumed the duties as Chief Operating Officer and Acting Executive Director.

## **The Office of Inspector General**

EAC's Office of Inspector General (OIG) conducts audits, investigations and other reviews of EAC's programs and operations. This includes internal reviews of how EAC conducts business as well as reviews of recipients of funds disbursed by EAC. Its work is designed to enhance the economy, efficiency and effectiveness of EAC. The OIG also works to detect and prevent fraud, waste, abuse and



mismanagement in EAC programs and operations. Its reports serve to educate and inform clients (EAC, the Congress, the Office of Management and Budget, the Government Accountability Office, state governments, other federal entities, and the public) of opportunities to improve the efficiency and effectiveness of EAC and its programs.

## **EAC Federal Advisory Committees**

HAVA established a 37-member Board of Advisors and a 110-member Standards Board to help EAC carry out its mandates under the law. Further, HAVA Section 221 established the Technical Guidelines Development Committee (TGDC) to help EAC develop the VVSG. These governing boards provide valuable input and expertise in forming guidance and policy. On January 25, 2011, the General Counsel/Acting Executive Director issued a Memorandum suspending activity by the advisory boards. The memo states, in part,

*“Boards and commissions subject to the provisions of FACA must have a Designated Federal Official (DFO) in order to conduct official business, at both the full committee and subcommittee level. It is the policy of the EAC (adopted on September 12 and certified September 15, 2008) that those positions be designated by the chair.....With no commissioners, there is no commission chair to appoint DFOs. And absent a quorum of commissioners, there are no means by which to change this established policy of appointing/replacing the DFOs.”*

The complete memorandum is available at [EAC.gov](http://EAC.gov).

### **Board of Advisors**

EAC's Board of Advisors includes members appointed by the following groups as specified in HAVA (two members appointed by each): National Governors Association; National Conference of State Legislatures; National Association of Secretaries of State; The National Association of State Election Directors; National Association of Counties; National Association of County Recorders, Election Officials and Clerks; The United States Conference of Mayors; Election Center; International Association of Clerks, Recorders, Election Officials and Treasurers; the U.S. Commission on Civil Rights; and Architectural and Transportation Barriers Compliance Board.

Other members include representatives from the U.S. Department of Justice, Public Integrity Section of the Criminal Division and the Voting Section of the Civil Rights Division; the director of the U.S. Department of Defense Federal Voting Assistance Program; four professionals from the field of science and technology, with one each appointed by the Speaker and the Minority Leader of the U.S. House of Representatives and by the Majority Leader and Minority Leader of the U.S. Senate; and eight members representing voter interests, with the chairs and the ranking minority members of the U.S. House of Representatives Committee on House Administration and the U.S. Senate Committee on Rules and Administration each appointing two members.

The Board of Advisors elects a chair, vice chair and secretary from its members. Officers serve for a term of 1 year and may serve no more than two consecutive terms in any one office.

### **Standards Board**

The Standards Board consists of 110 members; 55 are state election officials selected by their respective chief state election official and 55 are local election officials selected through a process supervised by the chief state election official. HAVA prohibits any two members representing the same state to be members of the same political party.

The Board elects nine members to serve as an executive board, of which not more than five can be state election officials, not more than five can be local election officials and not more than five can be members of the same political party.

### **Technical Guidelines Development Committee**

HAVA mandates that the TGDC help EAC develop the VVSG, a task that was completed in May 2005. The VVSG are not mandatory and each state retains the prerogative to adopt these guidelines.

By law, the chairperson of the TGDC is the director of NIST. The TGDC is composed of 14 other members appointed jointly by EAC and the director of NIST. Members include representatives from the EAC Standards Board, EAC Board of Advisors, Architectural and Transportation Barriers Compliance Board, American National Standards Institute, Institute of Electrical and Electronics Engineers, the National Association of State Election Directors (2 representatives) and other individuals with technical and scientific expertise related to voting systems and voting equipment.

TGDC meeting minutes, roster, resolutions and other related material are available at [www.vote.nist.gov](http://www.vote.nist.gov).

### **Public Roundtables**

In FY 2012, EAC held four roundtable discussions, which were also available to the public via webcast. Roundtable discussion topics included Veterans Voting this November; 2012 Voting System Preparation; Getting Ready for the November 2012 Elections, and EAC National Clearinghouse on Elections.

Public meetings, hearings and roundtables are available to the public via archived webcasts and meeting agendas, minutes and testimony are posted at [EAC.gov](http://EAC.gov).

### **Foreign Delegation Briefings**

In FY 2012, EAC also conducted briefings for visiting foreign delegations under the auspices of the U.S. State Department to explain EAC's role and function as a national clearinghouse, and how EAC's resources and tools serve and support election officials around the country as they prepare for the 2012 election. Delegations included election officials and news media journalists from the following nations: Afghanistan, Burkina Faso, Chad, Korea, Mali, Mauritania, Senegal, Niger, and Russia. Another briefing

