



**U.S. ELECTION ASSISTANCE COMMISSION
MANAGEMENT AND PERFORMANCE CHALLENGES
FISCAL YEAR 2010**

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 (FY) 2010, the OIG is reporting on five management and performance challenges facing the EAC. Four of these management challenges have been reported in prior years:

- Performance Management and Accountability
- Financial Management and Performance
- Information Technology Management and Security
- Human Capital Management

One challenge is reported in FY 2010 for the first time. That management and performance challenge is the EAC's lack of an established and implemented records management system.

The OIG has assessed the EAC's progress with regard to the four previously issued challenges. Based upon reports provided by the EAC, the OIG deems that remedial measures have been taken to resolve one of the four management challenges, specifically the challenge involving financial management and performance. In addition, the EAC has taken substantial steps toward improving its information technology management and security. However, the EAC has several critical steps to fully resolve the management challenge. The OIG will continue to review and monitor the challenges involving information technology management and security, performance management and



U.S. ELECTION ASSISTANCE COMMISSION MANAGEMENT AND PERFORMANCE CHALLENGES FISCAL YEAR 2010

accountability, as well as human capital management to determine whether steps have been taken to improve the agency's operations in these areas.

CHALLENGE 1: PERFORMANCE MANAGEMENT AND ACCOUNTABILITY

In fiscal year 2008, the OIG issued the following management challenge:

Effective management and accountability are integral to any operation and must start with senior management. At the EAC, senior management consists of four full-time commissioners and an executive director. However, confusion over the roles and responsibilities of the commissioners and the executive director has resulted in a lack of leadership, a failure to hold people accountable, and a decline in staff morale. EAC has recently delineated the roles and responsibilities of the commissioners and the executive director.

In February of 2008, the OIG issued a report that identified long-standing and overarching weaknesses related to the operations of the EAC that need to be addressed immediately. The assessment disclosed that the EAC needs 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.

Actions to improve EAC operations are being accomplished; however, a significant amount of work still needs to be done. Without effective management and accountability, the ability of the EAC to meet its mission is substantially diminished.

Performance management and accountability continues to be a challenge for EAC in fiscal year 2009 and beyond, as EAC has not adopted and implemented the needed policies and procedures to define the performance plans and measurements for the various EAC programs, identify the reporting relationships beyond the executive director and commissioners, and establish effective internal controls. The EAC has completed draft policies and procedures for some of its programs, but has not adopted or implemented them. In the current environment of increased transparency and



U.S. ELECTION ASSISTANCE COMMISSION MANAGEMENT AND PERFORMANCE CHALLENGES FISCAL YEAR 2010

accountability, it is critical that EAC have these goals, measures, policies and procedures in place. EAC is accountable to the American public as to whether its programs and activities mirror its goals and objectives, as well as whether the programs and activities are ultimately successful in comparison to the established goals and measures.

EAC's Progress

EAC has made some progress toward the development of a strategic direction for the agency as well as the implementing policies and procedures that flow from the strategic plan. The following is a listing of the activities that EAC has completed:¹

- Adopted an agency-wide strategic plan in March 2009
- Adopted a roles and responsibilities document that delineates responsibilities between the commissioners and the executive director in September 2008
- Finalized a grants manual in September 2009
- Finalized a travel handbook in Quarter 4, FY 2010
- Finalized an administrative manual that provides a broad overview of the statutes, regulations, policies, procedures, and other requirements Commissioners and staff follow when conducting the work of the Commission

The EAC has not completed policy and procedure handbooks for several of its divisions or programs. The EAC anticipated having this work completed on or before June 30, 2009. The EAC currently sets the completion timeframe as Quarter 1, FY 2011.

CHALLENGE 2: FINANCIAL MANAGEMENT AND PERFORMANCE

In fiscal year 2008, the OIG completed and issued its assessment of the EAC's operations and conducted the first financial statement audit of the EAC. Based upon the findings in those two reports, the OIG issued the following management challenge:

EAC lacks the ability to effectively manage its financial operations. In fiscal year 2007, poor control over its budget and expenditures resulted in the organization returning about \$2.4 million to the U.S. Treasury despite the need for additional staff and systems to deliver services and complete statutory tasks. In fiscal year 2008, problems persisted. EAC did not set up an operating budget for its divisions or a

¹ The EAC provided information regarding which of the policies and procedures have been finalized. The OIG has not conducted a follow up review to determine the adequacy or sufficiency of these documents.



U.S. ELECTION ASSISTANCE COMMISSION MANAGEMENT AND PERFORMANCE CHALLENGES FISCAL YEAR 2010

sufficient system to determine the status of its appropriations. Furthermore, it was not until a contractor was brought on in July 2008 that the EAC determined how much operating money it had spent and how much it had left.

More recently, the independent auditors, Clifton Gunderson LLP (CG), under contract with the OIG, were unable to complete an audit of the EAC's financial statements for fiscal year 2008 due to management's inability to provide timely financial information and material weaknesses in internal controls. In regards to controls, management was not able to assure that it had identified, implemented, and tested internal controls over its financial or program operations. Congress established management's responsibility for internal controls in the Federal Managers Financial Integrity Act of 1982 (FMFIA). The Office of Management and Budget (OMB) issued implementing instructions to Federal agencies in Circular No. A-123. The Circular requires agencies to issue an annual statement to OMB on whether the Agency's financial, management, and automated information security system controls conform to the government-wide standards. The EAC however, does not have a process to make such a determination.

ACTIONS NEEDED

To move forward, the Commissioners must put someone in place that has the responsibility and authority to manage the daily operations of the agency. Simultaneously, the EAC must develop and implement a comprehensive strategy that addresses the need for qualified and capable financial management staff; and corrects inconsistent and flawed business processes, unreliable financial information, and non-existent FMFIA process.

EAC's Progress - RESOLVED

EAC has made progress toward the development of policies and procedures and implementation of additional personnel and financial resources to remedy the weaknesses identified in the OIG's 2008 Assessment Report. The following is a listing of the activities that EAC has completed:

- Hired a Chief Financial Officer/Budget Officer
- Hired an Accounting Director
- Reconstructed accounts to adequately record most obligations and expenditures
- Developed a list of financial laws and regulations that apply to EAC
- Adopted a strategic plan which included a new organizational structure for the Administrative Division
- Implemented monthly fund control reviews
- Developed policies and procedures to implement audit follow-up



U.S. ELECTION ASSISTANCE COMMISSION MANAGEMENT AND PERFORMANCE CHALLENGES FISCAL YEAR 2010

EAC's FY 2009 Financial Statement Audit revealed that the EAC had made significant progress in implementing sound financial practices. The EAC received an unqualified opinion on its FY 2009 financial statements. Similarly, the FY 2009 Financial Statement audit discovered limited issues with the EAC's internal control environment related to financial management. The EAC identified resolutions to those issues and has begun and/or completed the implementation of those resolutions.

At this time, the OIG deems this management challenge to be resolved.

CHALLENGE 3: INFORMATION TECHNOLOGY MANAGEMENT AND SECURITY

In FY 2009, the OIG issue the following management challenge to the EAC:

The Federal Information Security Management Act (FISMA) requires each federal agency to develop, document and implement an agency-wide program to provide information security and develop a comprehensive framework to protect the government's information, operations and assets. To ensure the adequacy and effectiveness of information security controls, the OIG annually assesses the EAC's efforts to safeguard data processed by its computer systems and networks. Our reviews have found that the EAC is not in compliance with FISMA or in pertinent part with the Privacy Act. For EAC, managing and securing information is a significant deficiency.

EAC has made significant progress in addressing this challenge, but still has deficiencies in two major areas: contingency planning and compliance with personally identifiable information (PII) and Privacy Act requirements. A recent review of the EAC's information technology systems and practices revealed that the EAC has not tested its contingency plan and that the EAC is not in compliance with the following OMB requirements related to PII and the Privacy Act:

- Develop and publish "routine use" policy dealing with breach of security relating to PII data, including actions taken for individuals affected by the breach (OMB Memorandum M-07-16, May 22, 2007);
- Publish and review biennially each system of records notice to ensure that it accurately describes the system of records (OMB Circular A-130);
- Review every four years the routine use disclosures associated with each system of records in order to ensure that the recipient's use of such records continues to



U.S. ELECTION ASSISTANCE COMMISSION MANAGEMENT AND PERFORMANCE CHALLENGES FISCAL YEAR 2010

- be compatible with the purpose for which the disclosing agency collected the information (OMB Circular A-130); and
- Conduct privacy impact assessments for electronic information systems and collections and, in general, make them publicly available (OMB Memorandum 03-22)

EAC's Progress

The most recent FISMA review (FY 2010) found that the EAC is in substantial compliance with FISMA requirements but still has some work to do in order to comply with the PII and Privacy Act requirements. The following is an assessment of the EAC's progress on the FY 2009 findings related to FISMA, PII, and the Privacy Act:

No.	FY 2009 Finding	Current Status
1	IT Security Program Improved but Additional Controls are Necessary.	EAC officials took action to correct this problem.
2	An agency-wide information security program in compliance with FISMA has not been developed. A security management structure with adequate independence, authority, and expertise which is assigned in writing has not been implemented.	EAC officials took action to correct this problem.
3	Policies or procedures for information security or privacy management have not been developed. Per the terms of the MOU, the GSA procedures will prevail where there are not guiding policies provided by the user organization.	EAC officials took action to correct this problem.
4	A Continuity of Operations Plan, Disaster Recovery Plan, or Business Impact Assessment has not been developed.	EAC has completed a contingency plan, but has not yet tested the plan.
5	FDCC requirements were not met.	EAC officials took action to correct this problem.
6	Access Controls and Remote Access Need Strengthening	EAC officials took action to correct this problem.
7	Security Risk Assessments Need to be Finalized and Used to Develop Controls	EAC officials took action to correct this problem.



**U.S. ELECTION ASSISTANCE COMMISSION
MANAGEMENT AND PERFORMANCE CHALLENGES
FISCAL YEAR 2010**

No.	FY 2009 Finding	Current Status
8	<p>EAC is not fully compliant with several Privacy Act Requirements including:</p> <ul style="list-style-type: none">• A Chief Privacy Officer with the responsibility for monitoring and enforcing privacy related policies and procedures have not been designated.• EAC has not identified systems housing personally identifiable information or conducted related Privacy Impact Assessments required by OMB Memorandum 06-16.• EAC has not developed formal policies that address the information protection needs associated with personally identifiable information that is accessed remotely or physically removed.	<p>EAC officials took action to correct some but not all of these problems. Issue remains open.</p>
9	<p>Establish Controls to Ensure Audit Accountability</p>	<p>EAC officials took action to correct this problem.</p>

The OIG will consider this management challenge resolved when the EAC completes testing its contingency plan and implements appropriate remedial measures to protect PII.

CHALLENGE 4: HUMAN CAPITAL MANAGEMENT

In FY 2009, the OIG issued the following management challenge:

The Government Accountability Office (GAO) has designated strategic human capital management as a high risk area across the federal government since 2001. According to GAO, human capital management is a government wide problem that is eroding the ability of many agencies to economically, efficiently, and effectively perform their missions. GAO recognized that an agency’s workforce is its most important organizational asset. Agencies alter the organization’s performance by the way that they treat and manage their staffs and build commitment and accountability by involving and empowering their employees. GAO provided a framework for improving human capital management across the federal government which included recruiting, hiring, developing and retaining employees with the skills needed for mission accomplishment; creating an employee-



U.S. ELECTION ASSISTANCE COMMISSION MANAGEMENT AND PERFORMANCE CHALLENGES FISCAL YEAR 2010

friendly work place; and empowering and motivating employees while ensuring accountability and fairness in the workplace.

For the past two years, EAC has participated in the government's annual employee survey. The results of these surveys identify critical weaknesses in EAC's human capital management efforts. The EAC employees have consistently expressed their dissatisfaction with ability of EAC leadership to generate high levels of motivation, to review and evaluate the organization's progress toward meeting goals and objectives, and to communicate the organization's goals and priorities. Employees did not report a sense of involvement in the decisions that impact their work, the policies and practices of the senior leaders, or that management shares information about what goes on the organization. Employees also do not believe that promotions and rewards are merit based or reflect how well the employee performs his/her job. Perhaps the most disturbing of the survey questions reports that the percentage of employees that feel that they can report a violation of law, rule or regulation without fear of reprisal fell from 55.6% in 2007 to 36.3% in 2008. The results of this survey show that EAC does not operate an employee-friendly work place and that its efforts to empower and include employees have fallen short. EAC must evaluate its personnel management strategy and its successes and failures to develop an approach toward human capital management that will ensure a qualified, satisfied work force is available to do the work necessary to fulfill its mission.

Likewise, EAC must ensure that it has trained, experienced personnel assigned to critical functions. The OIG assessed EAC operations in 2008 and determined that there were significant gaps in qualified personnel to perform critical financial and administrative functions. While some progress has been made to increase the number of employees in critical functions that have federal government experience, there are still functions that either have not been assigned or are currently assigned to untrained, inexperienced personnel. EAC must evaluate its critical administrative and programmatic functions to determine its personnel needs. Those needs should be compared to its personnel resources. Functions should be assigned to persons who are trained and experienced in the activity or persons should be recruited to fill those posts.

The OIG completed an investigation into allegations of retaliation and a hostile working environment at the EAC in FY 2010. The investigation concluded that there were no incidents of retaliation and that the EAC did not have a hostile working environment as defined by federal statutes. However, the investigation did reveal that the EAC continues to experience problems related to its human capital management, particularly:



U.S. ELECTION ASSISTANCE COMMISSION MANAGEMENT AND PERFORMANCE CHALLENGES FISCAL YEAR 2010

- Employees expressed fear of retaliation or retribution.
- Employees have an apparent lack of confidence in reporting complaints to HR/EEO.
- EAC's implementation of a performance management system.
- Communications failures
- Dissatisfaction or distrust of supervisors or co-workers
- Perception of an us/them environment

These concerns were echoed by the results of the EAC's 2009 Annual Employee Survey. That survey showed that less than half of the EAC employees feel that:

- Promotions in their work units are based on merit (34%)
- Steps are taken to deal with poor performers (38%)
- Pay raises depend on how employees perform their jobs (28%)
- Leaders generate high levels of motivation and commitment in the workforce (42%)
- Managers communicate the goals and priorities of the organization (45%)
- Employees have a feeling of personal empowerment with respect to work processes (34%)

Based upon this information, human capital management continues to be a challenge for the EAC.

EAC's Progress

In May 2010, the OIG requested an update on actions taken to remedy this management challenge, particularly as related to the additional concerns raised by the OIG's investigation and the employee survey. The EAC responded in June 2010 citing the following activities as having been conducted to remedy the existing management challenge:

- EEO training was conducted in May/June 2010
- Teambuilding efforts conducted by Hines and Associates
- Management supervisory training for EAC managers
- Leadership training and development courses attended by the Chief Operating Officer, Chief Financial Officer and Executive Director
- Internal control training, email etiquette guidance and emotional intelligence training have been offered to all EAC staff
- Three decision-based forgiveness sessions have been conducted to deal with interpersonal issues



U.S. ELECTION ASSISTANCE COMMISSION MANAGEMENT AND PERFORMANCE CHALLENGES FISCAL YEAR 2010

EAC further recited existing policies and/or practices that were in place prior to the investigation or employee survey.

CHALLENGE 5: RECORDS MANAGEMENT

Maintaining complete and accurate records of the operations, policy, procedure and practice of an agency are critical to the effective operation of the agency. Without these records, the agency cannot retain an institutional knowledge. The EAC, like many other federal government agencies, has seen turn over in its staff and leaders. Since its inception, the EAC has had seven Commissioners. Likewise, program directors have come and gone. Furthermore, retention of government records is mandated by federal law.

The EAC does not have an approved records retention schedule. Similarly, there are no procedures for management and retention of records being uniformly implemented at the EAC.

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. Since that time, the OIG has conducted several audits and evaluations of EAC and its programs that have revealed a continuing problem with maintaining records. Most recently, in 2010, the OIG audited a grant distributed by the EAC. EAC staff was unable to locate the file related to that grant. Furthermore, even after repeated requests for records related the grant, the EAC failed to provide even a single email from the previous grants director under whose administration the grant was awarded. The EAC disbursed payment on that grant without records of whether and to what extent the grantee had performed services commensurate with the grant proposal and award.

The continued failure to adopt and implement an approved system for records retention at the very least leaves the EAC vulnerable to suit by information requesters and at worst susceptible to waste, fraud, or abuse of its resources and the intentional destruction of government records in violation of federal law. The EAC must take immediate steps to adopt a records management system, obtain approval of that system from the National Archives and Records Administration, and train its staff on the proper retention of federal government records.



**U.S. ELECTION ASSISTANCE COMMISSION
MANAGEMENT AND PERFORMANCE CHALLENGES
FISCAL YEAR 2010**

EAC's Progress

The EAC has reported that it met and is working with a representative of the National Archives and Records Administration on the coordination of a records management policy.