

Transition Team Report to Commissioners of the
United States Election Assistance Commission

BACKGROUND

After a period of almost four years without a quorum of Commissioners for the U.S. Election Assistance Commission (EAC), Congressional leaders nominated and the President appointed new Commissioners to the EAC and the Senate unanimously confirmed them in December of 2014. Each of the Commissioners was sworn in early in January of 2015 with the expectation that the Commission needs to revitalize the EAC going forward so that it can earn and maintain bi-partisan support at the federal level.

The Commissioners, Christy McCormick (R), Matt Masterson (R) and Thomas Hicks (D) have acted in concert in a bi-partisan manner to ask two experienced and nationally recognized election administration experts to serve as a Transition Team. The purpose of the Transition Team is to advise them on immediate and intermediate courses of action that will give the Commissioners policy guidance in structuring the agency to be useful to election administration and voters in America.

METHODOLOGY

The Transition Team was asked to first interview each EAC Commissioner individually to provide an opportunity for the Commissioners to share their vision, their hopes for the Commission going forward and some of the challenges they expect to face or have already encountered in reforming and revitalizing the agency. During the absence of Commissioners, the EAC continued to function with staff and deliver services with reduced budgets and major staff reductions. The agency reached a peak employment in the range of more than 60 full-time staff members and during the years of functioning without Commissioners, employment eroded to a current staff (including Commissioners) of less than 25 full-time employees.

After interviewing each Commissioner, the Transition Team interviewed each employee located in the EAC's Silver Spring, MD office. The interviews provided staff the opportunity to speak candidly about the operation of the EAC, their role in the organization and their viewpoints about strengths or weaknesses of the organization, as well as provide information they desired leadership to hear focusing on message and ideas rather than on individual personalities. It was also explained to each employee that the Transition Team was not evaluating personnel and that the employee could openly

share their hopes, concerns, wants, needs and ideas to better serve the future of the EAC. No individual comments would be reported to commissioners or any other person.

The Transition Team was not charged with the task of evaluating individual employee performance or effectiveness. Clearly there was neither enough time nor budget to do an extensive evaluation of each division and each individual employee. Personnel issues remain the administrative purview of the Executive Director and management staff within the rules and oversight set by the Commissioners. Through discussions with each Commissioner, the Transition Team established the scope of work for this project.

The scope of work was tailored to what is possible to study and deliver within a very short four week window. Therefore, this is not an “in-depth” evaluation of the agency but rather a snapshot of the conditions and concerns that could be gleaned within this short time period.

EXECUTIVE SUMMARY

The Transition Team of Doug Lewis and Christopher Thomas submit this Transition Report to the Commissioners of the U.S. Election Assistance Commission for their consideration in moving forward in implementing the mission of the EAC. The Transition Report addresses the following:

- Organization, staffing and work rules of the EAC
- Primary Missions of the EAC and what is necessary
 - Research
 - Clearinghouse
 - Standards Development and Voting Systems Qualification
 - Voters with Disabilities
- Other Concerns
 - EAC and NIST
 - Developing a Sense of Urgency for the Agency
 - Commissioners and Staff
 - Stakeholder Involvement and Outreach
 - Congressionally Mandated Boards & Managing Relationships
- Transition Team Backgrounds

OBSERVATIONS

It is clear that Commissioners and staff are well into generating discussions and ideas that can quickly affect the planning process and implementation phases of EAC initiatives in the coming months.

Attitudes. The Transition Team first wants to recognize the unifying spirit of both the leadership and the support staff of the EAC. The enthusiasm of the new Commissioners is welcome not only to the Transition Team but also to the great majority of the staff. Given the constant barrage challenging the need for the services of the agency and the ability of the organization to deliver those services, it was somewhat surprising to the Transition Team that so many of the staff have positive outlooks and intense dedication to the mission of the agency to make American democracy work better. While the agency has generally been supported by election professionals and the election administration community, some policy makers at the Congressional level and some policy makers at the state level have expressed criticism of the agency for the better part of four years.

The encouraging finding that there is still a strong commitment from both line staff and management staff, as well as at the Commissioner level, means there is an ability to move forward in reshaping EAC services and performance.

Also, there is great cultural diversity within the EAC, which will serve democracy and the voters of America well as the EAC identifies the programs that will advance its mission.

Restructuring. What became rapidly apparent is that structure of the EAC needs to evolve to its current staff size and budget constraints. The organization is “top-heavy” with management now that the staff has decreased from the approximate range of 60 FTEs to 25 FTEs. Adjustments need to be made given the current number of staff. It is also clear that the EAC will need additional line staff to do the work required by initiatives noted below (clearinghouse, research, standards development and testing and accessible voting for voters with disabilities). At current staffing levels (approximately 25 FTE’s) there must be a serious look at reshaping the agency to be more responsive in order to perform well-defined functions valued by stakeholders. Therefore, Commissioners may have to restructure the organization to reallocate resources necessary to meet their goals and objectives.

As noted above, there should be some “flattening” of the organization and this should be done with an eye to increasing staff at the line level to facilitate the delivery of products and services that stakeholders find valuable and that Congressional authorities are willing to fund. The Transition Team feels the EAC will be able to make the adjustments

necessary to survive and then to thrive as an effective and responsive agency for the future.

Also, it may be necessary to more closely align functions with staff which are trained for and are competent to perform the services necessary to make the agency immediately productive in responding to political and budget authorities. The EAC should work with Congressional appropriators to focus less on controlling FTE's and more on establishing priority "functions" and then staff to those priorities. The effect of limited budgets and reduction in staff over the past few years is that some staff may have skills that are not properly aligned with their assignments. Additional training may be necessary, which will take some time before having an impact on the EAC products, but necessary for longer term development and success. Investment in staff will have a positive effect on the agency and its mission. Incumbent in any restructuring is the need to align staff strengths and skills with EAC objectives and programs, which is critical to both short-term and long-term success. In some instances, retraining or additional training may not accomplish the desired objective to have staff with sufficient experience or expertise to do the job. In those cases, additional staff with the necessary experience will need to be hired.

Define Areas of Excellence or Expertise – Core Missions. The Transition Team's observation is that at least four "core missions" must be set immediately. The missions of the EAC must follow as closely as possible to those originally specified in HAVA. Therefore, the EAC needs to clearly communicate to Congressional oversight and Appropriations Committees the programs designed to achieve the EAC's missions within the available appropriations. If the agency only focuses on one core mission, such as the development and promulgation of voting systems standards and testing, then it is unlikely the agency can survive as a standalone entity.

- **Research.** The election profession and the large numbers of groups and organizations involved in election administration and voting improvements need the data that is being collected by the EAC through its Election Administration Voting Survey (EAVS). Clearly there have not been an adequate number of reports generated from vast amounts of data collected every two years from state and local election officials. For example, several individual reports could be harvested from EAVS and placed on the EAC website, such as total turnout in the past several election cycles, the source and number of voter registrations from each source and other available data.

It is recommended that EAC quickly commit to developing a substantial number of projects aimed at *applied research* rather than pure academic research. Find

those items that stakeholders want and need from the vast treasure trove of data collected by EAC that may actually result in better understanding of what and how to change processes to better serve voters. Reasonable people can disagree on exactly what is needed here, but the objective has to be to produce useful data oriented products and studies that can improve election administration.

- **Clearinghouse.** One of the historical services provided by the predecessors of the EAC is a “clearinghouse” function. The ability to share with the nation, with all 8,000 or more election jurisdictions and with groups and organizations focused on elections has been strengths of the federal government and the EAC. Due to budget and staff constraints in recent years the clearinghouse function has suffered. The quality and thoroughness of the clearinghouse function have deteriorated. Realizing the full potential of the clearinghouse requires considerable creative planning that has not yet been demonstrated by EAC. To implement and then communicate is a vital necessity not only for election administration but also for EAC. This may well necessitate rethinking how this function gets fulfilled and what skills are needed to make this a success. Communication and information are “life-blood” necessities if EAC is to be fully appreciated for its value to elections.

Listening to staff and others, it is clear that the EAC has a wealth of valuable information already in its vaults that it can quickly produce valuable “YouTube” videos from the Roundtable Series of the last few years. These videos need to be created by editing the Roundtable session into concise subject matter presentations. But that is not enough. EAC needs to enlist state governments to share such information as sample contracts for equipment and services, for data base improvements, for electronic poll worker training, for election worker evaluation systems, for better line management systems, etc.

- The EAC should compile and distribute the substantial resources developed by the Presidential Commission on Election Administration and work to maintain the tools developed to assess election-day needs.
- It can point to the successful programs launched by NGOs and election professional associations like the National Association of Election Officials (Election Center), the National Association of State Election Directors (NASSED), the National Association of Secretaries of State (NASS), the International Association of Clerks, Records, Election Officials and Treasurers (IACREOT) and others that educate on best practices or simply good ideas.

- The power of the EAC to make resources known and to provide links to data compiled by other organizations that are truly non-partisan in nature is invaluable to American democracy.
- It has to be careful not to promote studies and activities that are aimed primarily at assisting one political party's voters to the detriment of other political entities, but there is enough truly valuable information to make the clearinghouse useful. However, the Transition Team recognizes that this takes time to develop and to post on the website, which means both appropriately skilled staff and funds.

Regardless of budgetary constraints, EAC must devote more attention and resources to the clearinghouse functions. One of those concerns must be the continued improvement in the website to be functional and easier to use for website visitors. Concurrently, there needs to be greater tracking of website usage to find what are the most sought documents or links as well as requested search words; utilize website tracking to find what can best serve as useful website information.

- **Standards Development and Voting Systems Qualification.** The evolution of the development and implementation of the Voluntary Voting Systems Guidelines and the concurrent certification of testing laboratories to assure that voting equipment is functional and secure for the conduct of elections in the United States is one of the most vital functions of the agency. The program is evolving and has become far more valuable to elections administration. In the conduct of reliable and secure elections, this is the most valuable federal service related to elections. Its value cannot be overstated. At the same time there has been significant criticism of the agency and its testing and certification efforts that the program has not always been responsive to the needs of local election offices or the states in assuring that standards are current or that equipment can be validated and improved in a cost-effective and reasonable time frame. While the situation is considerably better now, the Commission must continue to listen carefully to its customers at state and local levels and work to assure that it is meeting the needs of election administration throughout the nation. The EAC is close to being able to deliver services in this area at a very high level and for which it can be justly appreciated. Also, this program will be tested in the near future as EAC contemplates how to adjust the program to accommodate the testing and certification of newer, software based voting systems not previously contemplated.

- **Voters with Disabilities: A priority.** EAC’s leadership on accessibility issues must be a priority. Accessible voting remains an unfulfilled promise for many Americans and the problem is growing. An area of expertise and focus for the agency will be how best to deliver private and independent voting for those with accessible voting needs. The voting population requiring accessible assistance is increasing nationally. Voters with disabilities currently represent approximately 10 to 15 percent of the general population. There is likely to be an exponential explosion in the number of voters with disabilities within the next few years, as the “baby boomers” grow older and live longer. More issues related to visual, physical and cognitive difficulties will be in evidence. The number of those reaching retirement age swelled more than 50 percent within the last 12 years according to the U.S. Census Bureau. The nation will be faced with a changing electorate requiring substantially more emphasis on serving voters with accessible voting needs. Equally, it is important to note that the category of voters most likely to participate is the 60 and older segment of the population. Current estimates are that 30 to 35 percent of all voters during the next 25 years will need some form of assistance at the polling place whether that is seating, wheelchair accommodations, visual aids needs or clear and easy to understand instructions. Accessibility issues for voters are rapidly affecting elections across the country. EAC will need to make this reality an area of focus and provide leadership to ensure the needs of voters with disabilities are met.

OTHER CONCERNS

Changing Budget Appropriations between EAC and NIST. It makes little sense for Congress and its appropriations committees to continue to have a separate “mark” for budget pass-through from EAC to the National Institute of Standards and Technology (NIST). It is exceedingly difficult for the EAC to explain to budget authorities how funds obligated for “elections” are actually utilized by NIST. EAC should seek congressional authority for enough money to employ NIST as a contractor when necessary (work-for-hire), to have NIST perform work that is specified and to have NIST account for funds expended and work performed.

Likewise, HAVA (the Help America Vote Act) may need some changes to determine whether there is continued need for a Technical Guidelines Development Committee specified in law and constituted by members from organizations defined in law. Some of the lessons learned in recent years indicate that EAC may now be in a better position to form technical advisory committees and structures that are more inclusive of key stakeholders to perform the functions currently handled by the TGDC. A more flexible

structure that could be reshaped as conditions change allowing a change in membership would more closely meet the needs of election administration and the voters.

There may be one or two other areas that the EAC may need to develop as resources and services that can go on the “futures” list as staff is available and funding is approved.

Developing A Sense of Urgency. To assure its continued existence, the EAC needs to instill a strong “can do” culture that does not settle for letting barriers slow it down from a high level of achievement and performance. Since the EAC serves the elections process throughout the nation and especially the election administration functions of state and local governments, it is strongly encouraged to have the agency perform much like an elections office; i.e., deadlines are real and tasks must be performed within a schedule. Election Day cannot be moved because someone is not ready or is delayed. Just as an elections office has to proceed with the attitude that failure is not an option and that election professionals will do whatever is necessary to make the election a success, it is advisable that EAC establish and maintain the same kind of disciplined approach to the functions of the agency. Part of this will be leadership by Commissioners and key management staff to assure that all believe they can help propel the agency to greater performance and respect. A strong sense of “*esprit de corps*” needs to develop and that means working together and sharing information.

It is noted that within the federal government there is a tele-working-program used by some agencies. Both policy and management decisions are needed in the area of tele-working for EAC employees. Neither Transition Team member has first-hand experience with tele-working; however, this manner of working remotely does raise the question of how every position at EAC can effectively work in this manner and whether with a more focused EAC any employee should regularly be tele-working. Consistent with the recommendation that the Commissioners embrace the sense of urgency in pursuit of its mission, it is recommended that a critical review of tele-working be undertaken to assess its impact on the increased pace and necessity to rollout new programs and products. At the very least, the Commissioners need to require very definite methods for tracking work and performance to assure accountability if employees are not working in the office.

A consistent theme in the interviews was that employees do not understand what the other divisions are doing. Over many years of dealing with several organizations, the Transition Team understands that communication issues can crop-up even in well-managed organizations. It is recommended that the management staff work on formal programs to foster better understanding and appreciation of each employee’s efforts. It is apparent that leadership provided structure in terms of office layout and location of key

staff throughout to assure better communication, but the staff has indicated a desire to have more formalized communication related to workflow and contributions.

It is recommended that additional cross-training be provided to ensure that employees can ably assist one another on major projects and in some cases on day-to-day tasks. Coupled with increased communication among division, management needs to avoid any feelings of “us versus them” and maintain the staff as a cohesive unit.

One concern that is not readily apparent to the casual observer is that the EAC staff has very little direct election administration experience. The Transition Team encourages EAC to seek and employ more experienced election professionals.

Staff Response to Commissioners’ Briefings and Involvement. Another clear comment heard was that staff overwhelmingly appreciates hearing from the Commissioners about the vision of the agency and future directions necessary to accomplish their objectives. While this can be overdone, and while it is still necessary to have separate staff meetings without the Commissioners, it is clear the employees like hearing from and having direct communication with the Commissioners. It is recommended that the Commissioners continue these sessions for as long as staff truly feels they are valuable. If limited to occasional use or special projects use, it is clear that, for now, the staff genuinely appreciate the sessions as they have a positive effect on morale.

Clearly, the staff is recognizing that there is a definite shift from the period with no commissioners to the present with three Commissioners committed to an active rollout of their objectives. The staff reaction to this inevitable shift in pace and focus will have a direct impact on implementation of the policies and operations of the EAC going forward. Current management needs to be commended for keeping the agency operating and making sure it is in proper shape to fulfill the agency’s missions as EAC adjusts to new Commissioners and policies and programs. Consistent with comments heard in the interviews, it is recommended that administrative support staff be hired or assigned to assist the Commissioners on day-to-day matters and in preparation of materials for speeches and other engagements with stakeholders and other forums. This position would interact with EAC staff when Commissioners need information from the various divisions.

Within the limitations of HAVA and other Federal laws and policies, the Commissioners should develop a balanced involvement with staff and the day-to-day operations of the EAC. It is the purview of the Commissioners to set the policies and pace by which they are to be implemented. However, the Commissioners need not, and should not, manage individual staff within the agency. That is the purview of the Executive Director along

with developing and sharing plans to implement Commission policies. There is history demonstrating detrimental organization results when there is an imbalance among Commissioners, Executive Director and staff. A good balance must be achieved and maintained as the Commissioners, as appointees, ultimately will be held accountable for the success of the agency and its employees. Concurrently, since there has been a long absence of confirmed Commissioners, everyone should be aware that adjustments may be necessary for staff and newly appointed Commissioners to find that balance.

Stakeholder Involvement and Outreach. While Congress charged EAC with providing election administration assistance (the *Election Assistance* Commission), the organization also must reach out to voters and voter groups for their input as to how best to improve the voting process for all. Historically, there are a significant number of advocacy groups concerned with barriers to participation, security interests, or insuring integrity in elections, or a whole host of other concerns. EAC should continue to listen to the concerns expressed and the ideas offered by the dedicated and passionate people who work on democracy issues. The challenge for all stakeholders is to remember that the EAC is bi-partisan and on many subjects they need to be nonpartisan. Democracy is not really democracy if rules and policies are designed to ensure election of one party over another. Finding the appropriate way to encourage the involvement of advocacy groups without then also trying to inject partisan interpretations of laws, rules or policies is the difficult part of the EAC's role in ensuring fair election administration. The Transition Team encourages outreach that has respect for the individuals and organizations dedicated to democracy and still direct the efforts of the agency to neutrality when some efforts appear to be partisan in effect.

Building Communication Through Congressionally Mandated Boards. The passage of HAVA in 2002 was a truly remarkable bipartisan Congressional reaction to a major electoral crisis. Many came together from different disciplines, ideological and partisan perspectives to fashion a positive direction for America's election process. To that end Congress recognized the diversity of interests by establishing both a Board of Advisors and a Standards Board. EAC has now properly established succession planning for any future time when no commissioners are serving to ensure that the statutory Boards do not lapse into inaction due to the lack of a Designated Federal Officer. The Transition Team recommends that EAC embrace the Boards as ambassadors to the various essential constituent officials and groups. The Boards are not adversaries to the EAC. Rather, Commissioners and staff should recognize that the Boards are independent Congressional creations and as such there should be no attempt by the EAC or any person within it to try to control nominations or elections of officers, or by-laws (except as they may conflict with federal law), establish or control agendas, or any other actions that would put the

EAC at odds with its Boards. If the EAC is willing to communicate *as requested* by the leadership or membership of the Boards, solicit advice from those Boards and give due consideration to that advice, the EAC will benefit.

Building support through diverse Boards that clearly represent political policy makers and broad stakeholders as well as the election professionals of the nation, gives the EAC an opportunity to hear concerns as well as potential solutions much earlier than would be likely without the Boards.

TRANSITION TEAM

The Transition Team consists of Mr. Christopher Thomas, who has 38 years of service in the Michigan Secretary of State's office as State Election Director. Chris is well recognized within the national elections community having served twice as President of the National Association of State Election Directors and as the original award winner of NASED's Distinguished Service Award. He was a Presidential appointee to the Presidential Commission on Election Administration which has recommended a number of policy and administrative changes that will improve American elections. Additionally, he has twice served as the Chairman of the Board of Advisors for the EAC for the congressionally created committee to advise the EAC.

The other member of the Transition Team is Mr. Doug Lewis who served for more than 20 years as Executive Director of the National Association of Election Officials (The Election Center). Doug also served as the first Chairman of the EAC Board of Advisors and remained on that body from its inception to 2015. He is a member of the Elections Hall of Fame and is also a recipient of the NASED Distinguished Service Award. He has testified to both the U.S. Senate and the U.S. House of Representatives and before many state legislatures about election administration in the United States. Washington Post columnist David Broder said Lewis is "the man who knows more about the conduct of elections than anyone else in the country." Lewis also testified to the Presidential Commission on Election Administration.

Respectfully submitted:

Christopher Thomas

and

Doug Lewis

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