

**UNITED STATES
ELECTION ASSISTANCE COMMISSION
OFFICE OF INSPECTOR GENERAL**



***U.S. Election Assistance
Commission (EAC) Top
Pandemic-Related Challenges***



U.S. ELECTION ASSISTANCE COMMISSION
1335 EAST-WEST HIGHWAY, SUITE 4300
SILVER SPRING, MD 20910
OFFICE OF THE INSPECTOR GENERAL

June 17, 2020

To: Benjamin Hovland, Chairman
U.S. Election Assistance Commission


From: Patricia L. Layfield, CPA, CIA, CISA
Inspector General

Subject: U.S. Election Assistance Commission (EAC) Top Pandemic-Related Challenges
(Assignment No. I-MC-EAC-15-20)

EXECUTIVE SUMMARY

The Pandemic Response Accountability Committee (PRAC) initiated a project to prepare a compendium of challenges in agencies that have pandemic-related responsibilities and programs receiving a portion of the \$2.4 trillion in response and recovery spending. The goal is for Inspectors General (IGs) in those agencies to identify the top challenges facing each agency as they seek to ensure pandemic funds are timely and appropriately spent. Modeled after the annual “Top Management and Performance Challenges” report that identifies the major issues the IGs find across each of our agencies, this summary is intended to focus exclusively on issues the IGs believe will prove most challenging to our agencies as they seek to meet the goals in the emergency pandemic response.

This report presents the top management challenges the EAC and its grantees face as they roll out and expend the supplemental appropriation provided under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Those challenges include resource limitations that exacerbate workload compression within EAC; risks to states’ abilities to meet matching requirements due to time and budgetary constraints; availability of accurate, complete information concerning election expenditures within the statutory timeframes; and the ability of some state legislatures to provide sufficient and timely authority to enable those states to expend CARES Act funds fully.

We compiled this report based on discussions with various personnel within EAC who are involved in areas related to the CARES Act funding, including Grants Management, Communications, and the Executive Office. We provided a draft version of this report to those

groups, obtained their feedback, and incorporated their comments into the final version. A copy of EAC management's response is included in Attachment 1.

This report is included in the PRAC compendium of top pandemic-related challenges. If you have any questions concerning this report, please contact me.

cc: Donald Palmer, Vice Chairman, EAC
Thomas Hicks, Commissioner, EAC
Christy McCormick, Commissioner
Mona Harrington, Executive Director, EAC

U.S. Election Assistance Commission (EAC) Top Pandemic-Related Challenges

BACKGROUND

In the Coronavirus Aid, Relief, and Economic Security (CARES) Act, EAC received a supplemental appropriation of \$400 million for Election Security Grants to be allocated to the states and Territories (hereinafter, states) using a Congressionally-directed formula "...to prevent, prepare for, and respond to coronavirus, domestically or internationally, for the 2020 Federal election cycle." The CARES Act also included special reporting requirements under which states "...shall provide to the Election Assistance Commission, within 20 days of each election in the 2020 Federal election cycle in that state, a report that includes a full accounting of the state's uses of the payment and an explanation of how such uses allowed the state to prevent, prepare for, and respond to coronavirus." EAC must transmit any such reports to designated Committees in Congress within three days of receipt. The fiscal year 2020 Consolidated Appropriations Act (Appropriations Act), which provided the original \$425 million for Election Security Grants supplemented by the CARES Act, required the states to match 20% of the Federal funds with state funds over the two-year period following passage of the Appropriations Act. The matching requirement from the 2020 Appropriations Act carried forward to the supplemental appropriation in the CARES Act. EAC must provide CARES Act funds within 30 days of passage and the funds are available for the states to obligate until December 31, 2020.

CHALLENGE #1 : THE RESPONSE TO THE COVID-19 PANDEMIC HAS VIRTUALLY SUPPLANTED EAC'S REGULAR WORKLOAD AND EAC RECEIVED NO SUPPLEMENTAL FUNDING TO SUPPORT THE EXTRA NEEDS.

The biggest challenge EAC currently faces is the need to redirect staffing to respond to the COVID-19 crisis. EAC's pandemic response involves providing resources to the states, distributing an additional \$400 million in grant funds (within approximately one month of distributing the original \$425 million), responding to an unusually high number of congressional and media inquiries, updating relevant best practices and research products for election officials, establishing and maintaining a new webpage devoted to administering elections during the pandemic (see [EAC Coronavirus COVID-19 Resources](#)), scheduling hearings, and providing video resources for election officials to assist them in making difficult decisions. None of the bills that have funded the Federal government's pandemic response contained any funds for EAC salaries or administrative costs to support or ease the resulting workload compression.

CHALLENGE #2: MATCHING REQUIREMENTS APPLICABLE TO THE CARES ACT SUPPLEMENTAL APPROPRIATION CREATE A POTENTIAL CONSEQUENCE WHICH, TOGETHER WITH TIMING CONSTRAINTS, MAY EFFECTIVELY PREVENT SOME STATES FROM OBTAINING AND USING THE FUNDS FULLY.

The CARES Act became law on March 27, 2020. Each state may use the Federal funds for pandemic-related costs incurred between January 20, 2020 and the end of the calendar year. States thus have a little less than a year to spend the Federal and state matching funds on a fairly narrow scope of activities and costs. By contrast, the Appropriations Act gives the states two years from passage of the law to meet the matching requirement, a provision that carries forward to the supplemental CARES Act appropriation. However, while the Appropriations Act funds may be spent on improvement of election administration, the funds for the CARES Act supplemental appropriation must be spent only for the CARES Act purposes, namely, prevention, preparation, and response to the coronavirus in the 2020 election cycle. Although EAC has worked closely with the Office of Management and Budget and relevant Congressional committee staffs to craft guidance that allows as much flexibility as possible under the law, states may have difficulty identifying pandemic-related costs on which to spend any state matching funds after the completion of the 2020 election cycle. Thus, states effectively have only a few months in which to appropriate and expend their pandemic response funds.

CHALLENGE #3: STATES MAY NOT HAVE FULL AND ACCURATE COST INFORMATION WITHIN THE 20-DAY TIMEFRAME CONTAINED IN THE CARES ACT REPORTING REQUIREMENTS.

Some states may not be able to obtain sufficient information on all of the costs for a given election within 20 days of the date of the election, so reports of expenditures required by the CARES Act may not provide a fully accurate picture of their costs. The states don't physically conduct elections; rather, thousands of local jurisdictions administer them and will need to report their expenditures to the states after completing all election-related activities. Those activities include post-election activities such as counting absentee ballots, performing audits and other processes, certifying the election, and verifying election data. Such activities at the local level may be difficult to complete in time to identify, accumulate, summarize, verify, and prepare cost information for the states to report to EAC within the 20-day requirement.

CHALLENGE #4: A FEW STATES' REQUIREMENTS FOR LEGISLATIVE ACTION COULD DELAY OR PREVENT USE OF CARES ACT FUNDING.

All 56 eligible grantees requested and received EAC CARES Act grant funding. However, two states requested only the amount of funding they would be able to match with the required state share, which was less than the full funding available to them. Those states may request additional federal funding if they can secure the additional state funds required to match their full federal allocation.

In addition, while all states requested and received funds, a few of the states that requested their full funding still need their respective state legislatures to authorize the use of the Federal funds and/or appropriate the states' matching funds. Many state legislatures have experienced altered schedules due to the pandemic and many state budgets are strained by non-election costs incurred to respond to the pandemic. Thus, some state legislatures may not be able to take action in time to allow states to use the funds during the period of availability.



*U.S. ELECTION ASSISTANCE COMMISSION
1335 East West Highway, Suite 4300
Silver Spring, Maryland 20910*

June 17, 2020

Patricia Layfield
Office of the Inspector General
1335 East West Highway
Suite 4300
Silver Spring MD 20910

Dear Mrs. Layfield,

Please accept this letter as the U.S. Election Assistance Commission (EAC) response to the Office of Inspector General (OIG) PRAC Releases Report on Top Challenges Facing Federal Agencies Related to Covid-19 Emergency Relief And Response Efforts. The EAC concurs with the Office of Inspector General's Top Challenges Facing Federal Agencies Related to Covid-19.

The EAC appreciates the additional funding that was received in FY20. But it is important to note that the funding of the Commission and its mission remains well below its historic budget in spite of now operating with a full quorum of commissioners as well as increased demands associated with the designation of elections as part of the nation's critical infrastructure. These fiscal constraints have created real challenges related to the administration of grants and responding to the COVID-19 pandemic while continuing to meet the Commission's fundamental mission requirements leading up to the 2020 Election.

The EAC requested an increase to its baseline appropriation that is instrumental to its continued success. Within a 4-month period, the agency administered over 825 million in grant funding to the states. The administration of these grants requires the EAC to meet legislatively required administrative functions associated with the grants, which includes, but is not limited to, reporting, obligation and disbursement, as well as the auditing of these funds. However, the EAC did not receive any additional funding for these critical activities. In addition, the Commission is actively responding to the challenges of the Covid-19 pandemic, without having received additional funding for critical activities that have been created by the unique challenges of a pandemic. The agency has had to reallocate resources from its legislative mission to focus on producing timely and helpful information to local and state election officials to help ensure elections are fair, accessible, safe, and accurate during this uniquely challenging environment.

This fiscal year, the Commission has been also strategically reorganized and has hired key positions, including the creation of a new cyber team to assist the states, an area that had not been funded prior to FY20. This new program shows how the additional FY20 funding enhances the agency's ability to be responsive to current needs and provide its stakeholders the best

service possible. The Commission is hopeful that the President and Congress can work together to adequately fund the agency moving forward. Should you or your staff have any questions, please feel free to contact me via mharrington@eac.gov.

Sincerely yours,

A handwritten signature in black ink that reads "Mona Harrington". The signature is written in a cursive, slightly slanted style.

Mona Harrington
Unites States Election Assistance Commission, Executive Director



Inspector General

U.S. Election Assistance Commission

This report, as well as other OIG reports and testimony, are available on the internet at:
[EAC OIG Reports Page](#)