



U.S. ELECTION ASSISTANCE COMMISSION
1335 EAST-WEST HIGHWAY, SUITE 4300
SILVER SPRING, MD 20910

OFFICE OF THE INSPECTOR GENERAL

Memorandum

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

From: *Patricia L. Layfield*
Inspector General

Date: October 21, 2020

Subject: Top Management Challenges Facing the U.S. Election Assistance Commission
Report No. I-MC-EAC-02-21

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. We added one new challenge, which is not unique to EAC: the COVID-19 pandemic response.

We are also providing updates concerning challenges we reported last year, to include vacancies in key EAC positions, the continuing effects on EAC of the declaration of election systems as critical infrastructure, and records management. We noted the progress that EAC has made on each of these issues.

If you have any questions or need additional information, please don't hesitate to contact me.

Attachment

cc: Commissioner Donald L. Palmer, Vice Chair
Commissioner Christy A. McCormick
Commissioner Thomas Hicks
Executive Director Mona Harrington
Financial Director Paul Repak

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 investigative 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 2020, the OIG is updating the status of prior year challenges. The primary challenge for 2020 and beyond is one that is not unique to EAC: the COVID-19 pandemic.

Challenge 1: Pandemic Response

Like the rest of the world, EAC found itself immersed in the effects of a global pandemic with little or no advance notice during a Presidential election year at a time when a number of states had already conducted primary elections or caucuses. Due to the hard work of a number of EAC employees, especially IT Support, EAC successfully converted from primarily in-office duty locations to 100% telework for its employees virtually overnight.

On March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) into law. The Act included \$400 million in new Help America Vote Act (HAVA) emergency funds, made available to states to prevent, prepare for, and respond to the coronavirus for the 2020 federal election cycle. This supplemental appropriation funding, distributed by the EAC, provided states with additional resources to protect the 2020 elections from the effects of the novel coronavirus. The CARES Act did not provide additional direct funding to EAC to support its efforts to meet the challenges the pandemic posed.

Using the additional funds provided in its 2020 Salaries and Expenses budget, EAC nearly doubled its size, adding significantly to its IT and cybersecurity expertise for both internal uses, and to support external needs for promoting secure and accessible elections. EAC also enhanced its communications, financial management, grants management, and program support capabilities. Using those capabilities, EAC responded to the pandemic in the following ways:

- Distributed \$400 million in CARES Act grants.
- Disseminated extensive guidance on the use of CARES Act funds, including guidance on allowable, allocable, and reasonable costs; answers to frequently asked questions; clarifications on meeting the states' CARES Act matching requirements; and other topics.
- Organized, developed, and disseminated publicly-available materials in the form of web-postings, white papers, blog posts, videos, pamphlets, etc. covering all facets of administering elections during the pandemic.
- Conducted virtual as well as in-person delivery forums, hearings, and other events.

- Provided links on its website to authoritative sources such as state websites and the Department of Homeland Security’s Cybersecurity and Infrastructure Security Agency (CISA) for information about key topics in election administration such as voting in person or by mail-in/absentee ballot, election security, cybersecurity, self-assessments, procurement, election audits, and other best practices.
- Provided cybersecurity training resources.
- Provided up-to-date information to empower voters with disabilities in the 2020 General Election and the COVID-19 crisis.
- Developing and/or promoting programs such as National Poll Worker Recruitment Day to drive awareness of the critical shortage of poll workers during the pandemic and National Voter Registrations Day to educate voters about the importance of participating and keeping registrations current.

Although some of these activities were similar to clearinghouse activities the EAC normally provides and were geared toward pandemic response, other activities were entirely new.

Updates on Prior Year Challenges

FY 2019 Challenge 1: Vacancies in Key Agency Positions – Originally Issued 2019

The Help America Vote Act (HAVA) mandated the appointment of an Executive Director and a General Counsel for terms of four years each. The Commission appointed an Executive Director and General Counsel on October 22, 2015. The four year terms of the person in each of those positions ended on October 22, 2019, and the positions became vacant, effective October 23, 2019. In addition, EAC’s part-time Grants/Financial Expert resigned, effective September 30, 2019. Among last year’s top challenges, we viewed the challenge of leading the agency through the upcoming election year as the greatest challenge the EAC faced.

In June 2020, the Commission unanimously appointed Mona Harrington to the position of Executive Director. By unanimous consent, at the same time, the Commission appointed Kevin Rayburn as General Counsel.

In October 2019, the Commission had appointed Ms. Harrington the Acting Executive Director of EAC. She came to EAC in 2018 as the Chief Information and Security Officer. In that role, she modernized EAC’s network, improved security within EAC’s information technology (IT) systems and infrastructure, and modernized EAC systems. She had prior experience in various executive roles within the Federal government.

Mr. Rayburn came to EAC from his position as Deputy Elections Director and Deputy General Counsel for the Georgia Secretary of State’s office. In that role, among other duties, he provided guidance to state and local election officials on election administration and law, ensured

compliance with state sunshine laws, helped reform the state's election code and regulations, and was an integral part in modernizing the state's voting equipment. He also previously served as Assistant Director and Counsel for the Tennessee Secretary of State's office.

EAC also hired a permanent, full-time Grants Manager in April 2020. Ms. Kinza Ghaznavi brought to EAC over 10 years of experience in the field of grants management. She has served in numerous roles at the Corporation for National and Community Service as a Program Officer, Grants Management Specialist, and Senior Grants Management Specialist. She holds a Master of Public Administration from the George Washington University.

As noted above under the discussion of EAC's pandemic response, EAC used the increase in its appropriation to nearly double its staff in areas that were critical to serving election administrators and voters.

FY 2019 Challenge 2: Elections Systems as Critical Infrastructure – Originally Issued 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 and state and local elections administrators as a crucial partner in securing the election infrastructure. EAC struggled to balance that additional role with its existing mission functions despite limited human and financial resources that had steadily decreased over a nine-year period due to decreases in appropriations.

In 2019, we reported that EAC's salaries and expenses appropriation had not grown in a manner that reflected the mission-related duties the Agency assumed upon the designation of elections systems as critical infrastructure. For fiscal year 2020, EAC received an additional \$3.3 million in its regular fiscal year appropriation, presumably to help fund the new roles and responsibilities brought on by the designation of election systems as critical infrastructure. As noted under 2020 Challenge #1 above, EAC was able to capitalize on the additional funding to bolster its staffing and provide assistance to states and voters in administering and participating in a General Election during a pandemic; however, the agency received no additional funding specifically designated for meeting the extra needs caused by the pandemic response.

FY 2019 Challenge 3: Records Management – Originally Issued 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.

At the time the OIG originally raised this issue as a significant challenge, EAC did not have formal 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. The OIG recommended that EAC 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

EAC has completed some records retention schedules and submitted the schedules to the National Archives and Records Administration (NARA) as needed. The EAC Office of the General Counsel (OGC) is reviewing and updating records retention schedules in accordance with law and regulations. OGC coordinates with NARA to ensure compliance and is in the early processes of structuring records management to incorporate the EAC Human Resources division in a more active role. Additionally, OGC staff attends meetings and trainings to remain informed on current issues in records management.



U.S. ELECTION ASSISTANCE COMMISSION
633 3rd St. NW, Suite 200
Washington, DC 20001

MEMORANDUM

Date: December 14, 2020

To: Patricia L. Layfield, Inspector General

From: Mona Harrington, Executive Director *Mona Harrington*

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

The EAC concurs with the top management challenges outlined by the EAC Inspector General.

The EAC feels that the findings predominately result from the Commission remaining grossly underfunded over the last decade. Between 2010 and 2019, the EAC's budget significantly declined by nearly 50%. During that time, the agency assumed more responsibility with even fewer resources. In January 2017, the Department of Homeland Security (DHS) designated the nation's election administration infrastructure as critical infrastructure. Following this designation, the EAC played a key role in helping DHS create and co-chair the Executive Committee of the Government Coordinating Council (GCC) that would help secure and monitor the security of the nation's elections. In Fiscal Year (FY) 2018, the EAC had a one-time increase of \$500,000 in Salaries and Expenses (S&E) to support the administration of the \$380 million of new HAVA Grants that were directly disbursed to states. However, in FY 2019, the EAC received its lowest appropriation of \$7.95 million for S&E. Overall, with the added critical infrastructure responsibilities, ongoing grant oversight, a full quorum of Commissioners (the first time since 2010), a reduced staff and decreasing budget, the EAC faced many challenges heading into the 2020 Presidential Election.

In FY 2020, Congress acknowledged the limited resources and appropriated \$15,171,000 (\$11,271,000 for S&E) for the EAC, the highest level since 2011 and a 40% increase from the year before. In addition, the agency received \$425 million in election security grant funds to disburse directly to states. In late March, in response to the COVID-19 pandemic, Congress appropriated an additional \$400 million in CARES grant funding for the EAC to disburse to states "to prevent, prepare for and respond to coronavirus, domestically or internationally for the 2020 Federal election cycle." However, these funds did not include additional administrative funds the agency requested to effectively disburse and conduct oversight of the grants. The EAC was very appreciative of the FY 2020 increase but recognizes that there is

more work to do in expanding existing programs and responding to the COVID pandemic, which has increased the workload for election officials as it relates to increased mail/absentee ballots, providing safe and sanitary conditions for in-person voting and promoting voter confidence through outreach campaigns. The pandemic has highlighted subject areas that the EAC needs to enhance such as expanding the clearinghouse function, grant oversight, accessibility, maintaining and adopting an agile VVSG, and non-voting technology program. Additional funds to support existing and new programs will take the agency to the next level of providing the necessary resources that election officials and voters need. As the federal government, a trusted source of election information, the EAC doesn't currently have resources to create important tools for voters. Unfortunately, there are many non-governmental organizations that are distributing or hosting election information in numerous formats that are not always correct, leading to inadvertent misinformation. The EAC seeks to build website tools that benefit election officials and voters. Also additional funds are critical to assist the agency with all federal compliance initiatives such as Federal Information Security Modernization Act (FISMA), modern and secure IT systems, record keeping, and numerous other compliance initiatives that require expertise and resources to implement and maintain the building blocks of a federal agency.