
OFFICE OF INSPECTOR GENERAL
U.S. Election Assistance Commission

**MANAGEMENT CHALLENGES
FOR THE U.S. ELECTION
ASSISTANCE COMMISSION IN
FISCAL YEAR 2023**



Introduction

This is the Office of Inspector General's (OIG's) independent assessment of the top management challenges facing the U.S. Election Assistance Commission (EAC). The Reports Consolidation Act of 2000 requires us to annually update our assessment of EAC's "most serious management and performance challenges facing the agency and briefly assess the agency's progress in addressing those challenges."¹

Based on our oversight work, we identified four challenges EAC must navigate to fully meet its mission:

- Addressing the Gap Between Expectations and Funding
- Attracting and Retaining a Highly Skilled Workforce
- Navigating Restrictions to Meet Customer Service and Critical Infrastructure Goals
- Providing Effective Oversight of Grantees

In this year's report, we have added significant context for the challenges and focused on those areas that most impact the agency's ability to help election officials improve the administration of elections and help Americans participate in the voting process. The report includes a description of all four challenges, EAC's progress in addressing them, and the work that remains to be done. We note that some of the challenges stem from factors beyond EAC's full control.

We are committed to providing timely oversight of EAC's programs and operations and this report will help inform OIG's work.

¹ The Reports Consolidation Act of 2000, § 3, Pub. L. 106-531 (amending 31 U.S.C. § 3516).

Addressing the Gap Between Expectations and Funding

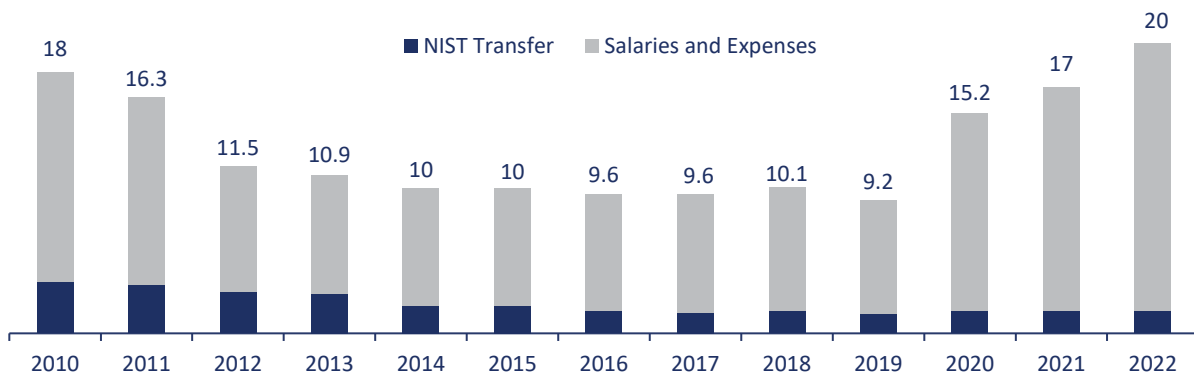
The Help America Vote Act (HAVA) was enacted in 2002 “to replace punch card voting systems” and establish the U.S. Election Assistance Commission (EAC). EAC was founded as an independent entity, charged with assisting in the administration of federal elections. HAVA authorized EAC to be appropriated for each of the fiscal years 2003 through 2005.² Today, EAC is the only federal agency with a specific mandate to help improve U.S. election administration.³ Its fiscal year 2022 appropriation was \$18.5 million.⁴

In contrast to EAC’s \$18.5 million in salaries and expenses, the Federal Election Commission—charged with protecting the campaign finance process—had a fiscal year 2022 appropriation of \$74.5 million, over four times as much as EAC.

Why is This a Challenge?

There has been an increased interest in elections and intensified demand on election workers. The U.S. election system has been impacted by physical and cybersecurity threats, misinformation, and supply chain challenges.⁵ Despite the volatility of the environment, the EAC budget has increased marginally after comparably low funding from 2012 to 2019. In both 2021 and 2022, the budget showed an uptick from recent years, but still tracked with 2010 funding levels, as shown in Figure 1. Adjusting for inflation, the 2022 budget would be less than 2010 funding levels.⁶

Figure 1. EAC Budget, 2010 – 2022 (\$ Millions)



² Help America Vote Act of 2002, Public Law 107-252 § 201 and 210.

³ Other federal agencies have roles in regulating or supporting U.S. campaigns or federal elections. Congressional Research Service, *Federal Role in U.S. Campaigns and Elections: An Overview* (September 2018).

⁴ Consolidated Appropriations Act, 2022, Public Law 117-103.

⁵ [Election Infrastructure Subsector-Specific Plan: 2022 Status Update \(cisa.gov\)](https://www.cisa.gov/election-infrastructure-subsector-specific-plan-2022-status-update).

⁶ According to the Bureau of Labor Statistics consumer price index, prices today are 1.37 times higher than average prices since 2010.

EAC's 47 staff members (including four bipartisan Commissioners) are responsible for the three main functions outlined in HAVA: (1) testing and certification of voting systems, (2) providing a clearinghouse of information for election officials and the public, and (3) distributing grants to states and territories.⁷ With an increased interest in elections and the accompanying challenges, expectations for EAC have also increased. However, funding has not kept pace with the changes and staff are tasked with fulfilling increased program and support functions. For example, EAC reported an increase in Freedom of Information Act requests, lawsuits, media attention, and legislative proposals. In the absence of a dedicated legislative office, Office of General Counsel staff members are tracking over 100 bills related to elections, many that require EAC's feedback.

Stakeholders have also asked for EAC programs to expand. Most recently, EAC's Testing and Certification program, which is run by four full-time staff, has been called on to perform penetration testing on voting systems and to set up a regional audit function to report on anomalies in the field.⁸ Related to national security, the office is also working to get voting system test labs accredited to new standards that increase cybersecurity and auditability of voting systems. The EAC Clearinghouse, responsible for compiling information and review of procedures related to the administration of federal elections, is regularly asked to gather information from states and territories or to produce material to help support election administrators. In another example, EAC's Grants Office's four employees act as both grant administrators and program managers for millions of dollars in grants across 56 recipients. Despite growing expectations from some stakeholders, EAC also faces the introduction of new bills, including one that outlines responsibilities and limits resources of the Commission.

Progress and Ongoing Work to Address the Challenge

EAC leadership remains committed to the responsible stewardship of federal taxpayer funds and providing support to states and territories in the administration of elections. To address the funding challenges and increased expectations, EAC reported it has proposed pilot initiatives to the Office of Management and Budget (OMB) to responsibly and incrementally expand programs. EAC's request for funds in the *Fiscal Year 2023 Congressional Budget Justification* includes a pilot testing program for electronic poll books, a new form of competitive Election Innovation Grant funding for states, piloting of an audit program for voting systems to include field inspections of certified voting systems, and post-manufacturing audits of voting system equipment.⁹

Additionally, EAC requested language be added to HAVA that authorizes the Commission to submit budget estimates, legislative recommendations, testimony, or legislative comments to Congress concurrently with the President and OMB.

⁷ Help America Vote Act of 2002, Public Law 107-252 § 202.

⁸ There are currently two vacancies in Testing and Certification and three people have been hired but not yet onboarded. The additional employees will bring the total to five, according to EAC.

⁹ U.S. Election Assistance Commission, *Fiscal Year 2023 Congressional Budget Justification*, [US EAC - FY 2023 Congressional Budget Justification](#).

Work that Needs to Be Done

This management challenge is largely contingent on external factors. To fully address the challenge, EAC must continue to advocate for funding, demonstrate progress, and work with stakeholders to manage expectations.

Attracting and Retaining a Highly Skilled Workforce

Strategic human capital management is listed in the Government Accountability Office's (GAO) most recent list of areas at high risk for fraud, waste, abuse, or mismanagement in the federal government. The report notes that "mission-critical skills gaps both within federal agencies and across the federal workforce impede the government from effectively serving the public and achieving results."¹⁰

The success of EAC's mission relies on the Commission's ability to attract and retain a highly skilled workforce. However, as mentioned in the previous challenge, EAC has limited staff and a growing mandate, and conditions make this challenging to overcome.

Why is This a Challenge?

In addition to meeting its obligations in HAVA, as a small agency, EAC still has the responsibilities of a large agency but with fewer resources to address Executive Orders and other federal requirements. EAC's executive salary caps and restrictions on the Commissioners further hamper the ability to recruit and retain employees.

Small agency. Losing even one employee can be critical for EAC since most departments average about four staff members. The lack of depth results in an increased need for strong policies, complete records, and standard operating procedures. However, implementation of these often falls to the wayside since the work of a small office is limited to ensuring operations occur, responding to ad hoc requests, and meeting deadlines. An OIG recommendation to enhance records management and documentation of policies and procedures has remained open since 2017.¹¹

Furthermore, such departments provide little opportunity for advancement within EAC, and workload provides minimal time for professional development. These challenges impact morale and retention. Per EAC leadership, attrition often occurs, with staff leaving for opportunities with more growth.

¹⁰ U.S. Government Accountability Office, *High-Risk Series: Dedicated Leadership Needed to Address Limited Progress in Most High-Risk Areas (GAO-21-199SP)*, ([gao.gov](https://www.gao.gov)).

¹¹ U.S. Election Assistance Commission, Office of the Inspector General, *EAC Policy Review Final Report* (I-PA-EAC-03-17, August 2017).

Vacancies and salary caps. In February 2022, the EAC Executive Director and General Counsel positions became vacant, and EAC reports difficulty filling the positions mainly due to salary caps. HAVA allows the Executive Director, General Counsel, and staff of the Commission to be appointed without adhering to competitive service restrictions, but they must not be paid more than the annual rate of basic pay for level V of the Executive Schedule,¹² or \$165,300.¹³ Additionally, there is a lack of Executive Director applicants who have both federal and elections experience.

According to EAC, such limitations create a challenge in retaining employees who can leave for more money and career opportunities with other federal agencies or for election-related positions at the Department of Homeland Security (DHS). Leadership reports that the salary cap is not comparable to other executive-level positions in the federal government, making recruitment difficult.

Commissioner salary restrictions. EAC has four bipartisan Commissioners that are, in accordance with HAVA, compensated at the annual rate of basic pay for level IV of the Executive Schedule (one step higher than the Executive Director).¹⁴ However, the Commissioners continue to be impacted by the Office of Personnel Management pay freeze for senior political officials. With restrictions, some senior political officials can partake in other activities, but HAVA specifically states that the Commissioners may not engage in any other business, vocation, or employment while serving as a member of the Commission. These restrictions limit the desirability of these presidentially nominated and Senate confirmed positions, yet a quorum of Commissioners is critical to EAC's functions.

Progress and Ongoing Work to Address the Challenge

To ensure continuity and knowledge of federal operations, EAC hired an Interim Executive Director with decades of federal experience and previous EAC experience.¹⁵ This person named a Chief Operating Officer (a position that had been vacant for years) and hired a Compliance Officer to ensure that if an Executive Director without federal experience is selected, the Chief Operating Officer and Compliance Officer can help with continuity of operations and adherence to federal requirements.

EAC has also been working to close a 2017 OIG recommendation on records management and policies and procedures documentation. EAC contracted a firm to establish policies and training for human resource functions, and EAC's Office of General Counsel completed a records policy in collaboration with the National Archives and Records Administration. Leadership is also hopeful that the hiring of the Compliance Officer will be pivotal in ensuring divisions establish and implement standard operating procedures.

¹² Help America Vote Act of 2022, Public Law 107-252 § 204.

¹³ U.S. Office of Personnel Management, *Salary Table No. 2022-EX*, [SALARY TABLE 2022-EX \(opm.gov\)](#).

¹⁴ Help America Vote Act of 2022, Public Law 107-252 § 203.

¹⁵ U.S. Election Assistance Commission, *About U.S. EAC*, <https://www.eac.gov/about/staff-directory/mark-robbins>.

To address challenges with recruitment and retention, EAC hired a Human Resources Manager, has used flexibilities such as remote work to attract and retain staff in key positions, and has used recruiting services to help identify Executive Director applicants. Finally, EAC continues to propose legislative changes to modify HAVA restrictions that make hiring and recruitment particularly difficult.

Work that Needs to Be Done

Despite the limitations of being a small agency, EAC needs to strategically address onboarding, training, and opportunities for career development and retention. Likewise, EAC must fully implement its new policies and procedures to mitigate the risks associated with a challenged workforce.

Navigating Restrictions to Meet Customer Service and Critical Infrastructure Goals

EAC provides guidance and best practices to states and territories to assist in their administration of federal elections, acting as a customer service agency rather than a regulatory agency. HAVA mandates that the Commission serve as a national clearinghouse and resource for the compilation of information with respect to the administration of federal elections, but Section 209 is clear about the limitations on rulemaking.¹⁶ As part of this role, EAC is a conduit for information to flow to state and local election officials, including information about the election system's place in the nation's critical infrastructure—a determination made in 2017.

Why is This a Challenge?

For EAC to fulfill its role as a customer service agency supporting critical infrastructure, it must continue to overcome challenges related to the Paperwork Reduction Act and federal coordination efforts.

Paperwork Reduction Act of 1995. When the Federal Election Commission clearinghouse duties were transferred to EAC, the exemption to the Paperwork Reduction Act (PRA) was not. The PRA requires an agency to submit a plan to OMB before collecting information from the public. Agencies must seek public comment on proposed collections through a 60-day notice before submission and certify to OMB that the proposed collection reduces the burden on respondents for local government and other small entities. The process takes approximately 6 to 9 months and is generally applicable when asking for the same information from 10 or more people or entities. HAVA mandates that EAC compile and disseminate information on aspects of election administration and voting. One way EAC collects information is through the Election

¹⁶ Help America Vote Act of 2002, Public Law 107-252 § 202 and 209.

Administration and Voting Survey (EAVS) every 2 years, but because of the length of the PRA process, EAC is consistently undergoing some aspect of PRA, which hinders the effectiveness and ability to be agile when asking survey questions.

EAC has received positive feedback about its resources and guidance. For example, GAO completed a report on the state and local perspectives of election officials during the COVID-19 pandemic and found that nearly all states and some local jurisdictions that responded reported that they used EAC information resources and guidance during the pandemic. Nearly all states used information about CARES Act grants. Most states also reported finding EAC's information helpful during the 2020 elections.¹⁷ Despite the positive feedback, EAC leadership stated the Clearinghouse and Research offices could provide even more timely resources and training to states if they did not face the restrictions of the PRA. Additionally, when EAC is asked by other federal stakeholders for input from states, it could more quickly and easily obtain the information if EAC had an exemption from the PRA.

Critical infrastructure coordination responsibilities. The 2013 Presidential Policy Directive 21 (PPD-21) designated 16 critical infrastructure sectors “systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.”¹⁸ In 2017, the Secretary of DHS designated U.S. election systems as part of the nation's critical infrastructure, under the Government Facilities Sector. The Election Infrastructure Subsector covers a range of assets, including facilities, polling places, centralized vote tabulation locations, registration databases, voting machines, and other systems.¹⁹ The designation by DHS established elections systems as meeting the definition of critical infrastructure and being secured to safeguard the democratic process.

Despite the designation, as a small agency, not everyone is familiar with EAC and its national security role in testing the nation's voting systems. While other federal agencies are aware of one another's roles in the elections space, other stakeholders and state entities may not be as familiar. For example, some leaders cited that EAC is not always invited to discussions. In one instance, legal reports were provided to DHS for comment when EAC had jurisdiction over the matter.

Historically, GAO has noted that interagency coordination is a longstanding challenge in the federal government, particularly when agencies are coordinating crosscutting missions.²⁰ More recent GAO work highlights best practices for interagency working groups such as defining

¹⁷ U.S. Government Accountability Office, *State and Local Perspectives on Election Administration during the COVID-19 Pandemic* (GAO-22-104731, July 2022).

¹⁸ The White House, Office of the Press Secretary, *Presidential Polity Directive: Critical Infrastructure Security and Resilience*, (PPD-21), February 12, 2013.

¹⁹ U.S. Department of Homeland Security, “DHS Cybersecurity Services Catalog for Election Infrastructure.”

²⁰ U.S. Government Accountability Office, *Barriers to Interagency Coordination* (GGD-00-106, March 2000).

outcomes; measuring performance and ensuring accountability; establishing leadership approaches; and using resources, such as funding, staff, and technology.²¹

Progress and Ongoing Work to Address the Challenge

EAC has requested it be added to the list of PRA-exempt agencies. In lieu of an exemption, EAC reports it diligently plans work while accounting for delays related to the PRA and relies heavily on its advisory boards to willingly provide timely, anecdotal information. HAVA outlines three required boards to advise EAC: the Technical Guidelines Development Committee (TGDC), the Standards Board, and the Board of Advisors.²² In 2021, EAC also established the Local Leadership Council to get input from local election leaders across the country.

After the designation of the election system as critical infrastructure, a Government Coordinating Council and Sector Coordinating Council were established. EAC participates in the councils and requested that DHS name EAC as a Co-Sector Specific Agency. In 2020, the Joint Election Infrastructure Subsector-Specific Plan was established and with the evolving threats to elections, the plan was updated in 2022. The mission, as stated in the 2022 plan, is “To coordinate efforts by state and local election officials, private sector and non-profit partners, and the Federal Government to manage risks and secure election infrastructure against new and evolving threats.”²³ The plan describes task forces to address current issues. EAC reports it recently became an active participant in task force meetings and strives to comment and be included when election-related topics are discussed.

Work that Needs to Be Done

This management challenge is largely contingent on external factors. To fully address the challenge, EAC must continue to advocate for an exemption to the PRA and inclusion in federal working groups. EAC also must advocate for employing best practices for interagency working groups.

Providing Effective Oversight of Grantees

EAC awards grants, provides guidance on the appropriate use of funds, and monitors how states and territories spend funds by reviewing financial and progress reports. From 2010 until 2018, no new grant funding was made available through HAVA. From 2018 to 2020, EAC awarded \$805 million in federal funds to the 50 states, the District of Columbia, and 5 U.S. territories (American Samoa, the Commonwealth of Puerto Rico, Guam, the Northern Mariana

²¹ U.S. Government Accountability Office, *Implementation Approaches Used to Enhance Collaboration in Interagency Groups* (GAO-14-220, February 2014).

²² Help America Vote Act of 2002, Public Law 107-252 § 201.

²³ [Election Infrastructure Subsector-Specific Plan: 2022 Status Update \(cisa.gov\)](https://www.cisa.gov/election-infrastructure-subsector-specific-plan-2022-status-update).

Islands, and the United States Virgin Islands). In 2022, EAC received \$75 million in grant funds to distribute to all 56 states and territories for election security.

Why is This a Challenge?

EAC's ability to obligate and oversee grant funds is influenced by several challenges:

- **Grant requirements.** EAC administers formula grants based on requirements that are set in HAVA Section 101(d). Formula grants are funding programs where grantees do not compete, even though they must apply and meet other specified requirements. States and territories are allotted a minimum amount, with remaining funds being allocated based on the percentage of voting age population in the state. Some HAVA funds remain available until expended. Others, such as the Coronavirus Aid, Relief, and Economic Security (CARES) Act funds, were available for a limited time.

Typically, the appropriations require EAC to distribute the funds within a certain number of days. For example, EAC was required to make the 2022 election security payments within 45 days of the appropriation.²⁴ The nature of the grants limit EAC's ability to assess a grantee's internal controls and ability to responsibly use federal funds for authorized purposes prior to disbursement.

- **Grantee capacity.** HAVA has specific requirements that differ from other funds; for example, the grants have no expiration and are required to be put in a separate interest-bearing account. There are also reporting requirements (e.g., states were required to complete quarterly financial reporting and annual progress reporting for 2022 grants). Until 2018, for 8 years, no HAVA funds were appropriated. Turnover at election offices and local levels, compounded by inconsistent funding levels, means the grants office spends a lot of time doing capacity building, reviewing, following up on mandatory reporting, and answering questions from grantees.
- **Stakeholder interest.** Stakeholders often inquire about how states are spending their grant money or why they are not spending their money. The grants office fields many requests for information but cannot easily obtain it due to PRA restrictions and the longtime absence of a grants management system.

These challenges are compounded by the grants office's small size. The office consists of a director, one part-time contractor, and three full-time staff. Often, a federal grants team consists of program officers that provide technical assistance and grant administrators; however, at EAC, staff fill both roles while also responding to inquiries from stakeholders.

²⁴ Consolidated Appropriations Act, 2022, Public Law 117-103.

Progress and Ongoing Work to Address the Challenge

The grants office was made a standalone office, which reports to the EAC Executive Director, in FY 2021. EAC also invested in a grants management system in FY 2021 to automate its grant administration functions.

To address the challenges related to grants management, EAC has explored various avenues. For example, it withheld money to states that were not meeting federal reporting requirements, and even referred two states to be audited. Also, the *Fiscal Year 2023 Congressional Budget Justification* includes a request for a new form of competitive Election Innovation Grant funding for states that would allow the grants office to provide funds based on proposals evaluated on set criteria.²⁵ Due to challenges associated with HAVA grants having no expiration, EAC began doing administrative closeouts every 5 years to add another measure of oversight to the process.

Work that Needs to Be Done

EAC has made strides to strengthen its grant oversight program, but there are still opportunities to improve. OIG's recent HAVA audit reports highlight the need for EAC's continued attention toward reviewing federal financial reports for accuracy and reconciliation to the general ledger, ensuring states are properly earning and reporting interest income on HAVA funds, and ensuring that states have procedures to properly monitor inventory control and subrecipients (i.e., counties).²⁶ OIG is committed to working with the grants office to hold accountable those states that are not filing required reports.

Additionally, GAO recommended that EAC assess its administration of CARES Act grants to document any lessons learned and, to the extent practicable, implement applicable lessons.²⁷ However, it remains important to emphasize that the PRA limits EAC's ability to timely collect feedback from grantees.

²⁵ U.S. Election Assistance Commission, *Fiscal Year 2023 Congressional Budget Justification*, [US EAC - FY 2023 Congressional Budget Justification](#).

²⁶ U.S. Election Assistance Commission, Office of the Inspector General, Audit of the Help America Vote Act Grants Awarded to the State of California (G22CA0009-23-01, October 2022); U.S. Election Assistance Commission, Office of the Inspector General, Audit of the Help America Vote Act Grants Awarded to the Commonwealth of Pennsylvania (G22PA0014-22-07, September 2022); U.S. Election Assistance Commission, Office of the Inspector General, Audit of the Help America Vote Act Grants Awarded to the State of Delaware (G22DE0010-22-06, September 2022); U.S. Election Assistance Commission, Office of the Inspector General, Audit of the Help America Vote Act Grants Awarded to the State of Washington (G22WA0015-22-04, September 2022); U.S. Election Assistance Commission, Office of the Inspector General, Audit of the Help America Vote Act Grants Awarded to the State of Indiana (G22IN0011-22-03, September 2022); U.S. Election Assistance Commission, Office of the Inspector General, Audit of the Help America Vote Act Grants Awarded to the State of Arizona (G22AZ0008-22-01, August 2022).

²⁷ U.S. Government Accountability Office, *Election Assistance Commission: Assessment of Lessons Learned Could Improve Grants Administration* (GAO-22-104313, November 2021).




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

MEMORANDUM

DATE: 10/25/2022

TO: Brianna Schletz, Inspector General

FROM: Mark A. Robbins, Interim Executive Director 

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

The Election Assistance Commission (EAC) concurs with the top management challenges outlined by the EAC Inspector General. This report provides additional context to these challenges, and we appreciate the feedback and perspectives of the Inspector General on these important matters.

The challenges identified by the Inspector General continue to flow from the historical and continuing underfunding of the Commission and statutory limitations placed upon the agency. As noted in the report, the interest in, and complexity of, election administration has accelerated in recent years. The national security importance in the testing and protection of our voting systems has never been more elevated. Election officials face unprecedented challenges including physical threats, cybersecurity challenges, and an increasing level of mis-, dis-, and mal-information, among others. As the only federal agency focused solely on election administration, the EAC is committed to assisting election officials as they respond to this evolving landscape and prepare for the challenges to come. This necessitates that the agency remains agile, responsive, and on the cutting edge of election administration topics to address these emerging challenges and the growing needs of election officials in real time.

Despite the increasing importance and timeliness of the agency's work, the EAC has remained drastically underfunded leading to many of the challenges identified by the Inspector General. The Inspector General correctly notes that in comparison to similar federal agencies and historic EAC funding levels, the agency has seen no increase in funding from 2010 when factoring in inflation. Additional funding in line with other federal agencies would allow the EAC to recruit adequate staffing levels to serve all the agency's stakeholders including election officials, Congress, and the American public.

While an increase in funding would allow the agency to recruit more staff, the agency faces numerous statutory challenges in both retaining those employees and utilizing them to the greatest benefit of the agency's mission. The EAC is appreciative of the Inspector General's discussion of both the statutory pay-cap and Paperwork Reduction Act (PRA) restrictions placed upon the agency and the ramifications of those measures. The EAC believes that lifting the pay

cap restrictions would allow the agency to recruit and retain highly skilled employees. An exemption to the PRA would enable the agency to better understand and rapidly respond to the pressing needs of our stakeholders, and provide increased oversight of grant funds.

The EAC is appreciative of the work of the Inspector General to identify and provide significant context for the underlying causes of the management challenges. The agency looks forward to implementing the recommended steps identified in this report and continuing to address these challenges to the extent possible absent Congressional action.



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