



U.S. ELECTION ASSISTANCE COMMISSION
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OFFICE OF THE INSPECTOR GENERAL

Memorandum

To: Thomas Hicks
Chairman, U.S. Election Assistance Commission

Patricia L. Layfield

From: Patricia L. Layfield
Inspector General

Date: October 15, 2018

Subject: Top Management Challenges Facing the U.S. Election Assistance Commission
Report No. I-MC-EAC-03-19

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.

The only remaining challenge from last year is the issue of records management, on which EAC has completed several key initiatives. We have noted the progress that EAC has made on each of the previously identified challenges. For fiscal year 2018, I am reporting a new challenge: the lack of a quorum on the Commission.

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

Attachment

cc: Commissioner Christy A. McCormick, U.S. Election Assistance Commission
Brian Newby, Executive Director, U.S. Election Assistance Commission
Cliff Tatum, General Counsel, U.S. Election Assistance Commission
Mark Listes, Director of Policy, U.S. Election Assistance Commission
Brenda Soder, Director of Communications

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 2018, the OIG is reporting on one challenge, Records Management that we have reported for a number of years. We have added one additional challenge for 2018, the absence of a quorum on the Commission.

Status of Previously Reported Challenges

Strategic Planning – Originally Issued 2008

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

Since the description of the planning challenge arose in 2008, EAC acquired three Commissioners, a new Executive Director and a new General Counsel. Together, they made significant progress toward meeting this challenge and developed a comprehensive communications strategic plan. The agency has also developed policies and procedures for the Communications Division and the research process. An OIG audit completed in August 2017 recommended the EAC develop, document and implement a 5-year strategic plan and enhance the record management system to document decisions, operations, policies, procedures, and practice. During 2018, EAC developed and implemented a strategic plan and has used it in developing annual plans. Thus planning is no longer the significant challenge it once was.

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 as a crucial partner in spite of having limited human and financial resources that have steadily decreased over the past few years due to decreases in congressional appropriations.

EAC's role in supporting the protection of election systems as critical infrastructure has evolved into an everyday function within its clearinghouse mission. EAC is a member of the Government Coordinating Council (GCC) and serves as a distribution channel to state and local officials. To enhance its readiness to fulfill its mission, EAC has added or shifted some personnel duties and is creating a cybersecurity position within the agency.

Challenge 1: 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. In that regard, since its inception in December 2003, the EAC has seen eight commissioners, two general counsels, and program directors come and go.

The EAC did not have 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 lack of an approved system for records retention leaves the EAC vulnerable to lawsuits by information requesters and susceptible to waste, fraud, or abuse of its resources and the intentional destruction of government records in violation of federal law. The EAC should take steps to 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 record.

EAC's Progress

In March 2013, the Executive Director of EAC signed a document titled, U.S. Election Assistance Commission (EAC) Records Management Standard Operating Procedures. EAC has completed the records retention schedules for the Office of Inspector General, Human Resources, the Executive Director, the Commissioners, the General Counsel, the Chief Financial Officer, and Grants and Communications and submitted the schedules to the National Archives and Records Administration (NARA) as needed. The schedules for the Research Division and Testing and Certification have been developed. EAC had begun to plan for a system to organize and archive EAC emails, which was due to be completed by December 31, 2016.

During 2018, EAC implemented a new e-mail system with automated indexing that allows the agency to index, search, and retrieve records electronically. EAC has also identified means by which the agency can convert or capture records created using previous e-mail systems. EAC hired a new Chief Information Officer, who will complete the task to configure electronic records retention. EAC has scanned paper copies of records and saved them in portable document format (PDF). EAC has coordinated with the NARA to provide training for all employees. The agency believes retention of electronic records is on schedule to comply with the required 2019 deadline.

EAC also prepared records retention schedules for its Testing & Certification and Research divisions. Those schedules are ready to be submitted for review and approval by NARA.

Challenge 2: Lack of a Quorum on the Commission – New in 2018

Early in 2018, one of EAC's Commissioners resigned. Because EAC has only had three Commissioners since January 2015, his departure left the Commission without a quorum. The EAC requires a quorum in order to adopt policies, including policies related to the National Voter Registration Act (NVRA), the Voluntary Voting System Guidelines (VVSG), among others. EAC has adopted a new strategic plan and needs to reconsider certain policies in order to adapt to declining budgets. Without a quorum, adoption of policies that will allow EAC to continue to move forward could be delayed.

EAC was recently advised that the President has nominated two individuals to fill the vacant Commissioner positions. Prompt installation of two new Commissioners would aid the EAC in adopting the policies necessary to modernize the organization as well as the standards and guidelines it promulgates.