



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

OFFICE OF THE INSPECTOR GENERAL

Memorandum

To: Christy A. McCormick
Chairwoman, U.S. Election Assistance Commission

Patricia L. Layfield

From: Patricia L. Layfield
Inspector General

Date: November 5, 2019

Subject: Top Management Challenges Facing the U.S. Election Assistance Commission
Report No. I-MC-EAC-03-20

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 challenges from prior years are the issue of records management, on which EAC has completed several key initiatives, and the continuing effects on EAC of the declaration of election systems as critical infrastructure. We noted the progress that EAC has made on the records management issue. For fiscal year 2019, I am reporting a new challenge: vacancies in key Agency positions.

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

Attachment

cc: Commissioner Benjamin W. Hovland, Vice Chair
Commissioner Donald L. Palmer
Commissioner Thomas Hicks

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 2019, the OIG is reporting on two challenges, Records Management and Elections Systems as Critical Infrastructure that we have reported in prior years. We have added one additional challenge for 2019, key Agency vacancies.

Challenge 1: Vacancies in Key Agency Positions

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.

On October 19, 2019, the Commission approved a Succession Plan. Under the plan, the Commissioners identified the positions of General Counsel (as required by HAVA), then Chief Operating Officer, who would become Acting Executive Director in the event that the Executive Director position became vacant. As of the date of the Executive Director's departure, both of those positions were vacant. In the interim, based on the Commission's approved Succession Plan, the Chief Information and Security Officer has added to her existing duties those of Acting Executive Director. EAC is also working to obtain legal counsel on an interim, reimbursable basis while the Agency conducts a recruitment process.

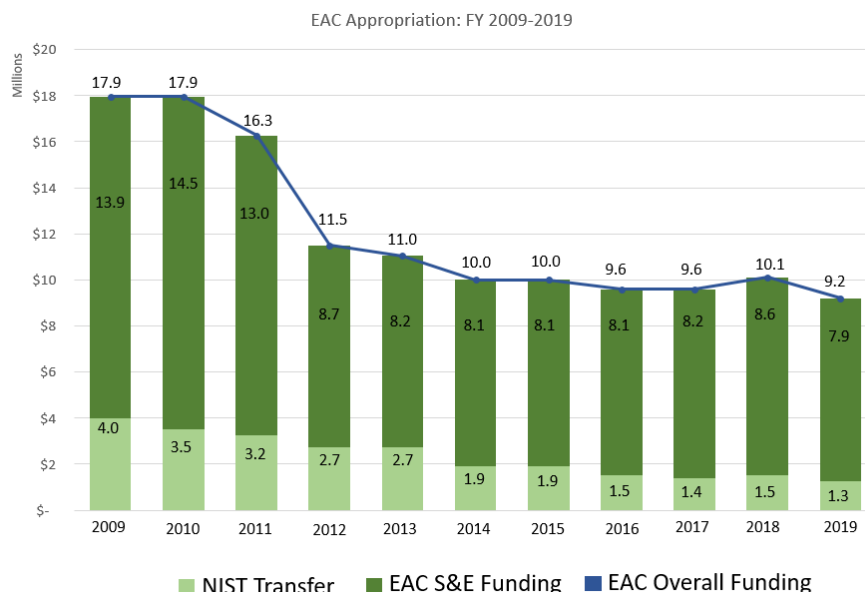
EAC posted job announcements on USAJobs.gov for both the Executive Director and General Counsel positions. Both announcements are slated to close on November 28. EAC and its Human Resources service provider will screen, prepare, and refer qualified applicants for the Executive Director position to the Executive Director Search Committees of the Standards Board and Board of Advisors. Under HAVA, the Commission is required to consider recommendations from the Search Committees. Although the Commission is not bound by those recommendations, they carry great weight in the Commission's deliberations.

HAVA does not require the Commission to obtain similar recommendations from its advisory boards to hire a General Counsel. EAC expects the Commission to begin interviews once they identify qualified applicants.

Before the previous Executive Director's departure, EAC began a recruitment for a full-time grants expert to replace and expand upon the role of the Grants/Financial Expert. The Agency identified several promising candidates and expects to bring the grants expert on board by late November or early December.

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 has struggled to balance that additional role with its existing mission functions despite limited human and financial resources that have steadily decreased over the past few years due to decreases in appropriations.



EAC's role in supporting the protection of election systems as critical infrastructure has evolved into an integral function within its clearinghouse mission. For example, EAC is a member of the

Government Coordinating Council (GCC) and serves as a distribution channel to state and local officials.

However, EAC's salaries and administration appropriation has not grown in a manner that reflects the mission-related duties the Agency assumed upon the designation of elections systems as critical infrastructure. Early on, EAC functioned as a liaison between the DHS and state and local election officials. Although that particular role has declined, the EAC's clearinghouse function continues to provide publications, training, and other materials and services to assist election officials in understanding and addressing election security, including cybersecurity. Funding constraints have also stymied EAC's plans to hire a cybersecurity expert to advise the Agency on cybersecurity matters for its internal systems and processes as well as external demands, such as those related to the clearinghouse mission.

The only recent increase in EAC's budget was a one-time increase of \$400 thousand in fiscal year 2018, the year in which EAC received an appropriation of \$380 million for Congressionally-directed formula grants to states and territories. EAC awarded and paid all of those grants in 2018 and continues to monitor states' usage of the funds and provide related guidance. However, in the year after the grant funds appropriation, EAC's salaries and administration budget fell to \$7.9 million, which was less than the Agency had been receiving in annual funding before the designation of election systems as critical infrastructure or the appropriation of additional grant funding.

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 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 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

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.

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's Chief Information Officer completed 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 adopted the Capstone approach for e-mail retention and submitted the form required by that approach (NA-1005) for approval by NARA. Capstone offers agencies the option of using a more simplified and automated approach to managing email, as opposed to using either print and file systems or records management applications that require staff to file email records individually. Using this approach, an agency can categorize and schedule email based on the work and/or position of the email account owner. The Capstone approach allows for the capture of records that should be preserved as permanent from the accounts of officials at or near the top of an agency or an organizational subcomponent.

The records schedule for Testing and Certification and Research have been submitted to NARA for review and approval. The Agency implemented appropriate markings for email communications that may transmit documents that contain controlled unclassified information. A uniform naming convention has been defined but has not yet been deployed. As of September 30, 2019, EAC was awaiting final NARA approval of the submitted documents.

EAC Management Response to Top Management Challenges



U.S. Election Assistance Commission
1335 East-West Highway, Suite 4300
Silver Spring, MD 20910

MEMORANDUM

Date: November 18, 2019

To: Patricia L. Layfield, Inspector General

From: Mona Harrington, Acting Executive Director

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 Inspector General's Statement Summarizing the Major Management and Performance Challenges Facing the U.S. Election Assistance Commission, dated November 5, 2019.

The U.S. Election Assistance Commission (EAC) is a trusted, proactive, and responsive bipartisan federal commission that supports state and local officials in the administration of elections and promotes voter participation. Established by the Help America Vote Act of 2002 (HAVA), EAC serves as the nation's clearinghouse for information on election administration, conducts the Election Administration and Voting survey, develops and manages the Voluntary Voting System Guidelines, accredits testing laboratories, certifies voting systems, administers and audits HAVA funds, and administers the National Mail Voter Registration form, in accordance with the National Voter Registration Act of 1993.

Despite the EAC's critical mission outlined above, the EAC budget continues to decline. We strongly believe that EAC's activities and research provide incomparable and invaluable data that neither can be replicated nor replaced elsewhere in the federal government. Over the last year, EAC Commissioners and staff have provided written and oral testimony raising these challenges with Congressional oversight and appropriations committees in addition to providing programmatic justification to acquire additional funding for FY2020. Over the last ten years, the EAC's budget has decreased by 50%. Notably, in FY 2019, the EAC received its lowest appropriation with an operating budget of \$7.95 million, which was \$650,000 less than FY 2018. The EAC's budget predominately covers salaries, Inspector General activities and mandatory operational expenses. The remainder of the budget leaves a limited amount of funds for hiring key personnel and program activities.

Entering the 2020 Presidential election year, the EAC's mission is more critical than it has ever been and current funding prevents the Commission from adequately expanding mission to meet the demand following the designation of elections as critical infrastructure. In January of 2017, the Department of Homeland Security (DHS) designated the nation's election administration infrastructure as part of the Nation's Critical Infrastructure, and federal resources for protecting

EAC Management Response to Top Management Challenges

this infrastructure are being developed in accordance with the National Infrastructure Protection Plan. The EAC requires additional resources to appropriately assist election officials impacted by this designation and enhanced security challenges posed by foreign adversaries.

In conclusion, investment in the EAC to support effective and secure elections and the funding of programs can no longer be ignored. The EAC has a proven track record of effectiveness serving the election community and the American people. The need for increased funding cannot be understated. We are hopeful the President and Congress can work together to acknowledge the importance of the EAC's mission and adequately fund the Commission going forward.