

SEMIANNUAL REPORT TO CONGRESS

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



*For the Period:
October 1, 2012, through
March 31, 2013*

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



U.S. Election Assistance Commission
Office of Inspector General



1201 New York Ave. NW – Suite 300
Washington, DC 20005

April 24, 2013

To: Acting Executive Director, U.S. Election Assistance Commission

The Inspector General Act of 1978 (Public Law 95-452), as amended, calls for the preparation of semiannual reports to the Congress summarizing the activities of the Office of Inspector General (OIG) for the six-month periods ending each March 31st and September 30th. I am pleased to enclose the report for the period from October 1, 2012 to March 31, 2013.

The Act requires that you transmit the report to the appropriate committees of the Congress within 30 days of receipt, together with any comments you may wish to make. Comments that you might offer should be included in your management report that is required to be submitted along with the Inspector General's report.

Working together, I believe we have taken positive steps to improve Commission programs and operations.

Sincerely,

A handwritten signature in blue ink that reads "Curtis W. Crider".

Curtis W. Crider
Inspector General



U.S. Election Assistance Commission
Office of Inspector General

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U.S. Election Assistance Commission
Office of Inspector General

Election Assistance Commission Profile

The U.S. Election Assistance Commission (EAC or Commission) is a bipartisan, independent commission consisting of four members. The Help America Vote Act of 2002 specifies that commissioners be nominated by the President on recommendations from the majority and minority leadership in the U.S. House and U.S. Senate. Once confirmed by the full Senate, commissioners may serve two consecutive terms and no more than two commissioners may belong to the same political party. There are four vacancies on the commission.

The EAC mission is to assist states with improving the administration of elections for Federal office. The EAC accomplishes this mission by providing funding, innovation, guidance and information to be used by the states to purchase voting equipment, train election personnel, and implement new election programs. The EAC has awarded over \$3 billion in grant funding to the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam and American Samoa (hereinafter referred to as “states”). With those funds, the states have purchased voting equipment, established statewide voter registration lists, implemented provisional voting, educated voters, trained officials and poll workers, improved polling places, and recruited poll workers.

HAVA made EAC responsible for the federally run testing and certification program for voting systems. Through this program, the EAC develops standards for voting equipment, accredits laboratories, and reviews and certifies voting equipment based upon the tests performed by the accredited laboratories.

The EAC is responsible for administering the National Voter Registration Act (NVRA) by promulgating regulations for the content and use of the National Mail Voter Registration form.

Office of Inspector General Profile

HAVA required the appointment of an inspector general for the EAC and amended the Inspector General Act (IG Act) of 1978 (5 U.S.C.A. App. 3) to identify the EAC as a designated Federal entity (DFE).

The OIG has always been a very small office. Other agencies have provided assistance by detailing employees; we have contracted independent CPA firms to conduct audits, and, finally, hiring permanent staff. The OIG currently has two employees: inspector general and an assistant inspector general for audits.

Despite our small size, we perform all of the duties required of the inspector general under the IG Act, including:

- Conducting and supervising audits, investigations, and other services (e.g., evaluations) relating to the programs and operations of the EAC;
- Providing leadership and coordination and recommending actions to management, which (1) promote economy, efficiency, and effectiveness in agency programs and operations; and (2) prevent and detect fraud, waste, abuse, and mismanagement of government resources; and
- Keeping the Commission, management, and Congress fully informed regarding problems and deficiencies, and the progress of corrective actions.

When conducting an investigation, we work with other Federal agencies to detail investigators or contract for investigative services.

The OIG's program to ensure economy, efficiency and integrity in the use of funds does not exclusively translate into audits of the EAC or of its grant recipients. The OIG also investigates allegations of waste, fraud, abuse and mismanagement in EAC programs and operations. The OIG operates a hotline to receive complaints regarding EAC, its programs, and its funding recipients.

EAC Audits

Opinion on EAC's Fiscal Year 2012 Financial Statements

The audit was performed by Leon Snead and Co., P.C. under a contract that was monitored by the OIG.

The auditors were unable to express an opinion on the EAC's balance sheet as of September 30, 2012, and on the related statements of net cost, changes in net position, and the statement of budgetary resources for the year then ended. The disclaimer resulted from EAC's inability to provide accurate and timely accounting information from its general ledger, could not support amounts recorded for its grant expenses incurred and advances paid, and due to internal control and other accounting issues was unable to provide sufficient competent evidential support for the amounts presented in the 2012 financial statements. The audit identified material weaknesses in the preparation of and support for financial statements and footnote disclosures and the lack of controls over journal vouchers.

The EAC generally concurred with the findings and recommendations of the audit and indicated that corrective actions would be taken.

Audits in Process

OIG has several ongoing audits that will be published in future reporting periods. These audits include:

- **State Grant Audits:** The OIG conducts audits of the recipients of HAVA funds. Through those audits, the OIG examines whether the recipient used HAVA funds in accordance with HAVA and other applicable Federal requirements. We also determine whether the recipient has properly accounted for purchases made with HAVA funds and any income derived from those purchases. Last, we assess whether grant funding was maintained and accounted for in keeping with HAVA, particularly whether

the recipient provided sufficient matching funds and maintained Federal monies in a separate election fund. During the reporting period, the OIG contracted with the professional auditing firm, of McBride, Lock & Associates to conduct audits of Colorado, Massachusetts, Nebraska and North Dakota.

- **Data Collection Grant Audits:** The EAC OIG has contracted with the professional auditing firm of McBride, Lock & Associates to conduct four audits of recipients of EAC data collection grants (Illinois, Minnesota, Ohio and Pennsylvania). The objective of the audit is to determine whether the grant recipient used the funds in accordance with applicable federal requirements.
- **Procurement Audit:** The OIG has initiated a review of the procurement activities of the EAC. The objectives are to perform a performance audit of the EAC's Office of Procurement Services and Commission-wide contract management functions to determine whether the EAC has procured supplies and services in an effective and efficient manner and in accordance with applicable laws, policies and regulations. The OIG has contracted with the firm of CliftonLarsonAllen LLP to perform the audit.
- **Privacy Act Audit.** The objective of the audit is to evaluate and report on whether the EAC has established adequate privacy and data protection policies and procedures governing the collection, use, disclosure, transfer, storage and security of information relating to agency employees and the public. OIG has contracted with CliftonLarsonAllen LLP to perform the audit.

Consultants Found Guilty

In 2007, the OIG conducted an audit of the New Mexico Secretary of State's (NMSOS) use of federal HAVA funds. The audit identified a number of significant problems with a contract awarded by the NMSOS to A. Gutierrez and Associates, Inc. (AGA) for a public education campaign. The Office of the Secretary of State used HAVA funds to award the contract. The Office of the Secretary of State paid AGA \$6,271,810 on the basis of an understanding reached with the contractor that was not incorporated into the contract and which was different than the basis upon which the contract was awarded. AGA substantiated net costs of only \$2,618,496.

Subsequent to our audit, the IRS-Criminal Investigation and the Albuquerque Field Office of the FBI, with assistance from the New Mexico Attorney General's Office conducted a separate investigation. The investigation found that AGA received a total of \$6,271,810 in federal HAVA funds from the State of New Mexico but AGA submitted documentation supporting only \$3,385,151 in services and costs, resulting in an overpayment of \$2,500,993 to which AGA was not entitled.

On January 31, 2013, a federal jury found Armando C. Gutierrez, and Joseph C. Kupfer, guilty of conspiracy and theft of government property. The jury also convicted Gutierrez on obstruction of justice and money laundering charges. The evidence established Gutierrez and Kupfer conspired together to defraud the United States by stealing federal HAVA funds and converting the funds for their own use. Specifically, the two men unlawfully obtained federal HAVA funds for work they did not perform and services they did not provide by: (1) submitting false invoices for services that AGA and KC never provided; (2) attempting to obstruct an audit by the Election Assistance Commission (EAC); and (3) attempting to conceal the federal HAVA funds that they stole.

On August 17, 2012, Kupfer and his wife, Elizabeth D. Kupfer, were also convicted of three tax evasion charges. The Kupfers received \$1,304,421 in revenue from Kupfer Consulting but reported only \$502,541 in their tax

returns. The Kupfers concealed approximately \$768,333 in income by providing incomplete information to their tax preparer, thus avoided paying taxes on that money, and signed false and fraudulent tax returns and submitting those returns to the IRS.

Other Activities

Reviews of Legislation, Rules, Regulations and Other Issuances

The OIG conducts regular monitoring of EAC program activities and policy-making efforts. We provide comment to significant policy statements, rulemaking and legislation that affects the EAC. During this reporting period, the EAC did not have any Commissioners and did not issue any policy determinations. The Administration issued several pieces of guidance and Executive Orders during the reporting period, which we reviewed. Last, we participated in surveys and data calls issued by the Council of Inspectors General on Integrity and Efficiency.

Matters Referred to Prosecuting Authorities

We are reporting no activities in this category during the reporting period.

Denial of Access to Records

We are reporting no activities in this category during the reporting period.

Peer Review Activity

Section 989C of the Dodd-Frank Act contains additional semiannual reporting requirements pertaining to peer review reports. Federal Inspectors General are required to engage in peer review processes related to both their audit and investigative operations. In keeping with Section 989C, the EAC OIG is reporting

the following information related to its audit peer review activities. These activities cover our role as both the reviewed and the reviewing OIG.

Audit Peer Reviews

On a 3-year cycle, peer reviews are conducted of an OIG's audit organization's system of quality control in accordance with the *CIGIE Guide for Conducting External Peer Reviews of the Audit Organizations of Federal Offices of Inspector General*, based on requirements in the *Government Auditing Standards*.

During this semiannual reporting period, no peer reviews were conducted by another OIG organization on the EAC OIG and EAC OIG did not conduct a peer review on other OIGs. Listed below is information concerning peer review activities during prior reporting periods

PEER REVIEW of EAC OIG AUDIT: In a prior reporting period, the EAC OIG was subject to a peer review. The Federal Labor Relations Authority, Office of Inspector General (FLRA OIG) conducted the review and issued its system report on July 31, 2012. In the FLRA OIG's opinion, the system of quality control for the EAC OIG audit organization in effect for the year-ended March 31, 2012, had been suitably designed and complied with to provide EAC OIG with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The EAC OIG received a peer review rating of *pass*.

EAC OIG Peer Review of Federal Trade Commission: During a prior reporting period, the EAC OIG completed a peer review of the audit operations of the Federal Trade Commission, Office of Inspector General (FTC OIG). We reported that in our opinion the system of quality control for the audit organization of FTC OIG in effect for the year-ended March 31, 2012, had been suitably designed and complied with to provide FTC OIG with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The FTC OIG has received a peer review rating of *pass*. The report was issued on September 7, 2012.

Reports Issued

EAC Audits

Independent Auditor's Reports on the U.S. Election Assistance Commission's Financial Statements for Fiscal Year 2012, (Assignment No. I-PA-EAC-01-12), November 2012

Monetary Impact of Audit Activities

Questioned Costs*	\$ 0
Potential Additional Program Funds	\$ 0
Funds to Be Put to Better Use	\$ 0
Total	\$ 0

*Unsupported costs are included in questioned costs.

Reports With Questioned Costs

<u>Category</u>	<u>Number</u>	<u>Questioned Costs</u>	<u>Unsupported Costs</u>
A. For which no management decision had been made by the beginning of the reporting period.	1	\$ 6,564	\$ 0
B. Which were issued during the reporting period.	0	\$0	\$ 0
Subtotals (A + B)	1	\$ 6,564	\$ 0
C. For which a management decision was made during the reporting period.	1	\$ 6,564	\$ 0
(i) Dollar value of recommendations that were agreed to by management.		\$ 2,972	\$ 0
(ii) Dollar value of recommendations not agreed to by management.		\$ 3,592	\$ 0
D. For which no management decision has been made by the end of the reporting period.	0	\$ 0	\$ 0

Reports With Potential Additional Program Funds

<u>Category</u>	<u>Number</u>	<u>Dollar Value</u>
A. For which no management decision had been made by the beginning of the reporting period.	0	\$ 0
B. Which were issued during the reporting period.	0	\$ 0
Subtotals (A+B)	0	\$ 0
C. For which a management decision was made during the reporting period.	0	\$ 0
(i) Dollar value of recommendations that were agreed to by management.		\$ 0
(ii) Dollar value of recommendations that were not agreed to by management.		\$ 0
D. For which no management decision has been made by the end of the reporting period.	0	\$ 0

Summary of Reports More Than Six Months Old Pending Corrective Action at March 31, 2013

The following is a list of audit and evaluation reports that are more than six months with management decisions for which corrective action has not been completed. It provides report number, title, issue date, and the number of recommendations without final corrective action.

I-EV-EAC-01-07B	Assessment of the U.S. Election Assistance Commission's Program and Financial Operations, February 2008, 4 Recommendations
I-PA-EAC-01-11	Independent Auditor's Reports on the U.S. Election Assistance Commission's Financial Statements for Fiscal Year 2011, November 2011, 1 Recommendation

Summary of Reports More Than Six Months Old Pending Management Decision at March 31, 2013

This listing includes a summary of audit and evaluation reports that were more than 6 months old on March 31, 2013 and still pending a management decision. It provides report number, title, and number of unresolved recommendations.

None.

Reporting Requirements of the IG Act

<u>Section of Act</u>	<u>Requirement</u>	<u>Page</u>
Section 4(a)(2)	Review of Legislation and Regulations	6
Section 5(a)(1)	Significant Problems, Abuses, and Deficiencies	None
Section 5(a)(2)	Recommendations for Corrective Action With Respect to Significant Problems, Abuses, and Deficiencies	None
Section 5(a)(3)	Significant Recommendations From Agency's Previous Report on Which Corrective Action Has Not Been Completed	12
Section 5(a)(4)	Matters Referred to Prosecuting Authorities and Resulting Convictions	None
Section 5(a)(5)	Matters Reported to the Head of the Agency	None
Section 5(a)(6)	List of Reports Issued During the Reporting Period	8
Section 5(a)(7)	Summary of Significant Reports	3
Section 5(a)(8)	Statistical Table – Questioned Costs	10
Section 5(a)(9)	Statistical Table – Recommendations That Funds Be Put to Better Use	None
Section 5(a)(10)	Summary of Audit Reports Issued Before the Commencement of the Reporting Period for Which No Management Decision Has Been Made	None
Section 5(a)(11)	Significant Revised Management Decisions Made During the Reporting Period	None
Section 5(a)(12)	Significant Management Decisions With Which the Inspector General Is in Disagreement	None
Section 5(a)(13)	Information Described Under Section 804(b) of the Federal Financial Management Improvement Act of 1996	None
Section 5(a)(14)(A)	Peer Review Reports Conducted on U.S. Election Assistance Commission Office of Inspector General during the Reporting Period	None

<u>Section of Act</u>	<u>Requirement</u>	<u>Page</u>
Section 5(a)(14)(B)	Statement of Peer Review Conducted on the U.S. Election Assistance Commission Office of Inspector General during a Prior Reporting Period	7
Section 5(a)(15)	Outstanding Recommendations from a Peer Review Report on the U.S. Election Assistance Commission Office of Inspector General	None
Section 5(a)(16)	Peer Review Reports Conducted by the U.S. Election Assistance Commission Office of Inspector General	7



U.S. Election Assistance Commission
Office of Inspector General

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Help to ensure efficient, effective, and transparent EAC operations and programs

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Washington, DC 20005

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Fax: (202) 566-0957

To Report Fraud, Waste and Abuse Involving the U.S. Election Assistance Commission or Help America Vote Act Funds

By Mail: U.S. Election Assistance Commission
Office of Inspector General
1201 New York Ave. NW – Suite 300
Washington, DC 20005

E-mail: eacoig@eac.gov

OIG Hotline: 866-552-0004 (toll free)

On-Line Complaint Form: www.eac.gov/inspector_general/
FAX: 202-566-0957





Inspector General

U.S. Election Assistance Commission

This report, as well as other OIG reports and testimony, are available on the internet at:
www.eac.gov/inspector_general/