

HEARING ON THE 2008 AUDIT REVIEW AND  
AGENCY SPENDING BY THE ELECTION ASSIST-  
ANCE COMMISSION

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON ELECTIONS  
COMMITTEE ON HOUSE  
ADMINISTRATION  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED TENTH CONGRESS  
FIRST SESSION

HELD IN WASHINGTON, DC, APRIL 1, 2007

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## **2008 AUDIT REVIEW AND AGENCY SPENDING BY THE ELECTION ASSISTANCE COMMISSION**

**WEDNESDAY, APRIL 1, 2009**

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON ELECTIONS,  
COMMITTEE ON HOUSE ADMINISTRATION,  
*Washington, DC.*

The subcommittee met, pursuant to call, at 10:05 a.m., in Room 1310, Longworth House Office Building, Hon. Zoe Lofgren [chairwoman of the subcommittee] presiding.

Present: Representatives Lofgren, Gonzalez, Davis of California, McCarthy, and Harper.

Staff Present: Thomas Hicks, Senior Election Counsel; Jennifer Daehn, Election Counsel; Janelle Hu, Election Counsel; Kyle Anderson, Press Director; Kristin McCowan, Chief Legislative Clerk; Daniel Favarulo, Election Legislative Assistant; Peter Schalestock, Minority Counsel; and Karin Moore, Minority Legislative Counsel.

Ms. LOFGREN. As it is precisely 10:00, or close to it, the committee will come to order.

Good morning and welcome. This is our first oversight hearing under H.Res. 40. And the hearing will focus on the 2008 audit review by the Inspector General of the U.S. Election Assistance Commission. The audit found that the EAC was unable to provide sufficient accounting records to conduct an audit in compliance with the standards set forth by the Comptroller of the United States.

Today we will discuss potential misallocation of resources, lack of internal controls on matters related to grant accounting and agency expenditures. Unfortunately, this most recent report is one in a string of reports about the EAC's inability to operate as a fully functioning agency. The EAC's first audit of financial statements in fiscal year 2008 could not be completed because the EAC was unable to provide sufficient accounting records to conduct an audit in accordance with the standards set forth by the comptroller general.

Additional IG reports have also revealed that the EAC lacks adequate policies and procedures that govern the application award reporting, oversight, and closing of HAVA grant programs. The EAC also does not have a fund control to monitor expenditures to ensure compliance with congressional requirements.

This lack of financial controls has resulted in travel being taken without prior authorization, activities that take the EAC out of compliance with the Federal travel regulations.

Beyond the audit concerns, EAC has also engaged in questionable management of resources. The EAC has recently posted a job announcement for another executive position, which would push the senior staff count to 21 out of a total of 35 total full-time employees. And while I appreciate the EAC trying to hire staff, it

seems it would make more sense to ensure that mid-level staff is in place to carry out the EAC's programmatic responsibilities.

The IG report warns that while hiring qualified administrative staff goes a long way towards improving EAC's financial management function, the EAC should use caution to avoid staffing one program or function to the detriment of its other programs.

The EAC has been before us several times and has listened to our concerns about the agency's management practices and has taken some steps to correct these problems, and we do want to acknowledge that. The EAC has recently hired a chief financial officer and a chief operating officer to manage financial operations and install funding controls. The EAC has also restructured its grant division into two departments to improve program operations.

Now, I am eager to hear what additional steps the EAC will be taking to increase the Commission's accountability this morning. The EAC plays a critical role in funding and assisting States to improve election processes. It must continue to develop effective financial controls to implement these processes so that we know grants and agency funds are being accounted for and appropriately used.

This hearing today, I hope, will not only lay out for us in greater detail the IG's advice and findings, but also give us an opportunity from the EAC themselves to hear what their action plan and thoughts are.

[The statement of Ms. Lofgren follows:]

**CHA Subcommittee on Elections**  
**Hearing on "2008 Audit Review and Agency Spending**  
**by the Election Assistance Commission."**  
**Chairwoman Lofgren Opening Statement**  
**Wednesday, April 1, 2009**

Good morning and welcome to the Committee on House Administration Subcommittee on Elections first oversight hearing under H. Res. 40. This hearing will focus on the 2008 Audit Review by the Inspector General of the U.S. Election Assistance Commission (EAC).

This audit found that the EAC was unable to provide sufficient accounting records to conduct an audit in accordance with standards set forth by the Comptroller of the U.S. Today we will also discuss potential misallocation of resources and lack of internal controls on matters related to grant accounting and agency expenditures.

Unfortunately, this most recent report is just one in a string of reports about the EAC's failure to operate as a fully functioning agency. The EAC's first audit of financial statements in FY 08 could not be completed because the EAC was unable to provide sufficient accounting records to conduct an audit in accordance with the standards set forth by the Comptroller General. Additional IG reports have also revealed that the EAC lacks adequate policies and procedures that govern the application, award, reporting, oversight, and closing of HAVA Grant Programs.

The EAC also does not have a fund control to monitor expenditures to ensure compliance with congressional requirements. This lack of financial controls has resulted in travel being taken without prior authorization, activities that take the EAC out of compliance with Federal Travel Regulations. Beyond the audit concerns, the EAC has also engaged in questionable management of resources. The EAC has recently posted a job announcement for yet another executive position, which would push the senior staff count to 21 out of 35 total full time employees.

While I appreciate the EAC is trying to hire staff, it would make more sense to ensure that the midlevel staff is in place to carry out the EAC's programmatic responsibilities. The IG report warns that while hiring qualified administrative staff goes a long way toward improving EAC's financial management function, the EAC should use caution to avoid staffing one program or function to the detriment of its other programs.

The EAC has been before us several times and has listened to our concerns about the agency's management practices and has taken some steps to correct these problems. The EAC has recently hired a Chief Financial Officer and a Chief Operating Officer to manage financial operations and install funding controls. The EAC has also restructured its grant division into two departments to improve program operations.

I am eager to hear what additional steps the EAC will be taking to increase the Commission's accountability. The EAC plays a critical role in funding and assisting states to improve election processes. It must continue to develop effective financial controls and implement these processes to ensure grants and agency funds are being accounted for and appropriately used.

Ms. LOFGREN. At this point I would yield to the gentleman from Mississippi for any opening statement he may have.

Mr. HARPER. Thank you very much, Chairwoman Lofgren. I certainly want to thank the Chair for calling today's EAC oversight hearing. As a new member on this panel, any chance to learn more about the organizations under this subcommittee's jurisdiction is very helpful. And I look forward to hearing from our EAC commissioners as well as the inspector general and the executive director of the EAC.

I have had the opportunity to review the findings of the EAC's inspector general, and I am concerned with several areas of weakness that were uncovered by the IG's office during the course of compiling its report. For example, I understand that the initial audit of the EAC's financial records revealed such poor record-keeping that a comprehensive financial analysis could not be completed.

While some issues with recordkeeping are certainly expected the first time an organization's financial records are audited, I am anxious to hear from our witnesses today regarding the state of the EAC's financial statements and what can be done to bring them into compliance with acceptable accounting practices.

In addition, I also understand that the IG's findings revealed a notable disparity between the number of administrative positions at the EAC compared with the number of program positions. The IG's report revealed that the EAC currently has 21 positions that are designated as executive, direction and administration, with only 14 positions in program, legal and communications areas.

Perhaps our witnesses can shed some light on hiring practices at the EAC and who determines what types of roles are mission critical in light of the Commission's priorities. For example, one of the key roles of the EAC is to certify voting machines for use in Federal elections. My understanding is that to date only one system has been certified, as a result of a backlog at the EAC.

Election officials and vendors alike have expressed frustration at the slow pace of the certification. So I have to question why resources are being allocated towards executive and administrative expenses when it seems that there is a real need to engage in substantive program work in order to fulfill the mission.

An organization that is heavily weighted towards executive and administrative personnel certainly may lend itself to bureaucracy. How is the EAC applying effective personnel practices in order to ensure that the organization is able to carry out its charters defined by HAVA, without getting bogged down in bureaucratic processes.

Finally, I understand that the inspector general has provided the EAC with a list of recommended actions to address these and other gaps in internal operations. I would like to get an update from our witnesses on the current status of this list and how to address internal barriers in the organization that may prevent the EAC from implementing these recommendations.

Again, I thank all of our witnesses for appearing before us today and look forward to hearing your testimony.

Thank you, Madam Chairman. I reserve the balance of my time.  
Ms. LOFGREN. Thank you.

[The statement of Mr. Harper follows:]



## Opening Statement

### Rep. Gregg Harper

I thank the Chair, Ms. Lofgren, for calling today's Election Assistance Commission oversight hearing. As a new Member on this panel, any chance to learn more about the organizations under this Subcommittee's jurisdiction is helpful, and I look forward to hearing from our EAC Commissioners, as well as the Inspector General and Executive Director of the EAC.

I have had the opportunity to review the findings of the EAC's Inspector General, and I am concerned with several areas of weakness that were uncovered by the IG's office during the course of compiling its report. For example, I understand that the initial audit of the EAC's financial records revealed such poor record keeping that a comprehensive financial analysis could not be completed. While some issues with record keeping are expected the first time an organization's financial records are audited, I am anxious to hear from our witnesses today regarding the state of the EAC's financial statements, and what can be done to bring them into compliance with acceptable accounting practices.

In addition, I also understand that the IG's findings revealed a notable disparity between the number of *administrative* positions at the EAC compared with the number of *program* positions. The IG's report revealed that the EAC currently has 21 positions that are designated as "executive direction and administration," with only 14 positions in "program, legal, and communications" areas. Perhaps our witnesses can shed some light on hiring practices at the EAC, and who determines what types of roles are mission critical in light of the Commission's priorities.

For example, one of the key roles of the EAC is to certify voting machines for use in federal elections. My understanding is that, to date, only one system has been certified as a result of a backlog at the EAC. Election officials and vendors alike have expressed frustration at the slow pace of the certification, so I have to question why resources are being allocated towards "executive and administrative" expenses, when it seems there is a real need to engage in substantive program work in order to fulfill the EAC's mission? An organization that is heavily weighted towards executive and administrative personnel may lend itself to bureaucracy. How is the EAC applying effective personnel practices in order to ensure that the organization is able to carry out its charter as defined by HAVA, without getting bogged down in bureaucratic processes?

Finally, I understand that the Inspector General has provided the EAC with a list of recommended actions to address these and other gaps in internal operations. I would like to get an update from our witnesses on the current status of this list, and how to





COMMITTEE ON  
**HOUSE ADMINISTRATION**  
REPUBLICAN OFFICE

EAC Oversight Hearing – Subcommittee on Elections  
Committee on House Administration  
111<sup>th</sup> Congress  
April 1, 2009

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address internal barriers in the organization that may prevent the EAC from implementing these recommendations.

Again, I thank our witnesses for appearing before us today, and I look forward to receiving your testimony.

Ms. LOFGREN. And, Mrs. Davis, unless you are eager to, we will put your opening statement in the record and go directly to the inspector general, Mr. Curtis Crider.

[The information follows:]

Ms. LOFGREN. Mr. Crider is the Inspector General for the U.S. Election Assistance Commission and has held this position since 2006. Mr. Crider has 32 years of auditing experience in the Federal Government and is a certified public accountant and internal auditor.

Mr. Crider we do have your full report and, by unanimous consent, it will be made part of our official record. We would ask that your oral testimony consist of about 5 minutes, and then we will have time to ask you questions. So we are eager to hear from you now.

**STATEMENT OF CURTIS CRIDER, INSPECTOR GENERAL, U.S.  
ELECTION ASSISTANCE COMMISSION**

Mr. CRIDER. Good morning. Thank you very much. Chairman Lofgren, Ranking Member McCarthy and members of the subcommittee, thank you for having me to testify today.

I am pleased to be here this morning to discuss the activities of the Office of the Inspector General and to provide insight as to the effectiveness of financial controls in place and efficiency of programs operated by the U.S. Election Assistance Commission.

OIG strives to promote economy, efficiency and effectiveness in the EAC programs by conducting regular audits of recipients of grant funds distributed by the EAC and the financial audit of EAC's operations and periodic reviews and audits of EAC operations. In addition, the OIG conducts investigations in response to allegations against the EAC, grant recipients, or third parties involved in the EAC programs.

In today's testimony I will focus on the OIG audits of HAVA fund recipients and the EAC. OIG has issued audits of 19 States and their spending of nearly \$800 million. These audits result in questioning more than \$11.7 million in costs and identified more than \$10.7 million which the States must use for HAVA-related purposes. In total, the OIG has identified \$22.4 million in audit findings at a cost of only \$2 million to the Federal Government. In other words, our rate of return is 11 to 1.

The EAC management has agreed with most of our findings and upheld more than \$20.9 million of the \$22.4 million in audit exceptions. By and large, we have found that States are not misusing HAVA funds. When we have found problems they are in the areas such as lost interest, unsupported salaries and understated matching funds.

My written testimony contains a more complete listing of our findings that we have issued in our audits. We have currently four ongoing audits of States that are using HAVA funds. They are California, Iowa, Rhode Island and Michigan. OIG has planned to audit several more States this year, but the number of States that we audit will depend upon the time, resources and circumstances and may require our investigation in other areas.

OIG is also responsible for auditing and reviewing EAC's programs. Over the past several years the OIG has issued eight re-

ports regarding the EAC operations. The two most comprehensive reports are the 2008 Assessment of EAC's Programs and Financial Operations, which we issued in February of 2008, and the Audit of EAC's Fiscal Year 2008 Financial Statements, which was issued in November of 2008. All eight reports except for one, the Internet Usage Report, contain findings and recommendations for the EAC to improve its processes.

In the Internet usage report, we found that employees did not use gambling, pornographic or other prohibited sites, and the EAC has sufficient controls to prevent unauthorized access to those sites. From the eight reports are 82 recommendations for improvement, of which 14 have been fully implemented.

The EAC has made some progress toward implementing most of the other recommendations. Progress can be seen primarily in the areas of personnel reorganization and hiring persons to staff the administration division that have experience with Federal Government, procurement, and financial management.

While hiring qualified administrative staff goes a long way to improving the EAC's fiscal and financial management function, the EAC should use caution to avoid staffing one program or function to the detriment of its other programs. Based on its own reports, the EAC only last week adopted a strategic plan and has not yet adopted policies and procedures needed to underlie the operations for many of its programs.

In fiscal year 2009 the EAC will again be subject to a financial audit. Without these needed policies and procedures, the EAC may have difficulty in meeting the benchmarks necessary to receive an unqualified opinion.

In addition to the fiscal year 2009 financial statement audit, the OIG plans to review EAC's Compliance with the Federal Information Security Management Act, evaluated EAC's purchase of shirts and jackets for its employees, and assessed EAC's internal controls over time and attendance.

It is the Office of Inspector General's role to offer guidance and information through its audits, evaluation reviews and investigation that will help the EAC build and run programs that will instill public confidence by preventing fraud, waste and abuse.

The Office of Inspector General will continue to work with the EAC and this subcommittee to help promote an efficient and effective government. I appreciate the opportunity this morning to provide this testimony regarding the OIG activities, and I will be happy to answer any questions. Thank you.

Ms. LOFGREN. Thank you very much Mr. Crider.

[The statement of Mr. Crider follows:]



**TESTIMONY OF**

**HONORABLE CURTIS W. CRIDER  
INSPECTOR GENERAL  
U.S. ELECTION ASSISTANCE COMMISSION**

**BEFORE THE**

**HOUSE COMMITTEE ON HOUSE ADMINISTRATION,  
SUBCOMMITTEE ON ELECTIONS  
U.S. HOUSE OF REPRESENTATIVES**

**APRIL 1, 2009**



TESTIMONY OF THE U. S. ELECTION ASSISTANCE COMMISSION OFFICE OF  
INSPECTOR GENERAL BEFORE THE HOUSE COMMITTEE ON HOUSE  
ADMINISTRATION, SUBCOMMITTEE ON ELECTIONS

Chairwoman Lofgren, Ranking Member McCarthy, and Members of the Subcommittee, thank you for inviting me to testify today. I am pleased to be here this morning to discuss the activities of the Office of Inspector General (OIG) and to provide insight as to the effectiveness of financial controls in place and efficiency of programs operated by the U.S. Election Assistance Commission (EAC).

### INTRODUCTION

The EAC is a bipartisan Commission created and authorized by the Help America Vote Act of 2002 (HAVA). The OIG is an independent division of EAC required by HAVA and the Inspector General Act of 1978 (IG Act) and created by the EAC in 2005. Our office is comprised of three full-time staff: the Inspector General, the Director of Audits, and Counsel to the Inspector General. We also contract with an outside firm for audit support and use the investigative services of other Federal agencies, when necessary.

The OIG strives to promote economy, efficiency and effectiveness in the EAC programs. To accomplish this goal, the OIG conducts regular audits of recipients of grant funds distributed by the EAC, annual financial audits of EAC's operations, and periodic reviews and audits of EAC program operations. In addition, the OIG conducts investigations in response to allegations against the EAC, its grant recipients, or third parties involved in EAC programs.

### OIG ACTIVITIES AND PROJECTS

The following section will discuss three activities or projects of the OIG: auditing grant programs, conducting investigations of grant recipients or third parties related to EAC programs, and conducting audits and investigations of EAC programs and operations. However, I will focus on the OIG audits of grant recipients and the EAC.

#### Auditing Grant Programs

Section 902 of HAVA gives the EAC and other agencies making a grant or payment the authority to conduct audits of any recipients of funds. The EAC is further authorized to conduct regular audits of funds distributed by the EAC pursuant to HAVA. The OIG conducts those audits on behalf of the EAC. To fulfill that mission, the OIG has established a program for auditing or reviewing EAC grant recipients focusing on states that have disbursed or obligated the most money distributed under the requirements payments program of HAVA. The objectives of the audits are to determine whether the state: (1) expended HAVA payments in accordance with the HAVA and related administrative requirements; and (2) complied with the HAVA requirements for replacing punch card or lever voting machines, establishing an election fund, appropriating a 5 percent match for requirements payments, and maintaining state expenditures for elections at a level not less than expended in the state's base fiscal year.



Since the inception of the audit program, the OIG has audited 19 states<sup>1</sup> and through these audits reviewed the expenditure of nearly \$800 million. The audits resulted in questioning more than \$11.7 million in expenditures by the states and identifying more than \$10.7 million in additional funds, which the states must use for HAVA program purposes.

The OIG grant audit program has been very successful at identifying needed improvements to state administration of HAVA funds and increasing the amount of HAVA funds committed to HAVA purposes at a low cost to the government. The total cost of OIG audits of EAC grant recipients has been a little more than \$2 million over the past three fiscal years. From this investment, the OIG has identified nearly \$22.4 million in audit findings, which equates to a return on investment of approximately 11 to 1. EAC management has upheld more than \$20.9 million of the \$22.4 million in audit findings identified by the OIG.

By and large, we have found that states are not misusing HAVA funds. The findings involving the greatest dollar amounts have come when states have not deposited the required amount of matching funds in the states' election funds. The most common findings that we have issued in HAVA grant recipient audits are:

- \* **Inadequate accounting** – not keeping separate records of grant expenditures;
- \* **Non-competitive contracting** – failure to compete a contract or otherwise comply with state contracting rules;
- \* **Unsupported salaries** – e.g., no time sheets or other documentation to support salary expenses for persons working on HAVA activities;
- \* **Unsupported transactions** – e.g., items purchased are not supported by vendor invoices or state payment vouchers;
- \* **Improper election fund** – e.g., election fund maintained in an account that is not interest bearing;
- \* **Incomplete equipment records** – failure to sufficiently inventory and tag equipment;
- \* **Failure to account for program income** – applicable income earned from use of HAVA funds not tracked, returned to the state's election fund and used for HAVA purposes;
- \* **Undocumented maintenance of effort** – state did not identify the amount of money that it must spend each year to meet HAVA's maintenance of effort requirement or did not document how its expenditures are equal to or greater than that amount;

<sup>1</sup> New Jersey, Georgia, California, Missouri, Wyoming, Kentucky, Maryland, Ohio, Virginia, Indiana, Pennsylvania, South Carolina, Illinois, Texas, Minnesota, New Mexico, Florida, Washington, and North Carolina.



TESTIMONY OF THE U. S. ELECTION ASSISTANCE COMMISSION OFFICE OF  
INSPECTOR GENERAL BEFORE THE HOUSE COMMITTEE ON HOUSE  
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- \* **Unapproved equipment purchase** – state did not obtain required EAC prior approval for certain equipment purchases and improvements to real property;
- \* **Understated matching funds** – state failed to appropriate the required 5 percent match;
- \* **Lost interest** – HAVA funds and matching funds not kept in an interest bearing account and all interest earned not dedicated to use for HAVA purposes;
- \* **Deficient monitoring of county accounts** – the state not effectively tracking HAVA funds distributed to counties;
- \* **Spent HAVA funds on ineligible or unsupported activities** – e.g., speech writing and coloring books;
- \* **Duplicate costs** – costs billed twice (or more) to the HAVA account; and
- \* **Weak cash management of county grants** – counties that receive HAVA funds by subaward from the state are responsible to follow the same rules that apply to the state in using and managing HAVA funds.

We attribute most of our findings to the lack of expertise by chief state election officials in administering HAVA funds. As states move forward with implementing their election reforms and using HAVA funds, there are a number of lessons that can be learned from these audits. Documentation and sound accounting practices are critical to a program geared to effect change in the election system while preventing waste, fraud and abuse. It is, in fact, better to ask permission than beg for forgiveness. The price for mispending Federal funds is high not only for the official responsible for the program but also for the taxpayers of his/her state. If it is not clear whether HAVA funds can be used for certain activities, the EAC has a process for requesting advisory opinions regarding the use of HAVA funds. States should make use of that process to ensure that their purchases are for approved purposes.

The OIG will continue to concentrate on state administration of HAVA funds. Most of the 55 states and jurisdictions that received HAVA funds can expect a visit from the OIG in the coming years. Even the 19 states on which we have issued audit reports will likely be audited again as many had not used all or even most of their HAVA funds at the time of the initial audit. The OIG will select states for audit based upon the greatest risk, which generally correlates to the states that have spent the most money. In Fiscal Year 2009, the OIG plans to conduct audits of the following states: California, Wisconsin, Louisiana, Connecticut, West Virginia, Mississippi, Arizona, Utah, Tennessee, Arkansas and Alabama. However, audits of additional or alternative jurisdictions may be conducted if circumstances necessitate immediate review.<sup>2</sup> Four audits are ongoing. Those cover the following states: California, Rhode Island, Iowa and Michigan.

<sup>2</sup> The OIG has been monitoring the events in Hillsborough County, Florida that have drawn recent media attention. We are working with the state of Florida to ensure that they properly review the expenditures of that local election office.



TESTIMONY OF THE U. S. ELECTION ASSISTANCE COMMISSION OFFICE OF  
INSPECTOR GENERAL BEFORE THE HOUSE COMMITTEE ON HOUSE  
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#### External Investigations

When allegations are made concerning the misappropriation of HAVA funds, the OIG is responsible for investigating those allegations. The OIG operates a hotline for members of the public to make complaints or allegations of waste, fraud, abuse and mismanagement and the OIG website permits anonymous on-line complaint submission. Complaints can be submitted on-line at [www.eac.gov/eac\\_ig](http://www.eac.gov/eac_ig).

The OIG does not currently employ an investigator; thus, when issues for an investigation arise, the OIG contracts with other Federal government agencies for investigative services. The OIG has conducted one external investigation which involved a voting system testing laboratory's review of voting equipment. The report was issued in December 2007, Report of Investigation: Allegations of Fraudulent Certification of Election Equipment by SysTest Labs, Incorporated.

#### Internal Audits and Investigations

The OIG is also responsible for conducting reviews, audits, evaluations, inspections and investigations of EAC's programs, policies, procedures, and actions. Over the past several years, the OIG has issued seven reports regarding EAC's operations. These reports assess the efficiency of EAC's operation and its compliance with governing statutes and regulations, including compliance with the Federal Information Security Management Act (FISMA) and compliance with the Federal Travel Regulations. The following reports have been issued:

- Improvements Needed in the Management of Travel by the Election Assistance Commission
- Non Compliance with the Federal Information Security Management Act by the U.S. Election Assistance Commission, 2006
- Noncompliance with the Federal Information Security Management Act by the U.S. Election Assistance Commission, 2007
- Assessment of EAC's Program and Financial Operations
- U.S. Election Assistance Commission Federal Information Security Management Act 2008 Independent Evaluation Report
- U.S. Election Assistance Commission Internet Usage
- Audit of U.S. Election Assistance Commission's Compliance with Section 522 of the 2005 Consolidated Appropriations Act

In Fiscal Year 2008, EAC received an appropriation that made it subject to the Chief Financial Officers Act of 1990 (CFO Act). The CFO Act required EAC to undergo an audit of its financial statements and financial management practices. OIG issued a report on EAC's financial management status in November 2008, Audit of U.S. Election Assistance Commission's Fiscal Year 2008 Financial Statements. Because EAC's Fiscal





Year 2009 appropriation exceeds \$25 million, EAC will undergo a financial statement audit in the current fiscal year.

All of these audits, reviews and assessments except one - Internet Usage - contained findings and recommendations for the EAC to improve its processes. The Internet Usage report reviewed agency employees' use of the Internet particularly as it related to gambling, pornographic, and other prohibited sites. We found that employees did not use these sites and that sufficient controls were in place to prevent access them. As to the other reports, there are numerous findings and recommendations regarding the financial, information technology, and management policies, procedures and practices at the EAC. It is the agency's responsibility to resolve these findings and implement corrective actions to bring their operations into compliance with Federal laws, regulations, and Office of Management and Budget circulars.

The following section assesses the recommendations from two of the more comprehensive reports that have been issued by the OIG, the Assessment of EAC Program and Financial Operations and the Audit of EAC's Fiscal Year 2008 Financial Statements, as well as the status of EAC's progress on implementing those recommendations.

**FY 2008 FINANCIAL STATEMENT AUDIT**

The FY 2008 Financial Statement Audit contained 11 findings and 25 recommendations to improve EAC's financial management processes and procedures. The chart below illustrates the status (as reported by EAC on March 27, 2009) of EAC's implementation of each of the 25 recommendations.

<b>FINDING: Incomplete Performance and Accountability Report</b>		
<b>Recommendation</b>	<b>Progress</b>	<b>Date Completed</b>
Establish policies, procedures and mechanisms to comply with the financial reporting requirements in OMB Circular A-136.	This recommendation encompasses other recommendations made in the auditor's internal control report. Specifically, recommendations 3,4,5,6,7,8,9,10,11,12 and 18 (which follow below). The latest milestone date for completion of those recommendations is September 30, 2009.	<b>Not Complete</b>



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Finalize a strategic plan, implement a performance based budget and formulate useful performance measures to tie to the budget for fiscal year 2009 financial statements reporting.	Ongoing effort through FY 2009. 2010 Congressional Justification is currently in review in a performance based format. Budgets will tie to information in the financial statement audit. Milestone date is for refining performance measurements & metrics. Milestone date: September 12, 2009.	<b>Not Complete</b>
<b>FINDING: Insufficient Resources and Personnel with Appropriate Federal Accounting and Reporting Skill Sets</b>		
Recommendation	Progress	Date Completed
Evaluate the resources and appropriate skills needed to meet the financial operations' responsibilities and implement the results of the evaluation and the recommendations.	CFO and Accounting Director have been hired and will reassess staffing needs as required and in connection with assessments by HR.	<b>March 16, 2009</b>
Ensure that appropriate training is provided to financial staff on federal accounting and reporting, and on the accounting service provider's financial system.	CFO Department will provide ongoing training to non-financial staff on issues such as completing travel vouchers. EAC staff is becoming more familiar with GSA accounting and reporting and can generate reports from the provider's financial system. GSA training is available, and a contractor has been retained to assist in the training process as necessary. Annual training plans will be developed based on professional continuing education requirements. Milestone date: September 30, 2009.	<b>Not Complete</b>



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Complete changes being made to EAC's organizational structure for financial management.	EAC Organization Realignment will remediate this as subject to adoption of the Strategic Plan. Milestone date: March 27, 2009	<b>Not complete</b>
Ensure that the memorandum of agreement (MOU) with the accounting service provider clearly describes each party's responsibilities and provides for timely assistance to meet EAC's financial information needs, such as a list of all the routine financial reports that it needs periodically.	CFO has been hired. MOUs have been signed for financial, IT and HR services. Roles and responsibilities are clear. Financial staff is onboard to ensure that the provider fulfills its distinct responsibilities. As needed, adjustments will be made to the MOU roles and responsibilities.	<b>March 15, 2009</b>

**FINDING: Outstanding Accounting Issues**

Recommendation	Progress	Date Completed
In order to prepare reliable financial statements for Fiscal Year 2009, EAC must resolve above accounting issues as soon as possible. For complex issue such as the accounting for requirements payments, it may need to consult with authoritative bodies such as the OMB or the U.S. Treasury.	EAC will continue to work with OMB and the service provider on accounting related issues.  The Accounting Director who starts 4/13/2009 along with the Grants Director who starts 3/30/09 will evaluate the requirements and determine if contractor assistance is necessary to address the issues.  Milestone date: July 31, 2009	<b>Not Complete</b>

**FINDING: Lack of an Integrated Financial Management System**

Recommendation	Progress	Date Completed
In conjunction with the recommendation no. 6 related to the service provider's memorandum of agreement, EAC should decide to either interface its standalone financial systems with the service provider's system or to utilize the	Based on evaluation by the CFO, the EAC requested direct access to service provider's financial system in order to utilize the service provider's subsystems. Additional steps to integrate the financial	<b>Not Complete</b>



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service provider's subsystems, if available.	management system will be discussed with the external service provider and developed into a plan which will be integrated into a revised MOU as necessary. Milestone date: June 30, 2010.	
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**FINDING: Ineffective Financial Statement Preparation**

Recommendation	Progress	Date Completed
Develop and implement policy and procedures for the financial reporting process and responsibilities including preparation of the financial statements. The procedures should include, among others, financial statements review process and submission/completion milestones. Internal milestones should be established and updated annually as part of the financial statement preparation process.	The framework will be incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC. Specific policies and/or procedures will be identified and formalized after the Accounting Director, CFO and Grants Director have had an opportunity to determine the necessary policy requirements. Milestone date: September 30, 2009	<b>Not Complete</b>

**FINDING: Lack of Reconciliation and Analysis**

Recommendation	Progress	Date Completed
Prepare and analyze monthly reconciliations of subsidiary and summary accounts balances. Consider a "formal closing" of all accounts at an interim dates which will reduce the level of accounting activity and analysis required at year-end. This "formal interim closing" entails ensuring that all transactions are recorded in the proper period through the end of the month.	Nature, extent and timing of the reconciliation process are contingent upon the EAC's evaluation of the accounting system which will be completed by the Accounting Officer. A control list of periodic reconciliations will be performed and monitored by the CFO Department. Milestone date: June 30, 2009	<b>Not Complete</b>
Evaluate the most efficient way of obtaining financial data from the general ledger system of the service	Based on evaluation by the CFO, the EAC requested direct access to service provider's	<b>Not Complete</b>



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provider.	financial system in order to utilize the service provider's subsystems. Additional steps to integrate the financial management system will be discussed with the external service provider and developed into a plan which will be integrated into a revised MOU as necessary. Milestone date: June 30, 2010.	
Ensure that supervisory reviews are applied to the monthly reconciliations and its supporting documents are maintained and reviews documented.	Nature, extent and timing of the reconciliation process are contingent upon the EAC's evaluation of the accounting system which will be completed by the Accounting Officer. A control list of periodic reconciliations will be performed and monitored by the CFO Department. Milestone date: June 30, 2009	<b>Not Complete</b>
<b>FINDING: Accounting Error</b>		
<b>Recommendation</b>	<b>Progress</b>	<b>Date Completed</b>
Analyze all contracts and prepare correcting entries.	EAC will continue to work with OMB and the service provider on accounting related issues.  The Accounting Director who starts 4/13/2009 along with the Grants Director who starts 3/30/09 will evaluate the requirements and determine if contractor assistance is necessary to address the issues.  Milestone date: July 31, 2009	<b>Not Complete</b>
Ensure that the accounting entries for this type of transactions are recorded in accordance with United	EAC will continue to work with OMB and the service provider on accounting related	<b>Not Complete</b>



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States Standard General Ledger requirements.	<p>issues.</p> <p>The Accounting Director who starts 4/13/2009 along with the Grants Director who starts 3/30/09 will evaluate the requirements and determine if contractor assistance is necessary to address the issues.</p> <p>Milestone date: July 31, 2009</p>	
<b>FINDING: Lack of Support for Grant Accounting</b>		
Recommendation	Progress	Date Completed
Consult with OMB and/or U.S. Treasury on the appropriate accounting for the Section 251 requirements payments. Prepare a position paper to document the authoritative decisions to support the accounting treatment.	<p>EAC will continue to work with OMB and the service provider on accounting related issues.</p> <p>The Accounting Director who starts 4/13/2009 along with the Grants Director who starts 3/30/09 will evaluate the requirements and determine if contractor assistance is necessary to address the issues.</p> <p>Milestone date: July 31, 2009</p>	<b>Not Complete</b>
Develop procedures for the return of the Section 102 funds from the States. The procedures should include determining States that are required to return the funds, the amounts to be returned, and the process to obtain the funds. Also, ensure that the accounting for these funds is properly recorded and supported by adequate documentation.	<p>EAC will continue to work with OMB and the service provider on accounting related issues.</p> <p>The Accounting Director who starts 4/13/2009 along with the Grants Director who starts 3/30/09 will evaluate the requirements and determine if contractor assistance is necessary to address the issues.</p> <p>Milestone date: July 31, 2009</p>	<b>Not Complete</b>



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Develop policies and procedures for the funds identified by the Office of Inspector General audits.	Applicable sections Incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC. Milestone date: June 30, 2009	<b>Not Complete</b>
<b>FINDING: Weak Funds Control</b>		
Recommendation	Progress	Date Completed
Establish and implement policy and procedures for funds control.	Applicable sections Incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC. In addition, the Budget Director/CFO will work with the Accounting Director and the external service provider to fully develop funds control management policies and procedures. The EAC is moving toward achieving this goal by establishing separate organization (program/division) codes within the GSA Pegays financial system which will be used to track funds programmatically in the service provider system. Milestone date: July 31, 2009	<b>Not Complete</b>
Resolve the potential Anti-Deficiency Act and Purpose Statute violation issues as soon as possible. EAC may need to reconstruct the transactions in order to determine proper accounting and use of the funds.	A preliminary analysis has been performed and used to prepare a work statement for completing the necessary analysis. The contract will be awarded in April 2009 and the issue should be fully resolved by the milestone date.	<b>Not Complete</b>



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		Milestone date: August 31, 2009
<b>FINDING: Entity-Wide Security Program</b>		
Recommendation	Progress	Date Completed
Develop and implement information system policies and procedures to meet compliance with OMB Circular A-130, NIST special Publication 800-18 and FISMA requirements and guidelines.	<p>The establishment of priorities is critical before the EAC can commit significant resources to remediation and implementation of recommendations. A contractor has been retained to assist the EAC with managing the audit related issues, and helping establish priorities by performing required analyses and assisting with cost estimates. The milestone date for completion of a Priority Plan is 4/30/09.</p> <p>It should be noted that a contractor was hired to assist with this recommendation as indicated in the initial response but was unable to complete the work. Due to a number of issues including timing and budget restraints along with the growing accumulation of IT related recommendations, it was determined that the recommended evaluation of priorities (as described above) should take place before issuing any further work statements.</p> <p>Milestone date: September 30, 2009</p>	<b>Not Complete</b>
Request and review a copy of the service provider systems review rotation plan, noting which EAC	The establishment of priorities is critical before the EAC can commit significant resources to	<b>Not Complete</b>





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<p>support systems are covered. For fiscal years where EAC systems are not covered, EAC should obtain access from service provider to review these systems to comply with FISMA Section 3544.</p>	<p>remediation and implementation of recommendations. A contractor has been retained to assist the EAC with managing the audit related issues, and helping establish priorities by performing required analyses and assisting with cost estimates. The milestone date for completion of a Priority Plan is 4/30/09.</p> <p>It should be noted that a contractor was hired to assist with this recommendation as indicated in the initial response but was unable to complete the work. Due to a number of issues including timing and budget restraints along with the growing accumulation of IT related recommendations, it was determined that the recommended evaluation of priorities (as described above) should take place before issuing any further work statements.</p> <p>EAC has obtained a reply from GSA on which systems are identified in FISMA and will evaluate the information.</p> <p>Milestone date: September 30, 2009</p>	
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<p>Assign responsibility for the security management function to an individual with the oversight responsibility and authority over the security management structure. The individual should have the expertise and independence to enforce security policies.</p>	<p>The responsibilities will be assigned to the CIO who has been identified in the adopted strategic plan.</p> <p>No milestone date identified.</p>	<p><b>Not Complete</b></p>
<p>Continue with ongoing efforts and complete a certification and accreditation, risk assessment, security plan and system test and evaluation of EAC's general support systems.</p>	<p>The establishment of priorities is critical before the EAC can commit significant resources to remediation and implementation of recommendations. A contractor has been retained to assist the EAC with managing the audit related issues, and helping establish priorities by performing required analyses and assisting with cost estimates. The milestone date for completion of a Priority Plan is 4/30/09.</p> <p>It should be noted that a contractor was hired to assist with this recommendation as indicated in the initial response but was unable to complete the work. Due to a number of issues including timing and budget restraints along with the growing accumulation of IT related recommendations, it was determined that the recommended evaluation of priorities (as described above) should take place before issuing any further work statements.</p> <p>Milestone date has been</p>	<p><b>Not Complete</b></p>



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	established as September 30, 2009. Any necessary work statement will be issued pending the completion of the Priority Plan.	
Obtain, review and follow up on identified security weaknesses within (1) the service provider's POA&M (2) the Statement of Auditing Standards (SAS) 70 review of the Heartland Finance Center; (3) the service provider's OIG 2008 FISMA report; and (4) any other security-related reviews it may have performed on EAC support systems.	EAC has obtained the POA&M from GSA and will review it as necessary. A contractor may be hired to assist with completing the recommendation pending the completion of the Priority Plan as described in control item no. 36. Milestone date: September 30, 2009.	<b>Not Complete</b>
<b>FINDING: Contingency Plan</b>		
<b>Recommendation</b>	<b>Progress</b>	<b>Date Completed</b>
Develop EAC's own COOP, DRP, and BIA which maps to applicable service provider's plans and consider implementing the recovery of non-service provider support systems, business processes, personnel and interfaces.	The establishment of priorities is critical before the EAC can commit significant resources to remediation and implementation of recommendations. A contractor has been retained to assist the EAC with managing the audit related issues, and helping establish priorities by performing required analyses and assisting with cost estimates. The milestone date for completion of a Priority Plan is 4/30/09.  It should be noted that a contractor was hired to assist with this recommendation as indicated in the initial response but was unable to complete the work. Due to a number of issues including timing and	<b>Not Complete</b>



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	<p>budget restraints along with the growing accumulation of IT related recommendations, it was determined that the recommended evaluation of priorities (as described above) should take place before issuing any further work statements.</p> <p>Milestone date: September 30, 2009.</p>	
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**ASSESSMENT OF EAC'S PROGRAM AND FINANCIAL OPERATIONS**

The Assessment of EAC's Program and Financial Operations contained 29 recommendations to improve the EAC's program operations. In response to the 2008 Assessment of EAC's Program and Financial Operations, EAC developed a matrix of the recommendations contained in the report so as to track its status. The following chart tracks EAC's efforts to conform to the recommendations (as reported by EAC on March 29, 2009) made in the report using EAC's reports to the Office of Inspector General and this Subcommittee to explain the agency's progress. To date, EAC has completed implementation of 9 of the 29 recommendations.

RECOMMENDATION	PROGRESS	DATE COMPLETED
1. Develop, document and communicate short and long-term strategic plans, performance measurements and goals.	Adoption of Strategic Plan pending Completion of Annual Performance plan pending.	<b>Not Complete</b>
2a. Re-evaluate the current organizational structure and clearly define areas of authority and responsibility, and hierarchy for reporting.	The formal document "Roles and Responsibilities of the Commissioners and Executive Director of the U.S. Election Assistance Commission" was finalized in September 2008. Structure and responsibilities are evaluated on an ongoing basis. Changes are incorporated into a revised organizational chart as necessary.	<b>September 19, 2008</b>



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RECOMMENDATION	PROGRESS	DATE COMPLETED
2b. Perform a risk assessment to identify internal and external risks and implement appropriate and effective internal control to mitigate or eliminate high risks.	EAC is in the process of drafting a statement of work for the OMB-123 work. Work statement will be completed by 6/30/09, milestone date relates to completion of risk assessment.  Milestone date: September 30, 2009.	<b>Not Complete</b>
3. Document its governance and accountability structures and practices in place in formal policies and procedures.	Applicable sections incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC. Milestone date: June 30, 2009.	<b>Not Complete</b>
4. Define areas of authority and responsibility, and hierarchy for reporting to avoid confusion and misunderstanding (including the roles of the Commissioners and the Executive Director).	The formal document "Roles and Responsibilities of the Commissioners and Executive Director of the U.S. Election Assistance Commission" was finalized in September 2008. Structure and responsibilities are evaluated on an ongoing basis. Changes are incorporated into a revised organizational chart as necessary.	<b>September 19, 2008</b>
5. Conduct skills inventory assessment for all EAC program offices.	OPM & HR have completed the assessments. Ongoing assessments will be conducted in the future as required.	<b>September 21, 2008</b>
6a. Develop and implement policies and procedures for modifying the Voluntary Voting System Guidelines that will be followed by responsible staff. Moreover, policy related to conflict of interest and ethics should be developed.	Applicable sections incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC. Milestone date: June 30, 2009.	<b>Not Complete</b>



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RECOMMENDATION	PROGRESS	DATE COMPLETED
6b. Ensure the Laboratory Accreditation Program Manual under development is completed by the end of fiscal year 2007.	Manual has been finalized.	<b>August 31, 2008</b>
7a. Develop a communication strategic plan and goals, and establish written procedures to ensure authorized and consistent implementation of its communication.	Applicable sections incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC. Milestone date: June 30, 2009.	<b>Not Complete</b>
7b. EAC should also have policies and procedures such as implementation of the Freedom of Information Act, the Privacy Act Regulations, and Records Management.	Applicable sections incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC. Milestone date: June 30, 2009.	<b>Not Complete</b>
8. Develop written policies and procedures to minimize the impact of human capital loss, if any, to its operations of the Communications Division.	Applicable sections incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC. Milestone date: June 30, 2009.	<b>Not Complete</b>
9. Establish policies and procedures related to research process and the clearinghouse function. This will include developing a formal peer review process for the research methodology and results; and policies	The Research Department is working on policies and procedures with General Counsel.  Milestone date: June 30, 2010.	<b>Not Complete</b>



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RECOMMENDATION	PROGRESS	DATE COMPLETED
and procedures related to the research process from initiation through reporting.		
10. Establish a process to ensure that mandated studies are prioritized considering the limited resources that it has.	A process for prioritizing mandated studies has been established by the Research Subcommittee of the Board of Advisors.	<b>May 31, 2008</b>
11. Re-evaluate the current organizational structure and clearly define areas of authority and responsibility, and hierarchy for reporting for the Administrative Division.	<p>The formal document "Roles and Responsibilities of the Commissioners and Executive Director of the U.S. Election Assistance Commission" was finalized in September 2008. Structure and responsibilities are evaluated on an ongoing basis. Changes are incorporated into a revised organizational chart as necessary.</p> <p>Applicable sections incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC. Milestone date: June 30, 2009.</p>	<b>Not Complete</b>
12. Resolve with GSA the unobligated balance of requirements payments of \$9,072,894 (Fund 803-Appropriation No. 95X1651).	Item is completed.	<b>February 25, 2008</b>
13. Review and perform a periodic reconciliation of EAC financial activities with GSA's accounting records.	Hiring of CFO and Accounting Director plus reorganization completes the necessary staffing. Accounting Director starts 4/13/2009. Procedures for reconciliation will be implemented with input of new team. Additionally, EAC has hired a contractor to assist with critical reconciliation of financial statements. Milestone date: September 30, 2009.	<b>Not Complete</b>



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RECOMMENDATION	PROGRESS	DATE COMPLETED
14. Implement or strengthen EAC fund control reviews to ensure that funds are used timely and appropriately. (Funds control review should be performed monthly to ensure that funds obligated or de-obligated as needed.)	Recently hired Budget Director/CFO is initiating periodic funds control reviews and examining both input documents and reports generated from the budget/accounting system. Significant progress has been made in setting up divisional/programmatic budgets in the central accounting/funds control system (maintained by GSA) to integrate fund control management and review. Milestone date: September 30, 2009	<b>Not Complete</b>
15. Establish written policies and procedures for the Administrative Division to ensure that operations are implemented consistently eliminate or reduce confusion, and mitigate the risk of disruptions to its operations in case of a personnel change or termination.	Applicable sections incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC. Milestone date: June 30, 2009.	<b>Not Complete</b>
16. Develop a list of financial laws and regulations that are applicable to the Commission. Some of the laws and regulations to consider are the FMFIA, GPRA, FFMIA, OMB Circular A-136, A-123, A-130, A-127.	EAC has obtained a draft report from GAO in which the appropriate laws and regulations are identified. Report GAO-09-270 is entitled "Designated Federal Entities: Survey of Governance Practices and the Inspector General Role".	<b>March 23, 2009</b>





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RECOMMENDATION	PROGRESS	DATE COMPLETED
<p>17. Identify appropriate knowledge and skills needed for various jobs in the Administrative Division and provide needed training. In doing so, consider hiring staff who will be responsible for the recording, summarization, and reporting of accounting activities in accordance with Federal Government GAAP. Moreover, we believe EAC should conduct skills inventory assessment for all of its program offices.</p>	<p>OPM &amp; HR have completed the assessments. Ongoing assessments will be conducted in the future as required. This was completed on September 21, 2008.</p> <p>Hiring of CFO and Accounting Director plus reorganization completes the necessary staffing. Accounting Director starts 4/13/2009. Procedures for reconciliation will be implemented with input of new team. Additionally, EAC has hired a contractor to assist with critical reconciliation of financial statements. Milestone date: September 30, 2009.</p>	<p><b>Not Complete</b></p>
<p>18. Consider hiring staff with federal budgeting experience or provide training to appropriate staff in the Office of Finance, [Budget], and Administration to carry out this function.</p>	<p>A Budget Director/CFO with considerable federal experience has been hired to carry out the required responsibilities. In addition an Accounting Director has been hired to address the finance functions.</p>	<p><b>February 15, 2009</b></p>
<p>19. Establish a systematic and formal process for establishing and approving policies and procedures for EAC payment and grant programs. These policies and procedures should also be centrally maintained and readily available for use by EAC staff.</p>	<p>Applicable sections incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC. Milestone date: June 30, 2009.</p>	<p><b>Not Complete</b></p>



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RECOMMENDATION	PROGRESS	DATE COMPLETED
20. Provide written guidance, in addition to the examples posted in its website, for the preparation of annual financial and narrative reports on the use of HAVA payments.	Applicable sections incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC. Milestone date: June 30, 2009.	<b>Not Complete</b>
21. Develop a systematic process for conducting some form of financial management oversight to provide some assurance that costs incurred are reasonable, allowable, and valid based on the purpose of the funding provided under HAVA Sections 101, 102 and 251.	Applicable sections incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC. Milestone date: June 30, 2009.	<b>Not Complete</b>
22. Implement policy and procedures to recover unobligated Section 102 funds by the revised deadline for State use of funds.	Applicable sections incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC. Milestone date: June 30, 2009.	<b>Not Complete</b>
23. Develop policies and procedures to implement audit follow-up as required in OMB A-133.	Applicable sections incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC. Milestone date: June 30, 2009.	<b>Not Complete</b>
24. Perform a risk-based assessment to evaluate the sufficiency of personnel in the Programs and Services Division to ensure that the Division's day to	OPM & HR have completed the assessments. Ongoing assessments will be conducted in the future as required.	<b>September 21, 2008</b>



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RECOMMENDATION	PROGRESS	DATE COMPLETED
day operations and oversight do not suffer due to limited resources.		
25. Establish policies and procedures on responding, documenting, communicating, and retaining answers to questions raised by the States in the administration of the HAVA payment and grants.	Applicable sections incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC. Milestone date: June 30, 2009.	<b>Not Complete</b>
26. Establish policies and procedures to comply with the National Voter Registration Act.	The FEC Commissioners have not yet voted to transfer the NVRA regulations. No milestone date was identified.	<b>Not Complete</b>

Progress has been made by the EAC primarily in the areas of personnel reorganization and hiring persons to staff the Administration Division that have experience with federal Government procurement and financial management. While hiring qualified administrative staff goes a long way toward improving EAC's financial management function, the EAC should use caution to avoid staffing one program or function to the detriment of its other programs. By our current count, EAC has 21 positions dedicated to executive direction and administration and 14 persons to serve its programs (testing & certification, grants, and research), legal and communications needs.<sup>3</sup>

Based upon its own reports, EAC only last week adopted its strategic plan and has not yet adopted policies and procedures needed to underlie the operation of many of its programs. The notable exception to this is the Testing and Certification Program, which now has in place manuals for testing and certification as well as laboratory accreditation. In FY 2009, EAC will again be subject to an audit of its financial statements. Without these needed policies, EAC may have difficulty in meeting the benchmarks necessary to receive an unqualified opinion (clean audit).

<sup>3</sup> These numbers do not include the three persons employed by the Office of Inspector General.



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In FY 2009, OIG will also be conducting audits and assessments of EAC in addition to its audit of EAC's FY 2009 financial statements. These engagements will include reviewing EAC's compliance with the Federal Information Security Management Act, evaluating EAC's purchase of shirts and jackets for its employees, and assessing EAC's internal controls over time and attendance.

In addition to its audits and assessments, OIG has conducted one investigation of an EAC research effort. OIG contracted with another government agency to provide the investigative services for the activity. The final report was issued in March 2008. A copy of the investigative report, Report of Investigation: Preparation of the Voter Fraud and Voter Intimidation Report, is available on the OIG webpage.

### CONCLUSION

The EAC plays a critical role in funding and assisting states to improve election processes. As such, EAC's operations are under scrutiny as are the state programs for conducting elections. It is the Office of Inspector General's role to offer guidance and information through its audits, evaluations, reviews and investigations that will help EAC build and run programs that instill public confidence by preventing waste, fraud and abuse. The Office of Inspector General will continue to work with the EAC and this Subcommittee to help promote efficient and effective government.

The Office of Inspector General appreciates the opportunity to provide this testimony regarding its activities. If you have any questions, I will be happy to address them.

Ms. LOFGREN. I would turn first to the gentleman from Mississippi to see what questions he may have.

Mr. HARPER. Thank you very much. I appreciate you being here today and testifying before us. And I guess the first question I would have is your analysis of where they are on the progress, based upon your last visit with them.

Mr. CRIDER. I think everybody should understand that this was the first year the EAC was audited, had its financial statements audited. A disclaimer in the first year is not uncommon because of having to go back and establish the beginning balances. And some of the accounting issues that were identified go back a number of years, even before there was an EAC, when GSA was doing the accounting for it. And that is where some of the issues and some of the findings in the report are.

The fact that EAC has hired a chief financial officer I think is very promising. I think that that will help a lot. But we are very concerned at this point that some of the accounting issues have not been resolved—and we are getting ready to start our audit hopefully next month—and that the underlying policies and procedures have not been adopted to this point. The EAC has—

Mr. HARPER. May I? I hate to interrupt you, but how long did they have to adopt those policies or recommendations?

Mr. CRIDER. In February of 2008, we issued our first finding that they did not have policies and procedures. And so it has been a year now. I understand they have a draft of those policies and procedures, that they are working on those. But like I say, we are very concerned that we are already looking at—we are starting April here and we don't have some of the underlying accounting issues resolved. And I think that there are some issues involving GSA that need to be looked at and resolved by the Commission in order to make this process go smoother in the future.

Mr. HARPER. Prior to that first audit, had anyone contacted you from EAC to ask for assistance or say, "Look, we realize we have a problem; can you help direct us" prior to that audit time?

Mr. CRIDER. We have had ongoing discussions about some of the things that we are missing, such as the A-123 evaluations and the internal control issues that needed to be addressed. But we did not have a formal report at that point. But we have had communication with the executive director. And they were aware of some of it, and they were trying to address some of the issues.

But one of the problems with the EAC is it is a very small agency. It has to comply with just about all the other Federal requirements that are out there. And it is somewhat overwhelming for a small agency, sometimes, to have to do all this stuff. So they have to rely on, sometimes, outside parties to help them. And that I think has been one of the issues, is trying to get the right resources in place to get some of this stuff done.

Mr. HARPER. And I certainly don't want to put words in your mouth, but are you saying they are really at this time not on the path that you think they should be?

Mr. CRIDER. They are getting there. But I think there is a lot of work to be done. Like I said, they just adopted their strategic plan last week. So there is going to be some problems with the financial statements this year. Like I said, we are hoping that—we are ex-

pecting to see some significant improvements; at least that is what we are hoping for. And we are willing to work with the EAC to try to make sure those improvements get done, so we would like to see some improvement. There is a lot of work to be done yet.

Mr. HARPER. And I know that your office recently hired the former general counsel of the EAC. How do you deal with that person when it comes to reviewing or looking at anything involving the EAC?

Mr. CRIDER. Whenever we hired Ms. Hodgkins as my general counsel, she prepared lists of all the items that she had worked on in terms of policy procedures and documents, and whether or not attorney-client privilege attached to those documents. And she will recuse herself from working on any of those matters.

We have entered into a separate memorandum of understanding with another Federal agency, that if there are issues that we need outside counsel, that she cannot help us with, then we will go to the outside counsel. And we have also set up a separate secure filing system that, if we are working on things that she was involved with as part of the EAC, that she will not have access to any of that information.

Mr. HARPER. Are you satisfied that that is working well?

Mr. CRIDER. Yes, it is. I am satisfied with that.

Mr. HARPER. If you had to identify the single biggest problem that you see that still exists with EAC, what would you say that was?

Mr. CRIDER. The lack of the policies and procedures and lack of an internal control structure.

Mr. HARPER. And your recommendations on how to fix that?

Mr. CRIDER. Is that they need to get their policies and procedures in place. They need to establish their internal control structure and do the risk assessments that are required by A-123 to identify any weaknesses that they have, and address their accounting and their underlying accounting issues.

Mr. HARPER. Thank you, Madam Chair. With that I yield back the balance of my time.

Ms. LOFGREN. Thank you. I would turn to my colleague from California Congresswoman Davis.

Mrs. DAVIS of California. Thank you. Thank you, Mr. Crider. In your report you cited a lack of expertise on the part of the stated election officials as the reason for lapses in documentation. And I wonder, how do you feel the EAC could best train those officials? What role do they really play and how do you see that they could be better suited?

Mr. CRIDER. I would characterize it maybe a little bit differently. I am sorry if we maybe led you down the wrong path. But they are very qualified out in the States in terms of their function, their operations and what they do. What they lacked experience was, this is the first time many of them have gotten Federal money, and that they did not have a full understanding. And HAVA is a very unusually written law. There is a lot of vagueness in HAVA. But the State people are very very qualified to do their job.

Like I say, this is the first time they have received Federal money, and there was a lack of policy and procedures on the part of the EAC in guidance that had been put out from the first couple

of years. And the EAC has started several things the last couple of years in terms of trying to help with that.

They now have established an advisory policy where if a State has a question on something, they can submit a question to the EAC and try to get the issue up front before it becomes a problem.

We have done some outreach with the EAC when there are NAS meetings. We will go out as a part of the EAC and try to help provide training as to what our audits are and how we go about doing our audit. And the EAC as a part of that presentation will then do what are the recordkeeping requirements; what are the requirements that you need to make sure that you are adhering to, and things like that. So they are starting to move forward.

Mrs. DAVIS of California. You cited the fact that this is a small agency. Do they have the capacity to fully do that and really responding?

Mr. CRIDER. They are responding. And sometimes it does take a while. And I do think that is a function of resources. And some of these issues are very complicated, that they do require a lot of research and a lot of analysis before they can be resolved. But I do think that additional resources in that area would be helpful.

Mrs. DAVIS of California. You also mentioned that the inspector general, your audits have been based on looking at States that really had spent the most money that were audited. And I am just wondering, are there other factors really at play in terms of what you should be focusing on?

Mr. CRIDER. Well, we also take a look at the single audit reports that were issued by the State auditors and by the CPA firms that did this, and we see if there are any issues that are identified there. We have gotten several requests from States to come in and do audits; or, if the EAC has specific concerns, they relay those to us. So it all comes into play. But the biggest issue right now is how much money has been spent.

Mrs. DAVIS of California. And in terms of doing your own investigations, you contract out a number of those, as I understand it.

Mr. CRIDER. Yes, we do.

Mrs. DAVIS of California. Would it be better if you had the capacity yourselves to do more of those, and what kind of inconsistencies do you find in the contracting investigation?

Mr. CRIDER. In terms of the contracting investigations, we contract with another inspector general's office to conduct those investigations. We have only had two of those since I have been with the EAC since 2006.

I do not have enough work at this point for a full-time investigator. So that is one of the reasons why we are using outside investigators. If we start getting more investigative requests and more issues start coming up, then we will go back and take a look at the workload and say, okay, do I have enough work at this point for an investigator.

Mrs. DAVIS of California. But you are satisfied that that has worked out?

Mr. CRIDER. It has worked out very well because the agencies that we work with have been very good about giving us competent, capable investigators.

Mrs. DAVIS of California. Thank you. Thank you, Madam Chair.

Ms. LOFGREN. Thank you. I would recognize my other colleague from California, Mr. McCarthy.

Mr. MCCARTHY. Thank you, Madam Chair.

I appreciate you coming before us again, and I remember the last time you were here. The one thing I recall back when I was actually a staffer and worked part within this committee, when Republicans took control in 1994, for the first time we did an audit inside this House. And one thing that we found, because no audit had ever been done prior, you actually didn't have the material needed to do it. So it took a couple of years to get there.

And knowing where we were with the EAC, I guess maybe going down the same line as my colleague Mr. Harper did, if I could dwell a little more on the improvements, knowing that within the first audit there is so much you got to get—much like Congress when they never had the accountability before—that you are bringing it in now. It takes a year or 2 to get to make sure you have the basis to account. But have you seen the improvement needed?

Mr. CRIDER. We are seeing some improvement. As I said earlier, there is a lot of improvement still needed. The CFO was just appointed here in February of 2009, so they have not had an opportunity to go in and do everything they need to do in terms of trying to get ready for the audit. So there is still a lot of work to be done.

There is a lot of internal control reviews that need to be done. There is a lot of account analysis that needs to be done. And just working with our service provider in terms of just getting the basis for our financial statements so that we can have them in time and try to get this whole process done. We do expect to see some significant improvements this year.

Mr. MCCARTHY. Well, maybe if I could step back. So when it gets finished—and I am looking from this end—should I have much higher expectations that a year was long enough to get this all improved, even though the CFO just hired?

Mr. CRIDER. There will be improvements now. Whether or not there will—I am not going to sit here and say that everything will be fine, because it is not going to be. But we do expect to see improvements. And I believe the CFO has committed to trying to get some of the internal control issues resolved.

But the other thing you need to remember is that the auditors were not able to complete their audit last year. So as we start this time and as we do more testing, as we start—

Mr. MCCARTHY. They may not have found all the problems. They may not be aware of some.

Mr. CRIDER. Right. They may not be aware of some of them. But I do believe the CFO will be there to provide us the data that we need to conduct the audit.

Mr. MCCARTHY. Well, should I be able to expect, or this committee be able to expect, this time you will be able to find all the problems that are there?

Mr. CRIDER. We are hoping. That is the best I can say at this point. Because until the audit is over, I cannot sit here and tell you.

Mr. MCCARTHY. Shouldn't that be an expectation of ours, though?



Mr. CRIDER. It should be an expectation. It is my expectation that we have all the issues identified this year. Whether or not we get there or not, I don't know. Like I said, that is my expectation.

Mr. MCCARTHY. And like most audits you read before, when you put the page back where you have the discrepancies or concerns, will there be a timeline of what you have in there that you think these should be able to be accomplished by as well?

Mr. CRIDER. As part of the audit recommendations is that the agency gives us an implementation plan where they lay out when they think they are going to be able to get things done by. And that is what we track them on. So we say to the agency, you have a problem in this area. If they agree with us, they will say, okay, this is our implementation plan. And they will establish benchmarks as to when they expect to get the stuff done, and that is how we track it.

Mr. MCCARTHY. Now, do they give you the benchmark or the timeline, or do you work with them to decide the timeline?

Mr. CRIDER. It varies. Most of the time we will go with their timeline. If we think it is not reasonable, we may go back to them and say, this is not reasonable and this is going to cause you a problem next year. But generally speaking, it is the agencies when they think they can get them implemented in terms of getting the problem fixed.

Mr. MCCARTHY. Thank you, Madam Chair, and I yield back the balance of my time.

Ms. LOFGREN. Thank you. Mr. Crider, clearly we need to, I guess, speed up some of this action, and I am glad that we have the commissioners here to talk to us next about their plans.

If I can summarize in plain language, it sounds like really what you are saying is we lack internal controls, we are not really where we need to be in terms of auditable material, and yet you haven't found any evidence that there has been misspending or corruption or anything of that nature. We just want to make sure that we have the controls in place so, on an ongoing basis, we will always know that is the case. Would that be a fair statement?

Mr. CRIDER. That would be a fair statement.

Ms. LOFGREN. Good. Thank you very, very much.

And we will keep the record open for 5 days for people who want to follow up with questions. And if we do have additional questions we would ask that you—well, Mr. Gonzalez has walked in. I don't know whether you had a question for the inspector general. We are just about to let him go. If you do, we will hold him further. No, he is waving off.

We may have additional questions for you, and if we do we would ask that you answer them promptly. And we do appreciate your testimony today.

[The information follows:]

Ms. LOFGREN. And now we will call up our second panel. We have today Commissioner Gineen Beach. Ms. Beach currently serves as the Chair of the Election Assistance Commission, was appointed by President Bush in October of 2008. Prior to her appointment Ms. Beach was an election counsel with this committee, as well as an election law advisor to former Maryland Governor Robert Ehrlich.

Gracia Hillman is currently serving as the Vice Chair of the Election Assistance Commission and has served on the Commission since her appointment in 2003. Ms. Hillman's prior work experience includes having served as Executive Director of the League of Women Voters in the United States, the Congressional Black Caucus Foundation and the National Coalition on Black Voter Participation.

We have Commissioner Donetta Davidson. Commissioner Davidson has served on the Election Assistance Commission since 2005 and she served as Chair in 2007. Prior to her work with the EAC Ms. Davidson served as the Arapahoe County Clerk and then Colorado Secretary of State, where she was President of the National Association of Secretaries of State and President of the National Association of State Election Directors. Ms. Davidson also served on the Federal Election Commission Advisory Panel and the Board of Directors of the Help America Vote Foundation.

And finally we have Mr. Thomas Wilkey. He is the Executive Director of the U.S. Election Assistance Commission where he has served since 2005. Prior to his work with the EAC, Mr. Wilkey was the former Director of the New York Board of Elections and Founder of the National Association of State Election Directors.

As you know, your full statements are, by unanimous consent, made part of our official record. We ask that your testimony to us be about 5 minutes. And that will give us time to ask questions.

**STATEMENTS OF HON. GINEEN BRESSO-BEACH, CHAIRWOMAN, U.S. ELECTION ASSISTANCE COMMISSION; HON. GRACIA HILLMAN, VICE CHAIRWOMAN, U.S. ELECTION ASSISTANCE COMMISSION; HON. DONETTA DAVIDSON, COMMISSIONER, U.S. ELECTION ASSISTANCE COMMISSION; AND THOMAS WILKEY, EXECUTIVE DIRECTOR, U.S. ELECTION ASSISTANCE COMMISSION**

Ms. LOFGREN. And, Ms. Beach, may we begin with you?

**STATEMENT OF GINEEN BRESSO-BEACH**

Ms. BEACH. Thank you. Good morning, Chairwoman Lofgren, Ranking Member McCarthy, and distinguished members of the subcommittee. Thank you for inviting us to be with you this morning.

As you know, the Commission's mission is to assist in the effective administration of Federal elections. To achieve our mission, the EAC focuses on the following program areas: one, overseeing and administering the Federal voluntary voting system and testing certification program; two, conducting research that assists election officials in making improvements; three, developing clearinghouse materials to provide assistance to voters, election officials and the general public; four, managing HAVA funds; and five, administering the national voter registration form.

In addition to the program work, we continue to strengthen internal operations. Last year the inspector general audited EAC's internal operations and provided us with 26 recommendations. These recommendations have led to a road map to make improvements. And you will hear about those activities in detail from the Executive Director, Tom Wilkey.

Moving forward, while EAC must fulfill our financial management and reporting obligations, we must also provide resources to core program areas in need, like our voting system division.

Vice-Chair Hillman and Commissioner Davidson will describe in their testimony our efforts to devote considerable resources to the testing and certification of voting systems.

As the Chair of the EAC, my dual focus will be devoting all available resources to conducting core activities, as described in the Help America Vote Act, and maximizing the use of our limited resources to meet all our objectives. We urge everyone to hold us accountable for our activities.

To that end, the EAC recently adopted a strategic plan, and it is available on our Web site, which clearly outlines our guiding principles. Among them are bipartisanship, transparency, professionalism, accountability, integrity, fiscal responsibility and efficiency.

The EAC has much work ahead of it and some of it will not be easy. We have got to make sure our internal structure is sound and complies with all Federal requirements. At the same time, we have to give staff the support they need to meet all of our HAVA requirements.

I am confident we are on the right track and the right path to internal compliance and success in meeting all our HAVA requirements. And thank you. I look forward to your questions.

Ms. LOFGREN. Thank you.

[The statement of Ms. Beach follows:]



UNITED STATES ELECTION  
ASSISTANCE COMMISSION

TESTIMONY

OF

HONORABLE GINEEN BRESSO BEACH, CHAIR,  
HONORABLE GRACIA HILLMAN, VICE CHAIR  
HONORABLE DONETTA DAVIDSON, AND  
TOM WILKEY, EXECUTIVE DIRECTOR  
U.S. ELECTION ASSISTANCE COMMISSION

BEFORE THE

HOUSE COMMITTEE ON HOUSE ADMINISTRATION,  
ELECTIONS SUBCOMMITTEE

WEDNESDAY, APRIL 1, 2009

*.S. Election Assistance Commission  
1225 New York Ave., NW – Suite 1100  
Washington, DC 20005*



**U.S. Election Assistance Commission**  
**Testimony before the U.S. House Committee on House Administration**  
**Subcommittee on Elections**  
**April 1, 2009**

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Good morning Chairwoman Lofgren, Ranking Member McCarthy, and Members of the Subcommittee. We are pleased to be here on behalf of the U.S. Election Assistance Commission (EAC) to discuss the 2008 audit review and the Commission's goals and activities.

## INTRODUCTION

The EAC is a bipartisan, independent Commission consisting of four members: Gineen Bresso Beach, Chair; Gracia Hillman, Vice Chair; and Donetta Davidson. Former Commissioner Rosemary Rodriguez resigned on February 28, 2009, creating one vacancy on the Commission.

The EAC's mission is to guide, assist and direct the effective administration of Federal elections through funding, innovation, guidance and information. To achieve its mission, the EAC has focused on fulfilling its obligations under HAVA and the National Voter Registration Act (NVRA). Specific program areas include voting system certification, research and HAVA funds management. EAC also works to identify potential election administration issues and to provide States with tools that they can use to conduct accurate, secure and accessible elections.

The EAC has employed four strategic objectives to meet these statutory requirements: improving voting systems; effective management of HAVA funds; researching key election administration issues; and assisting election officials. Below we discuss what Congress, States and the public at large can expect from the EAC in the coming year, beginning with our efforts to strengthen internal operations.

## INTERNAL OPERATIONS

In Fiscal Year 2008, in anticipation of the Federal election, the EAC allocated resources to program areas that provide training and management materials to election officials and information and language assistance materials to the public. Those efforts included creative approaches like increasing Web site bandwidth and public meeting webcasts to deliver resources, such as best practices in contingency planning, to larger audiences. The Commission also dedicated resources to develop the next iteration of the *VVSG* and for ongoing activities in the Federal government's first Voting System Testing and Certification Program. The Commission's FY 2008 appropriation was \$16,530,000, which included a pass through of \$3,250,000 for The National Institute of Standards and Technology (NIST).

In 2008, the EAC also laid the groundwork to strengthen management, accountability, and internal controls. Recognizing the need to modify the management structure, roles and responsibilities of the Commissioners and the executive director were finalized and



steps are being taken to finalize a management plan that will enable the EAC to monitor objectives and meet Commission goals.

The EAC's effort to strengthen internal operations was a direct result of three significant events. The first was an assessment by the OIG that highlighted the need for the EAC to implement a strategic plan, improve internal controls, clarify the roles and responsibilities of the commissioners and senior management, and establish and or document policies and procedures for all program areas. The second was the requirement that EAC complete an audit of its Fiscal Year 2008 financial statements for the first time. The third was feedback from the financial statement auditors that EAC had some material internal control weaknesses. In response to these events, EAC has:

- Hired a chief operating officer, a chief financial officer, an accounting director with a CPA, a grants manager and a contracting officer.
- Adopted a strategic plan.
- Issued policy on the roles and responsibilities of Commissioners and the executive director.
- Hired a contractor to help write policies and procedures and to document internal controls.
- Hired consultants to help develop performance-based budgets, produce quarterly financial statements and establish a corrective action plan to address finding in the financial statement audit.
- Contracted with a certified public accounting firm to assist with financial management.
- Initiated efforts to obtain the services of a qualified firm to assist with prioritizing, analyzing, and implementing the audit recommendations to aid with developing a management plan, assuming budgetary resources are available.
- Started to update documentation of current financial management processes and systems.
- Initiated an assessment of training needs for employees to further enhance awareness of financial management.
- Preparing to issue a contract for assistance with the development of a comprehensive corrective action plan to address all weaknesses.

The EAC is using input from the chief operating officer, chief financial officer, staff with Federal financial management experience, stakeholders, expert consultants, the Office of Management and Budget, Congress and the OIG to make the adjustments that are needed for financial and management processes. The Commissioners and the executive director will incorporate the roles and responsibilities policy to ensure a high level of accountability.



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## IMPROVING VOTING SYSTEMS

Effective administration of voting systems requires the use of accurate, reliable, accessible and auditable voting systems. HAVA establishes the following requirements for voting systems used in Federal elections:

- Allow the voter to verify the votes selected on the ballot before it is cast;
- Allow the voter the ability to change his or her selections prior to casting a vote;
- Notify the voter of an overvote and the consequences of casting an overvote;
- Provide an auditable, permanent paper record of the election;
- Provide accessibility to individuals with disabilities including persons who are blind or visually impaired;
- Provide accessibility to persons for whom English is not their first language when required by Section 203 of the Voting Rights Act; and
- Meet or exceed the error rate as established in the 2002 Voting System Standards developed by the Federal Election Commission.

HAVA Section 301; 42 U.S.C. Section 15481 requires that all voting systems used in an election for Federal office meet or exceed these requirements.

HAVA required EAC to develop voluntary voting system guidelines for testing voting systems and required EAC to establish a program to test voting systems using Federally accredited laboratories. The establishment of the EAC's Voting System Testing and Certification Program marks the first time the Federal government has tested voting equipment. The EAC's program is a voluntary exercise in which States can choose from a list of Federally certified voting systems for use in their jurisdictions.

The voting system certification program established by HAVA prescribes a partnership between NIST and the EAC. NIST evaluates and recommends to the EAC voting system test laboratories that should be accredited. After the EAC accredits a test laboratory, voting system manufacturers seeking EAC certification may submit their systems to the accredited laboratory for testing.

### Voluntary Voting System Guidelines (*VVSG*)

One of EAC's most important mandates is the testing, certification, decertification and recertification of voting system hardware and software. Fundamental to implementing this key function is the development of updated voting system guidelines, which prescribe the technical requirements for voting system performance and identify testing protocols to determine how well voting systems meet these requirements. The EAC, along with its Federal advisory committee, the Technical Guidelines Development Committee (TGDC), and NIST, work together to develop voluntary testing standards.



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### **The 2005 Voluntary Voting System Guidelines**

In accordance with the HAVA-mandated 9-month deadline, the TGDC, working with NIST, technology experts, accessibility experts, and election officials, delivered the first draft of the 2005 *VVSG* to the EAC in May 2005. The EAC conducted an initial review and released the two-volume proposed *VVSG* for public comment for a period of 90 days. The EAC received more than 6,000 comments. Each comment was reviewed and considered before the document was finalized and adopted. The agency also held public hearings about the *VVSG* in New York City, NY, Pasadena, CA, and Denver, CO. The EAC adopted the 2005 *VVSG* at a public meeting in December 2005.

The *VVSG* was an initial update to the 2002 Voting System Standards focusing primarily on improving the standards for accessibility, usability and security. The *VVSG* also established the testing methods for assessing whether a voting system meets the guidelines.

### **The Next Iteration of the Voluntary Voting System Guidelines**

After meeting the HAVA deadline to issue the initial *VVSG*, the TGDC and NIST began work immediately on a complete re-write of the 2005 *VVSG* to address the next generation of voting systems. The TGDC's draft of the next iteration of guidelines contains new and expanded material covering reliability and quality, usability and accessibility, security and testing. Requirements are more precise and the language is written for enhanced usability and readability by a wide variety of audiences.

The next iteration of the guidelines contains the following sections:

- **Part 1, Equipment Requirements:** for requirements that pertain specifically to voting equipment.
- **Part 2, Documentation Requirements:** for documentation requirements that must be satisfied by both manufacturers and test labs – the Technical Data Package, user documentation, test lab reports, etc.
- **Part 3, Testing Requirements:** information and requirements about testing; the approaches to testing that will be used by test labs; the types of tests that will be used to test conformance to the requirements in Parts 1 and 2.
- **Appendix A, Definitions of Words with Special Meanings:** covers terminology used in requirements and informative language.
- **Appendix B, References and End Notes:** contains references to documents and on-line document used in the writing of this standard.

In October 2007, the EAC launched the first of two public comment periods for the next iteration, and announced the four-phase process to final adoption. The Commission has completed the first two phases.





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**Phase I** – The EAC submitted the TGDC’s draft document to the Federal Register and launched the first public comment phase with an online comment tool available at [www.eac.gov](http://www.eac.gov). The public comment period lasted for 120 days and all comments were made public.

**Phase II** – The EAC reviewed all public comments submitted on the TGDC draft.

**Phase III** – Based upon public comment and internal review of the TGDC document, the EAC is working to develop and publish its draft version in the Federal Register. The public will have another 120 days to comment on the EAC draft version. The EAC will conduct public hearings about its draft version.

**Phase IV** – The EAC will collect and review all comments submitted and make final modifications. The final version of the VVSG will be adopted by vote of the Commission at a public meeting and then published in the Federal Register.

To ensure ongoing public participation and input into the testing and certification process, in 2008 EAC held a series of roundtable discussions involving a wide variety of stakeholders. Participants included representatives from the disability and voter advocacy communities, election officials, voting system manufacturers, and technology experts. Roundtable participants provided feedback on voting system security and accessibility as well as overall suggestions to improve the process. Roundtable discussions were open to the public, and information generated from those discussions is available at [www.eac.gov](http://www.eac.gov).

After reviewing comments and receiving input from a series of roundtable discussions about the next iteration, the EAC determined that some of the contents of the next iteration should be implemented now instead of waiting for final adoption, which may not occur for several years to come due to the large volume of comments received and input from public roundtable discussions. Suggestions for areas of improvement included addressing ambiguity that may lead to inconsistent testing, numerous interpretations, and overall delays in the process.

To implement updates to the 2005 *VVSG*, the EAC will follow the procedures in HAVA. Suggested updates will be published for a 120-day public comment period, EAC advisory boards will be asked to comment and Commissioners will vote to consider the updates. As updates to the 2005 *VVSG* are contemplated, the EAC will continue working uninterrupted on the next iteration.

Voting system certification and laboratory accreditation

#### **Accreditation of Voting System Testing Laboratories**



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HAVA Section 231 requires EAC and NIST to develop a national program for accrediting voting system testing laboratories. The National Voluntary Laboratory Accreditation Program (NVLAP) of NIST evaluates test laboratories and performs periodic re-evaluation to verify that the labs continue to meet the accreditation criteria. When NIST has determined that a lab is competent to test systems, the NIST director recommends to EAC that a lab be accredited. EAC then makes the determination to accredit the lab. EAC issues an accreditation certificate to approved labs, maintains a register of accredited labs and posts this information on its Web site. Labs must adhere to the requirements of EAC's Voting System Test Laboratory Program Manual or face possible suspension or revocation of the accreditation. These requirements include a stringent conflict of interest program and compliance management program.

The EAC has accredited four test laboratories based on recommendations from NIST: CIBER, Inc., iBeta Quality Assurance, SysTest Labs and Wyle Laboratories, Inc.

#### **Voting System Certification**

HAVA instructed the EAC to establish the Federal government's first program to test and certify voting equipment. The certification program was established after the adoption of the 2005 *VVSG* and the first recommendations from NIST regarding test laboratories that should be accredited to evaluate voting systems.

The first step in the certification process is registration by the manufacturer. They are required to provide written policies for quality assurance purposes, document retention policies and a complete list of facilities. The manufacturer also agrees to meet all program requirements, such as reporting all anomalies for EAC certified-systems.

Next, the manufacturer is required to submit an application for the testing of their voting system. It is at this time that they select an EAC accredited laboratory. This laboratory then submits a test plan for approval by the EAC, tests the voting system and, finally, creates a test report. Reports from the laboratory's assessment of the voting system are provided to EAC for review and action. The reports are reviewed by EAC technical reviewers. If the report is in order and the system is in conformance with the applicable voting system standards or guidelines, the EAC will grant the system certification. The EAC's executive director will consider the recommendation and make the final decision. Once certified, a system may bear an EAC mark of certification and may be marketed as having obtained EAC certification.

The EAC's certification process includes assessment of quality control, field monitoring, decertification of voting systems, and enhanced public access to certification information. For more information concerning EAC's Voting System Testing and Certification Program, see the [program manual](#) available on the EAC Web site, [www.eac.gov](http://www.eac.gov).



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This year, EAC certified MicroVote EMS 4.0, the first voting system to receive Federal certification to the 2005 *VVSG*. Eight voting systems have applied for Federal certification and are currently being evaluated by Federally accredited test labs.

**EAC Voting System Testing & Certification Program**

**Inventory of Certified Voting Systems; Voting Systems Currently Under Testing; Terminated Applications; and Decertified Voting Systems**

Manufacturer	Voting System (Model/Version)	Testing Standard	VSTL	Testing Application Date	Test Plans (Reviewed/Initial Version)	Test Report (Under/Current/Not)	Certification Status
AVS	WinWare 2.0.4	2002 VSS	iBeta	3/22/2007	Submitted - <u>Version 2.0.4</u>	n/a	System application <u>terminated</u> on 11/28/2007
Arande	Optical Vote-Trakker	2006 VVSG	Wyle	12/2/2006	Awaiting initial Test Plan submission by VSTL	n/a	Currently under testing
Dominion	Democracy Suite	2005 VVSG	SysTest	2/22/2007	Submitted, under review - <u>Version 2.0</u>	n/a	Currently under testing
ES&S	Unity 3.0.1.0 & Unity 3.0.1.1 w/ ATS 1.3	2002 VSS	SysTest	6/12/2007	Awaiting initial Test Plan submission by VSTL	n/a	Currently under testing
ES&S	Unity 3.2.0.0	2002 VSS	iBeta	3/18/2007	Submitted, under review - <u>Version 3.0</u>	n/a	Currently under testing
ES&S	Unity 4.0	2002 VSS	SysTest	4/19/2007	Approved - <u>Version 1.0</u>	n/a	Currently under testing
Hart	System 6.4	2002 VSS	SysTest	5/11/2007	Submitted - <u>Version 3.0</u>	n/a	System application <u>terminated</u> on 9/28/2008
MicroVote	EMS Ver. 4.0	2006 VVSG	iBeta	7/17/2007	Approved - <u>Version 3.0</u> (updated version 4.0 submitted with Test Report V.4.0)	Approved - <u>Version 4.0</u>	Certified Voting System - <u>Final Decision</u> 2/8/2009 <u>Certificate of Conformance</u> <u>Initial Decision on Certification</u> made on 12/31/2008
Premier (Diebold)	Assure 1.2	2002 VSS	iBeta	4/6/2007	Submitted, under review - <u>Version 1.1</u>	n/a	Currently under testing
Sequoia	WinEDS 4.0.34	2002 VSS	iBeta	8/9/2007	Submitted, under review - <u>Version 2.0</u> (rejected on 2/16/2009)	n/a	Currently under testing
Unisyn	OpenFiled Voting System	2005 VVSG	Wyle	6/3/2008	Awaiting initial Test Plan submission by VSTL	n/a	Currently under testing
Unisyn	EMS 3.0	2002 VSS	SysTest	12/13/2007	n/a	n/a	System application <u>terminated</u> on 1/7/2009

**Definitions**

Testing Standard	Identifies the set of standards/guidelines which the voting system is being tested against. Currently, voting systems may only be submitted for testing to the 2005 Voluntary Voting System Guidelines (2005 VVSG). Systems submitted for testing prior to December 15, 2007, also had the option of being tested against the 2002 Voting System Standards (2002 VSS).
VSTL	Accredited EAC voting system test laboratory (VSTL) selected by the manufacturer to perform testing and other laboratory actions consistent with the EAC's Certification Program Manual.
Testing Application	Date on which the manufacturer submitted the voting system's application for certification testing. It does not indicate the date on which the application package was approved by the EAC.
Test Plan	Document created prior to testing that outlines the scope and nature of testing, items to be tested, test approach, resources needed to perform testing, test tasks, risks and schedule.
Test Report	Document that provides the results of a voting system's testing conducted by an EAC accredited VSTL, along with the VSTL's recommendation regarding certification.
n/a	Not applicable

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**Federal Role Adds Transparency and Accountability**

The EAC's role brings government rules for public disclosure and involvement to the process of certifying voting equipment. The EAC conducts accreditation and certification processes that are transparent and that share information about the process with the public. The EAC developed its programs with the knowledge that public confidence is

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critical to the election process and that confidence comes from public knowledge and understanding of the process.

To meet the requirements for disclosure and transparency, the EAC dedicated a large portion of its Web site to house information about the program. Visitors are able to access basic information, such as lists of accredited laboratories and registered manufacturers, as well as more detailed documents generated throughout the process, including:

- Application, registration, and reporting forms
- Correspondence
- Certified voting systems
- Decertification actions
- Denials of certification
- Interpretations
- Manufacturer appeals
- Notices of Clarification
- Press releases and public meeting notices
- Requirements matrix
- Reports (investigations, manufacturing facility reviews, etc.)
- Test plans (final and draft versions)
- Voting systems submitted for certification
- Voting System Testing and Certification Manual
- Voting System Test Laboratory Program Manual

Visitors to the EAC Web site also have access to background and historical information about the history of voting system standards and guidelines and certification, such as an extensive frequently asked questions document, overviews of the processes and a detailed step-by-step description of how voting systems are certified by the Federal government.



### **How does a Voting System Get Certified by the EAC?**

**Step one:** Voting system manufacturers must register with the EAC.

**Step two:** Manufacturers must submit an application and select a federally accredited test laboratory to begin the testing process.

**Step three:** Test laboratory submits draft test plan to EAC for approval.

**Step four:** EAC approves test plan.

**Step five:** Voting system is tested to the applicable standards.

**Step six:** Testing concluded; draft test report submitted to EAC for approval.

**Step seven:** EAC approves test report and issues initial decision on certification.

**Step eight:** Test laboratory rebuilds voting system in a trusted environment, otherwise known as a “trusted build.”

**Step nine:** Manufacturer provides software identification tools to EAC, which enables election officials to confirm use of EAC-certified systems.

**Step ten:** Manufacturer provides voting system software to EAC repository, allowing EAC to capture an official record of the voting system it has tested and certified.

**Step eleven:** Manufacturer agrees in writing to all EAC certification conditions and program requirements.

**Step twelve:** EAC certifies voting system.

As part of its ongoing program to explore ways to make the certification process more efficient and cost effective, in January 2009 the EAC hosted the Unified Testing Initiative and Cost of Testing Summit to explore ways the Federal government could coordinate its testing and certification efforts with state and local election officials to improve efficiency and reduce costs. Session topics included identifying factors that impact costs, balancing quality testing and costs and an explanation of the EAC’s threat assessment project. The meeting was open to the public, and testimony, a participant list, and other meeting information is available at [www.eac.gov](http://www.eac.gov).



## **HAVA FUNDS MANAGEMENT**

EAC distributes, monitors, and reports on funding programs authorized by HAVA to improve the administration of elections for federal office. This also involves negotiating indirect cost rates with state election offices and resolving audit findings on the use of HAVA funds.

Of the \$3.65 billion authorized under HAVA Sections 101, 102, and 251 in direct funding to states that is administered by EAC, \$3.18 billion has been appropriated. Approximately \$466 million remains to be appropriated.

- \$ 3,650,000,000 (Cumulative amounts authorized under HAVA Sections 101, 102, and 251 in direct funding to States that is administered by EAC )
- \$ 3,183,860,618 (Cumulative amounts appropriated under HAVA Sections 101, 102, and 251 in direct funding to States that is administered by EAC )
- \$ 466,139,382 (Direct funding to States administered by EAC that was authorized but has not been appropriated)

### **Reporting on the Use of HAVA Funds**

HAVA requires the EAC to provide Congress with an annual reporting of the States' use of these funds. In the most recent report issued by EAC, which covered expenditures through December 2007, we reported that the States had spent 60 percent of HAVA funds received. Of that amount, 76 percent was used to purchase or upgrade voting systems and implement statewide voter registration databases; 16 percent was to improve the administration of federal elections; 8 percent was not classified by the recipients; and less than one-tenth of 1 percent was used to implement provisional voting and polling place signage requirements.

During the process of collecting HAVA expenditure information from the States, the EAC recognized that States needed clear direction and resources about the reporting requirements and how the funds could be used. To provide further assistance, EAC staff and the EAC's Office of the Inspector General (OIG) teamed up to provide additional training and added more resources on the EAC Web site. Consequently, the latest report reflected an improvement in the timely submission and accuracy of the financial reports submitted by the States. Most States were very receptive to requests for additional information and worked with EAC staff to provide the revised reports in a timely fashion. Based on the frequently identified reporting issues, EAC is developing reporting guides, a HAVA grants policy manual, and the Commission will continue to work with States to resolve the issues identified and to ensure the appropriate use of HAVA funds.



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To provide further clarification about the proper use of HAVA funds, the Commission adopted an advisory opinion process requiring resolution to any inquiry from States or local jurisdictions regarding the use of HAVA funds to be decided by a vote of the Commission. The process includes a public comment period, and final advisory opinions are available to election officials and the public at [www.eac.gov](http://www.eac.gov).

HAVA spending reports are available at [www.eac.gov](http://www.eac.gov), and, this summer, the EAC will issue a report covering HAVA expenditures by the States through 2008.

### Auditing the Use of HAVA Funds

HAVA gives EAC and other HAVA-granting agencies the authority to conduct regular audits of HAVA funds. The OIG, along with the Chief Financial Officer department, are responsible for audits of HAVA funds. The OIG has responsibility to audit programs and operations, and annual financial statements; semi-annual reports to Congress; and investigation of complaints of waste, fraud or abuse.

Since the inception of the audit program in 2006, the OIG has issued 19 final reports, focusing on the States that have expended the most funds and involving the review of almost \$800 million in expenditures. OIG reports are available at [www.eac.gov](http://www.eac.gov).

In addition to EAC's regular audits, HAVA also provides for two other means of extraordinary audit authority – (a) funds are subject, at least once during the term of the program, to an audit by the Comptroller General; and (b) Section 902(b)(6) of HAVA allows EAC to conduct a “special audit” or “special examination” of the funds that are subject to regular audit under Section 902(b)(1). This special audit authority covers every HAVA program, including funds distributed under Title I, Title II, and programs administered by the Department of Health and Human Services. If the EAC determines that a special audit is warranted, by vote of the Commission, EAC will refer the matter to the OIG for review.

Following the issuance of an audit report by the OIG, EAC management is required to resolve any audit findings, including recommendations for changes to policies and procedures and any findings that HAVA funds were misspent. This process requires EAC management to review the audit findings, develop monitoring programs for changes to policy or procedure, and quantify amounts of funding that are to be returned to the State's election fund or to the U.S. Treasury. Once an initial decision is made by the Executive Director, the determination is sent to the audited State. The State then has the option of appealing the decision to the Commission. An appeal can entail a paper review of the record of the audit or a combination of paper review and a public hearing. The decision of the Commission is final and binding on the State. The EAC has issued a total of 43 audit resolutions, and they are available at [www.eac.gov](http://www.eac.gov).



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## ELECTIONS RESEARCH

HAVA instructs the EAC to collect information about election administration issues and share that information with Congress, election officials, and the public. Data collected by the EAC enables policy makers and election officials to make well informed decisions to improve the administration of Federal elections. Below is a list of the most recent reports issued and activities conducted by the EAC research division. Research reports and related information are available at [www.eac.gov](http://www.eac.gov).

- Issued a report entitled *The Uniformed Overseas Citizens Absentee Voting Act (UOCAVA) Voters and the Electronic Transmission of Voting Materials in Four States*. Section 241(b)(16) of HAVA requires the EAC to conduct a study of issues and challenges that are presented by the incorporation of communications and internet technologies in the federal, state and local electoral process.
- Issued a report entitled *Effective Designs for the Administration of Federal Elections*. The report addresses the design planning process, general best practices, implementation insights, limitations and more for the design of ballots and polling place materials. The report also includes a digital library containing hundreds of camera-ready images of ballots and polling place materials that can be easily and affordably customized and used by state and local election officials.
- Issued a report entitled *Voter Hotlines*. This study evaluates the effectiveness of different kinds of, and usages for, voter hotlines.
- Issued a report entitled *First-Time Voters*. Section 244 of HAVA requires the EAC to study and report on the impact of the law on first-time voters who register to vote by mail and cast their ballots in person. Through case studies and voter focus groups, this research provides insight into the administrative difficulties imposed on election officials by this HAVA requirement and voters' perceptions of its efficacy.
- Issued a voter information Web site study. In accordance with Section 245 of HAVA, the EAC studied the possible impact new communications or Internet technology systems used in the electoral process could have on voter participation rates, voter education and public accessibility.

### Implementing Statewide Voter Registration Databases

HAVA required that each State implement a statewide, computerized voter registration database, and in 2005 EAC issued voluntary guidance about the implementation of the databases. The EAC has contracted with the National Academies of Science (NAS) to study the implementation of the databases focusing on matching protocols, inter- and intra-state interoperability, and security and privacy issues. In May 2008, NAS issued an interim research report that included long- and short-term recommendations for improvements. The EAC held a [public hearing](#) in March 2009 to receive an update from





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NAS and hear from election officials about database performance during the 2008 election. The EAC will use the NAS research as the basis for future guidance to address overall maintenance and administrative best practices.

### Improving Collection of Election Administration Data

Data about how, where and when Americans vote help election officials and policy makers make well informed decisions about election administration policies and procedures. These data will ultimately help improve operations, identify voter needs, and track progress as well as provide valuable information to the public.

Every two years EAC issues an Election Day Survey based on election administration-related data collected from the country's 50 states, the District of Columbia, Guam, Puerto Rico, American Samoa and the U.S. Virgin Islands. The 2008 Election Administration and Voting Survey instrument is divided into two sections. Section A captures information pertaining to NVRA, the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), and other election administration issues such as the casting and counting of provisional ballots and poll worker recruitment. Section B is the statutory overview, which asks states a series of questions about their laws, definitions, and procedures. The results from this data collection effort will be the basis for a series of reports to the public and Congress throughout 2009.

In addition to the Election Day Survey, the EAC is also administering an election data collection grant program, authorized by Congress in the Omnibus Appropriations Act for Fiscal Year (FY) 2008. The grant program provided \$2 million each to five States to collect precinct-level data about election administration related to the November 2008 general election. The program was designed to develop a series of best practices in data collection; improve data collection processes; enhance the capacity of States to collect accurate and complete election data; and to document and describe data collection practices, policies and procedures.

Ten states applied for the grants, and winners were selected through an independent review process. The winning grant recipients were Pennsylvania, Minnesota, Ohio, Illinois and Wisconsin, and they are required to submit data they collect to the EAC by March 2009.

In turn, the EAC is required to evaluate the grant program's overall success and provide Congress recommendations for changes to federal laws and regulations to improve the collection of data. Additional information about the pilot program and the winning recipients is available at [www.eac.gov](http://www.eac.gov).



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## PROVIDING ELECTION MANAGEMENT RESOURCES

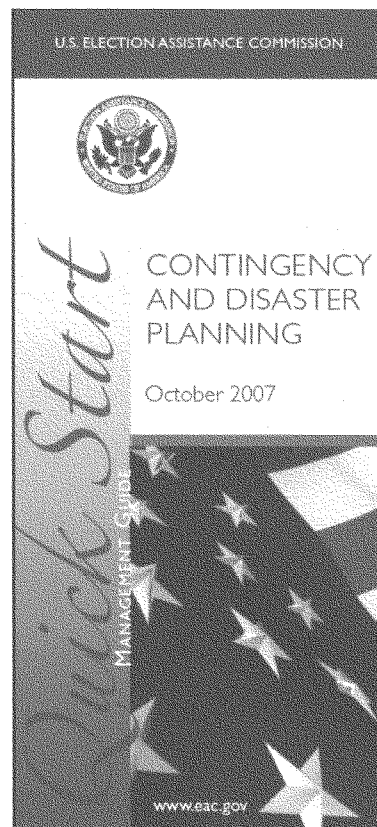
One of the EAC's top priorities under HAVA is to provide election officials resources and information to help them make election administration improvements at the local level. A major component of the effort to provide assistance is the Election Management Guidelines program, which complement the voluntary voting system guidelines' technical standards for voting equipment. The guidelines address a wide variety of topics from pre-election testing and auditing to poll worker training, and the materials are sent to election officials in every state. Election management materials issued in preparation for the 2008 election covered the following subjects:

- Acceptance Testing
- Uniformed and Overseas Citizens
- Pre-election and Parallel Testing
- Developing an Audit Trail
- Contingency Planning and Change Management
- Ballot Building
- Absentee Voting and Vote by Mail
- Polling Place and Vote Center Management
- Media and Public Relations

In addition to the management guidelines program, the EAC also held six public workshops that facilitated election officials sharing best practices and included discussions about contingency planning, ballot design, and voter empowerment. The EAC also produced training videos about polling place accessibility, contingency planning, and polling place management. Election management materials are available at [www.eac.gov](http://www.eac.gov).

### Recruiting Poll Workers

Election officials consistently cite the need for more poll workers. The success of the election rests in large measure on the turnout and performance of this temporary workforce. The EAC does not yet know the number of poll workers that served on





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Election Day in 2008; however, anecdotal reports suggest that jurisdictions across the board had sufficient numbers of satisfactorily trained poll workers.

We commend Congress for funding The Help America Vote College Program, which has certainly been instrumental in helping to recruit poll workers. As a result, one of the EAC's top priorities has been to increase poll worker involvement among younger citizens. The EAC has awarded a total of \$1.65 million for colleges and nonprofits to recruit students to serve as poll workers. Effective models for recruiting younger poll workers have emerged from this program that can be adopted and replicated by other communities. The EAC used the program to raise awareness leading up to the 2008 election for the need for poll workers and to encourage younger citizens to serve their community on Election Day. In addition, the EAC produced and distributed manuals about recruiting, training and retaining poll workers, including college students.

The Mock Election Program also encourages youth participation by enabling students to participate in simulated elections with voting equipment, ballots, and poll workers. Last year, the EAC awarded ten organizations from nine states an average of \$20,000 to educate secondary school students and their parents about the electoral process through staged national elections.

Grant recipients and additional information about the Help America Vote College and Mock Election programs are available at [www.eac.gov](http://www.eac.gov).

## INFORMATION FOR VOTERS

During the 2008 Federal election, preliminary estimates indicate that approximately 133 million Americans voted, 10 million more than the last presidential election. Empowering voters to participate in the electoral process by making sure they had the information they needed to vote was also critical to the success of Election Day 2008.

States' election Web sites allowed voters to look up their polling place, view sample ballots, learn about voting systems, and in some cases, verify their registration. Many election offices also provided information over the phone through dedicated voter hotlines or regular office phone lines.

In 2008, the EAC complemented the public education efforts of election officials by using its national platform building upon their efforts to prepare and educate voters about Election Day through media interviews. The Commission's message of voter preparation focused on the following themes: reminder of registration deadlines, what to do before and on Election Day, verifying registration status, finding poll locations, volunteering as a poll worker and early and absentee voting options.



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The EAC posted key information for voters on the Commission's Web site including registration deadlines, voting options, information for uniformed and overseas voters and toll-free phone numbers and Web site addresses for election offices in each state. This information was made available through an interactive United States map featured prominently on the home page.

The Voter's Guide to Federal Elections, available in seven languages, was also featured prominently on the EAC Web site in the Voter Information Center. The guide was designed to help voters successfully navigate the Federal elections process, from registering to vote to casting a ballot on Election Day. In addition to the basics of ballot-casting, the guide also included information on eligibility and early voting, as well as the registration and voting process for military and civilians living abroad and polling place services that make voting more accessible. For voters who needed language assistance, the EAC created The Glossary of Election Terminology and translated it into Chinese, Japanese, Korean, Tagalog, Vietnamese and Spanish.

The EAC also reached out to college students by holding a conference call on voter preparation with college print journalists. After this call, journalists from six papers in Texas, Wisconsin, Colorado, California and Pennsylvania wrote stories to inform voters of the process. Our outreach also included scores of national and local radio and television broadcast outlets across the nation. We were also successful in getting messages to voters through leading African American media outlets, and EAC staff fluent in Spanish also provided information to voters through Hispanic media outlets.

Shortly before the election, we held a public workshop on empowering voters. Voter advocates and election officials spoke about efforts to engage voters in the process. Additionally, a couple of weeks before the election the EAC hosted a panel discussion at the National Press Club with secretaries of state and national journalists on reporting election results. The aim was to bring officials and journalists together to learn more about the reporting process from each perspective, and work more effectively in delivering timely, accurate results to voters.

## LOOKING FORWARD

The EAC has reached many HAVA milestones during the Commission's brief existence. We have adopted the 2005 *VVSG* and have already issued the next iteration for public comment. The Federal government's first voting system certification program is up and running and the EAC has certified its first voting system. The Commission has collected and distributed valuable data about uniformed and overseas voters, provided best practices on ballot design and established the annual Election Day Survey, the largest and most comprehensive survey about election administration ever conducted by the Federal government. The EAC has one of the most comprehensive language assistance programs in the Federal government, offering a wide range of resources for voters in seven



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languages, including professional translation of major portions of the EAC Web site in these same languages.

During the coming year, the EAC will focus inward to improve internal operations. The Commission has adopted a strategic plan to create a receptive and productive agency capable of the unique leadership role it has been given. Strategic plan components include serving as a national clearinghouse, a manager of federal financial assistance, a certifier of voting systems, and a resource for election officials throughout the country regarding the administration of Federal elections.

In FY 2009, the EAC will embark upon implementing its strategic plan as well as incorporating its new expertise in the areas of budgeting and performance management as well as implementing the following goals as identified in the EAC's strategic plan, available at [www.eac.gov](http://www.eac.gov).

**Goal One -- Communicate**

Communicate timely and accurate information on the effective administration of elections for Federal office and on the operations and services offered EAC by operating the EAC clearinghouse effectively; responding to outside requests timely and accurately; and conveying results of EAC operations and accomplishments.

**Goal Two: Fund and Oversee**

Accurately and timely disburse Federal financial assistance administered by the EAC; effectively monitor Federal financial assistance administered by the EAC; and provide technical assistance and guidance on the management of Federal financial assistance administered by the EAC to help the States maximize the use of the funds and reduce the risk of inappropriate use of funds and accounting errors.

**Goal Three: Study, Guide and Assist**

Complete research on issues that improve the administration of elections for Federal office and expeditiously report on critical administration subjects and election data; identify and collect required and useful data on election administration practices, voting methods and demographics. Make recommendations for improving the quality of practices, methods, and data; issue guides, translations and other tools that are timely and useful; update and maintain a national mail voter registration application and report to the Congress as required by NVRA.

**Goal 4: Test and Certify**

Develop and update the voluntary voting system guidelines; provide for the accreditation and revocation of accreditation of independent, non-Federal laboratories qualified to test voting systems to Federal standards; administer the testing, certification, decertification, and recertification of voting system hardware and software by accredited laboratories.

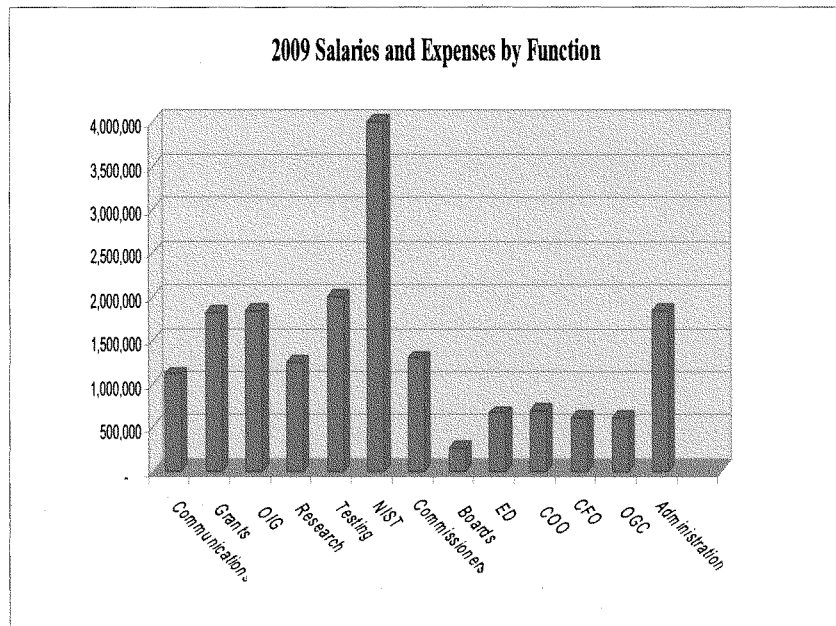


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**Goal 5: Manage**

Implement a high performance organization.

*The following chart illustrates 2009 salaries and expenses based upon the strategic plan goals.*



<b>Goal One – Communications and Clearinghouse</b>	\$1,109,247
<b>Goal Two – Fund and Oversee</b>	\$3,664,429
Inspector general	
Grants management	
Mock Election and Help America Vote College Poll Worker grants	
<b>Goal Three – Study, Guide and Assist</b>	\$1,236,275
<b>Goal Four – Test and Certify</b>	\$5,993,016
National Institute of Standards and Technology	
<b>Goal Five – Manage</b>	\$5,956,033
Executive Director	
Chief Operating Officer	
Chief Financial Office	
General Counsel	
Administration (rent, telecom and common support services)	

Ms. LOFGREN. Ms. Hillman.

**STATEMENT OF GRACIA HILLMAN**

Ms. HILLMAN. Good morning, Chairwoman Lofgren, Ranking Member McCarthy, and members of the subcommittee. For the record, my name is Gracia Hillman.

Madam Chair, with the passage of the Help America Vote Act, Congress set benchmarks and requirements for EAC to help improve the administration of Federal elections. The public expects improvement and EAC is committed to meet its obligations.

My remarks today will highlight EAC's voting system testing and certification program. The Federal testing and certification of voting systems is one of the most important components of HAVA. It is also the first time that the Federal Government has undertaken this initiative, which started in 2004 from ground zero, with very limited resources. Our progress to develop and implement the program has been steady.

The National Institute of Standards and Technology is our very valuable partner in this initiative. And we appreciate that Congress has recognized the need for increased funding to support the development and implementation of the program.

Today EAC testing and certification is a \$2 million program with four full-time staff and four technical reviewers. This program has grown since 2006 when it had a budget of \$700,000 and one staff person. And that does not include the moneys we paid to the National Institute of Standards and Technology. By the end of this year we expect to have six full-time staff, plus the technical reviewers.

We are mindful that this very small program has a very huge impact on elections in America. Madam Chair, it is important to remember that we are in a period of significant transition from the voting system technology of 2002 to the systems that are being tested today. The testing and certification process is complex. Some have been frustrated with the process and complained that it took too long to develop or is too complicated. Developing a new Federal program of this magnitude takes time. I am pleased to say that the program is operational and the process is working.

Federal involvement and its obligation to transparency have created a dramatic change in the accreditation of laboratories and the testing and certification of voting systems. This change has created a culture shift that results in increased accountability to the public. Under HAVA NIST provides EAC with lists of laboratories that are qualified to test voting systems. EAC worked with NIST to make certain that all documents concerning laboratory accreditation are timely posted on the Institute's Web site.

Additionally, all voting system test plans and reports that are submitted to EAC from the labs are posted on our Web site. These postings include correspondence and related documents.

Perhaps more importantly, Madam Chair, is that all of EAC's constituent partners have played important roles in the development of our testing and certification programs. The public has a full view of these programs through EAC's clearinghouse. We have dozens of documents on our Web site and we regularly post new information. EAC is committed to being an active partner with our

constituencies and a facilitator of information sharing and best practices.

The growth of our programs has not happened in a vacuum. In 2008 the General Accountability Office issued reports on EAC's lab accreditation and testing and certification programs. EAC did not have the resources to undertake such reviews on its own, so we found GAO's recommendations to be very useful.

For example, EAC has enhanced its requirements concerning the financial stability of labs in accordance with GAO's guidance. The EAC program manuals for lab accreditation and testing are the rule books for how these programs operate. To enhance these programs, EAC has standard operating procedures. We are currently refining these procedures to incorporate several GAO recommendations. The result will be improved consistency of our technical reviews and approvals of recommendations from the testing labs.

Madam Chair, and members of the committee, in my entire career I have encountered many challenging opportunities. Nothing has been more challenging than starting something new in Federal Government. In 5 short years, EAC's programs have evolved from concept to operational reality. This has not been an easy undertaking, but the benefits are measurable and rewarding. American voters deserve to know that their votes will be accurately and timely counted as cast.

Thank you for the opportunity to address the committee today and I look forward to your questions.

Ms. LOFGREN. Thank you very much.

Ms. Davidson, we would be pleased to hear from you.

#### **STATEMENT OF DONETTA DAVIDSON**

Ms. DAVIDSON. Thank you, Chairwoman Lofgren, and Ranking Member McCarthy and members of the subcommittee. My name is Donetta Davidson. My colleagues discussed where we have been. I am going to discuss and talk to you about where we are going.

The cornerstone of the EAC's work is to support the voting system testing and certification program. I want to focus on three areas today: one, the voluntary voting system guidelines; two, accountability and transparency; and three, our partners with the National Institute of Standards and Technology.

Last year the public comment period for the next iteration of the VVSG ended. After reviewing 3,200 comments together with NIST, we realized that some of these recommendations for standards could not wait. We concluded that the program would benefit by revising the current VVSG now, while continuing also to move forward in developing the next iteration.

Updating the 2005 VVSG now will result in greater consistency, more rigorous testing and more efficiency overall. This process will be completely transparent and include public comment starting this summer. We will notify everyone when the public comment begins.

Second, EAC's voting systems. We test voting systems to determine how they meet the guidelines. Separate and apart from that, we also proceed to watch how the systems perform on election day. Therefore, the quality monitoring program is an important program that provides an additional layer of accountability and trans-



parency. It is EAC's big stick. This program enables EAC to independently ensure fielded voting systems are continuing to comply with requirements.

Manufacturers are required to submit any anomaly reports, and failure to do so may result in suspension or decertification. Election officials can also submit voting equipment performance issues to the voting system clearinghouse at the EAC. And it is available for everybody to view.

Finally, a critical resource for the EAC is a partnership with NIST. Thanks to the support Congress gave this year, we have \$4 million for NIST to assist us. Activities that are funded will include initial and follow-up reviews of our voting system test laboratories and the development of test suites. The first of these test suites are currently available for the public to comment on, and we look forward to all the input that comes in.

NIST is also conducting research for the EAC which will help us and help provide States with voting processes for overseas and military. We will identify best practices and security concerns for using fax, e-mail and Internet Web sites for both delivery and returned ballots. We anticipate the delivery of these reports by the end of the year. I encourage everybody to visit our Web site and read the thousands of pages we have already posted, including everything from the draft test plans to current letters that go to our registered manufacturers.

EAC remains committed to devoting considerable resources to our voting system testing and certification program. Our program director is in the process of hiring two new employees, and they also recently contracted with Mark Skall who just retired from NIST to serve as one of our technical reviewers. While we have hired a number of financial staff recently, it is important to remember we are very dedicated to our programs as well.

Thank you, and now I will turn it over to Mr. Wilkey, our executive director.

Ms. LOFGREN. Thank you very much.

And if you would begin, Mr. Wilkey.

#### **STATEMENT OF THOMAS WILKEY**

Mr. WILKEY. Good morning, Chair Lofgren, Ranking Member McCarthy, and subcommittee members. Thank you for inviting us to be with you today.

Over the last few years, our inspector general presented several assessments of the internal operations of the Commission, and they included 52 recommendations, of which 14 are closed. Make no mistake, some of the recommendations were tough. However, it was helpful to have for the very first time a complete list of the requirements we have to meet.

We have a road map to compliance, and I appreciate the constructive criticism provided by our inspector general. Striking a balance between meeting the goals of HAVA and getting our internal structure in order has been a challenge. In the beginning our focus was on distributing the \$3.1 billion of HAVA funds to the States, including setting up a process to audit and monitor these funds. Other HAVA-mandated activities included issuing the 2005 voluntary voting system guidelines, working on the next iteration

of guidelines, establishing the first Federal Government voting system testing and certification program, completing 80 percent of the mandated research as required by the Help America Vote Act, and issuing guidance and best practices.

Thanks to the hard work and dedication of our staff we got the job done. And for the past year, thanks to your support and to the other committees in Congress, we have had the resources to continue meeting the goals of HAVA and strengthen internal operations.

Since the recommendations were issued, the EAC has hired a chief operating officer, chief financial officer, an accounting director, a grants manager and a contracting officer; contracted with a certified public accounting firm to assist with financial management, including a corrective action plan; submitted our first performance-based budget for the 2010 budget to the Office of Management and Budget; began updating documentation of financial management processes, procedures and systems; adopted, after a long and comprehensive review, a strategic plan on March 27, 2009; and established a roles and responsibilities policy for the commissioners and the executive director. And we continue to work on the assessment of internal controls.

These are just a few of the activities completed and ongoing. The full list is available in our written testimony and in our update to the inspector general for his semiannual report to the Congress.

Starting a new Federal agency is not easy. And I hope that our experience will provide insight to other commissions who may face similar circumstances in the future. I am proud of the accomplishments of the EAC staff. The internal improvements we make will help support their efforts to meet the requirements of HAVA and to improve the administration of Federal elections.

Thank you and I look forward to your questions.

Ms. LOFGREN. Thank you very much, and thanks to all the witnesses for your testimony.

I would turn now to my colleague from California, Mr. McCarthy, for any questions he may have.

Mr. MCCARTHY. Thank you, Madam Chair.

To the executive director, Mr. Wilkey. I noticed in the last testimony, Mr. Crider, that he actually hired the EAC former general counsel to work in his office. So how long has the position of the EAC general counsel been vacant?

Mr. WILKEY. I believe, Congressman McCarthy, the position has been vacant since last fall. We had an initial outreach to candidates, interviewed candidates and made an offer, and the Commission then decided not to fill the position with that particular candidate. We are going back out for another recruitment effort.

Mr. MCCARTHY. Maybe if I can follow up a little on what you just said. Because when I look at the Civil Rights Commission—and I ask unanimous consent to include in the record an excerpt from their minutes.

Ms. LOFGREN. Without objection.  
[The information follows:]

U.S. COMMISSION ON CIVIL RIGHTS

+ + + + +

COMMISSION MEETING

+ + + + +

FRIDAY, DECEMBER 12, 2008

+ + + + +

The meeting convened in Room 540 at 624 Ninth Street, N.W., Washington, D.C., at 12:23 p.m., Abigail Thernstrom, Vice Chair, presiding.

PRESENT:

- GERALD A. REYNOLDS, Chairman (via telephone)
- ABIGAIL THERNSTROM, Vice Chairman
- TODD F. GAZIANO, Commissioner
- GAIL L. HERIOT, Commissioner
- PETER N. KIRSANOW, Commissioner
- ARLAN D. MELENDEZ, Commissioner
- ASHLEY L. TAYLOR, JR., Commissioner

MARTIN DANNENFELSER, Staff Director

STAFF PRESENT:

- DAVID BLACKWOOD, General Counsel
- MARGARET BUTLER
- CHRISTOPHER BYRNES, Chief, Programs Coordination Unit
- DEBRA CARR, Associate Director
- DEMITRIA DEAS
- LATRICE FOSHEE
- MAHA JWEIED
- ROBERT LERNER, Assistant Staff Director
- SOCK-FOON MacDOUGALL
- EMMA MONROIG, Solicitor
- LENORE OSTROWSKY
- KIMBERLY TOLHURST
- AUDREY WRIGHT
- MICHELLE YORKMAN

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1 meetings scheduled. Additional meetings will be  
2 pursued and we will notify you as they take place.

3 The racial categorization in the 2010  
4 census commissioner concurring and dissenting  
5 statements have been received. We are currently  
6 awaiting a friendly revision to a statement that has  
7 been a topic of discussion between two commissioners  
8 of different political parties and a report will then  
9 be ready to go to GPO for printing.

10 VICE CHAIR THERNSTROM: I promise I will  
11 get my act together on that.

12 STAFF DIRECTOR DANNENFELSER: And there  
13 are two briefing reports that are available for  
14 scheduling and at a certain point one would be the  
15 Educational Effectiveness of Historically Black  
16 Colleges and Universities and the Department of  
17 Justice Voting Rights Enforced for the 2008 U.S.  
18 Presidential Election. Of course, the Briefing Report  
19 on Minorities and Special Education is scheduled for  
20 consideration at today's meeting.

21 A draft report on the Impact of Illegal  
22 Immigration on the Wages and Employment of Black  
23 Workers is under review in the Office of the Staff  
24 Director. The Briefing Report on the Provision of the  
25 Supplemental Education Services under No Child Left

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1 Behind and another Briefing Report on Title IX have  
2 been reviewed in the Office of the Staff Director.  
3 Both of these reports have been sent back to the  
4 Office of Civil Rights Evaluation for minor  
5 modifications and are expected back in my office in a  
6 few days.

7 The Office of General Counsel is  
8 finalizing the Briefing Report on Covert Wire Tapping  
9 and the War on Terror and I expect that to be sent to  
10 my office very soon as well. The Briefing Report on  
11 Race and Foster Care and Adoption has received  
12 preliminary review in the Office of the Staff Director  
13 and is being sent to the OCRE writer/editor for  
14 further modification.

15 A few additional briefing reports are  
16 pending. I anticipate that School Choice, the Blaine  
17 Amendments on Anti-Catholicism will be sent to the  
18 Office of the Staff Director hopefully by the end of  
19 December. The Report on Discrimination Against Native  
20 Americans in Border Towns is being prepared in OCRE.  
21 Its timetable has slipped with the focus on the two  
22 statutory reports and we may explore whether to  
23 finalize this report in an abbreviated fashion if it  
24 cannot be completed in the near future with the press  
25 of other business.

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1           The Briefing Report on Religious  
2           Discrimination in Prisons and Prisoners' Rights inform  
3           the Statutory Report for 2008. So we plan to issue an  
4           abbreviated report to avoid redundancy on that topic.

5           And to the OCREs involvement with the 2009  
6           Statutory Report, the Office of Staff Director will  
7           take the lead in preparing the briefing report on  
8           Increasing Minority Enrollment in Science, Engineering  
9           Technology and Mathematics fields in college and  
10          beyond and I expect to receive an initial draft for  
11          review in late January.

12          And regarding the Office of the General  
13          Counsel, we discussed this topic a little earlier.  
14          But clearly the major news in OGC is that David  
15          Blackwood has accepted an appointment as General  
16          Counsel with the Election Assistance Commission and  
17          will be leaving us on January 2<sup>nd</sup> and I've relied on  
18          David's counsel a great deal over the past seven  
19          months and want to thank him for the great job he has  
20          done on behalf of the Commission.

21          He leaves very big shoes to fill, but has  
22          established a very solid foundation that I hope we can  
23          build upon. We have two talented attorney advisors in  
24          OGC and we will be looking to replenish our legal team  
25          as soon as possible.

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Mr. MCCARTHY. The staff director of the Commission on Civil Rights announced at a public meeting that the agency general counsel was leaving January 2nd. So is this the person you are referring to that you made an offer in writing?

Mr. WILKEY. Yes, Congressman.

Mr. MCCARTHY. Was the offer accepted?

Mr. WILKEY. We had initially made an offer, and then there were some problems with the first offer in the letter. He never did accept, to my knowledge, the second offer.

Mr. MCCARTHY. Well, why would the Commission in their minutes say he had accepted the offer and he was leaving the position?

Mr. WILKEY. He did accept the first offer, yes.

Mr. MCCARTHY. So you sent a letter, he accepted the offer, and it was rescinded somehow, some way.

Mr. WILKEY. The next step after offering the position was to have it ratified by a tally vote of the Commission. And when that occurred the vote, the tally vote, ended up in a 2-2 tie.

Mr. MCCARTHY. Is that a public meeting?

Mr. WILKEY. No. Because it was a personnel matter, the position was debated in a personnel session and the offer was made and a tally vote was taken.

Mr. MCCARTHY. In the letter of the offer, do you state in there that it will be upon the vote of the Commission whether the job will be accepted? Because how can you make an offer without the vote taking place?

Mr. WILKEY. I don't have the letter in front of me, Congressman.

Mr. MCCARTHY. Could you get me a copy of that letter?

Mr. WILKEY. I would certainly be happy to, Congressman.

Mr. MCCARTHY. I am just a little concerned here. You make an offer to an individual, they accept. They tell another agency it is—then behind closed doors, somehow the offer is rescinded. Was there some new discovery about this of why?

Mr. WILKEY. Congressman, since it was a personnel matter, it was discussed at great length by the commissioners. Certainly the results of the tally vote we have provided on our Web site. The notations on the result of that tally vote are also a part of the record.

Mr. MCCARTHY. Do you think that will hurt you? Knowing you don't have a legal counsel, I am just questioning is there any obligation, since you put something in writing offering a person a job—and I haven't seen the letter so I don't know if you say it is contingent on a different vote somewhere else, and you don't have the legal counsel to even back you up within the offer—one, does that create hardship in the future to fill the position? I noticed just today you have listed the new position again, but I am also wondering from a legal perspective if the Commission is somewhere legally bound because of the letter of the offer they sent in the first place? Have you had any outside counsel to advise you of this during this time?

Mr. WILKEY. We did have some background information from the counsel at the Office of Personnel Management and we had, of course, counsel available to us. We presently have a deputy counsel and another associate counsel on staff, and that individual advised the members also.

Mr. MCCARTHY. And what was their legal advice to the members?

Mr. WILKEY. I did not—I am not exactly sure what that advice was, because that advice went directly to them. I believe that we followed all of the requirements that we had to make. And it was unfortunate, but when the tally vote was taken the commissioners took another approach.

Mr. MCCARTHY. Is this how you handle all job offers? You send a letter out, they accept, and then you come back to a vote?

Mr. WILKEY. The only two times that a tally vote is taken by the Commission on a personnel matter is with two positions; the position I currently hold and the position of general counsel. Those are the two statutory positions that are appointed by the Commission. All of the other remaining personnel, I do the recruitment and I make those appointments.

Mr. MCCARTHY. Well, Madam Chair, the only thing I would ask in the end, that we follow up on this. If we could receive, one, the letter of the offer that went forward. Is the tally vote inside public?

Ms. LOFGREN. I think the testimony is that it is, yes.

Mr. MCCARTHY. Okay. So if we can receive that, that would be helpful, and if we could follow up on this.

Mr. WILKEY. Absolutely Congressman.

[The information follows beginning on page 79]

Ms. LOFGREN. Mr. Wilkey has indicated that he will provide that information.

I will turn now to Mr. Gonzalez for questions he may have.

Mr. GONZALEZ. Thank you very much, Chairwoman Lofgren. There is so much to cover. But I think, not to say it is a distraction, but it is of concern regarding expenditures and accountability within the Commission and, of course, the grant moneys that go out.

And so I would like to concentrate more on the moneys that go out to the recipients and how that is followed. And I know that in the written statement, it does state that during the process collecting HAVA expenditure information from the States, the EAC recognized that States needed clear direction and resources. That you teamed up to provide additional—that you teamed up with the inspector general to provide additional training and added more resources on the EAC Web site.

Internally, though, as far as personnel, not just a Web site. If they call in, or whatever the guidance that they seek—and I am talking about the recipients of our Federal dollars—who do you have in the way of personnel, the numbers of individuals that you have? It is my understanding that you have fewer people available than you did, let's say, just even a year ago to assist the grant recipients. And I will just open that to the Chairwoman first.

Ms. BEACH. Well, in the grants department and with the restructuring, we are hiring a grants manager that will—the grants manager has been hired and started on Monday. So we do have another personnel there dedicated to that program.

Mr. GONZALEZ. Is it you have a greater number of people in, let's say, this particular aspect of the programs than you did a year ago, fewer number? My understanding is that you don't have an actual person or the number of people you had previously to assist the grant recipients. And I don't know if that is true or not. You are



going bring someone on board. Where will that put you relative to, let's say, where you were just a year ago?

Ms. HILLMAN. Congressman Gonzalez, if I might. We do not have fewer people on staff to handle questions and provide technical assistance to grant recipients. We have the same number as we had a year ago. The addition of a grants person addresses some of the concerns that were raised by the inspector general and others with respect to being able to do a higher level of review. So we are increasing our internal process and accountability. But with respect to people available to the States and to our program grant recipients, we have the same number.

Mr. GONZALEZ. And the reason I ask that, obviously there is so much work to be done. And it has been a long process, and we all have our differences, but you have your mission and your goals. The last thing we need is anything that is internal in nature regarding expenditures by the Commission internally, indefinitely. The last thing we would need is someone out at the local State level that is a recipient, that in good faith attempts to administer the money, but makes a mistake. Because I don't think that you have someone that intentionally goes out there to misuse or misapply the moneys, but they are looking to you for guidance.

One last question, and we can go many places, and we will be revisiting specific endeavors of the Commission throughout the year. But when I'm back home, and I don't know of other members, when I talk to my election officials or elected officials that understand that after Bush v. Gore, you know, we created the Help America Vote Act and such, and the Commission; and they really want to know what we have accomplished in all of these years. In light of, let's say, this is April, and we still don't have a United States Senator from Minnesota, we had election results last night in New York—

Ms. LOFGREN. Well, you can't blame the Commission for that.

Mr. GONZALEZ. What I am saying is, they really just want to know what work have we done that would have assisted these jurisdictions from avoiding the controversies we have today. I know you can always look to the courts and take that further step and take it out of our jurisdiction, but truly I think people are trying to get a handle on, what is it that we are doing up here to give guidance and assistance to these jurisdictions so that maybe we won't have these problems?

And I would just ask, in Minnesota's case, is there anything that we have done, is there anything that we can do to avoid situations that have developed recently?

Ms. HILLMAN. The Election Assistance Commission has published a number of best practices, shared practices under our management guidelines covering everything from chain of custody of voting systems, to production of ballots, to training of coworkers, to assist. As you know, many of the [inaudible] Are operating under State law. So EAC can provide guidance, best practices, and information to help the States do an assessment of what they can do.

With respect to recounts, EAC has undertaken the required study of that, but unfortunately, our study was not published before Minnesota. I mean, in elections, you can't guess when is going to be the next challenging issue. But hopefully between lessons

learned from Minnesota and the information coming out of our vote recount study, States will be able to learn, should they ever encounter a similar situation.

Mr. GONZALEZ. Thank you. My time has expired. I yield back.

Ms. LOFGREN. Thank you.

Mr. Harper.

Mr. HARPER. Thank you, Madam Chair.

Mr. Wilkey, on this offer that was extended on general counsel and accepted, was the revisit on the terms, was that just talking about some of the details; is that what that involved?

Mr. WILKEY. Congressman, I can't recall, but I know that we issued two letters. The second letter, whether it was an issue with the start date or some other detail that was missing from the first letter, not having the information in front of me, I am not sure; but I certainly would be happy to provide you with all of that information.

[The information follows:]

Mr. HARPER. Certainly on that first offer and acceptance, at that point, you thought you had your next general counsel and he thought he had a job; is that fair to say?

Mr. WILKEY. Well, certainly in his case he thought he did. Whether the information regarding the tally vote was properly given to him or whether he understood it is another matter. But the second step—after the offer, of course—was to do a tally vote of the four commissioners.

Mr. HARPER. But it was your recommendation that he become your general counsel, or it wouldn't have come up for a tally vote, I assume.

Mr. WILKEY. It certainly was not in my purview to recommend. That particular employee is a direct appointment of the four commissioners. As I indicated previously, the only two positions in the Agency that are directly filled by the commissioners is the position that I hold and the position of general counsel.

Mr. HARPER. But as the executive director, they are certainly going to want your input in this process.

Who calls down the applicants to bring it up for a tally vote? Is that you, or a group, or somebody else?

Mr. WILKEY. Certainly we all participated. I participated with the commissioners.

Because of the way that the statute is structured, while the position is appointed by the Commission, the individual reports to me as their supervisor. So certainly they did ask for my opinion in the process, and I gave that opinion. It was a matter of our discussions behind closed doors as a personnel matter, and I did that.

Mr. HARPER. And was your opinion a thumbs-up or a thumbs-down, without giving details?

Mr. WILKEY. Without giving details, I believe it was a thumbs up.

Mr. HARPER. Okay. And in your opinion, he was qualified for this position, he had experience in another agency or area—

Mr. WILKEY. Well, I will also include that there were two individuals that came down to the last two. That was debated by the Commission, and I actually gave thumbs-up to both of them. The ques-

tion to me was, Would you be comfortable working with these individuals, and I said “yes” to both of them.

Mr. HARPER. Would you provide us with copies of all correspondence and e-mails regarding that hire?

Mr. WILKEY. I would be happy to do so, Congressman.

Mr. HARPER. Including any internal notes.

Mr. WILKEY. Absolutely.

[The information follows:]

Mr. HARPER. Now, why was he not approved, in your opinion?

Mr. WILKEY. I don’t know. I believe that the tally votes, once you see the notations on the tally votes, that will speak for itself. And, of course, we will be happy to provide that to you and to the committee.

Mr. HARPER. Well, I just have to ask this question: Was it because he was a Republican?

Mr. WILKEY. I don’t believe so. I can’t answer that. Again, the notations were part of the tally vote, and they have to speak for themselves.

Mr. HARPER. And you will provide that information to us.

Mr. WILKEY. Absolutely, sir.

[The information follows:]

Mr. HARPER. Now, obviously, being the rookie on the committee and learning this process—first of all, I know your job is not easy, and you have an important responsibility.

I was on the Election Task Force as the token Republican in Mississippi in 2001 and had a great experience as we went through that process. But I would say that when I see things, use of taxpayer money, even if it’s for something that is seemingly insignificant as T-shirts, I would say that that is not an appropriate use of taxpayer money in my opinion; and I hope we wouldn’t do that in the future, and that we would look at that information.

But thank you for your time. I appreciate it.

Mr. WILKEY. Thank you, Congressman.

Ms. LOFGREN. Thank you.

Congresswoman Davis.

Mrs. DAVIS of California. Thank you all.

I wanted to go back to Mr. Crider’s statement, and initially to the commissioners, to give you an opportunity to speak to the fact that there was some concern that a lot of the hires were more or less top-heavy positions and not some of the midlevel positions that would have helped with the certification process in the different States. And I just wanted to give you an opportunity to respond to that.

Is that an assessment that—justifies why some of those hires were more at the top-level positions?

Mr. WILKEY. Congresswoman, we only saw the testimony of the inspector general this morning, and we may have some differences of opinion on how individuals were categorized. Certainly, as I indicated in my testimony and in my remarks earlier, we had a great deal of work to do in the area of our financial administration.

I agree with our inspector general and his comment that, while we are small, we still had to meet the very same requirements as the big agencies in the Federal Government. And certainly they

had a lot more individuals to be able to handle that. And so that was eye opening to us.

We have met that head on. We have brought in some very talented individuals so that, hopefully, when our audit comes up again this year, you will see a dramatic difference in how it looks between the 2 years.

Mrs. DAVIS of California. Thank you. I think recognizing that it is important to establish morale at a small agency and to really get up and running, that's somewhat understandable.

Just going back to my colleague, and as I understand it—it is a small issue, but I think sometimes it is kind of symbolic. Again, let me just give you an opportunity, if you would like, to explain the T-shirt issue in terms of the number of people that you had on staff and the cost. Is there something in this that we are not getting that really you would like to just explain briefly so that people go away with a different impression?

Mr. WILKEY. Certainly, Congresswoman.

When that issue was first raised with me and the idea was raised with me, I certainly had some concerns myself. However, we wanted to do something for a noncash employee incentive. And so I directed our chief operating officer, our contracting officer, and our human resources specialist to reach out, to research the various regulations and rules, particularly with regards to the Office of Personnel Management, to get their take on it. They informed us that it had been done, certainly, in other agencies as provided for under the statutes and under the regulations; and it gave our employees some pride in our agency.

We do a lot of outreach. We have meetings of our various boards. And I think our employees enjoyed having the opportunity to wear something that had a symbol of our agency.

Would we do it again? Given the concern that has been raised, Congresswoman, I doubt that it would happen again. But we certainly took great care. And I certainly reached out to someone, for example—our contracting officer, who has been in the Federal Government for many years, has an unlimited warrant, level three, as a matter of fact—and he gave me what I thought was a reasonable response and allowed us to move forward.

And whether we would do it again, I think is questionable, Congresswoman.

Mrs. DAVIS of California. Thank you. Does anybody else want to respond?

Okay. One of the roles that you play is working with the States. And we are also looking here at fraud—not fraud and abuse, but really how people can be more efficient and lean.

Are you able to intervene if you are aware of some practices that really aren't working for people? I mean, can you play that kind of activist role, or are you really in the role of responding to requests and interests that the States have?

Mr. WILKEY. Congresswoman, I know that Commissioner Hillman mentioned in her testimony earlier something that we are very, very proud of, and that is our management guidelines and our quick-start guides. They have been overwhelmingly received by election administrators all over the country. There are some 16 or 17 of them now on a wide range of election administration issues,

from counting absentee ballots—which they are probably going to need in New York in the next few days—to other activities, including UOCAVA, poll worker training, and a number of others. These go directly into the hands of local election administrators, some 7,000 of them.

That is what we feel, in addition to working with our colleagues at the State level, something that we can do to get information directly into the hands of local election administrators. And they have been well received.

So we try to make efforts such as that. Certainly, in the audit area, we do so also. It is my responsibility, once the IG gives us an audit—

Mrs. DAVIS of California. If I could just interrupt, do you see yourselves in a role as well in terms of—not making policy necessarily, but providing some advice, even to the extent of Internet voting for military, or overseas voting? Is that an area that you expect to weigh in on at some point?

Ms. DAVIDSON. Right now, currently we have the first study that was given to us by the National Institute of Standards of Technology on Internet. It included several things—fax, anything that was really moving the ballots out faster.

And they are in their second phase now of providing us with best practices and security issues for fax and Web-based and Internet. So we expect that to come out. And from there, then we will be giving guidelines, or really best practices, to everybody.

Obviously, we take what States are doing currently and study—and that is what NIST is doing currently, really reviewing what the States are doing and how they have moved forward.

Mrs. DAVIS of California. Thank you.

Thank you, Madam Chair, for the additional time.

Ms. LOFGREN. Thank you.

I turn to the gentleman from Alabama.

Mr. DAVIS of Alabama. Thank you, Madam Chairwoman.

I will probably not take the full 5 minutes, but I wanted to just ask one question in particular of the three commissioners who are here.

Let me try to get some self-assessment from the Commission about whether you were surprised by the findings of this audit. Was this news to you or, based on your own work on the Commission, did you see some of these findings coming?

I will start with vice chairman, former chairwoman, Ms. Hillman.

Ms. HILLMAN. The recommendations and findings of the inspector general, the substance of those were very helpful.

When EAC was established in 2003, there was no place we could go to know the full breadth of what we had to do to establish EAC as a Federal agency in compliance with Federal requirements. And so we were building the house and the foundation at the same time, with our responsibilities to get requirements payments to the States, to do the HAVA-mandated study, to figure out how to staff the Commission, and also to be mindful that there were things that we were going to have to do.

So I would say that, for the most part, there were no surprises to me. The frustration was, how could we possibly come up to speed

in such a short period of time, and finally having to accept that we couldn't, that we were just going to have to do the very best that we could to sort of prioritize the items.

And we are well on our way; we are light years away from where we were 2 years ago.

And I would say that it is constructive. And I would think for Congress, I think that the General Services Administration can play a very valuable role to small commissions if they could only staff and resource themselves to do it.

I think there was an assumption on Congress' part that we would get that kind of technical assistance from a place like GSA or OPM, or even the Office of Management and Budget. And I will say that the Office of Management and Budget was probably the most helpful of the three agencies. What I am afraid of is—I call it the “bottomless pit,” are there more items we don't know about—and I think the inspector general will address that in the next audit. It may reveal some things that we don't yet know we are supposed to have in place as a Federal agency.

Ms. LOFGREN. Ms. Beach, would you or Ms. Davidson like to briefly weigh in on that same question, the extent to which you were surprised by the findings of the audit?

Ms. BEACH. Well, I will say when I first became aware of the audit, I was actually counsel to this very committee, so—

Mr. DAVIS of Alabama. I knew I recognized you from somewhere.

Ms. BEACH. So I certainly was surprised.

But now in this new role and recognizing the challenges that a new agency has, and having now the road map and being aware of what we can do, I think we are on a good way and a good path to fulfilling all our obligations and working towards our goals.

Mr. DAVIS of Alabama. Let me raise one other thing that may be a little bit less dramatic, but it jumped out at me, the fact that apparently the Commission is having some trouble filling midlevel staff positions. And if I am reading this correctly, there is a significant number of full-time positions that have not been filled.

Am I reading that right?

Ms. HILLMAN. I don't think so. I am going to defer to the executive director. There are some new positions with this budget, once we got out of the continuing resolution, that are now being filled. But I wouldn't say that we are having problems filling the positions.

Mr. DAVIS of Alabama. Mr. Wilkey, you are nodding your head.

Mr. WILKEY. Congressman, no, at this time, we haven't.

We had, initially, problems filling our CFO position. There is a lot of competition for CFOs, and we found that out. Because there is a cap on the salary, while we had a number of very good candidates, they were not willing to take the salary that we were willing to offer.

Mr. DAVIS of Alabama. Let me interrupt you just enough to point out the sentence—and maybe the confusion is this is not from the report; it is something that is referenced in the document I have. It says, “Some advocates remain concerned that not enough mid-level staff have been employed to carry out EAC's problematic responsibilities.”

Does that resonate with you at all, Mr. Wilkey, the concerns about not having enough midlevel staff to do some of the basic operating work of the Commission?

Mr. WILKEY. No, I don't agree. No one has suffered. We filled some very, very important positions on our financial end, based upon the results of our audits and our conversations with OPM and OMB, who fully supported us in this.

I took the step to have OPM, for example, come in and evaluate every single job in our Agency, to do an assessment and an evaluation of the salary level and so on to see if they were appropriate for that job title.

We will continue. And my goal is that we have reached the capacity in a number of areas; however, as we move forward, additional employees will be in our certification and testing program. And we are making great strides. We are bringing two additional people in.

We are working with a university in the State of Georgia, who has the responsibility for the voting system testing and testing program in the State of Georgia and has some terrific graduate students. We are working with that university. We continue to bring graduate students in to work with us. They are our future.

As a matter of fact, Congressman, I am working with a university in your home State, Auburn University, which was the first university in the Nation to have a graduate program in election administration. And I am continuing to work with them and providing opportunities at the ground level.

So I assure you, Congressman, as well as the members of the committee, that our program activities will continue to be met, and we will continue to make resources available to all of our program units as we move along.

Mr. DAVIS of Alabama. Thank you.

Ms. LOFGREN. I will just follow up with a couple of questions.

We realize that you started from scratch and that you have made an effort to move forward. But at this point, I think out of the 29 recommendations in the assessment from February of 2008, I think only 9 have been done, at least that's the report that we got—if that's not correct, tell me. And whatever the number is, I would like to know whether you expect that all of them will be done; and if not, what assistance do you need to get them all done.

Mr. WILKEY. Madam Chairman, as we were completing our assessment and giving further information to the inspector general for his semiannual report, we sought the assistance of some outside help to look at it, people who have been in this arena for many years. And we came upon the fact that there were some 30 of those recommendations that were really duplicate recommendations, and so we sought to consolidate those. So the reports that you will be getting now will focus in on where we are.

We certainly have a road map to get there. There are issues that will be coming up that we will close within the next couple of months—I see on my list here, some by June 30, some by the 31st of July, then again in August and September. I asked staff last night, knowing that we would be here and that we had just recently come across this discrepancy, to give me an updated listing

of where we are in terms of those recommendations and our blueprint for doing that. And I certainly would offer this for the record.

Ms. LOFGREN. We would be happy to receive that and review it. [The information follows:]





U.S. ELECTION ASSISTANCE COMMISSION  
1225 NEW YORK AVENUE, N.W., SUITE 1100  
WASHINGTON, D.C. 20005

July 10, 2009

The Honorable Zoe Lofgren  
Chair, House Committee on House Administration  
Subcommittee on Elections  
1309 Longworth House Office Building  
Washington, DC 20515

RECEIVED

JUL 21 2009

Zoe Lofgren, MC  
D.C. Office

Dear Chair Lofgren:

I write to follow up regarding a request from you during the April 1, 2009 U.S House Administration oversight hearing of the U.S. Election Assistance Commission (EAC). During my testimony, you asked if the EAC had adopted a formal peer review process for our research projects.

EAC is committed to adopting a peer review process that involves expert review of EAC research and projects. To support that commitment, Vice Chair Gracia Hillman has introduced the Working Group Policy, which would formalize a process like the one you described, and it would apply to research projects as well as other EAC initiatives. The Policy would encompass a collection of persons with unique experience and expertise gathered to provide their individual opinions on matters impacting EAC's mission. Vice Chair Hillman is working to gain consensus for the Policy, and I have attached it for your review.

EAC already seeks diverse input from a variety of experts. For example, working groups are used extensively by the majority of our contractors when they conduct EAC research projects, such as the Uniformed and Overseas Absentee Vote Act study, the Free Absentee Ballot Postage study, the Effective Designs in Elections project, the Voter Hotlines study and the First Time Voters study.

EAC also relies on third party experts in various fields for projects like our election management materials. This year, we are using a peer review process to assist us in selecting grant recipients for both the 2009 Mock Election and Help America Vote College Poll Worker programs, and the Peer Reviewer Announcement is attached.

EAC's survey instruments, such as the Election Day Survey, receive an additional layer of review by the public and by experts due to the Paperwork Reduction Act, which provides a two-step, extensive public comment period.



U.S. ELECTION ASSISTANCE COMMISSION  
1225 NEW YORK AVENUE, N.W., SUITE 1100  
WASHINGTON, D.C. 20005

I appreciate the opportunity to provide follow-up information. Please contact us if you have questions or need additional information. I will keep you informed of our progress as we work to adopt a final version of the Working Group Policy.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Wilkey".

Tom Wilkey  
Executive Director  
U.S. Election Assistance Commission

Attachments:

1. EAC Draft Working Group Policy
2. Mock Election and Help America Vote College Poll Worker Peer Reviewer Solicitation

## PROPOSED WORKING GROUP POLICY

### I. PURPOSE

This document sets policy concerning the use, makeup and administration of working groups. For the purposes of this policy, a working group is a collection of persons with unique experience and expertise gathered to provide their individual opinions on matters impacting EAC's mission. Working groups do not vote or otherwise provide a consensus opinion on matters presented. They are assembled either to provide individual advice on a common issue or exchange information. Working groups are not permanent and meet only for a limited purpose and time.

The United States Election Assistance Commission (EAC) believes that seeking diverse input from qualified individuals is critical to developing sound public policy. As EAC works meet its mission under the Help America Vote Act of 2002 (HAVA) and the National Voter Registration Act of 1993 (NVRA) the agency must utilize the experience of technical experts, election administrators and nongovernmental organizations in developing its policies.

### II. ROLES AND RESPONSIBILITIES

The Executive Director is hereby directed to develop internal procedures concerning the use, make-up, administration and product of working groups. These procedures must reflect and implement the policy goals adopted in this directive.

### III. MEMBERSHIP, USE AND PRODUCT OF WORKING GROUP

**Diversity of Opinion and Membership.** The membership of EAC working groups shall reflect the diversity of opinion on a given issue. This commitment to diversity of opinion requires EAC staff to seek out new voices in the debate. Therefore, when reasonable, EAC will openly recruit candidates to be considered and may limit participation of an individual or organization in consecutive working groups. EAC has various important constituencies that should be represented on working groups formed under this policy. These may include state and local election officials, state and local legislative bodies and nongovernmental organizations. EAC working groups must include a fairly balanced membership. Members of the working group should represent a cross-section of the election or other communities that are directly affected by the topic under consideration and academics and/or technical experts who are uniquely qualified as appropriate to the

nature and functions of the working group. The reasonable credibility of the individual and the organization represented will be considered in the selection process.

**Limited Use.** Working groups should only be used in the development of EAC policy or other matters where gathering of a variety of technical expertise or stakeholder opinions are essential to meeting agency objectives. Other determining factors for the creation of a working group shall include EAC's strategic plan and its annual operating budget, goals and objectives. The creation of working groups shall be subject to the approval of the Executive Director. Any request for a working group must be submitted to the Executive Director in writing and identify the need for the working group, the proposed charge of the working group, the identification of the various opinions or interests that must be represented, a proposed composition of the group, an approximate length of time that the working group will be in place.

**Group Focus.** Any working group established by the EAC must be provided a clear focus in the form of a written agenda or group mandate. Staff must be assigned to the group to facilitate discussion, maintain group focus and document opinion or facts expressed.

**Publication of Working Group Discussion Points.** In reporting on the activities of a working group, the EAC shall capture the opinions or facts expressed by the working group and make that information available to the Commissioners and EAC program staff for use in making a final policy determination. This information will also be made available to the public.



**U.S. ELECTION ASSISTANCE COMMISSION**  
 1225 New York Ave. NW – Suite 1100  
 Washington, DC 20005

## CALL FOR PEER REVIEWERS

The U.S. Election Assistance Commission (EAC) is recruiting peer reviewers for two competitive grant programs, the 2009 Mock Election Program and the 2009 College Poll Worker Program. More information about the programs can be found on the EAC website here: <http://www.eac.gov/program-areas/grants/>.

The U.S. Election Assistance Commission (EAC) was established by the Help America Vote Act of 2002 (HAVA). EAC is an independent, bipartisan commission charged with developing guidance to meet HAVA requirements, adopting voluntary voting system guidelines, and serving as a national clearinghouse of information about election administration. EAC also accredits testing laboratories and certifies voting systems, as well as audits the use of HAVA funds. In 2009, EAC will administer several grant programs that address critical issues such as research into voting technology improvements that ensure accessibility for voters with disabilities, the shortage of poll workers, and teaching young people about election processes and the importance of civic responsibility.

Peer Reviewers will be required to review grant applications and provide a clear and thoughtful assessment based on criteria established by EAC. Peer reviewers for these and future competitions should have experience in one or more of the following areas: 1) election administration; 2) secondary and post-secondary education students; 3) volunteer coordination and program development; 3) disability inclusion; or 4) development of outreach and training materials. Individuals with past experience reviewing federal grant applications are especially welcome. Selected reviewers must be able to meet deadlines and participate in any required teleconferences and trainings.

**Time Frame:** Reviewers must be available June 30, 2009 through July 21, 2009 and/or July 16, 2009 through August 2, 2009.

**Level of Effort:** Selected reviewers must attend one of two 90-minute training sessions at the start of the review. Reviewers will review between 8-12 applications, which range in length from eight to ten double-spaced pages, and return the assessments within the specified timeframe. No travel is required. All reviews will take place remotely. Reviewers may be required to participate in one or two virtual panel meetings with other reviewers to determine consensus scores for the applications reviewed.

**Payment:** Reviewers will be compensated \$650.00 for reviewing applications plus up to \$35.00 for costs associated with printing electronic applications. Reviewers that are employees of the Federal government are not eligible to receive compensation for their services.



**U.S. ELECTION ASSISTANCE COMMISSION**  
1225 New York Ave. NW – Suite 1100  
Washington, DC 20005

**Minimum Qualifications:**

1. A Bachelor of Arts (BA) or Bachelor of Science (BS) degree
2. At least two years of experience in one of the following areas:
  - a. Local or state election administration
  - b. Volunteer management
  - c. Civics or social studies instruction 9-12 grades
  - d. Non-profit program management in education-related field
  - e. Disability inclusion
  - f. Poll worker recruitment and management
3. Specific experience in an area related to a particular NOFA (preferred but not necessary)
4. At least two years or experience in facilitating small groups (For Facilitators)

A good peer reviewer will demonstrate objectivity and mature judgment, work effectively in groups, commit to assuring confidentiality of applications and discussions relating to applications; display an active interest mission of EAC, and; read a large volume of material in a short period of time.

**Additional Requirements:** Reviewers must be able to correspond via email and complete their assessment in an electronic, fillable form. Reviewers must submit a signed conflict-of-interest and non-disclosure form prior to beginning review of applications.

**Application Instructions:** Interested applicants should send a brief email letter and resume to [havafunding@eac.gov](mailto:havafunding@eac.gov) before **June 24, 2009**. Applicants should be sure to provide a current and accurate telephone number and email address.

The U.S. Election Assistance Commission is an Equal Opportunity Employer. This Office prohibits discrimination on the basis of race, color, religion, sex, national origin, age, sexual orientation, gender identity or expression, disability, marital status or political affiliation.

Ms. HILLMAN. Madam Chair, if I might just also add that some of the recommendations couldn't be implemented until others had been done. For example, we needed the chief financial officer in place for other kinds of policies to be developed.

So I would expect, once the core staff coming out of the inspector general's recommendations are in place, we will see the evolution of some of the others. And we should be—we will be in a very different place by the end of the year.

Ms. LOFGREN. Well, that is good to hear. And I realize that, although some of these recommendations may not have the stature of the testing program, which is key, and all these other things, we just have to get them done so that people can have confidence. And I know that you recognize that.

I just have one final question, and it really relates to the research department. As you will recall, was it last year that the general counsel's office and the research department were criticized or accused of altering research? I am not saying that was true, untrue, false, or indifferent. But there was a recommendation that there be a peer review process so that, you know, that could never come up again.

Has that assessment been done? Has it been approved? Is it in place now?

Mr. WILKEY. Congresswoman, we have taken the steps that every single document, in particular our research documents, are vetted by our Standards Board and our Board of Advisors. As you know, under HAVA, we have a 110-member Standards Board and 37-member advisory board. And now all of our research activities will be presented to them for review, either directly at their meetings, or we are using a virtual Web site to get—

Ms. LOFGREN. Well, the recommendation was that there be some formal peer review process. Are you suggesting that this kind of Commission oversight is the formal review process?

Mr. WILKEY. This is part of the review process.

I can tell you that, for example, in our management guidelines program, we are careful to bring in a working group of State and local election officials, depending on what subject it is and if they have expertise in that area, to work with us as part of a peer review.

Ms. LOFGREN. Well, maybe what I can do is ask you to send us your peer review assessment process.

Mr. WILKEY. Absolutely.

[The information follows:]

Ms. LOFGREN. And then we will take a look at it and see—maybe we can have a dialogue on whether we have a meeting of the minds on whether that process was really what we thought it was going to be, and have some further discussions if we have questions.

And on that note, I would note that we have a lot of work to do. We do thank you for your service. I am thinking, this is the spring. Towards fall we ought to have a follow-up here to see where we are on these audit issues, as well as some of the other items you are working on, but specifically the IG's recommendations, in the hope that we can check off a bunch of boxes.

So, with that, if there aren't further questions, we thank you for your testimony. The record will be held open for 5 days. If members

have additional questions, we will forward them to you and ask you to respond as promptly as possible.

Thank you very much. This hearing is adjourned.

[The information follows.]

[Whereupon, at 11:28 a.m., the subcommittee was adjourned.]





U. S. ELECTION ASSISTANCE COMMISSION  
OFFICE OF THE EXECUTIVE DIRECTOR  
1225 New York Avenue, NW, Suite 1100  
Washington, DC. 20005

May 01, 2009

The Honorable Zoe Lofgren, Chair  
House Subcommittee on Elections  
Committee on House Administration  
U.S. House of Representatives  
1309 Longworth House Office Building  
Washington, DC 20515

Dear Chair Lofgren:

It was my pleasure to appear before you on April 1, 2009 for the hearing on the "Election Assistance Commission Fiscal Year Audit 2008 and Financial Management." The responses to the Committee's questions are attached.

The U.S. Election Assistance Commission has worked very hard to meet its obligations under the Help America Vote Act as well as comply with all Federal rules and regulations. The EAC's financial management team is in place and we are in a position to better address the recommendations of the Inspector General. I am proud of the progress we have made, but we still have much work ahead of us. I look forward to keeping the Committee updated on our progress.

In addition to our written responses, documents regarding the hiring of a general counsel are also enclosed. The EAC has redacted information in some of these records as they contain private information traditionally protected from disclosure under 5 U.S.C. §552(b)(6). As you will note in the enclosed transmittal memorandum, this response only includes those records to which no known privilege attaches. As discussed with the Committee, the EAC will provide all privileged materials when compelled to do so.

Thank you and I look forward to future discussions with you. Please contact me if you have questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Wilkey".

Thomas R. Wilkey

Attachments



U. S. ELECTION ASSISTANCE COMMISSION  
1225 New York Avenue, NW, Suite 1100  
Washington, DC. 20005

May 1, 2009

The Honorable Zoe Lofgren  
Chair, House Committee on House Administration  
Subcommittee on Elections  
1309 Longworth House Office Building  
Washington, DC 20515

Dear Chair Lofgren:

Attached are the responses to questions posed by the Committee following the Election Assistance Commission's oversight hearing on April 1, 2009.

We appreciate the opportunity to provide additional information regarding the Commission's operations and activities. Our responses are attached, and please contact us if you have questions or need further assistance.

Sincerely,

Handwritten signature of Gineen Bresso Beach in black ink.

Gineen Bresso Beach  
Chair

Handwritten signature of Gracia Hillman in black ink.

Gracia Hillman  
Vice Chair

Handwritten signature of Donetta Davidson in black ink.

Donetta Davidson  
Commissioner

**RESPONSES TO QUESTIONS**

**1. How are you fulfilling your responsibility to oversee the EAC's financial procedures and management? What are the responsibilities of the Commissioners as well as of the Executive Director? And what responsibilities are shared jointly? What is the organizational structure regarding financial reporting responsibilities?**

**Response:** EAC is fulfilling its responsibility to oversee its financial procedures and management through several strategic initiatives, including the recent establishment of a professionally staffed the Office of the Chief Financial Officer (OCFO), which is responsible for all of the agency's financial operations. This staff has the requisite qualifications to address the audit findings of the November 2008 Performance Accountability Report (PAR) and other reports issued by the EAC Inspector General (IG) concerning financial management.

With respect to the agency's financial operations, the Commissioners, functioning as the Commission, provide oversight of the Executive Director (ED), executive operational matters and matters of agency strategic planning, objective and policy. The Commission also has overall responsibility for the allocation and spending of the agency's resources. This includes the adoption of the Annual Budget Request, Annual Research Plan, as well as other policies and related documents. Management of the agency's financial operations is jointly shared between the commissioners and executive staff as is needed to operate efficiently and effectively.

The Executive Director (ED) provides for the administration of the agency consistent with the Strategic Plan and Commissioner adopted policies, including, oversight of the agency's financial operations, including its Chief Financial Officer (CFO). All matters relating to EAC's financial operations are addressed to the ED through the CFO. The ED supervises and provides general guidance and advice to the CFO; however, the day to day operation of all financial matters is the responsibility of the CFO.

The CFO performs a number of functions, has the lead on addressing financial audit findings, and works with the Chief Operating Officer (COO) on addressing Federal Information Security Management Act findings. The CFO ensures that agency has the resources needed to accomplish its goals, and maintains separation of financial duties for internal control purposes. The CFO currently serves as the EAC's Budget Director, requests apportionment of funds from OMB, certifies that funds are available for new awards, executes the annual budgets, and prepares budget justifications for OMB and Congress. The focus of the OCFO is to maintain the highest integrity for the agency's financial operations and to ensure that operations of the agency are conducted in a cost-effective and efficient manner that is compliant with federal regulations and requirements.

Other staff in the OCFO includes the Accounting Director, Grants Manager and Procurement Director, the Contracting Officer. An organizational chart and the position descriptions are attached (Attachment 1 and Attachment 2, respectively). Each of these positions also plays a vital role in addressing the audit findings identified in the 2008 Performance and Accountability Report (PAR).

EAC maintains a Memorandum of Understanding with GSA, through which we receive financial, accounting and payroll services through GSA's Federal Integrated Solutions Center. The Accounting Director is EAC's main liaison with GSA for these services and produces all documents and reconciliations for these services. The Accounting Director also produces quarterly financial statements, the annual statements for the PAR and internal accounting policies and procedures; reconciles OMB apportionments to Treasury reports; and certifies that funds are available for payments to be processed by GSA.

EAC has hired a Contracting Officer with experience in federal contracting practices and procedures with a Level III Warrant in federal contracting. The Contracting Officer also serves as Procurement Director and is responsible for ensuring that the Federal Acquisition Regulations (FAR) are followed, that EAC receives best value in its procurements, ensuring that EAC's Contracting Officer Technical Representatives (COTRs) are trained and fulfill their contract monitoring responsibilities, assist staff with writing statements of work, and documenting and competing purchase orders and contracts.

EAC's first financial audit was conducted in 2008, when the agency had been in existence for only 4 years. While a first audit is generally very challenging, it has presented genuine opportunities for operational improvements. EAC has used the experience and information from the 2008 audit to establish the OCFO.

**2. The EAC has recently hired a COO, CFO and an Accounting Director. What specific duties will each individual have? How will each take responsibility for improving the EAC's financial and accounting management?**

**Response:** The Chief Operating Officer (COO) is responsible for oversight and management of the daily operations of the program units within the EAC. These units include: Voting Systems Testing and Certification, Election Administration Research and Programs, Human Resources, Information Technology, and Administrative and Management Services. The COO has the lead responsibility on resolution of Federal Information Security Management Act findings and supervises the agency's Privacy Officer.

The Chief Financial Officer (CFO), amongst its functions, takes the lead on addressing financial audit findings and works with the Chief Operating Officer (COO) on addressing Federal Information Security Management Act findings. The CFO ensures that the agency has the resources needed to accomplish its goals, and maintains separation of

financial duties for internal control purposes. The CFO serves as the EAC's Budget Director, requests apportionment of funds from OMB, certifies that funds are available for new awards, executes the annual budgets, and prepares budget justifications for OMB and Congress. The focus of the OCFO is on maintaining the highest integrity for the agency's financial operations and ensuring that operations of the agency are in compliance with federal regulations and requirements and conducted in as cost effective and efficient manner as possible. The OCFO is also working to improve our ability to provide timely reports to Congress regarding our financial operations and consistently high customer service to our grantees.

The CFO, Accounting Director, Grants Manager and Procurement Director are responsible for ensuring that EAC staff are aware of their role in following federal laws and regulations in areas pertaining to the FAR, Federal Travel Regulations and related internal policies.

The Accounting Director is EAC's main liaison with GSA for the financial services provided to EAC from GSA's Federal Integrated Solutions Center. The Accounting Director also produces quarterly financial statements, the annual statements for the PAR, internal accounting policies and procedures, reconciles OMB apportionments to Treasury reports, certifies that funds are available for payments to be processed by GSA.

As you can see, EAC's financial operation is undergoing a thorough makeover with emphasis being placed on accountability, expertise and appropriate controls. During the first four years of EAC's existence, EAC had limited operating funds and a cap on the number of employees it could hire. Additionally, EAC followed Congress' direction to use the services of GSA for our financial and other administrative operations. The 2008 PAR made it quite clear that our reliance on GSA was not serving EAC well.

The employment cap has been lifted; EAC has received modest increases to its operating budget and has since been able to establish its Office of the Chief Financial Officer, as described in our response to Question 1 above.

**3. Who will report to the new Accounting Manager, the COO, and the CFO? Who will be responsible for implementing the recommendations in the FY 2008 financial audit? Will this work be conducted by current or future staff, or will it be contracted out?**

**Response:** The reporting structure for the positions is outlined in the organization chart as provided herein (Attachment 1).

Accounting Director: The Accounting Director has a Clerical Assistant experienced in accounting. This support position will be shared with the CFO/Budget Director.

Chief Operating Officer (COO): The Research Director, Director of Management and Administration, Human Resource Director, Director of Testing and Certification, and IT staff all report to the COO.

Chief Financial Officer/Budget Director (CFO): The Contracting Officer/Procurement Director, Grants Manager, and Accounting Director all report to the CFO. As has been noted, the CFO will also be responsible for the budget processes within the agency.

The ED, COO and CFO have the principal responsibilities for implementing the 2008 PAR (financial audit). The ED, COO and CFO work as a team in implementing the 2008 PAR. They keep Commissioners apprised of the progress and delegate tasks to other staff when necessary.

Attached is EAC's audit recommendation tracking report (Attachment 3). Our goal is to address the findings and implement recommendations by the end of this fiscal year.

**4. What role do the Special Assistants to the Commissioners serve? Do they have formal job descriptions? How do their roles interact with the Executive Director, the COO, the General Counsel, and the CFO?**

**Response:** Each commissioner has one Special Assistant (SA). The SA is the only staff person assigned to support the Commissioners with their day to day responsibilities. The Commissioners have different work styles and can choose to have a SA who is a Policy Analyst or an Attorney Advisor. Copies of those descriptions are attached hereto (Attachment 4).

Special Assistants interact with all staff as may be required by the Commissioner. Each commissioner serves as the Designated Federal Officer for one the three advisory bodies -- the 37-member Board of Advisors, the 110-member Standards Board and the 14-member Technical Guidelines Development Committee. Special Assistants provide staff support to those boards, especially the Board of Advisors and Standards Board. They also provide assistance with EAC's public meetings and hearings.

**5. Recently, the EAC posted a job announcement for a GS-14 position titled "Secretary of the Commission," another senior administrative position reporting to the COO. What substantive responsibilities would this position entail and why is deemed a necessary hire? What qualifications would this person need to have to justify it being a GS-14 equivalent? Why was this position posted on USAJOBS for only a few days?**

**Response:** Pursuant to the Help America Vote Act of 2002 and the EAC Roles and Responsibilities document, Commissioners have no role with the hiring of staff other

than General Counsel, Executive Director and their Special Assistants. Commissioners were informed by staff that they have suspended their effort to fill this position and all candidates who applied for the job have been informed of this development. EAC is currently reviewing the progress it is making with the establishment of the Offices of Chief Operating Officer and Chief Financial Officer. The need for the position of Secretary of the Commission will be reviewed in that context. EAC staff will inform the Commissioners as to the final disposition of the hiring.

**6. When does the EAC expect to hire a new General Counsel? Have potential candidates been identified and interviewed?**

**Response:** EAC accepted applications for the position of General Counsel from April 1 to the deadline of May 1, 2009. Following the deadline, the Human Resources staff will review the applications to make certain candidates meet the minimal qualifications that were posted in the announcement. The remainder of the process includes candidate screenings, interviews and an appointment by an affirmative vote of Commissioners.

**7. It was the intention of Congress for the EAC to serve as a clearinghouse for data and research; however, this work is typically farmed out to consultants. What plans does the EAC have to move this work in-house so that it might fulfill its charter? Likewise, what in-house resources does the EAC currently have to conduct and produce research for election officials and other stakeholders?**

**Response:** EAC staff has met with several Federal agencies in December 2008 with similar clearinghouse functions to explore a range of topics and share information related to creating and maintaining government-sponsored clearinghouses. EAC realized we the need for high caliber technical assistance; a capability we do not possess at this time.

EAC determined it would be more feasible to contract out the major IT function for the Clearinghouse, which is a practice followed by other federal agencies. This would allow in-house resources to be devoted to assembling program information that would be housed in the Clearinghouse and posted on an almost daily basis.

EAC has limited resources to conduct and produce large research projects and therefore uses outside consultants to supplement staff resources. Within EAC, research is conducted by any of the 10 staff members who work in the Voting Systems Testing and Certification and the Election Administration Research and Programs staff. This does not include the technical reviewers who work on voting system certifications. Additionally, as prescribed in HAVA, the National Institute of Standards and Technology (NIST) works with EAC staff on limited research matters.

**8. What plans are in place to address the concerns of elections officials regarding the length of the voting system certification process?**

**Response:** The concerns of election officials regarding the length of the voting system certification process has been one of mutual concern for the EAC. Lab Accreditation and the Testing and Certification of voting systems require careful coordination of work within NIST, and between EAC, NIST and the Test Laboratories. To achieve expert status, improve our credibility, and facilitate accreditation of voting systems, EAC is increasing its staff that is devoted to this work. We recently hired the former NIST Chief of Software and Systems Division, who directed NIST's voting project under HAVA. We have extended offers to two recent computer engineering graduates from Kennesaw State University in Georgia. Kennesaw State University's Computer Science Division maintains all aspects of the voting system program for the State of Georgia. The additional staff will assist with the goal of reducing the certification timeline from 12-15 months to 8-12 months.

Although the testing and certification process has taken longer than anticipated, the EAC is committed to running a rigorous certification program that complies with international standards established for the testing and certification of products worldwide by the International Standards Organization (ISO). The EAC and its partner, the National Voluntary Laboratory Accreditation Program (NVLAP) at NIST, are continuously communicating and developing coordinated processes to improve the quality and efficiency of our Voting System Test Laboratories.

In the meantime, we are pleased to report that EAC recently certified Microvote EMS 4.0. Additionally, staff expects that two additional systems will be certified within the next 60 days: Premier Assure 1.2 and ES&S Unity Version 3.2. We are also waiting on a performance schedule from a test lab that will inform us of a timeline for the testing of Sequoia WinEDS Version 4.0.34 Voting Systems, which we hope will be completed by early fall 2009.

**9. Is the EAC in the process of drafting policies relating to travel procedures? Who is or will be responsible for auditing travel requests and receipts? Who makes the determination where and when the EAC will conduct public meetings and board meetings held outside of Washington, DC?**

**Response:** EAC is in the process of drafting travel and related policies and expects to have them in place by June 30, 2009. The Accounting Director will be responsible for auditing travel requests and receipts. The Chairman of the Commission, in consultation with other Commissioners, determines the schedule of public meetings and hearings including ones held outside of Washington DC. The Designated Federal Officer (a Commissioner) works with the leadership of the appropriate advisory board to determine the date and location of that board's meetings.



**10. The IG recently noted that while the EAC has 21 positions dedicated to executive direction and administration, it has only 14 positions dedicated to key program areas such as testing and certification, grants, research, legal, and communications. What accounts for this top-heavy ratio?**

**Response:** Management has determined that the administrative to programmatic ratio of staff, exclusive of the Commissioners and special assistants, is 16 staff administering programmatic goals and 15 in administrative positions. When consultants, temporary staff, and interns are added to the count, the ratio of program staff to administrative staff increases to a ratio of 25.5 program staff to 16 administrative staff. This ratio count does not include IG interagency and contractual legal and investigative services.

It should be noted that management counts among the administrative staff the General Counsel staff of 3 attorneys and 2 law clerks and the Human Resources staff of 2. Even though EAC is a very small agency, we are expected to be fully compliant with all of the reporting regulations and requirements imposed on all federal agencies. In direct response to the IG's audit findings and to ensure federal compliance, EAC has hired additional administrative personnel including the creation of the Office of the Chief Financial Officer. As Congress is aware, EAC did not have such in-house capability and expertise during its first four years due to limited resources and services we believed would receive from GSA. In the end, it became clear, especially with the findings of the 2008 PAR, that the prudent next step for EAC was to develop the in-house capabilities to handle its complex financial operations, which include administering over \$4 billion in requirements payments and other grants.

**11. The IG recently reported to the Committee that he is looking into the EAC's purchase of T-shirts for all staff as part of an awards program, at a cost of almost \$7000. What was the process that led to this purchase? Who had final authorization authority? Was the General Counsel consulted prior to the purchase?**

**Response:** Commissioners were not involved in the purchase of the t-shirts. When the Commissioners inquired about the purchase, EAC management and staff informed them, that they followed a proposed EAC Incentive Policy based on 5 U.S. Code 4501-4507. The process that led to the purchase was subsequent to a competitive bid. As the documentation indicates, the contracting officer, who possessed a Level III Warrant in Federal Contracting Procedures, reviewed the bids as they were submitted, and acquired the needed authorization from the Executive Director for the final purchase. The provision for a non-monetary award as defined by OPM is any item under \$100. Since the total cost of the non-monetary awards was nominal at \$6,951.50 (\$86 per person), there was no requirement to consult with the General Counsel.

The Commissioners were informed that use of such lasting non-monetary awards is encouraged by OPM, established in longstanding decisions by the U.S. Government

Accountability Office, permitted by federal appropriations law, and included in EAC internal policy.

**12. The EAC has suffered from a lack of experienced individuals with training in federal budgeting and accounting. During the hearing the Inspector General stated, "the EAC staffs are becoming more familiar with GSA accounting and reporting requirements and a contractor has been hired to perform additional training." Who on staff is being trained by this contractor? When will this training be completed? Which of your recent hires has experience with federal budgeting and accounting?**

**Response:** As a result of audit findings, EAC established the Office of the Chief Financial Officer, which has been described in our responses to Questions 1 and 2. The accounting contractor hired by EAC assists with resolution of audit findings, and produces EAC quarterly and financial statements, which are then reconciled with GSA. As previously explained in response to Question #2 above, EAC has now taken full responsibility to assure the accuracy of the financial reports and products produced by GSA under our MOU.

The Accounting Director is being trained by the contractor and will assume the responsibilities. Most of the training is taking place in the third quarter of FY 2009, and will be ongoing until EAC achieves satisfactory audit resolutions and results. After that, the Accounting Director will assume the financial statement and GSA liaison tasks that are currently being performed by the contractor.

The CFO has 15 years of federal financial management experience including budgeting experience at the U.S. Departments of Education and Transportation, and at the Corporation for National and Community Service. The Grants Manager is experienced with federal budgeting, programmatic responses to Congress and OMB on both budget formulation and execution, performance metrics, and with the OMB Performance Assessment Rating Tool.

**13. The EAC Administrative Manual and related handbooks were intended to guide the development and implementation of necessary policies and procedures for the agency. Despite the urgent need for this guidance, these materials remain unfinished, having been in the works for over a year. Is any part of the manual or handbooks finished and being used by EAC staff? When will they be complete? Why has it taken so long to produce these materials?**

**Response:** In 2005, EAC undertook an extensive activity to develop the EAC Administrative Manual. EAC did not have professional federal help and used guidance from OPM, so the manual is heavily weighted to human resource issues. Nonetheless, the Commission voted in December 2006, to adopt the EAC Administrative Manual, which covers everything from Standard of Conduct to use of Government Office

Equipment to Parking and Security & Emergency Management. Each employee has a copy of this manual.

A more comprehensive administrative manual and handbooks have been in progress since August, when EAC awarded a contract for assistance with the work through December. Staff have been reviewing and contributing to the manual and handbooks tailored to program operations. The administrative and program handbooks are expected to be in place by June 30. The financial handbooks are scheduled for completion at the end of the fiscal year.

**14. The Assessment of the EAC's Program and Financial Operations, published in February 2008, contained 29 recommendations to improve the EAC's program operations. To date, the EAC has implemented only 9 of the 29 recommendations. When do you expect to implement the remaining recommendations? Which of the remaining recommendations are priorities for the EAC and why?**

**Response:** The Commissioners were informed by management that 14 of the 29 recommendations are repetitious. Upon consolidated the recommendations and of the 15 remained of which nine were resolved. Resolution of the open recommendations are major priorities for the EAC. Timelines for completion are contained in the monthly EAC Audit Recommendation Tracking Report that is submitted to the Chair of the House Committee on Administration. The most recent report is Attachment 3 of this document.

**15. The EAC has failed to implement even those recommendations that seem unrelated to funding or drafting of new policies. For example, the agency has not yet acted on the recommendation to vote on the transfer of the NVRA regulations, which has been pending for over a year. What are the responsibilities of the Commissioners to make progress on this recommendation?**

**Response:** EAC has taken all votes within its power to receive transfer of the NVRA regulations from the Federal Election Commission. To date, despite follow up inquiries from EAC, FEC has not taken action.

“On September 6, 2007 EAC Commissioners voted unanimously to direct its staff to work with the FEC to enter into a joint rule making to transfer the FEC (Federal Election Commission) regulations on the National Voter Registration Act to the EAC and that the EAC staff be further directed to take whatever steps are necessary to establish a CFR site for EAC, to obtain the concurrence of the FEC, and to post notice for a 30 day public comment procedure regarding the transfer of these regulations to EAC”

According to that vote, EAC staff established a section of EAC's CFR for the anticipated transfer of the NVRA regulations. EAC posted the proposed transfer of the regulations for a 30 day public comment period that ended on December 3, 2007.

Following the public comment period, the Commission voted on December 11, 2007, to direct staff to engage in joint rulemaking. EAC staff met with FEC Office of General Counsel staff on January 15, 2008.

The FEC was fully constituted in July 2008 and since then, EAC staff has periodically contacted the FEC requesting that the Agency take action on this matter so that the joint rule making can be completed to allow transfer of the NVRA regs to EAC. The FEC has not yet taken any action.

**16. Has the agency presented its responses regarding the recommendations found in the Assessment of the EAC's Program and Financial Operations Report to the EAC Board of Advisors? If yes, what was the Board's response? If no, when will the Board be advised of these actions?**

**Response:** EAC regularly updates the Board of Advisors on all matters of significance concerning its programs and operations. Additionally, the ED seeks advice from the board about EAC research priorities as juxtaposed to its testing and certification priorities. The Board meets once per year. In June 2008, the Executive Director informed the Board about the audit, which was still in progress at that time. The Board will be updated at its next meeting, which is scheduled for June 2-4, 2009.

**17. The Research Department and the General Counsel's Office have been accused in the past of altering research conclusions for political reasons. For this reason, one of the recommendations in the Assessment of the EAC's Program and Financial Operations Report was to develop a "formal peer review process for the research methodology and results." When will these procedures be complete? How will future conflicts of interest in this regard be handled?**

**Response:** Use of peer review and working groups are among the tools that EAC will use for its research projects. The formal procedures for such review have not been established as EAC has not undertaken any new studies since the recommendation was offered. All other research projects were already under contract and nearing completion.

EAC has taken steps to minimize and handle any future conflicts of interest that might occur. The EAC COTR responsible for the research project is to make certain that the contractors and EAC are both in agreement and will have resolved any differences of opinion about the final product before it is presented for consideration and action by the Commissioners.

**18. In its response to the recommendations in the Assessment of the EAC's Program and Financial Operations Report (dated 2/2/08), the Commission estimated it would take 3 staff persons to serve the EAC's communications and clearinghouse functions. Is this adequate to serve the communications needs for the agency?**

**Response:** The Commissioners have been informed that the functions of the Communications department are being reorganized to make certain that its staff will have adequate time, resources and professional support to accomplish its tasks. Management believes that the communications and clearinghouse functions can be adequately handled by the 3 member staff, with support from an outside firm to handle the IT aspects of the clearinghouse.

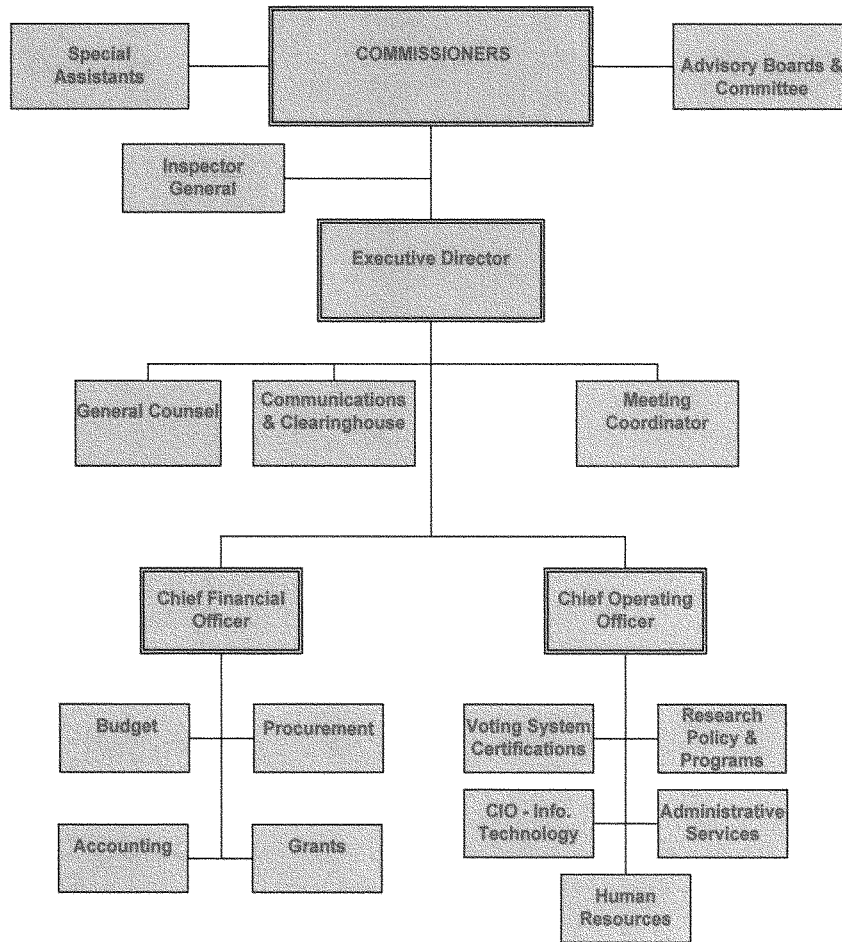
**19. During the hearing, the Inspector General was questioned about his decision to hire the Election Assistance Commission's former General Counsel to serve as his assistant. Do you have any concerns about a potential conflict of interest arising from this situation?**

**Response:** The Commissioners are concerned that the Inspector General's hiring of the former EAC General Counsel does raise concern of a potential conflict of interest. The Inspector General has provided the Commission with a list of legal issues with which the former EAC General Counsel was involved during her tenure with EAC and would require recusal. However, it is still unclear to the Commission what matters and issues the former EAC General Counsel is able to work on that does not pose a conflict or violate privilege. The General Counsel was hired in September 2004 and has been intricately involved in every matter that the Commission has taken action on.

The Commission has elected to seek advice and guidance to ensure no conflicts arise and that our confidentiality is not compromised. To that end, the Chair has sent the attached letter to the Executive Council on Integrity and Efficiency to request an opinion on this matter (Attachment 5).

**U.S. ELECTION ASSISTANCE COMMISSION  
ORGANIZATION CHART**

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**ACCOUNTING DIRECTOR****AD-510****Administrative Track, Pay Band V****INTRODUCTION**

The United States Election Assistance Commission (EAC) was established by the Help America Vote Act of 2002 (HAVA). The agency is charged with developing guidance to meet HAVA requirements, adopting voluntary voting system guidelines, accrediting testing laboratories, certifying voting systems, maintaining the national mail voter registration form, auditing the use of HAVA funds, and serving as a national clearinghouse of information about election administration. Four commissioners, appointed by the president and confirmed by the U.S. Senate, are responsible for setting policy and assuring the mission of the EAC is carried out.

The incumbent of this position serves as the EAC Accounting Director and has managerial and supervisory oversight for the agency's Accounting Unit. The incumbent reports directly to the Chief Finance Officer. The Accounting Unit is responsible for planning, organizing, operating, and maintaining the accounting operations, payroll operations, and disbursing functions for the EAC. The Accounting Director is responsible for the management of the agency's financial operations, including the promulgation of agency policies, procedures and directives pertaining to those programs falling within his/her area of responsibility. The incumbent is also responsible for producing the agency's audited financial statements, ensuring that they comply with all federal accounting standards and requirements; leads the implementation, enhancement, and maintenance of the agency's automated accounting system and is responsible for the supervision of Division staff.

**MAJOR DUTIES:**

In concert with the Chief Financial Officer (CFO), plans and administers the U.S. Election Assistance Commission's accounting program and all of the accounting systems servicing the agency with primary responsibility for the Commission's official accounting records, internal and external financial reports, funds control, certification of disbursements, and employee payroll services. Serves as first-line supervisor to unit staff.

Monitors and identifies effects of new requirements and legislation for financial issues and manages either the modification of existing systems or the design of new systems.

Ensures the integrity of the EAC accounting records and reports; and assures that the accounting system comports with Office of Management and Budget (OMB), Federal Accounting Standards Advisory Board (FASAB), and Joint Financial Management Improvement Program (JFMIP) standards.

Collaborates with the CFO in producing the EAC audited financial statements. The Tax Dollars Accountability Act of 2002 requires the EAC to prepare and publish annual audited financial statements. Is responsible for developing the statements, ensuring that they comply with all federal accounting standards and requirements. Serves as the leader to develop procedures and documentation required to allow the agency to attain an unqualified audit opinion with no material weaknesses.

Manages the audit process. Serves as the EAC management liaison with the Inspector General (IG) and the IG's contracted auditor. Responds and presents the agency position with respect to issues raised during the audit.

Advises managers on the accounting aspects of agency operations.

Participates in EAC management decisions through supporting and interpreting financial information produced by the accounting system. Assists in agency budget analysis and planning.

Collaborates with the CFO and the General Services Administration (GSA) in developing agency accounting policies and advises on the accuracy of disclosure documents and the financial condition of the Commission.

Provides advice on the effects of newly promulgated laws or the requirements or statements of central oversight agencies such as the Treasury Department, OMB, FASAB and JFMIP.

Ensures the Commission meets all Treasury Department, OMB, FASAB and JFMIP compilation and reporting requirements, as well as the specific financial information requirements established by legislation. Reconciles all registers, ledgers and outside agency reports.

Responsible for the internal controls of the financial operations of the agency, monitoring the financial records and reports, the timeliness, accuracy and risk assessments. Liaison for internal and external auditors, prepares audit response, and implements appropriate changes.

Establishes and maintains strong internal controls to prevent waste, fraud, and abuse and to discourage errors and irregularities. Responds to instances of waste, fraud, and abuse to ameliorate or correct the situation. Recommends improvements in controls and procedures as necessary to prevent similar occurrences.

Leads the implementation, enhancement, and maintenance of the EAC automated accounting system. Serves as the COTR on the contract and must ensure that the system conforms to all federal accounting standards and requirements. Works with the accounting system contractor and other consultants and contractors to ensure that upgrades and other maintenance updates provide the required functionality and that the contractors and consultants fulfill their contractual obligations.

In concert with the CFO, manages the development of an integrated financial system. In conjunction with other managers, plans and develops the EAC integrated financial management system. Ensures that interfaces with the accounting system are developed properly to ensure that the



information obtained or transmitted is correct and that the integrity of the accounting system is maintained.

Reviews and reconciles payroll operations with the Office of Human Resources Director to ensure all elements of pay are processed in accordance with Federal pay regulations issued by OPM and approved authorizations from the Commission's Personnel Office. Works with the GSA Finance Center to ensure that correct accounting data can be obtained from the GSA payroll/personnel system to meet EAC reporting needs. Together with the EAC OHR, works with GSA to resolve complicated issues involving pay and compensation, time and attendance, leave, benefits, retirement, or other payroll/personnel matters

Manages agency automated accounting operations including travel advances, travel reimbursements, disbursements, receipts, and an imprest fund. The accounts include appropriated funds, civil penalty accounts, miscellaneous receipts, advance funds, suspense accounts, and deposit accounts.

Develops and maintains partnerships with other divisions and offices in the EAC.

Promotes cross-organizational efforts to improve work quality and make more effective use of human resources.

Implements and evaluates procedures and policies that promote program performance.

Ensures compliance with Federal and EAC policy in all phases of program and staff management.

Actively supports the Commission's EEO goals.

Assumes responsibility for special projects as the Chief Financial Officer may assign.

As required serves as backup to the Chief Financial Officer in his/her absence.

#### **Supervisory Controls**

The incumbent reports directly, and is accountable, to the Chief Financial Officer (CFO), who provides administrative and policy direction in terms of broadly defined mission/functions of the Commission. The incumbent defines objectives, interprets policy promulgated by top management, and determines their effect on program needs. The incumbent independently plans, designs, and carries out the work to be done. The CFO's review of the work covers such matters as fulfillment of accounting program objectives and the effect of advice, influence, or decisions on the overall program. Recommendations for new systems, methods, projects or program emphasis are usually evaluated in light of the availability of funds, personnel, equipment capabilities, priorities, and available resources.

#### **General Competencies**

- **Interpersonal Effectiveness:** Skill in responding appropriately to a diversity of groups and individuals in a variety of challenging situations. Demonstrated ability to be tactful and to

treat others with respect. Skill in developing networks, achieving cooperation, and collaborating with others when appropriate, including parties outside of EAC.

- **Critical Thinking:** Skill in purposeful, self-regulatory judgment that results in interpretation, analysis, and evaluation of all relevant considerations while remaining flexible, fair-minded in evaluation, prudent in making judgments, diligent in seeking relevant information, and persistent in seeking results.
- **Written and Oral Communication:** Demonstrated ability to clearly, succinctly and convincingly express facts and ideas both in writing and orally. Skill in listening and appropriately responding to the ideas, points of view, or concerns of others. Skill in public speaking.
- **Organizational Skill:** Demonstrated understanding of priorities, deadlines, administrative systems and resources needed to gather and synthesize information while balancing workload demands.
- **External Awareness:** Skill in identifying and keeping abreast of legislation, policies and economic, political, and social trends that affect the EAC.

#### **Technical Competencies**

- Comprehensive knowledge of accounting procedures and processes, including principles and standards outlined by the Federal Accounting Standards Advisory Board (FASAB), Office of Management and Budget (OMB), U.S. Treasury Regulations, American Institute of Certified Public Accountants (AICPA), professional accounting organizations and the U.S. Comptroller General.
- Thorough knowledge of reconciliation and financial reporting to prepare, review and provide updated financial information for monthly, quarterly, and yearly reconciliation and financial statements, and other financial reports as required.
- Thorough knowledge in risk analysis and internal control to identify and manage the risks of failing to detect a misstatement, caused by inadvertent error or fraud that is material to financial statements.
- Working knowledge of financial budget and program analysis in order to obtain information from within and outside of the organization for relevant guidance or other information.
- Skill in reviewing and evaluating financial data and making recommendations as appropriate.
- Ability to create and maintain an environment that guides a project to its successful completion.

- Ability to lead and manage a diverse workforce including professional personnel from a variety of backgrounds, points of view and skill levels.

**CHIEF FINANCIAL OFFICER****AD-0505, Pay Band V**

The United States Election Assistance Commission (EAC) was established by the Help America Vote Act of 2002 (HAVA). The agency is charged with developing guidance to meet HAVA requirements, adopting voluntary voting system guidelines, accrediting testing laboratories, certifying voting systems, maintaining the national mail voter registration form, auditing the use of HAVA funds, and serving as a national clearinghouse of information about election administration. Four commissioners, appointed by the president and confirmed by the U.S. Senate, are responsible for setting policy and assuring the mission of the EAC is carried out.

As the Chief Financial Officer (CFO), the incumbent reports to the Executive Director and assists the Executive Director in overseeing critical management and core mission activities of the agency. The CFO advises the Executive Director on matters relating to all financial management functions, including strategic planning, business performance measures, accounting, contracting and budgeting. The Accounting Director, Grants Director and Contracting Officer report directly to the CFO and fall under his/her direct supervision. The CFO also serves as the Budget Director.

The incumbent ensures consistently excellent financial management practices, effective planning, budgetary and accounting policies and practices, and efficient delivery of financial reporting and other financial services functions. In this leadership role, the incumbent must demonstrate an awareness of and sensitivity to the role of the Commission in most effectively conducting its mission.

**MAJOR DUTIES**

Serves as a member of the Executive Director's policy and management group, participating with other senior EAC management officials in policy development and strategic planning for the Commission, in building broad consensus, and in successfully representing these policies and plans.

Serves as the primary technical and policy advisor to the Executive Director and other EAC management officials concerning the development of EAC's financial objectives, policies, and plans, including financial systems, budgeting and accounting, internal controls, cash management, credit and debt management, compliance guidelines, and corrective actions relating to audit recommendations.

Provides leadership and management to the EAC's budget, business planning, and financial management reporting program. Develops the management plan to execute the budget as appropriated and monitors expenditures throughout the fiscal year to ensure progress in achieving its performance goals, and produces the annual A-123 risk

assessment for transmittal to the President and the Performance and Accountability Report.

Provides direction for fiscal functions including the administration of the integrated financial management system, accounting, financial management and reporting, budgeting, and other financial issues.

Establishes and maintains internal controls to prevent waste, fraud, and abuse; develops financial statements that comply with Federal Accounting Standards Advisory Board, Joint Financial Management Improvement Program, and Office of Management and Budget requirements for submission to Congress and OMB; manages the financial statement audit process.

Leads the implementation, enhancement, and maintenance of the EAC automated accounting system and manages the payroll services contract with the General Services Administration National Finance Center.

Directs the formulation and establishment of strategic long-range and short-range financial and business management planning for the Commission's functions, with the objective of instituting a logical, integrated framework for financial management in support of all policy, planning and programmatic efforts.

Directs the assessment, development, implementation, maintenance and evaluation of Commission financial management policy systems and operations that are consistent with, and conform to, existing laws, regulations, and approved principles and standards.

Develops and maintains partnerships with other divisions in the EAC.

Provides guidance and coordinates EAC's financial management program and activities to ensure the adequacy of internal and management controls in compliance with the Federal Managers Financial Integrity Act, the Chief Financial Officers Act, and related OMB and GAO requirements.

Ensures that procedures and policies focus on enhancing customer service and program performance. Ensures compliance with Federal and EAC policy in all phases of program and staff management.

#### **SUPERVISORY CONTROLS**

The incumbent reports to the Executive Director or, in the absence of an Executive Director, will report directly to the Chairperson. Supervisory and managerial responsibilities require exceptional coordination and integration of a number of very important and complex program functions involving administrative and managerial work. Supervision and resource management involve major decisions and actions which have a direct and substantial effect on the CFO organization and program activities. The

incumbent makes major recommendations and/or final decisions concerning such management areas as (a) determinations of projects to be initiated, dropped, or curtailed; (b) restructuring, reorienting, and recasting immediate and long-range goals, objectives, plans, and schedules to meet substantial changes in legislation, program authority, and/or funding; (c) changes in organizational structure; (d) the optimum mix of reduced operating costs and assurance of program effectiveness, including automated processes, methods improvement, and similar initiatives; (e) the resources to devote to particular program activities; (f) policy formulation and long-range planning in connection with prospective changes in functions; and (g) compliance with laws and regulations, as deemed appropriate.

#### **General Competencies Required**

- **Interpersonal Effectiveness:** Skill in responding appropriately to a diversity of groups and individuals in a variety of challenging situations. Demonstrated ability to be tactful and to treat others with respect. Skill in developing networks, achieving cooperation, and collaborating with others when appropriate, including parties outside of EAC.
- **Critical Thinking:** Skill in purposeful, self-regulatory judgment that results in interpretation, analysis, and evaluation of all relevant considerations while remaining flexible, fair-minded in evaluation, prudent in making judgments, diligent in seeking relevant information, and persistent in seeking results.
- **Written and Oral Communication:** Demonstrated ability to clearly, succinctly and convincingly express facts and ideas both in writing and orally. Skill in listening and appropriately responding to the ideas, points of view, or concerns of others. Skill in public speaking.
- **Organizational Skill:** Demonstrated understanding of priorities, deadlines, administrative systems and resources needed to gather and synthesize information while balancing workload demands.
- **External Awareness:** Skill in identifying and keeping abreast of legislation, policies and economic, political, and social trends that affect the EAC.

#### **Technical Competencies**

- Knowledge of Federal accounting procedures and process and understanding of the Federal accounting process, including principles and standards outlined by the Federal Accounting Standards Advisory Board (FASAB), Office of Management and Budget (OMB), U.S. Treasury Regulations, American Institute of Certified Public Accountants (AICPA), professional accounting organizations and the U.S. Comptroller General.

- Knowledge of current and emerging issues and developments in the financial and business fields, including a knowledge of and ability to apply innovative business management techniques.
- Knowledge of laws, regulations and procedures governing the administration of grants and cooperative agreements.
- Ability to manage multiple, high volume financial and accounting programs; to analyze, interpret and evaluate financial data; and to prepare financial reports/statements, audit reports and other required budgetary documents.
- Ability to serve as a key management advisor, interacting with court administrators, judicial officers and federal officials, and to assist in the presentation of oral and written budgetary reports before the Office of Management and Budget and the U. S. Congress.
- Ability to select, train, supervise and manage staff in the performance of budgetary, accounting, finance and audit functions.

**CHIEF OPERATING OFFICER  
AD-340****Professional Track, Pay Band V, GS-15 Equivalent****INTRODUCTION**

The United States Election Assistance Commission (EAC) was established by the Help America Vote Act of 2002 (HAVA). The agency is charged with developing guidance to meet HAVA requirements, adopting voluntary voting system guidelines, accrediting testing laboratories, certifying voting systems, maintaining the national mail voter registration form, auditing the use of HAVA funds, and serving as a national clearinghouse of information about election administration. Four commissioners, appointed by the president and confirmed by the U.S. Senate, are responsible for setting policy and assuring the mission of the EAC is carried out. The Commissioners appoint an Executive Director to oversee the Commission's programmatic, financial management and administrative functions.

As the Chief Operating Officer (COO), the incumbent reports to the Executive Director and is responsible for the smooth and efficient day-to day operations of the programmatic and administrative functions of the Commission. In this capacity, the incumbent serves as a consultant and advisor to the Executive Director in developing operational strategies which focus on achieving results through various programmatic and administrative system investments. Reviews the best practices in administrative management and integrates these practices into EAC's operational plans.

The incumbent carries responsibility for integrating the strategic plan of the agency with the operations of the agency. The COO provides management oversight to develop and implement EAC's plans to improve organizational and operational efficiencies; integrates organizational efficiencies into overall EAC goals and objectives; and develops operating policies and procedures. The Testing and Certification Director, Research, Policy and Programs Director, Management Services Director, and Human Resources Director report directly to the COO and fall under his/her direct supervision.

**MAJOR DUTIES:**

Serves as a member of the Executive Director's policy and management group, participating with other senior EAC management officials in policy development and strategic planning for the Commission, in building broad consensus, and in successfully representing these policies and plans.

Serves as a senior advisor to the Executive Director, the Commissioners, and other Commission management officials in matters relating to the agency's strategic planning and performance



measurement of programs and operations while maximizing organization benefits from limited fiscal and human resources.

Works with senior strategic planning and performance management staff to develop processes that facilitate the development of measures at each organization level. Works with budget and financial personnel to develop linkages between levels of funding and anticipated results. Develops budget projections, and participates in the budget analysis and program planning processes

Provides leadership and management to EAC program directors to produce timelines for execution of programs and the expeditious issuance of reports, guidance to states, best practices and other documents, including factoring in timelines to accommodate public review and comment of various draft documents. Recommends actions to alleviate conflicts within the timeline.

Provides direction to EAC program directors examine current programs and operations, and develop tactical and business plans that focus on improving organization efficiencies. Provides direction to senior staff in developing financial, personnel, and material requirements to ensure effective use of resources.

Collaborates with the EAC Executive Director in developing and maintaining sound organization structures. Ensures the effective use of resources and prepares and implements, based on the recently completed strategic plan, an annual agency performance plan that includes quantifiable outcomes and measures.

Provides direction for establishing processes that involve stakeholders and develops systems to align activities, core processes and resources to support the accomplishment of desired outcomes for administrative processes.

Collaborates with human resource management staff in developing solutions to a variety of workforce issues to ensure that the Commission attracts and retains first-rate talent throughout the organization.

Recommends action to ensure coordination and integration of activities of each division including meetings and activities of EAC advisory boards.

Ensures that the management of programs adheres to the federal policies, guidelines and processes.

Serves as a team member on ad hoc teams convened to provide quick responses to special projects and studies which may cut across organizational lines, disciplines and functions. Team participation is vital to effectively accomplish unit assignments. Successful participation in both routine and special assignments requires flexibility, effective interactive skills and willingness to cooperate to enhance team accomplishments.

## SUPERVISORY CONTROLS

The incumbent reports to the Executive Director or, in the absence of an Executive Director, will report directly to the Chairperson. Supervisory and managerial responsibilities require exceptional coordination and integration of a number of very important and complex program functions involving administrative and managerial work. Supervision and resource management involve major decisions and actions which have a direct and substantial effect on the COO organization and program activities. The incumbent makes major recommendations and/or final decisions concerning such management areas as (a) determinations of projects to be initiated, dropped, or curtailed; (b) restructuring, reorienting, and recasting immediate and long-range goals, objectives, plans, and schedules to meet substantial changes in legislation, program authority, and/or funding; (c) changes in organizational structure; (d) the optimum mix of reduced operating costs and assurance of program effectiveness, including automated processes, methods improvement, and similar initiatives; (e) the resources to devote to particular program activities; (f) policy formulation and long-range planning in connection with prospective changes in functions; and (g) compliance with laws and regulations, as deemed appropriate.

**A. Executive Core Qualifications (ECQs) -- Mandatory** (Note: Failure to address these factors will result in your application being disqualified.)

**ECQ 1 - LEADING CHANGE**. This core qualification involves the ability to bring about strategic change, both within and outside the organization, to meet organizational goals. Inherent to this ECQ is the ability to establish an organizational vision and to implement it in a continuously changing environment.

*Leadership Competencies:* Creativity & Innovation, External Awareness, Flexibility, Resilience, Strategic Thinking, Vision

**ECQ 2 - LEADING PEOPLE**. This core qualification involves the ability to lead people toward meeting the organization's vision, mission, and goals. Inherent to this ECQ is the ability to provide an inclusive workplace that fosters the development of others, facilitates cooperation and teamwork, and supports constructive resolution of conflicts.

*Leadership Competencies:* Conflict Management, Leveraging Diversity, Developing Others, Team Building

**ECQ 3 - RESULTS DRIVEN**. This core qualification involves the ability to meet organizational goals and customer expectations. Inherent to this ECQ is the ability to make decisions that produce high-quality results by applying technical knowledge, analyzing problems, and calculating risks.

*Leadership Competencies:* Accountability, Customer Service, Decisiveness, Entrepreneurship, Problem Solving, Technical Credibility

**ECQ 4 - BUSINESS ACUMEN**. This core qualification involves the ability to manage human, financial, and information resources strategically.

*Leadership Competencies:* Financial Management, Human Capital Management, Technology Management

**ECQ 5 - BUILDING COALITIONS.** This core qualification involves the ability to build coalitions internally and with other Federal agencies, State and local governments, nonprofit and private sector organizations, foreign governments, or international organizations to achieve common goals.

*Leadership Competencies:* Partnering, Political Savvy, Influencing/Negotiating

**Supervisory Grants Management Specialist  
(Grants Director) Pay Band V**

**AD-1101**

**INTRODUCTION**

The United States Election Assistance Commission (EAC) was established by the Help America Vote Act of 2002 (HAVA). The agency is charged with developing guidance to meet HAVA requirements, adopting voluntary voting system guidelines, accrediting testing laboratories, certifying voting systems, maintaining the national mail voter registration form, auditing the use of HAVA funds, and serving as a national clearinghouse of information about election administration. Four commissioners, appointed by the president and confirmed by the U.S. Senate, are responsible for setting policy and assuring the mission of the EAC is carried out.

The incumbent of the supervisory grants management specialist position serves as the Director of the HAVA Payments and Grants Unit and reports to the Chief Financial Officer. As the Grants Director, the incumbent manages all aspects of the award, oversight, and closing of EAC Federal financial assistance and the supervision of unit staff. The incumbent provides expert advice and guidance related to Federal grants management, helps resolve complex issues related to the financial and administrative characteristics of grant programs and HAVA, and coordinates with other units of the EAC as applicable.

**MAJOR DUTIES**

- Serves as the principal point of contact concerning EAC grant funds management.
- Manages and supervises the overall operations of the HAVA Payments and Grants Unit. This includes supervising employees within the unit; establishing Unit goals, objectives, measures and budgets, and directing overall office assignments and projects.
- Works in a cooperative manner with EAC officials and state and other recipients to encourage sound program administration and to enforce program and financial compliance with the provisions of HAVA, Office of Management and Budget (OMB) guidance, EAC policies, and recipient agreements and plans.
- Establishes and maintains liaison with other Federal agencies on matters related to grants.
- Coordinates with other EAC offices to make sure EAC grant management practices are integrated in the EAC goals and procedures regarding effective and efficient financial management of Federal funds.

- Reviews Federal grant proposals, state plans, and state certifications; analyzes financial and performance reports submitted by grantees; and reviews reimbursement requests for appropriateness.
- Performs site visits to measure grantee performance and compliance; resolves findings and tracks status of audit reports.
- Develops recommended policy on the uses of EAC grant funds; and prepares special reports and presentations.
- Manages indirect cost rates negotiations with state government agencies.
- Presents training on HAVA assistance programs and on Federal financial management standards for grantees.

#### **Supervisory Controls**

Incumbent receives broad direction from the Chief Financial Officer, who initially outlines general policies, program objectives, scope of objectives, and overall responsibility for the assigned work. Incumbent is expected to exercise independent judgment in the review, analysis, and discussion of a wide range of program and procedural matters as they relate to EAC and other Government-wide groups and functions concerned with federal grants. Incumbent is responsible for keeping the supervisor informed on the status of all grants, including any significant problems. Refers only unusual matters of a policy nature to the supervisor. Performance is evaluated in terms of attainment of objectives, soundness of judgment, and for compliance with policy and regulatory requirements.

#### **General Competencies**

- **Interpersonal Effectiveness:** Skill in responding appropriately to a diversity of groups and individuals in a variety of challenging situations. Demonstrated ability to be tactful and to treat others with respect. Skill in developing networks, achieving cooperation, and collaborating with others when appropriate, including parties outside of EAC.
- **Critical Thinking:** Skill in purposeful, self-regulatory judgment that results in interpretation, analysis, and evaluation of all relevant considerations while remaining flexible, fair-minded in evaluation, prudent in making judgments, diligent in seeking relevant information, and persistent in seeking results.
- **Written and Oral Communication:** Demonstrated ability to clearly, succinctly and convincingly express facts and ideas both in writing and orally. Skill in listening and appropriately responding to the ideas, points of view, or concerns of others. Skill in public speaking.
- **Organizational Skill:** Demonstrated understanding of priorities, deadlines, administrative systems and resources needed to gather and synthesize information while balancing workload demands.

- **External Awareness:** Skill in identifying and keeping abreast of legislation, policies and economic, political, and social trends that affect the EAC.

**Technical Competencies**

- Comprehensive knowledge of noncompetitive and competitive grants administration in order to administer grants and cooperative agreements, apply knowledge of organization needs and deadlines.
- Comprehensive knowledge of procedural and regulatory compliance management to maintain standards and adhere to regulatory guidelines and requirements with regard to processes and procedures.
- Thorough knowledge of financial management to acquire and apply critical financial concepts and practices, based upon a thorough understanding of the Federal Government.
- Skill in the design and preparation of reports and other written products.
- Skill in quantitative analysis to examine and evaluate numerical data to manage and achieve results.
- Ability to develop and monitor processes and organize resources to achieve desired results.
- Ability to use judgment when interpreting legislation directives and converting those directives to practical processes and procedures to resolve program problems or provide program support.
- Ability to lead and manage a diverse workforce including professional personnel from a variety of backgrounds, points of view and skill level.

**Election Assistance Commission  
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Attachment 3

Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
1	I-PA-EAC-01-06	1	Implement written procedures for conducting temporary travel.	Applicable sections Incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC.	6/30/2009	Open	
2	I-PA-EAC-01-06	2	Implement written procedures for approving only international travel that is essential to accomplishing the mission of EAC.	Applicable sections Incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC.	6/30/2009	Open	
3	I-PA-EAC-01-06	3	Modify the procedures for approval of travel funded by non-Federal sources to provide for an independent determination of whether the travel is desired and practical.	Applicable sections Incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC.	6/30/2009	Open	
4	I-PA-EAC-01-06	4	Implement written procedures for authorizing and tracking of compensatory time for official travel outside of regular working hours.	Applicable sections Incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC.	6/30/2009	Open	
5	I-EV-EAC-03-07	1	Establish and implement policies and procedures for information security and privacy management.	Incorporated and detailed in control item numbers 36-51.	n/a	Consolidated	9/28/2007
6	I-EV-EAC-03-07	2	Comply with the applicable provisions of FISMA and OMB implementing guidance.	Incorporated and detailed in control item numbers 36-51.	n/a	Consolidated	9/28/2007

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Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
7	E-EV-EAC-01-07(B)	1	Develop, document and communicate short and long-term strategic plan, performance measurement and goals.	Adoption of Strategic Plan pending Completion of Annual Performance plan pending.	SP 6/30/2009 - APP	Open	
8	E-EV-EAC-01-07(B)	2a	Re-evaluate the current organizational structure and clearly define areas of authority and responsibility, and hierarchy of reporting.	The formal document "Roles and Responsibilities of the Commissioners and Executive Director of the U.S. Election Assistance Commission" was finalized in September 2008. Structure and responsibilities are evaluated on an ongoing basis. Changes are incorporated into a revised organizational chart as necessary.	n/a	Closed	9/19/2008
9	E-EV-EAC-01-07(B)	2b	Perform risk assessment to identify internal and external risks and implement appropriate and effective internal controls to mitigate or eliminate high risks.	EAC is in the process of drafting a statement of work for the OMB-123 work. Work statement will be completed by 6/30/09, milestone date relates to completion of risk assessment.	9/30/2009	Open	
10	E-EV-EAC-01-07(B)	3	Document its governance and accountability structures and practices.	Applicable sections incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC.	6/30/2009	Open	



Election Assistance Commission  
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Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
11	I-EV-EAC-01-07(B)	4	Define areas of authority and responsibility and hierarchy for reporting to avoid confusion and misunderstanding (including the roles of the Commissioners and the Executive Director).	The formal document "Roles and Responsibilities of the Commissioners and Executive Director of the U.S. Election Assistance Commission" was finalized in September 2008. Structure and responsibilities are evaluated on an ongoing basis. Changes are incorporated into a revised organizational chart as necessary.	n/a	Closed	9/19/2008
12	I-EV-EAC-01-07(B)	5	Conduct skills inventory for all EAC program offices.	OPM & HR have completed the assessments. Ongoing assessments will be conducted in the future as required.	n/a	Closed	9/21/2008
13	I-EV-EAC-01-07(B)	6a	Develop and implement policies and procedures for modifying the Voluntary Voting System Guidelines to ensure that there is a clear understanding of the process that will be followed and that EAC ultimately has responsibility for overseeing this process. Moreover the policy related to conflict of interest and ethics should be developed.	Incorporated into control items 10.	n/a	Consolidated	2/25/2008
14	I-EV-EAC-01-07(B)	6b	Ensure the Laboratory Accreditation Program Manual under development is completed by the end of Fiscal Year 2007.	Manual has been finalized.	n/a	Closed	8/31/2008

**Election Assistance Commission  
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Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
15	E-V-EAC-01-07(B)	7a	Develop a communication strategic plan and goals, and written policies and procedures to ensure authorized and consistent implementation of its communication.	Incorporated into control items 10.	n/a	Consolidated	2/25/2008
16	E-V-EAC-01-07(B)	7b	EAC should also have policies and procedures such as implementation of the Freedom of Information Act, the Privacy Act Regulations, and Records Management.	Incorporated into control item 10.	n/a	Consolidated	2/25/2008
17	E-V-EAC-01-07(B)	8	Develop written policies and procedures to minimize the impact of human capital loss, if any, to its operations of the Communications Division.	Incorporated into control item 10.	n/a	Consolidated	2/25/2008
18	E-V-EAC-01-07(B)	9	EAC should establish policies and procedures related to the research process and the clearinghouse function. This will include developing a formal peer review process for the research methodology and results; and policies and procedures related to the research process from initiation through reporting.	The Research Department is working on policies and procedures with General Counsel.	6/30/2010	Open	
19	E-V-EAC-01-07(B)	10	EAC should establish a process to ensure that mandated studies are prioritized considering its limited resources.	A process for prioritizing mandated studies as been established by the Research Subcommittee of the Board of Advisors.	5/31/2008	Closed	

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Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
20	I-EV-EAC-01-07(B)	11	Re-evaluate the current organizational structure and clearly define areas of authority and responsibility and hierarchy for reporting of the Administrative division.	Incorporated into control Items 8 & 10.	n/a	Consolidated	2/25/2008
21	I-EV-EAC-01-07(B)	12	Resolve with GSA the unobligated balance of requirements payments of \$9,072,894. fund 803-Appropriation No. 95 x1651.	Item is completed.	n/a	Closed	2/25/2008
22	I-EV-EAC-01-07(B)	13	Review and perform periodic reconciliation of EAC financial activities with GSA's accounting records.	Hiring of CFO and Accounting Director plus reorganization completes the necessary staffing. Accounting Director starts 4/13/2009. Procedures for reconciliation will be implemented with input of new team. Additionally, EAC has hired a contractor to assist with critical reconciliation of financial statements.	9/30/2009	Open	

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Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
23	I-EV-EAC-01-07(B)	14	Implement or strengthen EAC fund control reviews to ensure that funds are used timely and appropriately. Funds control review should be performed monthly to ensure that funds are obligated or de-obligated as needed.	Recently hired Budget Director/CFO is initiating periodic funds control reviews and examining both input documents and reports generated from the budget/accounting system. Significant progress has been made in setting up divisional/programmatic budgets in the central accounting/funds control system (maintained by GSA) to integrate fund control management and review.	9/30/2009	Open	
24	I-EV-EAC-01-07(B)	15	Establish written policies and procedures for the Administrative Division to ensure that operations are implemented consistently, eliminate or reduce confusion, and mitigate the risk of disruptions to its operations in case of a personnel change or termination.	Incorporated into control item 10.	n/a	Consolidated	2/25/2008
25	I-EV-EAC-01-07(B)	16	Develop a list of financial laws and regulations that are applicable to the Commission. Some of the laws and regulations to consider are the FIMFIA, GPRA, FFMIA, OMB Circulars A-136, A-123, A-130, and A-127.	EAC has obtained a draft report from GAO in which the appropriate laws and regulations are identified. Report GAO-09-270 is entitled "Designated Federal Entities: Survey of Governance Practices and the Inspector General Role".	n/a	Closed	3/23/2009

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Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
26	I-EV-EAC-01-07(B)	17	Identify appropriate knowledge and skills needed for various jobs in the Administrative Division and provide needed training. EAC management should consider hiring staff who will be responsible for the recording, summarization, and reporting of accounting activities in accordance with Federal government generally accepted accounting principles. Moreover, we believe EAC should conduct skills inventory assessment for all of its program offices.	Incorporated into control item numbers 12 & 22.	n/a	Consolidated	2/25/2008
27	I-EV-EAC-01-07(B)	18	Consider hiring staff with federal budgeting experience or provide training to appropriate staff in the Office of Finance, Budget, and Administration to carry out this function.	A Budget Director/CFO with considerable federal experience has been hired to carry out the required responsibilities. In addition an Accounting Director has been hired to address the finance functions.	n/a	Closed	2/15/2008
28	I-EV-EAC-01-07(B)	19	Establish a systematic and formal process for establishing and approving policy and procedures for EAC payment and grant programs. These policies and procedures should also be centrally maintained and readily available for use by EAC staff.	Incorporated into control item 10.	n/a	Consolidated	2/25/2008

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Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
29	I-EV-EAC-01-07(B)	20	Provide written guidance in addition to the examples posted in its website for the preparation of annual financial and narrative reports on the use of HAVA payments.	Incorporated into control item 10.	n/a	Consolidated	2/25/2008
30	I-EV-EAC-01-07(B)	21	Develop a systematic process for conducting some form of financial management oversight to provide some assurance that costs incurred are reasonable, allowable, and valid based on the purpose of the funding provided under HAVA Sections 101, 102 and 251.	Incorporated into control item 10.	n/a	Consolidated	2/25/2008
31	I-EV-EAC-01-07(B)	22	Implement the policy and procedures to recover unobligated Section 102 funds by the revised deadline for State use of funds.	Incorporated into control item 10.	n/a	Consolidated	2/25/2008
32	I-EV-EAC-01-07(B)	23	Develop policies and procedures to implement audit follow-up as required in OMB A-133.	Incorporated into control item 10.	n/a	Consolidated	2/25/2008
33	I-EV-EAC-01-07(B)	24	Perform a risk-based assessment to evaluate the sufficiency of its personnel in the Program and Service's Division to ensure that the program's day to day operations and oversight do not suffer due to limited resources.	Incorporated into control item 12.	n/a	Consolidated	2/25/2008

**Election Assistance Commission  
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Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
34	I-EV-EAC-01-07(B)	25	Establish policies and procedures on responding, documenting, communicating, and retaining answers to questions raised by the states in the administration of the HAVA funds.	Incorporated into control item 10.	n/a	Consolidated	2/25/2008
35	I-EV-EAC-01-07(B)	26	Establish policies and procedures to comply with the National Voter Registration Act.	The FEC Commissioners have not yet voted to transfer the NVRA regulations.	n/a	Open	

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Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
36	I-EV-EAC-01-08	1	We recommend EAC management continue ongoing efforts and implement a formal agency-wide security program plan in line with OMB A-130 Appendix III, NIST Special Publications 800-18 and FISMA.	<p>The establishment of priorities is critical before the EAC can commit significant resources to remediation and implementation of recommendations. A contractor has been retained to assist the EAC with managing the audit related issues, and helping establish priorities by performing required analyses and assisting with cost estimates. The milestone date for completion of a Priority Plan is 4/30/09.</p> <p>It should be noted that a contractor was hired to assist with this recommendation as indicated in the initial response but was unable to complete the work. Due to a number of issues including timing and budget restraints along with the growing accumulation of IT related recommendations, it was determined that the recommended evaluation of priorities (as described above) should take place before issuing any further work statements.</p>	9/30/2009	Open	



**Election Assistance Commission  
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Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
37	I-EV-EAC-01-08	2	We recommend EAC management assign responsibility for the security management function to an individual with the oversight responsibility over the security management structure. The individual should have the expertise and independence to enforce security policies.	No change in response. Milestone date has been established. Any necessary work statement will be issued pending the completion of the Priority Plan as determined in control item no. 36.	9/30/2009	Open	
38	I-EV-EAC-01-08	3a	We recommend EAC management continue with ongoing efforts and conduct certification and accreditation of its general support systems.	No change in response. Milestone date has been established. Any necessary work statement will be issued pending the completion of the Priority Plan as determined in control item no. 36.	9/30/2009	Open	
39	I-EV-EAC-01-08	3b	We recommend EAC management implement a risk assessment policy to require assessments to be performed periodically or when there is a significant change in the IT operating environment.	No change in response. Milestone date has been established. Any necessary work statement will be issued pending the completion of the Priority Plan as determined in control item no. 36.	9/30/2009	Open	

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Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
40	I-EV-EAC-01-08	4a	We recommend EAC management designate a Chief Privacy Officer or formally appoint an individual with the responsibility of monitoring and enforcing privacy related policies and procedures. Privacy responsibilities should be added to the position description (PD) of this assigned individual.	Human Resources Director has been formally designated as the Privacy Officer. The Position Description has been modified to include the required responsibilities.	n/a	Closed	3/16/2009
41	I-EV-EAC-01-08	4b	We recommend EAC management develop an understanding of which EAC systems are covered by GSA's FISMA review rotation plan. Consequently, EAC should request from the service provider their systems review rotation schedule and note which systems are covered in each year's rotation. For fiscal years where EAC systems are not covered GSA should grant EAC access to review these systems comply with FISMA requirements.	See response to report item no. 1 (control item no. 36).  EAC has obtained a reply from GSA on which systems are identified in FISMA and will evaluate the information.	9/30/2009	Open	

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Audit Recommendation Tracking Report**

Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
42	I-EV-EAC-01-08	4c	We recommend EAC management develop and implement formal policies that address the information protection needs associated with PII when it is either accessed remotely or physically removed from EAC controlled areas.	No change in response. Milestone date has been established. Any necessary work statement will be issued pending the completion of the Priority Plan as determined in control item no. 36.	9/30/2009	Open	
43	I-EV-EAC-01-08	5a	We recommend EAC management request from GSA their systems review rotation plan and note which EAC support systems are covered by each rotation (by FY). For fiscals years where EAC systems are not covered, GSA should grant EAC access to review these systems to comply with FISMA Section 3544.	Incorporated into item 4a.	n/a	Consolidated	10/31/2008
44	I-EV-EAC-01-08	5b	We recommend EAC management obtain from GSA its POA&M to address security weakness identified in: (1) the SAS70 review of the Heartland Finance Center; (2) the GSA OIG's 2008 FISMA Report and (3) any other security-related reviews it may have performed on EAC supporting systems.	EAC has obtained the POA&M from GSA and will review it as necessary. A contractor may be hired to assist with completing the recommendation pending the completion of the Priority Plan as described in control item no. 36.	9/30/2009	Open	

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Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
45	I-EV-EAC-01-08	6	We recommend EAC management develop and implement information security policies for EAC. Where GSA polices are used, distribute these policies so employees are aware of their responsibilities and obligations.	Incorporated into item 4c.	n/a	Consolidated	10/31/2008
46	I-EV-EAC-01-08	7a	We recommend EAC management implement a formal incident response policy and procedures in line with NIST 800-81.	See response to report item no. 1 (control item no. 36).	9/30/2009	Open	
47	I-EV-EAC-01-08	7b	We recommend EAC management establish a formal incident response team with defined roles and responsibilities.	See response to report item no. 1 (control item no. 36).	9/30/2009	Open	
48	I-EV-EAC-01-08	7c	We recommend EAC management update the security awareness training documentation to include incident response training.	See response to report item no. 1 (control item no. 36).	9/30/2009	Open	
49	I-EV-EAC-01-08	8a	We recommend EAC management conduct and document a formal business impact analysis to identify and prioritize critical IT systems and components.	See response to report item no. 1 (control item no. 36).	9/30/2009	Open	
50	I-EV-EAC-01-08	8b	We recommend EAC management finalize and approve the draft contingency and continuity of operations plan and ensure that the plan is tested periodically.	Waiting for GSA to provide information regarding impact of external services IT systems on COOP. Once received, the COOP will be finalized and approved.	9/30/2009	Open	

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Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
51	I-EV-EAC-01-08	9	Obtain from their service provider , GSA, an inventory of systems that support EAC's operations. They should further obtain from GSA, a list of systems covered by the 2008 FISMA review and reconcile this with the list EAC support systems to ensure EAC systems are adequately covered by the service provider's FISMA review.	EAC will perform a Systems Landscape review and will coordinate with GSA to identify all systems supported ensuring all requirements of FISMA are considered.	6/30/2009	Open	
52	I-PA-EAC-01-08	1	Establish policies, procedures and mechanisms to comply with the financial reporting requirements in OMB A-136.	This recommendation encompasses other recommendations made in the auditor's internal control report. Specifically, recommendations 3,4,5,6,7,8,9,10,11,12 and 18. See responses to those recommendations.	n/a	Consolidated	11/17/2008
53	I-PA-EAC-01-08	2	Finalize a strategic plan, implement a performance based budget and formulate useful performance measures to tie to the budget for fiscal year 2009 financial statements reporting.	Ongoing effort through FY 2009. 2010 Congressional Justification is currently in review in a performance based format. Budgets will tie to information in the financial statement audit. Milestone date is for refining performance measurements & metrics.	9/12/2009	Open	

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Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
54	I-PA-EAC-01-08	3	Evaluate the resources and appropriate skills needed to meet the financial operations responsibilities and implement the results of the evaluation and the recommendations.	CFO and Accounting Director have been hired and will reassess staffing needs as required and in connection with assessments by HR.	n/a	Closed	3/16/2009
55	I-PA-EAC-01-08	4	Ensure that appropriate training is provided to financial staff on federal accounting and reporting, and on the accounting service provider's financial system.	CFO Department will provide ongoing training to non-financial staff on issues such as completing travel vouchers. EAC staff is becoming more familiar with GSA accounting and reporting and can generate reports from the provider's financial system. GSA training is available, and a contractor has been retained to assist in the training process as necessary. Annual training plans will be developed based on professional continuing education requirements.	9/30/2009	Open	
56	I-PA-EAC-01-08	5	Complete changes being made to EAC's organizational structure for financial management.	EAC Organization Realignment will remediate this as subject to adoption of the Strategic Plan.	3/27/2009	Open	

**Election Assistance Commission  
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Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
57	I-PA-EAC-01-08	6	Ensure that the memorandum of agreement (MOU) with the accounting service provider clearly describes each party's responsibilities and provides for timely assistance to meet EAC's financial information needs, such as a list of all the routine financial reports that it needs periodically.	CFO has been hired. MOU's have been signed for financial, IT and HR services. Roles and responsibilities are clear. Financial staff are onboard to ensure that the provider fulfills its distinct responsibilities. As needed, adjustments will be made to the MOU roles and responsibilities.	n/a	Closed	3/15/2009
58	I-PA-EAC-01-08	7	In order to prepare reliable financial statements for FY 2009, EAC must resolve above accounting issues as soon as possible. For complex issues such as the accounting for requirements payments, it may need to consult with authoritative bodies such as the OMB or the US Treasury.	EAC will continue to work with OMB and the service provider on accounting related issues.  The Accounting Director who starts 4/13/2009 along with the Grants Director who starts 3/30/09 will evaluate the requirements and determine if contractor assistance is necessary to address the issues.	7/31/2009	Open	

**Election Assistance Commission  
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Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
59	I-PA-EAC-01-08	8	In conjunction with the recommendation #6 related to the service provider's memorandum of agreement, EAC should decide to either interface its standalone financial systems with the service provider's system or to utilize the service providers' subsystems.	Based on evaluation by the CFO, the EAC requested direct access to service provider's financial system in order to utilize the service providers subsystems. Additional steps to integrate the financial management system will be discussed with the external service provider and developed into a plan which will be integrated into a revised MOU as necessary.	6/30/2010	Open	
60	I-PA-EAC-01-08	9	Develop and implement policy and procedures for the financial reporting process and responsibilities including preparation of the financial statements. The procedures should include, among others, financial statements review process and submission/completion milestones. Internal milestones should be established and updated annually as part of the financial statement preparation process.	The framework will be incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC. Specific policies and/or procedures will be identified and formalized after the Accounting Director, CFO and Grants Director have had an opportunity to determine the necessary policy requirements.	9/30/2009	Open	



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Audit Recommendation Tracking Report**

Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
61	I-PA-EAC-01-08	10	Prepare and analyze monthly reconciliations of subsidiary and summary accounts balances. Consider a "formal closing" of all accounts at an interim dates which will reduce the level of accounting activity and analysis required at year-end. This "formal interim closing" entails ensuring that all transactions are recorded in the proper period through the month-end.	Nature, extent and timing of the reconciliation process is contingent upon the EAC's evaluation of the accounting system which will be completed by the Accounting Officer. A control list of periodic reconciliations will be performed and monitored by the CFO Department.	6/30/2009	Open	
62	I-PA-EAC-01-08	11	Evaluate the most efficient way of obtaining financial data from the general ledger system or the service provider.	Incorporated into report item no. 8 (control item no. 59).	n/a	Consolidated	11/17/2008
63	I-PA-EAC-01-08	12	Ensure that supervisory reviews are applied to the monthly reconciliations and its supporting documents are maintained and reviews documented.	Incorporated into report item no. 10 (control no. 61).	n/a	Consolidated	11/17/2008
64	I-PA-EAC-01-08	13	Analyze all contracts and prepare correcting entries.	Incorporated into report item no. 7 (control no. 58).	n/a	Consolidated	11/17/2008
65	I-PA-EAC-01-08	14	Ensure that the accounting entries for this type of transactions (advances to National Business Center) are recorded in accordance with the USSGL requirements.	Incorporated into report item no. 7 (control no. 58).	n/a	Consolidated	11/17/2008

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**Election Assistance Commission  
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Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
66	I-PA-EAC-01-08	15	Consult with OMB and/or US Treasury on the appropriate accounting for the Section 251 requirements payments. Prepare a position paper to document the authoritative decisions to support the accounting treatment.	Incorporated into report item no. 7 (control no. 58).	n/a	Consolidated	11/17/2008
67	I-PA-EAC-01-08	16	Develop procedures for the return of the Section 102 funds from the States. The procedures should include determining States that are required to return the funds, the amounts to be returned, and the process to obtain the funds. Also, ensure that the accounting for these funds is properly recorded and supported by adequate documentation.	Incorporated into report item no. 7 (control no. 58).	n/a	Consolidated	11/17/2008
68	I-PA-EAC-01-08	17	Develop policies and procedures for the funds identified by the Office of Inspector General audits.	Applicable sections incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC.	6/30/2009	Open	

**Election Assistance Commission  
Audit Recommendation Tracking Report**

Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
69	I-PA-EAC-01-08	18	Establish and implement policy and procedures for funds control.	Applicable sections incorporated into the EAC Administrative Manual and related handbooks - currently in draft and being reviewed and revised as necessary by EAC. In addition, the Budget Director/CFO will work with the Accounting Director and the external service provider to fully develop funds control management policies and procedures. The EAC is moving toward achieving this goal by establishing separate organization (program/division) codes within the GSA Pegays financial system which will be used to track funds programmatically in the service provider system.	7/31/2009	Open	
70	I-PA-EAC-01-08	19	Resolve the potential Anti-Deficiency Act and Purpose Statute violation issues as soon as possible. EAC may need to reconstruct the transactions in order to determine proper accounting and use of the funds.	A preliminary analysis has been performed and used to prepare a work statement for competing the necessary analysis. The contract will be awarded in April 2009 and the issue should be fully resolved by the milestone date.	8/31/2009	Open	

**Election Assistance Commission  
Audit Recommendation Tracking Report**

Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
71	I-PA-EAC-01-08	20	Develop and implement information systems policies and procedures to meet compliance with OMB Circular A-130, NIST Special Publication 800-18, and FISMA requirements and guidelines.	See response to report item no. 1 (control item no. 36).	6/30/2009	Open	
72	I-PA-EAC-01-08	21	Request and review a copy of the service provider systems review rotation plan, noting which EAC support systems are covered. For fiscal years where EAC systems are covered, EAC should obtain access from the service provider to review these systems to comply with FISMA Section 3544.	This recommendation has been consolidated into control item no. 41.	n/a	Consolidated	11/17/2008
73	I-PA-EAC-01-08	22	Assign responsibility for the security management function to an individual with oversight responsibility and authority over the security management structure. The individual should have the expertise and independence to enforce security policies.	The responsibilities will be assigned to the CIO who has been identified in the adopted strategic plan.	n/a	Consolidated	11/17/2008

**Election Assistance Commission  
Audit Recommendation Tracking Report**

Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
74	I-PA-EAC-01-08	23	Continue with ongoing efforts and complete a certification and accreditation risk assessment, security plan and system test and evaluation of EAC's general support systems.	This recommendation has been consolidated into control item no. 38.	n/a	Consolidated	11/17/2008
75	I-PA-EAC-01-08	24	Obtain, review and follow up on identified security weaknesses within (1) the service provider's POA&M (2) the Statement of Auditing Standards (SAS) 70 review of the Heartland Finance Center; (3) the service provider's OIG's 2008 FISMA Report and (4) any other security-related reviews it may have performed on EAC support systems.	This recommendation has been consolidated into control item no. 44.	n/a	Consolidated	11/17/2008
76	I-PA-EAC-01-08	25	Develop EAC's own COOP, DRP, and BIA which maps to applicable service provider's plans and consider implementing the recovery of non-service provider supported systems, business processes, personnel and interfaces.	See response to report item no. 1 (control item no. 36).	9/30/2009	Open	
77			Not used				

**Election Assistance Commission  
Audit Recommendation Tracking Report**

Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
78	I-PA-EAC-02-08	1	Designate a Chief Privacy Officer or formally appoint an individual with the responsibility of monitoring and enforcing privacy related policies and procedures. Privacy responsibilities should be added to the position description (PD) of this assigned individual.	Item completed.	n/a	Closed	3/15/2009
79	I-PA-EAC-02-08	2	Develop an understanding of which EAC systems are covered by GSA's FISMA review rotation plan. Consequently, EAC should request from the service provider their systems review rotation schedule and note which systems are covered in each year's rotation. For fiscal years where EAC systems are not covered GSA should grant EAC access to review these systems to comply with FISMA requirements.	A system rotation plan has been received from GSA. The remaining tasks to complete this recommendation are consolidated into control item no. 41.	n/a	Consolidated	3/4/2009

**Election Assistance Commission  
Audit Recommendation Tracking Report**

Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
80	I-PA-EAC-02-08	3	Develop and implement formal policies that address the information protection needed associated with PII to include: - references to applicable information technology security policies and procedures - EAC specific procedures for responding to breaches of PII - identification of which PII systems are to be logged and the nature of activity to be logged and reported by the respective service provider(s) - requirements to utilize a time out function for remote access and mobile device requiring user re-authentication after 30 minutes of inactivity.	RFP to procure required services will be issued after an evaluation of EAC priorities has been conducted. Evaluation of priorities may require preparation of Government Cost Estimates which will be used to determine fund availability. It may be possible that or other functions may have to be reevaluated with respect to scope and timing. (see control item no. 36).	3/31/2010	Open	
81	I-PA-EAC-02-08	4	Complete the encryption of blackberry devices and laptops with Credent Encryption software as well as implement two-factor authentication.	Item is closed.	n/a	Closed	3/16/2009
82	I-PA-EAC-02-08	5	Develop and maintain a plan of actions and milestones (POA&M) to address weaknesses identified in developing and implementing protections of PII.	No change from initial response.	6/30/2009	Open	

Election Assistance Commission  
Audit Recommendation Tracking Report

Control #	Report Number	Report Item	Recommendation	Updated EAC Response/Action	Updated Milestone Date	Status	Date Completed or Consolidated
83	I-PA-EAC-02-08	6	Conduct a risk assessment which addresses the risks associated with the download, remote access, or other removal of PII from each systems containing PII.	RFP to procure required services will be issued after an evaluation of EAC priorities has been conducted. Evaluation of priorities may require preparation of Government Cost Estimates which will be used to determine fund availability. It may be possible that or other functions may have to be reevaluated with respect to scope and timing. (see control item no. 36).	3/31/2010	Open	



Attachment 4

**Special Assistant to Commissioner  
Policy**

**AD-0301, Pay Band III**

**INTRODUCTION**

The United States Election Assistance Commission (EAC) was established by the Help America Vote Act of 2002 (HAVA). The agency is charged with developing guidance to meet HAVA requirements, adopting voluntary voting system guidelines, accrediting testing laboratories, certifying voting systems, maintaining the national mail voter registration form, auditing the use of HAVA funds, and serving as a national clearinghouse of information about election administration. Four commissioners, appointed by the president and confirmed by the U.S. Senate, are responsible for setting policy and assuring the mission of the EAC is carried out.

The incumbent of this position serves as a Special Assistant to an EAC Commissioner, providing both administrative and program support. Primary responsibilities include researching and analyzing facts and issues related to the EAC mission, advising the Commissioner on such issues, monitoring the administration of national elections and keeping the Commissioner informed of significant issues, developing background information to assist the Commissioner in formulating policies, and managing administrative details such as travel, appointments, and speaking engagements.

This position involves a close and confidential working relationship with an EAC Commissioner, a key appointed official. It is, therefore, excepted from the competitive service. The position is exempt from the overtime provisions of the Fair Labor Standards Act (FLSA). The incumbent serves at the pleasure of the Commissioner.

**MAJOR DUTIES**

**Program Responsibilities – 85%**

Works with the Commissioner to establish overall goals, objectives, priorities, and operational plans for the Commissioner and continually assesses and adjusts them accordingly.

Plans and conducts studies on the administration of elections, voter participation, and initiatives and referenda. Maintains awareness of significant election administration developments, prepares analyses of the implications of these developments, and makes program or policy recommendations to the Commissioner to address problems or improve election administration.

Identifies issues that may require clarification and drafts such clarifications for the Commissioner's review and approval. Evaluates policy alternatives related to elections. Reviews, summarizes, and presents findings to aid the commissioner in examining complex policy proposals.

Drafts policy statements, complex opinion editorials, speeches, agency or programmatic planning documents for the Commissioner's review and use. Researches a variety of sources to identify and evaluate information needed to respond to questions. Drafts correspondence and decision documents on policy or ethical issues facing the Commissioner.

Interfaces with state and local election officials, advocacy groups, federal officials and other HAVA stakeholders on policy matters related to the Commissioner's responsibilities and priorities. As requested by the Commissioner, speaks on behalf of the Commissioner to constituency groups on the issues of election reform, and election administration.

As assigned, represents the Commissioner at various functions, public appearances and meetings. Attends meetings with the Commissioner to provide support and information and to assist in responding to questions. Prepares for meetings by conducting research and developing briefing and/or presentation materials for the Commissioner. Identifies the issues to be discussed, participant perspectives, possible resolution pathways, and historical precedents for various options. Recommends and justifies a preferred option, including cost and staffing implications. Serves as liaison for the Commissioner with various constituency groups.

#### **Administrative Support Responsibilities – 15%**

Manages the commitments and schedules of the Commissioner, setting priorities, reminding of commitments, and responding to invitations for the Commissioner to attend various meetings, conferences, and other affairs. Makes or assigns others to make travel arrangements and prepare travel documents for the Commissioner. Performs records management responsibilities, assuring official records required to meet EAC and/or federal government rules and regulations are properly maintained.

Performs other related duties as assigned by the Commissioner.

#### **SUPERVISORY CONTROLS**

The incumbent works in partnership with the assigned Commissioner, assisting in establishing overall goals, objectives, priorities, and operational plans. The Commissioner provides administrative and policy direction and assigns special projects. Within these parameters, the Special Assistant independently plans and carries out the work of the position, identifying issues and problems, initiating action to resolve them, discussing with the Commissioner controversial or sensitive issues that may significantly

impact the EAC; and keeping the Commissioner informed of progress. Work is reviewed for overall effectiveness in achieving goals and objectives.

#### **General Competencies Required**

- **Interpersonal Effectiveness:** Skill in responding appropriately to a diversity of groups and individuals in a variety of challenging situations. Demonstrated ability to be tactful and to treat others with respect. Skill in developing networks, achieving cooperation, and collaborating with others when appropriate.
- **Influencing/Negotiating:** Skill in influencing others to accept and implement recommendations and in building consensus. Ability to effectively resolve significant or controversial issues.
- **Written and Oral Communication:** Demonstrated ability to clearly, succinctly and convincingly express facts and ideas both in writing and orally. Skill in listening and appropriately responding to the ideas, points of view, or concerns of others.
- **External Awareness:** Skill in identifying and keeping abreast of legislation, policies and economic, political, and social trends that affect the EAC.

#### **Technical Competencies Required**

- Thorough knowledge and understanding of the EAC mission, goals and objectives, programs, and functions to identify significant issues requiring the attention of the Commissioner
- Comprehensive knowledge of the Help America Vote Act, pertinent regulations, policies, procedures, precedents, and directives affecting election administration.
- Knowledge of Federal and State election laws and skill sufficient to apply statistical methods to the analysis of voting patterns as related to variables such as election law requirements and socioeconomic factors.
- Skill sufficient to provide research and analytical information on voter registration and participation, voting systems, testing laboratories, and other relevant aspects of election administration and to identify and discuss with the Commissioner and EAC stakeholders the impact of alternative policy proposals on election laws.
- Skill sufficient to conduct probing, innovative analyses involving complex variables that impact significantly on the effective development, interpretation, or implementation of election administration policies.

Attachment 4

**Attorney-Adviser (Special Assistant)  
AD-0905  
Professional Track, Pay Band III**

**INTRODUCTION**

The United States Election Assistance Commission (EAC) was established by the Help America Vote Act of 2002 (HAVA). The agency is charged with developing guidance to meet HAVA requirements, adopting voluntary voting system guidelines, accrediting testing laboratories, certifying voting systems, maintaining the national mail voter registration form, auditing the use of HAVA funds, and serving as a national clearinghouse of information about election administration. Four commissioners, appointed by the president and confirmed by the U.S. Senate, are responsible for setting policy and assuring the mission of the EAC is carried out.

The incumbent of this position is an attorney adviser, serving as a Special Assistant to an EAC Commissioner. Primary responsibilities include providing professional legal advice to the Commissioner on a variety of issues; researching, identifying and analyzing facts and issues related to the EAC mission, advising the Commissioner on such issues, monitoring the administration of national elections and keeping the Commissioner informed of significant issues, developing background information to assist the Commissioner in formulating policies, and managing administrative details such as travel, appointments, and speaking engagements.

The work requires a valid and current law license in at least one State. This position involves a close and confidential working relationship with an EAC Commissioner, a key appointed official. It is, therefore, excepted from the competitive service. The position is exempt from the overtime provisions of the Fair Labor Standards Act (FLSA). The incumbent serves at the pleasure of the Commissioner.

**MAJOR DUTIES**

**Program Responsibilities – 90%**

Plans and conducts studies and provides advice to the Commissioner regarding legal and public policy related issues associated with elections. Reviews legislation, regulations, and policies that potentially impact the mission and objectives of the EAC, researching issues involved, and rendering interpretive opinions on the implications of legislative or policy changes on the programs and policies of the EAC.

Interprets the legal requirements and provisions of the HAVA and other pertinent laws and regulations as they apply to questions, practices, and issues referred by the

Commissioner. As required, prepares formal written interpretations and recommends a course of action.

Reviews policies, issuances, and decisions considered by the Commissioner to assure consistency with relevant laws and regulations. May draft such issuances for the review and approval of the Commissioner.

Maintains awareness of significant election administration developments, prepares analyses of the implications of these developments, and makes program or policy recommendations to the Commissioner to address problems or improve election administration.

Identifies issues that may require clarification and drafts such clarifications for the Commissioner's review and approval. Evaluates policy alternatives related to elections. Reviews, summarizes, and presents findings to aid the commissioner in examining complex policy proposals.

Drafts policy statements, complex opinion editorials, speeches, agency or programmatic planning documents for the Commissioner's review and use. Researches a variety of sources to identify and evaluate information needed to respond to questions. Drafts correspondence and decision documents on policy or ethical issues facing the Commissioner.

Interfaces with state and local election officials, advocacy groups, federal officials and other HAVA stakeholders on policy matters related to the Commissioner's responsibilities and priorities. As requested by the Commissioner, speaks on behalf of the Commissioner to constituency groups on the issues of election reform, and election administration.

As assigned, represents the Commissioner at various functions, public appearances and meetings. Attends meetings with the Commissioner to provide support and information and to assist in responding to questions. Prepares for meetings by conducting research and developing briefing and/or presentation materials for the Commissioner. Identifies the issues to be discussed, participant perspectives, possible resolution pathways, and historical precedents for various options. Recommends and justifies a preferred option, including cost and staffing implications. Serves as liaison for the Commissioner with various constituency groups.

**Administrative Support Responsibilities – 10%**

Manages the commitments and schedules of the Commissioner, setting priorities, reminding of commitments, and responding to invitations for the Commissioner to attend various meetings, conferences, and other affairs. Makes or assigns others to make travel arrangements and prepare travel documents for the Commissioner. Performs records management responsibilities, assuring official records required to meet EAC and/or federal government rules and regulations are properly maintained.

Performs other duties as assigned by the Commissioner.

### **SUPERVISORY CONTROLS**

The incumbent works in partnership with the assigned Commissioner, assisting in establishing overall goals, objectives, priorities, and operational plans. The Commissioner provides administrative and policy direction and assigns special projects. Within these parameters, the Special Assistant independently plans and carries out the work of the position, identifying issues and problems, initiating action to resolve them, discussing with the Commissioner controversial or sensitive issues that may significantly impact the EAC; and keeping the Commissioner informed of progress. Work is reviewed for overall effectiveness in achieving goals and objectives.

### **General Competencies Required**

- **Interpersonal Effectiveness:** Skill in responding appropriately to a diversity of groups and individuals in a variety of challenging situations. Demonstrated ability to be tactful and to treat others with respect. Skill in developing networks, achieving cooperation, and collaborating with others when appropriate.
- **Influencing/Negotiating:** Skill in influencing others to accept and implement recommendations and in building consensus. Ability to effectively resolve significant or controversial issues.
- **Written and Oral Communication:** Demonstrated ability to clearly, succinctly and convincingly express facts and ideas both in writing and orally. Skill in listening and appropriately responding to the ideas, points of view, or concerns of others.
- **External Awareness:** Skill in identifying and keeping abreast of legislation, policies and economic, political, and social trends that affect the EAC.

### **Technical Competencies Required**

- Professional knowledge of, and ability to interpret and apply: Federal, State and local laws and regulations governing election administration. Graduation from an accredited law school in the United States and a valid and current law license in at least one State is required.
- Thorough knowledge and understanding of the EAC mission, goals and objectives, programs, and functions to identify significant issues requiring the attention of the Commissioner
- Comprehensive knowledge of the Help America Vote Act, pertinent regulations, policies, procedures, precedents, and directives affecting election administration.

- Expert knowledge of Federal and State election laws and skill sufficient to identify methods to the analysis of voting patterns as related to variables such as election law requirements and socioeconomic factors.
- Skill sufficient to provide research and analytical information on voter registration and participation, voting systems, testing laboratories, and other relevant aspects of election administration and to identify and discuss with the Commissioner and EAC stakeholders the impact of alternative policy proposals on election laws.
- Skill sufficient to conduct probing, innovative analyses involving complex variables that impact significantly on the effective development, interpretation, or implementation of election administration policies.



U.S. ELECTION ASSISTANCE COMMISSION  
1225 NEW YORK AVENUE, N.W., SUITE 1100  
WASHINGTON, D.C. 20005

April 24, 2009

Honorable Phyllis K. Fong, Chair  
Council of Inspectors General on Integrity and Efficiency  
1400 Independence Avenue SW  
Room 117-W  
Washington, DC 20250

Dear Chair Fong:

The purpose of this letter is to request an opinion from your office on the appropriateness of the issues as outlined herein. The U.S. Election Assistance Commission (EAC) is a bipartisan independent agency established in 2002 pursuant to the Help America Vote Act (HAVA). The Commission is primarily responsible for assisting states with the administration of Federal elections. The staff of the EAC is currently set at under 40 full-time permanent staff members. This number includes 4 Commissioners, who are appointed by the President with Senate confirmation. Under the mandate of the law that established the EAC, the Commissioners appoint a General Counsel (GC) and an Executive Director. The General Counsel reports to the Executive Director and serves in that capacity should a vacancy occur in the position of the Executive Director. Both individuals are appointed for a 4-year term and may be reappointed with an affirmative vote of the Commissioners.

The statute also establishes an Office of the Inspector General (OIG) for the EAC. The Inspector General is independent and reports to Commission through the Chair. The OIG exercises broad oversight and investigatory power over the agency's integral programs, operations and audit activities. The OIG works solely for EAC without any shared duties for any other Federal government agency. The OIG is an independent evaluator of the agency's programs and operations and provides reports on investigations to the agency head and Congress. The OIG is directed to be impartial and objective and seeks to prevent and detect fraud by effectuating, evaluating, and investigating the agency's programs and operations. The role of the OIG is critical in that it is a mechanism that is built into the agency for self-criticism and self-correction. In general the OIG's responsibilities are as follows:

- assesses the effectiveness, efficiency, and economy of programs and operations;
- recommends improvements in policies and procedures to enhance operations and correct deficiencies;
- recommends cost savings through greater efficiency and economy of operations, alternative use of resources, and collection actions; and



- investigates and recommends legal and management actions to correct fraud, waste, abuse, or mismanagement.

On November 19, 2008, the OIG appointed the EAC's immediate past General Counsel as General Counsel to the OIG. Upon learning of this appointment, the Commission posed questions regarding the working relationship in order to be fully apprised of potential conflicts. The EAC GC had previously provided the Commission with legal opinions, advice, and services with respect to departmental programs and activities and represented the EAC in litigation and enforcement action. In addition, the General Counsel was responsible for the development of programs, regulations, and policies. The GC had served in the position for 4-1/2 years of the five years that the agency has been in existence. During that time, the EAC's General Counsel has often exceeded the traditional responsibilities of General Counsel.

The statutory construction of the Commission established through HAVA provides that the GC shall serve as the Executive Director in the event of a vacancy in that position. Given that mandate, the GC has for the past four years served a significant role with the day to day responsibilities of the Commission. As such, the GC has been directly involved with the ongoing development of policies and procedures, budget preparation, and Congressional interaction on behalf of the EAC as the Congressional liaison. In essence, the GC has operated as an extension of the arm of the Executive Director with respect to the administrative functions of the Commission. The GC has also provided advice and opinions to every division regarding specific projects since the Commission's inception. This has included providing advisory opinions and recommendations on the spending of HAVA funding provided to the states, internal operational procedures, budget formulation and execution, and other high level management issues. Some but certainly not all, of the advice provided by the GC was accepted as presented.

Since the OIG's decision to employ the GC in a legal capacity within his operation, the Commission is concerned that the independence and objectivity of the agency can potentially be compromised. The GC for the OIG is responsible for investigating the same work which the GC prepared and administered, the effect of which may impact many of the core operational functions that the Commission is ultimately responsible for, such as financial status reports, state grant reviews, audits, or appeals, policies and procedures, corrective actions, or alleged EAC violations. Additionally, the OIG's GC is now in a position to render legal interpretations and oversight in a capacity which may directly implicate the advice and opinions provided on previous work or potentially undermine the effectiveness of the IG's investigations. While the OIG has provided a list of legal issues from which recusal would be prudent, it does not address privileged information and decisions that could be affected if the OIG's office were to investigate activity of GC in her extended role as arm of the Executive Director. Moreover, because the GC assumed additional duties and was involved in decision making outside her role as a legal counsel during her tenure with the Commission, it is unclear what matters she may work on in the IG's office that would not be considered in conflict.

Even with OIG's attempt to address recusal, concern remains. Prior to the GC's appointment, the OIG engaged in a Memorandum of Understanding (MOU) with the U.S. Department of the Interior for legal services. The Commission was advised by the IG that MOU will be reduced from an estimated \$60,000 per year to \$40,000, and contracted legal services will be reduced from \$50,000 to \$30,500. We question the judgment used by the IG in hiring, as his GC, a senior level attorney who will need to recuse herself on multiple occasions and continue to engage in an MOU for legal services, while requesting additional funds from the agency for an auditor.

In order to ensure that the Commission is adequately verifying and validating its programs and operation, it is critical that the OIG maintain its autonomy and impartiality. Clearly, any appearance of impropriety must be avoided and the integrity of the office must be maintained at all times. As such, it is imperative for the OIG to remain independent and objective. Given the nature of the matter as represented herein, the EAC would appreciate any guidance or opinion which you could offer with respect to this issue. Thank you for your immediate attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Gineen B. Beach", with a long horizontal flourish extending to the right.

Gineen Bresso Beach, Chair  
U.S. Election Assistance Commission