

U.S. ELECTION ASSISTANCE COMMISSION OFFICE OF INSPECTOR GENERAL



FINAL REPORT:

AUDIT OF THE U.S. ELECTION ASSISTANCE COMMISSION'S FISCAL YEAR 2008 FINANCIAL STATEMENTS

**No. I-PA-EAC-01-08
NOVEMBER 2008**



U.S. ELECTION ASSISTANCE COMMISSION
OFFICE OF INSPECTOR GENERAL
1225 New York Ave. NW - Suite 1100
Washington, DC 20005

November 17, 2008

To: The Commission

From: Inspector General *Curtis W. Butler*

Subject: Independent Auditor's Reports on the U.S. Election Assistance Commission's Financial Statements for Fiscal year 2008 (Assignment No. I-PA-EAC-01-08)

INTRODUCTION

This memorandum transmits the Independent Auditor's Report and accompanying Independent Auditor's Reports on Compliance and Other Matters and Internal Control issued by Clifton Gunderson LLP (Clifton Gunderson) on its audit of the U.S. Election Assistance Commission's (EAC) financial statements for the fiscal year ending September 30, 2008. The audit was performed by Clifton Gunderson under a contract that was monitored by the Office of Inspector General (OIG). The contract required that the audit be performed in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and the Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*.

RESULTS OF AUDIT

Clifton Gunderson was unable to express an opinion on the EAC's balance sheet as of September 30, 2008 and on the related statements of net cost, changes in net position, and the statement of budgetary resources for the year then ended, because the EAC was unable to provide sufficient appropriate evidence to allow Clifton Gunderson to conduct its audit.

In connection with the audit, EAC's internal controls over financial reporting and compliance with certain provisions of applicable laws and regulations were considered. The audit identified four material weaknesses and one significant deficiency in internal control, respectively, as follows:

- I. Financial Accounting and Reporting Controls
- II. Lack of Support for Grant Accounting

III. Weak Funds Control

IV. Federal Manager's Financial Integrity Act Compliance and Reporting

V. Information Technology

Because the EAC was unable to provide sufficient appropriate evidence to allow Clifton Gunderson to conduct its audit, Clifton Gunderson was unable to test EAC's compliance with laws and regulations.

EAC CORRECTIVE ACTIONS

The report on internal control contains recommendations to address the weaknesses identified in the report. Management was provided a draft copy of the report for comment and generally concurred with the findings.

EVALUATION OF CLIFTON GUNDERSON PERFORMANCE

To ensure the quality of the audit work performed, the OIG reviewed Clifton Gunderson's report and related documentation and inquired of its representatives. The OIG's review, as differentiated from an audit in accordance with U.S. generally accepted government auditing standards (GAGAS), was not intended to enable us to express, and we do not express, opinions on the EAC's financial statements or internal control or on the EAC's compliance with laws and regulations. Clifton Gunderson is responsible for the attached auditor's report dated November 7, 2008 and the conclusions expressed in the report. However, the OIG review disclosed no instances where Clifton Gunderson did not comply, in all material respects, with GAGAS.

REPORT DISTRIBUTION

The Inspector General Act of 1978, as amended, requires semiannual reporting to Congress on all reports issued, actions taken to implement recommendations, and recommendations that have not been implemented. Therefore, we will include the information in the attachment in our next semiannual report to Congress. The distribution of this report is not restricted, and copies are available for public inspection.

We appreciate the cooperation and assistance of EAC personnel during the audit. If you or your staff has any questions, please contact me at (202) 566-3125.

Attachments

Cc: Executive Director
Chief Operating Officer
Administrative officer

Independent Auditor's Report

To the Inspector General of the
Election Assistance Commission

We were engaged to audit the balance sheet and accompanying notes of the Election Assistance Commission (EAC) as of September 30, 2008, and the related statements of net cost, changes in net position, and budgetary resources for the year then ended (hereinafter collectively referred to as financial statements). These financial statements are the responsibility of the EAC's management.

EAC's accounting records are inadequate for us to obtain sufficient appropriate audit evidence to conduct the audit. As a result, we did not obtain sufficient, appropriate, evidential matter for applying audit procedures necessary to conduct an audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and applicable provision of the Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*, as amended.

Because of the matter discussed in the preceding paragraph, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on the EAC's financial statements as of and for the year ended September 30, 2008.

Appendix C of the Technical Amendments to OMB Bulletin No. 07-04 issued on August 25, 2008 is amended to include the EAC as one of the executive agencies in the Accountability for Tax Dollars Act required to prepare financial statements. Fiscal Year 2008 is the first year EAC prepared financial statements.

In accordance with *Government Auditing Standards*, we have also issued our reports dated November 7, 2008 on our consideration of the EAC's internal control over financial reporting, and on our tests of the EAC's compliance with certain provisions of laws and regulations and other matters. The purpose of those reports is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. Those reports are an integral part of our audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

The information in the Management's Discussion and Analysis is not a required part of the financial statements, but is supplementary information required by accounting principles in the United States of America. However, we did not audit this information and, accordingly, we express no opinion on it.

Our audits were made for the purpose of forming an opinion on the basic financial statements taken as a whole. The information in the Message from the Chairwoman, Performance Section, and Other Accompanying Information is presented for purposes of additional analysis and is not required as part of the financial statements. This information has not been subjected to auditing procedures and, accordingly, we express no opinion on it.

Clifton Henderson LLP

Calverton, Maryland
November 7, 2008

Independent Auditor's Report on Internal Control over Financial Reporting

To the Inspector General of the
Election Assistance Commission

We were engaged to audit the financial statements of the Election Assistance Commission (EAC or Commission) as of and for the year ended September 30, 2008, and have issued our report dated November 7, 2008. In that report, we disclaimed our opinion on EAC's financial statements because we did not obtain sufficient, appropriate, evidential matter for applying audit procedures necessary to conduct our audit in accordance with auditing standards generally accepted in the United States of America; and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*, as amended.

The management of EAC is responsible for establishing and maintaining internal control to achieve the objectives of effective and efficient operations, and reliable financial reporting. In planning and performing our audit, we considered EAC's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements and to comply with OMB Bulletin No. 07-04, as amended, but not for the purpose of expressing an opinion on the effectiveness of EAC's internal control over financial reporting. We did not test all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act (FMFIA) (31 U.S.C. 3512), such as those controls relevant to ensuring efficient operations. Accordingly, we do not express an opinion on the effectiveness of EAC's internal control over financial reporting.

Our consideration of the internal control over financial reporting was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. However, as discussed below, we identified certain deficiencies in internal control over financial reporting that we consider to be material weaknesses and a significant deficiency.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control. We consider the deficiencies described below in information technology to be collectively a significant deficiency in internal control over financial reporting.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control.

Our consideration of the internal control over financial reporting was for the limited purpose described in the second paragraph of this section and would not necessarily identify all deficiencies in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, as discussed below, we also identified certain deficiencies in internal control over financial reporting that we consider to be material weaknesses.

MATERIAL WEAKNESSES

I. Financial Accounting and Reporting Controls

The Accountability of Tax Dollars Act (ATDA) of 2002 extends to EAC a requirement to submit to the Congress and the Director of the Office of Management and Budget (OMB) audited financial statements. OMB Circular A-136, *Financial Reporting Requirements*, defines the form and content of financial statements to be prepared by the agency. To accomplish the objective of complying with the ATDA, the agency is required to develop a system to prepare a complete set of financial statements on a timely basis in accordance with generally accepted accounting principles. The statements are to result from an accounting system that is an integral part of a total financial management system containing sufficient structure, effective internal control and reliable data. Financial reporting also consists of policies and procedures related to the processing and summarizing of accounting entries, and the preparation of financial statements. Fiscal Year 2008 is the first year EAC is preparing and submitting audited financial statements.

EAC's accounting records are inadequate for us to obtain sufficient appropriate audit evidence to conduct our audit. Below are detailed descriptions of the control deficiencies related to EAC's financial reporting:

A. Incomplete Performance and Accountability Report (PAR)

Reporting information that helps people assess the performance of the Government's programs is an important objective of Federal financial reporting. For governmental entities, in contrast to profit-seeking entities, the financial result of governmental-type activities is rarely an adequate indicator of performance. To adequately assess performance, people need additional information, such as that required by OMB Circular A-136, *Financial Reporting Requirements*.

OMB Circular A-136 defines the form and content of a Federal agency PAR. The PAR contains four sections:

1. Management's Discussion and Analysis (MD&A) (Section 1)
2. Performance Section (Section 2)
3. Financial Section (Section 3)
4. Other Accompanying Information (Section 4)

MD&A (Section 1)

The MD&A's Performance Goals, Objectives, and Results section did not have performance measures and results (see discussion below related to Performance Section). The Analysis of the Entity's Financial Statements section of the MD&A contains insufficient information to help users understand EAC's financial results, position and condition and assist users in assessing whether that financial position has improved or deteriorated as a result of the year's activities. This section does little more than restate information already provided elsewhere in the report, and does not include a discussion of key financial related measures emphasizing financial trends and assess financial operations.

Performance Section (Section 2)

EAC was unable to prepare the Performance Section. EAC limited the content of this section to the reasons EAC could not present the required detailed information and the actions being taken to meet the requirements for fiscal year 2009. According to management, EAC is unable to prepare the required performance elements of the PAR, because EAC has not finalized a strategic plan or implemented a performance-based budget.

Financial Section (Section 3)

As mentioned above, we disclaimed our opinion on EAC's financial statements.

Recommendations:

1. Establish policies, procedures and mechanisms to comply with the financial reporting requirements in OMB Circular A-136.
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.

B. Insufficient Resources and Personnel with Appropriate Federal Accounting and Reporting Skill Sets

EAC did not have adequate resources and employees with appropriate skill sets to handle financial management accounting and reporting. The financial operations are fragmented within the commission that could potentially result in transactions or activities not being recorded or not recorded timely in the financial system. There is a lack of understanding and clear organizational structure with regards to the responsibilities for internal and external financial reporting requirements. This deficiency is aggravated by the confusion between the EAC and its accounting service provider as to who is responsible for certain activities such as maintaining source documents and reviewing the financial information and reports. Moreover, EAC employees do not seem to be adequately trained to use the accounting service provider's financial systems to generate reports and schedules that it can use for its analysis and for reporting. This deficiency is a key factor in many of the weaknesses in financial reporting as described further in this report.

EAC management advised CG that the financial management organizational structure is being reorganized to include management level positions responsible for

overseeing the commission's financial operations. EAC plans to fill all of these positions in Fiscal Year 2009.

GAO Standards for Internal Control in the Federal Government states "People are what make internal control work. The responsibility for good internal controls rests with all managers. Management sets the objectives, puts the control mechanisms and activities in place, and monitors and evaluates the control. However, all personnel in the organization play important roles in making it happen." Moreover, "All personnel need to possess and maintain a level of competence that allows them to accomplish their assigned duties, as well as understand the importance of developing and implementing good internal control. Management needs to identify appropriate knowledge and skills needed for various jobs and provide needed training, as well as candid and constructive counseling, and performance appraisals."

Recommendations:

3. Evaluate the resources and appropriate skills needed to meet the financial operations' responsibilities and implement the results of the evaluation and the recommendations.
4. Ensure that appropriate training is provided to financial staff on federal accounting and reporting, and on the accounting service provider's financial system.
5. Complete changes being made to EAC's organizational structure for financial management.
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.

C. Outstanding Accounting Issues

Although EAC prepared the September 30, 2008, financial statements, these statements continue to reflect most of the deficiencies and exceptions in account balances, some listed below, caused by unresolved accounting issues identified during our interim review of the June 30, 2008 financial statements. A number of these issues are material and significant to the EAC's financial statements.

- Grant advances to states and other entities were misclassified as expense (discussed further in Section II of this report).
- Requirements payments to states may be misclassified as expense (discussed further in Section II of this report).
- Federal assistance related liabilities were not accrued (discussed further in Section II of this report).
- Advances made to a service provider were misclassified as expense (discussed further in Section I.G. of this report).
- Federal assistance account receivables were not reported (discussed further in Section II of this report).

- Statement of Net Costs (SNC) presentation of program costs. Currently there is only one program reported in the SNC. However, the president's budget showed EAC's with two programs.
- Leasehold improvements and bulk purchases were not capitalized; and
- Certain liabilities related to goods and services received were not accrued.
- Budgetary accounting related to incurred obligations, undelivered orders and unobligated appropriations may be incorrect (discussed further in Sections II and III of this report).

Recommendation:

7. In order to prepare reliable financial statements for Fiscal Year 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 U.S. Treasury.

D. Lack of an Integrated Financial Management System

EAC utilizes the general ledger and core financial management system (general ledger system) of its accounting service provider. The general ledger system is not capable of generating most user reports for data analysis on a real time basis. Users have to request from the accounting service provider some basic reports which are generated by another software application not accessible to EAC. Also, other financial management systems used at EAC include the property management system and grant database spreadsheets. None of these EAC financial management systems are interfaced with the general ledger system.

OMB Circular No. A-127, *Financial Management Systems*, requires that each agency establish and maintain a single integrated financial management system. Without a single integrated financial management system to ensure timely and accurate financial data, poor policy decisions may occur due to inaccurate or untimely information. Managers are less likely to be able to report accurately to the President, Congress, and the public on Government operations in a timely manner. And, scarce resources are more likely to be directed toward the collection of information rather than to delivery of the intended programs.

Having a single, integrated financial management system does not necessarily mean having only one software application within each agency covering all financial management system needs. Also, it does not mean that all information is physically located in the same database. Rather, a single, integrated financial management system is a unified set of financial systems linked together electronically in an efficient and effective manner to provide agency-wide financial system support. Integration means that the user is able to have one view into systems such that, at whatever level the individual is using the system, he or she can obtain needed information efficiently and effectively through electronic means. Interfaces are acceptable as long as the supporting detail is maintained and accessible to managers. Interface linkages must be electronic unless the number of transactions is so small that it is not cost beneficial to automate the interface. Easy reconciliations

between systems, where interface linkages are appropriate, must be maintained to ensure data accuracy.

Recommendation:

8. 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 service provider's subsystems, if available.

E. Ineffective Financial Statement Preparation

EAC was not ready for a financial statements audit in fiscal year 2008. It does not have policies and procedures related to the financial reporting which will include periodic (at least quarterly) financial statements preparation, review and submission. Its financial system is not able to provide financial information in a timely and useful manner. This is one of the many reasons why EAC was not able to meet agreed-upon milestone dates, provide schedules and reports timely, provide complete responses to audit requests, and produce auditable financial statements. This inability to provide adequate accounting schedules and reports were pervasive and prohibited us from completing our audit.

Pursuant to OMB A-136, *Financial Reporting Requirements*, preparation of the annual financial statements is the responsibility of the agency's management. In carrying out this responsibility, each agency chief financial officer (CFO) should prepare a policy bulletin or guidance memorandum that guides the agency's fiscal and management personnel in the preparation of the annual financial statements. The existence of written procedures will provide structure and accountability for the financial statement preparation and review processes. They also help ensure activities are carried out in accordance with management directives. EAC did not have a comprehensive policy bulletin or guidance memorandum to this effect.

Recommendation:

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.

F. Lack of Reconciliation and Analysis

A major objective of internal control is to ensure the integrity of the underlying accounting data supporting the financial statements. An important control in this regard is the reconciliation of EAC accounting data. An adequate reconciliation provides the assurance that processed transactions are properly and timely recorded in the accounting records and financial statements, which then allows management the ability to analyze its financial condition and results of operations on a routine basis.

Account analysis and reconciliations for accounts such as Fund Balance with Treasury (FBWT), Accounts Payable, Undelivered Orders, Unfunded Leave and Accrued Funded Payroll and Benefits were not performed periodically by EAC. Reconciliations that were performed were in response to our audit request (June 2008 FBWT) or only during the fourth quarter of the fiscal year (Undelivered Orders) due to limited resources. As a result, several journal entries prepared as part of a general account “clean-up” for the year-end were identified and posted. Regular financial statements preparation and analysis on a monthly or quarterly basis may eliminate the need for adjustments during the year-end closing process and reduce the risk that material errors or irregularities in the financial statements will not be detected and resolved.

For example, to perform the UDO reconciliation the individual UDO balances in the general ledger system are downloaded to a spreadsheet application. Finance office personnel then queried the subsidiary system for each obligation reported in the general ledger system download. Corrective actions to resolve variances between the two systems were denoted in the general ledger system download. Our audit revealed the following deficiencies related to this process:

- The process is manually intensive and time consuming increasing the risk of error;
- The reconciliation is not fully documented. Most notable exclusion is the subsidiary balance to the general ledger balance reconciliation is not documented;
- Control is not properly designed to ensure obligations are recorded in the general ledger; and
- Accounting records for grant obligations are maintained by the program offices. A separate and less detailed process is performed to reconcile grant UDO balances. This process oftentimes required considerable time and effort by both the finance office and program office to determine the validity of the balances recorded in general ledger system.

An agency’s ability to achieve its control objectives is highly dependent on the nature and extent of its control activities. Control activities include the policies, procedures, techniques and mechanisms in place to help ensure these objectives are met. Our audit revealed management had not established controls over its financial operations or controls in place were not properly designed or effective in meeting the agency’s control objectives.

Recommendations:

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.
11. Evaluate the most efficient way of obtaining financial data from the general ledger system or the service provider.

12. Ensure that supervisory reviews are applied to the monthly reconciliations and its supporting documents are maintained and reviews documented.

G. Accounting Error

EAC hires a service provider to act as the contracting officer for certain EAC contracts. Budget authority to fund these contracts and the service provider's fee are advanced to the service provider prior to the award of the contract and/or completion of work by the contractor. The advance is recorded as expenditure in the accounting system.

SFFAS No. 1 requires agencies to record advance payments as an asset. Due to timing constraints and limited resources, EAC was unable to resolve the error prior to issuing the financial statements as of September 30, 2008.

Recommendations:

13. Analyze all contracts and prepare correcting entries.
14. Ensure that the accounting entries for this type of transactions are recorded in accordance with United States Standard General Ledger requirements.

II. Lack of Support for Grant Accounting

Grant transactions may not be recorded in accordance with generally accepted accounting principles.

Grant Programs

EAC controls were not properly designed to prevent or detect the incorrect accounting treatment applied to grants payments. Since inception EAC has administered several grant programs. EAC authorizes its service provider to disburse amounts awarded to grant recipients by way of a transmittal memorandum. Attached to the memorandum is the SF 270 *Request for Advance or Reimbursement* form denoting whether the disbursement is for reimbursement of claimed costs or an advance. However, the service provider's policy is to record all payments in the accounting system as grant expense without regard to whether the payment was for cost reimbursement or an advance. The service provider explained that this policy was adopted because the transmittal does not indicate the nature of the payment and the SF 270 form was deemed an unreliable source for this information. EAC became aware of the error during the audit process. EAC has identified one payment for \$2 million that is misclassified in the FY 2008 financial statements. However, EAC must perform additional analysis to determine the full amount the financial statements are misstated.

HAVA Section 101, 102 and 251 Payments to the States

The Help America Voters Act (HAVA) authorized EAC to disburse approximately \$3 billion in payments to States for Federal election administration improvements. During 2003 and 2004, the U.S. General Services Administration (on behalf of EAC) sent the following payments to the states.

- a. Section 101 (\$349,182,262) – Payments to states for activities to improve the administration of elections
- b. Section 102 (\$300,317,738) – Payments to states for replacement of punch card and lever voting machines.
- c. Section 251 (\$2,319,360,617) – Requirement payments to the states

Congress authorized an additional \$115 million in Section 251 funds to be disbursed to the states through the Consolidated Appropriations Act, 2008. Approximately \$2.3 million of these payments were disbursed as of September 30, 2008. These payments to the states are oftentimes made in advance of the recipient incurring any costs. EAC records these payments as grant expenditures in the accounting system at the time of disbursements.

As of September 30, 2008, there were still outstanding issues as follows:

- Unused funds from the disbursements made to the states in 2003 and 2004 that have not been expended by the states.
- Section 102 payments require the states to return payments made by EAC if replacement of punch card and lever voting machines were not made within an established period of time. EAC has not determined all the states that would be required to return the funds and the amounts to be returned.
- Results from the Office of Inspector General's HAVA audits may require the states to return funds to the general fund of the U.S. Treasury. EAC does not have policies and procedures to guide the treatment of these types of transactions.

We requested from EAC a position paper to support the grant accounting treatment, but did not receive the requested documentation.

SFFAS No. 1, *Accounting for Selected Assets and Liabilities*, paragraph 57 states that "Advances are cash outlays made by a federal entity to its employees, contractors, grantees, or others to cover a part or all of the recipients' anticipated expenses or as advance payments for the cost of goods and services the entity acquires. Examples include travel advances disbursed to employees prior to business trips, and cash or other assets disbursed under a contract, grant, or cooperative agreement before services or goods are provided by the contractor or grantee." Paragraph 59 states, "Advances and prepayments should be recorded as assets". EAC did not provide sufficient evidential matter to support their accounting treatment.

SFFAS No. 1, paragraph 41 states that "A receivable should be recognized when a federal entity establishes a claim to cash or other assets against other entities, either based on legal provisions, such as payment due date, or goods or services provided."

Recommendations:

15. Consult with OMB and/or U.S. Treasury on to the appropriate accounting for the Section 251 requirements payments. Prepare a position paper to document the authoritative decisions to support the accounting treatment.
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.

17. Develop policies and procedures for the funds identified by the Office of Inspector General audits.

III. Weak Funds Control

EAC does not have adequate funds control to monitor expenditures to ensure compliance with Anti-Deficiency Act and Purpose Statute. The following matters illustrate the weakness in the funds control that potentially violates Anti-Deficiency Act and the Purpose Statute:

- In Fiscal Year 2008, there were instances where EAC obtained goods and services without creating an obligation in their accounting system, and awarded contract where funds were not initially available. EAC deobligated other existing obligations recorded in the accounting system to pay for invoices that were received for the procurement and to obligate the contract awarded. Due to non-receipt of documentation from EAC, we were unable to perform sufficient testing to satisfy ourselves that the deobligations were not made to bona-fide obligations of the Commission.
- An analysis of the transactions charged against the Election Reform Payments (ERP) fund (TFS 95 X 1651) revealed potential non-compliance with the Anti-Deficiency Act and Purpose Statute violation. EAC's analysis of these and other transactions charged to the agency's funds is on-going. We were unable to perform sufficient testing procedures to determine whether or not any actual violations of the Act had occurred. Following are some of the issues related to the on-going analysis being made by EAC. We were notified of other issues, which are not clear at the time of this report, that are still being investigated.
 - Mock Election grants for \$198,820 were disbursed from the fund based on language in the conference report. Appropriation law did not authorize payments.
 - Poll Worker grants for \$627,000 were disbursed from the fund based on language in the conference report. Appropriation law did not authorize grant.
 - EAC operating costs for \$512,654 were disbursed from the ERP fund when Salaries and Expense fund should have been charged. Preliminary analyses performed by EAC indicate there is not enough fund available to charge the Salaries and Expense fund.

Recommendations:

18. Establish and implement policy and procedures for funds control.
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.

IV. Federal Managers' Financial Integrity Act Compliance and Reporting

As required by OMB Bulletin No. 07-04, as amended, we compared the material weaknesses disclosed during the audit with those material weaknesses reported in the EAC's FMFIA report that relate to the financial statements. Although EAC reported the material weaknesses and significant deficiency identified in this report, EAC does not have a process in place to assess its internal control. EAC has not performed a risk assessment. The EAC's management assurance statement under the FMFIA acknowledged the need to perform internal control assessment in accordance with OMB Circular No. A-123, *Management's Responsibility for Internal Control*. We consider the failure to perform internal control assessment a material weakness.

SIGNIFICANT DEFICIENCY

V. Information Technology

The Federal Information System Controls Audit Manual (FISCAM), issued by the Government Accountability Office (GAO), formed the basis of our review, and was supplemented by the OMB Circular Nos. A-127 and A-130, the National Institute of Standards and Technology (NIST) Special Publication (SP) 800-53, Federal Information Processing Standards (FIPS) PUBs, and applicable EAC policies.

A. Entity-Wide Security Program

Effective information security management is critical to EAC's ability to ensure the confidentiality, integrity, and availability of its information assets, and thus its ability to perform its mission. If effective information security practices are not in place, EAC's data and systems are at risk of inadvertent or deliberate misuse, fraud, improper disclosure, or destruction—possibly without detection.

An entity-wide security management program should be in place to establish a framework and continuing cycle of activity to manage security risk, develop security policies, assign responsibilities, and monitor the adequacy of computer security related controls. It should also represent the foundation for an entity's security control structure and a reflection of senior management's commitment to addressing security risks. OMB Circular No. A-130, Appendix III Security of Federal Automated Information Resources, requires agencies to implement and maintain a program to assure that adequate security is provided for all agency information collected, processed, transmitted, stored, or disseminated in general support systems and major applications.

Weaknesses that currently exist in EAC's information security program include the following:

- Although per the terms of the Memorandum of Understanding (MOU) between EAC and the service provider, the service provider procedures will prevail where there are no guiding policies provided by the EAC organization. EAC has not internally developed and adopted an agency-wide information security program

in compliance with Federal Information Systems Management Act (FISMA) which includes the following:

- Periodic assessments of risk, including the magnitude of harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the agency;
 - Policies and procedures that are based on risk assessments, to cost-effectively reduce information security risks to an acceptable level, and ensure that information security is addressed throughout the life cycle of each agency information system;
 - Subordinate plans for providing adequate information security for networks, facilities, information systems, or groups of information systems, as appropriate;
 - Periodic testing and evaluation of the effectiveness of information security policies, procedures, practices, and security controls to be performed with a frequency depending on risk, but no less than annually;
 - A process for planning, implementing, evaluating, and documenting remedial actions to address any deficiencies in the information security policies, procedures, and practices of the agency;
 - Procedures for detecting, reporting, and responding to security incidents; and
 - Plans and procedures to ensure continuity of operations for information systems that support the operations and assets of the agency.
- EAC does not have an inventory of all the systems/applications used by the service provider to support the operations of EAC. The service provider utilizes a suite of applications for the various services it provides EAC, such as the Comprehensive Human Resources Information System (CHRIS) for Human Resources (HR) management and Pegasys®, a commercial-off-the-shelf product for financial management and reporting.
 - EAC has not implemented a security management structure with adequate independence, authority, and expertise which is assigned in writing. However, EAC has authorized an on site IT specialist to work with the service provider to address information security issues.
 - EAC has not performed Certification and Accreditation (C&A) of its general support systems. The EAC Local Area Network (LAN) is supported by the service provider and the EAC Website is supported by a contracted company.
 - EAC does not monitor results of independent third party information security examinations and inspections of the service provider for inclusion within the service provider's Plan of Actions and Milestones (POA&M).

Recommendations:

20. Develop and implement information system policies and procedures to meet compliance with OMB Circular No. A-130, NIST special Publication 800-18 and FISMA requirements and guidelines.

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 not covered, EAC should obtain access from the service provider to review these systems to comply with FISMA Section 3544.
22. 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.
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.
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.

B. Contingency Plan

Losing the capability to process and protect information maintained on EAC's computer systems can significantly impact EAC's ability to accomplish its mission to serve the public. The purpose of service continuity controls is to ensure that, when unexpected events occur, critical operations continue without significant interruption or are promptly resumed.

To achieve this objective, EAC should have procedures in place to protect information resources and minimize the risk of unplanned interruptions and a plan to recover critical operations should interruptions occur. These plans should consider activities performed at EAC's general support facilities (e.g. EAC's *Local Area Network* (LAN), *Wide Area Network* (WAN), and telecommunications facilities), as well as the activities performed by users of specific applications. To determine whether the disaster recovery plans will work as intended, EAC should establish and periodically test the capability to perform its functions in disaster simulation exercises. EAC should develop and structure disaster recovery plans and continuity of operation plans in accordance with *Homeland Security Presidential Directive* (HSPD) 7, 51 and 20 and *Federal Continuity Directive* (FCD) 1, and NIST SP 800-34, *Contingency Planning Guide for Information Technology Systems*.

Our review of EAC's service continuity controls identified deficiencies that could affect EAC's ability to respond to a disruption in business operations as a result of a disaster or other long-term emergency. Although in case of a disaster, EAC would defer to the service provider's contingency plan (for service provider hosted systems). EAC has not developed a Continuity of Operations Plan (COOP), Disaster Recovery Plan (DRP) or Business Impact Assessment (BIA).

Recommendation:

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.

These deficiencies in internal control may adversely affect any decision by management that is based, in whole or in part, on information that is inaccurate because of the deficiencies. Unaudited financial information reported by EAC, including budget information, also may contain misstatements resulting from these deficiencies.

EAC management's response to the material weaknesses and significant deficiency identified in our report is included as Attachment to this report. We did not audit EAC's response and, accordingly, we express no opinion on it.

In addition to the material weaknesses and significant deficiency described above, we noted certain matters involving internal control and its operation that we reported to management of EAC in a separate letter dated November 7, 2008.

This report is intended solely for the information and use of the management of EAC, EAC Office of Inspector General, OMB, the Government Accountability Office and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

Clifton Henderson LLP

Calverton, Maryland
November 7, 2008

Independent Auditor's Report on Compliance and Other Matters

To the Inspector General of the
Election Assistance Commission

We were engaged to audit the balance sheet and accompanying notes of the Election Assistance Commission (EAC) as of September 30, 2008, and the related statements of net cost, changes in net position, and budgetary resources for the year then ended (hereinafter collectively referred to as financial statements) and have issued our report thereon dated November 7, 2008. In that report, we disclaimed our opinion on EAC's financial statements because we did not obtain sufficient, appropriate evidential matter for applying audit procedures necessary to conduct our audit in accordance with auditing standards generally accepted in the United States of America; and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*, as amended.

The management of EAC is responsible for complying with laws and regulations, and government-wide policies applicable to EAC. We were unable to test EAC's compliance with laws and regulations, and government-wide policies because of limitations on the scope of our work as explained above. Providing an opinion on compliance with certain provisions of laws and regulations, and government-wide policies was not an objective of our audit, and, accordingly, we do not express such an opinion.

This report is intended solely for the information and use of the management of EAC, EAC Office of Inspector General, GAO, OMB and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

Clifton Gunderson LLP

Calverton, Maryland
November 7, 2008



November 12, 2008

Memorandum

To: Curtis Crider
Inspector General

From: Rosemary E. Rodriguez
Chair

Subject: Election Assistance Commission Response to the Draft Internal Control Report Pertaining to the Audit of the Commission's Fiscal Year 2008 Financial Statements

For the first time in the Election Assistance Commission's (EAC) five-year existence, the Commission was subject to a performance and accountability report (PAR) in accordance with Office of Management and Budget (OMB). The material weaknesses in internal controls identified by the audit have heightened EAC's resolve to hire qualified financial management staff, implement effective accounting controls, and improve internal controls. The EAC recognized that it would be a challenge for the agency to produce auditable financial statements this year. Overall, EAC agrees with the four material weaknesses and significant deficiencies identified by the audit.

The EAC has already hired a budget officer, developed a strategic plan and hired contractors to help write policies and procedures, document internal controls, and assist with financial management. Next steps include:

- Hire a chief financial officer (CFO)
- Evaluate the existing financial system and correct accounting data
- Restructure accounting operations
- Implement performance-based budgeting

EAC estimates that a realistic target for producing a PAR in full compliance with Federal requirements is FY2010.

Two months ago, the EAC launched a search for a CFO who is a certified public accountant with Federal government experience to immediately implement these corrective actions. However, EAC's ability to recruit a CFO is impaired by the current salary cap (\$139,600) in the Help America Vote Act.

I assure you that our top priority is the establishment of strict and transparent financial controls. Our response to each audit recommendation is presented in the attachment to this memorandum. Please contact me if you have any questions about our reply.

Attachment

**U.S. ELECTION ASSISTANCE COMMISSION RESPONSE TO RECOMMENDATIONS IN
THE DRAFT INTERNAL CONTROL REPORT**

Reference/Recommendation	Actions	Milestones	Responsible Official
MATERIAL WEAKNESS			
I. Financial Accounting and Reporting Controls			
A. Incomplete Performance and Accountability Report (PAR)			
1. 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. Therefore, see responses to those recommendations		
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 statement reporting.	The strategic plan will be finalized by December 31, 2008. However, because of the budget cycles, EAC will not implement performance-based budgeting until the 2010 budget.	07/31/09	Executive Director
B. Insufficient Resources and Personnel with Appropriate Federal Accounting Experience			
3. Evaluate resources and appropriate skills needed to meet the financial operations responsibilities and implement the results of the evaluation and the recommendations	A chief financial officer (CFO) will be recruited and placed in charge of financial management and reporting. The CFO will be authorized to determine staffing needs, assess skill sets, and make staffing adjustments as necessary. The milestone date is for hiring a CFO only.	01/30/09	Executive Director
4. Ensure that appropriate training is provided to financial staff on federal accounting and reporting, and on the accounting service provider's financial system.	The CFO will determine staff training needs after organizing the new Division of Management Services. Individual annual training plans will be established.	03/30/09	CFO
5. Complete changes being made to EAC's organizational structure for financial management.	A new organization structure for the EAC is under consideration and will be presented to the Commissioners.	01/16/09	Executive Director
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.	Applicable MOU's covering accounting services and information technology security responsibilities; and defining roles and responsibilities of EAC and GSA staff will be negotiated. If appropriate, a single MOU will be put in place. However, completion of the agreement (s) will be delayed until a new CFO is hired and assesses the capability of GSA to provide all necessary financial management services. (See recommendation no. 8). In the meantime, EAC will develop	03/30/09	CFO

U.S. ELECTION ASSISTANCE COMMISSION RESPONSE TO RECOMMENDATIONS IN THE DRAFT INTERNAL CONTROL REPORT

	interim agreements with GSA.		
C. Outstanding Accounting Issues			
7. To prepare reliable financial statements for Fiscal Year 2009, EAC must resolve outstanding 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 GAO, OMB and/or the U.S. Treasury. In addition, it may be necessary to retain assistance from an outside CPA firm.	Issues concerning (1) treatment of grant advances to states, (2) treatment of requirements payments, (3) accruing grant payment liabilities and other liabilities related to goods and services received, (4) treatment of advances to the Department of Interior's National Business Center, (5) establishing receivables for state repayment of Section 102 payments, (6) capitalization of leasehold improvements and bulk purchases, (7) treatment of obligations and undelivered orders, and (8) presentation of Statement of Net Costs will be addressed.	06/30/09	Executive Director/CFO
D. Lack of an Integrated Financial Management System			
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 utilize the service provider's subsystems, if available.	The financial management system will be evaluated in connection with requirements of OMB, best practices, and cost vs. benefits with respect to financial management systems integration appropriate to agencies similar to the EAC.	06/30/09	CFO
E. Ineffective Financial Statement Preparation			
9. Develop and implement policy and procedures for the financial reporting process and responsibilities including preparation of the financial statements.	Policy will be developed.	05/30/09	CFO
F. Lack of Reconciliation and Analysis			
10. Prepare and analyze monthly reconciliations of subsidiary and summary accounts balances. Consider a "formal closing" of all accounts at an interim date which will reduce the level of accounting activity and analysis required a year-end.	Breath of implementation of this recommendation is contingent upon EAC's evaluation of the accounting system. Once required recommendations are implemented, the need for reconciliations will be determined and conducted.	04/30/09	CFO
11. Evaluate the most efficient way of obtaining financial data from the general ledger system or the service provider.	Contingent upon implementation of recommendations nos. 6 and 8.	03/30/09	CFO
12. Ensure that supervisory	See recommendation no. 10.		CFO

**U.S. ELECTION ASSISTANCE COMMISSION RESPONSE TO RECOMMENDATIONS IN
THE DRAFT INTERNAL CONTROL REPORT**

reviews are applied to the monthly reconciliations and its supporting documents are maintained and reviews documented.			
G. Accounting Error			
13. Analyze all contracts and prepare correcting entries.	See recommendation no. 7.		Executive Director/CFO
14. Ensure that the accounting entries for this type of transactions (advances to Nat'l Business Ctr.) are recorded in accordance with United States Standard General Ledger requirements.	See recommendation no. 7. Also, EAC began conducting its procurements in-house in fiscal year 2008 and will not be using a contract service provider in fiscal year 2009.	03/30/09	Executive Director
II. LACK OF SUPPORT FOR GRANT ACCOUNTING			
15. Consult with OMB or Treasury on the appropriate accounting for Section 251 requirements payments. Prepare a position paper to document the authoritative decisions to support the accounting treatment.	See recommendation no. 7.	03/30/09	
16. Develop procedures for the return of the Section 102 funds from States. The procedures should include determining States that are required to return the funds, and the process to obtain the funds. Also, ensure that the accounting for these funds is properly recorded and supported by adequate documentation.	Procedures have been drafted and will soon be implemented	12/12/08	Acting Director of HAVA Payments and Grants and Executive Director.
17. Develop policies and procedures for the collection of funds identified by the Office of Inspector audits.	Procedures will be developed.	01/30/09	Executive Director
III. WEAK FUNDS CONTROL			
18. Establish policies and procedures for fund control.	Procedures will be developed	04/30/09	CFO
19. Resolve the potential Anti-Deficiency Act and Purpose Statute violation issues as soon as possible.	Contractor will be hired to complete the necessary analysis.	03/30/09	Executive Director
IV. FEDERAL MANAGERS' FINANCIAL INTEGRITY ACT COMPLIANCE AND REPORTING			
SIGNIFICANT DEFICIENCIES			

**U.S. ELECTION ASSISTANCE COMMISSION RESPONSE TO RECOMMENDATIONS IN
THE DRAFT INTERNAL CONTROL REPORT**

V. INFORMATION TECHNOLOGY			
A. Entity-Wide Security Program			
20. Develop and implement information system policies and procedures to meet compliance with OMB A-130, NIST Special Publication 800-18 and FISMA requirements and guidelines.	EAC has procured a contractor to assist with the agency's strategies to become compliant with OMB A-130, NIST special Publication 800-18 and FISMA. These measures include completion of a certification and accreditation of support systems, System Security Plans and practices and procedural guides and documentation to address key areas.	06/30/09	Executive Director/CFO
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 not covered. EAC should obtain access from the service provider to review these systems to comply with FISMA Section 3544.	EAC will request and review a copy of the service provider systems review rotational plan. However, it is impractical to believe that GSA will permit EAC access to GSA systems for the purpose of testing system security. We will rely on GSA processes (to the extent EAC continues to use GSA).	03/30/09	Executive Director/CFO
22. 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.	This will be done in accordance with implementation of the revised EAC organization structure.	03/30/09	Executive Director/CFO
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.	EAC will proceed to procure a contractor to assist with the completion of a C&A of the EAC LAN.	06/30/09	Executive Director/CFO
24. Obtain, review, and follow up on identified security weaknesses within the (1) the service providers 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 will request and review the GSA POA&M, the SAS 70 review, and the GSA FISMA report. However, it is impractical to believe that EAC can impact the operation/modification of systems operated by GSA.	03/30/09	Executive Director/CFO
B. Contingency Plan			
25. Develop EAC's own COOP, DRP, and BIA with maps to applicable service provider's plan	EAC will procure a contractor to assist with policies and procedures to ensure continuity of operations.	04/30/09	Executive Director/CFO

**U.S. ELECTION ASSISTANCE COMMISSION RESPONSE TO RECOMMENDATIONS IN
THE DRAFT INTERNAL CONTROL REPORT**

and consider should they implement recovery of non-service provider supported systems, business processes, personnel and interfaces.			
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OIG's Mission

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