



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

FINAL REPORT:

**Audit of U.S. Election Assistance
Commission's Acquisition and
Procurement of Goods and Services**

**Report No.
I-PA-EAC-03-12
September 2013**



U.S. ELECTION ASSISTANCE COMMISSION
OFFICE OF INSPECTOR GENERAL
1201 New York Ave. NW - Suite 300
Washington, DC 20005

Memorandum

September 12, 2013

To: Alice Miller
Acting Executive Director

From: Curtis W. Crider *Curtis W. Crider*
Inspector General

Subject: Final Performance Audit Report - U.S. Election Assistance Commission's
Acquisition and Procurement of Goods and Services
(Assignment Number I-PA-EAC-03-12)

We contracted with the independent certified public accounting firm of CliftonLarsonAllen LLP (CLA) to audit the U.S. Election Assistance Commission's acquisition and procurement of goods and services. The objective of the audit was to determine if EAC had policies and procedures to allow them to be compliant and maintain compliance with specific laws and regulations that govern the Federal acquisition process, and to test EAC's level of compliance with these laws and regulations. The audit included a review of sample procurement documents (contracts, purchase orders, blanket purchase agreements, and inter-agency agreements) generated between October 1, 2008 and September 30, 2012. The review also included awards made prior to October 1, 2008 that were outstanding or closed during the audit period.

CLA found that the EAC had policies and procedures; however, EAC did not always adhere to the policies and procedures relative to the procurement of goods and services. The report also reports internal control weaknesses during the implementation, summarization and reporting of the procurement activities. The report also indicated that EAC's continued decline in its annual appropriation; the uncertainty of its continuing existence as an agency; its loss of employees and inability to replace them; and the absence of sustained strong leadership greatly contributed to the causes of the findings.

In its response to the draft report (Appendix A), dated August 13, 2013, the EAC generally agreed with the report's recommendations and indicated that corrective has already been taken or will be taken to implement the recommendations.

We would appreciate being kept informed of the actions taken on our recommendations as we will track the status of their implementation. Please respond in writing to the finding and recommendation included in this report by November 20, 2013. Your response should include information on actions taken or planned, targeted completion dates, and titles of officials responsible for implementation.

To ensure the quality of the audit work performed, we reviewed CLA's approach and planning of the audit, evaluated the qualifications and independence of the auditors, monitored the progress of the audit at key points, reviewed and accepted CLA's audit report, and performed other procedures that we deemed necessary. CLA is responsible for the attached auditor's report and the conclusions expressed in the report. We do not express any opinion on the conclusions presented in the CLA audit report.

The legislation creating the Office of Inspector General requires that we report to Congress semiannually on all audit reports issued, actions taken to implement our recommendations, and recommendations that have not been implemented.

If you have any questions regarding this report, please call me at (202) 566-3125.



CliftonLarsonAllen LLP
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U.S. ELECTION ASSISTANCE COMMISSION (EAC)

Report on the 2012 Review of Acquisition and Procurement of Goods and Service

(Compliance with Internal and External Federal Procurement Requirements)

May 12, 2013

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EXECUTIVE SUMMARY

CliftonLarsonAllen LLP (CLA or We) was engaged by the U.S. Election Assistance Commission (EAC) Office of Inspector General (OIG) to conduct a performance audit of the procurement, contract management policies and procedures, and report on EAC's acquisition process for the procurement of goods and services. The objective of our performance audit was to determine if EAC had policies and procedures to allow them to be compliant and maintain compliance with specific laws and regulations that govern the Federal acquisition process, and to test EAC's level of compliance with these laws and regulations.

Our audit included a review of sample procurement documents (contracts, purchase orders, blanket purchase agreements, and inter-agency agreements) generated between October 1, 2008 and September 30, 2012. Also, included in our review were awards made prior to the start of our audit period of October 1, 2008, and were either outstanding or closed during the audit period. Our audit excluded awards made for the Office of the Inspector General and transactions with the National Institute of Standards and Technology (NIST).

Our audit found that EAC had policies and procedures but had not always adhered to these policies and procedures in its procurement of goods and services. In addition, the results of our audit disclosed internal control weaknesses in the implementation, summarization, and reporting of the procurement activities. EAC's continued decline in its annual appropriation funding over the years; the uncertainty of its continuing existence as an agency; its loss of employees and inability to replace them; and the absence of sustained strong leadership greatly contributed to the causes of our findings.

EAC's appropriation decreased from \$124 million in Fiscal Year 2009 to \$11.5 million in Fiscal Year 2012. As a result of reduced funding, EAC's staffing levels in administrative positions such as within the procurement and accounting departments have also significantly reduced. At the onset of our audit work in December 2012, there were no employees in either the procurement or the accounting departments other than the Chief Financial Officer (CFO), who was in charge of both departments. Moreover, the EAC has no appointed leaders as all four commissioners' positions are vacant. The last two of the four commissioners left in 2011. The Executive Director, who is head of the commission, left on November 30, 2011. The General Counsel, who took over as the Acting Executive Director, also left EAC in May 2012. The Chief Operating Officer was named the Acting Executive Director when the General Counsel left. The General Counsel and the Executive Director's positions are currently vacant.

Since 2007, there have been calls not to re-authorize and to abolish the EAC. Each year since 2011, there were bills introduced in Congress to abolish the EAC. Although the bills did not become law, there is a going concern threat that the agency will not exist long enough to continue to carry out its objectives and commitments and will be abolished in the foreseeable future. This threat has an impact in EAC's ability to hire and the long-term sustainability of its employees.

EAC also underwent several changes in its procurement and accounting operations during the audit period. Our review and interviews showed that EAC procurement functions were performed by three different entities, as summarized below:

- EAC's Contracting Officer (CO) – left EAC in January 2011. EAC did not have a CO in January/February 2011.
- In March 2011, EAC signed a Memorandum of Agreement (MOU) with the International Trade Commission (ITC) to provide procurement services.
- Although EAC/ITC MOU was for five years, EAC terminated the MOU in January 2012 when it signed with the U.S Treasury's Bureau of Public Debt (BPD), a shared service provider, to provide

procurement services starting in February 2012 and accounting services starting in July 2012.

Also, prior to July 1, 2012, General Services Administration (GSA), another shared service provider, provided accounting services for EAC.

These changes and the transition impacted the efficiency and effectiveness of EAC procurement processes. Procurements made prior to July 1, 2012 were tracked manually and accounting information was manually submitted to the accounting services provider for recording. The accounting services provider could not generate a procurement report we requested. Accordingly, we received procurement reports/spreadsheets (including a handwritten list) that came from different sources. These reports were not and could not be tied or reconciled to EAC's financial records. In addition, we identified many critical exceptions as explained later in this report that made us question the procurement data's reliability and completeness in these reports/spreadsheets. The question of reliability and completeness resulted in a limitation in performing the scope of our audit. We could not obtain reasonable assurance on the completeness and reliability of the procurement population and the dollar amounts for the audit period.

Irrespective of our audit scope limitation discussed above, we judgmentally selected 20 procurement documents from the reports/spreadsheet to test for internal control and compliance with EAC procurement policies and procedures and/or the Federal Acquisitions Regulations (FAR). Our test disclosed lack of acquisition plan for the procurement, no evidence of approved justification for sole source contracts, missing contract action reports, and failure to report or to report timely its procurement statistics in the Federal Procurement Data System Next Generation (FPDS-NG)¹. We also found that EAC did not maintain adequate documentation of its internal control reviews and the review of risk assessment relative to the Office of Procurement and Contracts.

We presented our results for comment in a formal notification of findings and recommendations (NFR) to EAC Management on May 2, 2013 and received their response on May 10, 2013. We also provided our draft audit report to EAC management on July 15, 2013 and received their response to our recommendations on August 14, 2013. We considered EAC's management comments to the NFRs and response to the draft audit report in finalizing our report. EAC management's response to the draft report in its entirety is included as Appendix A. EAC management generally agreed with all the recommendations in the audit report and provided corrective actions that are either in progress or to be implemented. We did not audit the response received from EAC management; therefore, we do not provide any conclusions on them.

We performed our audit between November 21, 2012 and May 12, 2013.

¹ The FPDS-NG is the current central repository of information on Federal Contracting Activity over the micro-purchase threshold.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

Findings	Recommendations
1. Inaccurate and Incomplete Procurement Files and Records	<p>1. Going forward, obtain and review the shared service provider's (SSP) procurements report on a monthly or quarterly basis depending on the level of procurement activities to ensure the accuracy and completeness of the report.</p> <p>2. Evaluate the risks, costs, and benefits of reconciling EAC's internal procurement documents with the SSP procurement inventory report prepared in July 2012. EAC should document its risk assessment process, costs and benefits analysis, and decision whether to continue the efforts of reconciling or not these historical records, and to document written approval of its decision from the Executive Director or its designee.</p>
2. Non-Compliance with Federal Acquisition Regulation (FAR) and EAC Procurement Handbook	<p>3. Coordinate its procurement needs with the SSP to ensure that an acquisition plan is properly developed and documented in the contract file.</p> <p>4. Coordinate with the SSP to ensure that accurate and complete contract activity (award, modification, sole source justification, and verification of fund availability) are approved and maintained in the contract file.</p> <p>5. Coordinate with the SSP to ensure that accurate contract activity (award, modification) are properly documented in the FPDS-NG in a timely manner and can be accessed for decision making purposes and to meet future audit requests.</p> <p>6. Spot check contract files at the SSP to ensure that they are performing its duties in accordance with the contract and the FAR. At a minimum, the EAC should review reports provided by BPD and conduct follow up meetings to discuss unexpected discrepancies.</p>
3. Noncompliance with the Federal Managers	<p>7. Maintain documentation to support its</p>

Financial Integrity Act (FMFIA), Office of Management and Budget (OMB) Circular A-123, <i>Management's Responsibility for Internal Control</i> (OMB A-123), and EAC Policy and Procedures	performance of risk assessments, internal control testing, and reviews. In addition, the risk assessment performed by the designated operating plan managers should be reviewed and approved and signed by the EAC ED, CFO, and CFO as required in the EAC's Internal Control Policy.
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Table 1: Summary of Audit Findings and Recommendations

PROGRAM BACKGROUND

The 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 on election administration. EAC also accredits testing laboratories and certifies voting systems, as well as audits the use of HAVA funds. EAC is governed by four commissioners appointed by the President and confirmed by the U.S. Senate.

The procurement and contract management has been an area of risk for the federal government. Between fiscal year 2000 and 2004, Federal procurement spending increased from \$219 billion to \$347 billion - that's over a 58 percent increase. The Office of Federal Procurement Policy (OFPP) reported that for 18 of the last 20 years, spending by the federal government on contract increased almost 12 percent per year between 2000 and 2008. Annual procurement budgets grew from \$200 billion a year to over \$500 billion a year during the eight year period.²

EAC executes a variety of procurement activities that range in dollar, duration, and complexity. The extent of contract management varies depending on the size, nature, complexity, and risk profile of each contract. The EAC Office of Procurement and Contract procures goods and services through contracts, delivery orders, purchase orders, blanket purchase agreements, and interagency agreements. CLA was engaged by the EAC OIG to conduct a performance audit of the procurement and contract management policies and procedures and report on EAC's acquisition process for the procurement of goods and services.

For the period covered by the audit, EAC procured goods and services through a contracting officer (CO) working for EAC, temporary services provided by a CO procured from the International Trade Commission (ITC), and CO from the Bureau of Public Debt (BPD) which is a Shared Service Provider. See Exhibit 1 for a chronology of the procurement and accounting functions during the audit period.

² U.S. EAC Call Order 1 Performance Work Statement (PWS) Section 5.1.1. Project.

Count	Chronology – Audit Period	Procurement and Accounting Functions
1	October 2008 – January 2011	Procurements were performed by the EAC CO. The CO left EAC in January 2011.
2	January 2011 – February 2011	EAC did not have a CO during this period. CLA found one transaction in the spreadsheets provided by EAC that was dated February 24, 2011 for \$1,000. According to the CFO, this transaction was delayed and awarded by ITC in March 2011.
3	March 2011 – January 2012	EAC contracted with the ITC to provide contracting services. The contract was a five year contract with a base period ending in September 30, 2011. However, EAC provided us with an email stating that there was a verbal agreement with ITC to only provide procurement services until the transition to BPD in February 2012.
4	February 2012 – July 2012	EAC signed a memorandum of understanding (MOU) with the BPD in January 2012 to provide accounting, procurement, and other administrative services. Procurement and Accounting services officially went live on July 1, 2012 when BPD uploaded EAC's procurement files in the PRISM ³ system. Prior to this date BPD executed procurement transactions for EAC manually beginning in February 2012.
5	July 2012 – September 2012	BPD provided procurement services for EAC as represented to us by BPD. As a transition process, the BPD took physical control over the procurement files and records maintained at EAC and ITC prior to July 1, 2012. BPD generated an inventory report of files and records they took physical control over. BPD also transferred EAC's active procurement records as of July 1, 2012 to its automated procurement system, PRISM.
6	October 2008 – June 30, 2012	GSA, a shared service provider, provided accounting and other administrative services (excluding procurement services) to EAC.
7	July 1, 2012 – September 30, 2012	BPD began providing accounting services to EAC.

Table 2 -Chronology of EAC Procurement and Accounting Functions

Also, during the audit period, EAC's annual appropriations decreased from \$124 million in Fiscal Year 2009 to \$11.5 million in Fiscal Year 2012 (see Table 3). As a result of reduced funding, EAC's staffing levels in administrative positions such as within the procurement and accounting departments have also reduced. At the onset of our audit work in December 2012, there were no employees in either the procurement or the accounting departments other than the Chief Financial Officer (CFO), who was in charge of both departments. Moreover, the EAC has no appointed leaders as all four commissioners'

³ PRISM is a web based commercial off-the-shelf, procurement and contract management system.

positions are vacant. The last two of the four commissioners left in 2011. The General Counsel, who was the Acting Executive Director, also left EAC in May 2012. The Chief Operating Officer became the Acting Executive Director after the General Counsel left in May 2012. The General Counsel and the Executive Director's positions are currently vacant.

Fiscal Year	Enacted Appropriations	Salaries & Expenses (S&E) Operations Portion of the Appropriations
2009	\$123,959,000	\$12,909,000
2010	\$92,959,000	\$13,409,000
2011	\$13,267,000	\$13,024,000
2012	\$11,500,000	\$8,750,000

Table 3 – EAC Appropriations⁴

OBJECTIVES, SCOPE, AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on the audit objectives. Because of inherent limitations, a study and evaluation made for the limited purposes of our review would not necessarily disclose all weaknesses in EAC's procurement and acquisition process.

The objectives of our performance audit were to determine whether the EAC Office of Procurement Services and Commission-Wide contract management functions:

1. Procured supplies and services in an efficient and effective manner and in compliance with applicable laws, regulations, policies, and procedures;
2. Developed internal bulletins, directives, policies and procedures that comply with applicable laws and regulations and are used to direct procurement activities throughout the Commission;
3. Reported accurately its procurement statistics to the General Services Administration via Federal Procurement Data system next Generation (FPDS-NG);
4. Received the goods and services in accordance with contract terms;
5. Used procurement information to manage procurement operations effectively and efficiently;
6. Closed contracts in a timely manner;
7. Established effective internal controls with regard to procurement and contract monitoring; and,
8. Documented and assessed its acquisition processes, procedures, and management controls in accordance with the Federal Manager's Financial Integrity Act (FMFIA).

The scope of our audit covered procurement activities between October 1, 2008 and September 30, 2012. Our audit was limited to contracts, purchase orders, blanket purchase agreements, and inter-agency agreements. Also, our scope includes awards made prior to the start of our audit period and was either outstanding or closed during the audit period. Our audit excluded awards made for the Office of the Inspector General and transactions with the NIST.

⁴ Source of information: Appendix A, The U.S. Election Assistance Commission, Fiscal Year 2012, Interim Annual Performance Report, dated April 10, 2013, <http://www.eac.gov>. CLA did not audit these values and did not perform additional procedures to determine whether these values are materially correct.

We noted during our audit that procurements made prior to July 1, 2012 were tracked manually and accounting information was manually submitted to the accounting services provider for recording. The accounting services provider could not generate a procurement report we requested. Accordingly, we received procurement reports/spreadsheets (including a handwritten list) that came from different sources. These reports were not and could not be tied or reconciled to EAC's financial records. In addition, we identified many critical exceptions that made us question the procurement data's reliability and completeness in these reports/spreadsheets. The question of reliability and completeness resulted in a limitation in performing the scope of our audit. We could not obtain reasonable assurance on the completeness and reliability of the procurement population and the dollar amounts for the audit period.

Irrespective of our audit scope limitation discussed above, we judgmentally selected 20 procurement documents from the reports/spreadsheet to test for internal control and compliance with EAC procurement policies and procedures and/or the Federal Acquisitions Regulations (FAR).

Our audit methodology included the following:

- Issued a document request list detailing the information needed for the audit.
- Reviewed EAC policies and procedures and other documentation to gain an understanding of the procurement and acquisition activities.
- Identified and interviewed key individuals with responsibility over the procurement functions (acquisition, awarding, recording, and reporting), including those of shared service providers.
- Evaluated existing work performed by the EAC, the OIG or third parties, if any.
- Performed on-site visit to BPD office in West Virginia to obtain understanding of the services they provide to EAC, and to test internal control and a sample of procurement contracts maintained by BPD.
- Coordinated administrative, technical and key logistical aspects of the audit with OIG.
- Assessed the risks of noncompliance with applicable laws and regulations.
- Assessed EAC's internal controls related to procurement processes.
- Tested EAC's significant internal and compliance controls with applicable laws and regulations to determine whether those controls are operating effectively to mitigate any identified risk.
- Reviewed EAC's documentation supporting management's assessment of its acquisition processes, procedures, and management controls in accordance with FMFIA.
- Issued NFRs to EAC and discussed results with EAC and OIG.

AUDIT RESULTS

CONCLUSION:

Our audit found that EAC had policies and procedures but had not always adhered to these policies and procedures in its procurement of goods and services. In addition, the results of our audit disclosed internal control weaknesses in the implementation, summarization, and reporting of the procurement activities. EAC's continued decline in its annual appropriation funding over the years; the uncertainty of its continuing existence as an agency; its loss of employees and inability to replace them; and the absence of sustained strong leadership greatly contributed to the causes of our findings.

Table 4 is a summary of the audit objectives and the audit results:

Audit Objectives	Audit Results
1. Procured supplies and services in an efficient and effective manner and in compliance with applicable laws, regulations, policies, and procedures	1. Objective not met. See Audit Findings 1 and 2.
2. Developed internal bulletins, directives, policies and procedures that comply with applicable laws and regulations and are used to direct procurement activities throughout the Commission	2. Objective partially met. EAC has developed internal bulletins, directives, policies and procedures that comply with applicable laws and regulations. However, they were not consistently used to direct the procurement activities throughout the Commission. See Audit Finding 2.
3. Reported accurately its procurement statistics to the General Services Administration via Federal Procurement Data system next Generation (FPDS-NG)	3. Objective not met. See Audit Finding 2.
4. Received the goods and services in accordance with contract terms	4. Objective met.
5. Used procurement information to manage procurement operations effectively and efficiently	5. Objective not met. See Findings 1 and 2.
6. Closed contracts in a timely manner	6. Objective not met. See Finding 2
7. Established effective internal controls with regard to procurement and contract monitoring	7. Objective not met. See Findings 1, 2, and 3.
8. Documented and assessed its acquisition processes, procedures, and management controls in accordance with the Federal Manager's Financial Integrity Act (FMFIA)	8. Objective not met. See Finding 3.

Table 4 – Summary of Audit Objectives and the Audit Results

AUDIT FINDINGS:

Finding 1: Inaccurate and Incomplete Procurement Files and Records

During the audit period, EAC's procurement functions were performed and managed by different entities as explained in the Background section. EAC procurement processes and the transitions were not designed properly and implemented effectively. EAC could not provide procurement reports that could be tied back to its accounting records. We questioned the reliability and completeness of the procurements reports and records provided to us as explained below. Due to EAC's incomplete, inaccurate and poor procurement records, the departure of procurement personnel, and the changes in the entities providing procurement services to EAC, we also could not validate some verbal and written representations with the information provided to us. The reliability of financial information is diminished without proper internal controls to ensure the completeness and accuracy of the information.

Our audit also found that EAC did not have a process to track the procurement and award activities prior to July 1, 2012, when BPD began providing procurement services using PRISM. Prior to BPD, EAC's procurement transactions were submitted to GSA on a transmittal to be recorded in GSA's accounting system. This manual process created issues with tracking EAC's procurement transactions and EAC could not provide a history of procurement transactions from October 1, 2008 to June 30, 2012 from the financial system.

BPD prepared an inventory report of the procurement files they took over during the transition. We obtained the inventory report but were notified by EAC that the BPD inventory report was incomplete and did not reconcile to its procurement information.

In addition to the procurement inventory report prepared by BPD, we received procurement reports/spreadsheets that came from different sources. These reports were not and could not be tied or reconciled to EAC's financial records. In addition, we identified many critical exceptions that made us question the procurement data's reliability and completeness in these reports/spreadsheets. The question of reliability and completeness resulted in a limitation in performing the scope of our audit with regards to the procurement population and the dollar amounts. Listed below are details of the exceptions we identified:

1. EAC provided a handwritten list of procurement and financial transactions by ACT⁵ numbers. We identified the following problems with the handwritten list:
 - a. Missing ACT numbers in the sequence.
 - b. The handwritten list consisted of procurement and financial transactions. This resulted in difficulties extracting the procurement transactions.
 - c. The handwritten information was difficult to read, which lead us to question the integrity and accuracy of the data.
 - d. Some transactions did not have dollar amounts.
2. A second document provided by EAC was a spreadsheet. We found the following issues with this spreadsheet:
 - a. The spreadsheet only covered activities through 1/03/2012.
 - b. The spreadsheet was developed and populated with procurement information by former EAC staff. The CFO explained that information from hard copy procurement files were

⁵ ACT number is a GSA numbering system used to track the sequence of financial transactions.

- entered into the spreadsheet by staff and the entries are spot check by the CFO for accuracy. The spot checks performed by the CFO were not documented, thus, we are unable to verify implementation of this internal control activity.
- c. The spreadsheet has limited information and also included items outside of our audit scope.

GAO *Standards for Internal Control in the Federal Government* states that “control activities are the policies, procedures, techniques, and mechanisms that enforce management directives. They include a wide range of diverse activities such as approvals, authorizations, verifications, reconciliations, performance reviews, maintenance of security, and the creation and maintenance of related records which provide evidence of execution of these activities as well as appropriate documentation. Control activities may be applied in a computerized information system environment or through manual processes. Some examples of control activities include proper execution of transactions and events, accurate and timely recording of transactions and events, and appropriate documentation of transactions and internal control, and controls over information processing.” Controls over information processing include edit checks of data entered, accounting for transactions in numerical sequences, and comparing file totals with control accounts.

Recommendations:

We recommend that EAC management:

1. Going forward, obtain and review BPD procurements report on a monthly or quarterly basis depending on the level of procurement activity to ensure the accuracy and completeness of the report.
2. Evaluate the risks, costs and benefits of reconciling their internal procurement documents with the BPD procurement inventory report prepared in July 2012. EAC should document its conclusion after its evaluation and obtain written approval of its decision from those charged with governance.

EAC Management Response:

1. This recommendation has been addressed through the process currently in effect. Further, EAC staff is able to retrieve financial reports from Discoverer Viewer.
2. EAC has reconciled internal procurement documents with the BPD inventory report for Fiscal Years 2010, 2011, and 2012 and any discrepancies were shared with BPD staff. EAC’s intent is to reconcile FY 2009 as well. EAC continues the process of reconciling internal tracking reports with documents scanned by BPD. EAC has also asked BPD to review the scanned procurement files to ensure they are labeled accurately. Any documents believed to be missing from the inventory are being sent to BPD.

CLA Final Comment:

Based on the response provided, EAC management agree with the recommendations and is in the process or has already made the necessary changes to comply with the recommendation. However as of this report date we have not audited the responses of EAC management and therefore we do not provide any conclusions on them.

Finding 2: Non-Compliance with Federal Acquisition Regulation (FAR) and EAC Procurement Handbook

Our audit found that EAC was not in compliance with certain requirements in FAR and it’s Procurement Handbook. It did not have oversight in place to ensure that the procurement transactions performed by

COs were in accordance with the FAR and the EAC Procurement Handbook. As a result, we noted errors and other improper practices performed by the COs that went undetected or unmitigated as explained below. There is a risk that procurement activities performed in this period may not be properly supported and documented. Also, incomplete and untimely submission of contract information to the FPDS-NG may have provided inaccurate information to users (EAC and other Federal agencies) that rely on such statistics to make subsequent procurement decision.

We selected a judgmental sample of 20 procurement transactions/contracts from October 1, 2008 through September 30, 2012 to test for compliance with certain criteria in FAR and the EAC Procurement Handbook. The two tables below show the different types of procurement instrument and amount, and the procurement classification and award mechanism of the sample tested.

Number of Sample	Procurement Instrument	Award Amount
1	Indefinite delivery/Indefinite Quantity (IDIQ)	\$25,000
1	Blanket Purchase Order (BPA)	38,733
12	Delivery Order	1,131,581
4	Purchase Order	747,751
2	Interagency Agreement	616,370
20	Total Contracts/Agreements Tested	\$ 2,559,435

Table 5 –Audit Sample by Procurement Instrument and Award Amount

We further broke down in Table 6 our audit sample in Table 5 between “Above” and “Below” the Simplified Acquisitions.

Procurement Classification	Award Mechanism	Sample Count
Above Simplified Acquisitions Threshold (\$100K prior to October 1, 2010 and \$150K after)	Federal Supply Schedule	5
	Interagency Agreement	1
Below Simplified Acquisitions Threshold (\$100K prior to October 1, 2010 and \$150K after)	Federal Supply Schedule	9
	Interagency Agreement	1
	Sole Source	4
Total Contracts/Agreements tested		20

Table 6 - Audit Sample by Procurement Classification and Award Mechanism

We noted the following instances of noncompliance in our test of the 20 sample items:

- Five of the six contracts above the simplified acquisition threshold did not have evidence of an acquisition plan documented for the procurement as required by EAC Procurement Handbook and FAR 7.102. Four of the five contracts were awarded by the EAC CO, and the fifth contract was awarded by the CO from ITC.
- Two of the four sole source contracts did not have evidence of the approved “Justification for Other than Full and Open Competition (JOFOC)” as required by FAR 6.303-1. The two contracts were awarded by the ITC CO.
 - In one of the two sole source contracts with exception, we noticed that the sample item was classified as a Sole Source contract. However, there were two quotes from two vendors in the contract file. There was no justification in the file to support the selection of the higher priced vendor which is required to be documented in either a justification for a sole source award, justification for other than full and open competition or other approved source selection criteria.
 - In the other sole source contract with exception, the contract was awarded to a single vendor with no evidence of competition and no justification of other than full and open competition in the contract file.

The EAC Procurement Handbook (pg. 8) states that “You must perform acquisition planning and market research for all acquisitions over \$100,000, in order to promote and provide for full and open competition to the maximum extent possible and to ensure that your needs are met most effectively, economically, and in a timely manner.”

Additionally, the EAC Procurement Handbook (pg. 16) states that “Federal Law requires the use of competitive procedures to obtain supplies and services. If you want to use other than full and open competition, you must justify that decision and get written approval.”

FAR 6.303-1 states that “A contracting officer shall not commence negotiations for a sole source contract, commence negotiations for a contract resulting from unsolicited proposal, or award any other contract without providing for full and open competition unless the contracting officer – (1) justifies the use of such actions in writing.”

FAR 7.102 states that “Agencies shall perform acquisition planning and conduct market research for all acquisitions in order to promote and provide for—

- Full and open competition or, when full and open competition is not required in accordance with Part 6, to obtain competition to the maximum extent practicable, with due regard to the nature of the supplies or services to be acquired; and
 - Selection of appropriate contract type in accordance with part 16.”
- Four of the six contracts in Table 6 which were contracts above the simplified acquisition threshold were not closed-out properly and/or timely.

- For three of the four contracts, we found BPD memos on the contract files dated April 5, 2012 to close-out the contract. These contracts were not closed out within six months after the final invoices were paid.
- One of the four contracts showed a disbursement made after the contract closed-out date in the contract file.

FAR 4.804 Closeout of contract files. FAR 4.804-1 Closeout by the office administering the contract, states that:

(a) Except as provided in paragraph (c) of this section, time standards for closing out contract files are as follows:

(2) Files for firm-fixed-price contracts, other than those using simplified acquisition procedures, should be closed within 6 months after the date on which the contracting officer receives evidence of physical completion.

- Seven of the 20 contracts/agreements we tested did not have a Contract Action Report (CAR) for either the base award or contract modification as shown in Table 7, Column 1. A CAR is required to be submitted through the FPDS-NG whenever there is a contract award or contract modification per FAR 4.603(b). Out of the seven contracts, four were awarded by the EAC CO and three were awarded by the ITC CO.
- Eleven of the 20 contracts/agreements we tested showed that CARs were not submitted timely. See Table 7, Column 2. Consequently, updates to the FPDS-NG were not made within three business days after the contract award/modification date as required by FAR 4.604b (2). Out of the eleven contracts, nine were awarded by the EAC CO and two were awarded by the ITC CO.

Sample Item No.	Column 1: Missing CAR (No evidence of contract activity updated in the FPDS)		Column 2: Untimely submission of CAR (Update to the FPDS was not performed timely)	
	Base Award	Modification	Base Award	Modification
1	Yes	Yes		
2			Yes	Yes
3			Yes	
4			Yes	
5			Yes	
6			Yes	
7	Yes			
8	Yes			
9	Yes			
11		Yes	Yes	
12	Yes	Yes		
13			Yes	
16			Yes	
17	Yes			
18			Yes	
19			Yes	
20			Yes	
Total	7 sample items with exceptions		11 sample items with exceptions	

Table 7 – Exceptions Related to Missing CARs or Untimely Submission of CARs (Represented by Yes)

FAR 4.603b states that “Executive agencies shall use FPDS-NG to maintain publicly available information about all unclassified contract actions exceeding the micro-purchase threshold, and any modifications to those actions that change previously reported contract action report data, regardless of dollar value.”

FAR 4.604b (2) states that “The CAR must be confirmed for accuracy by the contracting officer prior to release of the contract award. The CAR must then be completed in FPDS within three business days after the contract award.”

Recommendations:

We recommend that EAC management:

3. Coordinate its procurement needs with BPD to ensure that an acquisition plan is properly developed and documented in the contract.
4. Coordinate with BPD to ensure that accurate and complete contract activity (award, modification, sole source justification and verification of fund availability) are approved and maintained in the contract file.
5. Coordinate with BPD to ensure that accurate contract activity (award, modification) are properly documented in the FPDS in a timely manner and can be accessed for decision making purposes and to meet future audit requests.
6. Spot check contract files at BPD to ensure that they are performing its duties in accordance with the contract and the FAR. At a minimum, EAC should review the reports provided by BPD and conduct follow up meetings to discuss unexpected discrepancies.

EAC Management Response:

3. As a client agency of BPD, EAC follows their acquisition planning process. The annual acquisition amount awarded by BPD on EAC's behalf is approximately \$400,000 per year and nearly 90 percent of the funds are for approximately 15 recurring services.
4. EAC agrees with the recommendation. The award, modification and funds availability processes occur and are documented in PRISM. At the beginning of the procurement process, automated requisitions in PRISM are reviewed by the CFO for accuracy as well as funds availability before the requirement is forwarded to BPD. Any other than full and open competition requirements require justification from the Contracting Officer's Representative prior to award and are uploaded into the requisition documents. The specified contract activity listed above is available for review by EAC staff in PRISM.
5. EAC agrees with the recommendation and will coordinate with BPD. Further, EAC staff will review agency data with FPDS for accuracy and timeliness.
6. EAC will continue to follow up with BPD on unexpected discrepancies. Further, the agency will request contract files from BPD during each year for spot checks.

CLA Final Comment:

Based on the response provided, EAC management agree with the recommendations provided and has either already established a process to be compliant with the recommendations through the use of the BPD PRISM system or is in the process of implementing the necessary changes to ensure the accurate and timely reporting of procurement data. However, as of this report date we have not audited the responses of EAC management and therefore we do not provide any conclusions on them.

Finding 3: Compliance with Federal Managers Financial Integrity Act (FMFIA), Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Internal Control* (OMB Circular A-123), and EAC Policy and Procedures

We were not able to obtain assurance that the six key internal control processes listed below and identified in EAC's Internal Control Policy were performed or that EAC adequately identified and addressed the risks associated with the procurement process on a periodic basis as required by the FMFIA. Failure to assess the risks and conduct periodic internal control reviews could have a significant impact on the way procurements were awarded, administered, and closed out.

The EAC CFO relied on a signed Risk Assessment and Statement of Assurance performed in FY 2011 by an ITC CO as support for the performance of an Internal Control Review. In reviewing the FY 2011 signed Risk Assessment from the ITC Acting Director; we did not find the CFO's signature evidencing a review was performed as required by the EAC policy. Although the CFO explained that a review was conducted, the documentation showing performance of the review could not be located.

Moreover, EAC was not able to provide supporting documentation for the latest Internal Control Review conducted by the Office of Procurement and Contracts for the four years covering from October 1, 2008 through September 30, 2012 and thus not meeting the three year period for conducting Internal Control Reviews as required in its Internal Control Policy. In addition, the CFO stated that the EAC CO who left in January 2011 performed a separate review in FY 2010. However, the CFO was not able to locate and provide the documentation supporting the risk assessment.

The FMFIA, Section 2 requires agencies to establish, maintain, and assess internal controls on an annual basis to ensure that agency programs and financial operations are performed effectively and efficiently. The OMB Circular A-123 (Revised) contains guidance for implementing FMFIA. OMB Circular A-123 requires agency's management to annually report on internal control, including a report on identified material weaknesses and corrective actions.

The EAC policy and procedures for compliance with OMB Circular A-123 require performance of six key internal control processes. These include (1) Office Risk Assessment, (2) Comprehensive Risk Analysis, (3) Internal Control Improvement Plan, (4) Internal Control Testing, (5) Internal Control Review, and (6) Statement of Assurance. The Office Risk Assessment, Internal Control Improvement Plan, and Internal Control Review are developed by designated operating plan manager at each of the administrative and program offices and summarized in the Statement of Assurance to be presented to the Executive Director (ED) or Chief Financial Officer (CFO) on a periodic basis.

The EAC Internal Control Policy states that "ED, CFO and Chief Operating Officer (COO) review and reach agreement to concur with the risk assessments prepared by Operating Plan Managers within their departments. The Department Head also provides support for internal control improvement projects managed within his or her department."

The EAC Internal Control Policy states that “Each operating plan manager should undergo an internal control review at least once every three years.”

Recommendation:

7. We recommend that EAC management maintain the documentation supporting its performance of risk assessments and internal control testing and review as required by its current policy. In addition, to provide documented evidence of the oversight of the process, the risk assessment performed by the designated operating plan managers should be reviewed and approved or signed by the EAC ED, CFO, and COO as required by the EAC Internal Control Policy.

EAC Management Response:

7. EAC agrees, and plans on creating a repository of internal control review documentation that resides outside of individual staff records beginning with the Fiscal Year 2013 Financial Statement Audit. Signature fields will be double-checked.

CLA Final Comment:

Based on the response provided, EAC management agree with the recommendations and is in the process of implementing the necessary changes to ensure that internal control review documentation is properly reviewed, complete, and maintained. However as of this report date we have not audited the responses of EAC management and therefore we do not provide any conclusions on them.

CLIFTONLARSONALLEN LLP

A handwritten signature in black ink that reads "CliftonLarsonAllen LLP". The signature is written in a cursive, flowing style.

Arlington, Virginia
May 12, 2013

APPENDIX A: AGENCY RESPONSE TO DRAFT AUDIT REPORT




U.S. ELECTION ASSISTANCE COMMISSION
1201 NEW YORK AVENUE, N.W., SUITE 300
WASHINGTON, D.C. 20005

MEMORANDUM

Date: August 13, 2013

To: Arnie Garza,
Assistant Inspector General for Audit

From: Alice Miller, 
Chief Operating Officer and Acting Executive Director

Subject: Agency Response to Draft Audit Report – Procurement Audit

Following, please find the Election Assistance Commission (EAC) response to recommendations made in the Draft Procurement Audit Report.

Recommendation 1. Going forward, obtain and review BPD procurements report on a monthly or quarterly basis depending on the level of procurement activity to ensure the accuracy and completeness of the report.

Management Response: This recommendation has been addressed through the process currently in effect. As you are aware, beginning July 1, 2012, the Election Assistance Commission (EAC) began use of the automated procurement system, PRISM. EAC initiates requisitions in PRISM, which are reviewed by the CFO for accuracy and funds certification. The approved requisitions go to the Bureau of the Public Debt (BPD) procurement office through the system. All actions in PRISM are recorded automatically into reports retrievable through PRISM, with information on document number, date, status (e.g., Requisitions Under Development, Solicitations status, Executed Awards), contracting officer, amount, and owner.

Further, EAC staff is able to retrieve financial reports from Discoverer Viewer. Each quarter, EAC financial staff generates and provides agency Contracting Officer's Representatives with open obligation reports for purposes of validating the status of the obligations, requesting deobligations, and providing accruals. The report fields include supplier name; document number; amounts obligated, billed and outstanding; and procurement end date.

Recommendation 2. Evaluate the risks, costs and benefits of reconciling their internal procurement documents with the BPD procurement inventory report prepared in July 2012. EAC should document its conclusion after its evaluation and obtain written approval of its decision from those charged with governance.

Management Response: EAC has reconciled internal procurement documents with the BPD inventory report for Fiscal Years 2010, 2011 and 2012 and any discrepancies were shared with BPD staff. EAC's intent is to reconcile FY 2009 as well. EAC continues the process of reconciling internal tracking reports with documents scanned by BPD. EAC has also asked BPD to review the scanned procurement files to ensure they are labeled accurately. Any documents believed to be missing from the inventory are being sent to BPD.

Recommendation 3. Coordinate its procurement needs with BPD to ensure that an acquisition plan is properly developed and documented in the contract.

Management Response: As a client agency of BPD, EAC follows their acquisition planning process. The annual acquisition amount awarded by BPD on EAC's behalf is approximately \$400,000 per year and nearly 90 percent of the funds are for approximately 15 recurring services.

Recommendation 4. Coordinate with BPD to ensure that accurate and complete contract activity (award, modification, sole source justification and verification of fund availability) are approved and maintained in the contract file.

Management Response: EAC agrees with the recommendation. The award, modification and funds availability processes occur and are documented in PRISM. At the beginning of the procurement process, automated requisitions in PRISM are reviewed by the CFO for accuracy as well as funds availability before the requirement is forwarded to BPD. Any other than full and open competition requirements require justification from the Contracting Officer's Representative prior to award and are uploaded into the requisition documents. The specified contract activity listed above is available for review by EAC staff in PRISM.

Recommendation 5. Coordinate with BPD to ensure that accurate contract activity (award, modification) are properly documented in the FPDS in a timely manner and can be accessed for decision making purposes and to meet future audit requests.

Management Response: EAC agrees with the recommendation and will coordinate with BPD. Further, EAC staff will review agency data within FPDS for accuracy and timeliness.

Recommendation 6. Spot check contract files at BPD to ensure that they are performing its duties in accordance with the contract and the FAR. At a minimum, EAC should review the reports provided by BPD and conduct follow up meetings to discuss unexpected discrepancies.

Management Response: EAC will continue to follow up with BPD on unexpected discrepancies. Further, the agency will request contract files from BPD during each year for spot checks.

Recommendation 7. We recommend that EAC management maintain the documentation supporting its performance of risk assessments and internal control testing and review as

required by its current policy. In addition, to provide documented evidence of the oversight of the process, the risk assessment performed by the designated operating plan managers should be reviewed and approved or signed by the EAC ED, CFO, and COO as required by the EAC Internal Control Policy.

Management Response: EAC agrees, and plans on creating a repository of the internal control review documentation that resides outside of individual staff records beginning with the Fiscal Year 2013 Financial Statement Audit. Signatures fields will be double-checked.

OIG's Mission

The OIG audit mission is to provide timely, high-quality professional products and services that are useful to OIG's clients. OIG seeks to provide value through its work, which is designed to enhance the economy, efficiency, and effectiveness in EAC operations so they work better and cost less in the context of today's declining resources. OIG also seeks to detect and prevent fraud, waste, abuse, and mismanagement in these programs and operations. Products and services include traditional financial and performance audits, contract and grant audits, information systems audits, and evaluations.

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