



Federal Election Commission

PERFORMANCE and
ACCOUNTABILITY REPORT

Fiscal Year 2013

Federal Election Commission
Performance and Accountability Report
(Reports Consolidation Act of 2000)
Fiscal Year 2013

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Released December 16, 2013

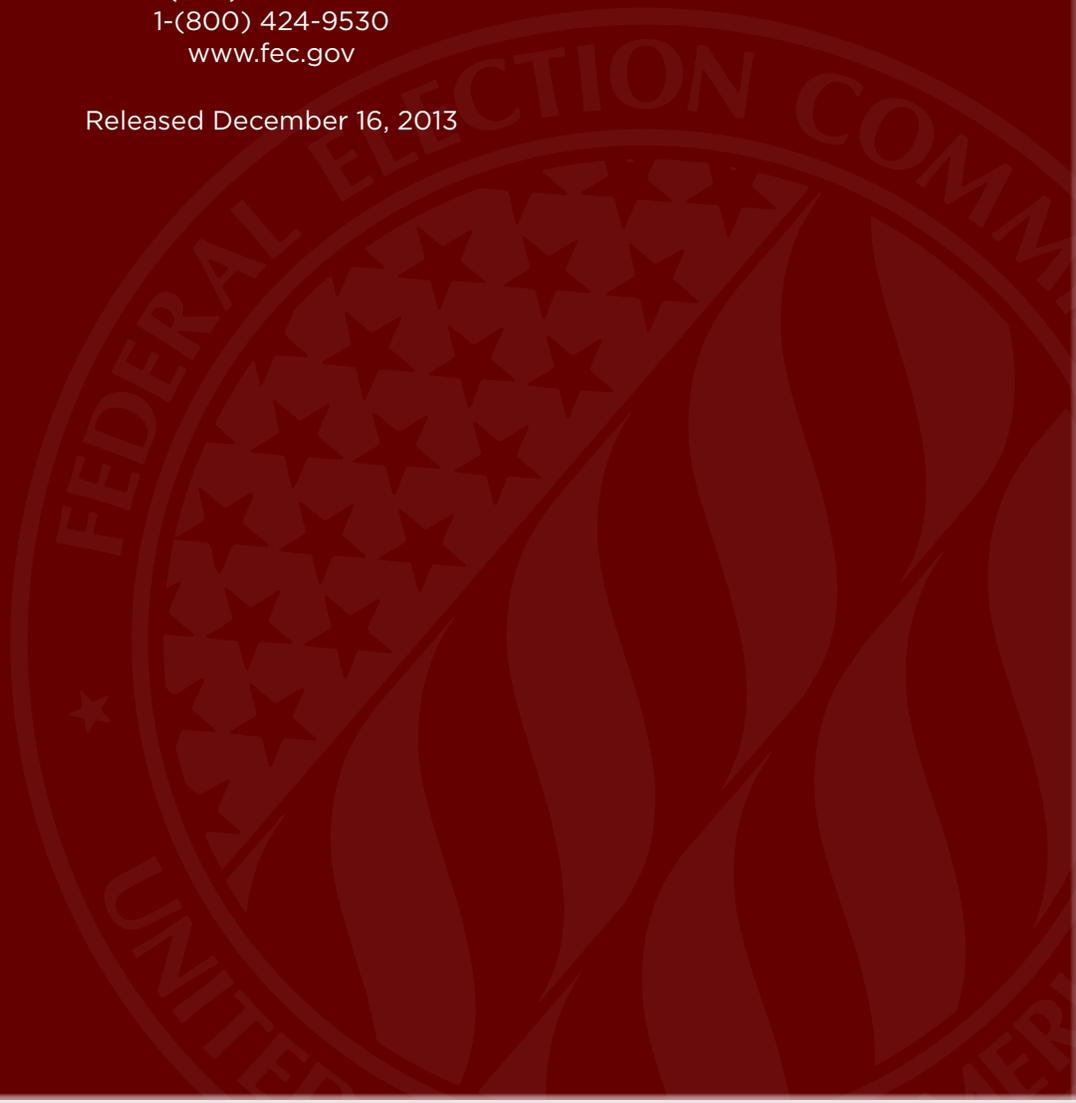


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Message From The Chair

December 16, 2013

I am pleased to present the Federal Election Commission's (FEC) *Performance and Accountability Report* (PAR) for Fiscal Year 2013 (FY 2013). The PAR reflects the agency's program performance and financial activities over the past year and demonstrates our continued commitment to administering the *Federal Election Campaign Act of 1971*, as amended (the Act).

The Commission received an unqualified opinion from its independent auditors with respect to the agency's FY 2013 annual financial statements. This unqualified opinion reflects the continued commitment by the Commissioners and FEC staff to ensure that the FEC's financial statements present fairly the agency's fiscal position.

As detailed in this report, the Commission took a number of steps during FY 2013 to ensure that it would be fully successful in its mission to receive and make public campaign finance reports filed with the agency. The FEC received 81,600 filed documents during FY 2013. Campaign finance reports and statements filed electronically are made available to the public on the FEC's website nearly instantaneously, and the agency met its statutory requirement to make all reports and statements filed on paper with the FEC available to the public within 48 hours of receipt. In addition, the agency has made a tremendous effort to place 24 and 48 hour reports of independent expenditure spending filed on paper available on the FEC website within one business day of receipt. The Commission has also augmented its program to help make data from these reports and other campaign finance information available in more accessible formats. For example, this year the FEC launched a new Press Office webpage that provides researchers, academics and the media improved tools for tracking and understanding detailed campaign finance information.

The Commission's educational outreach programs continued to earn high marks from the public during FY 2013. During this fiscal year, the FEC held a regional conference in Austin, Texas, and also hosted a series of one-day seminars and topic-based roundtable workshops at FEC headquarters. These programs were available simultaneously as webinars for online attendees as part of a program launched last year designed to reduce registration and travel costs for attendees. Also, during FY 2013, the FEC for the first time offered certain educational roundtables only as webinars.

The Commission completed action on 19 advisory opinion requests during FY 2013 to address questions regarding many areas of the law, including the implications of recent court cases, such as *United States v. Windsor*, which overturned section 3 of the *Defense of Marriage Act*. The Commission also issued an Advance Notice of Proposed Rulemaking on technological

modernization and a Notice of Proposed Rulemaking on limited liability partnerships. In addition, the Commission approved final rules and an Explanation and Justification for civil monetary penalties inflation adjustments, and issued an interpretive rule on reporting the ultimate payees of political committee disbursements.

The performance data described in the FEC's FY 2013 PAR were compiled and evaluated using the techniques described in this report for achieving the desired level of credibility for the verification and validation of performance data relative to its intended use, and I have no reason to doubt the completeness or reliability of our performance data.

The efforts described in this report reflect the hard work and dedication of the agency's staff. The Commission looks forward to building on its achievements in FY 2013 in order to fulfill the mission of the agency in the most efficient and effective manner possible.

On behalf of the Commission,



Ellen L. Weintraub



HOW TO USE THIS REPORT

This *Performance and Accountability Report* (PAR) presents comprehensive performance and financial information on the Federal Election Commission's (FEC or Commission) operations. The report was prepared pursuant to the *Accountability of Tax Dollars Act of 2002* and Office of Management and Budget (OMB) Circular A-136, revised, *Financial Reporting Requirements*, and covers activities from October 1, 2012 through September 30, 2013.

The FEC places a high importance on keeping the public informed of its activities. To learn more about the FEC and what the agency does to serve the American public, visit the FEC's website at <http://www.fec.gov>. To access this report, click on "About the FEC" and then "Plans, Performance and Budget."

The *FY 2013 Performance and Accountability Report* is organized into four sections:

Section I - Management's Discussion and Analysis (MD&A) provides an overview of the FEC. It describes our mission, organizational structure and regulatory responsibilities.

Section II - Performance Information summarizes the FEC's strategic goal and related objectives and provides a forward-looking discussion of future challenges.

Section III - Financial Information, including Auditor's Report, details the FEC's financial performance by 1) highlighting the agency's financial position and audit results and 2) describing the FEC's compliance with key legal and regulatory requirements.

Section IV - Other Accompanying Information includes our Inspector General's assessment of the FEC's management challenges and the FEC's response.



SECTION I Management's Discussion And Analysis

Section I.A: Mission And Organizational Structure

The Commission was created in 1975 as an independent regulatory agency to strengthen the integrity of the federal campaign finance process under the *Federal Election Campaign Act of 1971*, as amended ("FECA" or "the Act"). The Commission is also responsible for administering the public funding program for Presidential campaigns and nominating conventions under the *Presidential Election Campaign Fund Act* and the *Presidential Primary Matching Payment Account Act*.

The Act reflects Congress's efforts to ensure that voters are fully informed about the sources of candidates' financial support. Public confidence in the political process depends not only on laws and regulations to ensure transparency of campaign finance, but also on the knowledge that noncompliance may lead to enforcement proceedings.

The primary objectives of the FEC are 1) to facilitate transparency through public disclosure of campaign finance activity; 2) to encourage voluntary compliance with the Act by providing information and policy guidance to the public, media, political com-

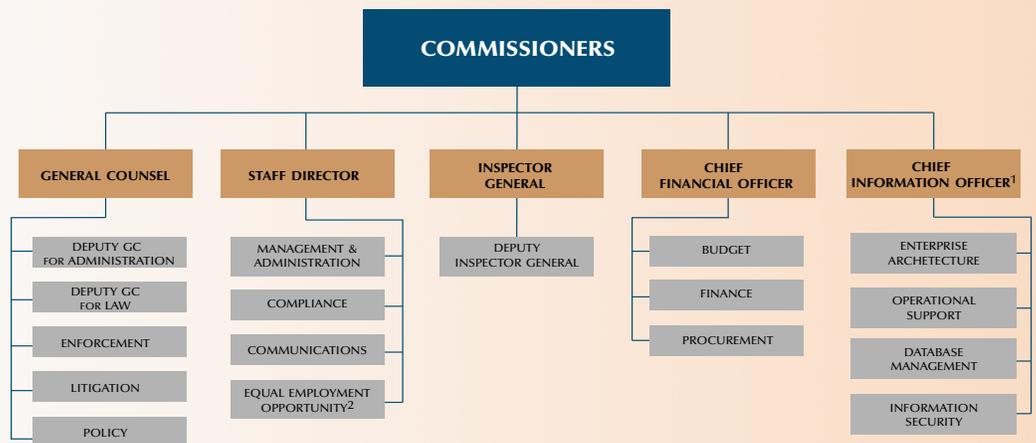
mittees and election officials on the FECA and Commission regulations and to enforce the statute through audits, investigations and civil litigation; 3) to develop the law by administering and interpreting the FECA as well as the *Presidential Election Campaign Fund Act* and the *Presidential Primary Matching Payment Account Act* and 4) to achieve management excellence.

How the FEC is Organized

Organization

To accomplish its legislative mandate, the FEC is directed by six Commissioners who are appointed by the President with the advice and consent of the Senate. By law, no more than three Commis-

FIGURE 1- FEC Organization Chart



¹ The position of the Chief Information Officer normally reports directly to the Staff Director who, in turn, reports to the Commission itself. At present, however, the same individual is serving in both the position of the Staff Director and the position of the Chief Information Officer, pursuant to an authorization by the Commission and based, in part, on an advance decision from the Comptroller General. Accordingly, the organizational chart reflects both positions – the Staff Director and the Chief Information Officer – as reporting directly to the Commission.

² The Director for Equal Employment Opportunity reports to the Staff Director on administrative issues but has direct reporting authority to the Commission on all EEO matters. See 29 CFR 1614.102(b)(4).

SECTION 1 - Management's Discussion And Analysis

sioners can be members of the same political party. Each member serves a six-year term and two seats are subject to appointment every two years. The Chairmanship of the Commission rotates among the members, with no member serving as Chair more than once during his or her term. The Commissioners meet regularly to formulate policy and to vote on significant legal and administrative matters. The Act requires at least four votes for the Commission to adopt any official action or policy, thus requiring bipartisan decision-making. The FEC has its headquarters in Washington, D.C. and does not have any regional offices.

The Offices of the Staff Director, General Counsel and Chief Financial Officer support the agency in accomplishing its mission. The Office of the Inspector General, established within the FEC in 1989 under the 1988 amendments to the *Inspector General Act*, is independent and reports to both the Commissioners and the Congress. The specific roles and responsibilities of each office are described in greater detail at <http://www.fec.gov/about/offices/offices.shtml>.

Disclosing Campaign Finance Information

Disclosing the sources and amounts of funds used to finance federal elections is one of the most important duties of the FEC. The public campaign finance reports are accessible through the FEC's website at <http://www.fec.gov/disclosure.shtml>. By making disclosure reports available online immediately after they are filed, the FEC provides the public with up-to-date information about the financing of federal elections and political committees' compliance with campaign finance law.

In addition to making campaign finance reports available to the public, the FEC works to ensure that the information disclosed is accurate and complete. The Office of Compliance's Reports Analysis Division (RAD) reviews all filed statements and financial reports to track compliance with the law and to ensure that the public record provides a full and accurate representation of campaign finance activity. Analysts provide frequent telephone assistance to filing entities who have reporting questions or compliance problems

and provide one-on-one assistance through "Reporting Roundtables" and webinars.

If RAD identifies an error, omission, need for additional clarification or possible prohibited activity, a request for additional information (RFAI) is sent to the committee, affording the committee an opportunity to correct the public record, if necessary. If the committee is able to resolve the issues, it may avoid further Commission action. Should the committee not sufficiently address the issues cited in the RFAI, the FEC may initiate an audit, begin an enforcement action or utilize alternative dispute resolution to remedy the apparent violation.

RAD makes its determinations for sending RFAIs and referring a committee for further action based on Commission-approved thresholds contained in the RAD Review and Referral Procedures. This and other documents describing the agency's policies and procedures were made public, subject to limited redactions, following an oversight hearing on November 3, 2011 before the Subcommittee on Elections of the House of Representatives Committee on House Administration.

Encouraging Compliance through Education

Helping the filing community understand its obligations under federal campaign finance law is an essential component of voluntary compliance. The FEC, through its Office of Communications, places a significant emphasis on encouraging compliance. The Office of Communications consists of the following offices/divisions: 1) Information Division, 2) Public Disclosure Division, 3) Press Office and 4) the Office of Congressional, Legislative and Intergovernmental Affairs.

The Commission's website is its most important source of instantly accessible information about the Act, Commission regulations and Commission proceedings. Members of the public can use the website to track Commission rulemakings; search advisory opinions, completed audits and closed enforcement matters; view campaign finance data; and find reporting dates.

The Commission encourages voluntary compliance through outreach programs. The FEC hosts

instructional conferences and seminars in Washington, D.C. and in other cities across the country, where Commissioners and staff explain the Act's requirements to candidates and political committees. These conferences specifically address recent changes in campaign finance law and focus on fundraising and reporting regulations. Additionally, Commission staff meet with political committees upon request and respond to telephone inquiries and written requests from those seeking information about the law and assistance in filing disclosure reports. The Commission recently added webinars to its outreach program. These online workshops, along with other enhancements, have made the program more cost effective for the agency and more affordable for candidates and committees who attend conferences and seminars.

Enforcing the FECA

The Commission's statutory obligation is to administer, interpret and enforce the *Federal Election Campaign Act*, which serves the compelling governmental interest in deterring corruption and the appearance of corruption in financing elections. In doing so, the Commission remains mindful of the First Amendment's guarantees of freedom of speech and association, and the practical implication of its actions on the political process.

The FEC has exclusive jurisdiction over civil enforcement of federal campaign finance laws and consults with the U.S. Department of Justice, as appropriate, on matters involving both civil and criminal enforcement of the Act. Commission enforcement actions, which are handled primarily by the Office of General Counsel (OGC), originate from a number of sources, including external complaints, referrals from other government agencies and matters generated by information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities.

To augment OGC's traditional enforcement role, the Office of Compliance manages several programs that seek to remedy alleged violations of the Act and encourage voluntary compliance. These programs include: 1) the Alternative Dispute Resolution Program, 2) the Administrative Fine Program and 3) the Audit Program. The Commission's Alternative Dispute Resolution Pro-

gram is designed to resolve matters more swiftly by encouraging the settlement of less-complex enforcement matters via a streamlined process that focuses on remedial measures for candidates and political committees, such as training, internal audits and hiring compliance staff. Violations involving the late submission of, or failure to file, disclosure reports are subject to the Administrative Fine Program. This Program is administered by RAD and the Office of Administrative Review (OAR), which assess monetary penalties and handle challenges to the penalty assessments. Finally, the Audit Program conducts mandatory audits under the public funding statutes and performs "for cause" audits under the FECA in those cases where political committees have failed to meet the threshold requirements for demonstrating substantial compliance with the Act. Threshold requirements approved by the Commission and used by the Audit Division are public, subject to limited redactions, following an oversight hearing on November 3, 2011 before the Subcommittee on Elections of the House of Representatives Committee on House Administration.

If the Commission cannot settle or conciliate a matter involving an alleged violation of the Act, the Commission may initiate civil litigation by filing and prosecuting a civil action in federal district court to address the alleged violation.

Interpreting and Developing the Law

The Commission responds to questions from the public about how the Act applies to specific situations by issuing advisory opinions (AOs). In addition, Commission initiatives, Congressional action, judicial decisions, petitions for rulemaking or other changes in campaign finance law may necessitate that the Commission update or adopt new regulations. Consequently, the FEC undertakes rulemakings either to write new Commission regulations or revise existing regulations.

Funding Presidential Elections

The Commission's responsibilities also include administering the public funding of Presidential elections, as provided in the *Presidential Election Campaign Fund Act* and the *Presidential Primary Matching Account Act*. The program is funded by taxpayers who voluntarily check off the \$3 des-

SECTION 1 - Management's Discussion And Analysis

ignation for the Presidential Election Campaign Fund on their income tax returns. Through the public funding program, the federal government provides 1) matching funds to candidates seeking their party's Presidential nomination, 2) grants to Presidential nominating conventions and 3) grants to Presidential nominees for their general election campaigns.

Under the Presidential public funding program, the Commission 1) determines a candidate's eligibility to participate in the program, 2) certifies the amount of public funds to which the candidate or convention committee is entitled and 3) conducts a thorough examination and audit of the qualified campaign expenses of every recipient of payments under the program.

Managing Human Capital Strategically and Effectively

The Commission understands that its greatest resource is its employees. During FY 2013, the FEC developed a draft Strategic Plan, FY 2014-2019, which includes an agency-wide management objective of fostering a culture of high performance. This objective reflects the agency's strategic priorities for improving the efficiency and effectiveness of its workforce and management processes. A focus for the FEC in FY 2014 will be to better identify high-performing employees and ensure that they are recognized for their contributions. At the same time, the agency must appropriately devote resources to improving performance where improvement is needed.

In an effort to achieve the above goals, the FEC revised its performance appraisal system based on OPM's recently revised requirements for Senior Executives.¹ In late FY 2013, the FEC began transitioning its Senior Leaders and managers to the new performance system by aligning individual performance goals with the objectives of the FEC's new strategic plan. This new system will hold leaders accountable for meeting performance targets set by the Commission. The agency is working with the Labor Management Forum to complete the transition in stages, ensuring

that every employee—bargaining unit and non-bargaining unit staff members—understands and is accountable for his or her part in achieving the agency's success.

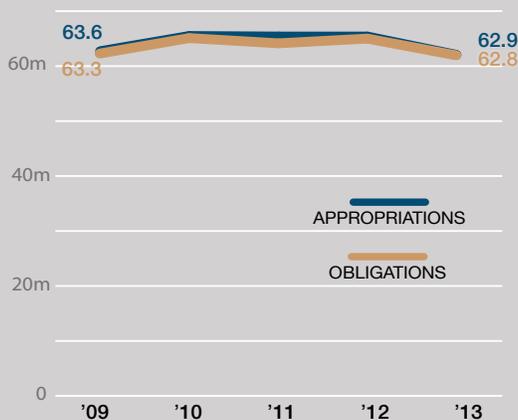
Sources of Funds

The FEC receives a single, annual appropriation for Salaries and Expenses. In FY 2013, the FEC's authorized funding level included an appropriation of \$66,367,000 reduced by an across-the-board 0.2 percent rescission of \$132,734 and a sequestration amount of \$3,338,658. The net funding level was \$62,895,608. During FY 2013, \$167,000 in FY 2012 funds remained available for spending. The FEC also has the authority to collect fees from attendees of agency-sponsored educational conferences. The Commission uses those fees to defray the costs of conducting those conferences. In an effort to keep the fees as low as possible, the agency has not fully exercised that authority. Rather, the Commission sets its registration fees at a level that covers only the costs incurred by the agency's conference-management contractor, including meeting room rental and conference meals and compensation. All other conference-related expenses, such as materials and staff travel, are paid using appropriated funds. Registration fees for FY 2013 were \$89,060.

¹ The FEC achieved OPM approval for these revisions in June 2013.

Figure 2 shows the agency's appropriations and obligations from FY 2009 to 2013.

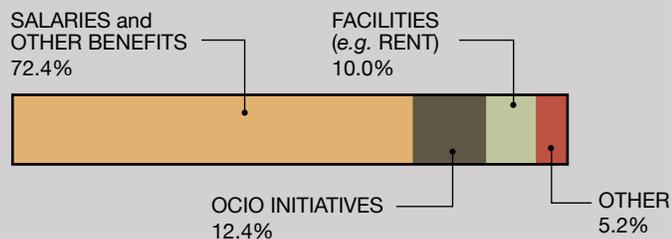
FIGURE 2 – SUMMARY OF FUNDING²
(in millions of dollars)



Personnel vs. Non-Personnel Costs

Figure 3 represents the Commission's FY 2013 obligations by personnel and non-personnel costs. Personnel costs comprised 72 percent of the FEC's costs; the remaining 28 percent was spent primarily on infrastructure and support, including software and hardware, office rent, building security and other related costs.

FIGURE 3 – FISCAL YEAR 2013 BY MAJOR CATEGORY



² In FY 2013, the FEC's authorized funding level included an appropriation of \$66,367,000 million reduced by an across-the-board 0.2 percent rescission of \$132,734 and a sequestration amount of \$3,338,658. The net funding level was \$62,895,608

Section 1.B: FEC Performance Goals, Objectives And Results

Summary of Significant Performance Results

This section provides a summary of the results of the FEC's key performance objectives, which are discussed in greater detail in Section II of this report.

The FEC's strategic framework consists of a mission statement supported by a single, overarching strategic goal, which is: To protect the integrity of the federal campaign process by providing transparency, enforcing contribution restrictions and fairly administering the FECA and related statutes. To help the Commission achieve its goal, it established the following four objectives:

Transparency – Receiving Accurate and Complete Campaign Finance Disclosure Reports and Making Them Available to the Public

Compliance – Education and Enforcement

Development of the Law – Interpreting, Administering and Defending the Act

Manage Human Capital Strategically and Effectively – Fostering a Results-Oriented Culture

The following table provides a summary of the Commission's actual results of its performance measures, from FY 2008 through FY 2013, along with the targets set by the strategic plan. Note that in December 2011 the Commission approved an addendum to its Strategic Plan 2008-2013 that adds a fourth objective and extends the plan through FY 2014. Results for performance measures under Manage Human Capital Strategically and Effectively are described in detail in section 2.D. This Performance and Accountability Report represents the FEC's final performance report under the performance measures and targets outlined in its Strategic Plan, FY 2008-2013. The FEC has completed a new Draft Strategic Plan for FY 2014-2019. That plan will be finalized and take effect in early 2014.

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	PERFORMANCE MEASURE	TARGET	FY 2008 ACTUAL	FY 2009 ACTUAL	FY 2010 ACTUAL	FY 2011 ACTUAL	FY 2012 ACTUAL	FY 2013 ACTUAL
STRATEGIC OBJECTIVE A: TRANSPARENCY								
1.	Process reports within 30 days of receipt as measured quarterly	95%	91%	78%	91%	71%	94%	88%
2.	Meet the statutory requirement to make reports and statements filed on paper with the FEC available to the public within 48 hours of receipt	100%	100%	100%	100%	100%	100%	100%
STRATEGIC OBJECTIVE B: COMPLIANCE								
3.	Conduct educational conferences and host roundtable workshops on the campaign finance law each election cycle, achieving a mean satisfaction rating of 4.0 on a 5.0 scale	100%	100%	100%	100%	100%	100%	100%
4.	Issue press releases summarizing completed compliance matters within two weeks of a matter being made public by the Commission	100%	22%	63%	98%	100%	100%	100%
5.	Issue press releases containing summaries of campaign finance data quarterly	100%	100%	75%	75%	75%	75%	75%
6.	Process enforcement cases within an average of 15 months of receipt	100%	66%	76%	75%	89%	70%	72%
7.	Process cases assigned to Alternative Dispute Resolution within 155 days of a case being assigned	75%	64%	26%	64%	84%	51%	59%
8.	Process reason-to-believe recommendations for the Administrative Fine Program within 60 days of the original due date of the subject untimely or unfiled report	75%	79%	84%	100%	100%	100%	91%
9.	Process the challenges in the Administrative Fine Program within 60 days of a challenge being filed	75%	14%	60%	100%	77%	90%	93%

1 Note that the FEC now issues press releases summarizing campaign finance data three times per fiscal year, rather than on a quarterly basis.

PERFORMANCE MEASURE	TARGET	FY 2008 ACTUAL	FY 2009 ACTUAL	FY 2010 ACTUAL	FY 2011 ACTUAL	FY 2012 ACTUAL	FY 2013 ACTUAL
10. ² Conclude non-Presidential audits with findings in an average of ten months, excluding time delays beyond the Commission's control, such as subpoenas and extension requests	100%	95%	12%	60%	26%	27%	0%
11. ² Conclude non-Presidential audits with no findings in an average of 90 days from beginning of fieldwork	100%	100%	0%	100%	67%	100%	N/A
12. ² Conclude Presidential audits in an average of 24 months of the election, excluding time delays beyond the Commission's control, such as subpoenas and extension requests	100%	N/A	100%	100%	0%	0%	0%

STRATEGIC OBJECTIVE C: DEVELOPMENT OF THE LAW

13. ³ Complete rulemakings within specific time frames that reflect the importance of the topics addressed, proximity to upcoming elections and externally established deadlines	100%	50%	83%	50%	N/A	N/A	N/A
14. ⁴ Issue all advisory opinions within 60-day and 20-day statutory deadlines	100%	97%	100%	100%	100%	100%	100%
15. ⁵ Issue expedited advisory opinions for time-sensitive highly significant requests within 30 days of receiving a complete request, or a shorter time when warranted	100%	60%	100%	N/A	100%	50%	N/A
16. Ensure that court filings meet all deadlines and rules imposed by the Courts	100%	100%	100%	100%	98%	97%	100%
17. Process public funding payments in the correct amounts and within established time frames	100%	100%	100%	N/A	100%	100%	100%

- 2 Note that in FY 2009 and 2010 the Commission adopted procedures that provide additional opportunities for audited committees to respond to potential findings, as well as more opportunities for the Commission to review audit reports prior to approval. The performance measures related to audits are revised in the agency's Draft Strategic Plan, FY 2014–2019.
- 3 There were no internally or externally established rulemaking deadlines requiring rulemakings to be completed by dates in FY 2013.
- 4 Four 60-day advisory opinions had extended deadlines.
- 5 In FY 2013 the Commission received no requests for expedited advisory opinions.

Section II of this report presents the FEC's Performance Report, which provides the annual program performance information submitted in accordance with the *Government Performance Results Act* in greater detail.

SECTION 1 - Management's Discussion And Analysis

Highlights of Performance Measures

Making the agency's vast quantity of campaign finance data retrievable, searchable and meaningful to the public remains a high priority for the Commission. As noted above, during FY 2013 the FEC met its performance target to make reports and statements filed on paper with the FEC available to the public within 48 hours of receipt. Reports filed via the FEC's electronic filing system are now made available to the public almost immediately after the reports are filed. In addition to ensuring that the campaign finance information the FEC receives is quickly made available to the public on the FEC website, during FY 2013 the agency continued to ensure that the information disclosed can be easily accessed and understood by the public. This year, the FEC redesigned and upgraded its Press Office web page to help researchers, academics and the media more easily find information on the Commission and campaign finance law and to locate statistical data. Using the new page, the public can access a Campaign Finance Statistics page that organizes financial summary tables by filer type, election cycle and reporting period, as well as a Useful Links page that provides quick access to the most sought-after information topics, including a new Statement of Candidacy list for 2016 Presidential candidates.

In order to better assist the public with understanding and meeting campaign finance reporting requirements, the Commission recently developed a RAD Brochure that includes an overview of the review process, as well as frequently asked questions about RFAs and other RAD processes, and tips for filers. In addition, the agency recently launched a new system for filers that allows committees to request or change an electronic filing password online. The new system automates the prior process of submitting password requests via fax or mail. Both of these changes make the agency's campaign filing process easier and more transparent to users.

The Commission made changes to the agency's educational outreach programs to provide more cost-effective training in an effort to provide the public with lower-cost and more easily accessible information about how to comply with the Act's disclosure rules and other requirements. In addi-

tion to its YouTube channel and E-Learning page, the FEC now offers live, interactive webinars to provide additional distance learning to the public at a fraction of the registration fee for on-site attendance and without the costs of travel. During FY 2013, the FEC began providing training through webinars that were produced separately from its other outreach programs. For example, the agency held two "Candidate 101: Preparing for the Next Election Cycle" roundtables provided solely via webinar. Offering such training in a webinar format lowers the FEC's costs in providing the training and frees attendees from costs associated with travel. Participation in the Candidate 101 training webinars exceeded expectations, with 60 individuals participating in the two events. This participation rate placed the Candidate 101 events among the agency's most popular candidate roundtables. The agency looks forward to expanding these efforts in the future.

The FEC responded to 19 advisory opinion requests during the year, providing requestors with guidance regarding the application of federal campaign finance law to specific factual situations. As noted in the chart above, the FEC met its performance goal of issuing all advisory opinions (AOs) during the year within the Act's 60-day and 20-day deadlines. Three of these AOs addressed the treatment of same-sex spouses under campaign finance law. For example, in AO 2013-7 (Winslow) the Commission considered FEC regulations that allow campaigns and other federal committees to accept contributions by each spouse even if only one spouse has an income. See 11 CFR 110.1(i). Prior to the Supreme Court's June 26, 2013 decision in *United States v. Windsor*, which overturned section 3 of the *Defense of Marriage Act* (DOMA), DOMA limited this provision of FEC regulations to apply only "to a person of the opposite sex who is a husband or a wife." Following the Supreme Court's decision, the Commission concluded that same-sex couples married under state law are "spouses" for the purposes of the Act and FEC regulations and, as a result, could each make federal political contributions even when only one spouse had an income.

The Commission also continued work on a number of rulemaking projects during FY 2013. The Commission issued an Advance Notice of Pro-

posed Rulemaking (ANPRM) on technological modernization and a Notice of Proposed Rulemaking (NPRM) on limited liability partnerships. In addition, the Commission approved final rules and an explanation and justification for civil monetary penalties inflation adjustments, and issued an interpretive rule on reporting the ultimate payees of political committee disbursements.

During FY 2013, the Commission met the performance goal for its litigation efforts, which was to meet the requirements and deadlines imposed by the courts on all of its filings. The Commission is currently defending against a number of significant challenges to Congressional authority to enact provisions of the Act. Two cases pending with the Supreme Court challenge the Act's aggregate contribution limits. The lead case, *McCutcheon v. FEC*, was argued on October 8, 2013. Another case, currently pending before the U.S. Court of Appeals for the D.C. Circuit (*Wagner v. FEC*), challenges the Congressional enactment of a prohibition on campaign contributions by federal contractors. Other significant cases pending in that Circuit include a challenge to Congress's decision to impose contribution and solicitation restrictions on corporations' separate segregated funds (*Stop This Insanity, Inc. v. FEC*) and a challenge to the Act's contribution limits in the context of bequests (*Libertarian National Committee v. FEC*).

Despite these successes, the FEC was challenged to meet a number of its performance measures during FY 2013, including measures related to the timely completion of audits and enforcement matters and the timely processing of campaign finance disclosure reports. While specific reasons for these lapses are described in the chart above and in Section II, it is important to note the negative effects that sequestration-level spending had on agency performance across all measures. During FY 2013, the FEC was subject to funding reductions that left the agency able to fill externally five of the 24 vacancies that occurred during the year. Current unfilled positions include the General Counsel, the Associate General Counsel for Litigation, the Associate General Counsel for Policy, the Chief Financial Officer and the Compliance Branch Chief for the Reports Analysis Division. At the same time, unfilled staff vacancies at all levels across the agency have negatively affected

the FEC's ability to meet its internal and reported performance targets. For example, the Reports Analysis Division anticipated meeting its workload with 36 campaign finance analysts, but ended the fiscal year with only 25 campaign finance analysts reviewing reports. In the Audit Division, one of six Audit Managers retired in late 2012 and has not been replaced. These staffing shortages were coupled with a reduction in contractor support and other resources that in many cases impeded the agency's ability to process its workload within established timeframes. Continued sequestration-level funding and the effects of the government-wide shutdown during the first 16 days of FY 2014 will leave the agency challenged to meet its performance targets during FY 2014 as well.

Section 1.C: Analysis Of FEC Financial Statements And Stewardship Information

The FEC's FY 2013 financial statements and notes are presented in the required format in accordance with OMB Circular A-136, as revised, *Financial Reporting Requirements*. The FEC's current-year financial statements and notes are presented in a comparative format in Section III of this report.

The following table summarizes the significant changes in the FEC's financial position during FY 2013:

NET FINANCIAL CONDITION	FY 2013	FY 2012	INCREASE/ (DECREASE)	% CHANGE
Assets	\$ 14,030,297	\$ 16,085,160	\$ (2,054,863)	-12.8%
Liabilities	\$ 5,851,011	\$ 7,328,045	\$ (1,477,034)	-20.2%
Net Position	\$ 8,179,286	\$ 8,757,115	\$ (577,829)	-6.6%
Net Cost	\$ 65,424,803	\$ 70,268,549	\$ (4,843,746)	-6.9%
Budgetary Resources	\$ 66,897,140	\$ 69,395,836	\$ (2,498,696)	-3.6%
Custodial Revenue	\$ 1,443,141	\$ 995,743	\$ 447,398	44.9%

The following is a brief description of the nature of each required financial statement and its relevance. The effects of some significant balances or conditions on the FEC's operations are explained.

Balance Sheet

The Balance Sheet presents the total amounts available for use by the FEC (assets) against the amounts owed (liabilities) and amounts that comprise the difference (Net Position). As a small independent agency, all of the FEC's assets consist of Fund Balance with Treasury (FBWT), Property and Equipment (P&E) and Accounts Receivable. Fund Balance with Treasury (e.g., cash) is available through the Department of Treasury accounts, from which the FEC is authorized to make expenditures (i.e., obligations) and payments. FBWT decreased by approximately \$3 million or

23.1 percent from the prior year as the result of the FY 2013 sequestration and rescission.

Accounts Receivable represent amounts due from the public for fines and penalties assessed by the FEC and referred to Treasury for collection, as deemed appropriate. In compliance with the *Debt Collection Improvement Act of 1996* (DCIA), the OCFO takes into consideration the most appropriate approach to debt management. These amounts are not available for FEC operations and are sent to the U.S. Treasury as miscellaneous receipts. Net accounts receivable increased by approximately \$10 thousand from FY 2012 to \$61 thousand.

Property and equipment consists of software, general-purpose equipment used by the agency and software development. In FY 2013, the FEC continued to evaluate existing systems and retired outdated software systems and has initiated a series of upgrades to existing systems to support regulated reporting requirements. Net property and equipment increased by \$1 million from FY 2012 to \$3.6 million. Liabilities decreased by approximately 20 percent, primarily as a result of fewer payroll days to accrue in FY 2103 as compared to FY 2012.

Statement of Net Cost

The Statement of Net Cost presents the annual cost of operating the FEC program. Gross costs are used to arrive at the total net cost of operations. The FEC's total appropriation in FY 2012 was \$66.4 million. In FY 2013, the FEC's appropri-

ated funds decreased by \$3.5 million to \$62.9 million. Approximately \$45.2 million, or 72 percent, of expenses were dedicated to personnel costs. Overall, net costs decreased by approximately \$4.8 million or seven percent from FY 2012. The decrease is reflective of approximately a five percent or \$3.5 million reduction in budget authority due to the sequestration and rescission, which directly impacted the costs of operations. To meet the desired sequestered amounts some scheduled information technology upgrades were delayed. Depreciation decreased by approximately \$1 million.

Statement of Changes in Net Position

This statement presents in greater detail the net position section of the Balance Sheet, which includes Cumulative Results of Operations and Unexpended Appropriations. The statement identifies the activity that caused the net position to change during the reporting period. Total Net Position decreased by approximately \$578 thousand or 6.6 percent from FY 2012, which is primarily the result of the impact from sequestration and rescission, in addition to depreciation and amortization expenses.

Statement of Budgetary Resources

The Statement of Budgetary Resources provides information on the source and status of budgetary resources made available to the FEC during the reporting period. It presents the relationship between budget authority and budget outlays, as well as the reconciliation of obligations to total outlays. Total Budgetary Resources and Status of Budgetary Resources decreased by approximately \$2.5 million, or four percent, from FY 2012. The FEC utilized fewer resources in the current fiscal year than in the prior fiscal year as a result of the FY 2013 sequestration and rescission.

Statement of Custodial Activity

The Statement of Custodial Activity (SCA) represents an accounting of revenue and funds collected by the FEC that are owed to the U.S. Treasury's general fund. These monies are not available for the FEC's use. Collection and revenue activity primarily result from enforcement actions that come before the Commission during the fiscal

year. Revenue and collections on the SCA consist of collections on new assessments, prior year(s) receivables and Miscellaneous Receipts. In FY 2013, the total custodial revenue and collections increased by approximately \$477 thousand or 45 percent from FY 2012.

The chart below displays the assessment history for the past 17 years.

FIGURE 4 - FINES ASSESSED, BY FISCAL YEAR (in Millions of Dollars)³



³ One MUR resolved during 2006 yielded the largest civil penalty in agency history, which was \$3.8 million paid by Federal Home Loan Mortgage Corporation (Freddie Mac) for prohibited corporate activity.

Section 1.D: Analysis Of FEC's Systems, Controls And Legal Compliance

1.D.i - FEC Integrated Internal Control Framework and Legal Compliance

The Commission is subject to numerous legislative and regulatory requirements that promote and support effective internal controls. The FEC complies with the following laws and regulations:

- Annual Appropriation Law - establishes the FEC's budget authority;
- *Inspector General Act of 1978*, as amended;
- *Government Performance and Results Act of 1993*, as amended;
- *Federal Financial Management Improvement Act of 1996*;
- *Clinger-Cohen Act of 1996*;
- *Debt Collection Improvement Act of 1996*, as amended; and
- *Chief Financial Officers Act*, as amended by the *Accountability of Tax Dollars Act of 2002*.

The proper stewardship of federal resources is a fundamental responsibility of the FEC. These laws help the FEC improve the management of its programs and financial operations, and assure that programs are managed in compliance with applicable law.

1.D.ii - Management Assurances

The *Federal Managers' Financial Integrity Act of 1982* (FMFIA) is implemented by OMB Circular A-123, revised, *Management's Responsibility for Internal Control* and OMB Circular A-127, *Financial Management Systems*. The FEC management is responsible for establishing and maintaining effective internal control and financial management systems that meet the objectives of the FMFIA and for performing a self-assessment under the guidance of its Directive 53, *Implementation of OMB Circular A-123, Internal Control Review*.

Directive 53 outlines the process and describes roles and responsibilities for conducting risk assessments and internal control reviews.

Section 2 of the FMFIA requires federal agencies to report, on the basis of annual assessments, any material weaknesses that have been identified in connection with their internal and administrative controls. The reviews that took place during FY 2013 provide unqualified assurance that FEC systems and management controls comply with the requirements of the FMFIA.

Section 4 of the FMFIA requires that agencies annually provide assurance on programmatic internal controls and financial management systems, and effectiveness of internal control over financial reporting. The FEC evaluated its financial management systems in accordance with the FMFIA, OMB Circulars A-123 and A-127, as applicable, and reviewed the Statements on Standards for Attestation Engagements, Reporting on Controls at a Service Organization (SSAE 16) reports received from its shared service providers. The results of management reviews provide unqualified assurance under Section 4 of the FMFIA that the FEC's financial systems controls generally conform to the principles and standards required.

Prompt Payment Act

The *Prompt Payment Act* (PPA) requires federal agencies to make timely vendor payments and to pay interest penalties when payments are late. The FEC's on-time payment rate for FY 2013 was nearly 100 percent, with less than 0.01 percent of all invoices paid after the date required by the PPA.

Improper Payments

The *Improper Payments Information Act of 2002* (IPIA), the *Improper Payments Elimination and Recovery Act of 2010* (IPERA) and OMB guidance require agencies to identify those programs that are susceptible to significant erroneous payments, and determine an annual estimated amount of erroneous payments made in their operations. The FEC reviewed all of its programs and activities to identify those susceptible to significant erroneous payments. Approximately 72 percent of the FEC's obligations pertain to salaries and benefits, which



THE FEDERAL ELECTION COMMISSION
Washington, D.C. 20463

Annual Assurance Statement on Internal Control

The Federal Election Commission (FEC) is responsible for establishing and maintaining effective internal control and financial management systems that meet the objectives of the *Federal Managers' Financial Integrity Act of 1982 (FMFIA)*, as implemented by OMB Circular A-123, revised, *Management's Responsibility for Internal Control*. Internal control is an integral component of management to provide reasonable assurance that (1) programs operate effectively and efficiently, (2) financial reports are reliable, and (3) programs comply with applicable laws and regulations.

The FEC conducted its evaluation of internal control with applicable laws and regulations in accordance with OMB Circular A-123. Based on the results of the Fiscal Year 2013 internal control review, the FEC reports no material weakness under the FMFIA and is able to provide an unqualified statement of assurance that the internal controls and financial management systems meet the objectives of FMFIA.

A handwritten signature in blue ink that reads "Ellen L. Weintraub".

Ellen L. Weintraub
Chair
October 22, 2013

SECTION 1 - Management's Discussion And Analysis

represents a low risk for improper payments, based on established internal controls. The FEC also reviewed all of its FY 2013 procurements for non-personnel costs to verify their accuracy and completeness. Accordingly, the FEC is unaware of any improper payments. The FEC continues to monitor its payment process to ensure that the risk of improper payments remains low.

1.D.iii - Management's Response to the Inspector General's Management and Performance Challenges

The Inspector General's report in Section IV identifies three areas specific to management and performance challenges: 1) Information Technology Security, 2) Governance Framework and 3) Human Capital Management / Human Resources Operations. The agency continues to maintain the highest level of commitment to information technology security and has taken significant steps to implement a robust program that can meet the IT security threats currently facing federal agencies. The FEC also continues to make significant progress in its human capital management and operations. The FEC's full response to the Inspector General's assessment of its performance in these areas appears in Section IV.

Section 1.E: Possible Future Effects Of Existing Events And Conditions

The FEC anticipates that a forthcoming Supreme Court decision could— in the event of an adverse decision— affect the FEC's operations over the next fiscal year. In a case currently before the Supreme Court, *McCutcheon v. FEC*, plaintiffs challenge the Act's biennial individual contribution limits as violating the First Amendment. The Act currently imposes separate limits on the amounts that individuals may contribute to federal candidates and other political committees. Some of these limits are indexed for inflation. Under the inflation-adjusted limits effective January 1, 2013 through December 31, 2014, an individual may contribute no more than a total of \$48,600 to all federal candidates, and no more than \$74,600 to federal political action committees and political party committees. Combining those amounts, the

aggregate biennial permitted total in 2013-2014 for an individual is \$123,200. *McCutcheon v. FEC* was argued before the Supreme Court on October 8, 2013.

The last Supreme Court decision to significantly alter the campaign finance law, the Court's 2010 decision in *Citizens United v. FEC* which allowed corporations and labor unions to make unlimited independent expenditures, has been associated with an increase in the types and volume of campaign finance activity reported to the agency. The Supreme Court's decision, along with a series of lower-court decisions, has allowed new types of committees and other entities to enter the FEC's campaign finance disclosure process, and the FEC has adjusted its rules and processes to accommodate these changes.⁴ In addition, these decisions have coincided with an increase in the types and volume of activity reported to the FEC. For example, in FY 2013—which covered filings from the last Presidential election—the FEC received 81,600 filings. During FY 2009, the prior comparable year, the FEC received 74,700 filings. The FEC anticipates that any additional changes to the campaign finance law in the coming year could similarly affect the FEC's operations.

In addition, the FEC anticipates that continued sequestration-level funding and the effects of the government-wide shutdown during the first 16 days of FY 2014 will negatively affect the agency's ability to meet performance targets identified for FY 2014. To absorb cost reductions resulting from sequestration, the agency has already taken critical steps to limit hiring by not filling a number of positions vacated in FY 2013, in addition to other cost reduction measures. Reduced staffing

4 In *Citizens United v. FEC*, 558 U.S. 310 (2010), the Supreme Court held that corporations (and, by implication, unions) may use their general treasury funds to pay for electioneering communications and independent expenditures. Subsequently, the U.S. Court of Appeals for the D.C. Circuit held in *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010) (*en banc*), that certain political committees that make only independent expenditures, but do not make any contributions to federal candidates, may accept funds in unlimited amounts. These committees have come to be known as "Super PACs." In *EMILY's List v. FEC*, 581 F.3d 1, 12 (D.C. Cir. 2009), the D.C. Circuit held that nonconnected political committees and other non-profit groups may finance certain independent political activity with funds outside the limitations and certain prohibitions of the Act.

levels have already slowed services provided by the agency in certain areas, such as the timely review of campaign finance reports. Any further decreases in staffing levels will lengthen the time needed to process reports and make information available to the public, reduce the agency's ability to provide technical support to electronic filers and lengthen the time needed to resolve cases and conduct audits. The effects of further funding decreases could be felt long into the future.

Section 1.F: Other Management Information, Initiatives And Issues

Website Improvement

The Commission places a high priority on ensuring the effective use of the FEC website to optimize its communication with the public. During FY 2013, the FEC launched a redesigned and upgraded Press Office web page designed to help researchers, academics and the media find information on the Commission and campaign finance law and to locate statistical data more quickly and easily. The new web page, released at www.fec.gov/press/index.shtml and accessible from the Commission's homepage, provides separate web pages for press releases and weekly digests with filtering capabilities. It also provides a Campaign Finance Statistics page that organizes financial summary tables by filer type, election cycle and reporting period and a Useful Links page that brings together on a single page links to the most sought-after information topics, including a new Statement of Candidacy list for 2016 Presidential candidates. The redesigned web page additionally provides a page with answers to Frequently Asked Questions and a form for the online submission of questions and data requests to the Press Office. FEC staff continue to add content to the page and improve its functionality. Since the web page's launch in June 2013, staff have added a section that identifies 2016 Presidential candidates and exploratory committees. During FY 2014, the page will be further upgraded to provide historical campaign finance statistics and FEC press releases dating back to 1976.

Enterprise Content Management System

Following a study in FY 2009, the FEC launched an agency-wide Enterprise Content Management (ECM) system for sharing and storing documents in a way that fosters collaboration between FEC offices, maximizes efficiency and supports compliance with agency document policies and records management. The ECM system was initially deployed with a small user group. In FY 2010, the FEC began transitioning additional staff to its ECM system. The agency has already begun to realize efficiencies in automating workflow processes through ECM. All of the agency's staff will be fully transitioned to the ECM system during FY 2014. The ECM system will also support an agency collaboration platform that will function as a communications hub for staff to share information through an agency-wide Wiki and a shared folder system that fosters collaboration among teams. The ECM system will additionally form the base for the initiation of Enterprise Search Capability.

Data Warehouse

The FEC's data warehouse framework allows FEC staff and the public to retrieve information stored across a range of systems by providing a single source of reliable, time-oriented and subject-oriented data in an easy-to-access, flexible form. The data warehouse prototype was developed in FY 2011. In FY 2012, an FEC team of technical staff and subject matter experts worked closely with a data warehouse contractor to implement the prototype. The FEC intends for the data warehouse to replace and enhance the existing campaign finance search processes currently available at fec.gov, a system that is currently limited by the amount of data available for searches. The data warehouse will provide a single repository for raw data submitted by filing entities and categorized, or processed, data. This more flexible framework will help the Reports Analysis Division streamline parts of its review process. For public consumers of campaign finance data, the data warehouse will allow the FEC to provide data files in multiple formats and to more easily distribute large data files containing itemized receipts and disbursements. The FEC is scheduled to complete implementation of the data warehouse project in FY 2014.

SECTION 1 - Management's Discussion And Analysis

Enterprise Search Capability

Agency-wide Enterprise Search Capability will allow FEC staff and the public to search multiple and disparate content sources in a single query. With Enterprise Search, a user can perform searches of multiple data sources and receive results that are sorted and arranged into a useful form. In the FEC's context, this capability would permit a website user, for example, to perform a single topic search to find Commission regulations, advisory opinions, audit reports and enforcement documents that address a particular topic, instead of requiring separate searches in each of those databases. In FY 2012, the FEC's technical team worked with contractors to begin implementing the Enterprise Search tool that was selected in FY 2011. By implementing this new tool, the FEC aims to enhance existing fec.gov website search capacities to include all data sources. This will ensure that FEC web users can search all web content, including static, dynamic and multimedia contents. In the future, the agency intends to expand the Enterprise Search infrastructure to search across ECM and FEC email databases. The agency expects to complete this project by FY 2015.

Section 1.G: Limitations Of The Financial Statements

The principal financial statements have been prepared to report the financial position and results of operations of the FEC pursuant to the requirements of 31 U.S.C. §3515(b). While the statements have been prepared from the books and records of the FEC in accordance with U.S. generally accepted accounting principles (GAAP) for federal entities and the formats prescribed by the OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources which are prepared from the same books and records.

The statements should be read with the realization that they are for a component of the U.S. Government, a sovereign entity.



SECTION II Performance Report

Performance Purposes, Objectives And Results

This section of the report serves as the Commission's Annual Performance Report as specified in OMB Circular A-11, Part 6, *Preparation and Submission of Strategic Plans, Annual Performance Plans, and Annual Program Performance Reports*, as amended. In addition, this section fulfills the FEC's requirements under the *GPR Modernization Act of 2010*.

Strategic Goal And Objectives For FY 2013

To achieve its mission, as detailed in Section I, the FEC has identified one overarching strategic goal. This goal is supported, in turn, by four strategic objectives and underlying activities that guide the operations of the FEC and its staff on a day-to-day basis.

STRATEGIC GOAL

To protect the integrity of the federal campaign process by providing transparency, enforcing contribution restrictions and fairly administering the FECA and related statutes.

OBJECTIVE A: Transparency

Receiving Accurate and Complete Campaign Finance Disclosure Reports and Making Them Available to the Public

OBJECTIVE B: Compliance

Education and Enforcement

OBJECTIVE C: Development Of The Law

Interpreting, Administering and Defending the Act

OBJECTIVE D: Manage Human Capital Strategically And Effectively

Foster a results-oriented culture that supports the agency as it carries out its mission to administer, enforce and formulate policy with respect to federal campaign finance statutes

In FY 2008 the Commission reviewed its performance measures and refined them in the agency's five-year Strategic Plan, thereby enhancing the FEC's ability to capture and report data in a more meaningful manner. In FY 2012, the Commission published an addendum to that plan, which adds a new management excellence objective and extends the plan through FY 2014. The following provides a detailed discussion of the FEC's performance measures, as outlined in its 2008-2013 Strategic Plan, as amended.

The *GPR Modernization Act of 2010* and OMB Circular A-136 require each agency to describe the accuracy and reliability of the data used to measure progress toward its performance goals, including an identification of the means used to verify and validate the measured values and the source for the data. Agencies are encouraged to determine the appropriate frequency of data validation and verification needed for the intended use and should allocate appropriate resources to carry out validation and verification on an appropriately periodic basis. In connection with this

SECTION II - Performance Report

report, the FEC conducted an agency-wide survey of its data validation and verification systems, as described below. Most of the FEC's performance measures set goals for the timely completion of tasks that are either internally generated or triggered through reports or complaints filed with the Commission. As a result, the universe of data the FEC must collect and verify to support its performance information is generally small, centrally located and easily verified. While the FEC believes that its current methods for verifying and validating performance data are appropriate and cost effective, it is also undertaking a broad review of these methods and systems as part of its overall assessment of its strategic and performance plans. During FY 2013, the FEC developed a draft Strategic Plan, FY 2014-2019, that challenges the agency to engage in new activities, streamline and improve its operations and achieve its mission within the constantly changing landscape of campaign finance law and practices. The FEC is currently in the processes of developing a systematic performance tracking framework to ensure that data collected and reported under the new strategic plan is accurate, consistent and complete.

The FEC currently tracks data to support its performance measures through its internal databases and with spreadsheets maintained by program managers. In cases where performance is measured based on the timeframe for completing a decision, matter or inquiry, the universe of data to be measured and the dates on which performance milestones are reached are tracked electronically. Data provided by the agency's litigation, policy, enforcement and compliance offices are reported at least quarterly to the Commission, which provides regular opportunities for the accuracy of the data to be verified. Data regarding enforcement and compliance matters are subject to human error in the process of entering information into the system. However, the risk of such error is low given the small number of cases tracked (generally fewer than 200 cases involved in determining any single performance result) and the frequent review of the data. The agency expects 100 percent accuracy in performance data collected by litigation, policy, enforcement and compliance offices.

The FEC's public outreach offices track performance based on the timeliness of press releases and participant scores on evaluation forms distributed at conferences, seminars and outreach workshops. Press releases are internally generated and tracked manually. This method of collecting and verifying data is both cost effective and consistent with the limited number of press releases made available during the fiscal year. Participants' written responses to conferences, seminars and workshops are collected at the conclusion of each outreach program, entered into a spreadsheet and distributed to the conference presenters who were rated on the evaluation. For both timeliness of press releases and satisfaction with outreach programs, the agency expects 100 percent accuracy in the performance data collected.

The FEC also tracks its performance in making campaign finance information available to the public. Reports filed with the FEC represent the largest universe of data the agency must consider in determining its performance. For example, in FY 2013, the FEC received 81,600 documents. Campaign finance reports and statements filed electronically are made available on the FEC website nearly instantaneously, and reports and statements filed on paper with the FEC are placed on the FEC website within 48-hours of receipt. In addition, FEC staff process the data contained in campaign finance reports so that the information can be accurately organized, categorized and searched in the agency's databases. The FEC sets as a performance goal processing 95 percent of reports through its data and coding system within 30 days. The entry and completion dates for each report are retrievable through the FEC's electronic systems. The FEC expects 100 percent accuracy with regard to this performance data. The FEC also rates its performance in meeting its statutory obligation to make reports and statements filed on paper available to the public within 48 hours of receipt. The agency stamps reports in the FEC's mailroom with the date and time of arrival. Any instance of a report appearing on the FEC website after the 48-hour deadline is tracked manually. Given the number of paper filed reports and the physical limitations of the FEC's systems, the agency accepts 90 percent accuracy in the collection of data to support this measure.

OBJECTIVE A: Transparency

Receiving Accurate And Complete Campaign Finance Disclosure Reports And Making Them Available To The Public

The FEC provides the public with the data to make educated, informed decisions in the political process based, in part, on information concerning the sources and amounts of funds used to finance federal elections. The FEC gauges its effectiveness through a series of indicators designed to measure performance in areas that promote confidence in the campaign finance process.

PUBLIC DISCLOSURE

The FEC promotes voluntary compliance by fully disclosing campaign finances for federal elections. The following provides a discussion of the results achieved in carrying out these objectives and activities.

Performance Measures

- Process reports within 30 days of receipt as measured quarterly; and
- Meet the statutory requirement to make reports and statements filed on paper with the FEC available to the public within 48 hours of receipt.

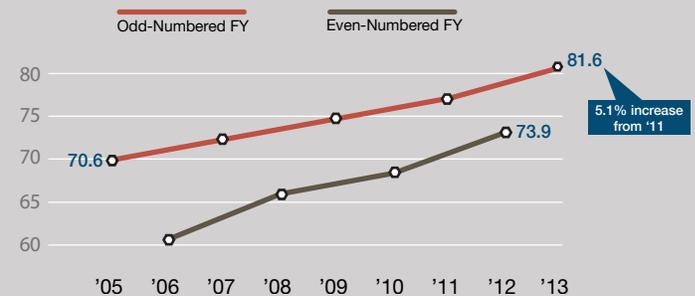
The Commission's mandatory electronic filing ("e-filing") rules require any committee that receives contributions or makes expenditures in excess of \$50,000 in a calendar year, or that has reason to expect to do so, to submit its reports electronically. Under the Act, these mandatory e-filing provisions apply to any political committee or other person required to file reports, statements or designations with the FEC, except for Senate candidate committees (and other persons who support Senate candidates only).

The e-filing system acts as the point of entry for submission of electronically filed campaign finance reports, providing faster access to reports and streamlining operations. Specifically, the system provides for public disclosure of electronically filed reports, via the FEC website, within minutes of being filed. When a committee files

a financial disclosure report on paper, FEC staff scan and enter the information disclosed in the report into the FEC electronic database. The Commission's Public Disclosure Division ensures that a copy is available for public inspection within 48 hours of receipt, both electronically on the website and at the FEC's offices in Washington, D.C.

During FY 2013, the FEC received 81,600 campaign finance filings. Figure 5 shows the total number of campaign finance reports and statements filed with the FEC each fiscal year since 2005. Because elections occur in November, the associated spike in the number of filings received by the FEC is reflected in the odd-numbered fiscal years. The public can access the campaign finance reports and data at <http://www.fec.gov/pindex.shtml>.

FIGURE 5 - REPORTS AND STATEMENTS FILED (in thousands)



The FEC achieved a 100 percent success rate in making the financial disclosure reports and statements available to the public within 48 hours of receipt by the Commission.

After the reports are imaged for disclosure purposes, the data is coded and entered into the FEC's database for review to assess accuracy and ensure complete disclosure of campaign finance information. The agency's goal is to code and enter 95 percent of the reports within 30 days of receipt. For FY 2013, the FEC processed 88 percent of the reports within 30 days of receipt. The FEC generally receives more filings during odd-numbered fiscal years. The number of filings received in FY 2013 represents a 5.1 percent increase over the number of filings received in FY 2011 and a 9.3 percent increase over the number of filings received in FY 2009.

SECTION II - Performance Report

THE FEC WEBSITE

The FEC's website (www.fec.gov) represents the major source of federal campaign finance information. The FEC website provides access to campaign finance data submitted by candidates and committees and posted online by the FEC staff. In FY 2012, the FEC began utilizing a web counting software program that provides more detailed information on website usage. This more sophisticated tool allows the FEC to tailor its website content and structure to better meet agency disclosure and outreach goals. During FY 2013, the website received 18,907,441 web page views.

To make campaign finance data more accessible to the public, the FEC provides interactive maps allowing users immediate access to contribution information for the Presidential elections and House and Senate elections. Users can access the amount of funds raised on a state-by-state basis, contributions, cash-on-hand and the distribution of contributions by amount with a simple click at <http://www.fec.gov>. Furthermore, users can access lists of contributors by name, city and amounts of contributions within the first three digits of any zip code. Contribution data is updated within one day of the FEC's receipt of electronically filed disclosure reports.

The agency also provides a Compliance Map to assist members of the public in their efforts to comply with campaign finance law (<http://www.fec.gov/info/ElectionDate>). The Compliance Map lists all reporting dates and other significant information tied to each state's election calendar, such as the time periods when special requirements for electioneering communications and federal election activity apply. Like the interactive Disclosure Map of contribution information, the Compliance Map provides quick access to information on a state-by-state basis in an easy-to-use format.

During FY 2013, the FEC launched an upgraded Press Office web page designed to help the public, including researchers, academics and the media, find information on the Commission and campaign finance law and to locate statistical data more quickly and easily. The new web page, released at www.fec.gov/press/index.shtml and accessible from the Commission's homepage,

provides separate web pages for press releases and weekly digests with filtering capabilities. The page also includes a Campaign Finance Statistics page that organizes financial summary tables by filer type, election cycle and reporting period, and a Useful Links page that lists links to the most sought-after information topics, including a new Statement of Candidacy list for 2016 Presidential candidates. The new web page also includes answers to Frequently Asked Questions and a form for the online submission of questions and data requests to the Press Office.

ASSURING ACCURATE AND COMPLETE REPORTS

Besides making campaign finance reports available to the public, the FEC works to ensure that the information disclosed is accurate and complete. The Office of Compliance's Reports Analysis Division (RAD) reviews all reports to track compliance with the law and to ensure that the public record provides a full and accurate representation of reported campaign finance activity. If the FEC's review identifies an apparent violation or raises questions about the information disclosed on a report, RAD sends a request for additional information (RFAI) letter to the committee, affording the committee an opportunity to correct the public record, if necessary. If the committee is able to resolve the FEC's concerns, it may avoid an enforcement action. If not, the Commission has several tools available to it, such as the Administrative Fine Program, audits, the Alternative Dispute Resolution Program and the traditional enforcement program.

As part of a continued effort to increase the transparency of RAD's processes and to assist the public with compliance, the Commission recently developed a RAD Brochure. The brochure includes an overview of the review process, as well as frequently asked questions on RFAIs and other RAD processes, and tips for filers. Further, RAD continues to offer extended phone coverage on filing due dates in order to ensure timely disclosure of campaign finance activity and has implemented a program to send non-filer notices via email, which has resulted in more timely notification to committees, as well as significant savings in printing and mailing costs. Finally, RAD collaborated with the Commission's Electronic Filing

Office on the development and implementation of a self-assigning password system. The system allows committees to request or change an electronic filing password online, automating the prior process of submitting password requests via fax or mail.

OBJECTIVE B: Compliance Education and Enforcement

Helping the public understand its obligations under the Act is an essential component of voluntary compliance. The FEC places a significant emphasis on encouraging compliance through its Information Division, Reports Analysis Division, Press Office and Office of Congressional, Legislative and Intergovernmental Affairs.

The Commission also encourages voluntary compliance through outreach programs. The FEC hosts instructional conferences and seminars in Washington, D.C., and in other cities across the country, where Commissioners and staff explain how to comply with the Act to candidates and political committees. Many of these programs are simultaneously available as webinars, offering a low-cost alternative for committees seeking training. These outreach programs specifically address recent changes in the campaign finance law and focus on fundraising and reporting regulations. Additionally, the Commission responds to telephone inquiries and written requests seeking information about the law and assistance in filing disclosure reports.

The FEC has exclusive jurisdiction over the civil enforcement of the federal campaign finance law. In exercising that authority, the Commission uses a variety of methods to uncover possible campaign finance violations. Instances of non-compliance may lead to an FEC enforcement case, or Matter under Review (MUR). In some cases, respondents may be given the option to participate in the Commission's Alternative Dispute Resolution Program, which seeks to resolve less-complex matters more swiftly by encouraging settlement using a streamlined process that focuses on remedial measures for candidates and political committees. Normally, violations involving the late submission of FEC reports or failure to file reports are subject to the Administrative Fine Program.

Performance Measures

- Conduct educational conferences and host roundtable workshops on the campaign finance law each election cycle, achieving a mean satisfaction rating of 4.0 on a 5.0 scale 100 percent of the time;
- Issue press releases summarizing completed compliance matters within two weeks of a matter being made public by the Commission;
- Issue quarterly press releases containing summaries of campaign finance data;
- Process 100 percent of enforcement cases within an average of 15 months of receipt;
- Process 75 percent of the cases assigned to Alternative Dispute Resolution within 155 days of a case being assigned;
- Process 75 percent of reason-to-believe recommendations for the Administrative Fine Program within 60 days of the original due date of the subject untimely or unfiled report;
- Process 75 percent of the challenges in the Administrative Fine Program within 60 days of a challenge being filed;
- Conclude non-Presidential audits with findings in an average of ten months, excluding time delays beyond the Commission's control, such as subpoenas and extension requests;
- Conclude non-Presidential audits with no findings in an average of 90 days from beginning of fieldwork; and
- Conclude Presidential audits in an average of 24 months of the election, excluding time delays beyond the Commission's control, such as subpoenas and extension requests.

Results achieved in carrying out these objectives and activities are detailed below.

SECTION II - Performance Report

EXPANDING AWARENESS

The FEC's education and outreach programs provide the information necessary for compliance with the campaign finance law and provide the public with the context necessary to interpret the campaign finance data filers disclose. The FEC maintains a toll-free line to respond to inquiries regarding campaign finance data. Additionally, Campaign Finance Analysts in the Reports Analysis Division provide assistance with filing disclosure reports. The FEC also operates Press and Congressional Affairs offices.

The Commission's website is one of the most important sources of instantly accessible information about the Act, Commission regulations and Commission proceedings. In addition to viewing campaign finance data, anyone with Internet access can use the website to track Commission rulemakings, search advisory opinions, audits and closed enforcement matters, view campaign finance data and find reporting dates. The Commission places a high emphasis on providing educational materials about campaign finance laws and their requirements. Toward this end, the FEC has moved its focus away from the printing and manual distribution of its educational materials and instead looked for ways to leverage available technologies to create and disseminate dynamic and up-to-date educational materials through the website. While the Commission continues to make available printed copies of its educational brochures and publications, transitioning to primarily web-based media has already allowed the agency to reduce significantly its printing and mailing costs and use of resources while at the same time encouraging new and expanded ways of communicating with the public via the website.

One way the Commission encourages voluntary compliance is by hosting conferences across the country, where Commissioners and staff explain how the Act applies to candidates, parties and political action committees. These conferences address recent changes in campaign finance law and focus on fundraising and reporting regulations. The FEC held one regional conference in FY 2013 in Austin, Texas. The agency also hosted a series of one-day seminars and topic-based roundtable workshops at FEC headquarters. These programs were available simultaneously

as webinars for online attendees as part of a program launched last year designed to reduce registration and travel costs for attendees. During FY 2013, the FEC for the first time offered certain educational roundtables only as webinars. The success of the FEC's outreach efforts is evidenced by the evaluation scores and comments received. The overall rating for conferences and roundtables exceeded a 4.0 out of a possible 5.0.

As part of a broad effort to improve its Internet communications and better serve the educational needs of the public, the Commission has added an E-Learning section to its Educational Outreach web page and launched its own YouTube channel, which can be found at <http://www.youtube.com/FECTube>. The E-Learning page offers interactive presentations that allow users to test their knowledge of the information presented and video workshops, which are hosted on YouTube. The curriculum currently includes a variety of presentations about the Commission and the campaign finance law. The FEC plans to continue to expand its E-Learning program with additional content and technical improvements during the coming year. In addition, RAD is in the process of creating online video tutorials for reporting specific types of activity, which will provide filers with an additional tool for disclosure compliance.

RESPONDING TO POTENTIAL VIOLATIONS

The FEC responds to a variety of enforcement matters through its Office of General Counsel (OGC) and Audit, Administrative Fine and Alternative Dispute Resolution (ADR) programs.

OFFICE OF GENERAL COUNSEL

Under the Commission's traditional enforcement program, the Commission learns of possible election law violations through:

- The complaint process, whereby anyone may file a sworn complaint alleging violations of the Act;
- Information ascertained in the normal course of carrying out its supervisory responsibilities;
- Voluntary self-reporting by representatives of candidates or political committees who

believe that they may have violated the Act; and

- The referral process, whereby other government agencies may refer possible violations of the Act to the FEC.

The most complex and legally significant enforcement matters are handled by OGC, which:

- Recommends to the Commission whether to find “reason to believe” the FECA has been violated;
- Investigates potential violations of the FECA by requesting, subpoenaing and reviewing documents and interviewing or deposing witnesses;
- Conducts negotiations on behalf of the Commission to reach conciliation agreements with respondents; and
- Files suit in federal district court if conciliation is unsuccessful.

Closed enforcement matters are available online through the Commission’s Enforcement Query System at <http://eqs.sdrdc.com/eqs/searcheqs>.

Enforcement matters are handled by OGC pursuant to the procedures set forth in the FECA. Over the past several years, OGC has initiated a number of management and organizational changes to increase the quality and efficiency of the FEC’s enforcement work, and has implemented policy initiatives to facilitate the processing of matters under review. As a result, OGC continues to meet its obligations to the Commission and the public to handle its caseload efficiently and effectively. In FY 2013, the Commission closed 134 enforcement cases in an average of 16.2 months, which included \$730,390 in negotiated civil penalties. The Commission closed 96 cases (72 percent) within 15 months.

ALTERNATIVE DISPUTE RESOLUTION

The Alternative Dispute Resolution (ADR) Program was implemented in FY 2001 to facilitate settlements outside of the traditional enforcement or litigation processes. The ADR Program’s primary objective is to enhance the agency’s overall

effectiveness through more expeditious resolution of enforcement matters with fewer resources required to process complaints and internal referrals. A case is closed when the Commission votes on the recommendation made by the ADR Office as to what final action should be taken. During FY 2013, the Commission completed 39 ADR cases, which included \$36,850 in negotiated civil penalties. The Commission’s performance measure for ADR is to close 75 percent of cases within 155 days of a case being assigned. Fifty-nine percent of cases met the 155-day benchmark.

ADMINISTRATIVE FINE PROGRAM

In response to a legislative mandate, an Administrative Fine (AF) Program was implemented in July 2000 to address late and non-filing of disclosure reports in a more efficient and effective manner. The AF Program is administered by the Commission’s Reports Analysis Division (RAD) and Office of Administrative Review (OAR), which are within the Office of Compliance. Since the AF Program’s inception in July 2000 through September 30, 2013, the Commission has closed 2,623 cases and assessed fines of \$4.9 million.

An administrative fine case begins when the Commission finds that a committee failed to file a required report or filed a required report late, and makes a reason-to-believe (RTB) finding. For FY 2013, RAD exceeded its performance goal, processing 91 percent of the RTB recommendations within 60 days of the subject report’s due date. The average completion time for these recommendations was 56.9 days.

During FY 2013, OAR reviewed 29 challenges submitted by committees in response to a RTB finding and/or civil money penalty. OAR reviewed 93 percent of these challenges within 60 days of receipt. The average completion time for challenges was 29.9 days. Overall, OAR has reviewed 664 challenges submitted from the Program’s inception through FY 2013. The Program continues to successfully reduce the number of late and non-filed reports and encourages campaign finance transparency through the timely filing of campaign finance reports.

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CONDUCTING AUDITS

The FEC conducts audits of any committees that, according to internal thresholds, have not substantially complied with the law. As required by the public funding statutes, the FEC also audits all Presidential campaigns and nominating conventions that receive public funds. Audit Reports and related documents are located at http://www.fec.gov/audits/audit_reports.shtml.

Over the past several years, the Commission has adopted procedures that provide additional opportunities for audited committees to respond to potential findings, as well as more opportunities for the Commission to review audit reports prior to approval. In addition, significant changes have been made to the format of the audit reports in an effort to more clearly present the findings of the Audit staff and to distinguish the disposition of the matter by the Commission. The Audit Division has initiated several new time management procedures in response to the changes noted above. These policy initiatives should facilitate the efficiency of the audit process. The performance measures related to audits are revised in the agency's Draft Strategic Plan, FY 2014–2019.

In FY 2013, the Commission approved 13 audit reports and started 13 audits. The approved audit reports include two audits of Presidential committees and 11 audits of non-Presidential committees. The average processing time of these audits was approximately 28 months.

OBJECTIVE C: Development Of The Law Interpreting and Administering the Act

The Commission provides formal interpretation of the Act through the promulgation of regulations and the issuance of advisory opinions (AOs).

Performance Measures

- Complete rulemakings within specific time frames that reflect the importance of the topics addressed, proximity to upcoming elections and externally established deadlines 100 percent of the time;
- Issue all advisory opinions within 60-day and 20-day statutory deadlines 100 percent of the time;

- Issue expedited advisory opinions for time-sensitive highly significant requests within 30 days of receiving a complete request, or a shorter time when warranted, 100 percent of the time;
- Ensure that court filings meet all deadlines and rules imposed by the courts 100 percent of the time; and
- Process public funding payments in the correct amounts and within established time frames 100 percent of the time.

Results achieved in carrying out these objectives and activities are detailed below.

REGULATIONS

Commission initiatives, Congressional action, judicial decisions, petitions for rulemaking or other changes in campaign finance law may necessitate that the Commission update or adopt new regulations. Consequently, the FEC undertakes rulemakings either to write new regulations or revise existing regulations.

The Policy Division of OGC drafts Notices of Proposed Rulemaking (NPRMs) for Commission consideration. NPRMs provide an opportunity for members of the public to review proposed regulations, submit written comments to the Commission and testify at public hearings, which are conducted at the FEC, when appropriate. The Commission considers the comments and testimony and deliberates publicly regarding the adoption of the final regulations and the corresponding Explanations and Justifications, which provide the rationale and basis for the new or revised regulations.

The Commission has continued to work on a number of rulemaking projects during FY 2013. In this regard, the Commission issued an Advance Notice of Proposed Rulemaking (ANPRM) on technological modernization and an NPRM on limited liability partnerships. In addition, the Commission approved final rules and an Explanation and Justification for civil monetary penalties inflation adjustments, and issued an interpretive rule on reporting the ultimate payees of political committee disbursements.

The Commission's strategic plan contemplates the completion of rulemakings within time frames that take into account the importance of the topics addressed, proximity to upcoming elections and externally established deadlines. None of the rulemaking projects that the Commission worked on during FY 2013 had externally imposed or internally established deadlines in FY 2013.

ADVISORY OPINIONS

Advisory opinions (AO) are official Commission responses to questions regarding the application of federal campaign finance law to specific factual situations. The Act generally provides the Commission with 60 days to respond to an AO request. For AO requests from candidates in the two months leading up to an election, the Act provides the Commission with 20 days to respond to the request. On its own initiative, the Commission also makes available an expedited process for handling certain time-sensitive requests that are not otherwise entitled to expedited processing under the Act. The Commission has placed special emphasis on expediting its processing and consideration of these highly significant AO requests. The Commission strives to issue these advisory opinions in 30 days.

The number of AO requests that the Commission receives is subject to cycles and is generally lower in the year following a Presidential election year. The Commission nonetheless issued more than a dozen AOs during FY 2013, three of which addressed the treatment of same sex spouses under campaign finance law. During FY 2013, the Commission completed within the statutory deadlines 100 percent of the 19 AOs that it considered. The Commission completed work on 16 60-day requests, three 20-day requests and no expedited requests during FY 2013.¹ The average number of days from receipt of a complete AO request to Commission action on it was 40 days for 60-day requests that did not have extended deadlines and 16 days for 20-day AOs.

DEFENDING CHALLENGES TO THE ACT

The Commission represents itself in litigation before the federal district and circuit courts and be-

fore the Supreme Court with respect to cases involving publicly financed Presidential candidates. It also has primary responsibility for defending the Act and Commission regulations against court challenges. (In addition, as explained in Section I.A., FECA authorizes the Commission to institute civil actions to enforce FECA.) The Commission's litigation docket at the close of FY 2013 included 18 cases in six district courts, two appellate courts and the Supreme Court. The Commission's court filings in FY 2013 met deadlines and rules imposed by the courts 100 percent of the time.

The Commission is currently defending against a number of significant challenges to provisions of the FECA. Two cases pending with the Supreme Court challenge the FECA's aggregate contribution limits, most notably the lead case *McCutcheon v. FEC*, which was argued on October 8, 2013. A case currently pending before the U.S. Court of Appeals for the D.C. Circuit (*Wagner v. FEC*) challenges the Congressional enactment of a prohibition on campaign contributions by federal contractors. Other cases pending in that Circuit include a challenge to Congress's decision to impose contribution and solicitation restrictions on the separate segregated funds of corporations (*Stop This Insanity, Inc. v. FEC*), and a challenge to the FECA's contribution limits in the context of bequests (*Libertarian National Committee v. FEC*).

The Commission's current litigation docket also includes several challenges under the FECA's Administrative Fine Program, which enables efficient enforcement of FECA's reporting requirements. Finally, the Commission is also defending against several challenges to important Commission interpretations related to the FECA, including its regulation defining "express advocacy," its standard for when a request for funds constitutes a solicitation for "contributions" and its approach to determining whether an organization is a political committee (*Free Speech v. FEC*) and the Commission's regulation governing disclosure by persons who make electioneering communications (*Van Hollen v. FEC*).

PUBLIC FUNDING

In addition to enforcing the FECA, the Commission is responsible for administering the public

¹ Four of these 60-day requests had extended deadlines.

SECTION II - Performance Report

funding of Presidential elections, as specified in the public funding statutes. The Commission certifies a candidate's eligibility to participate in the program, establishes eligibility for payments and conducts a thorough examination and audit of the qualified campaign expenses of every candidate and convention committee that receives payments under the program.

For the 2012 Presidential election, the Commission certified public funding of \$36,496,600 for two convention committees and \$1,356,108 for three candidates eligible for public funds for the 2012 Presidential primary elections.

OBJECTIVE D: Manage Human Capital Strategically And Effectively Fostering a Results-Oriented Organizational Culture

In accordance with the *GRPA Modernization Act of 2010*, in FY 2012 the FEC published an addendum to its Strategic Plan to include a new strategic objective: Manage Human Capital Strategically and Effectively. Under this objective, the FEC fosters a results-oriented organizational culture that supports the agency's mission through three strategic activities:

- **Strengthening Performance Management**—by conducting an agency workforce analysis and aligning individuals' performances to the agency's strategic goals and initiatives;
- **Improving Labor Management Relations**—by implementing improvements identified by the FEC's Labor Management Forum and maintaining a comprehensive labor management agreement (LMA); and
- **Improving Leadership and Knowledge Management**—by retaining stability in key leadership positions and developing and implementing a succession plan.

The FEC gauges its effectiveness through the following series of indicators designed to measure performance in areas that promote the strategic and effective management of its human capital resources:

- Fill competency gaps;

- Link individuals' performance plans to the Strategic Plan;
- Meet Labor Management Forum performance goals; and
- Fill key leadership positions.

STRENGTHENING PERFORMANCE MANAGEMENT

The Commission recognizes the need for consistency in conducting performance evaluations and building a culture of excellence by making meaningful distinctions in performance management. Accordingly, the FEC has conducted a comprehensive evaluation of its performance appraisal system. In FY 2013, the FEC began to revise its performance appraisal system based on OPM's new SES appraisal system, which is recommended by OPM as a government-wide best practice for Senior Executives. OPM approved the new performance management system for the FEC in June 2013. The new performance management system will ensure that individual performance goals are aligned with the agency's strategic objectives and performance goals, as described in the FEC's Draft Strategic Plan, FY 2014-2019. Implementation of the revisions to the FEC's performance management system will proceed in phases and will track the completion of the new FY 2014 - FY 2019 Strategic Plan. During the first phase, senior leaders developed individual performance plans that identified their own accountability for implementing the Commission's objectives, as articulated in the new strategic plan. In the second phase, managers aligned their individual performance plans to that of their senior leader. Phases one and two were completed during FY 2013. During the third phase, employees will align their individual plans to that of their senior leader or manager. In this way, every employee's performance will be measured by the successful implementation of the objectives and priorities the Commission sets out. The agency held individual training sessions during FY 2013 to train senior leaders and managers on the new performance system and plans to provide training to all staff as additional employees are brought onto the system. In addition, management is working with the Labor Union through the Labor Management Forum to inform and seek feedback from the Bargaining Unit and to ensure

that the FEC's Labor Management Agreement can be revised to include any necessary changes.

In addition, the FEC has developed a framework to identify and track the closure of competency gaps among employees in mission-critical occupations. During FY 2012 and 2013, the agency conducted a workforce analysis to determine what the size and skills of its workforce should be three to five years into the future. The analysis incorporated the results of an assessment of the agency's current and projected workforce needs and helped the agency to develop competency models for its mission-critical occupations and to identify competency gaps. A newly developed survey for identifying competency gaps in each mission-critical occupation will provide the agency with a more robust method of tracking the number of competency gaps and gap closures among mission-critical occupations each fiscal year. Tracking gaps and gap closures will help the agency to better focus training funds on the FEC's most critical needs and ensure that managers have an opportunity to assess the competencies of their staff members and to focus on ways to improve agency performance by closing any gaps.

IMPROVE LABOR MANAGEMENT RELATIONS

The FEC is committed to building an effective and collaborative relationship with the National Treasury Employees Union (NTEU), which is the exclusive representative of FEC bargaining unit employees. The prior labor-management agreement between the FEC and NTEU Local Chapter 204 expired on May 6, 2010. The FEC and NTEU began negotiating a new LMA in May 2010, after agreeing to the ground rules in mid-April 2010. An impasse over a small number of articles temporarily stalled negotiations, until the agreement was sent to arbitration. Both sides strived to foster a work environment wherein employees are treated with dignity and respect and in accordance with law, regulations and FEC policies. The new LMA became effective in FY 2013, and the agency provided training on the new agreement to all FEC managers concurrent with the implementation of the new agreement.

In accordance with Executive Order 13522, *Creating Labor-Management Forums to Improve Delivery of Government Services*, the FEC and the

NTEU have established the FEC Labor Management Forum (Forum). The Forum is intended to promote improvements in overall FEC efficiency and effectiveness, improve employee satisfaction, assist in the development of cooperative and productive labor-management relations and encourage the involvement of employees in workplace issues through their union representatives. The Forum's performance goals include:

- Improving telework management and satisfaction;
- Improving employee satisfaction, as measured by specific questions on OPM surveys;
- Facilitating and communicating revisions to the FEC's performance and evaluation system; and
- Maintaining institutional knowledge by promoting expanded use of the FEC's Enterprise Content Management (ECM) system and the agency's Intranet site and by researching the creation of a mentoring program.

The Forum continued to achieve its goals during FY 2013. For the 2013 Federal Employee Viewpoint Survey (FEVS), the Forum worked with OPM to add FEC-specific questions to the FEC's version of the FEVS. These questions will help the Forum to better understand employee responses to the survey. In addition, the Forum launched an employee engagement campaign to improve FEC staff participation. This was necessary because the number of FEC employees responding to the survey had decreased by 37 percent between 2006 and 2012, with only 44 percent of employees responding to the survey in 2012. Following the employee engagement campaign, 74 percent of FEC employees completed the FEVS in 2013. With FEC-specific questions and increased participation, survey results will more accurately reflect FEC staff viewpoints and can be used to develop opportunities for improvement.

LEADERSHIP AND KNOWLEDGE MANAGEMENT

Over the past several years, the FEC has been challenged by a high number of vacancies in key leadership positions. The agency's FY 2012 workforce analysis supported the development of a

SECTION II - Performance Report

Leadership Succession Plan for the agency that outlines the agency's plans to recruit and maintain a diverse workforce and cultivate emerging leaders. In addition, the Leadership Succession Plan will direct the agency in its efforts to create processes to identify and maintain critical institutional knowledge and to ensure that agency expertise is preserved, regardless of changes in staffing. Budget limitations and the FY 2013 sequestration prompted the agency to postpone its leadership development program. In addition, due to budget limitations, the agency was only able to backfill a limited number of its vacancies during the year. The FEC looks forward to filling critical vacancies and pursuing the elements of its Leadership Succession Plan in future fiscal years.



SECTION III

Auditor's Report And Financial Statements

Message from the Chief Financial Officer

December 16, 2013

I am pleased to present the Commission's financial statements for Fiscal Year (FY) 2013. The financial statements are an integral part of the *Performance and Accountability Report*. The Commission received an unqualified (clean) opinion on the agency's financial statements from the independent auditors. This marks the fifth consecutive year with no material weaknesses identified. This is the second year with no significant deficiencies reported for the Office of the Chief Financial Officer (OCFO). I applaud the efforts of OCFO staff who worked diligently throughout the fiscal year, despite a tight fiscal environment, to achieve these results, maintaining a commitment to excellence.

Fiscal Year 2013 presented several challenges for the Commission. The fiscal impact of sequestration limited the agency's ability to fill vacant positions, which significantly increased the workload of our employees and created backlogs in providing internal and external mission and support services. Scheduled employee training, travel and information technology initiatives were either delayed or cancelled as a direct result of the sequestration. In spite of these challenges, the Commission continues to identify ways to improve its overall financial management, and the dedication of the FEC employees to the mission and sound fiscal operations can be seen through the results of the financial statement audit.

The agency continues to improve its information technology (IT) security controls. Although the auditors identified IT security controls as a significant deficiency for FY 2013, the agency is making progress in this area despite its reduced budgetary authority, which has impeded the agency's ability to start some of its IT initiatives. The FEC will continue to remedy deficiencies by continuing to evaluate and strengthen IT-related controls as applicable to the Commission.

The FEC is committed to effective and efficient management of its resources and undertook the following efforts in FY 2013:

- Initiated a project to improve the functionality of Campaign Finance Data searches;
- Started a new phase of the Data Warehouse project, which is expected to meet the Commission's need for reliable, consolidated, unique and integrated reporting and analysis of data at different levels of aggregation; and
- Kicked-off a major system upgrade to the agency's Case Management System to improve the efficiency.

SECTION III - AUDITOR'S REPORT AND FINANCIAL STATEMENTS

The FEC will continue to seek opportunities to modernize and upgrade business systems to improve operational efficiency. While the Commission faces uncertainty in the coming fiscal year, we are confident that the FEC's employees' commitment to the agency's mission will provide an opportunity to build on the prior year's financial management successes. The OCFO looks forward to another successful year.

Sincerely,



Judy Berning
Acting Chief Financial Officer



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Office of Inspector General

MEMORANDUM

TO: The Commission

FROM: Inspector General

SUBJECT: Audit of the Federal Election Commission's Fiscal Year 2013 Financial Statements

DATE: December 13, 2013

Pursuant to the Chief Financial Officers Act of 1990, commonly referred to as the "CFO Act," as amended, this letter transmits the Independent Auditor's Report issued by Leon Snead & Company (LSC), P.C. for the fiscal year ending September 30, 2013. The audit was performed under a contract with, and monitored by, the Office of Inspector General (OIG), in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and applicable provisions of Office of Management and Budget (OMB) Bulletin No. 14-02, *Audit Requirements for Federal Financial Statements*.

Opinion on the Financial Statements

LSC audited the balance sheet of the Federal Election Commission (FEC) as of September 30, 2013 and the related statements of net cost, changes in net position, budgetary resources, and custodial activity (the financial statements) for the year then ended. The objective of the audit was to express an opinion on the fair presentation of those financial statements. In connection with the audit, LSC also considered the FEC's internal control over financial reporting and tested the FEC's compliance with certain provisions of applicable laws and regulations that could have a direct and material effect on its financial statements. The financial statements of the FEC as of September 30, 2012, were also audited by LSC whose report dated November 14, 2012, expressed an unqualified opinion on those statements.

In LSC's opinion, the financial statements present fairly, in all material respects, the financial position, net cost, changes in net position, budgetary resources, and custodial activity of the FEC as of, and for the year ending September 30, 2013, in conformity with accounting principles generally accepted in the United States of America.

SECTION III - AUDITOR'S REPORT AND FINANCIAL STATEMENTS

Report on Internal Control

In planning and performing the audit of the financial statements of the FEC, LSC considered the FEC's internal control over financial reporting (internal control) as a basis for designing auditing procedures for the purpose of expressing their opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the FEC's internal control. Accordingly, LSC did not express an opinion on the effectiveness of the FEC's internal control.

Because of inherent limitations in internal controls, including the possibility of management override of controls; misstatements, losses, or noncompliance may nevertheless occur and not be detected. According to the American Institute of Certified Public Accountants:

- 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 a more than 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.
- 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.

LSC's consideration of internal control was for the limited purpose described in the first paragraph in this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. LSC did not identify any deficiencies in internal control that LSC would consider to be material weaknesses, as defined above. However, LSC did identify a significant deficiency in internal controls related to Information Technology security.

Report on Compliance with Laws and Regulations

FEC management is responsible for complying with laws and regulations applicable to the agency. To obtain reasonable assurance about whether FEC's financial statements are free of material misstatements, LSC performed tests of compliance with certain provisions of laws and regulations, noncompliance which could have a direct and material effect on the determination of financial statement amounts, and certain other laws and regulations specified in OMB Bulletin No. 14-02, *Audit Requirements for Federal Financial Statements*. LSC did not test compliance with all laws and regulations applicable to FEC.

The results of LSC's tests of compliance with laws and regulations described in the audit report disclosed one instance of noncompliance with The Homeland Security Presidential Directive 23, and National Security Presidential Directive 54, *Cyber Security and*

Monitoring, establishing the Comprehensive National Cyber Security Initiative (the CNCI), and relating to Initiative No. 1, *Manage the Federal Enterprise Network as a Single Enterprise with a Trusted Internet Connection (TIC)*. Additional details can be found on page 25 of the audit report.

Audit Follow-up

The independent auditor's report contains recommendations to address deficiencies found by the auditors. Management was provided a draft copy of the audit report for comment and generally concurred with some of the findings and recommendations. In accordance with OMB Circular No. A-50, *Audit Follow-up*, revised, the FEC is to prepare a corrective action plan that will set forth the specific action planned to implement the agreed upon recommendations and the schedule for implementation. The Commission has designated the Chief Financial Officer to be the audit follow-up official for the financial statement audit.

OIG Evaluation of Leon Snead & Company's Audit Performance

We reviewed LSC's report and related documentation and made necessary inquiries of its representatives. Our review was not intended to enable the OIG to express, and we do not express an opinion on the FEC's financial statements; nor do we provide conclusions about the effectiveness of internal control or conclusions on FEC's compliance with laws and regulations. However, the OIG review disclosed no instances where LSC did not comply, in all material respects, with *Government Auditing Standards*.

We appreciate the courtesies and cooperation extended to LSC and the OIG staff during the audit. If you should have any questions concerning this report, please contact my office on (202) 694-1015.



Lynne A. McFarland
Inspector General

Attachment

Cc: Judy Berning, Acting Chief Financial Officer
Alec Palmer, Staff Director/Chief Information Officer
Gregory Baker, Deputy General Counsel for Administration
Lisa Stevenson, Deputy General Counsel for Law

Federal Election Commission

Audit of Financial Statements

**As of and for the Years Ended
September 30, 2013 and 2012**

Submitted By

Leon Snead & Company, P.C.
Certified Public Accountants & Management Consultants

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*Certified Public Accountants
& Management Consultants*

Independent Auditor's Report

THE COMMISSION, FEDERAL ELECTION COMMISSION INSPECTOR GENERAL, FEDERAL ELECTION COMMISSION

We have audited the accompanying financial statements of Federal Election Commission (FEC), which comprise the balance sheet as of September 30, 2013 and 2012, and the related statements of net cost, changes in net position, budgetary resources, and custodial activity for the years then ended. The objective of our audit was to express an opinion on the fair presentation of those financial statements. In connection with our audit, we also considered the FEC's internal control over financial reporting and tested the FEC's compliance with certain provisions of applicable laws, regulations, and certain provisions of contracts.

SUMMARY

As stated in our opinion on the financial statements, we found that the FEC's financial statements as of and for the years ended September 30, 2013 and 2012, are presented fairly, in all material respects, in conformity with accounting principles generally accepted in the United States of America.

Our consideration of internal control would not necessarily disclose all deficiencies in internal control over financial reporting that might be material weaknesses under standards issued by the American Institute of Certified Public Accountants. Our testing of internal control identified no material weaknesses in financial reporting.

However, we identified significant deficiencies related to the IT security program established by the FEC. We also noted one other control issue that did not rise to the level of a reportable condition in a separate letter dated December 12, 2013, for management's consideration.

Our tests of compliance with certain provisions of laws, regulations, and contracts disclosed one instance of noncompliance that is required to be reported under *Government Auditing Standards* and the OMB Bulletin 14-02, *Audit Requirements for Federal Financial Statements*. The issue deals with noncompliance with The Homeland Security Presidential Directive 23 and National Security Presidential Directive 54, *Cyber Security and Monitoring*, establishing the Comprehensive National Cyber Security Initiative (the CNCI), and relating to Initiative No. 1, *Manage the Federal Enterprise Network as a Single Enterprise with a Trusted Internet Connection (TIC)*.

The following sections discuss in more detail our opinion on FEC's financial statements, our consideration of FEC's internal control over financial reporting, our tests of the FEC's compliance with certain provisions of applicable laws and regulations, and management's and our responsibilities.

REPORT ON THE FINANCIAL STATEMENTS

We have audited the accompanying financial statements of FEC, which comprise the balance sheets as of September 30, 2013 and 2012, and the related statements of net cost, statements of changes in net position, statements of budgetary resources, and statements of custodial activity for the years then ended, and the related notes to the financial statements.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of FEC as of September 30, 2013 and 2012, and the related net cost, changes in net position, budgetary resources, and custodial activity for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America. Such responsibility includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to error or fraud.

Auditor's Responsibility

Our responsibility is to express an opinion on the financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; standards applicable to financial statement audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and OMB Bulletin 14-02, *Audit Requirements for Federal Financial Statements* (the OMB audit bulletin). Those standards and the OMB audit bulletin require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments in a Federal agency, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing opinions on the

SECTION III - AUDITOR'S REPORT AND FINANCIAL STATEMENTS

effectiveness of the FEC's internal control or its compliance with laws, regulations, and significant provisions of contracts. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

REQUIRED SUPPLEMENTARY INFORMATION

Accounting principles generally accepted in the U.S. require that Management's Discussion and Analysis be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Federal Accounting Standards Advisory Board (FASAB) who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

OTHER ACCOMPANYING INFORMATION

Our audit was conducted for the purpose of forming an opinion on the basic financial statements taken as a whole. The performance measures and other accompanying information are presented for the purposes of additional analysis and are not required parts of the basic financial statements. Such information has not been subjected to the auditing procedures applied in the audit of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

OTHER AUDITOR REPORTING REQUIREMENTS

Report on Internal Control

In planning and performing our audit of the financial statements of FEC as of and for the years ended September 30, 2013 and 2012, in accordance with auditing standards generally accepted in the United States of America, we considered the FEC's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the FEC's internal control. Accordingly, we do not express an opinion on the effectiveness of the FEC's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies, and therefore material weaknesses or significant deficiencies may exist that were not identified. However, given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be a material weakness. As discussed below, we identified certain deficiencies in internal control that we consider to be significant deficiencies.

Because of inherent limitations in internal controls, including the possibility of management override of controls, misstatements, losses, or noncompliance may nevertheless occur and not be detected. A deficiency in internal control 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 and correct, misstatements on a timely basis. A material weakness is a deficiency or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Findings and Recommendations

1. Failure to Develop a Strong IT Security Program Places FEC at High Risk of Continued Network Intrusions

FEC's IT security program does not meet government-wide best practice minimum security requirements in many areas. We attributed this serious internal control vulnerability to FEC's officials failure to establish a process that would ensure that Office of the Chief Information Officer (OCIO) exercise due diligence with regard to the establishment of information security and risk management¹ controls within the agency. As a result, FEC's information and information systems have serious internal control vulnerabilities and have been penetrated at the highest levels of the agency, while FEC continues to remain at high risk for future network intrusions.

¹ Information security due diligence includes using all appropriate information as part of an organization-wide risk management program. Using the risk management tools and techniques that are available to organizations is essential in developing, implementing, and maintaining the safeguards and countermeasures with the necessary and sufficient strength of mechanism to address the current threats to organizational operations and assets, individuals, other organizations, and the Nation. Employing effective risk-based processes, procedures, and technologies will help ensure that all federal information systems and organizations have the necessary resilience to support ongoing federal responsibilities, critical infrastructure applications, and continuity of government.

a. Risk Analysis Not Completed Before Rejection of Minimum IT Security Controls

The FEC, unlike other federal agencies that are exempt from the Federal Information Security Management Act (FISMA)², has refused to adopt as the agency's IT security standard the IT security controls and techniques released by the National Institute of Standards and Technology (NIST). For instance, the Government Accountability Office (GAO), like FEC, is exempt from FISMA compliance, but has adopted the NIST security requirements. GAO stated³ that it "adheres to federal information security governance, such as OMB and National Institute of Standards and Technology guidance." While FEC officials have advised that the agency follows NIST best practices "where applicable to their operations," independent evaluations performed since fiscal year 2004 have continually reported significant weaknesses and noncompliance with IT best practice standards within FEC's IT security program areas reviewed.

FEC will remain at high risk for intrusions and data breaches unless it fundamentally changes its governance and management approach, and adopts a risk-based IT security program that is based upon the federal government's IT security control standard – National Institute of Standards and Technology (NIST) best practices, to include:

- Federal Information Processing Standards (FIPS) 199, *Standards for the Security Categorization of Federal Information and Information Systems*,
- FIPS 200, *Minimum Security Requirements for Federal Information and Information Systems*,
- Special Publication (SP) 800-53, *Recommended Security Controls for Federal Systems and Organizations*, and
- Related Federal Information System Management Act (FISMA) security documents.

FEC officials have indicated that the agency makes informed decisions when deciding whether to adopt government-wide IT security requirements. However, our audits have shown that FEC does not have a policy document that requires a risk-based analysis to support the agency's decision to not adopt a minimum government-wide IT security requirement, and we were unable to find any evidence that such reviews were, in fact, performed prior to the agency refusing to adopt the IT security requirement. As further support, we identified other

² The E-Government Act (P.L. 107-347) recognizes the importance of information security to the economic and national security interests of the United States. Title III of the E-Government Act, entitled the Federal Information Security Management Act (FISMA), emphasizes the need for organizations to develop, document, and implement an organization-wide program to provide security for the information systems that support its operations and assets.

³ GAO Performance and Accountability Report – 2011, page 58.

independent evaluations⁴ performed since fiscal year 2004 that have reported significant deviations in FEC's IT security program from minimum accepted best practice IT security controls.

Without a risk-based analysis and supporting evidence, FEC's critical IT security decisions are based upon whether the agency is exempt from the legislative requirement, rather than assessing if the control would provide an effective reduction of risks to the FEC's information and information systems.

For example, while FEC is required to follow the Federal Acquisition Regulations (FAR), the FEC refuses to adopt FAR requirements relating to requiring specific IT security controls and processes to be included in government contracts. FEC has exempted itself from compliance with the FAR sections requiring specific (FISMA based) IT security standards for contractors. The NIST best practice requirements are meant to provide the federal government with uniform and cost-effective IT security controls that contractors must meet to ensure that an agency's information systems and information are appropriately secured.

This significant deficiency places FEC's information and information systems that are operated, and/or accessible by contractors at significant unnecessary risk, and greatly increases the potential for data intrusions and loss or manipulation of sensitive information.

Recommendations

1. Formally adopt as a model for FEC, the NIST IT security controls established in FIPS 199, FIPS 200, SP 800-53, and other applicable guidance that provides best practice IT security control requirements

FEC Response

OCIO officials advised that, even though the FEC is exempt from FISMA, the OCIO partially agrees with this recommendation, and noted that the IT Security Officer will review NIST 800-53 for implementation in FY 2014. The OCIO officials advised that they do not agree to formally adopt NIST guidelines.

Auditor Comments

While OCIO officials have advised that they will "review" the NIST minimum control requirements, they have again stated that they will not adopt the federal government's minimum IT security controls best practices. Until FEC adopts these minimum controls, as other federal agencies have done that are also exempt, FEC will remain at high risk.

⁴ A security control assessment report, issued to FEC by an independent contractor in December 2008 found that 40 percent of the IT security controls applicable to FEC's IT environment had been only partially implemented, or not implemented at all. The Office of Inspector General (OIG) in 2004 as part of reporting required by the *Chief Financial Officers (CFO) Act of 1990* first identified information technology security as a challenge that has raised serious concerns about the effectiveness of FEC's IT security program.

2. Revise FEC policies to require that FEC contractors adhere to the FAR requirements which adopt FISMA and NIST IT security controls that contractors must follow when providing services to the federal government.

FEC Response

OCIO officials advised that they “do not understand the actual purpose of this finding. Auditors have not demonstrated how including a FAR statement will help improve the security posture of FEC. OCIO disagrees with this recommendation. As a FISMA exempt agency, the FEC incorporates language and is supported by FAR clauses that address the level of security necessary to safeguard agency security in all of its contracts. This language was agreed to by the agency contracting officer and ISSO. Contractors are required to adhere to the same level of security as FEC employees.”

Auditor Comments

FEC is required to follow the FAR. However, OCIO officials cite the agency’s FISMA exemption as the reason for not implementing IT security controls. It appears that regardless of the regulation or the control, if the matter relates to the FISMA, FEC officials exempt the agency. The decision to exempt the agency from required IT security controls appears to be made without any analysis of the costs, or the actual or potential harm to FEC by not implementing the security control or process.

In addition, as discussed in this report, FEC’s IT security policies do not meet the minimum federal government’s “best practice” IT security controls. Therefore, we continue to believe that the FEC should follow FAR requirements that mandate use of applicable “best practice” IT security controls in all contracts.

3. Revise FEC policies and procedures to require a documented, fact-based, risk assessment prior to declining adoption of any government-wide IT security best practice, or IT security requirement, including those that FEC may be legally exempt. Require the Chief Information Officer (CIO) to approve, and accept the risk of any deviation from government-wide IT security best practices that are applicable to the FEC business operations. Retain documentation of these decisions.

FEC Response

OCIO officials advised that they partially agree with this recommendation, and will review applicable NIST 800-53 for possible implementation in FY 2014. The FEC advised that any actions taken will be based on obtaining additional personnel resources. Further, all FISMA implementation must be approved by the commission since the FEC is legally exempt from FISMA.

Auditor Comments

We continue to believe that FEC’s information systems and information would be significantly more secure if the agency adopted the federal government’s

minimum IT security controls best practices, Presidential Directives on IT security, and OMB directives that provide guidance on strengthening the federal government's IT security posture. We disagree that adoption of the IT security controls best practices would require Commission approval because the FEC is legally exempt. In fact, in a June 1, 2011, memorandum to the Acting Staff Director, the FEC Office of General Counsel noted that the FEC could voluntarily adopt an IT operational policy issued by the federal government's Chief Information Officer as a best practice even though the FEC is specifically exempt from the guidance. Further, the CIO has a responsibility to ensure the FEC's information and information systems are properly protected, and thus implementation of the best practices would be in line with this responsibility. Until FEC fully adopts best practice IT controls, the agency will remain at high risk of further intrusions and data breaches.

b. Refusal to Adopt Government-wide IT Controls Increased Risks of Intrusions

FEC has experienced several serious data intrusions and information breaches in the last few years. During our audit, we obtained information on two intrusions and information data breaches that are briefly discussed below. Our analysis indicates that if FEC had implemented government-wide minimum best practice IT security controls, these intrusions and breaches may have prevented and/or more timely detected. Details of the two most serious matters follow:

Intrusion No. 1

In May 2012, the FEC was a victim of a network intrusion by an Advanced Persistent Threat (APT)⁵. Several FEC systems and a Commissioner's user account were compromised by this specific threat. For approximately eight months, the Commissioner's computer contained malware with the potential for a computer hacker to access and obtain copies of:

- Matters Under Review by the agency, and not made public until final decisions are made, and would include such sensitive information as General Counsel's reports and briefs, subpoenas, and other similar items;
- Specific details on the agency review processes, such as specifics on the criteria used for a committee to be referred to the Alternative Dispute Resolution (ADR); and specific dollar value variances of violations that result in inclusion in public audit reports; and

⁵According to NIST SP 800-39, an adversary that possesses sophisticated levels of expertise and significant resources which allow it to create opportunities to achieve its objectives by using multiple attack vectors (e.g., cyber, physical, and deception). These objectives typically include establishing and extending footholds within the information technology infrastructure of the targeted organizations for purposes of obtaining information, undermining or impeding critical aspects of a mission, program, or organization; or positioning itself to carry out these objectives in the future. The advanced persistent threat: (i) pursues its objectives repeatedly over an extended period of time; (ii) adapts to defenders' efforts to resist it; and (iii) is determined to maintain the level of interaction needed to execute its objectives. The contractor also identified two additional systems that were infected, but were not shown as APT type threats.

- Any sensitive FEC documentation and sensitive personal identifiable information.

Although the contractor was unable to identify if the above sensitive information was actually accessed by the intrusion, the opportunity did exist. The agency hired a contractor to analyze this serious intrusion on FEC's IT systems, and to provide recommended solutions to eliminating any threat discovered by the contractor. The contractor completed the analysis, and provided a report to FEC on October 5, 2012. The contractor made a significant number of recommendations, including that FEC should complete the actions by the end of October 2012. However, when we requested documentation of the actions taken by FEC to implement the report's recommendations, almost one year after the report was issued, we were advised by FEC officials that the agency had not yet implemented any significant portion of the contractor's recommendations.

Intrusion No. 2

In August 2013, the FEC was notified of an intrusion to the FEC's website (FEC.gov). The FEC had to disable use of certain features of the website to conduct an analysis of the intrusion. FEC is currently receiving technical expertise to analyze the extent of the breach and its impact. As FEC was working on remediating the August 2013 intrusion, another intrusion was detected on the agency's website in early fiscal year 2014.

Recommendations

4. Using the initial Corrective Action Plan (CAP) developed by the Chief Information Security Officer as a base, implement each of the contractor's recommendations in the October 2012 *Threat Assessment Program* report, and complete all remedial actions (i.e. changing of all user passwords) within the next 60 days, and all other tasks by February 2014. Provide sufficient budgetary and personnel resources to this project to ensure that actions are properly accomplished.

FEC Response

OCIO officials advised that they are moving as quickly as possible on the recommendations made by the contractor. OCIO has stated that several of the recommendations have been implemented and they are working diligently to implement the others as necessary.

Auditor Comments

The current FEC remediation plan, provided to us in late October 2013, shows that FEC has now begun to address recommendations in the contractor's report. We continue to believe that the FEC's IT security program would be significantly strengthened by implementing all of the report's recommendations as soon as possible.

5. Provide biweekly updates to the CIO on the status of the implementation of the October 2012 *Threat Assessment Program* report recommendations to ensure that it continues on track, and issues that arise are addressed as soon as possible.

FEC Response

OCIO officials advised that they agree with this recommendation, and have assigned a staff person to provide a biweekly status update to the CIO.

Auditor Comments

Since OCIO officials have agreed to implement this recommendation, we have no additional comments.

6. Provide semiannual corrective action plan (CAP) updates to the Commission on the status of the implementation of the October 2012 Threat Assessment Program report recommendations in accordance with Commission Directive 50.

FEC Response

OCIO officials advised that they will continue to update the Commission concerning CAPs on a semi-annual basis through the Commission Secretary's Office.

Auditor Comments

We believe that the importance of implementing the recommendations in the contractor's report should be discussed with the Commission on a regular basis. Therefore, not only should management continue to provide the Commission with updates for the financial statement audit CAP, but the CAP developed by the CISO regarding the October 2012 *Threat Assessment Program* report should also be provided.

7. Revise all pertinent FEC policies and procedures to ensure that they address proper prevention and detection controls, and provide a current and authoritative control structure for addressing APT, and other types of intrusions. Ensure that this review is completed, and policies and procedures are issued by March 2014.

FEC Response

OCIO officials agree with this recommendation. OCIO officials stated that they will review FEC policies and procedures to ensure they are aligned with the agency's current practices. OCIO officials further noted that FEC is working with the Department of Homeland Security (DHS), and is also purchasing additional tools and capabilities to address possible vulnerabilities and strengthen the FEC infrastructure.

Auditor Comments

Since OCIO officials agreed to implement this recommendation, we have no additional comments.

2. Oversight and Monitoring of IT Corrective Actions are Ineffective

FEC has failed to implement agreed upon corrective actions to address IT security vulnerabilities that have, in some cases, been outstanding for approximately five years. We attributed this significant internal control weakness to the lack of emphasis placed on the audit corrective action process by FEC officials; the need for more effective oversight and monitoring of IT operations by FEC officials; and the need for updated IT policies relating to this area. As a result, FEC's information and information systems continue to be at high risk for further intrusions and data breaches.

The OIG has expressed similar concerns about the lack of prompt and effective corrective actions in several reports. For example, the OIG in a June 2013, report advised:

“Currently, the FEC lacks the accountability necessary to ensure compliance with all aspects of (FEC) Directive 50: Audit Follow-Up. It is essential that the Commission not only requires management to report on a semi-annual basis the status of outstanding recommendations, but also develop a process to ensure the Audit Follow-up Officials are being held accountable for implementing outstanding recommendations in a timely manner that are beneficial to the agency's mission and will improve agency programs. Without the accountability necessary to ensure corrective actions are taken by management, the mission of the agency is consistently operating under weaker controls that can increase cost, expose the agency to risks, and increase the potential of fraud, waste, and abuse to agency programs.”

Audit follow-up, to include the timely implementation of audit recommendations, is required by Office of Management and Budget Circular A-50, *Audit Follow-up*, as revised, and FEC Directive 50. The FEC directive requires FEC officials to:

- “(3) Conduct regular meetings with the Inspector General throughout the year to follow-up on outstanding findings and recommendations, and include reports of these meetings in the written corrective action plan and semi-annual reports required to be presented to the Commission;
- (4) Respond in a timely manner to all audit reports;
- (5) Engage in a good faith effort to resolve all disagreements; and
- (6) Produce semi-annual reports that are submitted to the agency head....”

OMB Circular A-50, paragraph 10 requires agencies to “Assure that performance appraisals of appropriate officials reflect effectiveness in resolving and implementing audit recommendations.”

Finally, OMB Circular A-123, *Management's Responsibility for Internal Control*, Section V. provides that agency managers are responsible for taking timely and effective action to correct deficiencies; correcting deficiencies is an integral part of

management accountability and must be considered a priority by the agency; corrective action plans should be developed for all material weaknesses, and progress against plans should be periodically assessed and reported to agency management. Management should track progress to ensure timely and effective results. A-123 also provides that “As managers consider IG and GAO audit reports in identifying and correcting internal control deficiencies, they must be mindful of the statutory requirements for audit follow-up included in the IG Act, as amended and OMB Circular A-50, Audit Followup. Management has a responsibility to complete action, in a timely manner, on audit recommendations on which agreement with the IG has been reached.”

Due to the lack of emphasis placed on the audit corrective action process, OCIO has not implemented agreed upon corrective actions to address IT security vulnerabilities. During our FY 2013 Financial Statement Audit, we found that OCIO officials have not taken action on most of the audit recommendations contained in the 2012 and prior years’ FEC financial statement audit reports, nor have they implemented corrective actions on critical issues identified in an independent contractor’s internal control report.

Recommendations

8. Assure that the annual performance plans of all appropriate audit follow-up officials reflect their responsibility to monitor and ensure the timely implementation of audit recommendations, as required by OMB Circular A-50.

FEC Response

OCIO officials advised that because performance plans for FY 2014 have already been developed and implemented, the OCIO will revisit this recommendation in FY 2015.

Auditor Comments

We believe that the issues noted in this report, and in OIG’s management challenges included in FEC’s 2012 Performance and Accountability Report (PAR), and other OIG reports, show that FEC has not placed sufficient emphasis on implementing corrective actions to address reported internal control weaknesses. This problem can be best illustrated by the failure to take any actions on a critical contractor’s report that addressed a serious intrusion into FEC’s information systems at the highest levels of governance within the agency. Appropriate FEC officials, as required by OMB A-50, should be evaluated on implementation of corrective actions in a timely manner. We believe this recommendation should be implemented immediately.

9. Require the audit follow-up official to develop a tracking process that would include monthly reports to the CIO, and highlight key tasks, progress, and missed target dates, when applicable.

FEC Response

OCIO advised that they agree with this recommendation and have assigned an individual to track audit follow-up actions, that the status meetings will be recorded to show the progress of this recommendation.

Auditor Comments

Since OCIO officials agreed to implement this recommendation, we have no additional comments.

During this year's audit, we conducted follow-up testing to determine the status of prior years' reported significant deficiencies, and the status of these significant deficiencies are outlined below.

a. After Five Years, FEC Has Made No Progress in Implementing a System to Recertify Users' Access Authorities

While FEC agreed in 2009 to implement an annual recertification of users' access authorities to the FEC network and applications, as we disclosed in each subsequent audit, including our 2013 follow-up testing, FEC has made no progress implementing a process for recertifying users' access authorities. During our 2013 audit, we were advised by the Deputy Chief Information Officer (DCIO) for Operations that the agency no longer agrees to periodically review users' access authorities. We noted that this decision conflicts with FEC IT policy and prior management responses.

IT policy 58-2.2, *Account Management Policy*, states "All user account access rights and privileges will be periodically reviewed and validated in accordance with General Support System...system security plans..." The security plan for the General Support System, dated 2009, contains a control requirement that the users' accounts will be reviewed every six months.

Subsequently, we met with the Chief Information Officer (CIO) in mid-August 2013, to discuss the lack of corrective actions taken by the agency on this and other problem areas. We were advised by the CIO that subsequent to our meeting with the Deputy CIO for Operations, the FEC was taking a new look at the prior year's audit recommendations. Information was then provided that indicated that the Office of the CIO may begin to send information to users' supervisors to review access authorities; however, this review has not yet been implemented and there were no details provided on how the system would work or when the control would be implemented. Currently, FEC is not compliant with best practices, and officials do not have assurance that users only have access to information and information systems that are necessary to accomplish job responsibilities. The importance of this control process can be illustrated by recent data breaches of FEC information and information systems, as follows:

- In July 2012, an FEC employee discovered that they had unauthorized access to personnel-related files, labor management files, and Administrative Law files.
- In November 2012, it was determined that an FEC employee retained access to OGC files for two years after being transferred from OGC to another office within FEC.

Had FEC implemented the audit recommendation as it agreed to do in 2009, an effective review of user access authorities could have detected these problems.

Recommendations

10. Establish a project with the project manager reporting to the CIO to help ensure that this long-delayed project will be implemented within the next three months. Require the project director to provide biweekly updates to the CIO. Provide necessary budgetary and personnel resources to ensure that this project is completed timely.

FEC Response

OCIO officials advised that they have assigned an individual as the Project Coordinator for this recommendation. This individual will work with the IT Security Officer to report biweekly status updates to the CIO. Review of users' access will be implemented at the end of November.

Auditor Comments

Since OCIO officials agreed to this recommendation, we have no additional comments.

11. Reissue FEC Policy 58-2.2 to require annual recertification of users' access authorities by supervisory personnel who would have knowledge of the users' requirements for accessing FEC information and information systems. Ensure that the policy contains sufficient operational details to enable an effective review and update process.

FEC Response

OCIO advised that they concur with this recommendation. OCIO officials noted that the agency will send a report to data owners to verify user access authorities in mid-December; however, managers and data owners are accountable to report access changes to OCIO.

Auditor Comments

OCIO officials agreed to this recommendation. However, before the recommendation can be closed, additional information is needed concerning the process that will be used in ensuring that this control is effectively implemented with the agency.

b. Access Control Weaknesses Pose a Risk to FEC's Information and Information Systems

Access controls established by FEC are weak, and provide vulnerabilities that could be exploited. We have reported significant user control weaknesses within FEC's IT security program since 2009. The problems we reported with FEC's access controls, and the actions taken by FEC to remediate the problem, if any, are discussed in the following paragraphs.

- **Accounts with Passwords that Never Expire:** FEC officials had not taken action to address the issues we noted in our prior audit dealing with approximately 140 accounts that did not have a password expiration date; a large percentage of these accounts have not had their password changed for years, and contained some form of administrator⁶ authority.

In response to our 2012 audit report, the Deputy CIO for Operations advised that the OCIO agreed in part with these recommendations, and that the FEC would complete a review of those accounts by July 2013. However, when we requested documentation to support the corrective actions taken on these problems in August 2013, we found that no actions had yet been taken by OCIO officials.

- **Processes for Assigning Replacement and Initial Passwords⁷:** During our audit, we requested all FEC policies and operating procedures relating to the assignment of replacement and initial passwords for testing. We were advised by OCIO officials that the FEC did not have detailed written policies or operating procedures for establishing initial account passwords or replacement passwords. OCIO officials stated that "When systems administrators (SAs) are notified, through the FEC System Access (FSA), that there is a need to establish an account, the SA then establishes an account with a generic password of his or her choosing; this password is not recorded for security reasons. Then either through the new hire orientation program, or through the help desk, the person is instructed to change this password and it must be changed before access to the system is granted."

The absence of specific FEC policies and operating procedures prevents FEC from setting requirements for this important area, and unnecessarily places this area at risk.

⁶ The term used for an account that has privileges that normal accounts do not. In most cases, for the system or network on which it is located, the account could have almost unlimited authority.

⁷ These terms are used to describe that part of the administration of password (authentication controls) when a predetermined (or generic) password is provided to a new user during initial login process and when replacement passwords are provided to existing users who are unable to login with an existing password (e.g. password is forgotten).

- **Login Passphrase for Contractors:** An audit report released by the Office of the Inspector General (OIG), *2010 Follow-Up Audit of Privacy and Data Protection, Federal Election Commission, Audit Report Number OIG-10-03*, contained a finding related to access controls. The OIG stated in their audit report,

“We were informed by the Information Systems Security Officer that encrypted laptops assigned to contractors use an encryption passphrase assigned by the FEC. ...it appears the same passphrase is used for all contractors. The passphrase assigned to contractors is not suitably complex, is relatively intuitive, and could be easily guessed or “hacked” by using basic password detection or “cracking” software. The lack of a unique secret passphrase for each individual increases the risk that the data on that laptop could be accessed by an unauthorized individual.”

We followed up on this issue and confirmed that the problem reported by the auditors in 2010 continued into FY 2013. For example, the same passphrase has been provided to us for use since 2009, and we were not required to change the passphrase. Therefore, we agree with the prior auditors’ conclusion that this weakness substantially negates the effectiveness of this control.

The CISO advised that the OCIO currently has the licenses needed to provide all users with their own unique passphrase, and believes that this item should be closed. However, as noted above, when we initiated the 2013 financial statement audit, we were provided the same login passphrase as we had used since 2009. The system did not require us to change the assigned password. Therefore, we believe that this problem has not yet been corrected.

Recommendations

12. Revise FEC policies and operating procedures to require the minimum best practices controls contained in the Federal Desktop Core Configuration (FDCC) and the United States Government Configuration Baseline (USGCB) for those systems that require user identification and passwords.
13. Undertake a comprehensive review of user accounts that have been granted non-expiring passwords. Require detailed information from account owners on the need for non-expiring accounts, including the development of other alternatives, before reauthorizing the accounts’ access. Develop FEC policies and operating procedures to implement this recommendation.
14. Whenever possible, require accounts with non-expiring passwords to be changed at least annually. Establish substantially more robust password requirements for accounts granted non-expiring passwords. Develop FEC policies and operating procedures to implement this recommendation.

15. Immediately terminate those accounts with non-expiring passwords that have not accessed their accounts within the last 12 months. Develop FEC policies and operating procedures to implement this recommendation to include a data retention policy for historical data.

FEC Response Recommendations 12-15

OCIO officials advised that they concur with these recommendations. OCIO officials noted that they will investigate the feasibility, workload and impact of implementing this recommendation.

Auditor Comments

While OCIO officials advised that they concur with the recommendations, they further state that they plan to “investigate the feasibility” of the recommendations. We continue to believe that the recommendations should be fully implemented, and would further strengthen FEC’s IT security program.

16. Strengthen controls over the establishment of initial and replacement (default) passwords, to include requiring that random passwords be used, and the default passwords used be changed monthly. Develop FEC policies and operating procedures to implement this recommendation.

FEC Response

OCIO officials advised that they do not believe that the current process presents security risks. The default password is created to aid the Help Desk team in the user orientation process. It is not the case that a user would be able to use the default password to login to a client machine without the aid of the Help Desk.

Auditor Comments

NIST SP 800-118, *Guide to Enterprise Password Management (Draft)*, provides that there are two types of techniques used to attack passwords: guessing and cracking. Guessing involves repeatedly attempting to authenticate using default passwords, dictionary words, and other possible passwords. NIST further provides that “Guessing attacks can be mitigated rather easily by using a combination of two methods. First, ensure that passwords are sufficiently complex so that attackers cannot readily guess them....Organizations should also ensure that other trivial passwords cannot be set, such as the username or person’s name, “password,” the organization’s name, simple keyboard patterns, dates, dictionary words, and names of people and places.”

NIST SP 800 notes that “...special case of password guessing is the use of default passwords for password resets, such as when accounts are first created. A password reset is often accomplished by setting a one-time password (OTP), which is a password that is set to expire immediately, and thus can only be used to gain access to a system one time. An example of how OTPs are used is a help desk staff member creating a new account. The help desk member sets an OTP

for an account and provides the OTP to the user. The user may log in with the OTP once, at which point the OTP expires and the user is required to set a new password. Randomly generated or arbitrarily chosen OTPs, not default or patterned passwords, should be used during account creation and password reset processes. This ensures that if the user does not promptly change the assigned password, that the password will not be easily guessable.

We believe the NIST publication supports that FEC should adopt this recommendation.

17. Establish written procedures and develop a policy for FEC contractor computer orientation that requires contractors to create their own unique login passphrase. Also, ensure that all current contractors have created their own unique login passphrase.

FEC Response

OCIO officials advised that it “disagrees with this finding,” and “OCIO assigned a new passphrase to all users.”

Auditor Comments

As discussed in this report, when we initiated the FY 2013 audit, our newly assigned laptops were assigned the same passphrase login being used by contractors since 2009. Therefore, management’s assertion in their response that all users have been assigned a new passphrase is incorrect. We believe that FEC’s control in this area is not operating effectively; OCIO does not have a control in place to determine if all contractors have established a unique passphrase. We continue to believe this recommendation should be implemented.

c. FEC’s Vulnerability Scanning Program Needs Significant Strengthening to Further Reduce Risks

FEC’s vulnerability scanning program did not meet best practices. We found during our 2013 audit that individual employees’ workstations continued to be excluded from the scanning process, a significant omission. Additionally, system vulnerabilities identified from the scanning process were not timely mitigated.

Best practices address vulnerability scanning as one of the recommended security controls and part of the risk assessment process. For example, NIST recommends that organizations: “Analyze findings, and develop risk mitigation techniques to address weaknesses. To ensure that security assessments provide their ultimate value, organizations should conduct root cause analysis upon completion of an assessment to enable the translation of findings into actionable mitigation techniques. These results may indicate that organizations should address not only technical weaknesses, but weaknesses in organizational processes and procedures as well.”

Without the scanning of individual workstations included as part of an effective scanning program, FEC cannot detect and correct vulnerabilities and assure that devices have proper security configurations. In addition, the failure to correct known vulnerabilities identified in the scanning process is a significant internal control weakness. These weaknesses and related uncorrected vulnerabilities present opportunities for intrusions into FEC's information and information systems. The lack of an effective agency wide scanning program, (that would include workstations, servers, applications, etc.), in our opinion, contributed to the control issues that allowed recent intrusions into FEC's website.

Recommendations

18. Include all components of the general support system (GSS), including employees' workstations, and other FEC devices and applications into the organization's vulnerability/security scanning process and ensure that they are assessed at least semi-annually.
19. Strengthen controls to ensure that vulnerabilities/weaknesses identified through the vulnerability scanning tests are completed within 60 days of identification, or document an analysis and acceptance of risks for longer term remediation.

FEC Response

OCIO officials agreed with this recommendation. OCIO officials advised that the agency is in the process of purchasing a software security application to ensure FEC assets are patched regularly. Any high vulnerability that cannot be patched in 60 days will be documented, and an acceptance memorandum will be created for CIO/designee signature on longer term remediation.

Auditor Comments

Since OCIO officials agreed to this recommendation, we have no additional comments.

d. Configuration Security Controls and FDCC/USGCB Requirements Need Strengthening

FEC needs to further strengthen its configuration security controls so that significant vulnerabilities do not continue to impact FEC's IT security program. Currently, the integrity of the FEC change management process relies on the manual recording of all system changes in an outside application, there is no tool in place to identify all changes made to the configuration of FEC's system, and there are no logs that collect changes made to the system. Therefore, there is reduced assurance that all changes are processed under the change management framework established, or that changes made outside the framework will be identified. Further, our current and prior audits found that while FEC has issued configuration baseline standards for a number of its systems; these standards have not been fully implemented.

The current FEC baseline configuration standards require that machines' "administrator account" be renamed and that access to administrator authorities be limited to only those users requiring such access. Based on the computer settings we reviewed, users had been given administrator rights allowing them to change local settings, such as disabling the screen saver and the ability to start "services" manually. By disabling the screen saver, users can override the communication control setting in which re-authentication (password) is required after a set period of inactivity. These settings do not adhere to the United States Government Configuration Baseline (USGCB), formerly referred to as the Federal Desktop Core Configuration (FDCC) mandate.

In addition, audits found that FEC had not yet fully implemented security control requirements that OMB established in 1997 as "best practices" security requirements for Windows computers. FEC advised us in past years that it planned to implement FDCC requirements, that the agency agreed to adopt, in a phased approach when new desktop/laptop computers are replaced⁸. While FEC has performed an evaluation of workstations for compliance with USGCB (United States Government Configuration Baseline), an evaluation of Internet Explorer configuration settings was not included in the evaluation. Key security settings are also provided for Internet Explorer in the FDCC/USGCB. Therefore, FEC is still not in full compliance with these OMB requirements, almost ten years after they were first issued.

Recommendations

20. Implement baseline configuration standards for all workstations and require documentation by the CIO to approve and accept the risk of any deviation.

FEC Response

OCIO officials advised that the FEC is currently working to implement USGCB standards. OCIO officials noted that the agency has purchased a software security application to monitor configuration changes in users' workstations. Any deviation will be documented and approved by CIO or his designated official.

Auditor Comments

Since OCIO officials have agreed to implement this recommendation, we have no additional comments.

21. Implement automated logging of all configuration changes and review logs regularly to ensure that all system changes, including changes to workstations, are processed through the change management framework.

⁸ FEC has replaced its laptops, and the standards have still not been fully implemented.

FEC Response

OCIO officials advised that the agency has purchased a software security application, which provides OCIO the capability to automate logging of all configuration changes and review of logs. The full implementation of this application is estimated to be completed by the end of December 2013.

Auditor Comments

Since OCIO officials have agreed to implement this recommendation, we have no additional comments.

22. Fully implement USGCB/FDCC standards and perform scanning of Internet Explorer configuration settings.

FEC Response

OCIO officials advised that the agency plans to begin USGCB implementation agency-wide the second quarter of calendar year 2014. OCIO officials noted that the project completion date is dependent upon the successful implementation of the various phases of the project. A project plan is being developed, and the plan will include evaluating Internet Explorer settings.

Auditor Comments

Since OCIO officials have agreed to implement this recommendation, we have no additional comments.

- e. **Assessment and Accreditation of the FEC's General Support System Still Not Completed**

FEC needs to perform an assessment of its general support system to identify vulnerabilities that could allow further network intrusions and data breaches. In addition, FEC has not followed FEC policy 58-2.4, Certification and Accreditation Policy, which establishes controls over the process of obtaining independent assurance that FEC major applications and general support system (GSS) are capable of enforcing the security policies that govern their operations. FEC 58-2.4 states that "This policy is designed to help increase FEC managers', users', and external consumers' confidence and trust that information technology systems will behave in a reliable, predictable manner, and with security controls commensurate with information sensitivity and risk levels. This policy is enabled by independent certifications carried out at regular intervals, and by management's deliberate acceptance of residual risk (accreditation)."

In our prior audit, we reported that FEC had not performed an assessment of its key medium risk GSS since December 2008; needed to strengthen FEC policy 58-2.4 to provide additional guidance on what decision points determine when a new accreditation is required, and provide more specific documentation requirements so the agency could track changes made in the GSS. These changes would enable

FEC officials to make informed decisions on whether security controls and operations need to be assessed and the system's accreditation to be updated.

During our 2013 audit, we followed up to determine whether the FEC had taken actions to assess and accredit its GSS. Similar to information we obtained during our 2012 audit, FEC officials advised that the agency is planning to perform a new assessment of the GSS, and subsequently accredit that the FEC has sufficient controls for the information and data in the GSS. We were advised that the review will be implemented in November 2013.

Recommendations

23. Perform within this fiscal year a new assessment and accreditation of the GSS using NIST SP 800-53 as the review criteria.

FEC Response

OCIO officials advised that they concur with this recommendation. OCIO officials noted that the agency will have a Risk Vulnerability Assessment performed by the Department of Homeland Security (DHS) in November 2013. In addition, OCIO officials stated that the agency has signed a Memorandum of Agreement with DHS to obtain the necessary hardware and software to implement continuous monitoring for the FEC's LAN.

Auditor Comments

Since OCIO officials have agreed to implement this recommendation, we have no additional comments.

24. Strengthen FEC Policy 58-2.4 so that it provides additional guidance on what decision points determine when a new assessment and accreditation is required; and the specific documentation requirements that need to be maintained in order for the agency to track changes so it can make informed decisions on when major changes drive the need for a new assessment and/or updated accreditation.

FEC Response

OCIO officials advised that the agency will look at this policy and update it as necessary, and that the agency will implement continuous monitoring in FY 2014.

Auditor Comments

OCIO officials stated that they will review the cited policy and update as necessary. We believe that the cited FEC policy is outdated and needs to be revised to address the problem areas noted in this document.

f. Testing and Exercise FEC's COOP - Key Documentation Not Available

FEC still has not yet fully and effectively tested and exercised the Continuity of Operations Plan (COOP) – a critical element in development of a comprehensive

SECTION III - AUDITOR'S REPORT AND FINANCIAL STATEMENTS

and effective plan. As discussed in Federal Continuity Directive (FCD) No. 1, until the COOP plan is tested and exercised, any deficiencies in the plan cannot be determined, and the agency remains at risk of not being able to carry out the mission of the agency in the event of a disruption to normal business operations.

During fiscal years 2011 through 2013, we reviewed documents provided by FEC officials, and determined that FEC did not meet either its own testing requirements or the federal requirements that are applicable to the agency. In fiscal year 2013, we requested documentation from FEC officials that would enable us to follow-up on findings and recommendations in our prior audit report. We reviewed documents provided by FEC officials, and found that the documents were the same as we had reviewed in 2012. The table below lists key federal requirements, and whether the test documentation provided was in substantial compliance with these requirements.

Federal Continuity Directive No. 1, Appendix K	Auditor Comments
Annual testing of alert, notification, and activation procedures for continuity personnel and quarterly testing of such procedures for continuity personnel at agency headquarters.	This requirement was not met.
Annual testing of plans for recovering vital records (both classified and unclassified), critical information systems, services, and data.	Documentation was provided to show that critical information systems were tested.
Annual testing of primary and backup infrastructure systems and services (e.g., power, water, fuel) at alternate facilities.	This requirement was not met.
Annual testing and exercising of required physical security capabilities at alternate facilities.	This requirement was not met.
Testing and validating equipment to ensure the internal and external interoperability and viability of communications systems, through monthly testing of the continuity communications capabilities outlined in Annex H (e.g., secure and non-secure voice and data communications).	This requirement was not met.
An annual opportunity for continuity personnel to demonstrate their familiarity with continuity plans and procedures and to demonstrate the agency's capability to continue its essential functions.	This requirement was not met.
An annual exercise that incorporates the deliberate and preplanned movement of continuity personnel to an alternate facility or location.	This requirement was not met.
An opportunity to demonstrate that backup data and records required supporting essential functions at alternate facilities or locations are sufficient, complete, and current.	Some documents were provided that showed some portions of this requirement were tested.

The OIG issued an Inspection Report, *Inspection of the Federal Election Commission's Disaster Recovery Plan and Continuity of Operations Plans*, dated

January 2013, which addressed FEC's COOP, and noted problems similar to what we reported in our 2012 audit report. The inspection report stated:

“...the FEC Continuity of Operations Plans (COOP) for Information Technology Division (ITD) does not include a COOP exercise schedule or plan. In addition, FEC's exercise plan should be in compliance with federal government requirements such as FCD 1, rather than FEC's internal policies that are not fully aligned with federal government standards. FEC has not developed an exercise plan that is a simulation of an emergency designed to validate the viability of one or more aspects of the COOPs... In addition, FEC has not developed and maintained a viable contingency planning program for their information systems to include exercising the plan. FEC will not be able to identify planning gaps that may only be discovered during an exercise. Key personnel have not validated their operational readiness for emergencies by performing their duties in a simulated operational environment....”

FDC No.1, Appendix K, Test, Training and Exercise, require that COOP documents must be validated through tests, training, and exercises (TT&E), and that all agencies must plan, conduct, and document periodic TT&Es to prepare for all-hazards, continuity emergencies and disasters, identify deficiencies, and demonstrate the viability of their continuity plans and programs. Deficiencies, actions to correct them, and a timeline for remedy must be documented in an organization's CAP (corrective action plan). FEC Policy No. 58.2.9, *Continuity of Operations and Disaster Recovery Policy*, provides that plans should not be considered valid until tested for practicality, executability, errors and/or omissions. The initial validation test should consist of a simulation or tactical test. Once validated, plans should be tested annually, or when substantive changes occur to the system, to the system environment, or to the plan itself. Test results should be maintained in a journal format and retained for analysis. Validated change recommendations resulting from testing activities should be incorporated into plans immediately.

Recommendations

25. Ensure that sufficient resources are assigned to the task of testing the COOP, a critical IT control process, in order to reduce risk to the FEC, and complete all required tests in a timely manner. Ensure that appropriate documentation is retained as required by FCD No. 1 to support that FEC has met all applicable federal TT&E requirements.

FEC Response

OCIO officials advised that they agree with this recommendation, and will assign staff to ensure the COOP is tested in a timely manner.

Auditor Comments

Since OCIO officials have agreed to implement this recommendation, we have no additional comments.

26. Develop a detailed POA&M to ensure that required COOP testing and exercises are completed as soon as possible.

FEC Response

OCIO advised that they agree with this recommendation, and that a plan of action and milestone document will be developed to ensure COOP testing and exercises are completed as soon as possible.

Auditor Comments

Since OCIO officials have agreed to implement this recommendation, we have no additional comments.

We noted another control issue that did not rise to the level of a reportable condition in a separate letter dated December 12, 2013 for management's consideration.

A summary of the status of prior year recommendations is included as Attachment 1.

REPORT ON COMPLIANCE

As part of obtaining reasonable assurance about whether the agency's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, and significant provisions of contracts, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain other laws and regulations. We limited our tests of compliance to these provisions and we did not test compliance with all laws and regulations applicable to the FEC. Providing an opinion on compliance with certain provisions of laws, regulations, and significant contract provisions was not an objective of our audit and, accordingly, we do not express such an opinion.

In connection with our audit, we noted one instance described below of noncompliance that is required to be reported according to *Government Auditing Standards* and the OMB audit bulletin guidelines. No other matters came to our attention that caused us to believe that FEC failed to comply with applicable laws, regulations, or significant provisions of laws, regulations, and contracts that have a material effect on the financial statements insofar as they relate to accounting matters. Our audit was not directed primarily toward obtaining knowledge of such noncompliance. Accordingly, had we performed additional procedures, other matters may have come to our attention regarding the FEC's noncompliance with applicable laws, regulations, or significant provisions of laws, regulations, and contracts insofar as they relate to accounting matters.

Noncompliance with Comprehensive National Cyber Security Initiative

We determined that the FEC is noncompliant with The Homeland Security Presidential Directive 23, and National Security Presidential Directive 54, *Cyber Security and Monitoring*. These establish the Comprehensive National Cyber Security Initiative, and

relate to Initiative No. 1, *Manage the Federal Enterprise Network as a Single Enterprise with a Trusted Internet Connection (TIC)*.

TIC was introduced in OMB Memorandum M-08-05, *Implementation of Trusted Internet Connections*, dated November 20, 2007. The initiative was described in the memorandum as an effort to develop "a common [network] solution for the federal government" that would reduce the number of external Internet connections for the entire government to 50. The memorandum stated that "each agency will be required to develop a comprehensive POA&M (Plan of Action and Milestones)" to implement TIC, but it neither defined "agency" nor referred to any legal authority supporting the initiative. FEC's Office of General Counsel (OGC) analyzed this document and determined that since the FEC is exempt from the Federal Information Security Management Act (FISMA), and its predecessor statute, the Government Information Security Reform Act, and because the TIC requirement to implement POA&Ms appeared to be an expansion of a FISMA related information security requirement, FEC was exempt from implementing TIC.

In a June 2009 memorandum to the Staff Director, OGC provided that on January 8, 2008, former President Bush signed HSPD-23 which authorizes the Department of Homeland Security (DHS) to deploy Einstein 2, an automated intrusion detection system (IDS), across federal networks. Einstein 2 would allow the DHS National Cyber Security Division of the U.S. Computer Emergency Readiness Team (US-CERT) to consolidate Federal system intrusion detection, incident analysis and cyber response capabilities. The directive also provided that logon banners be set in place for both internal and external access to Federal Government information systems. HSPD-23 is classified; therefore the specific authorizing statute for the directive and the extent of its application to the Federal Election Commission is unknown. The OGC stated that "We confirmed with DHS on November 12, 2008 that in DHS's view the Commission is within the scope of the presidential directive. However, unclassified legal briefing materials provided by the Department of Justice indicate that at least part of the directive may be authorized by FISMA, from which the FEC is exempt. Thus, there is a possibility that HSPD-23 is only partially applicable to the FEC, or is not applicable at all to the FEC. Since the directive itself is classified, and limited unclassified information has been released, we do not have sufficient information at this time to confirm HSPD-23's applicability to the FEC."

In FY 2012, we provided additional documentation to FEC's OGC that indicated that TIC was applicable to FEC, and we requested that OGC reassess its determination on this matter. In an August 2012 memorandum to the Staff Director, the OGC stated that "...we conclude that FEC must comply with all requirements of...TIC." Based upon this OGC opinion, FEC officials agreed, in their response to our 2012 financial statement audit report, to implement TIC. However, our 2013 audit tests found that no actions have been taken by FEC to implement this Presidential Directive over five years after the directive mandated this security requirement. Had FEC performed necessary due diligence on this control as far back as 2007, it would have improved IT security controls that may have prevented or alerted responsible officials of a network intrusion.

Recommendation

27. Develop a time-phased corrective action plan to address the prompt implementation of the TIC by FEC.

FEC Response

OCIO officials advised the agency will continue to work with a TIC provider to create a solution for TIC implementation. The OCIO will create a plan to implement TIC as soon as they are able to find a cost effective solution.

Auditor Comments

We continue to believe that the FEC should implement this long-standing presidential and DHS directive.

Restricted Use Relating to Reports on Internal Control and Compliance

The purpose of the communication included in the sections identified as “Report on Internal Control” and “Report on Compliance” is solely to describe the scope of our testing of internal control over financial reporting and compliance, and to describe any material weaknesses, significant deficiencies, or instances of noncompliance we noted as a result of that testing. Our objective was not to provide an opinion on the design or effectiveness of the FEC’s internal control over financial reporting or its compliance with laws, regulations, or provisions of contracts. The two sections of the report referred to above are integral parts of an audit performed in accordance with *Government Auditing Standards* in considering the FEC’s internal control over financial reporting and compliance. Accordingly, those sections of the report are not suitable for any other purpose.

AGENCY COMMENTS

The Acting Chief Financial Officer (ACFO) responded to the draft report in a memorandum dated December 10, 2013, which indicated that the agency responses to each recommendation had been previously provided. We have included a synopsis of FEC’s response, and our comments after each recommendation. The ACFO also noted in the memorandum that the agency has taken significant steps during FY 2013 to develop and implement a plan to improve the agency’s IT security posture. Specifically, the CIO has signed a Memorandum of Agreement (MOA) with DHS to perform a comprehensive Risk Vulnerability Assessment, and another MOA to participate in DHS’s Continuous Diagnostics and Mitigation (CDM) program beginning in January 2014. The ACFO believes “The new service will allow the agency to better identify and defend against cyber threats.”

AUDITOR EVALUATION

We continue to believe that the FEC’s information and information systems are at high risk because of the decision made by FEC officials not to adopt all applicable minimum IT security requirements that the Federal government has established. In addition, FEC

has not timely implemented actions necessary to remediate identified weaknesses in IT controls, some of which we first reported in FY 2009.

The FEC's December 10, 2013, written response to the audit is included in its entirety as Attachment 2. The FEC's written response was not subjected to the auditing procedures applied in the audit of the financial statements and accordingly, we express no opinion on it.

Leon Snead & Company, P.C.
Rockville, Maryland
December 12, 2013

Attachment 1

Status of Prior Year Recommendations

Rec. No.	Audit Recommendations	Status as of September 30, 2013
1.	Formally adopt as a model for FEC, the NIST IT security controls established in FIPS 200 and SP 800-53, as the Government Accountability Office has done.	Recommendation open.
2.	Revise FEC policies to require that FEC contractors adhere to the FAR FISMA related requirements, and mandate that FEC contractors follow FISMA IT controls when providing services to the federal government. Use NIST SP 800-53 as guidance for establishing IT controls that contractors must follow.	Recommendation open.
3.	Develop a time-phased corrective action plan to address the prompt implementation of the TIC by FEC. Ensure that TIC is implemented as soon as possible, but no later than June 2013.	Recommendation open.
4.	Revise FEC policies and procedures to require a documented, fact-based risk assessment prior to deciding not to adopt a government-wide IT security best practice, or IT security requirement contained in the Federal Acquisition Regulations. Require the CIO to approve and accept the risk of any deviation from government-wide IT security best practices (i.e. NIST, FAR IT controls) that are applicable to the FEC business operations. Retain documentation of these decisions.	Recommendation open.
5.	Immediately implement government-wide requirements relating to strengthened password controls. Revise FEC policies and operating procedures to require the minimum best practices controls contained in FDCC and USGCB.	Recommendation open.
6.	Undertake a comprehensive review of user accounts that have been granted non-expiring passwords. Require certification from account owners detailing the need for non-expiring accounts, including the development of other alternatives, before reauthorizing the accounts' access. Develop FEC policies and operating procedures to implement this recommendation.	Recommendation open.
7.	Whenever possible, require accounts with non-expiring passwords to be changed at least annually. Establish substantially more robust password requirements for accounts granted non-expiring passwords. Develop FEC policies and operating procedures to implement this recommendation.	Recommendation open.
8.	Immediately terminate those accounts with non-expiring passwords that have not accessed their accounts within the last 12 months. Develop FEC policies and operating procedures to implement this recommendation.	Recommendation open.
9.	Remove the 400 disabled accounts noted during this audit by the end of the calendar year, and on a semi-annual basis conduct a review of the active directory to remove disabled accounts. Revise FEC policies and operating procedures to implement this recommendation.	Closed.
10.	Strengthen controls over the establishment of initial and replacement (default) passwords, to include requiring that random passwords be used, and the default passwords used be changed monthly. Develop FEC policies and operating procedures to implement this recommendation.	Recommendation open.
11.	Research and fix the problem that enables use of a default password to access other contractor email accounts.	Closed.

Attachment 1

12.	Establish procedures that require contractors to create their own unique login passphrase.	Recommendation open.
13.	Require all employees and contractors with remote access to FEC's networks to comply with the dual-factor authentication requirement for their FEC laptop, as federal and FEC policies mandate.	Closed.
14.	Establish an FEC policy that requires annual recertification of users' access authorities.	Recommendation open.
15.	Review FEC current system capabilities in implementing recertification of user access authorities. Develop and document a detailed project plan based on management's review, and assign sufficient resources to this project so that it can be completed on or prior to June 2013.	Recommendation open.
16.	Revise FEC policies to: require a certification of its systems at least once every three years.	Closed. ⁹
17.	Perform a re-certification of the GSS using NIST SP 800-53 as review criteria within this calendar year.	Recommendation open.
18.	Strengthen FEC Policy 58.2.8 so that it provides additional guidance on what decision points drive when a new C&A is required; and specific documentation requirements that need to be maintained in order for the agency to track changes so it can make informed decisions on when major changes drive the need for a re-certification.	Closed. ¹⁰
19.	Include all components of the general support system, including workstations, into the organization's vulnerability/security scanning process and ensure that the general support system in its entirety is assessed at least annually.	Recommendation open.
20.	Implement procedures to ensure that scan results are subject to a "root cause" analysis to ensure that remediation actions address technical as well as organizational processes and procedures.	Recommendation open.
21.	Strengthen controls to ensure that vulnerabilities identified through the vulnerability scanning tests are remediated within 30 days, or document acceptance of these risks.	Recommendation open.
22.	Implement baseline configuration standards for all workstations.	Recommendation open.
23.	Fully implement USGCB/FDCC standards and perform scanning of Internet Explorer configuration settings.	Recommendation open.
24.	Implement logging of all configuration changes and review logs regularly to ensure that all system changes, including changes to workstations, are processed through the change management framework.	Recommendation open.
25.	Review the conditions that caused the employee to retain network access beyond the FEC's standard, and strengthen controls as appropriate.	Closed.
26.	Review the FSA database and remove those personnel shown as current employees or contractors who have departed the agency.	Closed.
27.	Review all outstanding audit recommendations contained in the agency's financial statement audit reports, and develop a current, detailed, time-phased corrective action plan (CAP) for each audit finding and recommendation.	Recommendation open.
28.	Modify key officials' annual performance plan ¹¹ and rating elements to include, as a critical element, the timely completion of corrective action plans.	Recommendation open.

⁹ NIST requirements have been modified in this area, and a continuous monitoring requirement has replaced the three year recertification requirement.

¹⁰ See note 9.

¹¹ Recommendation modified to address OMB Circular A-50 language.

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Attachment 1

29.	Develop a tracking process that would include monthly reports to the CIO, highlight key tasks that may or have miss(ed) target dates, and assign one key OCIO official as responsible for monitoring OCIO corrective action plans.	Recommendation open.
30.	Ensure that sufficient resources are assigned to timely complete the testing of FEC's COOP in order to reduce risk to the FEC.	Recommendation open.
31.	Ensure that appropriate documentation is retained as required by FCD No. 1 to support that FEC has met all applicable federal testing requirements.	Recommendation open.
32.	Develop a detailed POA&M to ensure that required COOP testing and exercises are completed as soon as possible.	Recommendation open.
33.	Establish controls that would automatically suspend an individual's network access if security awareness training is not completed within required timeframes.	Recommendation open.



THE FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 10, 2013

MEMORANDUM

TO: Leon Snead & Company, P.C.

FROM: Judy Berning 
Acting Chief Financial Officer

SUBJECT: Management Response to Audit Findings

Please find attached the management response to the audit findings as provided in the draft document sent by the Office of Inspector General on December 4, 2013.

Please contact me at extension 1217 should there be additional questions.

cc: Lynne McFarland, Inspector General
Alec Palmer, Staff Director
Gregory Baker, Deputy General Counsel - Administration
Lisa Stevenson, Deputy General Counsel - Law

Attachment 2

**Federal Election Commission
Fiscal Year 2013 Financial Statement Audit
Management Responses to Audit Findings**

The Federal Election Commission (FEC) has made significant strides in addressing findings and recommendations that arise through the annual financial statement audit. In FY 2012, the FEC fully resolved the significant deficiency related to internal controls over financial reporting and did not have any material weaknesses or significant deficiencies in FY 2013 over financial reporting. The FEC continues to address Information Technology (IT) security control needs identified that relate to Information Technology policies, practices and procedures. The Federal Election Commission's responses to the FY 2013 audit findings were provided in the draft document sent by the Office of the Inspector General on December 4, 2013.

The agency maintains the highest level of commitment to its information technology security and systems. The FEC recognizes that it is important to have a controls framework that protects entity data and minimize security threats. The agency continues to evaluate ways to improve the FEC's controls framework to mitigate risk and improve overall operational effectiveness. The FEC has in place directives and a corrective action plan that is reviewed twice a year to mitigate potential risk factors. The agency's financial management systems are provided by the National Finance Center (NFC) and General Services Administration (GSA) under shared service agreements. The FEC receives and relies upon SSAE 16 audit reports to obtain assurance over financial applications provided by GSA and NFC.

The Office of the Chief Information Officer (OCIO) understands the agency's complex IT security needs and has taken significant steps during FY 2013 to develop and implement a plan to improve the agency's IT security posture. For example, the FEC recently acquired a security tool that will allow the agency's IT staff to continuously monitor client machines, such as laptops, for configuration changes and viruses that could negatively impact the FEC's system security. This tool will allow the FEC to address several of the audit's recommendations concerning workstation security scans and configuration security controls. Another tool acquired this year will allow the agency to ensure that FEC assets are regularly patched and that vulnerabilities that cannot be patched are documented.

In addition, we are in collaboration with the Department of Homeland Security (DHS) to acquire new services that are now becoming available to the FEC. The new service will allow the agency to better identify and defend against cyber threats. The audit recommends that the FEC perform an assessment and accreditation of its major applications and general support systems (GSS) within this calendar year. In July of this year, the CIO signed a Memorandum of Agreement (MOA) with DHS to perform a comprehensive Risk Vulnerability Assessment, which is actively

Attachment 2

going on. This assessment, which is being conducted at no cost to the FEC, will be completed in December 2013. As part of this assessment, DHS mapped the network to track data flow through the environment and scanned the FEC's database, operating system, network and wireless security. A web application scan was conducted to identify any undetected malware in system applications. DHS staff undertook penetration testing to see whether and how the agency's systems could be breached.

In July 2013, the CIO also signed an MOA with DHS to participate in DHS's Continuous Diagnostics and Mitigation (CDM) program, which provides capabilities and tools that enable network administrators to know the state of their networks at any given time, understand the relative risks and threats and help system personnel identify and mitigate flaws at near-network speed. The FEC will become eligible for participation in January 2014. This service will also be made available at no cost to the agency. Both of these programs will allow the FEC to improve cyber security and respond to the audit recommendations within the budget and staffing limitations of the agency.

Although the FEC is exempt from Federal Information Security Management Act (FISMA) compliance, the agency continues to adopt FISMA requirements for the FEC's IT security program where those requirements are feasible and appropriate for the agency. The FEC has already established numerous policies and procedures to govern and define the agency's IT security program, following the guidance published by the National Institute of Standards and Technology (NIST). The FEC has concurred with a number of the recommendations provided by the audit, and will continue to implement those recommendations where economically and technically feasible and where such actions fit within the management framework of the agency. While the FEC requests budget funds to comply with applicable IT control standards, the FEC will need Commission approval to adopt a requirement from which Congress has made the agency exempt. The OCIO has incorporated many industry "best practices" in establishing the FEC's IT security and monitoring program. Management's responses to each individual IT finding are contained within this report, with an explanation as to why the FEC may not agree with the finding.

SECTION III - AUDITOR'S REPORT AND FINANCIAL STATEMENTS

BALANCE SHEET

As of September 30, 2013 and 2012 (in dollars)

Assets (Note 2)	2013	2012
Intragovernmental:		
Fund balance with Treasury (Note 3)	\$ 10,362,588	\$ 13,472,418
Total Intragovernmental	<u>10,362,588</u>	<u>13,472,418</u>
Accounts receivable, net (Note 4)	60,970	51,443
General property and equipment, net (Note 5)	3,606,739	2,561,299
Total Assets	<u>\$ 14,030,297</u>	<u>\$ 16,085,160</u>
Liabilities (Note 6)		
Intragovernmental:		
Accounts payable	\$ 24,821	\$ 30,000
Employer contributions and payroll taxes payable	198,299	541,608
Deferred rent	348,239	435,299
Custodial liability (Note 11)	60,970	51,443
Other	4,228	1,633
Total intragovernmental	<u>636,557</u>	<u>1,059,983</u>
With the public:		
Accounts payable	1,805,706	1,464,099
Accrued payroll and benefits	826,103	2,138,346
Unfunded leave	2,582,193	2,665,165
Other	452	452
Total liabilities	<u>5,851,011</u>	<u>7,328,045</u>
Commitments and contingencies (Note 7)		
Net Position		
Unexpended appropriations	7,503,431	9,296,865
Cumulative results of operations	675,855	(539,750)
Total net position	<u>8,179,286</u>	<u>8,757,115</u>
Total liabilities and net position	<u>\$ 14,030,297</u>	<u>\$ 16,085,160</u>

The accompanying notes are an integral part of these statements.

STATEMENT OF NET COST

For The Years Ended September 30, 2013 and 2012 (in dollars)

Program Costs:	2013	2012
Administering and Enforcing the <i>FECA</i>		
Gross costs	\$ 65,431,075	\$ 70,268,549
Less: Earned revenues	(6,272)	-
Net program costs	<u>65,424,803</u>	<u>70,268,549</u>
Net cost of operations (Note 9)	<u><u>\$ 65,424,803</u></u>	<u><u>\$ 70,268,549</u></u>

The accompanying notes are an integral part of these statements.

STATEMENT OF CHANGES IN NET POSITION

For The Years Ended September 30, 2013 and 2012 (in dollars)

	<u>2013</u>	<u>2012</u>
Cumulative results of operations		
Beginning balances	\$ (539,750)	\$ 1,399,410
Corrections of errors	-	2,530
Beginning balances, as adjusted	<u>\$ (539,750)</u>	<u>\$ 1,401,940</u>
Budgetary financing sources		
Appropriations used	63,953,815	65,613,294
Other financing resources (non-exchange)		
Imputed financing	2,686,593	2,713,565
Total financing sources	<u>66,640,408</u>	<u>68,326,859</u>
Net cost of operations	<u>(65,424,803)</u>	<u>(70,268,549)</u>
Net change	1,215,605	(1,941,690)
Cumulative results of operations	\$ 675,855	\$ (539,750)
Unexpended appropriations		
Beginning balances	\$ 9,296,865	\$ 9,154,459
Corrections of errors	-	(2,530)
Beginning balances, as adjusted	<u>\$ 9,296,865</u>	<u>\$ 9,151,929</u>
Budgetary financing sources		
Appropriations received	66,367,000	66,367,000
Other adjustments	(4,206,619)	(608,770)
Appropriations used	<u>(63,953,815)</u>	<u>(65,613,294)</u>
Total budgetary financing sources	<u>(1,793,434)</u>	<u>144,936</u>
Total unexpended appropriations	7,503,431	9,296,865
Net position	<u>\$ 8,179,286</u>	<u>\$ 8,757,115</u>

The accompanying notes are an integral part of these statements.

STATEMENT OF BUDGETARY RESOURCES
For The Years Ended September 30, 2013 and 2012 (in dollars)

	<u>2013</u>	<u>2012</u>
Budgetary Resources (Note 10)		
Unobligated balance brought forward, October 1	\$ 3,296,272	\$ 3,300,156
Recoveries of prior year unpaid obligations	1,422,711	328,284
Other changes in unobligated balance	<u>(735,227)</u>	<u>(608,770)</u>
Unobligated balance from prior year budget authority, net	3,983,756	3,019,670
Appropriations	62,895,608	66,367,000
Spending authority from offsetting collections	17,776	9,166
Total budgetary resources	<u>\$ 66,897,140</u>	<u>\$ 69,395,836</u>
Status of Budgetary Resources		
Obligations incurred	\$ 63,063,325	\$ 66,099,564
Apportioned	155,361	335,131
Unapportioned	<u>3,678,454</u>	<u>2,961,141</u>
Total unobligated balance, end of year	<u>3,833,815</u>	<u>3,296,272</u>
Total budgetary resources	<u>\$ 66,897,140</u>	<u>\$ 69,395,836</u>
Change in Obligated Balance		
Unpaid obligations, brought forward, October 1	\$ 10,176,146	\$ 11,324,918
Obligations incurred	63,063,325	66,099,564
Outlays (gross)	(65,287,986)	(66,920,052)
Recoveries of prior year unpaid obligations	<u>(1,422,711)</u>	<u>(328,284)</u>
Unpaid obligations, end of year	6,528,774	10,176,146
Obligated balance, start of year	<u>10,176,146</u>	<u>11,324,918</u>
Obligated balance, end of year	<u>\$ 6,528,774</u>	<u>\$ 10,176,146</u>
Budget Authority and Outlays, Net		
Budget authority, gross	\$ 62,913,383	\$ 66,376,166
Actual offsetting collections	<u>(17,776)</u>	<u>(9,166)</u>
Budget authority, net	62,895,607	66,367,000
Outlays, gross	65,287,986	66,920,052
Actual offsetting collections	<u>(17,776)</u>	<u>(9,166)</u>
Agency outlays, net	<u>\$ 65,270,210</u>	<u>\$ 66,910,886</u>

The accompanying notes are an integral part of these statements.

STATEMENT OF CUSTODIAL ACTIVITY

For The Years Ended September 30, 2013 and 2012 (in dollars)

	<u>2013</u>	<u>2012</u>
Revenue Activity		
Sources of cash collections		
Civil penalties	\$ 748,440	\$ 961,901
Administrative fines	548,833	113,406
Miscellaneous receipts	136,341	80,047
Total cash collections	<u>1,433,614</u>	<u>1,155,354</u>
Accrual adjustments	9,527	(159,611)
Total custodial revenue (Note 11)	<u><u>\$ 1,443,141</u></u>	<u><u>\$ 995,743</u></u>
Disposition of Collections		
Transferred to Treasury	\$ 1,433,614	\$ 1,155,354
Amount yet to be transferred	9,527	(159,611)
Total disposition of collections	<u>\$ 1,443,141</u>	<u>\$ 995,743</u>
Net custodial activity	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>

The accompanying notes are an integral part of these statements.



Notes to the Financial Statements

Note 1 – Summary of Significant Accounting Policies

Reporting Entity

The Federal Election Commission (FEC or Commission) was created in 1975 as an independent regulatory agency with exclusive responsibility for administering, enforcing, defending and interpreting the *Federal Election Campaign Act of 1971* (FECA), 2 U.S.C. 431 et seq., as amended (“the Act”). The Commission is also responsible for administering the public funding programs (26 U.S.C. §§ 9001- 9039) for Presidential campaigns and conventions, which include certification and audits of all participating candidates and committees, and enforcement of public funding legislation.

The financial activity presented relates to the execution of the FEC Congressionally approved budget. Consistent with Federal Accounting Standards Advisory Board’s (FASAB) *Statement of Federal Financial Accounting Concept No. 2, “Entity and Display,”* the Presidential Election Campaign Fund is not a reporting entity of the FEC. Financial activity of the fund is budgeted, apportioned, recorded, reported and paid by the U.S. Department of Treasury (Treasury), and therefore, the accounts of the Presidential Election Campaign Fund are not included in the FEC’s financial statements.

Basis of Accounting and Presentation

As required by the *Accountability of Tax Dollars Act of 2002*, the accompanying financial statements present the financial position, net cost of operations, changes in net position, budgetary resources and custodial activity of the FEC. While these financial statements have been prepared from the books and records of the FEC in accordance with U.S. generally accepted accounting principles (GAAP) for the Federal Government and in accordance with the form and content for entity financial statements specified by the Office of Management and Budget (OMB) in Circular A-136, as revised, *Financial Reporting Requirements*, as well as the accounting policies of the FEC, the statements may differ from other financial reports submitted pursuant to OMB directives for the purpose of monitoring and controlling the use of the FEC’s budgetary resources.

These financial statements reflect both accrual and budgetary accounting transactions. Under the accrual method of accounting, revenues are recognized when earned and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. Budgetary accounting is designed to recognize the obligation of funds according to legal requirements. Budgetary accounting is essential for compliance with legal constraints and controls over the use of federal funds.

Throughout these financial statements, assets, liabilities, revenues and costs have been classified according to the type of entity with which the transactions are associated. Intragovernmental assets and liabilities are those from or to other federal entities. Intragovernmental earned revenues are collections or accruals of revenue from other federal entities and intragovernmental costs are payments or accruals to other federal entities. These statements should be read with the understanding that they are for a component of the Federal Government, a sovereign entity.

Assets

Assets that an entity is authorized to use in its operations are termed entity assets, while assets that are held by an entity and are not available for the entity’s use are termed non-entity assets. Most of the

SECTION III - AUDITOR'S REPORT AND FINANCIAL STATEMENTS

FEC's assets are entity assets and are available to carry out the mission of the FEC, as appropriated by Congress. The FEC also has non-entity assets, which primarily consist of receivables from fines and penalties. These custodial collections are not available to the FEC to use in its operations and must be transferred to Treasury.

Fund Balance with Treasury

The FEC does not maintain cash in commercial bank accounts. Treasury processes cash receipts and disbursements. Fund Balance with Treasury consists of appropriated funds and custodial collections. With the exception of the custodial collections, these funds are available to pay current liabilities and finance authorized purchase commitments. Custodial collections, which are not available to finance FEC activities, are classified as non-entity assets.

Accounts Receivable

The FEC's accounts receivable represent amounts due from the public for fines and penalties assessed by the FEC and referred to Treasury for collection. The FEC establishes an allowance for the loss on accounts receivable from the public that are deemed uncollectible accounts, which is included in Accounts receivable, net on the balance sheet. The allowance is a percentage of the overall receivable balance based on the collection rate of past balances.

General Property and Equipment

General Property and Equipment (P&E) is reported at acquisition cost. General P&E consists of items that are used by the FEC to support its mission. Depreciation or amortization on these assets is calculated using the straight-line method with no salvage value. Depreciation or amortization begins the day the asset is placed in service. Maintenance, repairs and minor renovations are expensed as incurred. Expenditures that materially increase the value, capacity or useful life of existing assets are capitalized. Refer to Note 5 *General Property and Equipment, Net* for additional details.

Liabilities

Liabilities represent amounts that are likely to be paid by the FEC as the result of transactions or events that have already occurred; however, no liabilities are paid by the FEC without an appropriation. Intragovernmental liabilities arise from transactions with other federal entities. Liabilities classified as not covered by budgetary resources are liabilities for which appropriations have not been enacted (e.g., annual leave benefits and actuarial liability under the *Federal Employees' Compensation Act*), and liabilities resulting from the agency's custodial activities. The FEC has an intragovernmental liability to Treasury for fines, penalties and miscellaneous receipts due from the public but not yet transferred. These funds may not be used to fund FEC operations.

Accounts Payable

Accounts payable consists of liabilities to other entities or persons for amounts owed for goods, services and other expenses received but not yet paid at the end of the fiscal year. Accounts payable also consists of disbursements in transit recorded by the FEC but not paid by Treasury.

Accrued Payroll and Employer Contribution

Accrued payroll and benefits represent salaries, wages and benefits earned by employees, but not disbursed as of the statement date. Accrued payroll is payable to employees and therefore not classified as intragovernmental. Employer contributions and payroll taxes payable are classified as intragovernmental. Thrift Savings Plan (TSP) contributions are classified as with the public.

Annual, Sick and Other Leave

Annual leave is recorded as a liability when it is earned; the liability is reduced as leave is taken. Each quarter, the balance in the accrued leave account is adjusted to reflect the current leave balances and pay rates. Accrued annual leave is paid from future funding sources and accordingly is reflected as a liability not covered by budgetary resources. Sick leave and other types of non-vested leave are expensed as taken.

Federal Employee Benefits

A liability is recorded for estimated and actual future payments to be made for workers' compensation pursuant to the *Federal Employees' Compensation Act*. The liability consists of the net present value of estimated future payments calculated by the Department of Labor (DOL) and the actual unreimbursed cost paid by DOL for compensation paid to recipients under the *Federal Employees' Compensation Act*. The future workers' compensation estimate was generated by DOL from an application of actuarial procedures developed to estimate the liability for the *Federal Employees' Compensation Act*, which includes the expected liability for death, disability, medical and miscellaneous costs for approved compensation cases. The liability is calculated using historical benefit payment patterns related to a specific incurred period to predict the ultimate payments related to that period. These projected annual benefits payments were discounted to present value.

Employee Retirement Plans

FEC employees participate in either the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS), which became effective on January 1, 1987. Most FEC employees hired after December 31, 1983, are automatically covered by FERS and Social Security. For employees covered by CSRS, the FEC withheld 7.0 percent of base pay earnings and provided a matching contribution equal to the sum of the withholding.

For each fiscal year, the Office of Personnel Management (OPM) calculates the Federal Government service cost for covered employees, which is an estimate of the amount of funds that, if accumulated annually and invested over an employee's career, would be enough to pay that employee's future benefits. Since the Federal Government's estimated service cost exceeds contributions made by employer agencies and covered employees this plan is not fully funded by the FEC and its employees. The FEC recognized approximately \$2,687,000 and \$2,714,000, as of September 30, 2013, and 2012 respectively, as an imputed cost and related imputed financing source for the difference between the estimated service cost and the contributions made by the FEC and its employees.

FERS contributions made by employer agencies and covered employees are comparable to the Federal Government's estimated service costs. For FERS covered employees, the FEC made contributions of 11.9 percent of basic pay for FY 2013 and 11.9 percent for FY 2012. Employees participating in FERS are covered under the *Federal Insurance Contribution Act* (FICA) for which the FEC contributed a 6.2% to the Social Security Administration in FY 2013 and FY 2012. Effective in FY 2012 FERS and CSRS - Off-set employees were granted a 2% decrease in Social Security for tax year 2012 under the *Temporary Payroll Tax Cut Continuation Act of 2011*; and H.R. 3630, the *Middle Class Tax Relief and Job Creation Act of 2012*. During FY 2012 employees contributed 4.2% to Social Security and in FY 2013 employees contributed 4.2% to Social Security through December 31, 2012. Effective January 1, 2013 the employee contribution rate is 6.2%.

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Thrift Savings Plan (TSP)

The Thrift Savings Plan (TSP) is a retirement savings and investment plan for employees covered by either CSRS or FERS. The TSP is administered by the Federal Retirement Thrift Investment Board on behalf of federal agencies. For employees belonging to FERS, the FEC automatically contributes 1 percent of base pay to their account and matches contributions up to an additional 4 percent. For employees belonging to CSRS, there is no governmental matching contribution.

The FEC does not report on its financial statements CSRS and FERS assets, accumulated plan benefits or unfunded liabilities, if any, which may be applicable to FEC employees. Reporting such amounts is the responsibility of the Office of Personnel Management. The portion of the current and estimated future outlays for CSRS and FERS not paid by the FEC is in accordance with *Statement of Federal Financial Accounting Standards (SFFAS) No. 5, Accounting for Liabilities of the Federal Government*, and is included in the FEC's financial statements as an imputed financing source.

Commitments and Contingencies

A contingency is an existing condition, situation or set of circumstances involving uncertainty as to possible gain or loss. The uncertainty will ultimately be resolved when one or more future events occur or fail to occur. SFFAS No. 5 as amended by SFFAS No. 12, contains the criteria for recognition and disclosure of contingent liabilities. A contingency is recognized when a past event or exchange transaction has occurred, a future outflow or other sacrifice of resources is probable and the future outflow or sacrifice of resources is measurable. A contingency is disclosed where any of the conditions for liability recognition are not met and the chance of the future confirming event or events occurring is more than remote but less than probable.

According to OMB Circular A-136, as revised, in addition to the contingent liabilities required by SFFAS No. 5, the following commitments should be disclosed: 1) an estimate of obligations related to cancelled appropriations for which the reporting entity has a contractual commitment for payment; and 2) amounts for contractual arrangements which may require future financial obligations. The FEC does not have commitments related to cancelled appropriations or amounts for contractual arrangements that would require future financial obligations.

Revenues and Other Financing Sources

Annual Appropriation

The FEC received all of its funding through an annual appropriation as provided by Congress. Additionally, the FEC received funding through reimbursement for services provided to other Federal agencies. Services performed for other Federal agencies under reimbursable agreements are financed through the account providing the service and reimbursements are recognized as revenue when earned.

Imputed Financing Sources

In accordance with OMB Circular A-136, as revised, all expenses should be reported by agencies whether or not these expenses would be paid by the agency that incurs the expense. The amounts for certain expenses of the FEC, which will be paid by other federal agencies, are recorded in the Statement of Net Cost (SNC). A corresponding amount is recognized in the "Statement of Changes in Net Position" as an "Imputed Financing Source." These imputed financing sources primarily represent unfunded pension costs of FEC employees, as described above.

Statement of Net Cost

Net cost of operations is the total of the FEC's expenditures. The presentation of the statement is based on the FEC's strategic plan, which presents one program that is based on the FEC's mission and strategic goal. The program that reflects this strategic goal is to administer and enforce the *Federal Election Campaign Act* efficiently and effectively.

Net Position

Net position is the residual difference between asset and liabilities and consists of unexpended appropriations and cumulative results of operations. Unexpended appropriations include the portion of the FEC's appropriations represented by undelivered orders and unobligated balances. Unobligated balances associated with appropriations that expire at the end of the fiscal year remain available for obligation adjustments, but not for new obligations, until that account is cancelled, five years after the appropriations expire. Cumulative results of operations represent the excess of financing sources over expenses since inception.

Statement of Custodial Activity

The Statement of Custodial Activity summarizes collections transferred or transferable to Treasury for miscellaneous receipts, fines and penalties assessed by the FEC. These amounts are not available for FEC operations, and accordingly, are reported as custodial revenue.

Use of Estimates

The preparation of the accompanying financial statements in accordance with GAAP requires management to make certain estimates and assumptions that directly affect the reported amounts of assets, liabilities, revenues and expenses. Actual results could differ from these estimates.

Note 2 - Non-Entity Assets

Non-entity assets, which primarily represent amounts due to the FEC for fines and penalties on those that violated the requirements of the *Federal Election Campaign Act*, consisted of the following as of September 30, 2013 and September 30, 2012:

	<u>2013</u>	<u>2012</u>
With the Public		
Accounts Receivable - Custodial	\$ 60,970	\$ 51,443
Total non-entity assets	<u>60,970</u>	<u>51,443</u>
Total entity assets	<u>13,969,327</u>	<u>16,033,717</u>
Total Assets	<u>\$ 14,030,297</u>	<u>\$ 16,085,160</u>

Note 3 - Fund Balance with Treasury

Fund Balance with Treasury consisted of the following as of September 30, 2013 and September 30, 2012:

	<u>2013</u>	<u>2012</u>
Fund Balances		
Appropriated Funds	\$ 10,362,588	\$ 13,472,418
Total	<u>\$ 10,362,588</u>	<u>\$ 13,472,418</u>
	<u>2013</u>	<u>2012</u>
Status of Fund Balance with Treasury		
Unobligated Balance		
Available	\$ 155,361	\$ 335,131
Unavailable	3,678,454	2,961,141
Obligated Balance not yet Disbursed	6,528,773	10,176,146
Total	<u>\$ 10,362,588</u>	<u>\$ 13,472,418</u>

Available unobligated balances represent amounts that are apportioned for obligation in the current fiscal year. Unavailable unobligated balances represent amounts that are not apportioned for obligation during the current fiscal year and expired appropriations that are no longer available to incur new obligations. Obligated balances not yet disbursed include unpaid delivered and undelivered orders.

Note 4 – Accounts Receivables, Net

All accounts receivable are with the public and consisted of the following as of September 30, 2013 and September 30, 2012:

2013			
	Gross Accounts Receivable	Allowance	Net Accounts Receivable
With the Public			
Fines and Penalties	\$ 179,888	\$ 118,918	\$ 60,970
Total Non-Entity	<u>\$ 179,888</u>	<u>\$ 118,918</u>	<u>\$ 60,970</u>
2012			
	Gross Accounts Receivable	Allowance	Net Accounts Receivable
With the Public			
Fines and Penalties	\$ 153,020	\$ 101,577	\$ 51,443
Total Non-Entity	<u>\$ 153,020</u>	<u>\$ 101,577</u>	<u>\$ 51,443</u>

Non-Entity receivables consist of civil penalties and administrative fines assessed by the FEC through its enforcement processes or conciliation agreements reached with parties. The FEC has three offices that administer the penalties: the Office of General Counsel (OGC); the Office of Administrative Review (OAR); and the Office of Alternative Dispute Resolution (ADR). Each office has a distinct role in the enforcement and collection process. The allowance is based on the historical rate of collection and an overall assessment of the debtor's willingness and ability to pay. Delinquent debts are referred to Treasury in accordance with the *Debt Collection Improvement Act of 1996*. The terms of the agreement between the FEC and the parties establish the conditions for collection.

Note 5 - General Property and Equipment, Net

General Property and Equipment (P&E) is reported at acquisition cost. The capitalization threshold is established at \$25,000 and a useful life of two or more years. For bulk purchases, items are capitalized when the individual useful lives are at least two years and have an aggregate value of \$250,000 or more. Acquisitions of P&E that do not meet the capitalization criteria are recorded as operating expenses.

General P&E consists of items that are used by the FEC to support its mission. Depreciation or amortization on these assets is calculated using the straight-line method with no salvage value. Depreciation or amortization begins the day the asset is placed in service. Maintenance, repairs and minor renovations are expensed as incurred. Expenditures that materially increase values, change capacities or extend useful lives are capitalized.

Effective FY 2009, the estimated useful life of assets such as office furniture, office equipment, telecommunications equipment and audio/visual equipment is five years and the estimated useful life of information technology equipment is three years.

The office building in which the FEC operates is leased through the General Services Administration (GSA) under an occupancy agreement, which manages the lease agreement between the Federal Government and the commercial leasing entity. The FEC is billed by GSA for the leased space based upon estimated lease payments made by GSA plus an administrative fee. The cost of the office building is not capitalized. The costs of any leasehold improvements, which are managed through GSA, are financed with FEC appropriated funds. Construction costs of \$25,000 or more are accumulated as construction-in-progress until completion and then are transferred and capitalized as a leasehold improvement. Leasehold improvements are amortized over the lesser of five years or the remaining life of the lease term.

The internal use software development acquisition costs capitalization threshold changed as a result of a new policy that was implemented in FY 2011. Internal use software development acquisition costs of \$250,000 are capitalized as software-in-development until the development stage is completed and the software is tested and accepted. At acceptance, costs of software in development are reclassified as internal use software costs and amortized using the straight-line method over an estimated useful life of three years. Purchased commercial software that does not meet the capitalization criteria is expensed. In addition, enhancements which do not add significant new capability or functionality are also expensed.

The general components of capitalized property and equipment, net of accumulated depreciation or amortization, consisted of the following as of September 30, 2013 and September 30, 2012, respectively:

2013

Asset Class	Service Life (years)	Acquisition Value	Accumulated Depreciation/ Amortization	Net Book Value
Software	3	\$ 6,657,316	\$ 5,813,777	\$ 843,539
Computers and peripherals	3	3,128,543	2,666,208	462,335
Furniture	5	852,754	852,754	-
Software-in-Development	n/a	2,300,865	-	2,300,865
Total		<u>\$ 12,939,478</u>	<u>\$ 9,332,739</u>	<u>\$ 3,606,739</u>

2012

Asset Class	Service Life (years)	Acquisition Value	Accumulated Depreciation/ Amortization	Net Book Value
Software	3	\$ 6,774,201	\$ 5,251,737	\$ 1,522,464
Computers and peripherals	3	3,290,007	2,815,631	474,376
Furniture	5	852,754	852,754	-
Software-in-Development	n/a	564,459	-	564,459
Total		<u>\$ 11,481,421</u>	<u>\$ 8,920,122</u>	<u>\$ 2,561,299</u>

Note 6 – Liabilities Not Covered by Budgetary Resources

Liabilities Not Covered by Budgetary Resources consisted of the following as of September 30, 2013 and September 30, 2012:

Liabilities Not Covered by Budgetary Resources	2013	2012
Intragovernmental		
Custodial Fines and Civil Penalties	\$ 60,970	\$ 51,443
Deferred Rent	348,239	435,299
Unfunded FECA Liability	-	133
Total Intragovernmental	<u>409,209</u>	<u>486,875</u>
With the Public		
Unfunded Annual Leave	2,582,193	2,665,165
Actuarial FECA Liability	452	452
Total Liabilities Not Covered by Budgetary Resources	<u>2,991,854</u>	<u>3,152,492</u>
Total Liabilities Covered by Budgetary Resources	<u>2,859,157</u>	<u>4,175,553</u>
Total Liabilities	<u><u>\$ 5,851,011</u></u>	<u><u>\$ 7,328,045</u></u>

The FEC accrued a liability related to the *Federal Employees' Compensation Act* as of September 30, 2013 and September 30, 2012.

Beginning FY 2008, the FEC entered into a new lease agreement for its office building that provided a rent abatement of \$870,598, which covers the equivalent of two months of rent. Consistent with generally accepted accounting principles, the FEC has recorded rent abatement as deferred rent, which is amortized over the life of the ten-year lease.

Note 7 – Commitments and Contingencies

As of December 2, 2013, legal counsel determined that a request for attorneys' fees in a Freedom of Information Act lawsuit could result in a possible liability amount ranging from no liability to the total requested amount of \$140,499. We are unable to determine the likelihood of an unfavorable outcome.

Note 8 – Leases

The FEC did not have any capital leases as of September 30, 2013 and September 30, 2012. The FEC has a commitment under an operating lease for its office space. Future payments due under the lease through September 30, 2017 are as follows:

Fiscal Year	Lease Payment
2014	\$ 5,922,515
2015	5,989,682
2016	6,058,864
2017	6,130,122
Total	\$ 24,101,183

SECTION III - AUDITOR'S REPORT AND FINANCIAL STATEMENTS

Note 9 – Statement of Net Cost

The FEC's costs are consolidated into one program, "Administering and Enforcing the FECA," and consisted of the following as of September 30, 2013 and September 30, 2012, respectively:

	<u>2013</u>	<u>2012</u>
Intragovernmental:		
Intragovernmental gross costs	\$ 18,374,526	\$ 18,449,642
Less: Intragovernmental earned revenue	(6,272)	-
Intragovernmental net costs	<u>18,368,254</u>	<u>18,449,642</u>
Public:		
Gross costs with the public	<u>47,056,549</u>	<u>51,818,907</u>
Net costs with the public	47,056,549	51,818,907
Net cost of operations	<u>\$ 65,424,803</u>	<u>\$ 70,268,549</u>

Costs incurred for goods and services provided by other federal entities are reported in the full costs of the FEC's program and are identified as "intragovernmental." All other costs are identified as "with the public."

Note 10 – Statement of Budgetary Resources

The Statement of Budgetary Resources (SBR) compares budgetary resources with the status of those resources. For the year ended September 30, 2013, budgetary resources were \$66,897,140 and net outlays were \$65,270,210. For the year ended September 30, 2012, budgetary resources were \$69,395,836 and net outlays were \$66,910,886.

Apportionment Categories of Obligations Incurred

The FEC receives apportionments of its resources from OMB. Apportionments are for resources that can be obligated without restriction, other than to be in compliance with legislation for which the resources were made available.

For the year ended September 30, 2013 and September 30, 2012, direct obligations incurred amounted to \$63,057,053 and \$66,099,564, respectively. For the years ended September 30, 2013, reimbursable obligations incurred amounted to \$6,272 and in FY 2012 the FEC did not have reimbursable operations.

Comparison to the Budget of the United States Government

SFFAS No. 7, *Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting*, requires an explanation of material differences between budgetary resources available, the status of those resources and outlays as presented in the Statement of Budgetary Resources to the related actual balances published in the *Budget of the United States Government* (Budget). The Budget that will include FY 2013 actual budgetary execution information is scheduled for publication in February 2014, which will be available through OMB's website at <http://www.whitehouse.gov/omb>. Accordingly, information required for such disclosure is not available at the time of publication of these financial statements.

FY 2012	Budgetary Resources	Obligations Incurred	Distributed Offsetting Receipts	Net Outlays
Statement of Budgetary Resources	\$ 69,395,836	\$ 66,099,564	-	\$ 66,910,886
<i>Budget of the U.S. Government</i>	66,000,000	66,000,000	-	67,000,000
Difference	<u>\$ 3,395,836</u>	<u>\$ 99,564</u>	<u>\$ -</u>	<u>\$ (89,114)</u>

Balances reported in the FY 2012 SBR and the related President's Budget reflected the following:

The difference between the Statement of Budgetary Resources and the *Budget of the United States Government* for budgetary resources is primarily due to expired unobligated balances. The differences for obligations incurred and net outlays are due to rounding.

Note 11 – Custodial Revenues and Liability

The FEC uses the accrual basis of accounting for the collections of fines, penalties and miscellaneous receipts. The FEC's ability to collect fines and penalties is based on the responsible parties' willingness and ability to pay:

Custodial Revenue	2013	2012
Fines, Penalties, and Other Miscellaneous Revenue	\$ 1,443,141	\$ 995,743
Custodial Liability		
Receivable for Fines and Penalties	\$ 179,888	\$ 153,020
Less: Allowance for Doubtful Accounts	(118,918)	(101,577)
Total Custodial Liability	\$ 60,970	\$ 51,443

The Custodial Liability account represents the amount of custodial revenue pending transfer to Treasury. Accrual adjustments reflected on the Statement of Custodial Activity represent the difference between the FEC's opening and closing accounts receivable balances. Accounts receivable are the funds owed to the FEC (as a custodian) and ultimately to Treasury. The accrual adjustment for civil penalties is composed of a net increase of approximately \$3,000 for FY 2013 and a net decrease of approximately \$163,000 for FY 2012, respectively. The accrual adjustment for administrative fines is composed of a net increase of approximately \$6,000 in FY 2013 and a net increase of approximately \$4,000 in FY 2012, respectively.

Note 12 – Undelivered Orders at the End of the Period

Undelivered orders as of September 30, 2013 and September 30, 2012 totaled \$3,670,344 and \$6,000,593, respectively.

Note 13 – Reconciliation of Net Cost of Operations to Budget

The objective of this information is to provide an explanation of the differences between budgetary and financial (proprietary) accounting. This is accomplished by means of a reconciliation of budgetary obligations and non-budgetary resources available to the reporting entity with its net cost of operations.

	<u>2013</u>	<u>2012</u>
Resources used to finance activities		
Budgetary resources obligated		
Obligations incurred	\$ 63,063,325	\$ 66,099,564
Less: Recoveries and offsetting collections	(1,440,487)	(337,450)
Net obligations	<u>61,622,838</u>	<u>65,762,114</u>
Other resources		
Imputed financing from costs absorbed by others	2,686,593	2,713,565
Total resources used to finance activities	<u>64,309,431</u>	<u>68,475,679</u>
Resources used to finance items not part of the net cost of operations		
Change in budgetary resources obligated for goods, services, and benefits ordered but not yet provided	(2,330,976)	148,820
Resources that fund expenses recognized in prior periods	87,059	88,207
Resources that finance the acquisition of assets that do not affect net cost of operations	2,183,094	399,401
Total resources used to finance items not part of the net cost of operations	<u>(60,823)</u>	<u>636,428</u>
Total resources used to finance the net cost of operations	<u>64,370,254</u>	<u>67,839,251</u>
Components of the net cost of operations that will not require or generate resources in the current period		
Components requiring or generating resources in future periods		
Increase in annual leave liability	(82,972)	105,056
Other	(133)	-
Total	<u>(83,105)</u>	<u>105,056</u>
Components not requiring or generating resources		
Depreciation and amortization	1,137,654	2,109,421
Revaluation of assets or liabilities	-	214,821
Total	<u>1,137,654</u>	<u>2,324,242</u>
Total components of the net cost of operations that will not require or generate resources in the current period	<u>1,054,549</u>	<u>2,429,298</u>
Net cost of operations	<u>\$ 65,424,803</u>	<u>\$ 70,268,549</u>



SECTION IV

Other Accompanying Information

SECTION IV - OTHER ACCOMPANYING INFORMATION



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Office of Inspector General

MEMORANDUM

TO: The Commission

FROM: Inspector General

SUBJECT: Inspector General Statement on the Federal Election Commission's Management and Performance Challenges

DATE: November 14, 2013

Each year, the Inspector General is required to provide a summary and assessment of the most serious management and performance challenges facing the Federal Election Commission (FEC). The requirement is contained in the *Reports Consolidation Act of 2000* (Public Law 106-531), an amendment to the *Chief Financial Officers (CFO) Act of 1990*. The attached document responds to the requirement, and provides the annual statement on Commission challenges to be included in the *Federal Election Commission Performance and Accountability Report (PAR) Fiscal Year (FY) 2013*.

The Inspector General has identified three management and performance challenges for inclusion in the FEC's FY 2013 PAR:

Information Technology Security
Governance Framework
Human Capital Management / Human Resources Operations

Since 2004, the Inspector General (IG) has identified information technology (IT) security as a challenge to the agency. IT security is an area in the agency that continues to need major improvement; continuous monitoring; and sufficient oversight, as technology is a rapidly evolving area, and the FEC is not keeping pace with these changes. Due to the agency's legal exemption from the *Federal Information Systems Management Act*, and management's decision not to formally adopt the minimum IT security standards for the federal government, the Office of Inspector General (OIG) has devoted additional resources since 2004 through the FEC's annual financial statement audit to review the agency's information technology security controls. The minimal progress made by management is not sufficient to address major security concerns that have only increased in number since 2004. The OIG strongly believes that the Commission should formally adopt the National Institute of Standards and Technology (NIST) minimum IT security standards.

The agency's governance framework has also been identified as a challenge for the FEC since FY 2008, and continues to be an area of concern. During FY 2013, the FEC lost multiple key leadership positions that are currently still vacant.

Stability and continuity in key leadership positions is a component of an effective governance framework and is critical for an organization to achieve its mission and objectives. Retaining employees recruited for key positions is still a challenge for the FEC.

In addition, from 2005 to present, the IG has identified human capital management as another challenge for the agency. The OIG recently conducted an audit of the FEC's Office of Human Resources and several deficiencies related to leadership and critical human resource functions and processes were noted. The OIG acknowledges that progress has been made with respect to the agency developing a Strategic Human Capital Management Plan, but much progress is still necessary. Also, management has made efforts to address continued weaknesses in customer service. However, the OIG noted in the recent audit that many of these efforts were not adequate or properly implemented to address the many challenges.

The IG's annual assessment of management and performance challenges is based on information derived from a combination of several sources, including Office of Inspector General audit and inspection work, Commission reports, and a general knowledge of the Commission's programs and activities. The management and performance challenges are detailed in the attached report table. The *Reports Consolidation Act of 2000* permits agency comment on the IG's statements. Agency comments, if applicable, are to be included in the final version of the PAR that is due December 16, 2013 (revised date as a result of the government shutdown in 2013).

Lynne A. McFarland
Inspector General



Attachment

Cc: Alec Palmer, Staff Director and Chief Information Officer
Greg Baker, Deputy General Counsel-Administration
Lisa Stevenson, Deputy General Counsel-Law
Judy Berning, Acting Chief Financial Officer
Mitra Nejad, Deputy Staff Director for Management and Administration
Judy S. McLaughlin, Director, Office of Human Resources

SECTION IV - OTHER ACCOMPANYING INFORMATION

FEDERAL ELECTION COMMISSION (FEC) MANAGEMENT and PERFORMANCE CHALLENGES FY 2013	
<u>Information Technology Security</u>	
<p>The FEC places significant reliance on information technology (IT) to fulfill the agency’s mission. Therefore, an agency-wide security management program should be in place to establish a framework to manage security risks, develop security policies, assign responsibilities and monitor the adequacy of computer security related controls. The FEC is in need of a more robust security program that will ensure that the agency is always meeting the minimum government-wide IT security standards. In August 2012, the FEC hired a new Chief Information Security Officer (CISO) who has identified new methods to help improve the FEC’s IT security program. The OIG is hopeful that full implementation of these new methods to improve IT security will support the agency in aligning management’s IT security practices with government-wide standards.</p>	
Challenge	OIG Assessment/Comment
<p><i>1. Inadequate IT Security Program</i></p>	
<ul style="list-style-type: none"> • Due to the agency’s exemption from the Paperwork Reduction Act, which mentions the Federal Information Systems Management Act (FISMA)¹, the agency continues the position not to adopt the minimum National Institute of Standards and Technology (NIST) IT controls that are used as best practice government wide. 	<ul style="list-style-type: none"> • The agency has failed to adequately define the set of best practices used to secure the FEC’s information technology. • The OIG believes that the IT security incidents that have occurred in the last two years could possibly have been prevented or minimized if the agency had adopted and aligned with the government-wide security standards applicable to the FEC’s business processes. Although IT risks can not be eliminated; having adequate controls in place can help reduce the risk and/or detect in a reasonable timeframe, standard security threats. • Management must perform risk assessments prior to declining to implement an IT control that is related to FISMA or NIST in order to determine what would be in the best interest of the agency, rather than opting not to implement the control because it is not legally required.

¹ Federal Information Systems Management Act is the law that requires federal agencies to follow government-wide IT security standards.

<p>2. Disaster Recovery Plan (DRP)/Continuity of Operations Plans(COOP)</p>	
<ul style="list-style-type: none"> • After approximately three years of completing the FEC’s DRP and COOPs, management has not completed training or sufficient testing of the FEC’s DRP and COOPs, which are critical processes in the design and finalization of an effective plan. 	<ul style="list-style-type: none"> • The OIG believes that the FEC has not made the agency’s DRP/COOP a priority or devoted sufficient resources to ensure the agency’s COOP is finalized, the plan is tested, and responsible officials are trained on the plan. To properly prepare the agency in case of a disaster, “live” testing has to be conducted and documented in order to verify the DRP and COOPs are sufficient to ensure the continuance of business operations. • FEC procured contract services in 2008 to assist in developing the DRP and COOPs, however, the work and resources put into developing these plans has diminished in the past five years because testing, training, and updates have not been thoroughly conducted and completed. • Due to the OIG’s concern in this area, the OIG initiated an inspection of the FEC’s DRP/COOP implementation. The report was released in January 2013 identifying 30 recommendations for improvement. These recommendations are critical to the agency’s ability to effectively respond, recover, and continue agency business in the event of a disaster or disruption to business operations.

SECTION IV - OTHER ACCOMPANYING INFORMATION

Governance Framework	
A governance framework consists of the structure and stability of an organization’s senior leadership that are accountable for the organization’s mission and objectives. The absence or weaknesses in a proper governance framework hinders the organization from efficiently and effectively carrying out the mission of the organization.	
Challenge	OIG Assessment/Comment
<i>1. Leadership</i>	
<ul style="list-style-type: none"> • The agency experiences frequent turnover in key positions. Currently, there are three key positions that are vacant: <ul style="list-style-type: none"> ○ General Counsel ○ Chief Financial Officer ○ Contracting Officer 	<ul style="list-style-type: none"> • The General Counsel (GC) position has been vacant for over four months (since June 2013). The former GC was employed at the FEC for less than two (2) years. The GC has the responsibility of ensuring that the Office of General Counsel properly administers and enforces campaign finance laws, among other duties. Therefore, this position is critical to the agency’s mission and should be promptly filled with a qualified candidate. • The Chief Financial Officer (CFO) position has been vacant for over one year (since October 2012). The CFO is responsible for the agency’s budget and for ensuring that the agency’s funds are accounted for and accurately reported. Currently, the Director of Accounting is ‘Acting’ as both the CFO and the Contracting Officer (CO) (see below). This arrangement presents a potential conflict because the CO normally reports to the CFO. In addition, the CFO and CO positions are each full-time positions, and having one person doing both jobs puts the agency at risk. • The Contracting Officer (CO) position has been vacant for over seven months (since March 2013). OIG notes that the former CO was employed at the FEC for less than one (1) year. The CO is responsible for purchasing and for ensuring that contracts are awarded and paid in accordance with applicable laws and regulations such as the Federal Acquisition Regulations. The CO position was posted in August 2013 and currently interviews of potential candidates are being scheduled.

2. Outstanding Audit Recommendations	
<ul style="list-style-type: none"> Currently, the FEC lacks the accountability necessary to ensure compliance with all aspects of Directive 50: Audit Follow-Up. 	<ul style="list-style-type: none"> The agency currently has 128 outstanding OIG recommendations. Some of these recommendations have been outstanding since 2009. OIG concludes that a more rigorous focus by the Commission is needed to ensure that audit follow-up officials are being held accountable for implementing outstanding recommendations. Without sufficient accountability to ensure corrective actions are taken by management, the mission of the agency is consistently operating under weaker controls that can increase cost, expose the agency to risks, and increase the potential of fraud, waste, and abuse to agency programs.

Human Capital Management / Human Resources Operations

The Office of Human Resources (OHR) and Labor Relations is vital to ensuring a human capital management framework is developed and implemented at the Commission, and that the framework supports the agency’s overall goals and objectives. The OHR is also responsible (either directly or indirectly) for all FEC personnel related activities including hiring, benefits, and personnel actions (pay raises, status changes), among other activities. The numerous responsibilities of the OHR results in the office being one of the most important administrative functions of the FEC. In FY 2013, the FEC has made progress with respect to human capital management that includes a final Strategic Human Capital Management Plan (HCMP) and standard performance management plans for senior leaders and managers which are aligned with FEC strategic goals. The OIG has been reporting on other OHR operational performance challenges (specifically customer service and updated policies and procedures) since 2010 and decided to conduct an audit of OHR. *The Audit of the FEC’s Office of Human Resources* (OHR Audit) audit report was issued in July 2013. One of the main objectives of the OHR audit was to assess progress made to improve customer service, and to determine if processes directly related to customer service are operating effectively. Based on the audit work performed, several deficiencies related to leadership and critical human resources processes were identified, some of which are described below.

Challenges	OIG Assessment/Comment
1. Leadership	
<ul style="list-style-type: none"> Management hired an independent contractor to perform a workforce gap analysis (“gap analysis”) of the OHR staff. A gap analysis is a review of the competencies required to achieve the mission/goals of a division or program compared to the actual competencies of the current staff performing the work, with the objective of identifying any gaps and how to correct them. The gap analysis report was completed in September 2011 and cited leadership as an area needing improvement, and several recommendations were made. Based on the OIG’s 2013 audit of OHR, we concluded that corrective actions taken by OHR management to address leadership issues cited in the gap analysis report were not effective. Furthermore, we found that OHR’s performance management of OHR staff (including untimely and ineffective 	<ul style="list-style-type: none"> The likelihood of successfully implementing the necessary changes to overcome the many challenges facing OHR will not be achieved without effective leadership. OIG notes that in June 2013, management was able to bring in a senior executive service (SES) candidate from another agency on a four month temporary assignment to assist the Director of OHR. The goals of the SES candidate were to help OHR improve performance and employee morale, mentor staff, assess workload, and establish organizational performance measures. The SES candidate assignment ended in September 2013 and the OIG plans to assess the results of this temporary assignment and determine if recommendations were implemented and if desired results were achieved.

SECTION IV - OTHER ACCOMPANYING INFORMATION

<p>performance evaluations/feedback, and lack of individual development plans) was inadequate and was having an adverse effect on OHR employee morale, as well as hindering the office's ability to operate effectively.</p>	
<p>2. Customer Service</p>	
<ul style="list-style-type: none"> To help determine if initiatives implemented by OHR in the past couple of years have been effective in improving OHR customer service, the OHR audit included an OHR customer service survey which was conducted by the OIG in September 2012. The OIG's survey results identified 58% of the survey respondents (FEC staff) believe that OHR's customer service had not improved or had stayed the same over the past 12 months. The results of the OHR survey, as well as testing performed during the audit, revealed that despite efforts by OHR to improve customer service, timeliness of OHR responses to FEC staffs' inquiries and the lack of accuracy of data and information provided to employees continued to be a challenge. 	<ul style="list-style-type: none"> Based on the 2013 audit results, OIG concluded that ineffective leadership, inadequate performance management, and poor planning and implementation of available tools and technology are the major factors why OHR had not made significant progress in increasing customer service. Management agreed with 25 of 26 OIG recommendations. The OIG believes that once OHR takes full advantage of existing technological resources, they will be able to streamline processes which in turn should increase productivity and help to improve customer service. However, we believe that failure by the agency to promptly implement the recommendations included in the OHR audit report will result in continued, long-term challenges and weaknesses in OHR processes and related programs.
<p>3. Policies and Procedures</p>	
<ul style="list-style-type: none"> As reported since the 2011 OIG management challenges, many policies for human resource management are outdated and have not been revised in a timely manner. Based on the OHR audit, OIG determined that many OHR policies and operating procedures are still outdated or changes in standard procedures are not reflected in current policies. 	<ul style="list-style-type: none"> The lack of substantive progress through the issuance of updated policies that are communicated and readily available to FEC staff continues to be a challenge for OHR. Timely updating and communicating current policies and procedures are essential to ensure compliance, and an effective and efficient workforce.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MANAGEMENT'S RESPONSE TO THE MANAGEMENT AND PERFORMANCE CHALLENGES IDENTIFIED BY THE INSPECTOR GENERAL

In a memorandum dated November 14, 2013, the agency's Inspector General (IG) identified three challenges facing management. The Federal Election Commission's response to the IG's assessment is detailed below.

Information Technology Security

The agency maintains the highest level of commitment to its information technology security. Although the FEC is exempted from the Federal Information Systems Management Act (FISMA), which requires federal agencies to adhere to the National Institute of Standards and Technology (NIST) standards for information technology security, it continues to use these standards as guidance. As a small agency, the FEC would be especially burdened by the additional overhead expenses associated with adhering to all NIST standards. Instead, the agency retains the flexibility to adopt NIST guidelines as appropriate, which was the original intent of these standards, and to consider best practices identified from other sources where those standards will best serve the FEC's needs. During FY 2014, the FEC's IT Security Officer will review NIST 800-53 Rev3-4 for implementation, as appropriate. However, the agency does not agree to formally adopt NIST guidelines.

During FY 2013, the FEC developed a comprehensive plan to further ensure the security of its network and identified a number of additional tools and services that can be utilized within the agency's current budgetary limitations. In recent years, cyber security threats have increased in sophistication, frequency and intensity across government agencies. As a result, the Department of Homeland Security (DHS) has developed a number of services to help agencies monitor and improve their IT security. The FEC has been working with DHS since early 2013 to ensure the agency can fully avail itself of these services, including DHS's Continuous Diagnostics and Mitigation (CDM) program; its program to conduct vulnerability scanning and cyber hygiene monitoring of federal agencies' public-facing networks and systems; and its program to provide risk and vulnerability assessments. Management is confident that by leveraging such inter-agency collaborations and applying new methods to continuously enhance its security program, the agency will maintain the security of its IT systems.

The IG also cites as a challenge the final implementation of the agency's Disaster and Recovery Plan (DRP) and Continuity of Operations Plan (COOP). The DRP and COOP for the entire agency were completed in November 2010. Agency leadership and division management played a major role in the development of the plans. The FEC conducted testing of the COOP at the individual division level, as well as at the overall agency level, during FY 2012.

SECTION IV - OTHER ACCOMPANYING INFORMATION

The FEC's COOP is accessible to all agency personnel via the agency's internal network. The FEC is designated a category IV agency in the Continuity of Government program and, therefore, the COOP employed by the FEC is deemed adequate to restore functionality at the agency level only. Management agrees with the IG that, over time, the resources available to this project for testing, training and updates have diminished as other priorities have taken precedence. Management will assign resources to the COOP to ensure that testing, training and updates are completed in a timely manner.

Governance Framework

The Commission agrees with the IG that the agency has continued to face challenges in retaining key leadership and management positions. During FY 2013, reduced funding levels resulting from sequestration and rescission prompted the Commission to slow its hiring efforts. The FEC also experienced leadership changes at the Commissioner level during the year, with two new Commissioners joining the Commission at the beginning of FY 2014. Two of the key vacant positions cited by the IG, the General Counsel and the Chief Financial Officer, present hiring decisions that are made directly by the Commission. With a full complement of Commissioners on board for FY 2014, the agency is poised to quickly fill these key vacancies. The agency also has a vacancy in its Contracting Officer position. During FY 2013 the Commission prioritized filling this position. The position has been posted and applications have been evaluated. The agency is currently scheduling interviews for potential candidates. The Commission anticipates that the Contracting Officer position will be filled in early FY 2014.

The FEC has taken significant actions to improve and streamline its process for responding to audit recommendations. In consultation with the IG, Office of General Counsel and Office of the Chief Financial Officer, the Office of the Staff Director has revised Directive 50, Audit Follow-Up, to identify new processes and timeframes for submitting corrective action plans (CAPs). The FEC is following the guidelines of this revised policy while it is pending approval. Under the revised draft Directive 50, CAPs are submitted twice yearly, in May and November. Management has met each deadline for providing updated CAPs to the Commissioners and IG since the new policy was put into place. Management will consider outstanding recommendations to determine what can be closed during the next period. In areas where Management and the IG do not agree on a finding, Management looks forward to its discussions with the IG to resolve those issues.

Human Capital Management / Human Resources Operations

Management of the Office of Human Resources (OHR) has improved. As the IG notes, the Commission has approved a revised Strategic Human Capital Management Plan, and OHR has taken significant steps to address weaknesses in customer service, such as enabling an

automated capability for tracking and reporting customers' inquiries. This automated solution allows better management for providing timely customer service and prioritization of staff work. Also, during FY 2013, OHR developed and implemented a plan to improve communication and cooperation among team members and created a training plan for all HR staff, including technical and managerial training. OHR continued work during the year to acquire and fully utilize technology tools to streamline OHR operations and better support customer service.

The IG additionally cites outdated human capital policies as a challenge for the FEC. The FEC's new labor management agreement (LMA) with the National Treasury Employees Union took effect in May 2013, resulting in sweeping changes to many personnel policies, practices and conditions of employment for bargaining unit employees. New policies regarding flexible work schedules and performance awards were developed during the bargaining process. In 2013, the Commission's transit subsidy policy was also updated to comply with new practices and rules. In addition, OHR collaborated with the Office of the General Counsel and the Union to create a memorandum of understanding pertaining to the Commission's policy on outside employment. OHR plans to have other policies approved by the beginning of 2014.

SECTION IV - OTHER ACCOMPANYING INFORMATION

Improper Payments Information Act Reporting Details

The *Improper Payments Information Act* (IPIA) of 2002, as amended by the *Improper Payments Elimination and Recovery Act* (IPERA) of 2010, requires agencies to review all programs and activities they administer and identify those which may be susceptible to significant erroneous payments. In FY 2013, the FEC performed a systematic review of its program and related activities to identify processes which may be susceptible to significant erroneous payments. Significant erroneous payments are defined as annual erroneous payments in the program exceeding both \$10 million and 1.5 percent or \$100 million of total annual program payments. The risk assessment included the consideration of risk factors that are likely to contribute to significant improper payments. The risk assessment was performed for the FEC's only program area which is to administer and enforce the *Federal Election Campaign Act*.

Risk Assessment

In FY 2013 the FEC considered risk factors as outlined in OMB Memorandum M-11-16, *Issuance of Revised Parts I and II to Appendix C of OMB Circular A-123* which may significantly increase the risk of improper payments and determined that none are applicable to FEC's operations. Based on the systematic review performed, the FEC concluded that none of its program activities are susceptible to significant improper payments at or above the threshold levels set by OMB.

Recapture of Improper Payments Reporting

The FEC has determined that the risk of improper payments is low; therefore, implementing a payment recapture audit program is not applicable to the agency.

IPIA (as amended by IPERA) Reporting Details

Agency Response

Risk Assessment	Reviewed as noted above.
Statistical Sampling	Not Applicable.*
Corrective Actions	Not Applicable.*
Improper Payment Reporting	Not Applicable.*
Recapture of Improper Payments Reporting	Not Applicable.*
Accountability	Not Applicable.*
Agency information systems and other infrastructure	Not Applicable.*
Barriers	Not Applicable.*

*The FEC does not have programs or activities that are susceptible to significant improper payments.



APPENDIX List of Acronyms

ADR	Alternative Dispute Resolution	FICA	Federal Insurance Contribution Act
AF	Administrative Fine	FISMA	Federal Information Security Management Act
AICPA	American Institute of Certified Public Accountants	FMFIA	Federal Managers' Financial Integrity Act
AO	Advisory Opinion	FOIA	Freedom of Information Act
ATDA	Accountability of Tax Dollars Act	FTE	Full-time Equivalent
CFO	Chief Financial Officer	FY	Fiscal Year
CIO	Chief Information Officer	GAAP	Generally Accepted Accounting Principles
CFR	Code of Federal Regulations	GAO	Government Accountability Office
CSRS	Civil Service Retirement System	GPRA	Government Performance and Results Act
DOL	Department of Labor	GSA	General Services Administration
E&J	Explanation and Justification	IG	Inspector General
FASAB	Federal Accounting Standards Advisory Board	IPIA	Improper Payments Information Act
FBWT	Fund Balance with Treasury	IRS	Internal Revenue Service
FEC	Federal Election Commission	IT	Information Technology
FECA	Federal Election Campaign Act	MD&A	Management's Discussion and Analysis
FECA	Federal Employees Compensation Act	MUR	Matters under Review
FERS	Federal Employees' Retirement System	NFC	U. S. Department of Agriculture National Finance Center

NIST	National Institute of Standards and Technology
NPRM	Notices of Proposed Rulemaking
OCFO	Office of the Chief Financial Officer
OCIO	Office of the Chief Information Officer
OAR	Office of Administrative Review
OGC	Office of General Counsel
OHR	Office of Human Resources
OIG	Office of the Inspector General
OMB	Office of Management and Budget
OPM	Office of Personnel Management
P&E	Property and Equipment
PAC	Political Action Committee
PAR	Performance and Accountability Report
PMA	President's Management Agenda
RAD	Reports and Analysis Division
RFAI	Request for Additional Information
SBR	Statement of Budgetary Resources
SFFAS	Statement of Federal Financial Accounting Standards
SNC	Statement of Net Cost
TSP	Thrift Savings Plan
USC	United States Code