

GAO

Report to the Chairman, Subcommittee
on Commerce, Justice, Science, and
Related Agencies, Committee on
Appropriations, U.S. Senate

June 2008

EQUAL EMPLOYMENT
OPPORTUNITY
COMMISSION

Sharing Promising
Practices and Fully
Implementing
Strategic Human
Capital Planning Can
Improve Management
of Growing Workload



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United States Government Accountability Office
Washington, DC 20548

June 23, 2008

The Honorable Barbara A. Mikulski
Chairman
Subcommittee on Commerce, Justice, Science,
and Related Agencies
Committee on Appropriations
United States Senate

Dear Madam Chairman:

The Equal Employment Opportunity Commission (EEOC), created by title VII of the Civil Rights Act of 1964, promotes equal opportunity in the workplace and enforces federal laws that prohibit employment discrimination on the basis of race, sex, color, religion, national origin, age, and disability. As the nation's primary enforcer of civil rights employment laws, EEOC investigates charges of employment discrimination from the public, litigates major cases, and reaches out to federal agencies and the public to educate and prevent discrimination. EEOC serves every industry, every segment of the population, and every part of the country. While its core mission has not changed since the agency was established more than 40 years ago, EEOC continues to face a range of new challenges in the 21st century, including long-term fiscal constraints, changing demographics, and rapid advances in technology.

The federal government overall faces significant human capital challenges, including a retirement wave that will lead to the loss of leadership and institutional knowledge at all levels. EEOC is not immune from this trend. EEOC estimates that within 4 years, all of its current senior executives and senior managers will be retirement eligible, if they have not already retired by that time. Moreover, between 2000 and 2007, EEOC lost nearly one-quarter of its full-time-equivalent staff, from approximately 2,850 to about 2,150. In view of EEOC's human capital management challenges and the growing demand for its services, we examined (1) national trends in EEOC's private sector enforcement workload and the factors that contribute to them, (2) how EEOC offices manage their workload, and (3) EEOC actions to address its future workforce needs.

We limited our review to EEOC's private sector enforcement program, which represents the majority of the agency's workload.¹ To address our three objectives, we analyzed administrative and personnel data from EEOC's data systems; interviewed investigators, attorneys, and administrative staff on-site at six EEOC offices; administered a data collection instrument to the Office of Human Resources; reviewed relevant documentation about EEOC's strategic and human capital planning process; and discussed that planning process with senior agency officials at EEOC headquarters in Washington, D.C. Specifically, we analyzed (1) data from fiscal years 2004 through 2007 from EEOC's Integrated Mission System database, which maintains information on private sector charges of employment discrimination, and (2) personnel data on investigator staffing levels from EEOC's Office of Human Resources. We assessed the reliability of these data and found them to be sufficiently reliable for the purposes of this report. We visited EEOC offices in Atlanta, Baltimore, Las Vegas, Milwaukee, Philadelphia, and Seattle to collect information from a range of staff on EEOC's private sector enforcement program. We selected offices on the basis of a number of criteria, including geographic location, recent changes to office structure, and varying performance levels. A more detailed explanation of our methodology can be found in appendix I of this report. We conducted this performance audit from July 2007 to June 2008, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

On June 12, 2008, we briefed your office on the results of our analysis (see app. II). This report formally conveys information provided during that briefing. In summary, we reported the following findings about EEOC's private sector enforcement program:

¹ EEOC is also responsible for coordinating the federal government's employment nondiscrimination effort and provides guidance, outreach, and technical assistance to federal agencies. Federal sector complaint procedures require federal agencies to conduct initial investigations of complaints filed by their employees or applicants. Upon completion of agency investigations, or if an agency dismisses a complaint, EEOC may conduct hearings and hear appropriate appeals.

-
- *Multiple factors contribute to EEOC's growing private sector enforcement workload.* Over the last 4 years, EEOC's private sector workload has increased by 10 percent. Factors that have contributed to the growing workload include the growth in the number of new discrimination charges, which have become increasingly resource intensive, and a decrease in the number of investigators. Over the same period, the number of total charges handled per investigator increased by 22 percent, the average number of days taken to close a charge increased by 34 days, and the number of open charges at the end of the fiscal year increased by 82 percent. EEOC's mediations and lawsuits for its private sector charges showed modest increases over the last 4 years.
 - *While offices vary significantly in their ability to manage workload in a timely manner, promising management practices have not been identified.* In 2007, the average number of days taken to close a charge, the percentage of charges closed, and the average number of total charges handled per investigator varied significantly by office. At the same time, we found that key measures—such as the average number of total charges per investigator and the percentage of new resource-intensive charges—are not correlated with an office's ability to manage workload in a timely manner. With varying levels of success, the EEOC offices we visited use a variety of techniques to manage their workload. However, EEOC lacks a systematic process to identify promising management practices.
 - *Although EEOC has taken some actions to address future workforce needs, these actions do not fully address leading principles for effective strategic workforce planning.* Specifically, EEOC's efforts to develop, communicate, and implement a strategic human capital plan are incomplete after 4 years. In addition, the critical skills that are necessary to achieve EEOC's current and future programmatic results have not been assessed, and current strategies to address gaps and sustain critical skills are not based on identified skill gaps. Furthermore, building support, such as with technology, for EEOC's workforce planning strategies has posed challenges for the agency. Finally, EEOC's progress toward achieving its human capital goals is not directly measurable or linked to its programmatic results.

In conclusion, EEOC's mandate to promote equal opportunity in the workplace and enforce federal employment antidiscrimination laws could be compromised if EEOC cannot keep pace with its growing private sector workload. EEOC could identify processes used by those offices that achieve quality outcomes while resolving cases in a timely manner despite the burden of heavy workloads. Such promising practices could be used to help other offices meet EEOC's performance goals. In addition, EEOC

could make better use of the strategic planning processes to develop a strategic human capital plan that addresses gaps in knowledge, skills, and abilities in its current and future workforce.

To help improve EEOC's ability to meet its current and future needs for a critically skilled workforce, we are recommending that the Chair of EEOC take the following two actions:

- develop criteria for identifying offices that ensure quality outcomes in a timely manner and evaluate and share promising practices across the agency and
- finalize the strategic human capital plan, on the basis of skills and competencies assessments, and develop an implementation plan for the strategies identified in the plan with stakeholder input that identifies necessary resources, responsible parties, timelines for completion, and milestones to measure progress.

We provided a draft of this report to EEOC for comment. EEOC stated that our report concludes that the agency's ability to manage its private sector workload declined between fiscal years 2004 and 2007. Our report does not draw this conclusion; rather, it describes national trends in its private sector enforcement program and identifies factors that contribute to them. We conclude that EEOC's mission could be compromised if the agency cannot keep pace with its growing workload. With regard to our recommendation that it develop criteria for identifying and sharing promising practices across the agency, EEOC stated that it currently has a mechanism to do so. However, we found that EEOC's technical reviews do not systematically inquire about or identify promising practices, based on our assessment of the review protocol. Moreover, during our site visits to EEOC field offices, managers in three field offices we spoke with noted a lack of involvement in the systematic and agencywide sharing of promising practices. EEOC did not fully address our second recommendation, but stated that it anticipates that its strategic human capital plan will be submitted to the Chair by the end of fiscal year 2008. EEOC also noted that it conducts both workforce analysis and planning as part of its annual budget process and as a component of program management. We found that it does not approach workforce planning strategically—based on mission needs, customer expectations, workload, and workforce—or systematically. Furthermore, we found that EEOC's draft strategic human capital plan does not currently integrate workforce data with workload data. We stand by our recommendation that the plan be finalized, on the basis of skills and competencies assessments, and that

EEOC develop an implementation plan for the strategies it has identified that includes stakeholder input and identifies necessary resources, responsible parties, timelines for completion, and milestones to measure progress.

EEOC commented on several additional findings in the draft report. Although EEOC agreed with our characterization of the agency's challenges, it raised concerns about our calculation of mission-critical staff. Yet our analysis is based on the mission-critical occupations identified in EEOC's draft strategic human capital plan that are part of its private sector enforcement program. EEOC also stated that we do not significantly acknowledge the impact of the reduction in staff on EEOC's ability to manage its workload. Our report finds that the decline in the number of investigators from fiscal years 2004 to 2007 is a contributing factor to EEOC's growing private sector workload. EEOC said we should not ignore the relationship between charge inventory and staffing. We did not. In fact, our analysis of EEOC's data shows no correlation between an office's ability to close charges within 180 days or fewer and the average number of total charges handled by an investigator. Further, EEOC questioned our exclusion of other criteria that could have been assessed, such as the size of the office, geographic areas served, and staff time devoted to intake. We selected the most critical factors to examine, based on our interviews with staff in six EEOC field offices. As part of its workload/workforce analysis, EEOC can study the potential impact of the additional factors it has identified on an ongoing basis. Finally, EEOC stated that in describing the variety of techniques EEOC offices use to manage workload, our report minimizes the effectiveness of EEOC's charge categorization process as a tool for workload management. We disagree with this assertion; we refer to this process throughout the report (see slides 8, 9, and 25). The full text of EEOC's comments appears in appendix III. EEOC also provided technical comments that we incorporated as appropriate.

We are sending copies of this report to relevant congressional committees, the Chair of EEOC, and other interested parties. We will also make copies available to others upon request. In addition, this report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-7215 or scottg@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff that made major contributions to this report are listed in appendix IV.

Sincerely yours,

A handwritten signature in black ink that reads "George A. Scott". The signature is written in a cursive, slightly slanted style.

George A. Scott
Director, Education, Workforce, and
Income Security Issues

Appendix I: Objectives, Scope, and Methodology

We limited our review to the Equal Employment Opportunity Commission's (EEOC) private sector enforcement program, which represents the majority of the agency's workload. EEOC is also responsible for coordinating the federal government's employment nondiscrimination effort and provides guidance, outreach, and technical assistance to federal agencies. Federal sector complaint procedures require federal agencies to conduct initial investigations of complaints filed by their employees or applicants. Upon completion of agency investigations, or if an agency dismisses a complaint, EEOC may conduct hearings and hear appropriate appeals. In fiscal year 2007, EEOC's federal sector program received about 7,900 requests for hearings and 5,200 requests for appeals, when compared with more than 85,000 private sector charges of employment discrimination it received that year.

To examine national trends in EEOC's private sector enforcement workload and the factors that contribute to them, we analyzed (1) data from fiscal years 2004 to 2007 from EEOC's Integrated Mission System (IMS) database, which includes information on private sector charges of employment discrimination, and (2) personnel data from EEOC's Office of Human Resources. To analyze EEOC's workload from 2004 to 2007, we limited our data set to charges that closed on or after October 1, 2002, or were an active part of EEOC's workload as of October 1, 2002. This enabled us to track and report on charges that originated prior to fiscal year 2004 but were not closed until or after 2004. We excluded from our analysis charges that are investigated by state and local agencies, which raise claims under state and local laws prohibiting employment discrimination in addition to the federal laws enforced by EEOC.¹ However, we included those charges that returned from these agencies to EEOC and therefore became part of EEOC's workload. Specifically, we analyzed data from two of the five support capabilities available through the IMS system—the IMS Private Sector and IMS Litigation components. We assessed the reliability of the IMS data by

- performing electronic testing of required data elements,
- reviewing existing information about these data and the system that produced them, and

¹EEOC contracts with these agencies, known as Fair Employment Practice Agencies, to investigate and resolve charges through work-sharing agreements to avoid duplication in processing.

- interviewing agency officials knowledgeable about the data.

In addition, we compared the IMS data with other published agency documentation, when available, to determine data consistency and reasonableness. When we found obvious discrepancies in our analysis of the data, such as missing data or highly inconsistent results based on prior published information, we brought them to the attention of the agency for corrective action or to determine a resolution. We also made adjustments, where appropriate, to our analyses on the basis of consultations with the agency. In addition, we analyzed EEOC's personnel data from the Office of Human Resources on investigator staffing levels from fiscal years 2004 to 2007. We assessed the reliability of the personnel data by examining the data elements provided for missing data or obvious errors and interviewing agency officials knowledgeable about these data and the system that produced them. Similarly, when we found obvious errors or discrepancies, we returned to the agency for corrective action. On the basis of these efforts, we determined that the administrative and personnel data were sufficiently reliable for the purposes of this report.

To describe how EEOC offices manage their workload, we examined IMS data at the office level, conducted site visits with six EEOC offices, interviewed agency officials in EEOC headquarters, and reviewed related documentation on EEOC's periodic reviews of field offices. Specifically, we analyzed a variety of performance indicators by office—including the agency's timeliness performance measure—in fiscal year 2007 using data from the IMS system. In addition, we conducted analyses to determine whether potential correlations exist between two key measures identified by EEOC and an office's ability to close charges within 180 days or fewer. To describe the various techniques EEOC offices use to manage their workload, we conducted site visits and semistructured interviews with a range of EEOC staff, including investigators, attorneys, administrative staff, and management, in six offices—Atlanta, Baltimore, Las Vegas, Milwaukee, Philadelphia, and Seattle. We selected these offices on the basis of a number of criteria, including recent changes to office structure, varying performance levels, and geographic diversity. In each office, we interviewed employees about their experiences with EEOC's private sector enforcement program and, specifically, the management of workload with the resources available. We also interviewed agency officials from the Office of Field Programs in Washington, D.C., about best practices in its private sector enforcement program and reviewed related documentation from reviews of various field offices.

To examine EEOC actions to address its future workforce needs, we reviewed relevant documentation about EEOC's strategic and human capital planning processes and discussed the planning process with senior agency officials in Washington, D.C. Specifically, we reviewed available information on EEOC's agencywide strategic plan, strategic human capital plan, private sector enforcement workload projections, and budget documents. In addition, we administered a data collection instrument to the Office of Human Resources to collect information on strategic workforce planning, recruitment and hiring, and training and reviewed the related documentation provided by agency officials to support their responses. We conducted interviews with EEOC Commissioners, including the Chair of the Commission, as well as officials representing various EEOC offices—including the Office of General Counsel; Office of Field Programs; Office of Human Resources; Office of Research, Information, and Planning; Office of Chief Financial Officer and Administrative Services; and Office of Inspector General. We also drew on GAO's prior work on key principles for effective strategic workforce planning and examined the extent to which EEOC's actions conform to leading principles.

We conducted this performance audit from July 2007 to June 2008, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: GAO Briefing to Congressional Staff on June 12, 2008



Equal Employment Opportunity Commission: Sharing Promising Practices and Fully Implementing Strategic Human Capital Planning Can Improve Management of Growing Workload

**Briefing to Congressional Staff
June 12, 2008**

1



Introduction

- Created in 1964, the Equal Employment Opportunity Commission (EEOC) promotes equal opportunity in the workplace and enforces federal laws that prohibit employment discrimination on the basis of race, sex, color, religion, national origin, age, and disability.
- The federal government faces human capital challenges, including a retirement wave that will lead to the loss of leadership and institutional knowledge at all levels. In 2006, the Office of Personnel Management reported that approximately 60 percent of the government's 1.6 million white-collar employees and 90 percent of about 6,000 federal executives will be eligible for retirement over the next 10 years.
- EEOC also faces human capital challenges. It estimates that, by 2012, all of its current senior executives and senior managers will be retirement eligible, if they have not already retired by that time.
 - EEOC's Office of Inspector General has recently identified the strategic management of human capital as a significant challenge facing the agency and is currently undertaking a review of EEOC's human capital management.



Research Objectives

- In view of EEOC's human capital management challenges and the growing demand for its services, we were asked to examine the following:
 1. national trends in EEOC's private sector enforcement workload and factors that contribute to them,
 2. how EEOC offices manage their workload, and
 3. EEOC actions to address its future workforce needs.
-



Scope and Methodology

- We limited our review to EEOC's private sector enforcement program, which represents the majority of EEOC's workload.
 - For objectives 1 and 2, we analyzed data from fiscal years 2004 to 2007 from EEOC's Integrated Mission System database, which maintains information on private sector charges of employment discrimination, and EEOC's Office of Human Resources. We determined that these data were sufficiently reliable for the purposes of this report.
 - We also interviewed a range of staff in EEOC offices in Atlanta, Baltimore, Las Vegas, Milwaukee, Philadelphia, and Seattle on EEOC's private sector enforcement program.
 - For objective 3, we obtained responses on human capital planning efforts from a data collection instrument we administered to the Office of Human Resources, and reviewed corroborating information.
 - We also reviewed relevant documentation about EEOC's strategic and human capital planning process and discussed the planning process with senior agency officials at EEOC headquarters in Washington, D.C.
 - Our work was performed from July 2007 to June 2008 in accordance with generally accepted government auditing standards.
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Summary of Key Findings

- Multiple factors—including the growth in the number of new employment discrimination charges, which have become increasingly resource intensive, and a decline in the number of investigators—contributed to EEOC’s growing private sector workload.
 - While offices vary significantly in their ability to manage workload in a timely manner, promising management practices have not been identified.
 - Although EEOC has taken some actions to address future workforce needs, these actions do not fully address leading principles for effective strategic workforce planning.
-

Background



EEOC's Private Sector Enforcement Program and Mission-Critical Staff

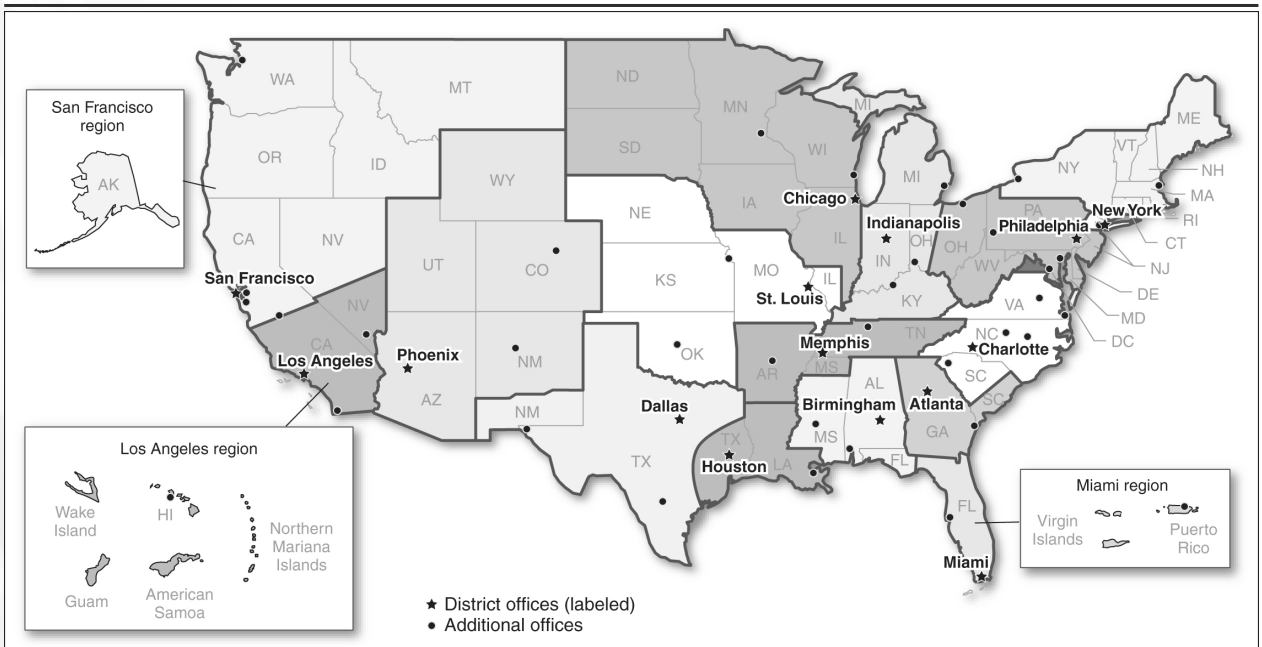
- EEOC investigates charges of employment discrimination from the public, litigates major cases, and reaches out to the public to help educate it and prevent such discrimination.¹
- EEOC has identified staff positions—including investigators, mediators, and trial attorneys—that are critical to fulfilling its mission and provide these direct services to the public.
- These mission-critical staff comprise about half of the agency's workforce and are stationed across EEOC's 53 offices.

¹ EEOC enforces the following federal statutes: Title VII of the Civil Rights Act of 1964, Age Discrimination in Employment Act of 1967, Equal Pay Act of 1963, Title I and Title V of the Americans with Disabilities Act of 1990, and sections 501 through 505 of the Rehabilitation Act of 1973. In addition, EEOC coordinates federal equal employment opportunity regulations, practices, and policies. 6



Background (cont.)

EEOC's 53 Offices Are Located in 15 Districts



Source: GAO; EEOC; and MapArt.



Background (cont.)

Prioritizing and Processing Private Charges of Employment Discrimination

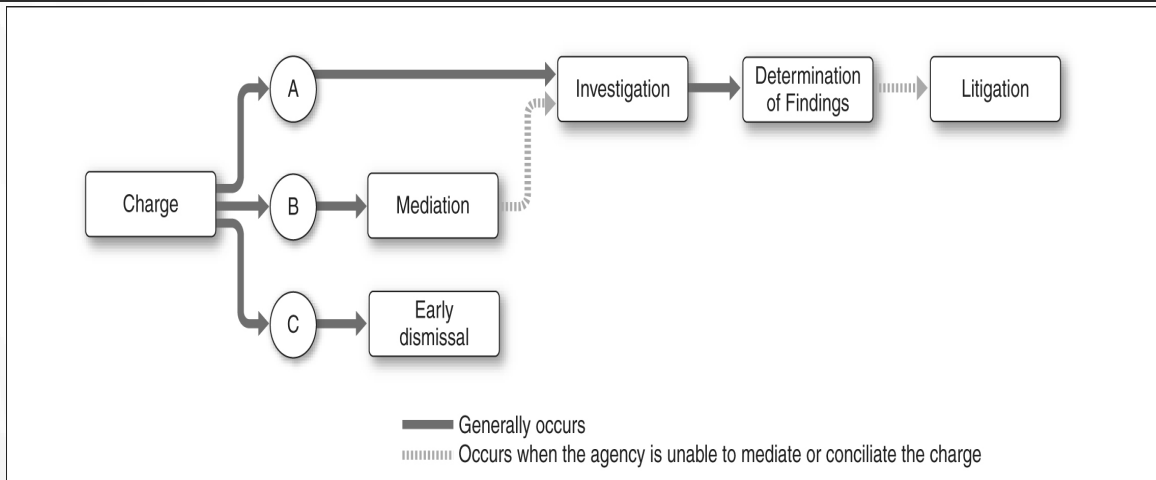
- Individuals may initiate the discrimination complaint process of filing a charge by providing initial information in person, by telephone or mail. While individuals can provide initial intake information on the Web, they cannot currently file a charge electronically.
- EEOC prioritizes charges to devote the greatest resources to those whose initial evidence suggests a violation of law and categorizes them accordingly.²
 - Charges may be dismissed at any point if, in the agency's judgment, further investigation will not establish a violation of the law.
- Employers may resolve charges early in the process through settlement or mediation, both informal and voluntary processes. If mediation is not successful, a charge is returned to the field office enforcement unit for investigation.
- EEOC will attempt conciliation, where evidence has established that discrimination has occurred, and if unsuccessful, may decide to litigate cases in federal court.

² EEOC began implementing priority charge handling procedures in 1995.



Background (cont.)

Prioritizing and Processing Private Charges of Employment Discrimination (cont.)



Source: GAO and EEOC.

Note: A and B charges—where the initial evidence suggests a violation of law or where additional information is needed—are generally more resource intensive than C charges, and move through investigation and/or mediation. With C charges, the agency may not have jurisdiction or the charges may be unsupported, and the charges may be suitable for early dismissal.



Background (cont.)

Status of EEOC's Recent Restructuring Efforts

In recent years, EEOC began implementing major initiatives in an effort to reposition itself to better serve the public.

Initiative	Current status
Established national call center to respond to inquiries from the public (2005)	In August 2007, Commission voted to replace contracted call center with in-house telephone answering team. Contracted call center ceased operation in December 2007. EEOC has since hired and trained more than 60 staff for its in-house team, located in 15 EEOC offices, to answer calls and assist the public.
Repositioned field structure (2005)	Repositioning, effective January 2006: ^a <ul style="list-style-type: none"> • consolidated 23 districts into 15 districts and • added 2 new field office locations.
Restructuring headquarters' operations (current)	In 2007, a workgroup consisting of headquarters and field personnel was formed to provide recommendations to the EEOC Chair, with a focus on streamlining, eliminating redundancies, and enhancing efficiency.

^a GAO, *Equal Employment Opportunity Commission: Actions Taken, but Agency Restructuring Efforts Could Benefit from a More Systematic Consideration of Advisory Panel's Recommendations*, GAO-06-10 (Washington, D.C.: Oct. 28, 2005).



Background (cont.)

High-Performing Organizations Require Transformations in People, Processes, and Technology

- GAO has previously reported that the federal government faces a range of new challenges in the 21st century, including long-term fiscal challenges, an aging and more diverse population, and rapid advances in technology.³
- Building a high-performing organization that is results-oriented and meets the needs of clients and customers during a time of rapid change requires fundamental transformations in the management of
 - people,
 - processes, and
 - technology.

³ GAO, *Comptroller General's Forum: High-Performing Organizations: Metrics, Means, and Mechanisms for Achieving High Performance in the 21st Century Public Management Environment*, GAO-04-343SP (Washington, 11 D.C.: Feb. 13, 2004).



Background (cont.)

Leading Strategic Workforce Planning Principles

- Strategic workforce planning addresses two critical needs: (1) aligning an organization's human capital program with its current and emerging mission and programmatic goals and (2) developing long-term strategies for acquiring, developing, and retaining staff to achieve programmatic goals.⁴

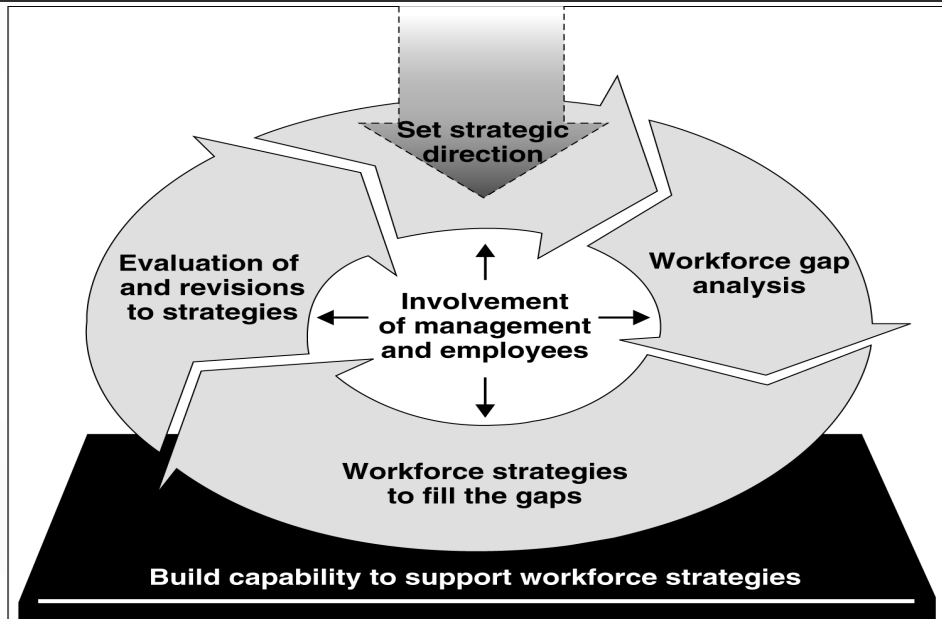
GAO's Leading Strategic Workforce Planning Principles

Involvement of top management, employees, and other stakeholders in developing, communicating, and implementing the strategic workforce plan
Determine the critical skills and competencies that will be needed to achieve future programmatic results
Develop strategies that are tailored to address gaps in critical skills and competencies that need attention
Build the capability needed to address administrative, educational, and other requirements important to support workforce strategies
Monitor and evaluate the agency's progress toward its human capital goals and the contribution that human capital results have made toward achieving programmatic goals

⁴ GAO, *Human Capital: Key Principles for Effective Strategic Workforce Planning*, GAO-04-39 (Washington, D.C.: Dec. 11, 2003). 12

Background (cont.)

Strategic Workforce Planning Process



Source: GAO.

Objective 1: National Trends and Contributing Factors



Multiple Factors Contribute to EEOC's Growing Private Sector Workload

Overview:

- Over the last 4 years, EEOC's private sector workload has increased by 10 percent.
- Multiple factors that contribute to the growing workload include the growth in number of new charges, which have become increasingly resource intensive, and a decline in investigative staff.
- At the same time, the
 - average number of total charges per investigator increased by 22 percent,
 - average time to close charges increased by 34 days, and
 - number of open charges at the end of the fiscal year increased by 82 percent.
- EEOC's mediations and lawsuits for its private sector charges showed modest increases over the last 4 years.

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Objective 1: National Trends and Contributing Factors (cont.)

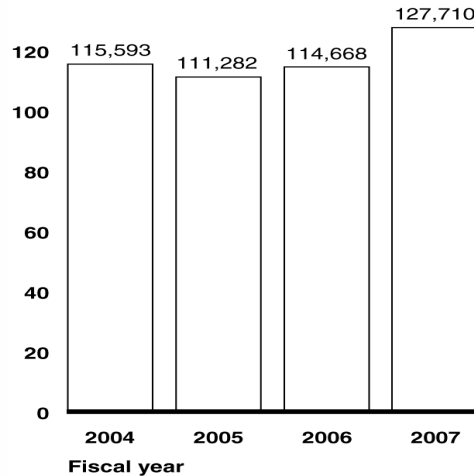


For Fiscal Years 2004 through 2007, EEOC's Private Sector Workload Increased by 10 Percent

Total charges nationwide, by fiscal year

Number of charges (in thousands)

140



Source: GAO analysis of EEOC data.

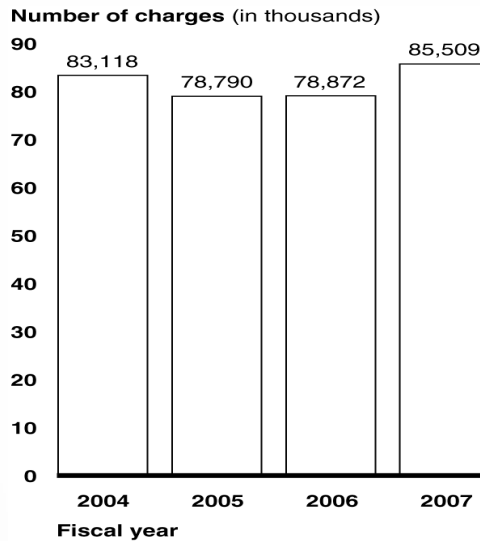
Note: The total number of charges includes new charges that are opened in each fiscal year and existing charges that were opened in previous years.

Objective 1: National Trends and Contributing Factors (cont.)



Multiple Factors Have Contributed to Growing Workload: New Charges of Employment Discrimination Have Risen

New charges, by fiscal year



Source: GAO analysis of EEOC data.

Objective 1: National Trends and Contributing Factors (cont.)



Multiple Factors Have Contributed to Growing Workload (cont.): New Charges Have Become Increasingly Resource Intensive

- For fiscal years 2004 through 2007, A and B charges increased from 83 to 90 percent of all new charges, while C charges fell from 16 to 10 percent. According to EEOC officials and investigators, A and B charges—where the initial evidence suggests a violation of law or where additional information is needed—are more resource intensive than C charges.
- Since 2006, the agency has increased emphasis on its systemic program. This program investigates and litigates alleged discrimination with a broad impact on an industry, profession, company, or geographic location. EEOC officials told us that these charges are substantially more resource intensive than individual charges of employment discrimination.

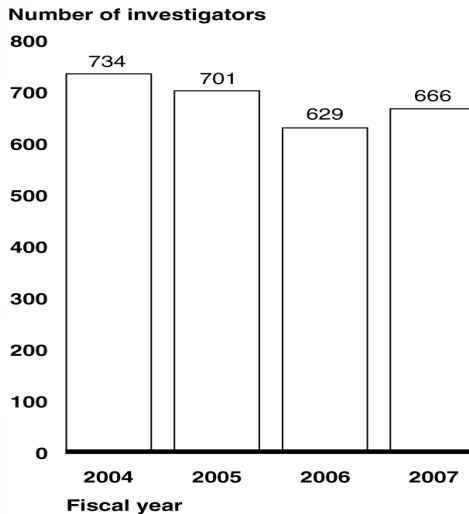
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Objective 1: National Trends and Contributing Factors (cont.)



Multiple Factors Have Contributed to Growing Workload (cont.): Investigative Staff That Handle Private Sector Charges Decreased 9 Percent over the Last 4 Years

Total number of nonsupervisory investigators, by fiscal year



Source: GAO analysis of EEOC data.

Note: These figures include all nonsupervisory investigators.

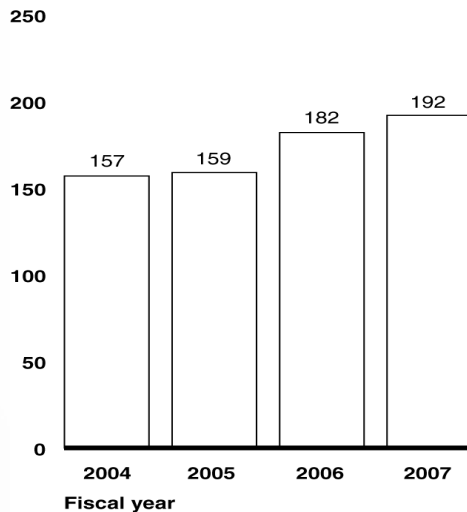
Objective 1: National Trends and Contributing Factors (cont.)



Over the Last 4 Years, the Average Number of Total Charges per Investigator Has Increased by 22 Percent

Total charges per investigator, by fiscal year

Number of total charges



Source: GAO analysis of EEOC data.

Objective 1: National Trends and Contributing Factors (cont.)



For 2004 through 2007, the Average Time Taken to Close a Charge Rose by 34 days

Fiscal year	Average number of calendar days to process a charge	Percentage of charges closed within 180 calendar days ^a
2004	171	67%
2005	184	66
2006	200	61
2007	205	56

Source: GAO analysis of EEOC data.

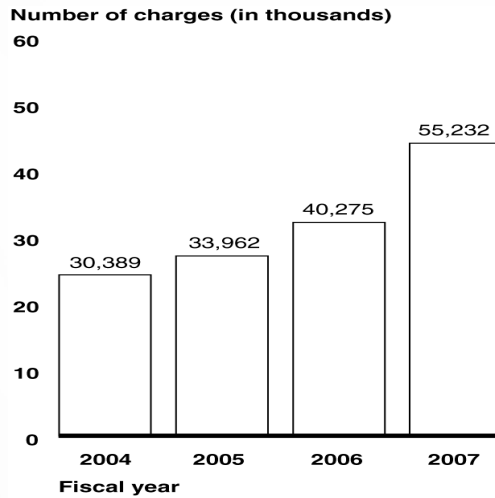
^a EEOC has a performance measure to resolve a specific percentage of charges within 180 days, which was 65 percent in 2004 and increased to 72 percent in 2007.

Objective 1: National Trends and Contributing Factors (cont.)



The Number of Open Charges at the End of the Fiscal Year Has Grown 82 Percent over the Last 4 Years

Number of open charges at the end of the fiscal year



Source: GAO analysis of EEOC data.

Note: As the number of charges that remain open have increased over the last 4 years, the percentage of charges closed by the end of the year declined by 17 percentage points.

Objective 1: National Trends and Contributing Factors (cont.)



EEOC's Mediations and Lawsuits for Its Private Sector Charges Showed Modest Increases over the Last 4 Years

- From 2004 to 2007, mediations increased by 5 percent to about 12,050 held in 2007.
- However, as a share of workload over the last 4 years, mediations were relatively stable and represented
 - 22 percent of all new charges eligible for mediation⁵ and
 - 11 percent of total closed charges.
- At the same time, the number of lawsuits—which is comprised of new suits and those that are carried over from previous fiscal years—increased by 3 percent.
 - In 2007, EEOC had 930 cases in litigation.

⁵ Generally, only charges designated as category B are eligible for mediation.

Objective 2: How EEOC Offices Manage Workload



While Offices Vary Significantly in Their Ability to Manage Workload in a Timely Manner, Promising Management Practices Have Not Been Identified

Overview:

- Average time taken to close charges, percentage of charges closed, and the average number of total charges per investigator varied significantly by office in 2007.
- Key measures—such as the average number of total charges per investigator and the percentage of new resource-intensive charges—are not correlated with an office’s ability to manage workload in a timely manner.
- With varying levels of success, the EEOC offices we visited use a variety of techniques to manage their workload.
- EEOC lacks a systematic process to identify promising management practices.



Objective 2: How EEOC Offices Manage Workload (cont.)

Average Time Taken to Close a Charge, Percentage of Charges Closed, and Number of Charges per Investigator Significantly Varied by Office in 2007

	Average number of total charges per investigator	Percentage of new charges that are resource intensive	Percentage of charges closed	Percentage of charges closed within 180 Days ^a	Number of days taken to close a charge
National average	192	90%	57%	56%	205
Office low	125	66	26	30	92
Office high	622	99	74	90	310
Difference between office low and office high	497	33%	48%	60%	218

Source: GAO analysis of EEOC data.

^a EEOC's performance measure for the timely resolution of private sector charges in 2007 was to close 72 percent of charges within 180 days or fewer; five offices came within 3 percentage points of this goal and one office exceeded the goal.



Objective 2: How EEOC Offices Manage Workload (cont.)

Key Measures Are Not Correlated with an Office's Ability to Manage Workload in a Timely Manner

- EEOC has reported that declining numbers of staff and growing numbers of new charges have affected its ability to meet the performance goal of closing 72 percent of charges within 180 days or fewer.
- According to EEOC officials, resource-intensive charges influence their ability to manage workload in a timely manner.
- However, we found that an office's ability to close charges within 180 days or fewer is not correlated to the
 - average number of total charges handled per investigator or
 - percentage of new charges that are resource intensive.

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Objective 2: How EEOC Offices Manage Workload (cont.)



With Varying Levels of Success, EEOC Offices Use a Variety of Techniques to Manage Their Workload

- EEOC offices we visited vary in terms of their ability to close charges within 180 days or fewer, and use a variety of practices to manage their workload.
- Examples of practices that differ throughout the charge process include the management of the following:

Initial Screening of Charges

- The Atlanta office emphasizes that all charges that individuals wish to file should be accepted.
- The Milwaukee office focuses on screening during the intake process.

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Objective 2: How EEOC Offices Manage Workload (cont.)



With Varying Levels of Success, EEOC Offices Use a Variety of Techniques to Manage Their Workload (cont.)

Charge Inventory

- In the Atlanta office, all charges are assigned to investigators, and their supervisors are required to send status reports on their aged inventory to management.
- In the Seattle office, charges are held, pending assignment, on the basis of investigator workload.
- In the Baltimore office, investigators rely on internal milestones to track charges.
- In the Las Vegas office, charges have been transferred to the San Diego and Honolulu offices to reduce the pressure from a large workload.

Systemic Charges⁶

- In the Atlanta office, two investigators are assigned exclusively to class and systemic charges.
- In the Baltimore and Milwaukee offices, systemic charges are distributed among investigators.

⁶ Individual EEOC districts are required to develop plans to help ensure that EEOC is identifying and investigating systemic discrimination in a coordinated, strategic, effective agencywide manner.

Objective 2: How EEOC Offices Manage Workload (cont.)



EEOC Lacks a Systematic Process to Identify Promising Management Practices

- EEOC has conducted surveys of its investigative staff to identify techniques that high performers use to succeed in their work.
 - EEOC has not conducted a survey since 1996.
- EEOC conducts technical reviews of select offices' policies and practices to ensure compliance with agency standards.
 - Technical reviews include assessments of broad functional areas as well as quality reviews of investigative files.
 - Investigative file reviews are designed, in part, to ensure that work is not completed quickly at the expense of quality results.
 - EEOC officials said that in some cases they will identify required processes that are not consistently applied among offices and, as a result, they will update policies and procedures to improve compliance.
 - However, EEOC does not use these reviews to systematically identify promising practices for managing workload.
- According to EEOC officials, employees have opportunities to share information about policies and practices during regularly scheduled meetings, and other mechanisms, such as internal Web pages.

Objective 3: How EEOC Actions Address Workforce Planning Principles



EEOC's Actions to Meet Future Workforce Needs Do Not Fully Address Leading Strategic Workforce Planning Principles

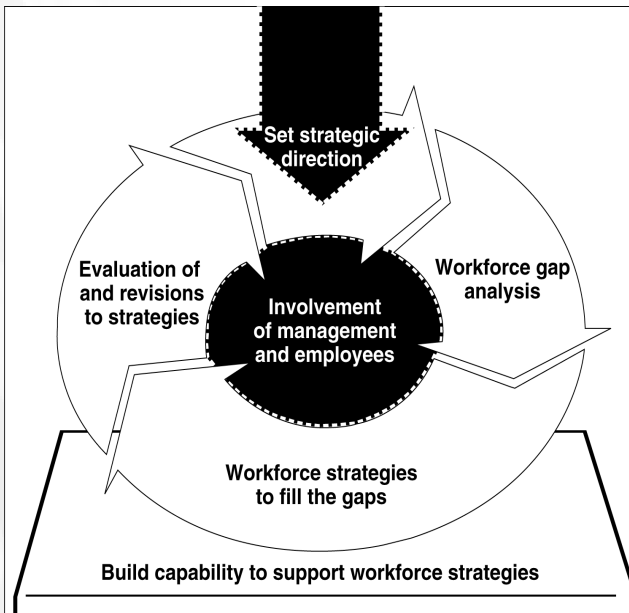
Overview:

- Although the agency has taken some actions, these steps do not fully address key principles for effective strategic workforce planning.
- Specifically:
 - EEOC's efforts to develop, communicate, and implement a strategic human capital plan are incomplete after 4 years.
 - Critical skills needed to achieve current and future programmatic results have not been assessed.
 - Current strategies to address gaps and sustain critical skills are not based on identified skill gaps.
 - Building support for workforce planning strategies has posed challenges.
 - Progress toward human capital goals is not directly measurable or linked to programmatic results.

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Objective 3: How EEOC Actions Address Workforce Planning Principles (cont.)

Efforts to Develop, Communicate, and Implement a Strategic Human Capital Plan Are Incomplete after 4 Years



Source: GAO.

- Draft plan does not integrate workforce with workload data or establish clear link to achieving agencywide performance measures
- Input from top leadership—Commission Chair—not yet incorporated
- Input from District Directors not yet incorporated, although their buy-in is critical for adoption and implementation
- Draft plan lacks implementation component that identifies necessary resources, responsible party for implementing strategies, and time frame for completion

Objective 3: How EEOC Actions Address Workforce Planning Principles (cont.)

Critical Skills Needed to Achieve Current and Future Programmatic Results Have Not Been Assessed

- Core competencies for mission-critical positions developed but not used to assess skills of current employees
- Workforce planning not approached strategically—based on mission needs, customer expectations, workload, and workforce—or systematically
- Employee positions were revised in the field without an assessment of work processes or position structures to maximize productivity and efficiency
- GAO has reported on the value of planning for future human capital needs from multiple scenarios instead of a single view of the future.⁷



Source: GAO.

⁷ GAO-04-39.

Objective 3: How EEOC Actions Address Workforce Planning Principles (cont.)

Current Strategies to Address Gaps and Sustain Critical Skills Are Not Based on Identified Skills Gaps



Source: GAO.

- Workforce strategies, such as training and rotational assignments, not based on an assessment of the skills of current employees
- Workforce strategies not targeted most effectively because workforce planning efforts between the Office of Human Resources and individual program offices are not effectively integrated

Objective 3: How EEOC Actions Address Workforce Planning Principles (cont.)



Building Support for Workforce Planning Strategies Has Posed Challenges

- **Information technology:** Lack of adequate support left key workforce planning software purchased to analyze the workforce, determine staffing needs, and integrate workload and financial data unusable, according to an EEOC official
- **Internal structure:** Lack of Commission approval has stalled efforts necessary for funding workforce planning activities, according to senior EEOC officials
 - Commission approval necessary for the obligation of funds that exceed \$100,000



Source: GAO.

Objective 3: How EEOC Actions Address Workforce Planning Principles (cont.)

Progress Toward Human Capital Goals Is Not Directly Measurable or Linked to Programmatic Results



Source: GAO.

- Draft human capital plan lacks specific measures or milestones for achieving outcomes, so progress is not measurable
- Revised strategic plan overview lacks management objective and measures related to achieving human capital outcomes, so progress is not measurable
- Training and development efforts lack measures to assess contributions toward individual mastery of learning and achieving agency goals



Conclusions

- EEOC's mandate to promote equal opportunity in the workplace and enforce federal employment antidiscrimination laws could be compromised if EEOC cannot keep pace with its growing private sector workload.
 - EEOC could identify processes used by those offices that achieve quality outcomes while resolving cases in a timely manner despite the burden of heavy workloads. Such *promising practices* could be used to help other offices meet EEOC's performance goals.
 - EEOC could make better use of the strategic planning processes to develop a human capital plan that addresses gaps in knowledge, skills, and abilities in its current and future workforce.
-



Recommendations

-
- To improve EEOC's ability to meet its current and future needs for a critically skilled workforce, we recommend that the Chair of EEOC take the following two actions:
 - develop criteria for identifying offices that ensure quality outcomes in a timely manner and evaluate and share promising practices across the agency and
 - finalize the strategic human capital plan, on the basis of skills and competencies assessments, and develop an implementation plan for the strategies identified in the plan with stakeholder input that identifies necessary resources, responsible parties, timelines for completion, and milestones to measure progress.
-



Related GAO Products

Equal Employment Opportunity Commission: Actions Taken, but Agency Restructuring Efforts Could Benefit from a More Systematic Consideration of Advisory Panel's Recommendations. GAO-06-10. Washington, D.C.: October 28, 2005.

Equal Employment Opportunity: The Policy Framework in the Federal Workplace and the Roles of EEOC and OPM. GAO-05-195. Washington, D.C.: April 29, 2005.

Human Capital: Key Principles for Effective Strategic Workforce Planning. GAO-04-39. Washington, D.C.: December 11, 2003.

Human Capital: Effective Use of Flexibilities Can Assist Agencies in Managing Their Workforces. GAO-03-2. Washington, D.C.: December 6, 2002.

Equal Employment Opportunity: Discrimination Complaint Caseloads and Underlying Causes Require EEOC's Sustained Attention. GAO/T-GGD-00-104. Washington, D.C.: March 29, 2000.

Equal Employment Opportunity: Complaint Caseloads Rising, with Effects of New Regulations on Future Trends Unclear. GAO/GGD-99-128. Washington, D.C.: August 16, 1999.

EEOC: Burgeoning Workload Calls for New Approaches. GAO/T-HEHS-95-170. Washington, D.C.: May 23, 1995.

EEOC: An Overview. GAO/T-HRD-93-30. Washington, D.C.: July 27, 1993.

Appendix III: Comments from the U.S. Equal Employment Opportunity Commission



U. S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, DC 20507

Office of the Chair

June 9, 2008

George A. Scott, Director
Education, Workforce, and Income Security Issues
U.S. Government Accountability Office
Washington, D.C. 20548

Dear Mr. Scott:

Thank you for the opportunity to review and comment on GAO Report GAO-08-589 entitled "Equal Employment Opportunity Commission: Sharing Promising Practices and Fully Implementing Strategic Human Capital Planning Can Improve Management of Growing Workload." As the title suggests, the report addresses EEOC's growing private sector charge activity (between fiscal years 2004-2007) with a critical analysis of EEOC's human capital management challenges and the growing demand for its services.

The report concludes that EEOC's ability to manage its workload (private sector enforcement representing the majority of the agency's workload) has declined over the 4-year review period (2004-2007). It correctly states that, while its core mission has not changed since the agency was established more than 40 years ago, EEOC continues to face a range of new challenges in the 21st Century, including long-term fiscal constraints, changing demographics, and rapid advances in technology. At the same time, the report notes, the federal government overall faces significant human capital challenges, including a retirement wave that will lead to the loss of leadership and institutional knowledge at all levels, and that the EEOC is not immune from this trend.

The report points out that between 2000 and 2007, EEOC lost nearly one quarter of its full-time-equivalent staff, from approximately 2,850 to about 2,150. Although the GAO report states that about half of the agency's workforce is comprised of mission-critical staff, citing investigators, mediators, and trial attorneys stationed across EEOC's 53 offices, in fact the number of mission-critical positions comprise a portion substantially greater than one-half the agency's workforce. As such, EEOC is compelled to point out that, notwithstanding efforts to balance its workload and workforce, GAO does not significantly acknowledge the impact of reduction in staff on EEOC's ability to manage its workload.

Staffing expenditures continue to comprise about 70% of the agency's total budget (EEOC currently spends about 2% more on staffing than it did five years ago). EEOC investigator numbers, however, have dwindled over the 4-year review period (2004-2007). Had EEOC been able to maintain its investigative staff at the 2004 level (734 investigators) with an

average productivity of rate of 105 charges per year per investigator, the agency's workload at the end of 2007 would have been 33,602 instead of 55,232. While the GAO study proposes, but then dismisses any correlation between factors it suggests (average workload, percentage of high-resource charges, or percentage of 180-day closures) and inventory, we believe the correlation between inventory and staffing cannot be ignored.

Another major point of the report with which EEOC takes issue is the conclusion that EEOC does not have a mechanism for finding and sharing promising practices among its many offices. During the study, EEOC shared with GAO the summaries of the reviews that EEOC conducts of its field offices. The reviews cover the spectrum of field office processing, including both private and federal sector cases, and looks at intake, case management, mediation, and all other aspects of the administrative process. EEOC has at least two meetings each year for all District Directors during which a particular focus is placed on promising practices. EEOC believes that it has a significant mechanism for identifying promising practices and a methodology for communicating those practices and testing them in our field offices.

Some other salient points concerning the report's findings warrant comment. Among them are the varying levels of success to which EEOC offices use a variety of techniques to manage the growing workload. It appears that GAO minimizes the effectiveness of EEOC's Priority Charge Handling Procedures (PCHP) and more specifically, the charge categorization process — which is the single most effective tool that EEOC has in its workload management arsenal. While offices may use other procedures and techniques to augment PCHP to address specific issues in each office, we believe greater recognition should be given to EEOC's effective use of the PCHP.

Additionally, GAO notes that there is no correlation between an office's ability to resolve charges within 180 days and the average investigator workload or percentage of resource intensive charges. However, to limit the assessment to only these two factors omits other criteria that could have been assessed. Notably, they are: the size of the office both in terms of type (District, Field, Area or Local) and the geographic areas served, the size of the investigator staff in comparison to the complement of managers to supervise and oversee the process, the size of the mediation unit, the investigators available (taking into account those who are on extended leave, military deployment or in training status) or the amount of staff time devoted to the intake process.

On another point in the report's conclusions, EEOC challenges the statement that "[the agency] could identify processes used by those offices that achieve quality outcomes while resolving cases in a time manner despite the burden of heavy workloads. Such promising practices could be used to help other offices meet EEOC's performance goals." This conclusion ignores the efforts that EEOC is making on a regular basis to enhance office processes and practices to address its workload processing. Additionally, the claim is silent on the fundamental crisis facing EEOC in addressing its private sector workload, namely: reduction in workforce while simultaneously facing a record growth in the rate of receipts and charge inventory.

**Appendix III: Comments from the U.S. Equal
Employment Opportunity Commission**

Lastly, while the report concludes that EEOC has not fully implemented a strategic human capital plan, it is important to point out that the agency conducts both workforce analysis and workforce planning as a part of the annual budget process as well as a part of program management. As a basis for hiring and retention, EEOC requires mission-critical employees to possess the critical skills necessary for successful resolution of private sector charges.

EEOC has undertaken, but has not yet completed, the competency analyses of mission critical occupations using the format established by OPM through the Human Capital Assessment and Accountability Framework (HCAAF) for President Management Agenda (PMA) scored agencies. Our preliminary results from the work done for the investigator occupation have reinforced the basic knowledge, skills and abilities that we currently require for those positions. We anticipate that our strategic human capital plan will be submitted to the Chair by the end of FY 2008.

Thank you for your consideration of these comments.

Sincerely,


Anthony J. Kaminski
Chief Operating Officer

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

George A. Scott, (202) 512-7215 or scottg@gao.gov

Staff Acknowledgments

In addition to the contact named above, Bill Keller (Assistant Director), Avani Locke, Paul Kazemersky, Rachael Schacherer, Jean McSween, Jerome Sandau, Susannah Compton, Anthony Lofaro, Kate Walker, and James Rebbe made key contributions to this report.

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