

***UNITED STATES
COMMISSION ON CIVIL RIGHTS***

PERFORMANCE AND ACCOUNTABILITY REPORT

FISCAL YEAR 2005

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MESSAGE FROM THE CHAIRMAN

I am pleased to present the first Performance and Accountability Report (PAR) filed by the U.S. Commission on Civil Rights (the "Commission"). This report reviews the Commission's program and financial performance during fiscal year 2005 (FY05), a transitional year which saw a change in agency leadership late in the first fiscal quarter. More specifically, it demonstrates concerted efforts by the Commission's new leadership to regain the trust of the American public after years of widely-reported mismanagement and to restore the Commission's reputation as a reliable resource of information on the nation's critical civil rights issues.

Created in 1957 as an independent, bipartisan agency, the Commission addresses discrimination through monitoring and studying civil rights developments, evaluating civil rights enforcement, and investigating and studying allegations of discrimination. At the same time, the Commission serves as a reliable source of information on the status of the nation's broad range of civil rights problems, progress, and legislative proposals. Beginning in the 1990s and continuing through early 2005, the Commission was criticized for poor management practices. During this period, the Government Accountability Office (GAO) and the Office of Personnel Management (OPM) issued several reports criticizing the agency's financial controls, procurement activities, human capital management, and project planning and execution processes. New leadership assumed office at the Commission in December 2004, recognizing the Commission's prior weaknesses but committed to reforming the agency, and demonstrated a top-down commitment to strengthening the Commission's internal controls and implementing reforms. In April 2005, the Commission voted to implement all GAO and OPM recommendations issued from 1997 in an expedited fashion, to the extent that they are non-repetitive, that funds are available, and that implementation is consistent with restrictions imposed by the Anti-Deficiency Act. The Commission anticipates that all GAO reforms will be in place by the end of the second quarter of FY06. The problems inherited in December 2004 did not develop over the course of a few months but developed over the course of years and are rooted in neglect, mismanagement, and financial pressures resulting from a stagnant budget. Improvement in the policies and procedures governing financial management at the Commission began in FY05 though the fruit of our labor will continue, mature and ripen over time.

As Chairman of the Commission, I make no statement of assurance regarding the management controls that were in place during FY05 and the conformance of financial systems with government-wide standards. This statement is based, in part, on the existence of five reportable conditions, two of which are material weaknesses, in FY05 and their likely impact on the ability of the Commission to achieve compliance with the Federal Managers' Financial Integrity Act. It is worth noting, however, that significant improvements were made during this transitional year. Included in this report is a detailed discussion of the specific corrective measures implemented in FY05 that are designed to address the conditions and weaknesses identified in this report but which

were not fully in place throughout FY05 so as to resolve these issues. Additionally, the Commission is currently engaged in management and financial reforms scheduled to be implemented in FY06.

Throughout calendar year 2005, the Commission swiftly moved to begin enacting a series of reforms aimed at strengthening the agency's management controls. Included among these corrective measures are new internal policies governing acquisition management and travel, reforms to Commission project planning and execution processes, and improvements to the agency's internal and external communications processes. Though many new policies have been issued work is ongoing as the agency crafts additional procurement guidance, updates instructions for budget formulation and execution, reviews advisory committee operations, and makes needed changes in other areas of agency operation. During FY05, the Commission demonstrated that it embraced higher standards in several other ways. Most notably, by retaining an accounting firm to conduct the Commission's first ever audit of the agency's balance sheet and related statements of net cost, changes in net position, budgetary resources, and financing for FY05, as well as assess the agency's internal controls and legal compliance; entering into a contract with the General Services Administration (GSA) for accounting services; and working with an experienced financial management consulting firm to identify management weaknesses and the corrective measures necessary for the Commission to receive a clean financial audit in the near future. A more detailed discussion of material internal control weaknesses and planned corrective action is presented in various sections of this report. As new controls have been introduced over the course of FY05 and early FY06, we expect that they will yield positive results in future years.

The Commission also moved to improve agency performance and staff accountability for achieving agency goals. In FY05, the Commission began a strategic planning process designed to create a Strategic Plan for FY 2006 - 2011 that includes appropriate outcomes and outcome measures, drafted a proposed Strategic Human Capital Plan, and began development of a Human Capital Accountability System to increase workforce accountability and improve the management of human capital. Another reform undertaken during FY05 includes creating a comprehensive, written Commission travel policy to ensure compliance with *Federal Travel Regulation* (FTR) and to eliminate travel abuses and waste resulting from improper and late travel payments. This policy was finalized and issued in early FY06. Training procurement staff to ensure Commission compliance with the *Federal Acquisition Regulation* (FAR) to avoid violations of federal law was also addressed in FY05 by the making additional training funds available in the agency's FY06 operating plan and enrolling key procurement staff in needed skills development courses in early FY06. In FY05, a policy was created requiring monthly reporting of project cost reports to provide all agency managers and other decision-makers with information about the use of Commission resources. Also, cooperative working relationships established with key federal agencies during FY05, including OMB and OPM, have improved the overall management of the Commission.

The Commission pursued cost-savings as aggressively as it did agency management reform. When the agency faced a deficit of approximately \$265,000 in FY05, the

Commission developed cost-cutting measures to close the deficit and provide a sufficient cushion against unexpected costs. This ensured that the agency would operate within its means. In April 2005, the Commission took steps to ensure that it remained firmly within its budget authority for FY05 by freezing hiring of new career and non-career employees, freezing all but essential operational expenditures, and offering Voluntary Early Retirement Authority to eligible employees. Later, the agency took additional measures to close the FY05 gap, and close a projected FY06 deficit, that included approving a reduction-in-force (RIF) of up to four employees in FY05, the furlough of Commission staff in FY05, and the closure of two regional offices in early FY06. Additionally, some employees took leave without pay to support the agency's cost-cutting measures. Based on attrition, significant cost-saving measures, and the decision by Commissioners to defer hiring special assistants, the Commission avoided a RIF and office closures in FY05. The Commission expects that a RIF and office closures will not be necessary in FY06.

The Commission demonstrated fiscal responsibility by consolidating office space at its headquarters office and saving slightly more than \$100,000 a year. As mentioned, the agency contracted with GSA to provide accounting services and this switch should not only improve the Commission's financial management but should save \$25,000 a year in costs related to accounting services. The agency is leasing less document storage space from the General Printing Office warehouse and is storing more records in-house. This change should result in a savings of approximately \$40,000 in FY05 and slightly less in subsequent years. Finally, the agency reviewed the holdings in its public library and was able to save an estimated \$20,000 by using online services and discontinuing several publications with low public demand.

In spite of financial pressures and a focus on a nine-month reform timeline, the Commission continued to provide information to the public and policy-makers on important civil rights matters. The Commission published two reports during FY05, *Funding Federal of Civil Rights Enforcement: The President's 2006 Request* and *Federal Procurement After Adarand*. The report on funding of federal civil rights enforcement efforts examined the six principal federal agencies charged with enforcing the nation's civil rights laws, the Departments of Education, Justice, Labor, Housing and Urban Development, and Health and Human Services, as well as the Equal Employment Opportunity Commission.¹ It tracked and analyzed the budget requests of the William J. Clinton and George W. Bush administrations from 1994 to 2006, and funding levels appropriated by Congress. The report also documents changes in workloads, budgets, staffing levels, outputs, goals, and the achievement of established goals. The type of data collection and analyses contained in this report serve as useful tools for making agency funding decisions and enhancing agency civil rights accountability.

In the post-*Adarand* report on procurement,² the Commission studied relevant procurement practices within seven federal agencies to determine whether their

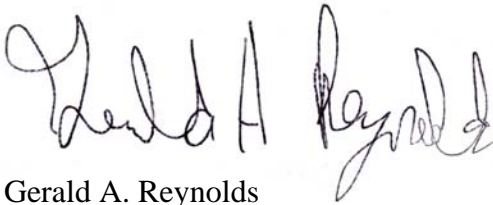
¹ U.S. Commission on Civil Rights, *Funding Federal Civil Rights Enforcement: The President's 2006 Request*, September 2005.

² U.S. Commission on Civil Rights, *Federal Procurement After Adarand*, September 2005.

procurement programs appropriately considered and applied race-neutral alternatives to race-conscious programs. The report found no significant evidence that agencies considered race-neutral alternatives before resorting to race-conscious programs. For example, it concluded that agencies failed to develop a framework for enforcing non-discrimination in procurement.

A briefing on the stagnation of the black middle-class, conducted on Capitol Hill, educated the public and provided lawmakers access to information on employment and income trends among African Americans and other disadvantaged minorities. A report issued in conjunction with this briefing also provided useful information on the correlation between level of educational attainment and income; the relationship between marital status and household income; the adequacy of financial aid in supporting college enrollment by disadvantaged students; and policy implications related to the goal of increasing black income levels.

The Commission is committed to serving as the nation's conscience on civil rights matters but also as a model of management excellence, integrity, efficiency, and accountability. In light of the importance of the mission that the Commission serves, the American people deserve no less from this agency. This Performance and Accountability Report depicts the progress by the Commission in FY05 and serves as a blueprint for the work remaining to be completed by the agency. As Chairman of the United States Commission on Civil Rights, I welcome this opportunity to share with you the Commission's many accomplishments as well as the challenges it continues to face.

A handwritten signature in cursive script, reading "Gerald A. Reynolds". The signature is written in dark ink and is positioned above the printed name.

Gerald A. Reynolds
Chairman
United States Commission on Civil Rights

I. PERFORMANCE AND ACCOUNTABILITY REPORT OVERVIEW

The Commission's Performance and Accountability Report (PAR) presents a comprehensive view of the Commission's program and financial performance during FY05. FY05 was a year of transition for the Commission with new leadership assuming office in December 2004 and mandating that sweeping reforms be implemented by mid-January 2006. This report, therefore, identifies the management weaknesses faced by the Commission during FY05, the corrective actions taken in FY05, and additional corrective measures planned for implementation in FY06.

This report is divided into three sections:

- Management Discussion and Analysis,
- Performance Accountability, and
- Financial Management and Accountability.

The first section, *Management Discussion and Analysis* (MD&A), provides an overview of the Commission's history, mission, and organizational structure. As discussed in more detail in the *Management Discussion and Analysis*, since its creation in 1957 to objectively and comprehensively investigate, research, and analyze civil rights issues, the Commission's jurisdiction over specific issues has expanded to cover not only voting rights but also discrimination based on gender, age, disability and in the administration of justice. While its mission has expanded there has not been a comparable increase in the size of the agency's staff, in fact, just the reverse has occurred. The number of Commission full-time staff declined significantly during the last decades dropping from 90 full-time employees in 1995 to approximately 50 in late 2005.

The MD&A section also provides an overview of the agency's goals and performance, analyzes the adequacy of its internal controls and its compliance with applicable laws, identifies risks to the attainment of its mission and goals, and discusses agency reform initiatives.

The second section, *Performance Accountability*, compares the Commission's target FY05 performance to its actual performance and explains the causes of any deviation. This section also links performance and budgetary resources, and reviews agency performance data over the past several years. During FY05, the six goals reflected in the agency's 1997 strategic plan provided the framework for the Commission's programs and program activities. These goals called for the Commission to:

- Evaluate and identify ways of improving the effectiveness and efficiency of federal enforcement of civil rights laws and policies.
- Study allegations of denials of civil rights and equal protection of the laws, and illuminate the causes, the consequences, and the possible remedies related to

discrimination based on race, color, religion, gender, age, disability, national origin, or in the administration of justice.

- Promote greater public awareness of civil rights protection and responsibilities.
- Assist members of the public who seek information and advice about protecting their civil rights.
- Enhance the unique network of 51 State Advisory Committees (SACs), which serve as the Commission's "eyes and ears," in addressing regional, state, and local civil rights issues.
- Improve the management, accountability, and productivity of the Commission.

New leadership made changes in the Commission's planned performance in FY05. Some new projects were added, while other projects were revised, postponed, or canceled. The Commission eliminated three scheduled FY05 hearings but approved holding two shorter public briefings to make maximum use of limited resources. Resulting from this more efficient and responsive approach to managing projects, and responding to emerging civil rights issues, the Commission completed three national office reports, including publication of a statutorily mandated report evaluating federal civil rights enforcement.

The Commission's regional structure, including its State Advisory Committees (SACs), continued to play a part in the Commission's ability to study, investigate, and report on civil rights issues despite threats of two regional office closures. The SACs produced two reports and a listening tour summary during FY05; their productivity, however, continued to be limited by a lack of funding to support travel for planning and fact-finding meetings.

The final section, *Financial Management and Accountability*, presents the Commission's audit report for FY05, introduces the Commission's financial statements and notes, reviews the Commission's weaknesses and areas of non-compliance, and describes plans for correcting weaknesses and improving compliance.

II. MANAGEMENT DISCUSSION AND ANALYSIS

A. *History*

First created by the Civil Rights Act of 1957,³ the Commission was reauthorized by the United States Commission on Civil Rights Act of 1983,⁴ the United States Commission on Civil Rights Reauthorization Act of 1991,⁵ and the Civil Rights Commission Amendments Act of 1994.⁶ Established as an independent, bipartisan, fact-finding federal agency, the Commission has played a vital role in advancing civil rights through objective and comprehensive investigation, research, and analysis on issues of fundamental concern to the federal government and the public. The investigations and reports produced by the Commission, and their findings and recommendations, assist the continued efforts of this nation to strengthen civil rights protections for all. In fact, many of the Commission's reports, from the first one in 1959 on the protection of voting rights, have led to landmark pieces of legislation that have improved the lives of millions of Americans.

Over the life of the Commission Congress has expanded its jurisdictional authority. The Commission's reach extends beyond studying and investigating deprivations of rights by reason of race, color, religion, or national origin to include deprivations by reason of sex, age, and disability. In addition, the Commission also examines discrimination in the administration of justice. The expansion of the Commission's jurisdiction is indicative of the view of Congress and the public regarding the important role the Commission has played in the nation's civil rights enforcement.

Despite advancement toward the nation's goal of reducing discriminatory conduct, progress remains to be made, and the Commission, as an independent agency, performs an important role in identifying developing civil rights trends and evaluating federal agency civil rights enforcement programs. As the only independent agency in the federal government exclusively concerned with the full range of issues related to civil rights, the Commission has been described as the nation's conscience on civil rights matters. As such, the Commission is mandated to keep the President, Congress and the public informed on all civil rights issues, including discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice. In doing so, the Commission's mission is to ensure that we as a nation keep our statutory and ethical commitments to civil rights for all Americans.

³ Civil Rights Act of 1957, Pub. L. No. 85-315, § 101, 71 Stat. 634 (1957).

⁴ United States Commission on Civil Rights Act of 1983, Pub. L. No. 98-183, 97 Stat. 1301 (1983).

⁵ United States Commission on Civil Rights Reauthorization Act of 1991, Pub. L. No. 102-167 (1991).

⁶ Civil Rights Commission Amendments Act of 1994, Pub. L. No. 103-419, 108 Stat. 4338 (1994) (codified at 42 U.S.C.S. § 1975 (2005)).

B. Mission

As we approach the fiftieth anniversary of the establishment of this Commission in 1957, it is important to remember that the work of this agency is not yet complete. In his first inaugural address, President George W. Bush observed that “many of our citizens prosper, [but] others doubt the promise, even the justice of our own country.” He added that “[t]he ambitions of some Americans are limited by failing schools and hidden prejudice and the circumstances of their birth. And sometimes our differences run so deep, it seems we share a continent, but not a country.” The President called on American leaders and citizens to strive for a new unity, declaring, “this is my solemn pledge: I will work to build a single nation of justice and opportunity.” The Commission is likewise dedicated to building a single nation of justice and opportunity.

The Commission recognizes that the barriers to unity in America may result, in part, from old bigotries and injustices, but also arise from new conditions and challenges, such as failing schools, wounded families, and fragile community institutions. Either way, the Commission is committed to addressing them. In some cases, we may be divided by prejudices hidden or overt. As the federal government’s premier civil rights research and evaluation agency, the Commission studies, monitors and opposes discrimination and assesses governmental efforts to enforce the laws protecting all Americans against unlawful discrimination. In other cases, we may be divided by what the President described as “failing schools” and “the circumstances of our birth,” by culture and family structure, and by such attributes as one’s status as an ex-offender. As the nation’s civil rights watchdog, the Commission examines the ways in which we may be divided by these problems as well. In both of these ways, the Commission works to redeem the promise of a single nation of justice and opportunity.

The Commission addresses discrimination through monitoring and studying civil rights developments, evaluating civil rights enforcement, and investigating and studying allegations of discrimination. At the same time, the Commission serves as a reliable source of information on the status of the nation’s broad range of civil rights problems, progress, and legislative proposals. Additionally, this mandate includes investigating allegations of denials of the right to vote and deprivations resulting from a pattern or practice of fraud, and appraising federal laws and policies to assess whether there is discrimination in their enactment or in their enforcement. Its national and regional offices carry out the work of the Commission through a staff of civil rights analysts, social scientists, attorneys, and other personnel.

The Commission serves as a resource for federal, state, and local policy-makers, academic researchers, and others seeking the Commission’s expertise on civil rights matters. The regional offices support and coordinate the activities of the Commission’s 51 statutorily created State Advisory Committees. The advisory committees serve as the Commission’s “eyes and ears” on civil rights issues at the regional, state, and local levels. The advisory committees, along with the regional offices, monitor local civil rights related activities, consult with representatives of state and local governments, and meet with private organizations to advance their fact-finding functions. Through both its

national and regional offices, the Commission also serves as a portal to the government for individuals with discrimination complaints and civil rights questions.

The Commission has six statutory mandates:

- Investigate charges of citizens being deprived of voting rights because of color, race, religion, sex, age, disability, or national origin;
- Collect and study information concerning legal developments constituting a denial of equal protection under the law or in the administration of justice;
- Monitor and appraise federal laws, policies and agencies to assess their civil rights enforcement efforts;
- Serve as a national clearinghouse for civil rights information;
- Prepare public service announcements and advertising campaigns to discourage discrimination and denials of equal protection of the laws; and
- Issue reports with findings and recommendations to the President and Congress.

The Commission seeks to achieve this mandate in a manner that both recognizes the full range of civil rights issues facing Americans today and is responsive to the emergence of new issues and challenges in the future. This requires flexibility and creativity, particularly in an era of dwindling resources. The Commission is committed to serving as a model of management excellence, integrity, efficiency and accountability. In light of the importance of the mission that the Commission serves, the American people deserve no less from this agency.

As President George W. Bush recently commented, “The work of equality is not done because the evil of bigotry is not finally defeated. Yet the laws of this nation and the good heart of this nation are on the side of equality.” The Commission is dedicated to this work, monitoring the state of inequality and bigotry throughout the country. And as Dr. Martin Luther King admonished, “We must not rest until the day when justice rolls down like waters, and righteousness like a mighty stream.”

C. Organizational Structure

The Commission has eight Commission members. Four are appointed by the President and four by Congress. Each member serves a six-year term. The responsibilities of the Commissioners include, for example, establishing Commission policy on civil rights issues, adopting program plans, goals and priorities, and approving national office project proposals. The Staff Director is appointed by the President, with the concurrence of a majority of the Commissioners, and serves as the administrative head of the agency. As

such, the Staff Director's duties include defining and disseminating the policies established by the Commissioners to staff, developing program plans, evaluating program results, supervising and coordinating the work of Commission offices, and serving as liaison with the Executive Office of the President, the Congress, and other federal agencies.

In addition to the Office of the Staff Director, the Commission has six operational units or offices in its national office:

- i. *Office of General Counsel.* The Office of General Counsel provides the legal expertise and activity required to conduct hearings and to ensure the legal integrity of Commission products. The General Counsel is the agency's chief legal advisor on a range of legal issues and the office represents the agency in administrative hearings and other matters. With 15 employees in 1999, this office experienced significant attrition over time and had three employees by late September 2005.
- ii. *Office of Civil Rights Evaluation.* The Office of Civil Rights Evaluation provides the subject matter, critical, and analytical expertise required to research and write evaluations of civil rights issues. The Office monitors the activities of numerous federal agencies as well as national and regional civil rights trends. Based on information gathered, this office develops project proposals, carries out projects, and responds to inquiries from the public and the Commissioners. It also receives, researches, analyzes, and refers civil rights complaints. With a staff of eight in 2005, the actual staffing level of this office decreased by one compared to its 1999 level of nine employees.
- iii. *Office of Management.* The Office of Management provides administrative support, as well as library, budget and finance, and human resources support services to the Commission. This office also manages the Commission's information technology resources. Employing 14 in 1999, the divisions and offices composing the Office of Management employed nine in 2005.
- iv. *Congressional Affairs Unit.* The Congressional Affairs Unit serves as the liaison with Congress, responding to requests for specific information and ensuring the distribution of the Commission's studies and reports to all members. The Unit monitors the legislative activities of Congress and provides support in the conceptualization and production of studies and reports with information gathered via their monitoring activities. Because of budgetary challenges, all positions in this unit are currently vacant. Since 1999, the two staff positions designated for this unit have been vacant.
- v. *Public Affairs Unit.* The Public Affairs Unit serves as the public voice of the Commission and ensures that the American public knows the activities and the publications of the Commission. The Unit coordinates and carries out

such activities as briefing reporters and the Commissioners on civil rights issues, holding press conferences, issuing press releases, arranging interviews with the Commissioners, and monitoring press activity regarding the Commission and civil rights issues. The Unit deals directly with the public in responding to inquiries and by attending meetings of civil rights organizations as speakers. Because of budgetary challenges, all positions in this unit are currently vacant. While three employees staffed this unit in 1999, the unit was vacant in 2004 and 2005.

vi. *Regional Programs Coordination Unit.* The Regional Programs Coordination Unit ensures that the individual regional programs are sufficiently coordinated across regions and with headquarters. The Unit ensures that headquarters support and guidance are provided as necessary. The Unit provides support in the finalization and publication of headquarters-developed reports, regional reports and studies, as well as in the announcement of hearings. Because of budgetary challenges, all positions in this regional coordination unit are currently vacant. In 1999, the six regional offices, combined, had a staff of 26 in 1999; however, in 2005, its employees numbered 17.

A director, one or more civil rights analysts, and/or other administrative personnel staff each of the Commission's six regional offices. Because of budgetary challenges, some of these positions are currently vacant. They coordinate the Commission's operations in their regions and assist the State Advisory Committees in their activities.

D. Performance Highlights: Performance Goals, Objectives, and Results

Despite numerous financial challenges and competing priorities, the Commission produced three national office reports and conducted a briefing on a current civil rights issue. It also continued to maintain a state and local presence by supporting all six regional offices, provided a complaint referral service to provide the public assistance with civil rights related-issues, and expanded the amount of civil rights-related material available to the public on its Web site.

The Commission determined that several previously approved program activities or projects were impractical or infeasible as originally approved. This determination, based on an assessment of the agency's available resources and emerging civil rights issues, resulted in the Commission adopting a project approach that is more briefing-intensive and less time-intensive. In FY05, the agency abandoned its previous emphasis on hearings and project reports requiring a year to complete because they are too time-consuming and costly. Civil rights evaluation reports, conducted without the benefit of a hearing, were also redesigned and streamlined. With these changes, the Commission successfully conducted a public briefing and issued a related report on the stagnation of

the black middle-class. Two civil rights evaluation reports, including a statutorily mandated report, were also completed. These reports included a report on federal agency contracting ten years after the *Adarand* decision, and a report on the funding of federal civil rights enforcement efforts in 2006. The ability of the Commission to produce these reports and conduct a briefing, while at the same time facing reductions in force and freezing non-essential spending, resulted from the agency's realistic assessment of resources and priorities. During FY05, the Commission's goals were to complete three national reports and to reduce costs. It completed two of three reports. By eliminating one previously planned project and canceling another, the Commission realized a savings of approximately \$400,000 on its evaluation and enforcement studies.

The agency also planned to conduct two briefings, and issue related reports, as a part of its goal of studying allegations of denials of equal protection, and illuminating the causes and consequences of discrimination. The Commission also planned to reduce costs. During FY05, the Commission conducted one briefing and issued a related report. The actual costs associated with the briefing and the report were less than the estimated cost by approximately \$13,000.

The Commission's goals for its State Advisory Committees (SACs) were to provide support, consistent with available resources, and to encourage telephonic meetings by the SACs. Many of the SAC meetings contribute to the written work product annually completed by the SACs. The Commission's regional structure, including its SACs, continued to play a part in the Commission's ability to study, investigate, and report on civil rights issues in FY05. The SACs completed two civil rights-related reports and a listening tour summary during FY05;⁷ however, they continued to be restricted by a lack of funding for travel in support of their planning and fact-finding meetings.

To promote increased public awareness of civil rights protections and responsibilities, the Commission planned to use its Public Affairs Unit to conduct additional briefings, issue a public service announcement, and provide displays/exhibits at meetings and conferences. The Commission also planned to expand and timely post information on the Commission's Web site such as meeting transcripts, approved reports, press releases on civil rights-related issues and events, as well as information about the Commission's organization and leadership. Without the benefit of improvements in technology and a full-time technology specialist, meeting transcripts, approved reports, press releases, and expanded information on the Commission's leadership was made available on the Web site. However, the Public Affairs Unit remained unstaffed, and no exhibits and public service announcements were produced in FY05.

To assist members of the public in gaining advice about protecting their civil rights, as in previous years, the Commission planned to continue its complaint referral service for citizens with civil rights complaints. In FY05, the Commission processed approximately 3,006 complaints. The agency also planned to improve the technology related to the

⁷ The reports were *Language and Access to Health Care: Easing Barriers in New Hampshire*, and *The Farmington Report: Civil Rights for Native Americans 30 Years Later*. The listening tour summary was *Southern Civil Rights Listening Tour...Existing and Emerging Civil Rights Issues*

processing of complaints by creating an online or Web-based complaint submission process to increase the overall efficiency of the referral service. Though complaints were received and referred by the Commission, it was unable to fund technological improvements and was unable to monitor the disposition of referred complaints based on existing staffing levels.

Finally, the Commission approved an aggressive reform timeline that included adopting and implementing more than 50 GAO and OPM recommendations issued since 1997. A detailed discussion on the Commission’s progress toward this goal is provided in part G, on management reforms and other initiatives, and in Table 2 found below in part E on internal controls, systems and legal compliance.

E. Internal Controls, Systems, and Legal Compliance

The Federal Managers’ Financial Integrity Act (FMFIA) and OMB Circular A-123 (revised) require federal agency heads to report annually to the President and Congress on management controls (e.g., policies, procedures, and organization) and financial management systems that protect the integrity of the agency’s programs. The Act requires agency heads to issue an assurance statement on agency management controls and financial systems.

Despite significant improvements, the internal controls governing the Commission’s day-to-day operation and oversight of its financial systems remained insufficient in FY05. Therefore, no assurance of its controls and its financial system’s compliance with government-wide standards can be given pursuant to the Federal Managers’ Financial Integrity Act (FMFIA). FMFIA requires that federal agencies establish controls in accordance with the standards created for the federal government. The controls should guard against waste, fraud, abuse; provide for the timely and accurate recording of transactions; and ensure compliance with applicable laws. OMB Circular A-123 (revised) establishes that it is the responsibility of agency management to create controls sufficient to achieve effective and efficient operations; reliable financial reporting; and compliance with applicable laws and regulations. The Commission, as reflected the auditor’s report, identified weaknesses in its controls as described in Table 1 below. Weaknesses were also identified based on manager feedback and informal agency self-assessments, GAO reports, and information gathered during the process of implementing GAO reforms.

Table 1: Summary of Integrity Act Material Weaknesses in Agency’s Financial Systems (FY05)

Financial System Weaknesses	First Reported	First Target Correction Date	Second Target Correction Date
Information is not Timely, Complete, and Reliable for Decision-making	FY04	FY06	N/A
Insufficient Integration of Electronic Data Exchange	FY04	FY06	N/A
Insufficient Internal Controls and Accountability	FY04	FY06	N/A
Inadequate Transparency and Information Sharing	FY04	FY06	N/A
Absence of Ongoing Monitoring of Operations that Includes Periodic Reviews and Reconciliation of	FY04	FY06	N/A

Financial System Weaknesses	First Reported	First Target Correction Date	Second Target Correction Date
Information Lack of Redundancy and Checks & Balances	FY04	FY06	N/A

As the Commission continues to develop and adopt new controls, it is evident that longstanding problems continued to contribute to the agency's control failures. For example, the failure of the Commission, through an accounting services provider retained by the prior agency leadership, to file timely FACTS I and FACTS II financial reports with Treasury. This accounting services provider has since been replaced. Though monthly agency-wide budget reports were prepared for internal decision-making the reports often contained errors that distorted the Commission's actual financial position, and program office heads were not provided monthly project cost reports. The Commission did not maintain tracking logs for purchase orders and travel vouchers forwarded to its accounting services provider for processing and payment. This lapse in controls made it difficult to verify disbursements, to identify and expedite payments to avoid violating the Prompt Payment Act, and to identify the sources of possible account balance discrepancies. The software program used by the Commission's accounting services provider in FY05 was not compatible with the system used by Treasury and, therefore, accounting data was entered manually increasing the risk of errors and delays in transmitting data.

There were significant delays in the processing of procurement transactions by the Commission. In some instances, it took more than 45 days to process procurement transactions from the initial procurement request to the issuance of a purchase order authorizing the acquisition. The absence of policies establishing acceptable processing times contributed to this problem. Another contributing factor was the lack of redundancy in the Commission's finance and procurement offices due to funding and staffing shortages. With no staff available to serve as backup, the processing of transactions often came to a halt when a single staff member was on leave or out of the office for any reason.

Table 2 summarizes many of the significant recommendations and the status of remediation efforts undertaken by the Commission and most, if not all, of these deficiencies are discussed in the MD&A section, part G, on management initiatives and reforms. In addition, the Commission's corrective plan, as presented in its management response to the audit report, further addresses control weaknesses and establishes a timeframe for the implementation of corrective measures.

Table 2: Summary of Integrity Act Recommendations

Program Weaknesses Corrective Measures	Corrective Action Completed ⁸	Action Partially Completed	Target Correction Date (if pending)
Instruct Commissioners to submit time sheets biweekly or at least monthly so that the Commission recognizes expenses in the proper period for accounting purposes.	YES	N/A	N/A
Review account balances on a periodic and regular basis to identify unusual account balances.	YES	N/A	N/A
Create and retain appropriate documentation in transaction files to support accounting entries made to adjust or write off assets and liabilities.	NO	YES	January FY06
Retain sufficient evidence in transaction files to show that transactions are properly approved for payment.	YES	N/A	N/A
Include evidence of transaction authorization, such as a purchase order, in each voucher package prior to approval for payment by the staff director or his designee.	YES	N/A	N/A
Prepare purchase authorizations in advance of the expenditure or provide documentation for any exceptions to be properly approved.	YES	N/A	N/A
Monitor the prompt processing of vendor invoices upon receipt so that vendors can be timely and accurately paid.	YES	N/A	N/A
Have evidence of the receipt of goods and services prior to approving transactions for payment and retain such evidence in the transaction files.	YES	N/A	N/A
Require the accumulation and reporting of complete and adequate cost information by project.	YES	N/A	N/A
Document and retain for review travel transactions including travel authorizations prepared and signed by the Commission, as well as Commission approved travel vouchers.	YES	N/A	N/A
Prepare and maintain contract files, including contract award and contract administration, to document the basis for Commission decisions in acquiring goods and services from commercial vendors, to document each step in the acquisition process, and to document information for an outside review of the procurement process.	YES	N/A	N/A
Work with the Commission's current accounting services provider to develop specific policies and procedures for the Commission with respect to activities and the processing, recording, and reporting of financial transactions.	YES	N/A	N/A
Prepare purchase authorizations in advance of the expenditure or provide documentation for any	YES	N/A	N/A

⁸ The policies and other corrective measures implemented by the Commission in mid to late FY05 to address identified weaknesses will be monitored on an ongoing basis to determine their effectiveness. Changes to implemented policies and other reforms will be made, as required, until optimal performance is achieved.

Program Weaknesses Corrective Measures	Corrective Action Completed ⁸	Action Partially Completed	Target Correction Date (if pending)
exceptions to be properly approved.			
Require that all financial transactions be properly approved and supported before being processed and that documentation for transactions be readily available.	YES	N/A	N/A
Work with OMB within the apportionment process to develop meaningful program reporting categories that the Commission can use to report its obligations against in its SF-133, <i>Reports on Budget Execution and Budgetary Resources</i> , and other external reports.	NO	YES	January FY06

The Commission, like other agencies, is subject to several legislative and regulatory requirements intended to promote and support effective internal control. These laws and regulations include, for example, the Prompt Payment Act, the Inspector General Act, and the Improper Payment Act. The Commission had no “significant” erroneous payments in FY05 covered by the Improper Payments Acts, reported all audit activity and related corrective measures in its FY05 Inspector General Act report, and identified several violations of the Prompt Payment Act.

F. Possible Effects of Existing Risk, Demands, and Conditions on Commission Goal Attainment

Several factors may affect the ability of the Commission to achieve its goals including emerging civil rights issues, reauthorization, funding, internal reform efforts, and staffing levels. Emerging issues, or unanticipated issues, may arise that require a shift in Commission program and spending priorities, and the use human capital resources. Examples of past emerging issues include the September 11, 2001 terrorist attacks.

Legislative and executive branch initiatives with civil rights impact may also require Commission studies and analyses. These studies or analyses provide lawmakers and the public information on the specific effect of an initiative on the groups delineated in the Commission’s statute.

The entire Congressional Affairs Unit has been vacant for the last five years. In the absence of a staffed congressional affairs office the Commission’s capacity to track, analyze, and comment on civil rights-related legislative proposals continues to be drastically reduced. Likewise, the operation of the Public Affairs Unit is a key component to the Commission achieving its goal of increasing public awareness of civil rights issues, policies, and protections and enforcement efforts. While three employees staffed this unit in 1999, the unit was vacant in 2005.

The ability of the Commission to engaging in joint national office and SAC reports and research projects may further increase SAC productivity and the weight given to

Commission reports by federal, state, and local policy-makers. Joint reports provide a more comprehensive view of a civil rights issue because they include state and local data that might not be otherwise available. The Commission's FY06 elementary and secondary education desegregation project is an example of collaboration between the national office and its advisory committees that will effectively use the advisory committees to monitor an issue and collect data for analysis. From this joint effort, the project will identify national and regional trends related to school districts achieving "unitary" status or being declared desegregated.

Even though its authorizing statute expired in 1996, the Commission continues to receive an annual appropriation. The agency will make necessary adjustments to its FY2006-2011 strategic and annual plans to incorporate any new authorizing legislation changing the Commission's structure, operation, mandate, and funding.

G. Management Reforms and Other Significant Initiatives

Under the direction of new leadership, the Commission worked, and continues to work, to resolve the profound management and financial challenges that have developed over a period of many years. These challenges are well documented by a series of GAO and OPM reports dating back to the 1990s.⁹ The reports document financial management, internal control, strategic planning, project planning, and internal communications failures, compounded by diminishing budgetary resources.

Beginning in March 2005 and continuing throughout 2005, the Commission began enacting a series of reforms aimed at strengthening the agency's management and financial controls, reforming the agency's project planning and execution processes, restructuring the agency's internal and external communications, and demonstrating that the agency has embraced higher standards.

In FY05, new policies were created requiring that payroll expenses be accounted for in the proper period for accounting purposes to avoid distorting the Commission's financial records. Policies requiring that expenditures be properly authorized, approved, and have supporting documentation to avoid paying unauthorized commitments were developed and previously existing policies were re-emphasized. These policies work to ensure that funds are available and that they are promptly obligated to fund each transaction. Requirements

⁹ The Government Accountability Office (formerly the General Accounting Office) and OPM reports include: *U.S. Commission on Civil Rights: Agency Lacks Basic Management Controls*, GAO-HEHS-97-125 (Government Accountability Office: July 1997); *U.S. Commission on Civil Rights: Update on Its Response to GAO Recommendations*, GAO-HEHS-98-86R (Government Accountability Office: February 1998); *U.S. Commission on Civil Rights: More Operational and Financial Oversight Needed*, GAO-04-18 (Government Accountability Office: October 2003); *U.S. Commission on Civil Rights: Management Could Benefit from Improved Strategic Planning and Increased Oversight*, GAO-05-77 (Government Accountability Office, October 2004); *U.S. Commission on Civil Rights: Deficiencies Found in Financial Management and Internal Control*, GAO-05-68R (Government Accountability Office: March 2005); *Report of an Oversight Review of the Commission on Civil Rights*, Office of Personnel Management (October 1999).

for reconciling various financial accounts and records weekly, monthly, quarterly, and annually reasonably ensure the accuracy Commission financial records, guard against violation of the Prompt Payment Act, and limit the likelihood of unauthorized or improper payments.

The Commission, in compliance with the Accountability of Tax Dollars Act, retained the experienced accounting firm Williams, Adley & Company, LLP in FY05 to conduct the agency's first full-scope independent financial audit. The previous leadership retained the firm of Parker Whitfield to conduct a balance sheet audit of its FY04 finances, however, at the time of this report, no audit report has been provided. The contract with Williams, Adley & Company, LLP also includes providing the Commission consulting services to position it for its financial audit in FY06. The consulting includes a review of applicable financial controls, compliance with applicable laws and regulations, and identification of corrective measures.

The Commission recently took steps to address procurement-related shortcomings identified by GAO. The agency created document control checklists for the Administrative Services and Clearinghouse Division to ensure that procurement activity is accurately documented and supported, created policies delegating micro-purchasing authority to office and division heads, and increased funding available for staff training in FY06. The Commission also continued its contractual relationship with a procurement specialist to provide technical support to the Commission's chief procurement officer. These reforms specifically address concerns that the Commission was unable to document its procurement actions and that the agency violated the *Federal Acquisition Regulation* (FAR) due to what has been described by GAO as an insufficiently trained and qualified chief procurement official and former Staff Director. Most of the reforms in financial management and procurement are in new written internal policies and guidance, as well as in a renewed emphasis on enforcing previously existing policies. Responsible staff, over time, ignored or circumvented these policies over time.

Reforms to project planning and management were also been adopted to increase the ability of the Commission to effectively execute its core mission of investigating, researching, and analyzing civil rights issues. For example, the agency moved to improve the tracking of project related expenses and resources, as recommended by GAO, by requiring monthly reports on project costs. These reports by the Commission's Budget and Finance Division will enable managers and the agency to justify future funding requests and to allocate existing resources.

The Commission adopted new reforms correcting prior documented project planning weaknesses relating to Commissioner involvement in agency projects. These new reforms provided greater Commissioner involvement during the background and planning, discovery, and report drafting stages of projects. During the background and planning stage, Commissioners receive an outline of projects that includes a summary of research, a discussion of the scope and direction of the project, a statement on the proposed project methodology, and a project completion timeline. Commissioners also guide the discovery stage of projects through a procedure requiring their review and

approval of interrogatories, subpoenas, document requests and other requests for information from external sources. No discovery, or formal information gathering, takes place until Commissioners approve a discovery plan.

Additional opportunities for Commissioners to shape project reports, including the findings and recommendations, are made available by providing them a first draft of each staff project report for review and comment before Commission staff prepares a final staff draft. All final staff draft reports, to the extent possible, and as supported by a majority of Commissioners, incorporate the Commissioners' comments. Commissioners, upon receiving a final staff draft report, subject the draft to debate and discussion.

The Commissioners may either approve or reject, in whole, the draft final Commission report or they may sever the report into separate sections and vote on it section-by-section. Dissenting statements are permitted and may either be published in a separate statement at the end of the report or integrated into the text of the entire report. These project reforms increase the probability that Commission reports will gain the support of a majority of the Commissioners and ensure that dissenting opinions are reflected in reports. These reforms also maximize the efficient use of staff resources by providing early substantive guidance that decreases the amount of time devoted to significantly revising reports and making passage of report more likely.

In the same vein, in FY05, the Commission began a strategic planning process that will revise its outdated 1997 plan and bring the agency more fully into compliance with the Government Performance and Results Act (GPRA) and OMB guidance. As a result, the Commission's proposed strategic goals and objectives, means and strategies, and performance measures will be more clearly defined in comparison to the 1997 Strategic Plan. The Commission also began development of a Strategic Human Capital Plan and a Human Capital Accountability System to increase workforce accountability and improve the management of human capital. Furthermore, a human capital skills assessment survey was conducted by the Commission, with the assistance of a detailee from OPM, to identify areas where improvement in the skill sets of staff is required to fulfill the Commission's mission. These plans and assessments create a blueprint for improving agency performance by gathering data, monitoring, and evaluating the use of human capital relative to agency mission and strategic plan, employee performance, and the ability of managers to lead and manage successfully.

The Commission adopted policies in FY05 governing internal and external communications. These new policies increase transparency, create a method for Commissioner-staff communications, increase communications regarding projects, and clarify rules concerning making formal statements on behalf of the Commission. The new rules formally designate the Chairman and the Staff Director as the spokespersons for the Commission but still allow individual Commissioners to speak to matters before the Commission in their individual capacities. A separate policy requires that the Chairman and Staff Director, in their roles as designated Commission spokespersons, acknowledge the existence of dissenting viewpoints when speaking on behalf of the Commission. Several other new policies include requiring a majority vote of the Commissioners before

issuing letters to public officials purporting to represent the Commission as a whole; requiring a majority vote before issuing a press release regarding Commission business or civil rights policy and that the statement or release acknowledge that it was approved by a majority; maintaining a complete record of all approved Commission policies as of January 2005; weekly reporting by the Staff Director to the Commissioners of important upcoming events; and encouraging contact between Commissioners and staff.

The Commission's regional offices support the state advisory committees as they engage in fact-finding and other civil rights-related activities on the state, local and regional levels. The Commission recently adopted a policy creating advisory committee term limits to provide more opportunities for advisory committee service. Previously, advisory committee members were allowed to serve an unlimited number of 2-year terms; however, the new policy generally limits service to not more than 10 years, or 5 terms of 2 years each. A Commissioner working group continues to consider recommendations for advisory committee operations.

The agency is also reviewing reporting and annual internal assessment procedures to create sound management practices and develop reliable self-assessments. To strengthen overall agency reporting procedures, the Commission monitors reporting obligations and assigns responsibilities to specific offices to ensure completion of reports. To ensure legal sufficiency of reporting, legal counsel reviews reports before final submission. Previously, reports were either not filed or, when filed, they often were inadequate. For example, the FY03 Federal Managers' Financial Integrity Act (FMFIA) report noted no deficiencies and material weaknesses in financial management and Commission programs in spite of the fact that GAO reported ongoing financial and internal control failures. Therefore, in addition to reviewing and revising, as necessary, the agency's current FMFIA assessment tool the Commission will hold managers accountable for effectively operating their offices/divisions, identifying areas of weakness and high risk, and developing a written action plan and timeline for implementing the necessary changes.

In a measure aimed at increasing the day-to-day focus on compliance with GAO's recommendations, the Commission created a career senior executive service position to assist the Staff Director in developing, coordinating, and implementing the agency reforms. Other staffing measures include retaining GSA as the Commission's accounting services provider effective October 1, 2005. In this role, GSA files all financial reports required by Treasury and OMB for the Commission to be in good standing; and provides accounting services that include such functions as accounts payable, accounts receivable, billing, disbursements, delinquencies, travel payments, input and monitoring, financial statement preparation and analysis, and budget submission using OMB's MAX system. GSA also collaborated with the Commission on revisions to outdated internal policies on budget management and execution.

In addition to retaining an accounting services provider, the Commission selected an experienced financial manager to fill the position of director of its Budget and Finance Division effective October 17, 2005. Coming highly recommended by previous

employers, the director's prior experience includes budget execution and formulation, accounting, financial reporting, contracting, financial systems, and financial policy development. The transition to GSA in FY06 and the hiring of an experienced financial manager should resolve several significant financial management issues noted by GAO such as the Commission's failure to file required financial reports, the use of an error prone cuff records system to track budgetary resources, and inadequate internal controls.

In addition, by converting to GSA's automated travel system, Commission addressed concerns about errors in travel authorizations and requests for reimbursement, and delays in reimbursements and the collection of overpayments. With this system, travelers can quickly input and review travel authorizations and requests for reimbursement online, as well as obtain required approvals. The new system also has internal controls that can identify inconsistent or potentially erroneous travel information provided by the traveler so that the information is corrected before it is submitted for processing. It also ensures prompt payment, within 30 days, and automatically pays interest if travel reimbursement is late. The system also produces an aged authorization report to identify unused travel authorizations so that funds can be released and used for other agency needs.

With the implementation of a new travel system, it was an opportune time to begin drafting comprehensive, formal Commission travel policies. The formal policies, consistent with GSA travel policy, establish levels of authority for approving, authorizing and certifying travel; document timelines for requesting travel authorization and reimbursement; provide guidance on what travel expenses are official travel expenses and the required supporting documentation; and create an internal appeal procedure for a denial of reimbursement.¹⁰

The Commission's past financial operation and management did little to create confidence in the agency that translated into additional funding. As a result, continuing to achieve its mission of advancing civil rights through objective and comprehensive investigation, research, and analysis on issues of fundamental concern to the federal government and the public will become increasingly difficult for the Commission should staffing levels continue to decline. The Office of General Counsel, for example, had two attorneys at the end of FY05 compared to more than 15 in 1999. This office provides the legal expertise and performs the functions required to conduct hearings and issue subpoenas, conduct briefings, interpret the agency's statute, and to ensure the legal integrity of Commission written products. The General Counsel is the agency's chief legal advisor on a range of legal issues and the office represents the agency in administrative hearings and other matters.

The new leadership at the Commission brought a new commitment to improved financial management, program performance, and accountability. As a result, the agency is implementing an ambitious reform plan that it believes addresses the concerns voiced by Congress, GAO, and others about the management of the agency. Beginning in FY05 and continuing through FY06, the agency will continue to focus on:

¹⁰ The Commission implemented a comprehensive travel policy on November 16, 2005. Administrative Instruction Manual, Administrative Instruction 3-14, *Official Travel*.

- enhancing its fiscal management,
- improving budget processes and reporting,
- decentralizing its operating budget,
- completing strategic planning,
- improving GPRA compliance,
- conducting internal assessments and developing plans for corrective action,
- improving regional and state advisory committee operations,
- serving as a resource to the President and Congress on civil rights matters,
- producing a greater number of briefings and related written work products studying, evaluating and analyzing civil rights issues, and attracting and retaining staff sufficient to achieve its mission, and
- restoring the public's trust and confidence in the Commission as the nation's conscience on civil rights issues.

III. PERFORMANCE ACCOUNTABILITY

In FY05, the Commission operated under a strategic plan adopted in 1997. This plan contained six strategic goals and each goal included specific objectives though it incorporated few outcomes and outcomes measures. The FY05 performance plan is rooted this strategic plan and in program activities approved in FY04 and earlier. Following the transition in Commission leadership, the Commission changed the program activities planned for FY05 and amended the performance plan accordingly. Each strategic goal, its stated objectives, its FY05 target performance, and the Commission's actual accomplishments are discussed, in turn, below.

In addition to changing its civil right issues for study in FY05, the Commission changed the way it conducts its national office studies and issues reports. Historically, the Commission completed three to four national office reports yearly, in addition to other written products. These national office reports were lengthy and resource intensive, often involving the use of interrogatories, informational interviews, extensive background research, and sometimes subpoenas for information for use in a formal Commission hearing either in Washington or in some other location. The reports also contained Commission findings, conclusions, and recommendations for corrective action based on the research and other information in the reports. The timeliness of the final product was an issue for two reasons: the Commission's project planning cycle approves project topics two years in advance of their proposed completion, and national office projects take 12 months to complete once initiated by Commission staff due to decreasing staffing levels and other resources. In August 2005, the Commission adopted a policy of issuing one major national office enforcement report annually. This shifted additional available resources to conducting the greatest possible number of civil rights issue briefings. These briefings include invited expert panelists who provide the relevant research data, frame the issues, and make recommendations for government action. As a result, briefing-related reports are less staff intensive because less independent staff research is required and the reports primarily summarize the expert presentations and include perspectives of the Commissioners in statements included in the report.

STRATEGIC GOAL ONE: Evaluate and identify ways of improving the effectiveness and efficiency of federal enforcement of civil rights laws and policies.

Objective: The goal of the Commission's enforcement studies and related efforts is to provide information and make recommendations to the President and to Congress as to the efforts on the part of the federal government to prevent the denials of civil rights because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice.

Target Performance: Complete three national office reports.

Accomplishments: Striving to meet serious fiscal challenges, the Commission reassessed previously planned national office civil rights projects in light of current and emerging civil rights issues and actual resources. At the conclusion of this process, the Commission's FY05 plan included three national office reports, the postponement of two other projects, and cancellation of one project. Two of the three planned FY05 reports were completed:

- *Ten Years After Adarand.* This published report reviewed the use of race-neutral contracting vehicles by federal agencies and the role of federal agencies in implementing procurement programs in compliance with *Adarand*. The report found, for example, that agencies cannot demonstrate that they considered race-neutral alternatives before resorting to race-conscious programs and that agencies do not have a framework for enforcing non-discrimination in procurement.¹¹ Among the recommendations was a call for the Department of Justice to offer clear and specific guidance on the government-wide obligation of agencies to consider race-neutral alternatives, a request that agencies adopt and follow guidelines to ensure consideration of race-neutral alternatives, and a request for legislation expressly prohibiting racial discrimination in federal contracting. **Estimated Cost: \$238,395; Actual Cost: \$220,596.**
- *Funding Federal Civil Rights Enforcement: The President's 2006 Budget.* This published report reviewed the budgets, inputs, outputs, and outcomes of selected federal agencies to assess the effect of funding on civil rights enforcement. Specifically, the report sought to present data to allow readers to conclude whether or not funding is adequate to allow federal agencies to fulfilling their civil rights enforcement goals. No recommendations were put forth in this Commission report, however, the data indicated that the for 2006 the President increased funding for the Department of Justice by 1.2 percent while decreasing funding for all other civil rights agencies. When adjusted for inflation, however, all six studied agency budgets decreased. **Estimated Cost: \$238,395; Actual Cost: \$290,073.46.**
- *Minority Employment and Economic Development: The Wealth Gap.* This report, if finalized and subsequently approved for publication, will identify factors that contribute to closing the employment, income and wealth gaps between minorities and non-minorities. It will also propose ways to foster or encourage these factors, and will also address to what extent regionally focused strategies are effective in narrowing income and wealth disparities and their relationship to macroeconomic policies, including tax and monetary policy, and income maintenance policies. **Estimated Cost: \$140,095; Actual Cost: \$119,996.37.**¹³

¹¹ U.S. Commission on Civil Rights, *Federal Procurement After Adarand*, September 2005, pp. 69-72.

¹² *Id.* at 71-72.

¹³ Because this project has not yet concluded, additional cost may be incurred during FY06.

Several previously approved civil rights projects were reconsidered due to shifts in priorities and a reassessment of available resources. One was redefined, another was rescheduled, and a third was cancelled.

- *A Review of Section 5 and Section 203 of the Voting Rights Act.* Though work continued on this project in FY05, the project was redefined and scheduled for completion in FY06. In addition, the methodology for this project shifted from a hearing and report to a briefing and report. **Initial Estimated Cost: \$557,739; Revised Estimated Cost: 225,350; Actual FY05 Cost: \$105,349.79.**
- *Religious Discrimination in the Workplace.* Rescheduled from FY06 to FY07,¹⁴ the briefing and report that will specifically explore the extent of religious discrimination in the federal and private sectors; best accommodation practices of federal and private sector employers, education and technical assistance to employers, staff training, community involvement to prevent religious discrimination; and the influence of the proposed Workplace Religious Freedom Act of 2005. **Initial Estimated Cost: \$646,313; Revised Estimated Cost: \$334,959.**
- *Funding Federal Civil Rights Enforcement: The President's 2007 Budget.* This project was cancelled due to resources and changes in Commission priorities. **Initial Estimated Cost: \$69,173.**

Total expenditures in FY05 for the three reports projects, and work conducted on the ongoing Voting Rights Act reauthorization project, are estimated at \$736,014. Had the Commission conducted the three additional projects as originally planned for FY05, an additional \$404,132 in expenditures would have been incurred. By reducing the number of project reports, and through staff attrition, the agency realized a significant cost savings to operate within its appropriation.¹⁵

Table 3: National Office FY05 Reports

	Below Target Performance	Exceeded Target Performance	Met Target Performance	Comments
<i>Ten Years After Adarand</i> (report)			X	Approved for publication July 2005.
<i>Minority Employment and Economic Development: The Wealth Gap</i> (report)	X			This report remains pending.
<i>Funding Federal Civil Rights Enforcement: The President's 2006 Budget</i> (report)			X	Approved for publication July 2005.

¹⁴ U.S. Commission on Civil Rights, meeting, Washington, DC, January 9, 2004, transcript, pp. 80-114; U.S. Commission on Civil Rights, meeting, Washington, DC, May 13, 2005, transcript, pp 178-183.

¹⁵ Fixed costs, such as salaries and benefits are, however, included in project cost estimates.

STRATEGIC GOAL TWO: Study Allegations of Denials of Civil Rights and Equal Protection of the Laws, and Illuminate the Causes, the Consequences, and the Possible Remedies Related to Discrimination Based on Race, Color, Religion, Gender, Age, Disability, National Origin, or in the Administration of Justice.

Objective: The goal of the Commission's investigations, studies, and related efforts is to provide information and recommendations to the President, Congress, and the public regarding denials of civil rights and equal protection of the laws. It also aims to illuminate the causes, the consequences, and possible remedies relating to discrimination based on race, color, religion, national origin, age, disability, or sex, or in the administration of justice.

Target Performance: Conduct two smaller briefings and issue related reports, replacing three previously planned hearings and related reports. This approach eliminates costly and time-consuming studies and responds to current or emerging issues and underpins the plans for this strategic goal.

- *Stagnation of the Black Middle Class.* Approved in May 2005, this project offered explanations for and identified the consequences of stagnation in the growth of America's black middle class. In July 2005, Dr. Douglas Besharov, Professor, University of Maryland School of Public Affairs and Senior Scholar, American Enterprise Institute, led the briefing discussion and panelists included Dr. Harry Holzer, Professor of Public Policy, Georgetown Public Policy Institute, and Dr. Bart Landry, Professor of Sociology, University of Maryland, College Park and author of *The New Black Middle Class*. Expert panelists presented differing views on the relevant issues and highlighted several areas of concern for policy-makers seeking to expand economic opportunities for blacks. **Initial Estimated Cost: \$56,000; Actual Cost: \$43,000.**
- *USA Patriot Act and Anti-Muslim and Anti-Arab Discrimination.* Approved in June 2005, this project proposed focusing on sections 215 and 505 of the Patriot Act, as well as specific practices of the FBI under the Patriot Act in detaining and questioning Arab Americans and American Muslims. Section 215 provides that the FBI may apply for a court order requiring the production of business records relevant to an investigation concerning international terrorism provided the investigation of a U.S. citizen or permanent resident is not based solely on activity protected by the First Amendment. Section 505 authorizes the use of an administrative subpoena for personal records relevant to an investigation concerning international terrorism. **Initial Estimated Cost: \$4,500.**

These two briefings and related reports replaced three previously planned hearings and related reports with Commission findings and recommendations:

- *Financial Aid in Higher Education.* This hearing and report were approved to examine of the funding of higher education for minority students in order to assess the adequacy of federal programs in promoting equal access of minority

students to higher educational opportunities. The project was subsequently cancelled. **Initial Estimated Cost: \$ 100,000.**

- *Community Reinvestment Act.* This cancelled hearing and report were originally planned to examine the availability of financial services in underserved communities, the performance of financial institutions under the revised regulations for the Community Reinvestment Act (CRA), federal agency enforcement efforts under CRA, and the expansion of institutions covered by CRA. **Initial Estimated Cost: \$243,942.**
- *Minority Under-Representation in the Census.* The hearing and report were originally approved to examine the accuracy of the decennial U.S. census, the scope of any systemic undercount, and the effect of the undercount on racial and ethnic minorities for funding allocations and political representation would have been examined during a hearing and in a related report. This project was cancelled and another project on the census and its use of racial categories was approved for FY06. **Initial Estimated Cost: \$255,608.**

Accomplishments: In FY05, the Commission completed one of two planned briefings and reports, the Patriot Act briefing and report was rescheduled for FY06. The Commissioners, by a majority vote, postponed the Patriot Act briefing to ensure full Commissioner participation.¹⁶

Table 4: Goal Two Actual v. Target Performance

	Below Target Performance	Met Target Performance	Exceeded Target Performance
Stagnation of the Black Middle Class (briefing and report)		X	
USA Patriot Act	X		

Prior to the December 2005 transition, the Commission estimated the cost of three civil rights hearings and reports at \$599,550. Following the transition and a revamping of Commission projects, the agency estimated it would spend \$60,500 on two civil rights briefings and reports. In actuality, the agency spent \$43,000 in part due to postponing one of the projects.

Even if the agency had completed the second project for the estimated \$4,500, the Commission's total briefing and report costs would have been \$130,000. By scaling back the size, duration, devoted resources, and converting hearings to briefings the Commission saved an estimated \$469,550 to operate within its appropriation. In addition, the project completed came in under budget by \$13,000.

¹⁶ U.S. Commission on Civil Rights, meeting, Washington, D.C., September 16, 2005, transcript, pp. 4, 42-43.

STRATEGIC GOAL THREE: Promote greater public awareness of civil rights protections and responsibilities.

Objective: Activities in this area are intended to: (1) provide the public with a national clearinghouse repository for information concerning denials of civil rights because of race, color, religion, national origin, age, disability, or sex, or in the administration of justice; (2) keep the public informed about civil rights developments through the distribution of the Commission's reports and other publications; and (3) provide information about the activities of the Commission to the President, Congress, the civil rights community, the media, educators, and the public.

Target Performance: The Commission sought to leverage existing resources to carry out the Public Affairs Unit's functions of promoting public awareness of civil rights protections and responsibilities. The performance plan embraced after the December 2004 transition reflects a more realistic view of Commission resources.

- *National Clearinghouse Library:* Expanding the library's holdings and continuing automation of library functions, to the extent possible in FY 2005.
- *Web site:* Posting on its Web site copies of new reports, highlights of Commission events and activities, information about briefings, copies of press releases issued, and information on how to file a civil rights complaint. Resources permitting, incorporating into the Web site updates to the *Civil Rights Directory*, *Getting Uncle Sam to Enforce Your Civil Rights*, and the *Commission Brochure*. To the extent possible, continuing to make use of existing limited resources to ensure that the Web site provides accurate and current information on the Commission's work to the public.
- *Periodicals and Directories:* Publishing *The Civil Rights Journal*, *The Civil Rights Update*, and an update of *Getting Uncle Sam to Enforce Your Civil Rights* and the *Commission Brochure*. In early FY05, the Commission determined that, due to fiscal constraints, it was unable to publish and update these items.
- *Commission Briefings:* Conducting briefings in conjunction with the monthly Commission meetings using the Public Affairs Unit, and using PAU to inform the media, constituency groups, and policymakers about Commission briefings, pending sufficient resources. **Initial Estimated Cost: \$161,178.**
- *Public Service Announcements:* Preparing a Spanish-language PSA. However, insufficient resources prevented the Commission from doing so. **Initial Estimated Cost: \$392,837.**
- *Conferences:* Attempting to provide civil rights displays at meetings, exhibits, or conferences to the extent possible within our budget appropriation. **Initial Estimated Cost: \$191,938.**

Accomplishments:

The Commission made disseminating information to the public a priority and increased the amount of information made available on its Web site. In addition to approved Commission reports being available online, Commission meeting transcripts are provided to the public through the Web site. This is a significant advancement over prior years when the public shouldered the burden by either waiting for a copy via U.S. mail or obtaining a copy by personally visiting the Commission’s library. Also, press releases are now posted on the Web site almost simultaneous to their issuance, and copies of recent Congressional testimony and reports are now available. The Web site also has more visual interest with the inclusion of more photographs, site navigation aids, and options or links.

Other FY05 performance plans were not implemented due to budgetary constraints such as the expansion of the library’s holdings. In the absence of funding, and faced with the need to cut Commission costs, the library decreased the holdings in its collection by eliminating approximately 60 hardcopy journal and serial subscriptions. Several of these subscriptions are available online. This step reduced its serial subscription cost by almost one-half or approximately \$14,000. To conserve space the library disposed of 48 state codes and statutes that had not been updated since 1995 and the Commission disposed of approximately 123 law review and journal titles stored in its library.¹⁷ These actions allowed the Commission to transfer approximately 125 of the Commission’s publications from the GPO warehouse to the Commission’s library for storage and reduce its storage costs. Beginning in May, the Commission’s storage costs decreased by approximately 40 to 50 percent.

Table 5: Goal Three Actual v. Target Performance

	Exceeded Target Performance	Met Target Performance	Below Performance	Comments
Expand the Holdings of the Library and Continue Automation of Library Functions			X	Expansion was unfunded in FY05.
Upgrade Website Material		X		
Publish “Civil Rights Journal”			X	Project was unfunded in FY05.
Update “Getting Uncle Sam to Enforce Your Rights”		X		Revised in FY04
Update “ Commission Brochure”			X	Project was unfunded in FY05.
Develop a Traveling Display for Conferences, Exhibits, Meetings			X	Project was unfunded in FY05.
Produce Public Service Announcement			X	Project was unfunded in FY05.

¹⁷ Some of these publications are available electronically.

	Exceeded Target Performance	Met Target Performance	Below Performance	Comments
Commission Briefings By the Public Affairs Unit (PAU)			X	PAU was unfunded in FY05.

STRATEGIC GOAL FOUR: Assist members of the public who seek information and advice about protecting their civil rights.

Objective: The Commission’s efforts in this area are directed to providing information and advice to the public on how to obtain protection of their civil rights from federal enforcement agencies.

Target Performance: The Commission planned to continue its national complaint referral and tracking function and anticipated processing, analyzing, referring, and tracking more than 4,000 civil rights complaints in FY05. In addition, plans included continuing to incorporate new technological developments into the complaint referral and tracking process to improve the public’s access to the service via the Internet and to improve the efficiency of the Commission’s complaint referral operation. **Initial Estimated Cost: \$111,654; Actual Cost: \$98,678.**

Accomplishments: Though funding was unavailable to improve the technology supporting the complaint service, the Commission continued its complaint referral function in FY05 and processed 3,006 complaints. See Appendix, Chart E. The Department of Justice (DOJ) and the Equal Employment Opportunity Commission (EEOC) continue to be the most frequently used referral agencies with DOJ receiving 81 percent and EEOC receiving 13 percent of all complaints referred by the Commission. New York (11 percent), Texas (8 percent), and California (8 percent) continue to dominate the highest number of complaint received from a state.

Table 6: Goal Four Complaint Referrals

	FY02	FY03	FY04	FY05
Complaints	4,132	3,714	2,988	3,006

The number of complaints received in FY05 exceeded the number received by the Commission in FY04. There was, however, a slight decrease in comparison to FY02 and FY03. Publicity received by the Commission, and some efforts to generate public interest in using the service, may account for the higher numbers in previous years. While not evident in FY05, the inability of the agency to staff a unit devoted to complaint follow-up with citizens and the government agencies receiving complaint referrals from the Commission may, over-time, adversely impact the public’s perception of the value of this service.

STRATEGIC GOAL FIVE: Enhance the unique network of 51 State Advisory Committees (SACs), which serve as the Commission’s “eyes and ears,” in addressing regional, state, and local civil rights issues.

Objective: The purpose of the SACs is to provide information and recommendations to the Commission and to the public on civil rights issues at the state and local levels. As directed by statute, the Commission has established SACs in every state and the District of Columbia. The SACs range in size from 11 to 27 members. Membership on the committees is reflective of the different ethnic, racial, and religious communities within each state and representative with respect to sex, political affiliation, age, and disability status. Each member is composed of citizens familiar with local and state civil rights issues. Each serves two years and can be reappointed.

Target Performance: Continuing to encourage SAC meetings in a manner consistent with the Commission’s authorized appropriation level and reallocating resources to support SACs in light of the planned closure of two regional offices—Kansas City and Denver—early in FY 2006 were last year’s performance goals. Conference calling was emphasized as a method for conducting SAC meetings within the agency’s budget authority.

Accomplishments: A regional office supports each of the Commission’s six regions. The regional alignments are listed below:

- Central Region (CRO): Alabama, Arkansas, Iowa, Kansas, Louisiana, Mississippi, Missouri, Nebraska, and Oklahoma.
- Eastern Region (ERO): Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia.
- Western Region (WRO): Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Texas, and Washington.
- Southern Region (SRO): Florida, Georgia, Kentucky, North Carolina, South Carolina, and Tennessee.
- Rocky Mountain Region (RMRO): Colorado, Montana, New Mexico, North Dakota, South Dakota, Utah, and Wyoming.
- Midwestern Region (MWRO): Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

The Commission projected a shortfall of \$265,000 in FY05 and froze agency travel, hiring, and agency expenditures. Nevertheless, the SACs completed two reports during FY05. In FY05, regional fact-findings, including briefings and forums, declined from the previous year due to the agency’s increasingly difficult financial situation. The performance goal for the SACs is the production of a fact-finding report every two years. In FY05 two reports, *Language and Access to Health Care: Easing Barriers in New Hampshire* and *The Farmington Report: Civil Rights for Native Americans 30 Years Later*, were completed by the Eastern Region and the Rocky Mountain Region,

respectively. The Central Region completed a listening tour summary called *Southern Civil Rights Listening Tour...Existing and Emerging Civil Rights Issues*. A third report, *Civil Rights Along the U.S./Mexico Border: A Need for Immigration Reform* in the Western Region, is still pending a vote by the Commission.

Table 7: SAC Meetings and Reports

	FY02	FY03	FY04	FY05
SAC Planning Meetings	Not Currently Available*	Not Currently Available*	93	36
SAC and Regional Staff Reports	4	4	4	2**
Briefings/Forums/Fact-Finding Meetings	Not Currently Available*	Not Currently Available*	30	11

*Previous Commission data collection for GPRA reporting did not disaggregate the various types of SAC meetings.

**Does not include the listening tour summary or the report pending a Commission vote.

STRATEGIC GOAL SIX: Improve the management, accountability, and productivity of the Commission.

Objective: The Commission seeks to improve management, accountability, and productivity so that it carries out its mission in an efficient and cost-effective manner. Specifically, the agency is to implement reform measures that address the concerns raised by the Government Accountability Office (GAO), the Office of Personnel Management (OPM), and other entities.

Target Performance: The Commission adopted the policy recommendations of the GAO reports of 1997, 2003, 2004, and 2005 and the OPM report of 1999. As such, the Commissioners authorized the Staff Director to implement these recommendations in a nine-month period, consistent with the strictures of the Anti-Deficiency Act and to the extent funds are available.

Accomplishments: The Commission remains dedicated to improving the management of the agency as demonstrated by reports filed with both the Senate and the House on the status of its reform efforts. Significant progress was made in FY05 toward on achieving the goal of implementing all GAO recommended reforms by the target date of mid-January 2006. A detailed discussion of the reforms and their status was provided above in the MD&A section and in Table 2. To improve the effectiveness of its reforms and to ensure they are consistent with federal government regulations, the Commission worked cooperatively with other federal agencies such of the Office of Management and Budget, the General Services Administration, and the Office of Personnel Management during FY05.

IV. FINANCIAL MANAGEMENT AND PERFORMANCE

Message From the Chief of The Budget and Finance Division

The Commission completed the fiscal year within budget, with improved financial management, and with an additional focus on cost controls and cost accounting. With a FY05 budget of \$9.096 million, salaries and benefits accounted for approximately 80 percent of all Commission costs leaving little funding for programs, staff training and development, and improvements in communications and technology. Commission leadership has worked tirelessly to cut costs as demonstrated by efforts to bring rising office space rent costs under control by consolidating office space and returning unused space to GSA. However, rent costs remain about 9 percent of the agency's total budget, with 11 percent of the budget dedicated to travel and other general expenses.

During FY05, the Commission continued to progress toward resolving financial operations that were not in compliance with federal regulations identified within GAO's audit or material weaknesses reported in FY03. The agency had substantial expenditures that lacked adequate supporting documentation. The lack of supporting documentation increased the risk of improper transactions being processed and recorded which distorted the financial records. In FY05, the Commission required that all transactions be clearly documented, and that documentation of all financial transactions be readily available for examination.

Under the Government Performance and Results Act, the Commission is working to improve its assessment and performance measures, and the quality of its data and compilation procedures. Additionally, the Commission is addressing the requirements for effective internal controls over financial reporting. Work continues on eliminating material weaknesses. As reflected in the Commission's management response to the audit report, incorporated herein by reference, the agency has a plan for correcting deficiencies in its internal controls and financial systems. In fact, many of these corrective measures are already in place and others will be implemented in FY06. The agency is proud of its many recent accomplishments, but realizes that there is still much work yet to be done. The Commission, including the Budget and Finance Division under new leadership as of October 2005, continues to strive to improve its financial posture, financial stewardship, and performance.



Patricia Jackson
Chief, Budget and Finance Division

Limitations on the Principal Financial Statements

Since the agency's FY04 financial statements are unaudited, they may not accurately portray the Commission's financial position. Further, any apparent change in the types of assets, liabilities, costs, revenues, obligations, and outlays from FY04 to FY05 may be inaccurate.

The financial statements reflect Commission financial transactions processed during FY05. Commission assets are the actual funds in the agency's central account at Treasury, and liabilities are outstanding payments still due by the Commission. The program costs reflect cost of agency programs. Revenue is not reflected. Obligations reflect what was obligated (or entered as a monetary outlay, either immediately or in the future) by the Commission's accounting services provider in FY05. Outlays include was disbursed or paid during FY05.

The principal financial statements have been prepared to report the Commission's financial position and results of operations, pursuant to the requirements of title 31 of the United States Code § 3515(b). The statements have been prepared from the agency's records in accordance with the generally accepted accounting principles for Federal entities and the formats prescribed by the OMB. They are additional to the financial reports used to monitor and control the Commission's 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. One implication of this is that liabilities cannot be liquidated without legislation that provides the resources to do so.



Report of Independent Auditors'

Chairman
Staff Director
U.S. Commission on Civil Rights

We were engaged to audit the accompanying balance sheet of the United States Commission on Civil Rights (USCCR) as of September 30, 2005 and related statements of net cost, changes in net position, budgetary resources, and financing for the year then ended. These statements are the responsibility of USCCR management.

In connection with our audit, we also considered the USCCR's internal control over financial reporting and tested USCCR's compliance with certain provisions of applicable laws, regulations, contracts and grant agreements that could have a direct and material effect on the balance sheet.

SUMMARY

As stated in our opinion below, we concluded that the USCCR's balance sheet as of September 30, 2005 is presented fairly, in all material respects, in conformity with accounting principles generally accepted in the United States of America. However, we did not audit and, accordingly express no opinion on USCCR's balance sheet as of September 30, 2004 and the related statements of net costs, changes in net position, budgetary resources, and financing for the years ended September 30, 2005 and 2004 which have been included for presentation and information purposes only.

Our consideration of internal control over financial reporting resulted in the following conditions being identified as reportable conditions:

1. Inadequate Controls Resulted in Errors and Unrecorded Transactions
2. USCCR Needs to Address Human Capital
3. USCCR Is Not Compliant With the Accountability of Tax Dollars Act of 2002
4. USCCR Travel Expenses Are Not Properly Supported
5. USCCR's Policies and Procedures Need Improvements

We consider the first two reportable conditions above to be material weaknesses.

The results of our tests of compliance with certain provisions of laws, regulations, contracts, and grant agreements, exclusive of those referred to in the *Federal Financial Management Improvement Act of 1996* (FFMIA), disclosed four instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards*, issued by the Comptroller General of the United States, and Office of Management and Budget (OMB) Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*.

1. USCCR Has Not Complied with FFMIA
2. No SAS 70 Review of Netsuite Was Performed
3. USCCR Does Not Fully Comply With the Federal Information Security Management Act
4. USCCR Is Not Compliant With the Accountability of Tax Dollars Act of 2002

The following sections discuss our opinion on the USCCR's balance sheet, our consideration of the USCCR's internal control over financial reporting, our tests of the USCCR's compliance with certain provisions of applicable laws, regulations, contracts, and grant agreements, and report distribution.

INDEPENDENT AUDITORS' REPORT ON THE BALANCE SHEET

We have audited the accompanying balance sheet of the United States Commission on Civil Rights (USCCR) as of September 30, 2005. We were engaged to audit the statements of net cost, changes in net position, budgetary resources, and financing for the year then ended. These statements are the responsibility of USCCR management. Our responsibility is to express an opinion on this balance sheet based on our audit.

Except as explained in the following paragraph, we conducted our audit in accordance with auditing standards generally accepted in the United States of America and standards applicable to financial statement audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and the Office of Management and Budget (OMB) Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*. Those standards require that we plan and perform the audit to obtain reasonable assurance that the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

Because of the inherent noncompliance of the financial system and the imbalance in the budgetary accounts, we were unable to obtain sufficient documentation to support the budgetary balances. We were also not able to obtain sufficient documentation to support the propriety of and the completeness assertion related to net costs.

Because of the matters discussed in the preceding paragraph, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on USCCR's statements of net costs, changes in net position, budgetary resources, and financing for the year ended September 30, 2005. In addition, we were not engaged to and did not audit the balance sheet and the related statements of net costs, changes in net position, budgetary resources, and financing for the fiscal year ended September 30, 2004, and accordingly express no opinion thereon. These statements have been included for presentation and information purposes only.

In our opinion, the balance sheet referred to in the first paragraph presents fairly, in all material respects, the financial position of the USCCR as of September 30, 2005, in conformity with accounting principles generally accepted in the United States of America.

Our audit was conducted for the purpose of forming an opinion on the balance sheet. The information in Management's Discussion and Analysis, and Required Supplementary Information sections is not a required part of the financial statements, but is supplementary information required by accounting principles generally accepted in the United States of America or OMB Circular A-136, *Financial Reporting Requirements, Part A, Form and Content of the Performance and Accountability Report*. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of this information. However, we did not audit this information and, accordingly, we express no opinion on it.

INTERNAL CONTROL OVER FINANCIAL REPORTING

In planning and performing our fiscal year 2005 audit, we considered USCCR's internal control over financial reporting by obtaining an understanding of USCCR's internal control, determined whether internal controls had been placed into operation, assessed control risk, and performed tests of controls in order to determine our auditing procedures for the purpose of expressing an opinion on the balance sheet. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 01-02 and *Government Auditing Standards*. We did not test all internal controls relevant to operating objectives as broadly defined by the *Federal Managers' Financial Integrity Act of 1982* (FMFIA), such as those controls relevant to ensuring efficient operations. The objective of our audit was not to provide assurance on internal control; accordingly, we do not provide an opinion on internal control.

Our consideration of internal control over financial reporting would not necessarily disclose all matters that might be reportable conditions. Under standards issued by the American Institute of Certified Public Accountants, reportable conditions are matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect USCCR's ability to record, process, summarize, and report financial data consistent with the assertions by management in the consolidated financial statements.

Material weaknesses are reportable conditions in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements, in amounts that would be material in relation to the financial statements being audited, may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Because of inherent limitations in internal controls, misstatements, losses or noncompliance may occur and not be detected.

We noted the following matters involving the internal control over financial reporting and its operation that we consider to be a reportable condition. We believe that two reportable conditions are material weaknesses. Management's response to the recommendations are included as Appendix B. We believe that their response adequately addresses our recommendations.

Material Weaknesses

Inadequate Controls Resulted in Errors and Unrecorded Transactions

Condition:

The U.S. Commission on Civil Rights (USCCR) financial management process is a combination of manual and automated processes. USCCR supplements its limited financial staffing with an accounting services provider. In FY 2005 the USCCR financial management processes included manual tracking of obligations and disbursements; faxing and Fedexing documents between USCCR, the accounting services provider and GSA. Additionally, the systems used (GSA, NFC, and Netsuite) were not integrated and required manual intervention to record transactions in the general ledger. Although, controls were designed, the controls were ineffective as evidenced by the following exceptions noted in our testing:

Disbursements

- An invoice-tracking log (an excel spreadsheet) was maintained by the accounting services provider and the Budget and Finance Division in an attempt to ensure that all invoices were processed, paid and recorded. However, several invoices from early in the fiscal year were not processed until FY 06.
- Of the 92 disbursements tested, two of them (2%) totaling \$5,401 had an invoice and PO but did not have a receiving report.
- For four disbursements totaling \$1,209, we were provided with receiving reports but other no supporting invoices documentation to support the disbursement;
- We were not provided one of the 92 items we selected for testing (\$900).
- We were unable to trace twelve disbursements amounting \$38,296 to the general ledger.
- Because of the inefficient manual processes USCCR paid interest for invoices that were significantly late in spite of the manual tracking.

Obligations

- Cuff records were maintained and used for internal management decisions and to monitor undelivered orders.
- We found that four out of the 48 obligations sampled were not logged in the cuff records.
- Three obligation amounts did not agree with the amount on the SF-374. One difference equaled \$8,000. The second difference was \$1,218. The other difference equaled \$6,232.
- In addition, we found that the spreadsheet used to track obligations was very disorganized and had information that was either incorrect or missing such as invoices paid against the obligation.
- We were unable to trace 35 of the selected obligations (73%) to the GL. This amounts to \$199,783.

Criteria:

The *Standards for Internal Control in the Federal Government* state that transactions should be promptly recorded to maintain their relevance and value to management in controlling operations and making decisions. In addition control activities help to ensure that all transactions are completely and accurately recorded.

Internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination. All documentation should be properly managed and maintained. Financial information is needed for both internal and external uses. It is required to develop financial statements for periodic external reporting, and on a day-to-day basis, to make operating decisions, monitor performance, and allocate resources. Moreover, effective information technology management is critical to achieving useful, reliable, and continuous recording and communication of information.

Cause:

The financial management processes included too many manual controls with limited staffing. Also, the systems used in FY 2005 were not integrated and the accounting systems were not in compliance with federal standards.

Effect:

We were unable to verify that \$51,775 in disbursements (\$38,296 projected to disbursements of \$667,686) and \$199,783 in obligations were recorded in the general ledger. Also, as a result, USCCR violated the Prompt Pay Act because they did not pay interest of \$6,038. The lack of sufficient detail and accountability in the procedures can produce inconsistent application and increases the risk of errors, improper recording, unauthorized transactions, omissions and potentially funds control violations. Also, the effective and efficient processing of financial transactions is diminished.

Recommendation #1:

We recommend that USCCR management:

- investigate and implement automated solutions to replace the manual tracking of obligations and disbursements and to allow for direct input into the accounting system used in FY 06.
- determine ways to streamline the processes to ensure appropriate levels of controls, accuracy in reporting, reliability, and timeliness of information.

USCCR Needs to Address Human Capital

Condition:

During our audit we noted that in FY 2005 the USCCR relied on a few individuals, with contract assistance, to perform the substantial financial management, administrative, and information security duties. The current range of responsibilities include, but is not limited to, the approval and tracking of obligations and disbursements; monthly, quarterly and yearly financial information review; development of financial policies and procedures; financial statement review; audit coordination; coordination with other agencies including OMB, GSA, and USDA; and information security compliance. During the fiscal year several key employees left USCCR, resulting in knowledge drain and inadequate transitions. As a result, we were unable to obtain the original FISMA report. Only the quarterly updates were available for review. Additionally, we noted knowledge gaps of what the systems can do and how the USCCR financial statements were developed. Although USCCR has identified this as a weakness the strategies to be implemented will result in corrective actions in FY 06.

Criteria:

The *Standards for Internal Control in the Federal Government* states that a control activity includes management of human capital. Only when the right personnel for the job are on board and are provided the right training, tools, structure, incentives, and responsibilities is operational success possible. Management should ensure that skills needs are continually assessed and that the organization is able to obtain a workforce to achieve organizational goals. Specifically, as part of its human capital planning, management should consider how best to retain valuable employees, plan for their eventual succession, and ensure continuity of needed skills and abilities.

Cause:

USCCR small staff and its stagnant appropriation levels have caused a reduction in the number of personnel making the use of backstops and appropriate transition strategies essential to ensure continuity.

Effect:

Significant reliance on a single individual to perform key financial duties can result in the following:

- Lack of an adequate review of quarterly/annual financial statements,
- Lack of an adequate secondary review of USCCR's financial activities processed by its accounting servicer, and
- Inability to address the material weaknesses identified in the FMFIA report.

Additionally, it does not provide for backstops and continuity. The institutional knowledge of financial activities, and other information technology aspects of USCCR were lost.

Recommendation #2:

We recommend that USCCR management:

- (1) determine the viability of cross training employees after consideration of abilities, job descriptions, and federal personnel regulations; and
- (2) determine the training needs for the current employees to ensure that they are up to date on financial management, financial statements and information technology and security.

Reportable Conditions

USCCR Has Not Compliant with Accountability of Tax Dollars Act of 2002

Condition:

The U.S. Commission on Civil Rights (USCCR) did not comply with the Accountability of Tax Dollars Act of 2002 and OMB Bulletin 01-09, "Form and Content of Agency Financial Statements" that requires USCCR to submit audited financial statements to OMB by November 15, 2004. OMB waived the requirement for financial statements for FY 2003. Also, the Bulletin requires that agencies provide quarterly unaudited financial statements to OMB. Quarterly financial statements were not provided in FY 2004 or 2005.

USCCR did contract with an independent accounting firm to provide audit services related to the FY 2004 financial statements. However, no report was issued.

Criteria:

The Accountability of Tax Dollars Act of 2002 requires a select group of agencies to prepare and submit to Congress and the Director of OMB an audited financial statement beginning with the fiscal year 2002. The Act allowed OMB to waive the requirement for 2002 which OMB did. The provisions of OMB Bulletin 01-09, "Form and Content of Agency Financial Statements" will apply.

The *Standards for Internal Control in the Federal Government* state that financial information is needed for both internal and external uses. It is required to develop financial statements for periodic external reporting, and on a day-to-day basis, to make operating decisions, monitor performance, and allocate resources. Moreover, effective information technology management is critical to achieving useful, reliable, and continuous recording and communication of information.

Cause:

The independent accounting firm experienced significant difficulties in obtaining sufficient documentation to support the information in the USCCR general ledger and the financial statements.

Effect:

USCCR was noncompliant. The FY 2004 financial statements are unaudited.

Recommendation #3:

We recommend that USCCR management

1. Institute policies and procedures to ensure that the audited financial statements are prepared and provided to the appropriate oversight agencies by November 15 annually; and
2. Institute policies and procedures to ensure that quarterly unaudited financial statements are provided to OMB in compliance with OMB requirements.

USCCR Travel Expenses Are Not Properly Supported

Condition:

In FY 2005 USCCR's processing of travel vouchers was inefficient because it required the manual preparation of voucher; manual transfer of voucher information to GSA forms; and the transfer of disbursement information by fax or FEDEX to the accounting servicer and GSA. Based on our testing of a sample of 77 of 163 travel vouchers, we noted that USCCR did have adequate documentation to support expenses reported and also some employees' claims exceeded the authorized amount. We noted the following exceptions:

- Six of 77 travel vouchers exceeded the approved amount by a total amount of \$595.
- Four of 77 travel vouchers amounting to \$2,275 was not supported by documentation.
- For one of 77 travel vouchers transportation expense of \$76 was unsupported.
- We were not provided with supporting documentation or travel vouchers for two transactions totaling \$1,123.
- One of 77 travel vouchers had an expense claimed of \$76 for a travel on an unauthorized date.

Late in FY 05 USCCR prepared revised travel procedures that will be fully effective in FY 06.

Criteria:

As stated in the GAO's *Standards for Internal Control in the Federal Government*, transactions and other significant events should be authorized and executed only by persons acting within the scope of their authority. This is the principal means of assuring that only valid transactions to exchange, transfer, use or commit resources, and other events are initiated or entered into. Additionally, internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination.

Cause:

USCCR was unable to locate several vouchers and the supporting documentation. USCCR management changed during the fiscal year and several USCCR travel policies and procedures were outdated.

Effect:

As a result of non-enforcement of the travel policies, employee travel expenses of approximately \$5,080 (\$4,145 projected to the travel expense population of \$44,410) are unsupported and potentially approved without adequate documentation. Also, there is an increased risk of non-compliance with Federal Travel Regulations.

Recommendation #4:

We recommend that USCCR management should ensure that the revised polices and procedures include the following:

1. the supervisors and Budget and Finance Division should carefully review travel vouchers to ensure that adequate supporting documentation is provided and all expense claims are properly authorized.
2. the travel vouchers and supporting documentation should be properly maintained.

USCCR's Policies and Procedures Need Improvements

Condition:

The U.S. Commission on Civil Rights (USCCR) does not have formal written procedures for Fund Balance with Treasury (FBWT) reconciliations and the related reporting to the US Department of Treasury.

Additionally, during our internal control review we noted that the procedures for Procurement of Goods and Services and Budget Preparation processes are too general or incomplete. Several procedures do not address the responsible positions at the various control levels for the processing of data/data entry functions, or submission and approval levels.

Criteria:

The *Standards for Internal Control in the Federal Government* state that internal control and all transactions and other significant events need to be clearly documented and the documentation should be readily available for examination. The documentation should appear in management directives, administrative policies, or operating manuals. Also, information should be recorded and communicated to management and others within the entity who need it and in a form and within a timeframe that enables them to carry out their internal control and other responsibilities.

Additionally, management and employees should establish and maintain an environment throughout the organization that sets a positive and supportive attitude toward internal control and conscientious management. A positive control environment is the foundation for all other standards. It provides discipline and structure as well as the climate which influences the quality of internal controls.

Cause:

According to management, the FBWT procedures were not drafted because BMC has internal procedures for performing the reconciliations. USCCR follows the procedures established by the Government Accountability Office (GAO). The procedures are reviewed annually and amended to reflect any new conditions or additional procedures. However, the former Chief of Budget and Finance departed from USCCR in August of 2005, and replacement has been in office since October 2005. Therefore the budget preparation/execution procedures have not been amended. However, USCCR plans to implement budget preparation/execution procedures in FY 06.

Effect:

The lack of sufficient detail and accountability in the procedures can produce inconsistent application and increases the risk of errors, improper recording, unauthorized transactions, omissions and potentially funds control violations. It can result in noncompliance with laws and regulations. Also, the effective and efficient processing of financial transactions is diminished.

Recommendation #5:

We recommend that USCCR's management revise and reissue written policies and procedures that provide additional specificity in processes related to the Fund Balance with Treasury, financial reporting, interagency reporting, and travel. These policies and procedures should provide the following information at a minimum:

- Position accountable for each step in the process,
- Position responsible for approving/reviewing the information,
- The acceptable internal and external timelines for each step in the process, and
- The specific documentation required determining the authorization, timeliness and review of transaction.

An audit of USCCR was not completed in fiscal year 2004. Therefore, there are no reportable conditions outstanding from the prior year for status reporting purposes.

As required by OMB Bulletin No. 01-02, with respect to internal controls related to performance measures determined by management to be key and reported in the Management's Discussion and Analysis, we obtained an understanding of the design of significant internal controls relating to the existence and completeness assertions. Our procedures were not designed to provide assurance on internal control over performance measures and, accordingly, we do not provide an opinion thereon.

COMPLIANCE WITH LAWS AND REGULATIONS

USCCR's management is responsible for complying with laws and regulations applicable to USCCR. As part of obtaining reasonable assurance that USCCR's balance sheet is free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with 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. 01-02, including the requirements referred to in the FFMIA. We limited our tests of compliance to these provisions and we did not test compliance with all laws, regulations, contracts, and agreements applicable to USCCR. Providing an opinion on compliance with laws, regulations, contracts, and grant agreements was not an objective of our audit and, accordingly, we do not express such an opinion.

Under OMB Bulletin No. 01-02 and FFMIA, we are required to report whether USCCR's financial management systems substantially comply with: (1) Federal financial management systems requirements, (2) applicable Federal accounting standards, and (3) the United States Government Standard General Ledger at the transaction level. Providing an opinion on compliance with those provisions was not, however, an objective of our audit and, accordingly, we do not express such an opinion.

The results of our tests disclosed that the Corporation did not fully comply with the FFMIA, which is required to be reported under *Government Auditing Standards* or OMB Bulletin No. 01-02.

Under FFMIA, we are required to report whether the Corporation's financial management systems substantially comply with the Federal financial management systems requirements, applicable Federal accounting standards, and the United States Government Standard General Ledger at the transaction level. To meet this requirement, we performed tests of compliance with FFMIA section 803(a) requirements.

The results of our tests disclosed four instances of noncompliance with laws and regulations. Management's response to the recommendations are included as Appendix B. We believe that management's response adequately addresses our recommendations.

USCCR Has Not Complied With FFMIA

Condition:

The US Commission on Civil Rights (USCCR) has not complied with the Federal Financial Management Improvement Act (FFMIA).

The FFMIA requires an integrated financial management system. In FY 2005 USCCR management relied on an accounting services provider to send monthly financial statements in an excel file rather than rely on the information in the system. USCCR financial staff had access to the Netsuite system and the information therein. However, the staff placed no reliance on the information in the system.

The financial transactions were not recorded using the SGL standard posting logic at the transaction level. The budgetary and proprietary accounts do not separately balance as required of federal financial management systems.

In FY 2005 USCCR did not have an integrated financial management system and thus used several cuff records and systems to manage its operations – Netsuite for the general ledger, NFC for payroll processing, and GSA for disbursements through the US Treasury. The information from NFC was manually uploaded into general ledger. The accounting service provider manually entered the disbursements received via IPAC into Netsuite.

In fiscal year 2006 USCCR switched to the GSA for accounting services and the use of the Pegasys system, an approved federal financial management system.

Criteria:

The FFMIA requires that financial management systems substantially comply with: (1) Federal financial management systems requirements, (2) applicable Federal accounting standards, and (3) the United States Government Standard General Ledger at the transaction level.

The JFMIP *Federal Financial System Requirements* state that the core financial management systems must support the partnership between program and financial managers, and assure the integrity of decision-making information including the ability to collect accurate, timely, complete, reliable, and consistent information. JFMIP also requires that the core financial system be able to provide financial information to support internal and external reporting requirements.

OMB Circular A-127, *Financial Management Systems*, requires USCCR to establish and maintain an accounting system that provides for (1) complete disclosure of the financial results of the activities of the agency, (2) adequate financial information for agency management and for formulation and execution of the budget, and (3) effective control over revenue, expenditures, funds, property, and other assets.

Cause:

The inconsistent data resulted from an upgrade of Netsuite that caused fiscal year 2004 data to be included in fiscal year 2005. The Netsuite system is based on small business accounting and not the Federal financial reporting requirements.

Effect:

The financial systems may not provide users with complete, accurate, timely financial information needed for decision-making purposes. Inefficiencies resulted from the manual processes needed to compensate for an unintegrated system. The users place no reliance on the official accounting system. The financial statements generated require significant manual efforts to prepare.

Recommendation #6:

We recommend that management:

1. Assess their current financial management systems to ensure that the systems are in compliance with the FFMIA including the JFMIP standards and OMB Circular A-127.
2. Assess the controls are in place over the upfront manual processes surrounding the systems to ensure the completeness and accuracy of the information used by the USCCR financial and program managers.
3. Review the information and services provided by the new accounting services provider to ensure that it meets USCCR's internal and external reporting requirements.

No SAS 70 Review of Netsuite Was Performed

Condition:

US Commission on Civil Rights (USCCR) does not have its own accounting system. In fiscal year 2005 USCCR contracted with an accounting service provider to provide accounting services including usage of its Net Suite application as its general ledger. The accounting service provider has not conduct an internal control review (i.e., SAS 70) of the application nor has USCCR directed its third-party servicer to have a review conducted in accordance with the federal system requirements. USCCR also used the US Department of Agriculture's National Finance Center for payroll transactions.

Criteria:

OMB Circular A-127 section 9 requires that an agency conduct an internal control review (i.e., SAS 70) of all federal financial systems in accordance with FMFIA.

Cause:

Due to the departure of the USCCR staff responsible for the information technology requirements, this requirement was missed.

Effect:

By not completing an internal control review of the financial system, management does not have a comprehensive understanding of the systems internal controls and the risk involved in conducting system transactions.

Recommendation #7:

We recommend that USCCR management determine that all servicers used by the Commission has performed or will perform a SAS 70 review for each fiscal year. In the instance for which no review is scheduled, USCCR should so direct an internal control review to be performed. Additionally, USCCR should obtain all SAS 70 reports and maintain on file.

USCCR Does Not Fully Comply With the Federal Information Security Management Act (FISMA)

In FY 2005 USCCR prepared a FISMA report and identified significant non-compliance with FISMA requirements. USCCR acknowledged that it had not met the majority of the FISMA requirements and proposed a timetable for compliance by FY 2006. The report identified 12 findings that USCCR is reporting upon quarterly to OMB.

We are reporting this deficiency as required by the guidance issued by the Office of Management and Budget. However, because this deficiency has been addressed, we are not making any recommendation in this report.

USCCR Is Not Compliant with Accountability of Tax Dollars Act of 2002

The internal control finding “USCCR Has Not Compliant with Accountability of Tax Dollars Act of 2002” is also a noncompliance with laws and regulations.

The complete finding and recommendation for this finding is presented in the internal control section of this report. We are not making any recommendation for this finding because we reported and made recommendations for corrective actions in the internal control section of this report.

DISTRIBUTION

This report is intended for the information and use of USCCR’s management, the Department of Transportation’s Office of the Inspector General, OMB, the Government Accountability Office, and the U.S. Congress, and is not intended to be and should not be used by anyone other than these specified parties.

Williams, Adley & Company, LLP

January 5, 2006
Washington, DC

**U.S. COMMISSION ON CIVIL RIGHTS
BALANCE SHEETS
AS OF SEPTEMBER 30, 2005 AND 2004**
(In Dollars)

	UNAUDITED	
	2005	2004
ASSETS:		
Intragovernmental:		
Fund Balance With Treasury (Note 2)	\$ 865,394	\$ 223,368
Total Intragovernmental	\$ 865,394	\$ 223,368
Accounts Receivable	\$ -	\$ 92,231
Total Assets	\$ 865,394	\$ 315,599
LIABILITIES		
Intragovernmental		
Other (Note 3)	\$ 65,197	\$ 4,063
Total Intragovernmental	\$ 65,197	\$ 4,063
Accounts Payable (Note 3)	\$ 136,507	\$ 125,282
Other (Note 3)	692,358	589,922
Total Liabilities	\$ 894,062	\$ 719,267
NET POSITION		
Unexpended Appropriations (Note 4)	\$ 326,517	\$ 98,997
Cumulative Results of Operations (Note 4)	(\$355,185)	(\$502,665)
Total Net Position	\$ (28,668)	\$ (403,668)
Total Liabilities and Net Position	\$ 865,394	\$ 315,599

The accompanying notes are an integral part of these statements.

U.S. COMMISSION ON CIVIL RIGHTS
STATEMENTS OF NET COST
FOR THE YEARS ENDED SEPTEMBER 30, 2005 AND 2004
UNAUDITED
(In Dollars)

	2005	2004
PROGRAM COSTS		
Intragovernmental Gross Costs	\$ 3,169,482	\$ 3,174,696
Less: Intragovernmental Earned Revenue	-	-
Intragovernmental Net Costs	3,169,482	3,174,696
Gross Costs With the Public	5,480,750	5,884,049
Less: Earned Revenues From the Public	-	-
Net Costs With the Public	5,480,750	5,884,049
Total Net Cost	8,650,232	9,058,745
Costs Not Assigned to Programs	-	-
Less Earned Revenues Not Attributed to Programs	-	-
Net Cost of Operations	\$ 8,650,232	\$ 9,058,745

The accompanying notes are an integral part of these statements.

US COMMISSION ON CIVIL RIGHTS
STATEMENTS OF CHANGES IN NET POSITION
FOR THE YEARS ENDED SEPTEMBER 30, 2005 AND 2004
UNAUDITED
(In Dollars)

	<u>2005</u>		<u>2004</u>	
	Cumulative Results of Operations	Unexpended Appropriations	Cumulative Results of Operations	Unexpended Appropriations
Beginning Balances	\$ (502,665)	\$ 98,997	\$ (502,377)	\$ 104,561
Prior Period Adjustments		-	-	-
Beginning Balances, as Adjusted	<u>(502,665)</u>	<u>98,997</u>	<u>(502,377)</u>	<u>104,561</u>
Budgetary Financing Sources:				
Appropriations Received	-	9,096,000	-	9,096,000
Other Adjustments (Rescissions, etc.)		(70,768)		(43,107)
Appropriations Used	8,797,712	(8,797,712)	9,058,457	(9,058,457)
Other Financing Sources:				
Imputed Financing from Costs Absorbed by Others	-	-	-	-
Total Financing Sources	<u>8,797,712</u>	<u>227,520</u>	<u>9,058,457</u>	<u>(5,564)</u>
Net Cost of Operations	<u>8,650,232</u>	<u>-</u>	<u>9,058,745</u>	<u>-</u>
Ending Balances	<u>\$ (355,185)</u>	<u>\$ 326,517</u>	<u>\$ (502,665)</u>	<u>\$ 98,997</u>

The accompanying notes are an integral part of these statements.

U.S. COMMISSION ON CIVIL RIGHTS
STATEMENTS OF BUDGETARY RESOURCES
AS OF SEPTEMBER 30, 2005 AND 2004
UNAUDITED

(In Dollars)

	2005	2004
BUDGETARY RESOURCES:		
Budget Authority		
Appropriations Received	\$ 9,096,000	\$ 9,096,000
Unobligated Balance		
Beginning of Period		(10,557)
Spending Authority from Offsetting Collections	253,095	88,588
Subtotal	9,349,095	9,174,031
Recoveries of Prior-Year Obligations		
Actual	(253,095)	(88,588)
Permanently Not Available		
Cancellations of Expired and No-Year Accounts Pursuant to Public Law	(25,793)	(16,512)
	(46,975)	(26,595)
Total Budgetary Resources	\$ 9,023,232	\$ 9,042,336
STATUS OF BUDGETARY RESOURCES:		
Obligations Incurred		
Direct		
Category A	\$ 9,006,529	\$ 9,024,154
Subtotal	9,006,529	9,024,154
Unobligated Balance		
Apportioned		
Balance, Currently Available	16,703	18,182
Unobligated Balances Not Yet Available		
Other	-	-
Total Status of Budgetary Resources	\$ 9,023,232	\$ 9,042,336
RELATIONSHIP OF OBLIGATIONS TO OUTLAYS:		
Obligated Balance, Net, Beginning of Period	\$ 451,021	\$ 253,095
Obligated Balance, Net, End of Period		
Accounts Receivable	\$ -	\$ -
Undelivered Orders		-
Accounts Payable	136,507	72,989
Obligated Unpaid	126,304	
Outlays		
Disbursements	\$ 8,292,697	\$ 8,698,070
Subtotal	\$ 9,006,529	\$ 9,024,154
Less: Offsetting Receipts		
Net Outlays	\$ 9,006,529	\$ 9,024,154

The accompanying notes are an integral part of these statements.

U.S. COMMISSION ON CIVIL RIGHTS
STATEMENTS OF FINANCING
AS OF SEPTEMBER 30, 2005 AND 2004
UNAUDITED
(In Dollars)

	2005	2004
Resources Used to Finance Activities		
Budgetary Resources Obligated		
Obligations Incurred	\$ 9,006,529	\$ 9,024,154
Less: Spending Authority from Offsetting Collections and Recoveries	253,095	88,588
Obligations Net of Offsetting Collections and Recoveries	8,753,434	9,112,742
Less: Offsetting Receipts		
Net Obligations	8,753,434	9,112,742
Other Resources		
Imputed Financing from Costs Absorbed by Others	-	-
Net Other Resources Used to Finance Activities	-	-
 Total Resources Used to Finance Activities	 8,753,434	 9,112,742
 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	227,520	5,564
Resources That Fund Expenses Recognized in Prior Periods		
Other	(253,095)	(88,588)
 Total Resources Used to Finance Items Not Part of the Net Cost of Operations	 (25,575)	 (83,024)
 Total Resources Used to Finance the Net Cost of Operations	 8,727,859	 9,029,718
 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		
Other	(150,395)	(14,080)
Total Components of Net Cost of Operations That Will Require or Generate Resources in Future Periods	-	-
Components Not Requiring or Generating Resources		
Other	72,768	43,107
Total Components of Net Cost of Operations That Will Not Require or Generate Resources	72,768	43,107
 Total Components of Net Cost of Operations That Will Not Require or Generate Resources in the Current Period	 72,768	 43,107
 Net Cost of Operations	 \$ 8,650,232	 \$ 9,058,745

The accompanying notes are an integral part of these statements.

United States Commission on Civil Rights
Notes to Financial Statements
September 30, 2005 and 2004

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Reporting Entity

The United States Commission on Civil Rights (USCCR) is an independent government agency established to:

- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, disability, national origin, or by reason of fraudulent practices.
- Study and collect information relating to discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, national origin, or in the administration of justice.
- Appraise federal laws and policies with respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, national origin, or in the administration of justice.
- Serve as a national clearinghouse for information in respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin.
- Submit reports, findings, and recommendations to the President and Congress.
- Issue public service announcements to discourage discrimination or denial of equal protection of the laws.

In furtherance of its fact-finding duties, the Commission may hold hearings and issue subpoenas (within the state in which the hearing is being held and within a 100-mile radius of the site) for the production of documents and the attendance of witnesses at such hearings. It maintains state advisory committees, and consults with representatives of federal, state, and local governments, and private organizations. Since it lacks enforcement powers that would enable it to apply specific remedies in individual cases, it refers the many complaints it receives to the appropriate federal, state, or local government agency or private organization for action.

Basis of Presentation

These financial statements are provided to meet the requirements of the Government Management and Reform Act (GMRA) of 1994. The statements consist of the Balance Sheets, Statements of Net Cost, Statements of Changes in Net Position, Statements of Budgetary Resources, and Statements of Financing.

These financial statements have been prepared to report the financial position and results of operations of USCCR. These statements were prepared from the books and records of USCCR in accordance with generally accepted accounting principles applicable to federal entities.

United States Commission on Civil Rights
Notes to Financial Statements
September 30, 2005 and 2004

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont.)

Basis of Accounting

Transactions are recorded on an accrual accounting basis and a budgetary basis. Under the accrual method, revenues are recognized when earned and expenses are recognized when liabilities are incurred, without regard to receipt or payment of cash. Budgetary accounting facilitates compliance with legal constraints and controls over use of Federal funds.

To assist OMB in recommending and publishing comprehensive accounting standards and principles for agencies of the Federal Government, the Secretary of the Treasury, the Comptroller of the United States, the Director of OMB, and the Joint Financial Management Improvement Program (JFMIP) established the Federal Accounting Standards Advisory Board (FASAB) in 1990. The American Institute of Certified Public Accountant's (AICPA) Council designated FASAB as the accounting standards authority for Federal government entities.

Revenues & Other Financing Sources

USCCR's salary and expense fund receives all funding through Congressional appropriation from the budget of the United States. Annual appropriations are used, within statutory limits, for operating and capital expenditures for essential personal property. Appropriations are recognized as revenues at the time the related program or administrative expenses are incurred. Appropriations expended for capitalized property and equipment are recognized as expenses when an asset is consumed in operations.

Fund Balance with Treasury

Salary and Expense Funds with Department of the Treasury primarily represent appropriated funds that are available to pay current liabilities and finance authorized obligations. See Note 2 for additional information.

Liabilities

Liabilities represent the amount of monies or other resources likely to be paid by CCR as a result of transactions or events that have already occurred. No liability can be paid, however, absent an appropriation. Liabilities for which an appropriation has not been enacted are, therefore, classified as not covered by budgetary resources, and there is no certainty that the appropriation will be enacted. Additionally, the Government, acting in its sovereign capacity, can abrogate liabilities.

Receivables

Accounts receivable represents an employee related receivables for overpayment of salaries and refunds from General Service Administration, for rent concessions and other vendors for overpayment of services.

**United States Commission on Civil Rights
Notes to Financial Statements
September 30, 2005 and 2004**

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (cont.)

Accounts Payable

Accounts payable consists of amounts owed for trade accounts payable.

Accrued Payroll Liabilities (Annual, Sick, and Other Leave)

Annual leave is accrued as it is earned, and the accrual is reduced as leave is taken. Each year, the balance in the accrued leave account is adjusted to reflect current pay rates. To the extent current or prior year appropriations are not available to fund annual leave earned but not taken, funding will be obtained from future financing sources. Sick leave and other types of non-vested leave are expensed as taken.

Retirement Plans

USCCR employees participate in the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS). FERS was established by the enactment of Public Law 99-335. Pursuant to this law, FERS and Social Security automatically cover most employees hired after December 31, 1983. Employees hired before January 1, 1984 elected to join either FERS and Social Security or remain in CSRS.

All employees are eligible to contribute to the Thrift Savings Plan (TSP). For those employees participating in the FERS, a TSP account is automatically established and USCCR makes a mandatory 1 percent contribution to this account. In addition, USCCR makes matching contributions, ranging from 1 to 4 percent, for FERS eligible employees who contribute to their TSP accounts. Matching contributions are not made to the TSP accounts established by CSRS employees.

FERS employees and certain CSRS reinstatement employees are eligible to participate in the Social Security program after retirement. In these instances, USCCR remits the employer's share of the required contribution (\$65,197).

USCCR does not report on its financial statements information pertaining to the retirement plans covering its employees. Reporting amounts such as plan assets, accumulated plan benefits, and related unfunded liabilities, if any, is the responsibility of the Office of Personnel Management.

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

United States Commission on Civil Rights
Notes to Financial Statements
September 30, 2005 and 2004

Contingencies

There are no commitments or contingencies that require disclosure.

Expired Accounts and Cancelled Authority

Unless otherwise specified by law, annual authority expires for incurring new obligations at the beginning of the subsequent fiscal year. The account in which the annual authority is placed is called the expired account. For five fiscal years, the expired account is available for expenditure to liquidate valid obligations incurred during the unexpired period. Adjustments are allowed to increase or decrease valid obligations incurred during the unexpired period but not previously reported. At the end of the fifth expired year, the expired account is cancelled.

NOTE 2. FUND BALANCE WITH TREASURY

	2005	(Unaudited) 2004
Fund Balances		
Appropriated Funds	\$865,394	\$223,368
Status of Fund Balance with Treasury		
Unobligated Balance		
Available	\$ 16,703	\$ 26,913
Unavailable	\$ 2,768	\$ 52,647
Obligated Balance not yet Disbursed	\$775,923	\$143,808
Total	\$865,394	\$223,368

NOTE 3. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities on USCCR's balance sheets as of September 30, 2005 and 2004, include liabilities not covered by budgetary resources, which are liabilities for which congressional action is needed before budgetary resources can be provided. Although future appropriations to fund these liabilities are likely and anticipated, it is not certain that appropriations will be enacted to fund these liabilities. The composition of liabilities not covered by budgetary resources as of September 30, is as follows:

United States Commission on Civil Rights
Notes to Financial Statements
September 30, 2005 and 2004

	2005	(Unaudited) 2004
Unfunded Annual Leave	\$ <u>355,185</u>	\$ <u>502,665</u>
Total Liabilities Not Covered By Budgetary Resources	\$ <u>355,185</u>	\$ <u>502,665</u>

NOTE 4. LIABILITIES

The liabilities for USCCR are comprised of program expense accruals, payroll accruals, and annual leave (funded and unfunded) earned by employees. Program expense accruals represent expenses that were incurred prior to year-end but were not paid. Similarly, payroll accruals represent payroll expenses that were incurred prior to year-end but were not paid.

Schedule of Liabilities as of September 30,

	Noncurrent	Current	Total 2005
Intragovernmental			
Accrued Liabilities	\$ -	\$ -	-
Retirement Contribution Payable	-	65,197	65,197
Unfunded FECA Liability	-	-	-
Total Intragovernmental	-	65,197	65,197
Accounts Payable	\$ -	\$ 136,507	\$ 136,507
Disbursements in Transit	-	136,749	136,749
Accrued Liabilities	-	-	-
Accrued Funded Payroll & Taxes	-	200,424	200,424
Retirement Contribution Payable	-	-	-
Unfunded Annual Leave	-	355,185	355,185
Total Liabilities	\$ -	\$ 894,062	\$ 894,062

United States Commission on Civil Rights
Notes to Financial Statements
September 30, 2005 and 2004

Schedule of Liabilities as of September 30, (Unaudited)

	Noncurrent	Current	Total 2004
Intragovernmental			
Accrued Liabilities	\$ -	\$ -	-
Retirement Contribution Payable	-	4,063	4,063
Unfunded FECA Liability	-	-	-
Total Intragovernmental	-	4,063	4,063
Accounts Payable	\$ -	\$ 125,282	\$ 125,282
Disbursements in Transit	-	5,951	5,951
Accrued Liabilities	-	19,437	19,437
Accrued Funded Payroll & Taxes	-	134,353	134,353
Unfunded Annual Leave	-	502,665	502,665
Total Liabilities	\$ -	\$ 791,751	\$ 791,751

NOTE 5. UNEXPENDED APPROPRIATION

USCCR's net position is composed of unexpended appropriation and cumulative results of operations. Net position as of September 30, 2005 and 2004 consisted of the following:

	2005	(Unaudited) 2004
Unexpended Appropriations		
Unobligated		
Available	\$ 16,703	\$ 26,913
Unavailable	72,768	52,647
Undelivered Orders	237,046	19,437
Total	\$ 326,517	\$ 98,997
Cumulative Results of Operations	(355,185)	\$ (502,665)
Net Position	\$ (28,688)	\$ (403,668)

**United States Commission on Civil Rights
Notes to Financial Statements
September 30, 2005 and 2004**

NOTE 6. OPERATING LEASES

USCCR's office locations are rented through GSA according to occupancy agreements. These occupancy agreements may be terminated at any time by USCCR with four months notice.

**NOTE 7. GROSS COSTS AND EARNED REVENUE BY BUDGET
FUNCTIONAL CLASSIFICATION (Unaudited)**

	Gross Cost	Earned Revenue	FY 2005 Net Cost
Functional Classification			
Others - Immaterial Agencies	\$ 8,650,232	-	\$ 8,650,232
	Gross Cost	Earned Revenue	FY 2004 Net Cost
Functional Classification			
Others - Immaterial Agencies	\$ 9,058,745	-	\$ 9,058,745

NOTE 8. NET PROGRAM COSTS (Unaudited)

	September 30, 2005	September 30, 2004
Cross-cutting Program	\$ <u>8,650,232</u>	\$ <u>9,058,745</u>

NOTE 9. STATEMENT OF BUDGETARY RESOURCES (Unaudited)

	September 30, 2005	September 30, 2004
The amount of direct and reimbursable obligations incurred against amounts apportioned under Category A, B, and Exempt from apportionment as of the end of the period:	\$ 9,006,529	\$ 9,024,154

Required Supplemental Information

Intragovernmental Balances by Trading Partner:

Intragovernmental Assets by Trading Partner:

<u>Trading Partner</u>	<u>Fund Balance with Treasury</u>	<u>Accounts Receivable</u>	<u>Other Assets</u>
Library of Congress (03)	\$ -	\$ -	\$ -
Government Printing Office (04)	-	-	-
General Accounting Office (05)	-	-	-
U.S. Capital Police (09)	-	-	-
U.S. Postal Service (18)	-	-	-
Department of State (19)	-	-	-
Department of Treasury (20)	865,394	-	-
Office of Personnel Management (24)	-	-	-
General Services Administration (47)	-	-	-
National Science Foundation (49)	-	-	-
Department of Transportation (69)	-	-	-
Treasury General Fund (99)	-	-	-
Other Material Agency (Please List)	-	-	-
Others - Immaterial Agencies (Please List)	<u>-</u>	<u>-</u>	<u>-</u>
 Total	 <u>\$ 865,394</u>	 <u>\$ -</u>	 <u>\$ -</u>
 Total Intragovernmental Assets	 <u>\$ 865,394</u>		

Intragovernmental Liabilities by Trading Partner:

<u>Trading Partner</u>	<u>Accounts Payable</u>	<u>Other Liabilities</u>
Library of Congress (03)	\$ -	\$ -
Government Printing Office (04)	-	-
General Accounting Office (05)	-	-
U.S. Capital Police (09)	-	-
U.S. Postal Service (18)	-	-
Department of State (19)	-	-
Department of Treasury (20)	-	-
Office of Personnel Management (24)	-	65,197
General Services Administration (47)	-	-
Department of Transportation (69)	-	-
Other Material Agency (Please List)	-	-
Others - Immaterial Agencies (Please List)	<u>-</u>	<u>-</u>
 Total	 <u>\$ -</u>	 <u>\$ 65,197</u>
 Total Intragovernmental Liabilities	 <u>\$ 65,197</u>	

APPENDIX A

Chart A: National Office Activity for Four Years

	FY02	FY03	FY04	FY05
Reports Completed	2	4	4*	3**
Hearings	1	0	0	0
Briefings	3	1	4	1

* Four completed and approved reports, and two completed but not approved for Commission publication.

**Three completed and approved reports and one pending completion.

Chart B: Annual Project (hearings, briefings, reports) Costs

	Initial Estimated Project Costs (Total)	Revised Estimated Project Costs	Actual Program Cost
FY05	\$ 2,550,160.00	\$ 560,309.00	\$ 779,015.62
FY04	\$ 683,157	\$ 65,172	\$ 688,573
FY03	Not Available	Not Available	Not Available

Chart C: Summary of FY05 Projects Costs by Title

FY05 Project Titles	Initial Estimated Costs	Revised Estimated Costs	Actual Costs
Ten Years After <i>Adarand</i>	\$ 238,395.00	None	\$220,596.00
Minority Employment and Economic Development: the Wealth Gap	\$140,095	None	\$119,996.37
Funding Federal Civil Rights Enforcement: The President's 2006 Budget	\$238,395.00	None	\$290,073.46
A Review of Section 5 and Section 203 of the Voting Rights Act	\$557,739.00	\$225,350.00	\$ 105,349.79
Religious Discrimination in the Workplace	\$646,313.00	\$334,959.00	\$ 0.00
Funding Federal civil Rights Enforcement: The Presidents 2007 Budget	\$69,173.00	None	\$ 0.00
Stagnation of the Black Middle Class	\$ 56,000	None	\$ 43,000
USA Patriot Act	\$ 4,500.00	None	None
Financial Aid in Higher Education	\$ 100,000.00	None	None
Community Reinvestment Act	\$ 243,942.00	None	None
Minority Under-Representation in the Census	\$ 255,608.00	None	None
TOTAL	\$ 2,550,160.00	\$ 560,309.00	\$ 779,015.62

APPENDIX A

Table D: Strategic Goal Performance

	Exceeded Goal	Met Goal	Below Goal	Not Applicable	Comments
Strategic Goal 1: Evaluate and identify ways of improving the effectiveness and efficiency of federal enforcement of civil rights laws and policies.			X		Completed and published two of three reports.
Strategic Goal 2: Study allegations of denials of civil rights and equal protection of the laws, and illuminate the causes, the consequences, and the possible remedies related to discrimination based on race, color, religion, gender, age, disability, national origin, or in the administration of justice.			X		Completed one of two briefings and published a related report.
Strategic Goal 3: Promote greater public awareness of civil rights protection and responsibilities.		X			Web site material expanded; other planned efforts were contingent on funding.
Strategic Goal 4: Assist members of the public who seek information and advice about protecting their civil rights.		X			Referred more than 3,000 complaints; Expanded Web site information; Other planned efforts were contingent on funding.
Strategic Goal 5: Enhance the unique network of 51 State Advisory Committees (SACs), which serve as the Commission's "eyes and ears," in addressing regional, state, and local civil rights issues.			X		Restrictions on travel and an agency-wide hiring freeze limited the ability of SACs to engage in planning and fact-finding.
Strategic Goal 6: Improve the management, accountability, and productivity of the Commission.		X			Approved implementing sweeping reforms in April 2005; Significant reforms adopted during FY05 with additional reforms pending in FY06.

Chart E
COMPLAINT REPORT

FY 2005

BREAKDOWN OF WRITTEN COMPLAINTS PROCESSED:

<u>By subject</u>		<u>By basis of complaint</u>	
Employment	146	Race and ethnic origin	139
Housing	18	Black	236
Education	22	Hispanic	44
Federal programs	145	American Indian/Alaskan Native	11
Administration of		Asian	6
Justice	227	Other national origin, race	125
Voting	10	Religion	44
Health care	10	Sex	29
Human rights	5	Disability	90
Police brutality	100	Age	21
Public accommodations	24	Inmates	896
Hate crimes	14	Sexual harassment	7
Other	927	Reprisal	5
No jurisdiction	773	Basis not stated	53
Unknown	77	Unknown	114
Affirmative Action	0	Other	1180

Police Misconduct 232

Prisoners' Rights 139

Prison Conditions 144

Total complaints processed in fiscal year:	3,006
Total telephone complaints:	980
Total of written complaints:	1,541
Total congressional complaints	9
Total walk-in complaints	69
Total facsimile complaints	66
Total e-mail complaints	341

Chart F: Project Codes Actuals by Expense Categories:

Ten Years After Adarand: The Effect of Changed Federal	
ON-BOARD	\$176,214.73
BENEFITS	\$28,658.27
PRINTING	\$1,500.00
OTHER SERVICES	\$6,700.00
SUPPLIES	\$5,000.00
EQUIPMENT	\$2,523.00
TOTAL	\$220,596.00


Minority Employment and Economic Development: The Wealth Gap	
ON-BOARD	\$97,449.10
BENEFITS	\$18,047.27
PRINTING	\$700.00
OTHER SERVICES	\$1,500.00
SUPPLIES	\$1,200.00
EQUIPMENT	\$1,100.00
TOTAL	\$119,996.37

Funding Federal Civil Rights Enforcement: The Presidents 2006 Budget	
ON-BOARD	\$220,498.23
BENEFITS	\$54,597.23
PRINTING	\$1,300.00
OTHER SERVICES	\$6,000.00
SUPPLIES	\$5,200.00
EQUIPMENT	\$2,478.00
TOTAL	\$290,073.46

A Review of Section 5 and Section 203 of the Voting Rights Act	
ON-BOARD	\$74,744.23
BENEFITS	\$15,642.56
PRINTING	\$1,500.00
OTHER SERVICES	\$6,300.00
SUPPLIES	\$3,354.00
EQUIPMENT	\$3,809.00
TOTAL	\$105,349.79

MEMORANDUM

TO: Charbet M. Duckett
Williams Adley & Company, LLP
Certified Public Accountants/Management Consultant

FROM: 
Kenneth L. Marcus
Staff Director

DATE: January 12, 2006

RE: Management Audit Response

Under the direction of new leadership, the United States Commission on Civil Rights (the “Commission”) is working to resolve profound management and financial challenges, which have developed over a period of many years. These challenges are well documented by a series of Government Accountability Office (GAO) and Office of Personnel Management (OPM) reports dating back to the 1990s.

This independent audit provides the Commission another opportunity to identify its strengths and rise to the challenges presented by its weaknesses. It also creates a roadmap for building upon the reforms the Commission put into place during calendar year 2005. After reviewing the report, the Commission understands the specific audit report findings to be as follows:

- I. Financial Statements
 - Statement of Net Cost: Disclaimer of Opinion
 - Statement of Net Position: Disclaimer of Opinion
 - Statement of Budgetary Resources: Disclaimer of Opinion
 - Financing: Disclaimer of Opinion
 - Balance Sheet: Opinion. Balances are fairly stated
and the presentation conforms to accounting standards for FY 05 only.

- II. Internal Control
 - Three reportable conditions: ¹

¹ A reportable condition is defined in the audit report as a significant deficiency in the design or operation of internal control over financial reporting that could adversely affect an agency’s ability to record, process, summarize, and report financial data consistent with the consolidated financial statements.

- Noncompliance with the Accountability of Tax Dollars Act of 2002 for FY04 resulting from an incomplete audit.
- Errors in travel expenses resulting from outdated policies and insufficient or unavailable supporting documentation.
- Improvement required in policies and procedures relating to financial management, budget preparation and execution.

Two material weaknesses:²

- Inadequate controls resulting in errors and unrecorded transactions due to too many manual controls with limited staff, and accounting systems that were not fully integrated and compliant with federal standards.
- Human capital needs resulting from staffing agency funding and staff attrition.

III. Legal Compliance

- Failure to comply with the Federal Financial Management Improvement Act (FFMIA) resulting from the use of a non-integrated financial management system and an accounting system (Netsuite application) that did not comply with federal financial reporting requirements.
- Failure to conduct or have conducted a SAS 70 readiness review of the Netsuite accounting application used by its accounting services provider during FY05.
- Failure to comply with the Federal Information Security Management Act (FISMA).
- Failure to comply with the Accountability of Tax Dollars Act of 2002 as referenced in the Internal Control section.

Based on the conditions and findings in the report, several recommendations were made for corrective action. The Commission is pleased to receive these recommendations and believes that it has already made some progress toward implementing them. That said, however, work remains to be done and the newly implemented policies and processes remain to be tested during FY06.

The conditions identified in the audit report are generally consistent with previous findings by the Government Accountability Office (GAO) concerning the Commission's financial management and control. In April 2005, the Commission adopted all GAO recommendations, to the extent that they are non-repetitive, that funds are available, and that implementation is consistent with restrictions imposed by the Anti-Deficiency Act. Shortly thereafter, work began on the implementation of those recommendations. Many new policies and procedures were put into place during calendar year 2005 that will not realize their full potential until FY06; after they have had sufficient time in operation to yield fruit and the Commission has had an opportunity to evaluate their effectiveness and make any required adjustments. In addition, more reforms or corrective measures related

² A material weakness is a reportable condition in which the design or operation of an internal control component does not reduce the risk that material misstatements in amounts may occur and not be timely detected.

to GAO findings are planned for implementation during FY06. Most of the recommendations in the audit report have been, or will be, resolved through the agency's current reform efforts while others will require additional corrective measures. Below is a summary of the findings, recommendations, and the Commission's corrective measures.

IV. Internal Control Findings, Recommendations, Corrective Actions

Finding: Inadequate Controls Result in Errors and Unrecorded Transactions

Recommendation 1: Investigate and implement automated solutions to replace the manual tracking of obligations and disbursements and to allow for direct input into the accounting system used in FY 06.

Corrective Action:

- *Reduce Reliance on Manual Tracking and Provide Direct Data Entry of Financial Transactions.* Effective October 1, 2005, the Commission transitioned to a new accounting services provider. The General Services Administration (GSA), as the Commission's provider, uses an integrated core accounting and financial management system in which it records the Commission's transactions. The Pegasys accounting system used by GSA is fully compliant with Joint Financial Management Improvement Program (JFMIP). GSA also uses the Financial Management Information Systems (FMIS). GSA also complies with OMB Circular A-123 on internal control over financial reporting and OMB Circular A-127. As a result, the Commission's accounting data is electronically entered and transmitted.
- GSA provides accounting services that include accounts payable, accounts receivable, billing, disbursements, delinquencies, travel payments, input and monitoring, financial statement preparation and analysis, and budget submission using OMB's MAX system.

Recommendation 2: Determine ways to streamline the processes to ensure appropriate levels of controls, accuracy in reporting, reliability, and timeliness of information.

Corrective Action

- *Streamline the Accounting Process.* In FY06, with the transition to GSA, the Commission began to streamline its accounting process. Manual transmission of data between three points (GSA, NFC, and Netsuite) was eliminated, the use of FMIS simplified the Commission's access to accounting data, and increased the ability of the Commission to verify accounting entries.

- *Develop Document Control and Integrity Processes.* In late FY05, the Commission and GSA engaged in transition planning that included a review of existing internal controls. One result of that collaboration was the development of formal tracking sheets for obligations (i.e., purchase orders and travel) that allows items to be tracked by sequential document control numbers through the accounting system. Additionally, levels review and approval, authorization, verification, and reconciliation of accounts/transactions were established within the Commission to reasonably ensure the integrity of information and the timely processing of information. During FY06, these measures will be reviewed and revised, as required, to meet established agency goals.

Finding: Commission Needs to Address Human Capital Needs

Recommendation 1: Determine the viability of cross training employees.

Corrective Action:

- *Increase Agency FY06 Training Budget over FY05 Amounts.* As a part of ongoing reforms to human capital management, in FY05 the Commission established the goal of increasing the amount of funding made available for staff development and training in FY06 in comparison to previous years. With the achievement of that goal, the agency's efforts will be on identifying appropriate training opportunities in key operational areas: procurement, budget, human resources.
- *Training Procurement and Budget Staff.* Procurement and financial management training are major priorities as demonstrated by the recent approval of the participation of the chief of the procurement office in three training courses scheduled for January, March, and April 2006. Likewise, the Commission will provide appropriate training opportunities to its budget staff during FY06, consistent with its available budgetary resources.
- *Provide Backup/Support Training.* The agency recognizes the need create backstops or to cross-train key staff positions. This need is primarily driven by staff attrition and stagnate funding levels. As a result, in FY06 the Commission committed to providing the director of the Office of Management, who has management and supervisory responsibilities for the budget office, with training to enhance the day-to-day operation of the budget office. This includes cross-training in budget related functions. As a result of this commitment, the director of the Office of Management and the chief of the Budget and Finance Division will attend training on the Government-wide Accounting (GWA) Account Statement application to provide support or backup to the chief of the Budget and Finance Division. This training increases Commission capacity by creating backup

for key functions/skills. Other similar opportunities for appropriate cross training will be explored during FY06.

Recommendation 2: Determine the training needs for the current employees to ensure that they are up to date on financial management, financial statements and information technology and security.

Corrective Action

- *Assess Employee Skills, Provide Training Opportunities, and Hold Staff Accountability for Performance.* In June 2005, the Commission developed a draft Strategic Human Capital Plan and a Human Capital Accountability System to increase workforce accountability and improve the management of human capital. Furthermore, a human capital skills assessment survey was conducted by the Commission, with the assistance of a detailee from OPM, to identify areas where improvement in the skill sets of staff is required to fulfill the Commission's mission. These plans and assessments, once finalized in conjunction with the agency's Strategic Plan, create a blueprint for improving agency performance by gathering data, monitoring, and evaluating the use of human capital relative to agency mission and strategic plan, employee performance, and the ability of managers to lead and manage successfully. Implementation is expected in March 2006, contingent on approval of the draft Strategic Plan. Future assessments will be conducted consistent with applicable OPM policies.

- *Train Budget Staff on New Technologies/Programs.* The chief of the Budget and Finance Division will receive training in FY06 on the Government-wide Accounting (GWA) Account Statement application. This application will replace FMS 6653 (Undisbursed Appropriation Account Ledger), FMS 6654 (Undisbursed Appropriation Account Trial Balance) and FMS 6655 (Receipt Account Ledger/Trial Balance). These three applications are currently used to reconcile Fund Balance With Treasury (FBWT) account balances in the Government On-Line Accounting Link Information Access System II (GOALS II/IAS) system. Through governmental and private training sources, budget planning and execution training will be provided to the chief of the Budget and Finance Division during FY06, consistent with existing budgetary resources.

Finding: The Commission has not Complied with the Accountability of Tax Dollars Act of 2002.

Recommendation 1: Institute policies and procedures to ensure that the audited financial statements are prepared and provided to the appropriate oversight agencies by November 15 annually.

Corrective Action

- *Engage in Early Acquisition Planning to Ensure Sufficient Time to Select an Auditing Firm and to Conduct the Audit.* In February 2006, the Administrative Services and Clearinghouse Division will create and commence execution of a procurement action plan for the FY06 audit that includes timelines for completing key procurement actions leading to the completion of the following phases: consultation with the Budget and Finance Division, solicitation of bids, evaluation of bids, selection/award of the contract, PAR production and/or delivery plans.

- *Create a Formal Checklist for the Budget and Finance Division.* To prepare the accounting services provider and the Budget and Finance Division of the Commission for the audit, a checklist of the necessary financial records; management assessments and reports; internal agency document production dates; OMB contacts, numbers, references/resources; and PAR submission information. This checklist will be produced in FY06.

Recommendation 2: Institute policies and procedures to ensure that quarterly unaudited financial statements are provided to OMB in compliance with OMB requirements.

Corrective Action:

- Prior to the October 1, 2005 conversion to GSA as the Commission's accounting services provider, key management officials representing OMB, the Budget and Finance Division, the Administrative Services and Clearinghouse Division, and the Office of the Staff Director worked closely with GSA on various aspects of internal control, and internal and external reporting requirements. The relationship with GSA, as defined by a Memorandum of Understanding, requires that GSA prepare and submit the following reports on behalf of the Commission: monthly SF-224, quarterly FACTS II, Accountability of Tax Dollars Financial Statements, annual FACTS I and FACTS II, Receivable Due the Public, quarterly SF-133, and annual SF-2108. Provisions are also included in the agreement for ad hoc reports as determined to be necessary by the Commission.

Finding: The Commission's Travel Expenses are not Properly Supported.

Recommendation 1: Review travel vouchers carefully to ensure that adequate supporting documentation is provided and all expense claims are properly authorized.

Corrective Action:

- *Convert to an Automated or Web-based Travel Management System.* In FY06, the Commission fully converted to GSA's web-based travel management system. By doing so, the Commission addressed concerns about errors in travel authorizations and requests for reimbursement, and delays in reimbursements and the collection of overpayments. With this system, travelers and the approving/authorizing/certifying officials quickly input, review, and approve/certify travel authorizations and vouchers online. The new system also has internal controls that identify inconsistent or potentially erroneous travel information provided by the traveler so that the information is corrected before it is submitted for processing. For example, the system notifies the traveler if a travel authorization is not on file to support a travel voucher, it also flags any discrepancy between the authorization and voucher for correction before processing. The system also ensures prompt payment, within 30 calendar days, and automatically calculates and pays interest if travel reimbursement is late. The system also produces an aged authorization report to identify unused travel authorizations so that funds can be released and used for other Commission needs.

Recommendation 2: Properly maintain travel vouchers and supporting documentation.

Corrective Action

- *Create Comprehensive Travel Regulations.* In November 2005, the Commission issued new travel policy (in the form of an Administrative Instruction or AI) that is consistent with GSA federal travel regulations. This comprehensive travel policy, AI 3-14, provides guidance on levels of responsibility for approvals/authorizations/certifications, paying for official travel, acceptable types/levels of travel arrangements and accommodations, documentation required to support travel vouchers, timelines for submission of travel authorizations and vouchers, and the maintenance of travel files. The policy covers other areas as well.

Finding: The Commission's Policies and Procedures Need Improvement

Recommendation 1: Revise and reissue written policies and procedures to provide specificity in processes related to Fund Balance with Treasury, financial reporting, interagency processes, and travel.

Corrective Action

- *Revise Outdated Budget Formulation and Execution Guidance.* Administrative Instructions on budget formulation and execution are currently being revised, with input from the Commission's accounting services provider and the Office of Management and Budget. These policies, to be in place in January 2006, are consistent with OMB Circular

A-11. They also identify levels of responsibility and authority by position, create timelines for required actions, identify key documents and resources, and define review and approval authority by position. They also provide guidance on the submission of the quarterly unedited financial statements.

- *Create Comprehensive Travel Regulations.* In November 2005, the Commission issued a new travel policy (in the form of an Administrative Instruction or AI) that is consistent with GSA federal travel regulations. This comprehensive travel policy includes, for example, guidance on levels of responsibility and authority, required approvals and certification, documentation required to support travel vouchers, timelines for submission of travel requests and vouchers, and the maintenance of travel files.
- *Retain a Financial Consultant to Assist in Developing Appropriate Processes and Guidance.* In or about September 2005, the Commission retained a financial management firm to consult with its staff to assess agency financial management and address deficiencies. The report will be issued in FY06 and will form the foundation for a corrective action plan.
- *Consult with the Accounting Service Provider.* GSA, as the Commission’s accounting services provider, is responsible for filing all financial reports required by Treasury and OMB for the Commission to be in good standing. It also provides accounting services that include accounts payable, accounts receivable, billing, disbursements, delinquencies, travel payments, input and monitoring, financial statement preparation and analysis, and budget submission using OMB’s MAX system. The Commission has worked with GSA, and will continue to work with GSA, to revise outdated budget guidance, specifically, in relation to their report submission role and the agency’s oversight responsibilities. In FY06, AI 3-1, AI 3-2, and AI 3-6 on project coding and budget formulation/execution were revised with input from GSA.

V. Compliance with Laws and Regulations Findings, Recommendation, and Corrective Action

Finding: The Commission has not complied with the Federal Financial Management Improvement Act.³

Recommendation 1: Assess their current financial management systems to ensure that the systems are in compliance with the FFMIA including the JFMIP standards and OMB Circular A-127.

³ This section also includes recommendations regarding the Commission’s noncompliance with the Accountability of Tax Dollars Act of 2002. The recommendations and the corrective actions for the Accountability of Tax Dollars Act deficiencies are discussed in the internal control section.

Corrective Action:

- *Retain an Appropriate Accounting Services Provider.* In FY06, the Commission's new accounting services provider is using the Pegasys accounting system, a system fully compliant with the Joint Financial Management Improvement Program (JFMIP), and the Financial Management Information Systems (FMIS). GSA also complies with OMB Circular A-123 on internal control over financial reporting and OMB Circular A-127.

- In October 2005, the Commission hired a new director of the Budget and Finance Division to replace the retiring director of that office. New Commission leadership, combined with a new accounting services provider and an experienced chief of the Budget and Finance Division, should place the Commission's financial management systems on steadier ground by the end of FY06.

Recommendation 2: Assess the controls that are in place over the upfront manual processes surrounding the systems to ensure the completeness and accuracy of the information used by the USCCR financial and program managers.

Corrective Action:

- During FY06, with GSA and a retained consulting firm, the Commission will assess the clarity and consistency of its controls (including upfront processes), and their effectiveness in achieving the objective of reasonably ensuring the integrity of information relied upon by program managers and other decision-makers. The Commission will identify risks through management conferences/meetings, the ranking of various activities, and previous assessment reports. Identified risks will be evaluated in terms of significance, and appropriate remedial actions will be taken. The financial consultant's report on Commission financial management will be issued in FY06.

- In March 2005, three new administrative instructions were issued to improve financial accountability. AI 3-15 specifically addressed concerns about the recognition of payroll expenses in the proper period for accounting purposes, AI 3-16 sought to ensure that non-salary expenditures have proper authorization, approval, and supporting documentation, and AI 4-21 provides general guidance to the agency's procurement office on file maintenance and reporting procurement activity.

Recommendation 3: Review the information and services provided by the new accounting services provider to ensure that it meets USCCR's internal and external reporting requirements.

Corrective Action:

In December 2006, key Commission staff and members of the accounting services team agreed to meet bi-weekly to identify and resolve any issues including process, information exchange/communication, and reporting.

Finding: No SAS 70 review of NetSuite

Recommendation 1: Determine that all servicers used by the Commission have performed or will perform an SAS 70 review for each fiscal year. In the instance for which no review is scheduled, USCCR should direct an internal control review be performed. Additionally, USCCR should obtain all SAS 70 reports and maintain them on file.

Corrective Action:

- *Determine the SAS 70 Review Status of the Commission's Payroll Processing Service.* The Commission has determined that the National Finance Center, used by the Commission for processing payroll, has a SAS-70 review report and it is posted on their Web site. A copy will be maintained on file by the Commission.

- *Determine the SAS 70 Review Status of the Commission's Accounting Services Provider.* GSA, though not the Commission's accounting services provider in FY05, did undergo an SAS 70 review for FY05. Their review for FY06 is currently pending; however, a copy of the report will be made available to the Commission. Follow-up with the service provider will occur if a copy is not received by March 2006.

Finding: The Commission Does Not Fully Comply with the Federal Information Security Management Act (FISMA)

Recommendation 1: None Made. The Commission previously completed a FISMA report identifying 12 deficiencies that are currently being reported quarterly to OMB.

Corrective Action:

- The staff position of Information Technology Specialist was vacant during the latter part of FY05. This position is responsible for ensuring agency compliance with FISMA. A job vacancy announcement will be posted by January 17, 2006 soliciting candidates for this position.

Finding: The Commission is not Compliant with Accountability of Tax Dollars Act of 2002.

Recommendation 1: Recommendations related to this finding are presented in the internal control section of the agency's response.

Corrective Action:

- Corrective measures are presented in the internal control section of the agency's response.