

# U.S. Equal Employment Opportunity Commission



## FY 2010 Congressional Budget Justification



Submitted to the Congress  
of the United States  
May 2009



*Fiscal Year 2010  
Congressional Budget Justification*

*U.S. Equal Employment  
Opportunity Commission*

*MAY 2009*

*Submitted to the  
Congress of the United States*



## **OUR VISION**

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***A Strong and Prosperous Nation  
Secured Through a Fair  
and Inclusive Workplace***

## **OUR MISSION**

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***We Promote Equality of  
Opportunity in the Workplace and  
Enforce Federal Laws Prohibiting  
Employment Discrimination***



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**I. INTRODUCTION**

**A. Fiscal Year 2010 Performance Budget Highlights**

The U.S. Equal Employment Opportunity Commission (EEOC) is requesting a budget of \$367,303,000 for fiscal year 2010. This request represents an increase of \$23.378 million from the fiscal year 2009 appropriation.

This fiscal year 2010 performance budget request integrates with our modified Strategic Plan to continue our standard of providing quality service to the public through enforcement and prevention activities. Our enforcement and prevention efforts are captured under our Strategic Objective, *Justice, Opportunity and Inclusive Workplaces*, which is described more fully in Section II.B., the performance section of this document.

**B. Modified Strategic Plan and Budget Structure**

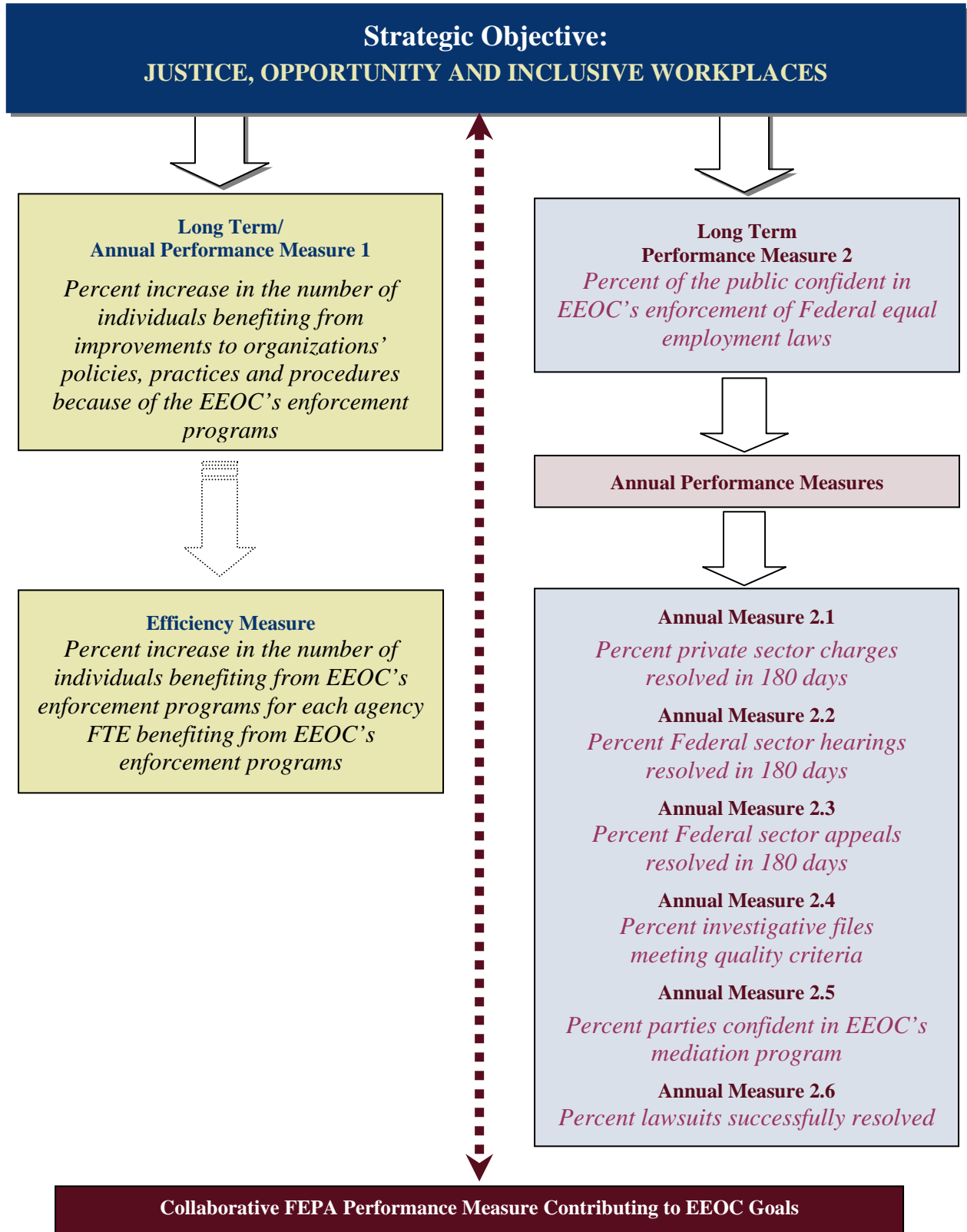
The structure of the performance budget for fiscal year 2010 is based on our modified Strategic Plan for fiscal years 2007 through 2012. Correspondingly, this performance budget aligns with the agency's Strategic Objective of *Justice, Opportunity and Inclusive Workplaces*. The modified Strategic Plan provides the roadmap for the agency to position itself for the future.

The modified Strategic Plan builds upon what the agency has accomplished to improve its operations. It seeks to maintain the agency's momentum by developing a more strategic focus in our enforcement, litigation and federal programs; continuing a strategy to focus on race discrimination; continuing measures to prevent discrimination; and continuing to use Alternative Dispute Resolution (ADR); and ensuring the effective and efficient functioning of the agency's internal operations.

At the beginning of fiscal year 2007, we issued a new Strategic Plan, which emerged from a program assessment of the agency conducted in 2006. During fiscal years 2007 and 2008, the agency reassessed the plan's structure in order to implement the improvement plan developed under the assessment. This effort resulted in modifications we made to the Strategic Plan, which were approved by a Commission vote on July 28, 2008. Because of a change in Administration, we intend to reevaluate our program and issue a new Strategic Plan before the end of fiscal year 2010.

In Section II.B., the Performance Section of this budget request, we elaborate on the alignment of this modified strategic approach for our Strategic Plan; the modifications to our performance measures; and, the steps we have taken to implement the improvement plan. We also describe our Strategic Objective and its relationship to the EEOC's expected long-term outcomes, annual performance measures and our budget request (see chart on Strategic Overview on the next page). Our integrated strategy demonstrates the EEOC's impact on creating fair and inclusive workplaces across the United States.

STRATEGIC PLAN OVERVIEW



**C. Chair's Priorities**

Since the establishment of the EEOC in 1965, much progress has been made in reducing illegal discrimination in the American workplace. Yet discrimination continues to be a substantial problem for too many people in America. Significant work remains to be done.

A key for the EEOC to be successful is a strong law enforcement and litigation program. Concrete steps will be taken to restore capacity to effectively investigate charges and litigate cases. While past EEOC focus has primarily been on individual cases of discrimination, the agency has stated its bipartisan desire to shift emphasis to combating systemic discrimination. A strong systemic program is crucial to battling unlawful patterns or practices of discrimination which have a broad impact on an industry, profession, company, or geographic location.

Recently enacted legislation will improve the EEOC's law enforcement capability. The Lilly Ledbetter Fair Pay Act of 2009 restores the long standing EEOC position that discriminatory compensation decisions or other unlawful practices occur each time compensation is paid. We expect more charges to be filed as a result of this Act. The Americans with Disabilities Act (ADA) Amendments Act of 2008 restores congressional intent of the original ADA, and directs us to construe the term "disability" broadly. We will issue regulations interpreting the Act as well as conduct outreach activities to educate the public. We anticipate that in fiscal year 2010, more than 5,000 charges will be filed which will result in a significant increase to our workload.

In addition, we will address the Genetic Information Non-Discrimination Act (GINA) of 2008, which prohibits public and private employers from using genetic information in making employment decisions. The Commission will provide training programs and technical advice and assistance regarding GINA and its implementing regulations that we will issue in 2009.

Finally, the EEOC will utilize outreach efforts with stakeholder organizations on particular workplace issues or topics in the race context. Additionally, through our enforcement and litigation efforts, we will pursue charges for priority, novel or emerging legal issues in the context of race discrimination.

**D. Meeting the Chair's Priorities**

**Justice, Opportunity and Inclusive Workplaces**

Revitalizing the Commission's capacity to perform its law enforcement function is a top priority for the Commission. The Commission plans to increase capacity to effectively investigate, conciliate, and litigate a growing number of charges. The systemic program is another key part of this strategy. To augment enforcement of Title VII, the ADEA, the EPA, the ADA, and GINA, we have embarked upon an enhanced nationwide systemic enforcement program. To this end, each district office has developed a comprehensive systemic plan for identifying, administratively investigating, conciliating and litigating systemic discrimination charges and cases within their respective geographical jurisdictions nationwide. These plans will

be reviewed and integrated into a national program in an effort to create a consistent and effective effort around the nation.

The Commission continues to issue and revise regulations and sub-regulatory documents, such as enforcement guidance, technical assistance publications and informal discussion letters, in response to trends in the development of the law and stakeholder needs. Over the course of fiscal year 2010, statutory changes that may occur will impose on the Commission the responsibility for revising and updating various regulations and guidance documents.

### **Pursuing Organizational Excellence**

The effective management of our human, financial and technological resources will continue to impact the Agency's efforts toward achieving organizational excellence. Office staffing needs and competencies will be assessed and updated so that we recruit and train for the right skill-sets in our mission critical and other key occupations. The performance management system for executives, managers and supervisors and for non-supervisory employees will be linked effectively with agency's mission and goals. Executives and managers will utilize the results of human capital surveys to gauge employee satisfaction and to inform action plans to enhance their office environments and improve results. Leadership assessments and succession planning will be incorporated into agency's training plans and development programs.

In 2008, the EEOC's Information Technology (IT) program focused on implementing mandatory initiatives, such as distribution of the Federal Desktop Core Configuration and testing Internet Protocol version 6 (IPv6). During fiscal year 2008, the EEOC also deployed online filing capacity for the Electronic Assessment System (EAS) which allows a member of the public, through the EEOC website, to submit a completed questionnaire electronically and have the information populate into EEOC's Integrated Mission System (IMS). During the first half of fiscal year 2009, the primary focus was on successfully moving the EEOC Headquarters, Data Center, and core nationwide network to a new location. During the second half of 2009, EEOC will identify strategies to avoid the escalation of maintenance costs and lower the operational risks associated with our aging infrastructure. Studies are underway to assess managed services, virtualization, consolidation, cloud-computing (software-as-a-service) and improved IT service management. We will also refresh outdated video conferencing equipment to enhance communication capabilities.

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**E. Staffing and Funding Profile**

Table 1 below displays the EEOC's total agency staffing and funding profile by Strategic Objective and Program for fiscal years 2008 through 2010.

**Table 1: Total Agency Staffing and Funding Profile  
(Dollars in thousands\*)**

	<b>FY 2008 (Actual)</b>	<b>FY 2009 (Estimate)</b>	<b>FY 2010 (Request)</b>	<b>Change From FY 09 (+/-)</b>
<b>Strategic Objective – Justice, Opportunity and Inclusive Workplaces</b>				
1. Private Sector Enforcement	\$254,638	\$269,630	\$291,971	\$22,341
State and Local	\$27,997	\$26,000	\$26,000	0
2. Federal Sector Enforcement	\$46,482	\$48,295	\$49,332	\$1,037
<b>Agency Total</b>	<b>\$329,117</b>	<b>\$343,925</b>	<b>\$367,303</b>	<b>\$23,378</b>
<b>Full Time Equivalents as of Year End</b>	<b>2,176</b>	<b>2,330</b>	<b>2,470</b>	<b>140</b>
<b>Full Time Equivalent Ceiling</b>	<b>2,381</b>	<b>2,556</b>	<b>2,556</b>	<b>0</b>

\*may not add due to rounding

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**F. Analysis of Change**

**Fiscal Year 2010  
(Dollars in thousands\*)**

	<b>FTE</b>	<b>Amount</b>
<b>Fiscal Year 2009 - Includes Reimbursable FTE from Revolving Fund</b>	2,556	\$343,925
Adjustment to reflect a portion of the number of unfunded FTE (i.e., investigators, mediators, attorneys, and staff support)	(224)	
<b>Compensation and Benefits</b>		
1. Annualization of FY 2009 Pay Raise (3.9%)		2,338
2. FY 2010 Pay Raise (2%)		3,743
3. New Hires (i.e., investigators, mediators, attorneys and staff support) Provide funding to address a growing charge inventory and to implement the ADA Amendments Act of 2008, Lilly Ledbetter Fair Pay Act of 2009, and Genetic Information Non-Discrimination Act (GINA) of 2008	224	13,000
<b>Other</b>		
4. Funding increase for inflation at .5% for non-pay program and operating expenses (e.g., Information Technology, DHS Security, and Relocation)		4,297
<b>FY 2010 Request - Includes reimbursable FTE from Revolving Fund</b>	<b>2,556</b>	<b>\$367,303</b>
<b>Total Net Change FY 2009 - 2010</b>	<b>0</b>	<b>23,378</b>

\*may not add due to rounding

**G. Analysis of Change - Highlights**

<b>Changes</b>	<b>Amount (\$000)</b>
<p><b>1. Annualization of FY 2009 Compensation and Benefits</b></p> <p>Provides for annualization of the FY 2009 pay raise of 3.9% that was effective January 2009.</p>	2,338
<p><b>2. FY 2010 Pay Raise</b></p> <p>Provides 2% pay raise which includes locality pay, effective January 2010 for three-quarters of the fiscal year plus benefits consistent with Administration policy.</p>	3,743
<p><b>3. New Hires</b></p> <p>Funding provided to hire an additional 224 FTEs to reduce agency private sector charge backlog. Also, funding to implement the Americans with Disabilities Act (ADA) Amendments Act of 2008, Lilly Ledbetter Fair Pay Act of 2009, and Genetic Information Non-Discrimination Act (GINA) of 2008, (i.e., investigators, mediators, attorneys and support staff)</p>	13,000
<p><b>4. Other</b></p> <p>Funding increase for inflation at .5% is provided for non-pay program and operating expenses.</p> <p>Information Technology – Provides for funding to update and maintain Information Technology, including end user tools and technologies for new hires; migration to Vista-capable laptops/desktops that support two-factor authentication using new HSPD-12 compliant Federal ID; expand video-conferencing and update e-mail/e-discovery to better support systemic enforcement and litigation; and integrate case management and document management technologies.</p> <p>DHS Security – Provides for funding to increase security to level IV at the headquarters location and maintain security at our 53 field offices.</p> <p>Relocation – Provides for funding to relocate offices Agency wide due to expiring leases. See page 41, Office Relocations, Right-sizing and Rehabilitations.</p>	4,297
<b>Total Change FY 2009 – FY 2010</b>	<b>23,378</b>

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**H. Appropriation Language**

U.S. Equal Employment Opportunity Commission

**SALARIES AND EXPENSES**

For necessary expenses of the Equal Employment Opportunity Commission as authorized by Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Equal Pay Act of 1963, the Americans with Disabilities Act of 1990, the Civil Rights Act of 1991, the Genetic Information Non-Discrimination Act (GINA) of 2008, the ADA Amendments Act of 2008, and the Lilly Ledbetter Fair Pay Act of 2009 including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); non-monetary awards to private citizens; and not to exceed \$26,000,000 for payments to state and local enforcement agencies for authorized services to the Commission, [\$343,925,000] *\$367,303,000: Provided, That the Commission is authorized to make available for official reception and representation expenses not to exceed \$2,500 from available funds: Provided further, That the [Commission may take no action to implement any workforce repositioning, restructuring, or reorganization until such time as the House and Senate Committees on Appropriations have been notified of such proposals, in accordance with the reprogramming requirements of section 505 of this Act] Chair is authorized to accept and use any gift or donation to carry out the work of the Commission.*

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**II. STRATEGIC OBJECTIVE – JUSTICE, OPPORTUNITY AND INCLUSIVE WORKPLACES**

**A. Introduction**

The budget request for fiscal year 2010 is \$367,303,000. The EEOC is the nation's primary enforcer of the civil rights employment laws, which prohibit discrimination on the basis of race, national origin, color, religion, sex, age, disability, and genetic information. The agency began its work in 1965 for the purposes of handling charges of discrimination and securing relief for victims of discrimination. More than 40 years later, the public continues to rely on the Commission to carry out these fundamental responsibilities and bring justice and opportunity to the workplace. Our fight against discrimination goes beyond enforcing the law. One way to combat workplace discrimination is to prevent it from happening in the first place. Educating employers and workers about their rights and responsibilities under the law is the first step toward promoting an inclusive workplace.

EEOC's major activities are investigating and resolving charges of employment discrimination; litigating complaints of discrimination; conducting hearings, resolving appeals of discrimination complaints and promoting equal employment opportunity in the federal workplace; and educating employers and employees about their rights and responsibilities. All of these activities are done in the service of four shared goals:

- remedying and deterring unlawful employment discrimination;
- increasing compliance with the federal equal employment laws; and
- increasing individual awareness and understanding of rights and responsibilities.
- increasing public confidence in the fair and prompt resolution of employment discrimination disputes;

We measure our ability to achieve these outcomes through the Long-Term, Efficiency, and Annual Measures in our Strategic Plan. These measures indicate the degree of our success by assessing the number of individuals benefited from our enforcement programs and by assessing the public's confidence in our enforcement of the laws.

Our requested funding will enable us to strive toward meeting the goals and measures we have adopted, which include our two long-term performance measures, six annual performance measures, and one efficiency measure in our modified Strategic Plan for fiscal years 2007 through 2012. We discuss each performance measure in Section B.

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Table 2 outlines our budget information under our Strategic Objective for the agency's enforcement and outreach programs for fiscal years 2008 through 2010. Our performance measures, the agency's activities, and the requested budget are described in more detail in subsequent sections.

<b>Table 2: Fiscal Year 2010 Budget Request by Program Element (Dollars in thousands*)</b>			
	<b>FY 2008 Actual</b>	<b>FY 2009 Estimate</b>	<b>FY 2010 Request</b>
<b>Private Sector Enforcement</b>	\$270,305	\$282,819	\$309,971
<b>Administrative Charge Processing</b>	\$162,443	\$173,839	\$199,332
<b>Mediation</b>	\$22,452	\$23,328	\$23,794
<b>Litigation</b>	\$57,413	\$59,652	\$60,845
<b>State and Local</b>	\$27,997	\$26,000	\$26,000
<b>Federal Sector Enforcement</b>	\$46,482	\$48,295	\$49,332
<b>Hearings</b>	\$27,838	\$28,924	\$29,502
<b>Appeals</b>	\$12,898	\$13,401	\$13,669
<b>Mediation</b>	\$830	\$862	\$890
<b>Oversight</b>	\$4,916	\$5,108	\$5,271
<b>Outreach (Non-fee based)</b>	\$12,330	\$12,811	\$8,000
<b>Total</b>	<b>\$329,117</b>	<b>\$343,925</b>	<b>\$367,303</b>

\*may not add due to rounding

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**Table 3 – Object Class Schedule – Agency Summary**

Requirements by Object Class (Dollars in thousands*)			
<b><u>OBLIGATIONS BY OBJECT CLASS (\$000)</u></b>	<b><u>FY 2008</u></b> <b><u>Actual</u></b>	<b><u>FY 2009</u></b> <b><u>Estimate</u></b>	<b><u>FY 2010</u></b> <b><u>Request</u></b>
<b>Personnel Compensation</b>			
11.1 Full-time permanent (FTP)	\$177,972	\$201,037	\$215,509
11.3 Other than FTP	3,698	6,645	6,645
11.5 Other personnel compensation	1,648	1,024	1,040
<b>Total Personnel Compensation</b>	<b>183,318</b>	<b>208,706</b>	<b>223,194</b>
12.1 Civilian personnel benefits	46,770	49,301	52,182
13.1 Benefits to former personnel	50	50	100
<b>Total Compensation and Benefits</b>	<b>230,138</b>	<b>258,057</b>	<b>275,476</b>
21.1 Travel of persons	3,158	2,011	3,072
22.0 Transportation of things	3	1	1
23.1 Other rent/communications	7,276	7,400	7,416
23.2 Rental payment to GSA	26,707	29,300	27,594
24.0 Printing and reproduction	166	171	125
25.0 Other Services	13,677	11,160	16,336
25.0 Litigation Support	3,567	3,000	3,544
25.0 State & Local	27,997	26,000	26,000
25.0 Security Services (including DHS)	3,147	4,400	5,239
26.0 Supplies and materials	3,633	2,000	2,000
31.0 Equipment	1,648	425	500
32.0 Land & Structure	8,000	0	0
<b>Total Other Objects</b>	<b>98,979</b>	<b>85,868</b>	<b>91,827</b>
<b>Agency Total</b>	<b>\$329,117</b>	<b>\$343,925</b>	<b>\$367,303</b>
<b>Full Time Equivalents (FTE)</b>	<b>2,176</b>	<b>2,556</b>	<b>2,556</b>

\*may not add due to rounding

**B. Performance Measures and Results**

The current Strategic Plan covers fiscal year 2007 through fiscal year 2012. It was initially issued by the Chair without Commission approval on October 1, 2006 (fiscal year 2007), and established a framework to address many of the areas raised in the agency's program assessment in 2006.

The new measurement structure and approach developed during the assessment is expected to enable us to enhance our program and the services we deliver to the public. The improvement plan to address key assessment findings focuses on three broad areas: 1) identifying and implementing challenging annual targets and final outcome goals for all agency performance measures; 2) developing in collaboration with its state and local partners methods for measuring performance that supports the agency's goals; and 3) continuing to implement structural changes and other recommendations to improve efficiency and effectiveness of the program.

During fiscal years 2007 and 2008, we began to address all three elements. The Strategic Plan we issued at the beginning of fiscal year 2007 addressed the first element of the improvement plan. We subsequently engaged in extensive agency reviews of the performance structure and performance measures that were initially included in our Strategic Plan based on the assessment. Our reviews resulted in several adjustments that modified the Strategic Plan. These modifications are included in the current performance measurement structure graphically displayed on page 2. (Also, see Appendix A, *Interim Adjustments to the Strategic Plan*, on page 53 for a description of the specific modifications made to the Strategic Plan.) On July 28, 2008, the Commission approved the current configuration of the Plan, including adjustments to some performance measure baselines and annual targets, which are explained under the relevant measures in the following pages.

During this time, we also have been working extensively with state and local Fair Employment Practices Agencies (FEPAs) to identify one or more forms of measurement that will reflect the FEPAs' contribution toward achieving EEOC's strategic goal and its mission. To ensure collaboration in developing a measure, during fiscal year 2007 we established and tasked a joint EEOC/FEPA Work Group with identifying potential functions to measure. The Work Group was comprised of both EEOC staff and representatives from several FEPAs around the country. The Work Group, in developing its final recommendation, took into consideration information received from many of the FEPAs in response to the Work Group's initial draft proposal as well as discussions and presentations during the annual Fiscal Year 2008 EEOC/FEPA Conference. The Work Group's final recommendation is pending review and approval at this time.

The resources requested in this performance budget are focused on maintaining the reach of our enforcement and outreach programs and promoting public confidence in our ability to resolve charges of discrimination in a timely, accurate, and consistent manner. We will measure our success by assessing the number of individuals benefiting from our enforcement programs and by assessing the public's confidence in our enforcement of federal equal employment laws.

**Long-Term/Annual Measure 1**

Long-Term/Annual Measure 1

By FY 2012, the number of individuals benefiting from improvements to organizations' policies, practices and procedures because of EEOC's enforcement programs increases by 20.2%.

	2007	2008	2009	2010	2011	2012
Target	Establish Baseline	2%	10%	12.2%	15.6%	20.2%
Results	1,626,000 individuals	222.9%				

We believe it is important to measure our success by looking beyond the monetary and equitable relief we secure through our enforcement actions. Our Long-Term/Annual measure focuses on tracking the improvements that are made in the workplace as a direct result of our enforcement programs. We selected this measure because, when we secure changes in employment policies, practices and procedures through our enforcement programs, we have a positive impact not only on the immediate victims of discrimination, but also on all individuals in the affected workplace. Through organization-wide changes, individuals benefit from a more inclusive workplace and have greater opportunities to compete on a level playing field. With the agency's renewed emphasis on combating systemic discrimination, we expect to make significant increases over time in the number of individuals who benefit from our enforcement activities.

The Long Term/Annual Measure was developed to focus on all enforcement services we provide to the public that result in workplace benefits. These results include benefits from administrative resolutions (including mediation), litigation resolutions, and federal sector hearings and appeals resolutions. Beginning in fiscal year 2005, we began collecting data on the number of individuals benefited through private sector administrative resolutions (including mediations) only. Based on that experience we adapted the same data collection approach for our enforcement programs and established annual targets and our final goal for fiscal year 2012.

This measure was developed during the 2006 program assessment of EEOC and was included in the agency's new Strategic Plan issued at the beginning of fiscal year 2007. We subsequently established annual targets and a final goal based on our limited experience with the data we had already been collecting for several years for our administrative charge processing program. It was important to include all of our enforcement programs in the measure, but it was difficult to estimate their effect on the final results. In addition, there was the strong possibility that one or two large enforcement actions against a nationwide entity could affect the results in a significant way in any one year. For example, in fiscal year 2008, two large resolutions—one in our administrative charge program and another in our federal sector hearings program—contributed extensively to this year's results. Approximately 51% of the total number of individuals benefiting from our enforcement programs in fiscal year 2008 was from these two resolutions. If the number of these individuals were removed from the total, we benefited approximately 2.5 million individuals, or about a 57% increase over our fiscal year 2007

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baseline. This is still a significant increase over the previous fiscal year and over our target for fiscal year 2008.

Our fiscal years 2009 and 2010 annual targets for this measure are to increase the number of individuals benefiting from improvements to organizations’ policies, practices and procedures by 10% and 12.2%, respectively, over the fiscal year 2007 baseline. Although our fiscal year 2008 results were substantially above these levels, we will retain the current target levels for now, so that we can use the results for at least one more year before reevaluating them

*Relationship Between Annual Program Performance Goals  
and the Strategic Goal Framework*

The Long-Term/Annual Measure is linked to the EEOC’s Strategic Objective by focusing on the combined results of all three of our distinct, but complementary, enforcement programs. By combining results of the enforcement programs in this one measure, we ensure that our programs work toward a common goal rather than in competition with one another. If we measured the results separately at each step of the charge process, rather than as a combined result, a resolution providing benefits for the charging party at one step logically would eliminate the ability to resolve the charge at some other step in the process. By measuring the result achieved from all of our enforcement programs as a whole, we make sure that the various programs support and complement one another, while maximizing the total number of individuals benefited.

**Efficiency Measure**

Efficiency Measure

By FY 2012, the number of individuals benefiting from improvements to organizations’ policies, practices and procedures because of EEOC’s enforcement programs for each agency FTE increases by 11.7%.

	2007	2008	2009	2010	2011	2012
Target	Establish Baseline	1.8%	2.2%	4.3%	7.4%	11.7%
Results	753.5 individuals	220.2%				

Enhancing the number of working people who benefit for each agency Full-Time Equivalent (FTE) position demonstrates our efficiency, because over 70% of the agency’s budget is dedicated to compensation and benefits. This entirely new area of measurement relies on the number of individuals benefited by our enforcement programs, which are collected for Long-Term/Annual Measure 1. As noted in connection with that measure, we identified annual targets and established our final goal for fiscal year 2012.

The correlation to our FTE level is appropriate as it recognizes that our staff are the direct contributors to positive change in the workplace and because staff levels are susceptible to



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change. We believe that this measure is a compelling indicator of the efficiency of our operations.

The agency had 2,176 Full-Time Equivalent (FTE) positions at the end of fiscal year 2008. Approximately 5.25 million individuals benefited through our enforcement programs (as reported for Long Term/Annual Measure 1), because of improvements to policies, practices or procedures. Therefore, approximately 2,412.7 individuals benefited for every FTE. This was an increase of 220.2% over the fiscal year 2007 baseline, compared to our 1.8% target increase for fiscal year 2008. Absent the two large case resolutions discussed in the previous measure, 1,170.5 individuals benefited for each FTE; or a 55.3% increase over the fiscal year 2007 baseline. Our fiscal years 2009 and 2010 targets are to achieve a 2.2% and 4.3% increase over the baseline, respectively. Although our increase for fiscal year 2008 was substantially above this target, as we similarly noted under Long Term/Annual Measure 1, at this time we will retain the current target levels so that we can reevaluate this measure for any unintended consequences on our work and obtain another year of data, if appropriate, to assess the agency's established target levels.

**Long-Term Measure 2**

Long-Term Measure 2                      By FY 2012, the public rates its confidence in EEOC’s enforcement of federal equal employment laws at 65% or higher.

	2007	By the end of FY 2010	By the end of FY 2012
Target	Establish Baseline	63%	65%
Results	61%	Results Available in FY 2010	

If the public is aware of our enforcement activities and believes that we have handled discrimination complaints effectively, they will be more likely to rely on us to investigate, mediate, litigate, adjudicate a federal complaint, and otherwise resolve allegations of discrimination. Additionally, if the agency’s reputation is one of a fair and responsible enforcer of the civil rights employment laws, then employers, attorneys and other members of the public will be more likely to defer to our assessment of discrimination complaints and commit to voluntary compliance through mediation, settlement or conciliation.

To measure the public’s confidence in the agency’s enforcement of the federal equal employment opportunity laws, the agency engaged a private organization to conduct a survey in fiscal year 2007 of a representative sample of individuals nationwide. From that survey, we were able to establish a baseline value for fiscal year 2007, and a two-staged multi-year approach to reach a final goal by fiscal year 2012.

The agency previously identified a lower percentage value as its 2007 baseline from the survey results and initially established lower multi-year targets. During fiscal year 2008, the agency re-evaluated the responses from the survey participants and the methodology used to estimate the baseline value for this measure. As a result of this re-evaluation, the agency adjusted its baseline and its targets/final goal to indicate that more respondents to the survey reflected confidence in EEOC’s enforcement of the laws it enforces. The Commission approved the modified approach with its July 28, 2008 vote on the Strategic Plan. (A further explanation is provided in Appendix A, *Interim Adjustments to the Strategic Plan*, on page 53.) Improvements in confidence will be measured in multi-year intervals to provide enough time to be able to measure reasonable changes in the nationwide results. In addition to the efforts to achieve the six Annual Measures, which are linked to improvements in the public’s confidence in EEOC’s enforcement efforts, we anticipate engaging in other initiatives that will influence this measure. We will obtain new results when we conduct a follow-up survey during fiscal year 2010 to measure any change in the nationwide results for this measure.

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*Relationship Between Annual Program Performance Goals  
and the Strategic Goal Framework*

Annual Measure 2.1      At least 54% of private sector charges are resolved in 180 days or fewer by FY 2012.

	2007	2008	2009	2010	2011	2012
Target	72%	48%	48%	48%	51%	54%
Results	55.7%	48.5%				

Annual Measure 2.2      At least 54% of federal sector hearings are resolved in 180 days or fewer by FY 2012.

	2007	2008	2009	2010	2011	2012
Target	50%	50%	50%	52%	53%	54%
Results	42.8%	38.6%				

Annual Measure 2.3      At least 70% of federal sector appeals are resolved in 180 days or fewer by FY 2012.

	2007	2008	2009	2010	2011	2012
Target	60%	62%	64%	66%	68%	70%
Results	60.7%	63.3%				

Annual Measures 2.1, 2.2, and 2.3 focuses on the resolution of private sector charges, federal sector hearings, and federal sector appeals. We have established final goals for fiscal year 2012 for all of these measures, as reflected in the modifications made to this Strategic Plan. In recognition of the maxim that justice delayed is justice denied, these measures ensure the timely resolution of complaints in each of our major complaint handling activities. The agency is concerned however that the 180 day measures may have unintended negative consequences and we will be reevaluating these measures when considering a new strategic plan.

The goal of resolving private sector charges within 180 days is important to containing the overall average charge processing time. The Commission approved modifications to the agency's Strategic Plan, which resulted in revisions to the annual targets and final goal for Annual Measure 2.1. based upon several compelling reasons; such as, dramatically increasing workload, declining staff and increased statutory responsibilities (see Appendix A, *Interim Adjustments to the Strategic Plan*, on page 53). The agency moderately exceeded its modified fiscal year 2008 target at 48.5%. Our annual target for fiscal years 2009 and 2010 will remain at 48%, as we increase our efforts to maintain this level of timely service and the quality of our investigations depending upon staffing resources to handle the growing inventory of charges (see our results for Annual Measure 2.4, below).

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Annual Measure 2.2 addresses the resolution of federal sector hearings within 180 days. Although the targets and final goal reflects the agency’s commitment to continue the timely handling of federal sector hearings, our results compared to the annual targets have been difficult to maintain since fiscal year 2006, when the target rose to 50%. The annual target remains 50% through fiscal year 2009 and then rises from 52% for fiscal year 2010 to 54% as a final goal for fiscal year 2012. Our efforts to achieve this goal have become more difficult because of increasing workloads and decreasing staff, as well as greater attention being focused on enhancing the quality of hearings. For fiscal year 2008 we resolved 38.6% of the hearings within 180 days or fewer. We will renew efforts to achieve the 50% target for both fiscal years 2009 and 2010; however, as with Annual Measure 2.1, we will also reevaluate this measure for unintended consequences on our work as we prepare our new Strategic Plan.

Annual Measure 2.3 addresses the resolution of federal sector appeals within 180 days or fewer. The annual targets for this measure have consistently increased and the agency has been able to achieve them every year. Fiscal year 2008 was another successful effort where the agency resolved 63.3% of its appeals within 180 days or fewer, exceeding our target of 62%. The target for fiscal year 2009 increases by 2 percentage points to 64% and another 2 percentage points to 66% for fiscal year 2010. Although we aim continue to increase the proportion of appeals resolved within the time frame at this time, we will also reevaluate this measure for unintended consequences.

Annual Measure 2.4      At least 93% of investigative files meet established criteria for quality by FY 2012.

	2007	2008	2009	2010	2011	2012
Target	88%	90%	90%	91%	92%	93%
Results	93.5%	97.0%				

Annual Measure 2.4 ensures that investigative files meet quality standards. As reflected in the modifications, we also established a final goal for this measure. Quality is determined by a large proportion of sampled investigative files reviewed meeting two critical quality criteria: 1) the appropriate charge categorization and file documentation supports the actions taken; and, 2) the resolution of the charge is supported. This measure is intended to ensure that we do not complete our work quickly at the expense of performing our work well. The annual targets for this measure have increased since the baseline was established in fiscal year 2005 and we have exceeded these targets each year. Fiscal year 2008 is another year we exceeded the target. Although we are retaining the 90% target for fiscal year 2009, we have increased the annual targets by 1 percentage point each year from fiscal years 2010 to 2012.

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Annual Measure 2.5                      At least 95% of respondents and charging parties report confidence in EEOC’s private sector mediation/ADR program by FY 2012.

	2007	2008	2009	2010	2011	2012
Target	90%	91%	92%	93%	94%	95%
Results	95.8%	96.5%				

Annual Measure 2.5 focuses on the EEOC’s mediation/ADR program. We recognize that the public’s confidence in our mediation program has a significant impact on its perception of the EEOC as a whole. We obtain results for this measure by surveying participants in EEOC’s mediation program and tabulating responses about their confidence in using the program. This measure has been used by the agency since 2004, so we have significant trend data upon which to base our targets. The confidence level in this program is consistently high. With the recent approval of the Strategic Plan, which significantly increased the final goal, the Commission recognized the need to enhance the results for this measure because a high level of confidence helps to convince participants, particularly company representatives, of the value of alternative dispute resolution. The Commission year-end results of 96.5% of the respondents and charging parties reporting confidence in EEOC’s ADR program exceeded the increased fiscal year 2008 target of 91% for this measure. We have raised the annual targets to 92% for fiscal year 2009 and 93% for fiscal year 2010.

Annual Measure 2.6                      At least 90% of EEOC lawsuits are successfully resolved during the period ending in FY 2012.

	2007	2008	2009	2010	2011	2012
Target	90%	90%	90%	90%	90%	90%
Results	91.5%	91.2%				

Annual Measure 2.6 places a premium on maintaining the high level of successful resolutions in our litigation program. Successful resolutions include cases decided by favorable court order and those concluded through a consent decree or a settlement agreement in litigation. Achieving success on this measure will ensure that we continue to exercise our prosecutorial discretion responsibly, while allowing us to take on challenging issues and litigate complex cases, including cases of systemic discrimination. As our systemic litigation program gets underway, this measure remains significant because the achievement of success in systemic cases is challenging and resource-intensive. We exceeded our goal again this year with a 91.2% litigation success rate based on the results of a three-year weighted average (fiscal years 2006 to 2008). The success rate for fiscal year 2008 alone was 92.0%. Although we are continuing this ambitious target level in both fiscal years 2009 and 2010, we also intend to reevaluate this measure in conjunction with the evaluation of our “timeliness” measures to ensure that there are no unintended consequences on our work.

**Collaborative FEPA Measure Contributing to EEOC Goals**

The Commission's improvement plan, based upon the 2006 program assessment of the agency, includes an initiative for the agency to develop, in collaboration with its partners, the Fair Employment Practices Agencies (FEPAs), methods for measuring FEPA performance that support the agency's mission and goals. Throughout fiscal years 2007 and 2008, we engaged in efforts with the FEPAs to identify measures, currently under review, that will focus on the contributions made by the many FEPAs nationwide to the achievement of EEOC's goals. Once the measurement approach is approved, data will be collected and analyzed in order to establish annual targets and a final goal. This cooperative effort with the FEPAs will enhance our relationships and our mutual interests in improving the enforcement of our respective employment discrimination laws.

**C. Program Areas**

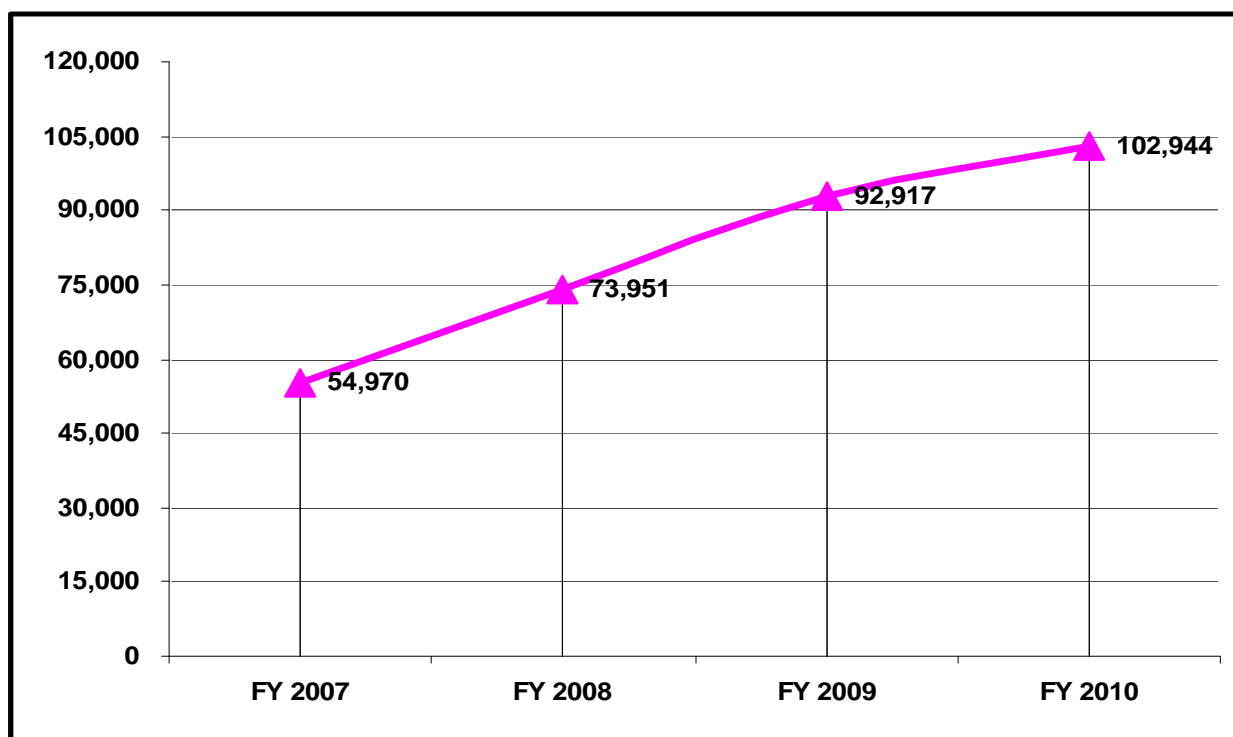
**1. Private Sector Enforcement**

*Charge Processing*

As part of the emphasis of our mission-driven responsibility to enforce the federal equal employment opportunity laws, we also recognize that we must be sufficiently prepared to meet emerging trends and issues in the workplace. Charge filings in recent years have increased due, in part, to improved public access to the EEOC through changes to our intake practices as well as our Intake Information Group, which handles calls from the public directed to our toll-free number, and with access to our Electronic Assessment System (EAS) which lets members of the public begin their charge inquiry process on-line. While incorporating our actual mid-year data for fiscal year 2009 into our workload projections reflects a lack of growth in receipts during the fiscal year, we do anticipate that in fiscal year 2010, due to economic conditions and increased statutory responsibility that our inventory will grow by almost 9%. This will result in the agency ending the fiscal year with a pending inventory of 102,944 charges, which is 39% higher than the inventory at the end of fiscal year 2008 (73,951). As reflected in Chart 1 and Table 4, we expect that providing the additional FTE requested in the President's Budget will help us to begin to slow the growth of that backlog. We remain concerned about this inventory but are committed to timely and efficiently investigating charges and providing efficient customer service within our resource constraints.

In addressing the growing inventory reflected in the chart below and Table 4, the Commission has to recover from a significant period where the investigator staffing levels declined from a high of 917 investigators in fiscal year 2000 to 646 investigators in fiscal year 2008. As a result, the influx of resources in fiscal year 2009 and particularly in fiscal year 2010 will allow us to begin to return to investigator levels that will support both the vigorous enforcement of the Nation's civil rights laws and the enhanced management of the growing inventory, with 831 investigators projected by the end of fiscal year 2010. With the investigator levels still well below the figure at the beginning of the decade, coupled with the climbing inventory reflected on Chart 1, investigators must carry a significantly higher workload of charges. As a result, this has a significant effect on the ability of investigators to effectively manage their workload and leads to delays in processing the charges, oftentimes resulting in staff having to spend more time responding to concerns from the parties to a charge about the delays rather than spending time on actually investigating the charge. For instance, EEOC achieved an average charge processing time of 160 days in fiscal year 2003 and in the intervening years where new hiring was restricted, including not being able to fill most investigator vacancies, the average processing time grew to 229 days in fiscal year 2008. The increase in processing time, combined with the growth in the charge receipts, with a jump of more than 15% in fiscal year 2008, has resulted in a spiraling inventory that must be addressed through a long-term approach of increased resources and dedicated management attention.

**Chart 1: Private Sector Charges Pending Inventory at Year End for Fiscal Years 2007 through 2010**



Additionally, our growing pending inventory projections reflect the impact from major legislative changes that occurred recently to enhance the equal employment rights of individuals in the American workforce. These laws are: the ADA Amendments Act (ADAAA) of 2008; the Genetic Information Non-Discrimination Act (GINA) of 2008; and the Lilly Ledbetter Fair Pay Act of 2009. All of these changes contribute to the growing level of receipts the agency anticipates in fiscal year 2010. The specific impact of each of these three legislative changes is discussed below.

During Fiscal Year 2008, Congress passed the ADA Amendments Act (ADAAA) of 2008 which directs us to construe the term “disability” broadly, issue new regulations interpreting the Act, and conduct outreach and education activities to ensure that the public is knowledgeable about the change. While the law took effect in January 2009, many potential charging parties are not aware of the new law. We believe that the real impact of the ADAAA will be seen in our charge receipts in fiscal year 2010. As public knowledge of the ADAAA grows, we anticipate disability charges to compose a greater percentage of our total workload. To calculate the projected increase in receipts, we have reviewed both our historical charge receipt and workload patterns prior to court decisions in the mid- 1990’s through the Supreme Court decisions in the Sutton trilogy of cases in 1999, which narrowly limited ADA’s coverage. We have also examined the more recent experiences of those FEPAs which have disability statute provisions similar to the ADAAA. Based on these analyses, we anticipate that this Act will result in an additional 5,561 charge filings for the agency during fiscal year 2010.



With the implementation of the Genetic Information Non-Discrimination Act (GINA) of 2008, which becomes effective in November 2009, we also developed projections of the impact this new law will have on our charge receipts. GINA prohibits public and private employers from using genetic information about individuals in making employment decisions. In calculating the potential number of charges arising under GINA, we again turned to the experience of our FEPA partners with jurisdiction over laws prohibiting genetic discrimination (Delaware, Kentucky and Vermont). Utilizing the consolidated ratio of 1.2% of charges alleging genetic discrimination received by these three FEPAs and applying this to the projected number of our charge receipts in fiscal year 2010, we have conservatively projected 1,000 new charges in our workload calculations.

Also, in Fiscal Year 2009, the Lilly Ledbetter Fair Pay Act of 2009 became law. This legislation provides clarification that discriminatory compensation decisions or other unlawful practices occur each time compensation is paid. Based upon our analyses of our charge activity prior to the Supreme Court's Ledbetter decision and our current levels of charge receipts, we anticipate additional charge filings because of this legislative change, in the range of 200-300 annually.

Beyond these legislative actions, we also recognize that various economic factors, including unemployment rates, lay-offs, and company closures and restructuring all can have an effect on the level of charges filed by the public. We continue to measure the impact of these changes on our workload. Additionally, we have worked to make changes to improve public access to the EEOC through changes to our intake practices. We also have focused on our customer service through our Intake Information Group, which handles calls from the public directed to our toll-free number and through our Electronic Assessment System (EAS) which lets members of the public begin their charge process on-line.

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Table 4 below shows our workload projections for our Private Sector Enforcement activity and our mediation efforts for fiscal years 2008 through 2010. Table 5 on page 27 provides workload estimates by statute for fiscal years 2008 through 2010.

<b>Table 4: Private Sector Enforcement Program Workload Table</b>						
<b>Workload/Workflow</b>	<b>FY 2008 (Actual)</b>	<b>FY 2009 (Estimate)</b>	<b>FY 2010 (Estimate)</b>	<b>FY 2011 (Estimate)</b>	<b>FY 2012 (Estimate)</b>	<b>FY 2013 (Estimate)</b>
<b>Workload</b>						
Total Pending Charges **	56,964	73,951	92,917	102,944	119,614	138,470
Total Receipts	95,402	91,902	100,155	108,588	108,588	108,588
Net FEPA Transfers	2,666	2,666	2,666	2,666	2,666	2,666
<b>Total Workload</b>	<b>155,032</b>	<b>168,519</b>	<b>195,738</b>	<b>214,198</b>	<b>230,868</b>	<b>249,724</b>
<b>Resolutions</b>						
<b>Successful Mediations</b>	8,840	7,671	7,748	8,010	8,010	8,010
From Contract	1,494	963	344	344	344	344
From Staff	7,346	6,708	7,404	7,666	7,666	7,666
<b>Administrative Enforcement Resolutions</b>	72,241	67,931	85,407	86,573	84,388	84,388
<b>Total Resolutions</b>	<b>81,081</b>	<b>75,602</b>	<b>92,794</b>	<b>94,583</b>	<b>92,398</b>	<b>92,398</b>
<b>Charges carried forward</b>	<b>73,951</b>	<b>92,917</b>	<b>102,944</b>	<b>119,615</b>	<b>138,470</b>	<b>157,326</b>

\*may not add due to rounding

\*\* FY 08 Pending beginning adjusted to reflect charge activity spanning fiscal years.

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**Table 5: Workload/Workflow by Statute**

	<b>FY 2008 (Actual)</b>	<b>FY 2009 (Estimate)</b>	<b>FY 2010 (Estimate)</b>	<b>FY 2011 (Estimate)</b>	<b>FY 2012 (Estimate)</b>	<b>FY 2013 (Estimate)</b>
Title VII Only						
Charges filed	54,482	53,234	53,258	53,258	53,258	53,258
Charges resolved	45,846	43,794	53,754	54,790	53,524	53,524
Title VII with concurrent's*						
Charges filed	69,064	67,200	67,415	67,415	67,415	67,415
Charges resolved	58,104	55,066	67,589	68,892	67,301	67,301
Age Discrimination in Employment Act Only						
Charges filed	12,276	10,619	10,784	10,784	10,764	10,764
Charges resolved	11,082	8,949	10,984	11,196	10,937	10,937
Age Discrimination in Employment Act with concurrent's						
Charges filed	24,582	22,430	22,467	22,467	22,467	22,467
Charges resolved	21,415	18,402	22,586	23,022	22,490	22,490
Equal Pay Act Only						
Charges filed	33	36	36	36	36	36
Charges resolved	31	34	42	43	42	42
Equal Pay Act with concurrent's						
Charges filed	954	911	911	911	911	911
Charges resolved	828	799	981	1,000	977	977
Americans with Disabilities Act Only						
Charges filed	11,334	11,394	14,622	19,944	19,944	19,944
Charges resolved	9,833	9,678	11,879	12,108	11,828	11,828
Americans with Disabilities Act with concurrent's						
Charges filed	19,453	19,174	24,783	33,803	33,803	33,803
Charges resolved	16,705	15,983	19,618	19,996	19,534	19,534
Genetic Information Non-Discrimination Act Only						
Charges filed	N/A	N/A	590	590	590	590
Charges resolved	N/A	N/A	130	130	130	130
Genetic Information Non-Discrimination Act with concurrents						
Charges filed	N/A	N/A	1,000	1,000	1,000	1,000
Charges resolved	N/A	N/A	210	210	210	210
<b>Total</b>						
<b>Charges filed</b>	<b>95,402</b>	<b>91,902</b>	<b>100,155</b>	<b>108,588</b>	<b>108,588</b>	<b>108,588</b>
<b>Charges resolved</b>	<b>81,081</b>	<b>75,602</b>	<b>92,794</b>	<b>94,583</b>	<b>92,398</b>	<b>92,398</b>

\* **Totals for all charges do not equal the sum of all statutes because many charge filings allege issues/bases under more than one statute.**

***Systemic Enforcement and Litigation Program***

The systemic initiative was launched in April 2006 with the Commission's adoption of the recommendations of an internal task force, which prescribed comprehensive measures to improve all aspects of the agency's systemic work. The Commission's objective was to strengthen and modernize its nationwide approach to identifying, investigating, and litigating systemic cases, which the task force report defines as "pattern or practice, policy and/or class cases where the alleged discrimination has a broad impact on an industry, profession, company, or geographic location." In fiscal year 2008, the Commission reviewed the progress of the systemic initiative at a public meeting and received a report from the Committee of Advisors for Systemic Enforcement ("CASE"), an advisory group of senior enforcement and litigation staff created by the task force to assess the agency's overall effectiveness in combating systemic discrimination and serve as a resource on systemic matters. As reported by CASE, the agency has made substantial progress towards a revitalized systemic program. The number of systemic investigations has increased substantially. At the end of the fiscal year, 38 Commissioners' charges were under investigation, compared to only 15 Commissioners' charges in investigation as of March 31, 2006. Systemic investigations based on charges filed by the public have also increased significantly. Systemic lawsuits have been filed across the country under every statute enforced by the agency, involving a broad set of bases and issues and a wide variety of industries.

Systemic cases are significantly more complex cases. They require greater resources, more highly trained investigators and attorneys, and sophisticated expert analysis by statisticians, industrial psychologists, and labor market economists. To address these needs, we will evaluate staffing needs, making more efficient use of our legal staff through partnerships among district offices and collaborative work on the larger cases. We are investing in the technology tools that are critical to a vigorous nationwide litigation practice. We are providing training to our staff and are working to better equip our lawyers and investigators to manage and analyze the very large amounts of case-related data in support of systemic investigations and litigation.

***Mediation/ADR Workload and Initiatives***

A key component of our enforcement strategy is the continued emphasis on the use of ADR as an effective tool to resolve charges of discrimination. We continue to pursue efforts to secure greater participation by employers.

While charging parties (employees, job applicants, and former employees) and employers almost uniformly view our mediation program favorably, as indicated by the high percentage (92% to 96%) who expressed a willingness to return to the program to resolve a future charge, the number of employers agreeing to participate in our voluntary program is considerably lower than that of charging parties. A past independent study of our mediation program identified that employers principally decline mediation because they have conducted their own internal assessment and believe the specific charge to be without merit, or have concluded that EEOC will not issue a reasonable cause finding and, thus, prefer to let the charge proceed through the investigative process. The EEOC continues to perform outreach and create other educational

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materials for employers to emphasize the benefits of mediating charges, regardless of their own internal assessment of the charge.

### *Litigation*

Litigation is an important tool for maximizing benefits to the public because it provides a meaningful remedy for employment discrimination, educates the public, deters employers from discriminatory conduct and encourages them to develop and implement effective EEO policies. As set out in our Strategic Plan, we plan to use our resources to maximize the number of individuals benefited through the litigation program. We will maximize the impact of our lawsuits through various means, including obtaining relief for large numbers of aggrieved individuals and securing broad-based prospective relief to prevent the recurrence of discrimination and thereby benefit others in the workplace. In addition, we will maintain a high percentage of successful litigation resolutions, while continuing to take on cases that present developing areas of the law. Publicity of high impact litigation and other cases will serve to increase voluntary compliance with the laws we enforce. A strong litigation program will also provide an incentive for employers to resolve charges in the administrative process, including the Commission's mediation program. In addition to conducting litigation, field attorneys and other legal staff perform a wide range of other functions. For example, field attorneys provide advice and counsel to enforcement staff in all phases of the private sector charge process and participate in agency outreach programs.

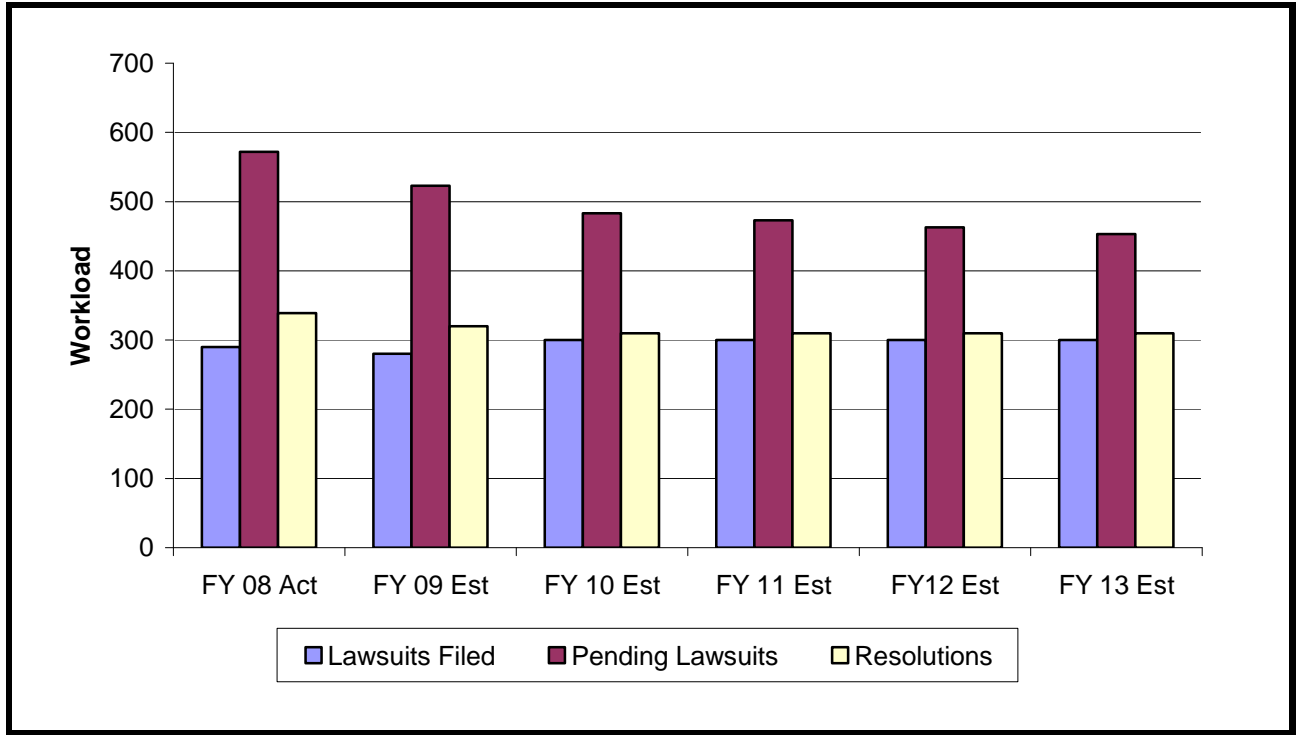
The agency estimates filing 300 new lawsuits in fiscal year 2010, which is a 7% increase from the previous fiscal year. Our projected workload of 783 cases is slightly lower than in prior fiscal years due to a projected decrease in case filings in fiscal year 2009. Our increased filing projection for fiscal year 2010 is based largely on additional case filings arising under the ADA as amended by the ADAAA, as well as cases arising under GINA and the Lilly Ledbetter Fair Pay Act. In addition, we expect to have greater resources to carry out the Commission's Systemic Initiative. The Commission is staffing systemic cases using a national law firm model, drawing on the expertise of Commission attorneys in various district offices as needed. As we litigate more systemic discrimination cases, we will incur substantially greater costs, such as attorney and paraprofessional staff time, expert witness fees, and extensive deposition and travel costs. The resource-intensive nature of this program will require a shift in some resources from individual claimant cases, and will encourage us to make more strategic selections of those individual cases that are expected to have an impact beyond the individual circumstances presented. Whether through systemic cases or other high impact litigation, we expect the litigation program to pay large dividends in remedying and deterring employment discrimination.

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Chart 2 below depicts the estimated litigation inventory including the number of lawsuits filed, pending lawsuits and resolutions for fiscal years 2008 through 2013.

**Chart 2: Litigation Inventory for Fiscal Years 2008 through 2013**



**Table 6: Litigation Workload Projections**

<b>Workload</b>	<b>FY 2008 (Actual)</b>	<b>FY 2009 (Estimate)</b>	<b>FY 2010 (Estimate)</b>	<b>FY 2011 (Estimate)</b>	<b>FY 2012 (Estimate)</b>	<b>FY 2013 (Estimate)</b>
Workload						
Total Pending Lawsuits	572	523	483	473	463	453
Total Lawsuits Filed During the Fiscal Year	290	280	300	300	300	300
<b>Total Legal Workload</b>	<b>862</b>	<b>803</b>	<b>783</b>	<b>773</b>	<b>763</b>	<b>753</b>
Resolutions	339	320	310	310	310	310
<b>Legal Workload carried forward</b>	<b>523</b>	<b>483</b>	<b>473</b>	<b>463</b>	<b>453</b>	<b>443</b>

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*State and Local Programs*

For fiscal year 2010, we plan to continue our partnership with both the Fair Employment Practice Agencies (FEPAs) and Tribal Employment Rights Organizations (TEROs). Both groups play a major role in EEOC's goal of achieving justice, opportunity and inclusive workplaces. The FEPAs help EEOC to resolve charges of employment discrimination and to prevent duplication of effort, resulting in a more efficient use of resources for both EEOC and FEPAs. They also participate with staff in our field offices to develop and present outreach and education events to explain federal, state and local laws regarding employment discrimination. For fiscal year 2010, at the requested level of \$26 million, we will be able to reimburse the FEPAs for an estimated 44,000 charge resolutions. The fiscal year 2010 request level will also facilitate the continuation of our relationship with the TEROs, who help to ensure that employment discrimination is addressed within their tribal communities and to educate both employees and employers of their rights and responsibilities.

During fiscal year 2009, we plan to identify and implement alternative communication tools that will ensure that the FEPAs are fully informed about policy and process issues as soon as possible following implementation by EEOC or others. We also plan to identify training opportunities that we can share with the FEPAs and TEROs especially as it relates to new and changed legislation that has occurred over the past two fiscal years impacting charge processing (GINA, ADA, and Ledbetter Act).

In fiscal year 2008, we continued the comprehensive training initiative designed to provide training to the investigative staff of 96 FEPAs. We also continued our annual training activities with and for the 64 TEROs across the country.

We accomplish a great deal working with these two partners and we will continue to identify other tools and methods for enhancing the existing relationship and achieving even more benefits for EEOC, the FEPAs and TEROs in the future. This will enable us to better serve the public with quality and timely resolution of charges as well as educating employees and employers regarding their rights and responsibilities in an effort to prevent acts of discrimination from occurring in the first place.

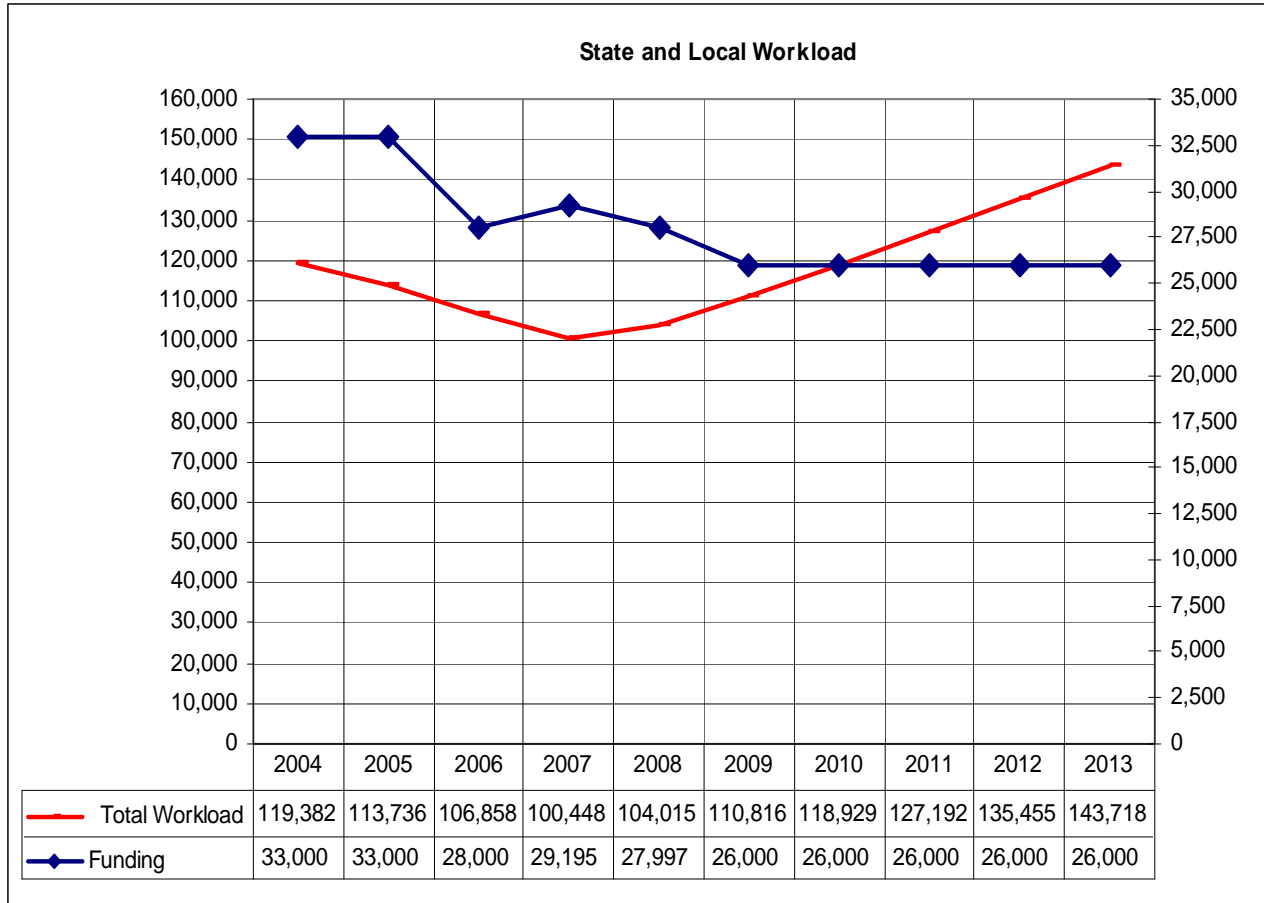
<b>Workload</b>	<b>FY 2008 (Actual)</b>	<b>FY 2009 (Estimate)</b>	<b>FY 2010 (Estimate)</b>	<b>FY 2011 (Estimate)</b>	<b>FY 2012 (Estimate)</b>	<b>FY 2013 (Estimate)</b>
Charges/Complaints Pending	47,118	52,781	59,733	67,996	76,259	84,522
Charges/Complaints Received	56,897	58,035	59,196	59,196	59,196	59,196
<b>Total Workload</b>	<b>104,015</b>	<b>110,816</b>	<b>118,929</b>	<b>127,192</b>	<b>135,455</b>	<b>143,718</b>
Charges/Complaints Resolved	48,568	48,417	48,267	48,267	48,267	48,267
Charges/Complaints Deferred to EEOC	2,666	2,666	2,666	2,666	2,666	2,666
Charges/Complaints carried forward	<b>52,781</b>	<b>59,733</b>	<b>67,996</b>	<b>76,259</b>	<b>84,522</b>	<b>92,785</b>

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The chart below depicts actual state and local workload and funding for fiscal years 2004 – 2008 and projections for fiscal years 2009 – 2013.

**State & Local Workload Actual FY 2004 – FY 2008 & Projected FY 2009 – FY 2013**



**2. Federal Sector Enforcement**

Our Federal sector program has a unique role in promoting equal opportunity in the federal workplace by ensuring that all Federal applicants and employees subject to discrimination based on race, gender, ethnicity, religion, age, disability or genetic information. The Commission fulfills this mandate through our hearings and appellate enforcement efforts, as well by exercising our oversight authority and providing guidance, outreach and technical assistance. We will also continue to promote mediation/ADR at all levels of the Federal sector EEO complaint process in order to resolve workplace disputes early, thereby saving resources and enabling agencies to focus on their core missions.

Using the guidance and principles contained in MD-715, the Commission will evaluate the progress of federal agencies in creating effective equal employment opportunity programs. We will review and provide feedback on agencies’ annual MD-715 report submissions, which are designed to identify and remove barriers to free and open competition in the workplace.



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With the implementation of MD-715 and our focus on establishing effective relationship management programs with agencies, we will deliver relevant and helpful information, training, and EEO solutions to Federal agencies.

### *Federal Sector Improvements – Hearings*

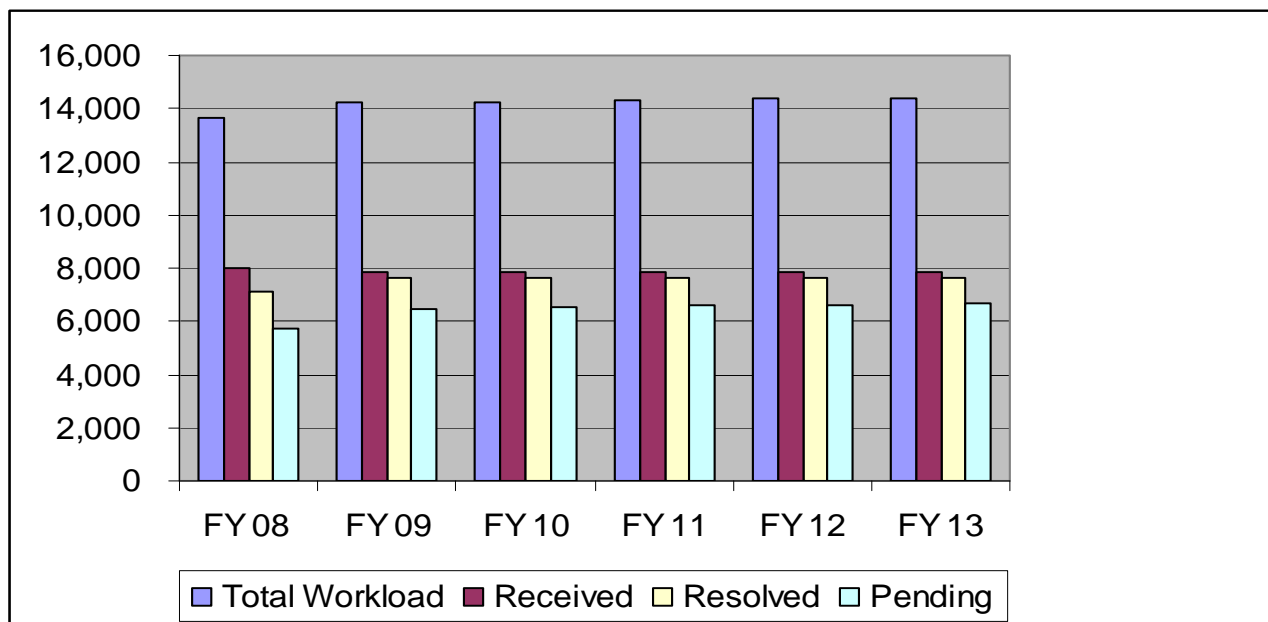
In furtherance of our goals to provide more expeditious hearings case processing, we have successfully piloted an electronic case management system that will store all hearings decisions produced by administrative judges and allow for the electronic filing of hearings complaints. The electronic library system permits administrative judges to have immediate access to nationwide decisions with similar issues. Also, our electronic filing pilot which has been expanded to more EEOC offices in fiscal year 2009 promotes uniformity in the filing of hearings complaints among agencies and the processing of these complaints by administrative judges. Additionally, we will continue to build on our quality standards initiative and annual review first implemented in fiscal year 2007 that are designed to promote consistency in hearings decisions, case processing and resolution across all of our field offices. We also plan to implement a three-track hearings case management process, wherein administrative judges will prioritize and track cases into fast, regular or complex discovery/pre-hearing tracks, based on the level of complexity of each case.

Through EEOC's Federal Sector Enforcement Hearings, there have been significant results involving cases in which there were findings of class-wide discrimination. Since fiscal year 2005, there have been a total of twelve merit class case resolutions that resulted in awards totaling over \$86 million in monetary benefits for more than 33,000 class members. Among these resolutions have been: a large sexual harassment case involving 85 class members who shared in the settlement of over \$9 million; a class case settlement for \$11.5 million that involved 400 members; an ADEA class case involving discriminatory directed reassignments of older employees that settled for \$2.2 million for approximately 30 class members; and a complex disability class action case involving discriminatory promotion and advancement opportunities that settled for over \$61 million.

Table 8 shows the overall hearing inventory for fiscal years 2008 through 2013.

<b>Table 8: Hearings Workload Projections</b>						
<b>Workload</b>	<b>FY 2008 (Actual)</b>	<b>FY 2009 (Estimate)</b>	<b>FY 2010 (Estimate)</b>	<b>FY 2011 (Estimate)</b>	<b>FY 2012 (Estimate)</b>	<b>FY 2013 (Estimate)</b>
Hearings Pending	5,748	6,488	6,539	6,590	6,641	6,692
Hearings Requests Received	8,036	7,871	7,871	7,871	7,871	7,871
Hearings Requests Consolidated After Initial Processing	-158	-153	-153	-153	-153	-153
<b>Total Workload</b>	<b>13,626</b>	<b>14,206</b>	<b>14,257</b>	<b>14,308</b>	<b>14,359</b>	<b>14,410</b>
Hearings Resolved	7,138	7,667	7,667	7,667	7,667	7,667
Hearings carried forward	6,488	6,539	6,590	6,641	6,692	6,743

**Chart 3: Hearings Workload Received, Resolved, and Pending for Fiscal Years 2008 through 2013**



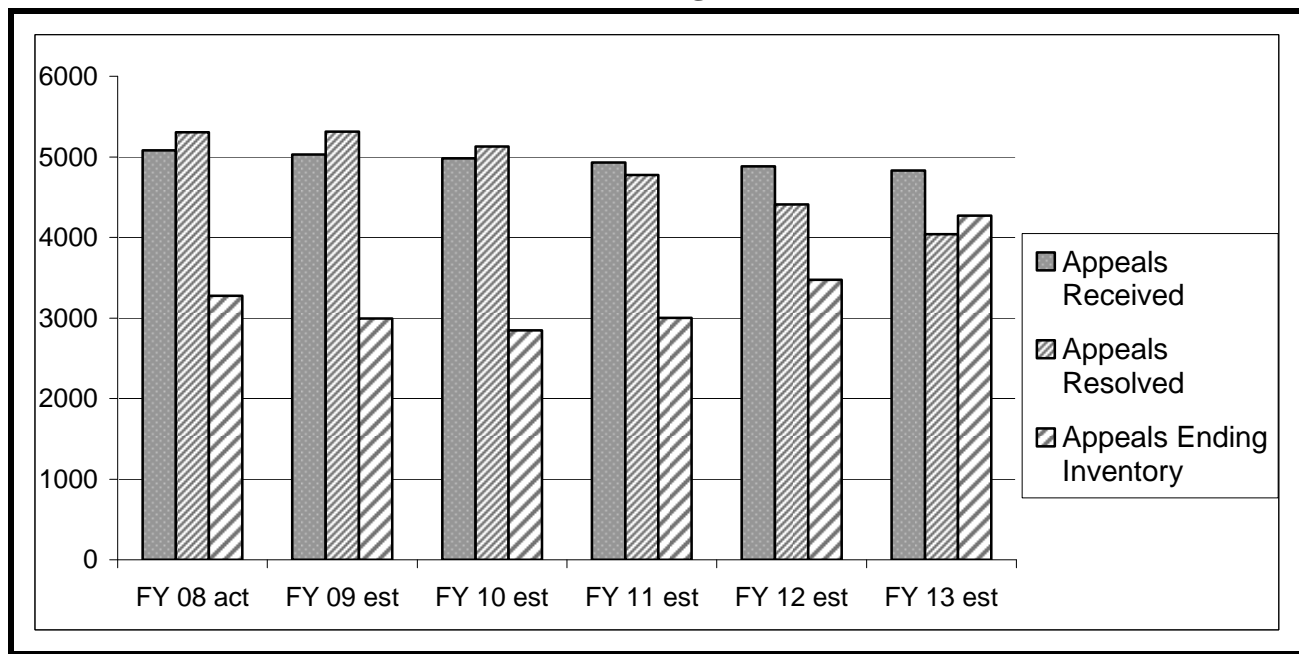
Appeals and Oversight of Federal EEO Programs

Our appellate review program adjudicates appeals of administrative decisions made by federal agencies on complaints of employment discrimination filed by federal employees or applicants for federal employment. By streamlining operations, utilizing technology, and adopting performance management strategies, since fiscal year 2000 the Commission has managed its appellate inventory in an efficient and effective manner.

Table 9 and Chart 4 show the appellate workload from fiscal year 2008 through fiscal year 2013. Further, the table and chart demonstrate that the appellate inventory will remain at acceptable levels during this period.

<b>WORKLOAD</b>	<b>FY 2008 (Actual)</b>	<b>FY 2009 (Estimate)</b>	<b>FY 2010 (Estimate)</b>	<b>FY 2011 (Estimate)</b>	<b>FY 2012 (Estimate)</b>	<b>FY 2013 (Estimate)</b>
Appeals Pending	3,496	3,275	2,994	2,847	3,001	3,475
Appeals Received	5,082	5,031	4,981	4,931	4,882	4,833
<b>Total Workload</b>	<b>8,578</b>	<b>8,306</b>	<b>7,975</b>	<b>7,778</b>	<b>7,883</b>	<b>8,308</b>
Appeals Resolved	5,303	5,312	5,128	4,777	4,408	4,039
Appeals carried forward	3,275	2,994	2,847	3,001	3,475	4,269

**Chart 4: Federal Sector Appeals Received, Resolved, and Ending Inventory for Fiscal Years 2008 through 2013**



The use of ADR has had a powerful impact on federal agencies' EEO complaint inventories and, in turn, EEOC's hearings and appeals inventories. Resolving disputes as early as possible in the Federal sector EEO process will improve the work environment and reduce the number of formal complaints, allowing all agencies, including the EEOC, to redeploy resources otherwise devoted to these activities. We will continue to promote the increased use of ADR techniques at the pre-complaint stage in the federal sector; the stage before a formal complaint is filed with a federal agency. As more agencies expand their efforts to offer ADR during the informal process, we expect to see continued decreases in the number of formal complaints filed, which will reduce costs for complainants and all federal agencies, enabling agencies to focus resources on their primary mission.

One of the most important aspects of our federal sector program is our responsibility for oversight of federal agencies' EEO programs. Using targeted EEO program evaluations, and the self-assessment tools and checklists in MD-715, we will help federal agencies assess the effectiveness and efficiency of their EEO programs and identify whether there are barriers precluding them from effectively utilizing their entire workforce in accomplishing their missions. We will periodically issue evaluative reports on a wide variety of topics in order to share government-wide, as appropriate, valuable information to assist agencies in developing model EEO programs. Similarly, we will provide agencies with trend analysis of the data submitted pursuant to their annual MD-715 report submissions to help agencies better identify and eliminate barriers to equal employment opportunity.

During fiscal year 2008, we continued to provide training and technical assistance to agencies on all aspects of their affirmative employment programs. During the year, we

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maintained our partnership with selected federal agencies in the Relationship Management project to explore new ways for our federal sector staff to interact with agencies to ensure that we can assist them in fostering an inclusive work culture and successfully implementing the essential elements of a model EEO program. Applying the strategies and tools developed from the experiences of the relationship management project, we will be in a position to better establish a customer-oriented organization which can deliver relevant information and solutions to federal agencies' leadership.

### *Federal Sector Programs*

Management Directive 715 (MD-715) embodies the EEOC-championed approach toward creating a barrier-free, level playing field throughout the federal government. MD-715 is the roadmap for agencies to identify and remove barriers to equal employment opportunity so that the American people can have a model federal work force.

To help agencies fulfill their reporting requirements under MD-715, we will provide them the tools and assistance for analyzing their work forces and uncovering barriers to equal employment opportunities. Once barriers are identified by agencies, we collaborate with them to develop creative strategies to eliminate or reduce the impact of identified obstacles. Further, we work with agencies to promote workplace policies and practices that foster an inclusive work culture and prevent employment discrimination.

In fiscal year 2007, the EEOC provided feedback in the form of a 3-year trend analysis to 20% of all agencies reporting under MD-715. Whereas in past years these feedback letters focused on select key elements of a Model EEO Program, the 3-year trend analysis letters address all MD-715 elements, and provide a comprehensive analysis that tracks each reviewed agency's progress toward establishing a Model EEO Program. The Commission will continue to provide these trend letters to agencies on a rotating basis. In fiscal year 2008, the Office of Federal Operations (OFO) also rolled out a new feedback mechanism aimed at holding agencies accountable for their progress on the MD-715 model EEO program elements. This endeavor, the EEO Program Compliance Assessment (EPCA), is a type of scorecard in which OFO provided agency-specific workforce analyses based on race, national origin, and gender as well as targeted disabilities. These analyses show the composition of the agency's workforce by major occupation and compare it to the civilian labor force. Additionally, this tool provides agencies an odds ratio analysis of promotions in the senior grade levels, and shows agencies how they compare to the federal government as a whole on various workplaces climate issues.

### *Outreach*

We will continue our outreach, education, and technical assistance programs to meet the needs of diverse audiences and will partner with the employer community and other stakeholders to foster strategies to recognize and prevent discrimination in the workplace.

The EEOC will continue to enhance public awareness of the persistence of race discrimination in employment through training, technical assistance materials, and partnerships with employee advocates, human resource professionals, and employer groups. We will

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continue to educate employers and other members of the public about systemic discrimination, including trends and issues that the agency has identified and cases the agency has handled. We recognize the value of publicizing our systemic discrimination court victories because of the ripple effect such decisions can have on promoting changes both across the impacted industry and in related industries.

We will continue to issue and revise regulations and sub-regulatory documents, such as EEOC enforcement guidance and technical assistance publications, in response to developments in the courts and stakeholder needs. We will also continue our outreach efforts to provide guidance and information on employer “best practices”. The agency also will maintain its outreach to small businesses, especially those who lack the resources to maintain full-time professional human resources staff, and to stakeholders in under served communities across the nation, including those with limited English proficiency, such as recently arrived immigrants. Finally, we remain prepared to respond to unanticipated issues that arise in the workplace due to current events, so that EEOC stays on the forefront in informing both employees and employers alike of their rights and responsibilities in the ever-changing workplace environment.

### *Revolving Fund – Education, Technical Assistance and Training*

The EEOC Training Institute (revolving fund) is a separate statutory authority that enables the EEOC to offer in-depth and specialized fee-based programs to supplement those general non fee-based informational and outreach activities that are an ongoing aspect of EEOC’s mission. The Training Institute offers diverse, high quality, reasonably priced EEO expertise and training products to private sector employers, state and local government personnel, and employees of federal agencies.

*Technical Assistance Program (TAP) Seminars:* The one and two-day TAP Seminars offered by the Training Institute are responsive to employers’ information and training needs and allow EEOC to educate substantially more employers and employees about how to identify, prevent and eliminate workplace discrimination. In fiscal year 2008, 44 TAP Seminars and 9 half-day workshops were held and 39 are planned for fiscal year 2009.

*National Federal Sector Conference:* An annual national federal sector conference, the Examining Conflicts in Employment Laws (EXCEL) Conference, has become a widely anticipated and highly acclaimed event for Federal EEO managers, attorneys, union officials, EEO professionals and EEO staff. The fiscal year 2008 conference, held in Chicago, had 1,000 attendees, the highest level of participation in the eleven-year history of the EXCEL Conference.

*Customer-Specific Training:* The Customer-Specific Training Program trains employees, managers, supervisors and human resource professionals from large, mid-size and small employers about their EEO responsibilities and how to prevent and correct workplace discrimination. Standardized courses are available and we design customized courses that are delivered at employers’ worksites. During fiscal year 2008, 414 private sector and 173 federal sector customized events were completed and a similar number of events is anticipated in 2009.

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*National Training Courses:* The Training Institute currently offers a series of national courses geared toward federal employees. Thirty-three federal sector course events were conducted during fiscal year 2008. Two new federal sector courses will be offered in fiscal year 2009, a basic course on Management Directive 715 and an Advanced Barrier Analysis course.

*New Products -* Starting in the summer of fiscal year 2009, the Institute plans to begin offering EEO training via the web. These webinar training sessions will feature important and current EEO topics. After issuance of agency regulations, the Institute will also develop and offer half-day training sessions throughout the country on the new ADA Amendments Act.

**D. Summary of Financing for the Revolving Fund**

<b>EQUAL EMPLOYMENT OPPORTUNITY COMMISSION</b>			
<b>EEOC Education, Technical Assistance, and Training Revolving Fund</b>			
<b>(Dollar amounts in thousands)</b>			
	<b>Fiscal Year 2008 Actual</b>	<b>Fiscal Year 2009 Estimate</b>	<b>Fiscal Year 2010 Estimate</b>
<b>Total Obligations</b>	<b>5,017</b>	<b>4,571</b>	<b>4,617</b>
Financing:			
<b>Offsetting collections from:</b>			
Federal Funds	3,029	1,694	1,923
Non-Federal sources	2,223	2,223	2,523
Recoveries	100	90	84
Orders on hand from Federal sources			
Unobligated balance, start of year	1,721	2,056	1,492
Unobligated balance transferred (rescission)			
Unobligated balance, end of year	2,056	1,492	1,405
Net Budget Authority	7,073	6,063	6,022

**E. Object Class Schedule – EEOC Education, Technical Assistance, and Training Revolving Fund**

Requirements by Object Class  
(Dollar amounts in thousands\*)

OBJECT CLASS	FY 2008 Actual	FY 2009 Request	FY 2010 Request
11.1 Personnel compensation/Full-time permanent (FTP)	1,385	1,426	1,497
12.1 Civilian personnel benefits	284	292	307
21.1 Travel of persons	790	303	318
22.0 Transportation of things	0	0	0
23.1 Other Rent/communications	993	1,043	1,053
24.0 Printing and reproduction	274	268	276
25.0 Other services	1,202	1,050	1,071
26.0 Supplies and materials	89	93	95
31.0 Equipment			
<b>TOTAL OBLIGATIONS</b>	<b>5,017</b>	<b>4,475</b>	<b>4,617</b>
 <b>Revolving Fund Reimbursement to Salaries &amp; Expenses Account</b>	 2,248	 2,410	 2,450
 <b>Reimbursable Full Time Equivalents to Salaries &amp; Expenses Account</b>	 17	 14	 14

\*may not add due to rounding

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### **III. AGENCY INFRASTRUCTURE**

#### **A. Introduction**

We are constantly seeking ways to achieve organizational excellence by improving our organizational capacity and infrastructure through sound management of our resources—human, financial and technological. Maximizing effective use of our resources is essential to achieve our enforcement and outreach goals and to carry out our mission. Only through organizational excellence, can we rise to challenges and achieve the ambitious measures of success set out in our Strategic Objective.

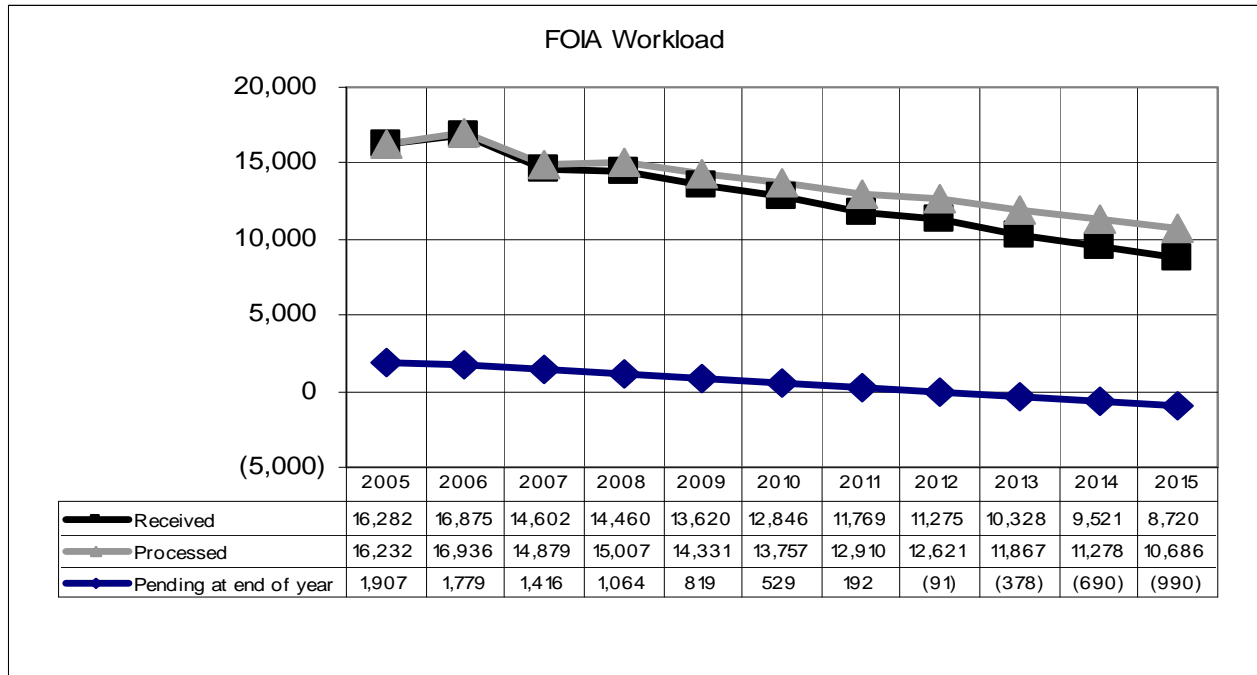
#### **B. Organizational Excellence and Results**

Creating a better organization is an important step to becoming more effective. EEOC has undertaken two initiatives to reposition the agency to better serve the public. Through all of our repositioning efforts, we aim to align strategically our workforce for greater effectiveness and efficiency by streamlining functional responsibilities, broadening the spans of control, reducing layers of management, dedicating greater resources to our front-line functions and addressing competency gaps.

##### *File Disclosure Workload and Initiative*

The agency processes between 14,600 and 16,800 Freedom of Information Act (FOIA) requests each fiscal year. In fiscal year 2008, the agency consolidated its records disclosure functions for responding to FOIA and Section 83 requests under its district directors, and implemented a new program pursuant to an A-76 agreement. The A-76 agreement provides for the hiring of dedicated records disclosure personnel in the field offices to help ensure agency compliance with Executive Order 13392: Improving Agency Disclosure of Information (2005), and to improve the utilization of litigation personnel who were previously performing some records disclosure functions. The graph below shows the number of FOIA requests received, processed, and remaining at the end of the fiscal year for five (5) years as well as estimates for five (5) years into the future.

**FOIA Workload FY 2005 - FY 2008 Actual and FY 2009 - FY 2015 Projected**



**C. Highlighted Areas**

We continue to improve the **strategic management of human capital** by developing and implementing key components of the human capital strategic management plan, including:

- Considering both workforce analysis and workforce planning as a part of program management and the annual budget process;
- Holding managers accountable for implementing human capital plans and overall management of human capital;
- Improving our talent management and the effectiveness of our recruitment program for mission critical occupations by enhancing competency-based selection methods and tools;
- Strengthening our leadership development programs to ensure effective transfer of knowledge and management continuity;
- Refining the performance management system for executives, for managers and supervisors, and for non-supervisory employees, effectively linking performance with the agency's mission and goals,

- Conducting and participating in the annual human capital surveys to identify employee satisfaction with human capital management and developing action plans based on an analysis of the feedback;

*Information Technology*

During fiscal year 2009, EEOC is identifying strategies to avoid the escalation of maintenance costs and lower operational risks associated with our aging infrastructure. Studies are underway to assess managed services, virtualization, consolidation, cloud-computing (software-as-a-service) and improved IT Service management.

*Office Relocations, Right-sizing, and Rehabilitations*

The agency continues to implement its long-term office space optimization program where office space is right-sized to future planned staffing levels. The office space optimization occurs when an office lease expires or an office is required to relocate by the General Services Administration. Based on the agency's space capacity at each location, office space is right-sized when new space requirements are prepared for planned relocations. EEOC has nine field offices planned for relocation or rehabilitation which will result in new leases in fiscal year 2010.

*Employee Recognition and Development*

Employees are recognized through the agency's Awards and Recognition Program for significant achievements and ideas that benefit the EEOC. Employees are eligible for special act/achievement awards, Cash in Your Account (CIYA) Awards (aka, on-the-spot awards), time-off awards and the Chairman's individual and organizational awards.

The pursuit of organizational excellence will support our mission and priorities for fiscal year 2010. Continued investment in our most valuable resource, our people, will help us meet the challenges we face by ensuring that high performing employees are deployed in the right positions. Implementation and monitoring of human capital planning and leadership succession programs in headquarters and field offices remains a high priority.

Mission critical skills will be continuously updated to enable us to fully enforce the federal laws prohibiting employment discrimination including the requirements set forth in the Lilly Ledbetter Fair Pay Act of 2009 as well as additional charge activity anticipated under the ADA Amendments Act and GINA Act of 2008.

We will leverage the use of technology in meeting our employee development needs through on-line training, blended learning, video conferencing and video streaming, our internal web site and other mechanisms. We will emphasize best practices and continue to partner with GoLearn.gov, Cyber Feds and other providers to meet these needs and to make training opportunities more flexible and accessible in a fluid work environment.

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#### **IV. VERIFICATION AND VALIDATION OF DATA**

Our private sector, federal sector, and litigation programs require accurate enforcement data, as well as reliable financial and human resources information, to assess EEOC operations and performance results and make good management decisions. We will continue efforts to ensure the accuracy of our program information and any analysis of the information.

We continually review the information we collect in our databases for accuracy by using software editing programs and program reviews of a sample of records during field office technical assistance visits. In addition, headquarters offices conduct analyses regularly to review the information collected in order to identify any anomalies that indicate erroneous entries requiring correction to collection procedures.

We have implemented approaches that enable the agency to collect information more rapidly and accurately by eliminating the need to enter information multiple times before it can be reviewed and analyzed. For example, we previously deployed a secure, web-based application that enabled businesses to electronically submit their annual Employer Information Report (EEO-1) to EEOC. This system continues to reduce the need for the manual entry of report data. It also includes automated edits to validate data, calculate totals, and compare statistics against the employer's prior year submission. In another example, we implemented a secure, web-based system that enabled all federal agencies to electronically submit annual equal employment opportunity statistics (Form 462). This system continues to improve the quality and timeliness of the information we receive. Finally, we continue to improve the collection and validation of information for our Integrated Mission System (IMS), which consolidates our mission data on charge intake, investigation, mediation, litigation, and outreach functions into a single shared information system. The IMS includes many automated edit checks and rules to enhance data integrity. Since several of our new performance measures require us to use data to assess our achievements, it is significant that we can now obtain those data much more quickly and with greater data accuracy.

We also implemented information quality guidelines and adopted internal procedures, which strengthen our ability to verify and validate the quality of our data before it is released to the public. In addition, the agency's Office of Inspector General continues to review aspects of the status of the agency's data validity and verification procedures, information systems, and databases and offer recommendations for improvements in its reports. We use the information and recommendations to continually improve our systems and data.

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## **V. PROGRAM EVALUATIONS**

Program evaluation is an important component of an agency's effort to assure that a program is operating as intended and achieving results. A program evaluation is a thorough examination of program design or operational effectiveness that uses a rigorous methodology and statistical and analytical tools. It also uses expertise within and outside the program under review to enhance the analytical perspectives and add credence to the evaluation and recommendations.

### *Completion of a Program Evaluation on the Private Sector Charge Process*

The agency initiated a program evaluation of its private sector charge process, as scheduled in its previous Strategic Plan. An independent contractor focused on answering two key questions or issues about the charge process: 1) whether different charge intake procedures among field offices provide consistent access to charge filing by potential charging parties and affect charge outcomes regardless of where charging parties live, work, or engage EEOC; and, 2) whether the agency-wide emphasis on annual charge inventory control and expedited charge processing affects the nature of charge closures at the end of the fiscal year. The contractor issued its final report in November 2006, and the report contained three major findings and recommendations that the contractor believed would strengthen the efficacy of the Private Sector Charge intake and closure processes, and thereby promote more consistent treatment and justice for individuals seeking assistance from EEOC regardless of the field office responding to their inquiries and requests.

The report noted that it was "... impressed by the overall operation of the process, which handles and closes more than 70,000 charges of discrimination annually and results in significant remediation of discrimination in the workplace." It indicated that the agency "... appears to keep the process functioning, handling most charges in a timely manner, achieving more 'meritorious' resolutions, securing greater monetary benefits for complainants, and keeping charge inventories under control as never before."

With respect to its three findings, the contractor first found that "there are many intake procedures that are consistent among the field offices, but there appear to be major inconsistencies in the nature and amount of information provided by EEOC to potential charging parties concerning their opportunities, rights, and responsibilities, as well as the nature of information required of potential charging parties before they could file a formal charge of discrimination. These procedural inconsistencies may result in unequal opportunity for potential charging parties to access EEOC assistance." It recommended that "policies and procedures should be established to ensure more consistency among field offices regarding the information provided by EEOC to potential charging parties regarding their rights, opportunities, and obligations related to the Private Sector Charge Process that may influence their decision to file a charge."

Second, the contractor found that, "while different intake procedures and requirements among field offices may affect access to EEOC, they do not appear to influence charge

outcomes.” It recommended that the agency “... should review and correct apparent procedural inconsistencies among field offices that may impact the opportunity of potential charging parties to gain access to the Private Sector Charge Process, including hours of operation and the availability of staff to respond to inquiries and conduct intake (interviews and charge filing), the methods available to potential charging parties to participate in intake interviews or file charges, and the kinds of information required of potential charging parties to file charges.”

Third, based on the data reviewed, the contractor found that “field offices close a higher number of charges during months preceding inventory control performance reporting, especially at the end of the two fiscal years reviewed for this evaluation. These ‘spikes’ in charge closures may indicate inconsistent attention to, and treatment of, charges resolved during those performance reporting months relative to other months of the fiscal year.” The contractor recommended that “the Commission should conduct periodic assessments of charge closures during months preceding quarterly and end-of-the-fiscal-year inventory control performance reporting by field offices to ensure that charging parties whose charges were closed during those months received equal attention and treatment to parties whose charges were closed at other times of the year.”

The agency has established organizational work groups to examine the major findings and recommendations. Additionally, the issues regarding procedural inefficiencies and charge closures will be included in the scheduled reviews of field office operations.

#### *Schedule of Future Program Evaluations*

We have scheduled a number of program evaluations for completion during the next several years and will review opportunities to conduct additional evaluations. These evaluations will help guide adjustments or enhancements to these programs.



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<b>Program Evaluation</b>	<b>Statement of Parameters of the Program Evaluation</b>	<b>Expected Initiation and Completion</b>
Priority Charge Handling Procedures	Evaluate how well the Priority Charge Handling Procedures are working and ways to improve their implementation.	Initiate FY 2007 Complete FY 2009
Outreach/Technical Assistance	Evaluate the effectiveness of fee and non-fee based outreach/technical assistance efforts; for example, agency Technical Assistance Program Seminars (TAPS), speakers at meetings, forums, panels or other activities designated as outreach or technical assistance.	Initiate FY 2009 Complete FY 2010
EEOC External Communications	Evaluate the impact and effectiveness of the EEOC's external communications efforts, including publicity, the agency's activities with the media, the external web site, and other public communications efforts.	Initiate FY 2010 Complete FY 2011
Effect of EEOC's Federal Sector evaluations and assistance	Evaluate the results achieved from EEOC's evaluation and assistance activities with federal agencies that changed policies, practices or procedures.	Initiate FY 2011 Complete FY 2012
Systemic Enforcement	Evaluate the effectiveness of the EEOC's systemic enforcement initiative.	Initiate FY 2012 Complete FY 2013

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## **VI. GENERAL STATEMENT OF LAWS**

The Equal Employment Opportunity Commission was established by Title VII of the Civil Rights Act of 1964 (78 Stat. 253, 42 U.S.C. 2000e et seq.) as amended, (Title VII) and became operational on July 2, 1965. The EEOC has five members, no more than three of whom shall be of the same political party. The members are appointed by the President, by and with the consent of the Senate for rotating five-year terms. The President designates one member to serve as Chair and one member to serve as Vice Chair. The General Counsel is appointed by the President by and with the advice and consent of the Senate for a term of four years.

EEOC is charged with promoting equal opportunity in employment by enforcing the federal civil rights employment laws through administrative and judicial actions, education, and technical assistance. We fulfill our mission through the implementation of a vigorous law enforcement program, complemented by an outreach program that provides information, guidance, and technical assistance to help prevent discrimination from occurring.

Title VII prohibits employment discrimination on the basis of race, color, religion, sex, or national origin by public and private employers with 15 or more employees, employment agencies, and labor organizations with 15 or more members. Members of the public file charges alleging employment discrimination with the agency field offices. EEOC staff members investigate the charges and issue determinations of “reasonable cause,” or summary determinations when a legal violation is not substantiated. If the agency finds cause, it attempts to resolve the charge through conciliation. EEOC also attempts to settle charges through mediation.

Title VII authorizes the agency to file suit in Federal District Court in order to achieve compliance if it is unable to achieve a remedy through conciliation. If the case involves a state or local government, the agency will refer it to the Attorney General, who may file suit in federal court.

Pursuant to its Title VII enforcement authority, the EEOC enforces the Lilly Ledbetter Fair Pay Act of 2009, signed on January 29, 2009, by President Obama, which supersedes the Supreme Court’s decision in *Ledbetter v. Goodyear Tire & Rubber Co., Inc.*, 550 U.S. 618 (2007), and restores the longstanding position of the EEOC that each paycheck that delivers discriminatory compensation is a wrong actionable under the federal EEO statutes, regardless of when the discrimination began.

Under section 709(c) of Title VII, the agency requires public and private employers and labor organizations to file periodic reports providing data on the makeup of their workforces or membership by gender and racial/ethnic categories. The data are used by other federal, state, and local agencies charged with enforcement of equal employment opportunity laws, and in aggregate form by non-government organizations and researchers concerned with equal employment opportunity.

EEOC also enforces the Age Discrimination in Employment Act (ADEA) of 1967, and the Equal Pay Act (EPA). The ADEA protects workers age 40 and older from discrimination in hiring, discharge, pay, promotions, fringe benefits, and other aspects of employment by

employers having 20 or more employees, employment agencies, and labor organizations with 25 or more members. The Equal Pay Act prohibits gender-based discrimination in the payment of wages to men and women performing substantially equal work in the same establishment. EEOC receives and investigates charges of discrimination in these areas and makes findings of “violation” or “no violation” and may file suit in Federal District Court if it is unable to achieve voluntary resolution of violations through conciliation.

On July 26, 1990, the Americans with Disabilities Act (ADA) became law. This legislation provides a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities. Title I of the ADA prohibits employment discrimination against qualified individuals with disabilities by private industry, and state and local government employers with 15 or more employees. Title I became effective on July 26, 1992 for employers with 25 or more employees and on July 26, 1994 for employers with 15 or more employees. On September 25, 2008 the ADA Amendments Act of 2008 was enacted, and it became effective on January 1, 2009. The ADA Amendments Act makes several changes to the definition of the term “disability,” overturning a number of Supreme Court decisions that Congress believed had construed the term too narrowly. The EEOC is responsible for ensuring compliance with Title I, as amended by the ADA Amendments Act, by receiving and investigating charges of disability discrimination. At the conclusion of EEOC’s investigation, the agency issues a determination of reasonable cause or dismisses the charge (no cause). If EEOC has found cause and is unable to achieve compliance through conciliation, EEOC may file a lawsuit. If the case involves a state or local government, the agency will refer it to the Attorney General, who may file suit in federal court.

Under the statutes EEOC enforces, the agency, through individual commissioners or by field directors, may initiate charges based on information suggesting that the law has been violated. If the agency decides after investigating that reasonable cause exists to believe that a violation has occurred, remedial relief is sought through the process of conciliation or litigation if conciliation efforts fail.

Section 717 of Title VII, Section 15 of the Age Discrimination in Employment Act, and Section 501 of the Rehabilitation Act of 1973, bar discrimination by federal agencies on the basis of race, color, religion, sex, national origin, age, and disability. These sections provide the basis for commission oversight responsibility for the procedures used by federal departments and agencies in processing internal complaints of discrimination. In addition, the agency has appellate jurisdiction to review final decisions of departments or agencies on discrimination complaints upon the request of the complainant. It is also responsible for ensuring that federal departments and agencies maintain programs of equal employment opportunity.

Further, under Executive Order 12067, EEOC provides leadership and coordination to all federal department’s and agencies’ programs enforcing federal statutes, executive orders, regulations, and policies which require equal employment opportunity without regard to race, color, religion, sex, national origin, age, or disability. Coordination is provided to eliminate conflict, competition, duplication, and inconsistency in these programs and to improve their effectiveness. All federal departments and agencies are required to cooperate with and assist the agency in performing these functions and are required to furnish the agency with such reports and information as it may require.

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On May 21, 2008, the Genetic Information Non-Discrimination Act of 2008 (GINA) was signed into law. Title II of GINA prohibits public and private employers with 15 or more employees, employment agencies, and labor organizations with fifteen or more members from using genetic information (including information from an individual's genetic tests and an individual's family medical history) in making employment decisions or decisions related to union membership, strictly limits access to genetic information, and requires that any genetic information that a covered employer, employment agency, or labor organization obtains be kept confidential. The procedures for enforcement and the remedies for violations of Title II of GINA are the same as those available under Title VII. EEOC must issue regulations in fiscal year 2009 implementing Title II of GINA, and the law becomes effective on November 21, 2009.

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**APPENDIX A: INTERIM ADJUSTMENTS TO THE STRATEGIC PLAN**

The agency has made interim modifications to its Strategic Plan for fiscal years 2007 through 2012, which was initially issued on October 1, 2006 (FY 2007). As the agency implemented the new performance structure and several new performance measures included in the Strategic Plan, it has made several modifications. As the modifications were adopted, they were included in the agency's Performance and Accountability Report (PAR) and its performance budget. On July 28, 2008, the Commission approved a Strategic Plan that contained previous modifications made to the initial Plan, and included several additional modifications to the performance structure. All of the modifications made to the Strategic Plan are described below:

- Revised Long-Term Measure 1

Initially, Long-Term Measure 1 included two Annual Measures. These integrated measures were designed to demonstrate the EEOC's results in providing benefits to individuals in the workplace because of its enforcement and outreach programs. During the agency's review and preliminary efforts to design an appropriate methodology for collecting data, the agency determined that the enforcement program was the substantial component of the Long-Term Measure, and that it was not currently feasible to develop a reliable method for collecting and analyzing outreach data. The measure was modified to measure the agency's enforcement programs only. The Annual Measure regarding outreach results was removed. Since the remaining Annual Measure for enforcement results was now redundant with the Long-Term Measure, it was also removed. Long-Term Measure 1 was modified to Long-Term/Annual Measure 1 and minor language changes were made.

- Removed the Management Objective—Incorporate Concepts into Means and Strategies

In reviewing the overall focus of the agency's Strategic Plan, it was determined that a separate Management Objective was not required, since the agency's efforts to improve its internal operations were designed to benefit its front-line enforcement and outreach programs. The agency incorporated the concepts of organizational improvement into the Means and Strategies section of the Strategic Plan; highlighting their important supportive role. Organizational changes and efforts to implement the President's Management Agenda are part of the agency's strategies for doing all of its work more effectively and efficiently.

- Revised References to the Five-Point Plan

Also, the concepts described under the umbrella of the Five-Point Plan have always been critical aspects of its work. Although the Five-Point Plan itself provided an overall structure to express these important concepts, it added another organizational layer to the Strategic Plan that the agency now considers unnecessary. With the removal of a separate Management Objective and the incorporation of the essential elements into the Strategic Plan's Means and Strategies, the

structure of the Five-Point Plan was less important and may add confusion for the reader of the EEOC's documents. Even though the structure of the Five-Point Plan was removed, the essential concepts remain in the Strategic Plan.

- Revised the Schedule of Program Evaluations

The agency also revised a number of the program evaluations it intends to conduct during the life of the Strategic Plan. The revised program evaluation schedule is included in this plan.

In addition, a completed program evaluation on the Private Sector Charge Process, that informed one of our revisions of the program evaluation schedule, was described.

- Revised Organizational Elements

The organization of the measures was revised to better explain their interrelationship. Since the Efficiency Measure was directly related to the results achieved with the revised Long-Term/Annual Measure 1, it was moved directly after Measure 1 to better describe that relationship.

- Revised Performance Structure and Established Final Goals for all Performance Measures

The performance measures in the Strategic Plan published on October 1, 2006, did not include final goals, because of the new performance structure that had been developed during the 2006 program assessment of the agency a few months earlier. Since that time, the agency has developed annual targets and final goals for those performance measures retained in the modified Strategic Plan (not all of the original measures were retained—see the description of other modifications to the performance measurement structure, above). As targets/final goals were adopted for measures, they were incorporated into other agency reports; such as the agency's fiscal year 2007 PAR published in November 2007 and its fiscal year 2009 budget submission to Congress in February 2008.

Further modifications were included in the Strategic Plan approved by the Commission on July 28, 2008. For Long Term Measure 2—public confidence in the EEOC to enforce its laws—the agency increased the previously published baseline value for fiscal year 2007; the multi-year targets; and the final goal for fiscal year 2012. The increased values resulted from a re-assessment of the data collected from the survey taken of nationwide respondents who were asked a question about their confidence in the EEOC. The original values were established using scores in the 8-10 range on a 10-point scale, with "10" as the highest score. Based on the re-assessment, the range was expanded to the 7-10 range, which included additional respondents indicating their confidence in the EEOC. The Commission determined that the modification was warranted because the revised range of scores more appropriately measured the public's confidence in the EEOC's enforcement of its laws.

The Commission's vote on the Strategic Plan in July also modified the annual targets and final goal for Annual Measure 2.1—resolving private sector charges within 180-days or fewer. It



reduced these values to adopt ambitious, but more realistic, goals for the Commission. In its evaluation, increasing workloads are expected to grow significantly worse, because charge receipts and the year-end inventory are significantly increasing while the number of investigative staff needed to process the work is continuing to decline. However, after the agency's earlier program assessment, which developed the new performance structure, higher annual targets and a final goal were established for this measure. This measure and annual targets and a final goal will be reviewed as the agency prepares a new Strategic Plan it anticipates issuing on October 1, 2009 (Fiscal Year 2010).

Another modification was to remove Annual Measure 2.7—the number of individuals who demonstrate an awareness of their equal employment opportunity rights and responsibilities. Subsequent to the baseline and target information first reported for this measure, the agency has considered some alternative methodologies that could be used to measure the results for this performance measure, using data based upon responses to other questions from the nationwide survey. Since the agency is still considering the approach that should be used to measure results in this area, the Commission felt that it was appropriate to remove the measure from the agency's performance structure at this time, until we have had a full opportunity to carefully consider the best approach.

The agency also modified the program evaluation schedule to move the evaluation of the Systemic Enforcement initiative to fiscal year 2012. The Commission determined that it would be more advantageous to evaluate this initiative after the agency has had more time to implement it, so that it can measure results over a more appropriate time frame.

- Other Revisions

A placeholder was added for the development of a measure of the contribution of our FEPA partners toward achievement of the agency's goals. This development effort is part of the program assessment improvement plan.

In addition, the graphic presentation of the new performance structure was revised to accurately reflect the other revisions made to the plan.

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