

FEDERAL ELECTION COMMISSION

**FISCAL YEAR 2011
CONGRESSIONAL BUDGET JUSTIFICATION**



February 1, 2010

Concurrently submitted to Congress and the Office of Management and Budget

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SUMMARY OF FY 2011 BUDGET REQUEST

The Federal Election Commission (FEC) is an independent regulatory agency responsible for administering, enforcing, defending and interpreting the Federal Election Campaign Act of 1971 (the Act), 2 U.S.C. § 431 *et seq.*, as amended by the Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. 107–155, 116 Stat. 81 (2002) and the Honest Leadership and Open Government Act of 2007 (HLOGA), Pub. L. 110–81, 121 Stat. 735 (2007). The Commission is also responsible for overseeing the Federal public funding programs for Presidential campaigns and party conventions. Presidential Election Campaign Fund Act, 26 U.S.C. § 9001 *et seq.* and the Presidential Primary Matching Payment Account Act, 26 U.S.C. § 9031 *et seq.*

For the FY 2011 Budget Submission, the FEC is requesting \$68.8 million to continue supporting the agency's mission by improving transparency, increasing information technology security and infrastructure upgrades, and implementing human capital initiatives, such as increased professional training and succession planning. Over 75 percent of the budget is allocated to personnel expenses and rent. As with the rest of the government, the FEC has been impacted by increased personnel benefit costs in recent years, in part due to the agency's acquisition of retirement funding for any new employee under the FERS program. The agency continually evaluates its workload, hiring needs and fixed costs and manages within its appropriated amount.

The FEC is highly dependent on its Information Technology Division to fulfill its responsibilities. As part of its statutory mandate, the FEC seeks to continue to make available its campaign finance information to the public in more robust and interactive formats on the FEC website. During the summer of 2009, the FEC conducted a two-day hearing on the Commission's use of the Internet to provide information to the public. Written comments and testimony emphasized the importance of using current technologies – including data warehousing, content management systems, modern data formats and transmission techniques – to meet public demand for campaign finance information. To facilitate the use of this information, provide news about agency data issues, and share ideas and techniques for working with data from the FEC, the FEC launched a data catalog for searching, sorting and downloading data, along with a supporting blog in October 2009. Examples of the more powerful applications that the agency is striving to provide include the 2008 Presidential campaign finance map, similar maps for the 2010 House and Senate campaigns, and an ongoing effort to make available a comprehensive set of documents related to all enforcement cases that have been closed since the Commission's inception. This request includes funding that would continue these and other similar initiatives.

In addition to these efforts to improve disclosure of campaign finance information and in support of the President's initiative for federal agencies to better serve the public and the agency's stakeholders, the FEC plans to virtualize all server hardware and applications. Virtualization will allow the FEC to maximize the efficiency of its computing and data storage systems by consolidating the components of its computer systems. As part of the agency's IT plan, the FEC is seeking funds to support the continued enhancement and updating of its IT hardware, including replacing desktop computers and performing an extensive technology refresh for approximately one-third of the agency's computing hardware and software systems. The requested funding will provide a template for future FY budgets in order to keep pace with

technological advances. Failure to fund this initiative would place the agency at risk of being unable to perform mission critical tasks and render new applications and enhancements unavailable to the Commission due to faulty, non-functional and incompatible systems.

Another important Commission priority included in this request relates to its human capital initiative. The FEC workforce possesses a highly specialized skill set to successfully oversee the FEC mission. The FEC strives not only to maintain the important skills of its employees, but also to improve the workplace environment. In the past two years, the FEC has increased the number of training opportunities available to its employees, taking advantage of low-cost and no-cost training offered by the Small Agency Council, other federal agencies, and less expensive on-line options. This request includes a plan to continue to further develop and improve this initiative.

On January 21, 2010, the Supreme Court decided *Citizens United v. FEC*, 558 U.S.____(2010). The Commission is considering what impact the opinion may have on the FEC's future budget requests. However, due to the timing of the decision, this budget request does not reflect any considerations related to the referenced opinion.

MISSION STATEMENT

To prevent corruption in the Federal campaign process by administering, enforcing and formulating policy with respect to Federal campaign finance statutes

Congress created the FEC to administer and enforce the FECA. The Act reflects Congress's belief that democracy works most effectively when voters are able to make informed decisions in the political process; decisions based, in part, on knowing the sources of candidates' financial support. Public confidence in the political process depends not only on laws and regulations to ensure transparency, but also on the knowledge that those who disregard the campaign finance laws will face concrete consequences for non-compliance – hence, the Commission's focus on effective and fair enforcement of the law.

The primary objectives of the FEC are to: (1) facilitate transparency through public disclosure of campaign finance activity; (2) encourage voluntary compliance by providing information and policy guidance to the public, media, political committees and election officials on the FECA and Commission regulations and enforcing the statute through audits, investigations, and civil litigation; and (3) develop the law by administering and interpreting the FECA as well as the Presidential Election Campaign Fund Act and the Presidential Primary Matching Payment Account Act.

Voluntary compliance with the requirements of the Act is a particular focus of the Commission's efforts, and the enforcement program is one mechanism designed to ensure voluntary compliance with the Act's limits, prohibitions, and disclosure provisions. Because of the large, and rising, number of political committees and the ever-growing number of financial disclosure reports filed with the FEC, voluntary compliance is essential to enforcing the requirements of the Act. Accordingly, the Commission devotes considerable resources to encourage voluntary compliance through widespread dissemination of educational materials related to Federal campaign finance laws to the public, the press, political committees, and State election officials.

This performance budget is organized in three sections. Section 1 addresses the agency's history and outlines the priorities in FY 2011. Section 2 discusses budgetary increases and decreases. Section 3, the Budget and Performance Plan, provides an overview of the agency's three strategic objectives.

Section 1 – Purpose and Priorities in FY 2011

1-A Program History and Future Outlook

The FEC (www.fec.gov) is an independent regulatory agency responsible for administering, enforcing, defending and interpreting the FECA. The Commission is also responsible for administering the Federal public funding programs for Presidential campaigns and party conventions. This responsibility includes certifying and auditing all participating candidates and committees and enforcement of the public funding laws.

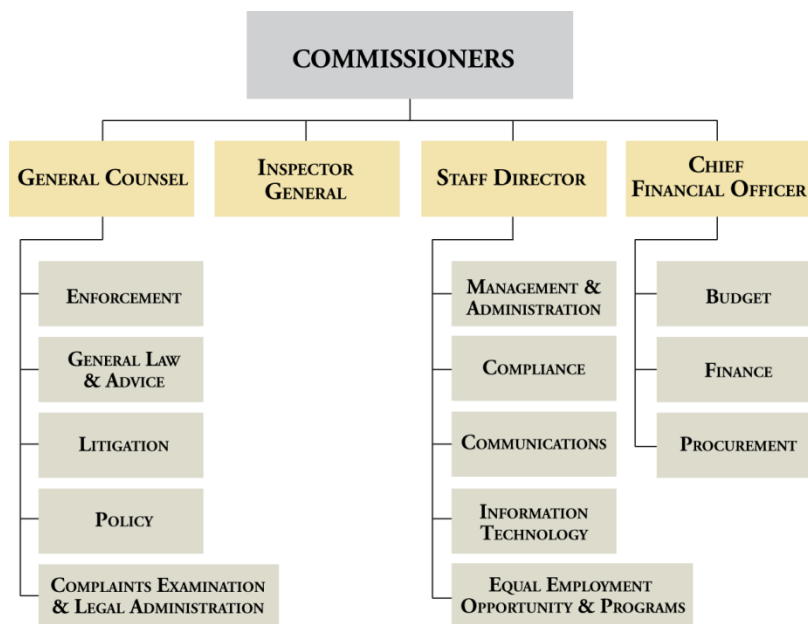
The FEC is structured to foster bipartisan decision-making. To accomplish its legislative mandate, the FEC is directed by six Commissioners, who are appointed by the President with the advice and consent of the Senate. By law, no more than three Commissioners can be members of the same political party. Each member serves a six-year term and two seats are subject to appointment every two years. The Commission's Chairmanship rotates among the members, with no member serving as Chairman more than once during his or her term. The Commissioners meet regularly to formulate policy and to vote on significant legal and administrative matters. The Act requires at least four Commissioner votes for the Commission to take any official action.

As part of its responsibilities, the FEC ensures transparency in the Federal campaign finance system by enforcing the Act's requirement that all Federal candidates and Federal political committees file financial disclosure reports and by making the disclosure reports and the data contained in them available to the public through the Commission's internet-based public disclosure system. The FEC also has exclusive responsibility for civil enforcement of the Act, including the handling of civil litigation arising from any legal actions brought by or against the Commission. Additionally, the Commission promulgates regulations implementing the Act and issues advisory opinions responding to inquiries, generally from the regulated community.

The FEC is headquartered in Washington, D.C. and does not have any regional offices. The funding and staffing levels for FY 2009 were \$63.6 million and 375 full-time equivalent (FTE) positions. The FEC received \$66.5 million under the Consolidated Appropriations Act, 2010, supporting up to 375 FTE. The FEC is funded by a single annual appropriation for salaries and expenses and is authorized to collect fees only to offset the costs of its conferences.

FEC Organizational Chart

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



* The Director for Equal Employment & Opportunity reports to the Staff Director for management and administrative purposes; however, has direct reporting authority to the Commission on all EEO matters

1-B FY 2011 Priorities

1-B.1 Ensure Continued Effective Disclosure Through Improved Information Technology

Providing the public and the regulated community with timely, robust and interactive campaign finance information is one of the Commission's key objectives. These efforts are supported by an integrated information technology network that makes possible the electronic submission of data to the Commission, the review and analysis of these filings, and the search and retrieval capabilities that underlie the mission of the FEC. To make the most efficient use of agency resources that support these efforts, the Commission is moving to virtualize the network of computer servers and software that supports this system and its applications. When fully implemented, this new way of doing business will streamline maintenance and licensing requirements, simplify the regular process of backing up data, and facilitate disaster recovery if that becomes necessary. This innovative technology has been widely adopted in the public and private sectors for these reasons.

This budget request supports various IT services contracts for mission critical systems, including disclosure database development and maintenance; development and maintenance for the system with which the Commission reviews statutorily required electronic filings by House and Presidential candidates (E-review), web applications design, development, and maintenance; database administration for all of the agency's databases; and report generation and development. Without these contracts, the agency's disclosure and reports analysis activities would be jeopardized due to the complexity of the disclosure system and the importance of data integrity and accurate campaign finance information.

As the FEC transitions from a mainframe environment to a client server environment, the importance of network maintenance, testing, and security continues to grow significantly. Without contractual support for these vital services, the FEC would be extremely vulnerable to intrusion, hacking, and other security invasions, and will lack the valuable technical expertise in networks necessary to combat such vulnerabilities.

A major five-year data storage and disaster recovery contract provides off-site data management with data backup services for mission essential systems, provides internet services, and maintains communication channels between this off-site center and FEC headquarters. Without these services, there would be no FEC website, and the risks to mission-critical data would be unacceptable. This contract also plays a vital role in the disaster recovery program. In the event of a disruption of services at Commission headquarters, public and internal users of FEC data still would be able to retrieve information via the off-site data center.

Another important initiative is the Data Warehouse System. In FY 2009, the FEC performed a study to determine the best approach for housing and accessing FEC data. As a result of that study, the FEC plans to move forward in implementing a comprehensive Data Warehouse System. This investment will greatly improve the public's ability to access campaign finance data. By integrating the Commission's most important systems – Campaign Finance Reports, Case Management, Enforcement Query System, Advisory Opinions, and Matters Under Review – the public data will be searchable and presented in a user-friendly and intuitive manner on the FEC's website.

The FEC is also continuing the multi-phase implementation of Livelink, the agency's document management system that will ultimately provide the platform for enterprise content management and enterprise search capability. Phase 1, which began in the summer of 2009, is currently underway, with the implementation of Livelink as OGC's document management system. Phase 2 will be implemented in 2010, and phase 3, in 2011. Full implementation of Livelink is expected to continue through FY 2015. Funds requested in this budget play an important intermediate step towards achieving this goal.

The Enterprise Content Management (ECM) System study was funded in FY 2009. ECM is an initiative to integrate all of the document management systems, including unstructured and structured data, and use connector technology to integrate all other FEC applications in order to create greater efficiencies. This initiative dovetails with the Data Warehouse System, Enterprise Search, website improvements and Livelink initiatives. Full implementation of ECM is expected to continue through FY 2015.

This request also supports steps the IT Division will take to improve the FEC web site as suggested by outside users at public hearings on this topic. The request will allow the Commission to procure web design services to update and improve its website, enable the agency to keep pace with the latest technological developments, and facilitate greater information sharing, communication, and collaboration on the web. This capability will also enable the development of blogs and discussion forums, which will further the Commission's efforts to improve service to, and promote interactive communications with, the regulated community.

1-B.2 Effective Human Capital Management

The FEC's ability to accomplish its mission is tied directly to the quality and competency of its workforce. Therefore, the Commission has invested heavily in managing its human capital. During the past year, the FEC has made significant progress towards improving several of its critical human capital management systems, which include (1) hiring, (2) retention and (3) employee development. The FEC has increased its use of hiring flexibilities and has been able to rapidly fill 70 vacant positions over the past two years.

Part of this new cadre of talent comes from adopting the federal government's Presidential Management Fellows Program, which aids in planning for succession, boosting recruitment efforts, and increasing talent pools available to managers for hiring. The Office of Human Resources has also established stronger relationships with FEC divisions to streamline the hiring process, which has resulted in a reduction in the average hiring timeline to below 45 days.

To attract and retain its human capital, the FEC has improved its working environment. Recent organizational restructuring has provided more and better career paths for FEC employees. A newly established employee awards program recognizes employees both informally with gift-cards, travel mugs, and other prizes, and formally through an annual awards recognition event held off-site. With the formalization of alternative work schedules, compressed work schedules, and the newly implemented Flexiplace Program (FEC's telework program), more FEC employees are able to work from home.

Employees and managers also have more opportunities to develop their skills and their leadership competencies, which resulted in a 15-percent increase in satisfaction with training and development among FEC employees, according to the 2008 Federal Human Capital Survey. The establishment of a regular training calendar and the implementation of a leadership development pilot program are helping the FEC close the gaps in its leadership competencies. The FEC has also formed an Internal Coaching Alliance with other small agencies to offer certified coaching to its managers and high-potential employees.

The agency's recently created Strategic Human Capital Plan consists of components in various stages of completion: completed, ongoing, and future. Completed components include: (1) the implementation of a new performance management system; (2) usage of electronic Official Personnel Folders; and (3) receipt from OPM of the authority to restructure the FEC workforce. Ongoing components include: (1) strengthening a centralized leadership development program, including certified coaching; (2) completing a draft Human Capital Accountability Plan; (3)

training managers and supervisors about their roles and responsibilities pertaining to human capital, HR flexibilities, and Merit System Principles/Prohibited Personnel Practices; and (4) strengthening relations with agency management and its union, the National Treasury Employees Union (NTEU). Future endeavors will include: (1) updating human resources directives, policies and procedures; (2) implementing annual assessments of key human capital management areas such as knowledge management, communication, strategic alignment and employee development; and (3) institutionalizing Individual Development Plans. These initiatives will help ensure that the goals and objectives of key FEC priorities are achieved.

Section 2 – Budget Increases and Decreases

Table 1 – Changes from FY 2009 to FY 2010

Category	Amount	FTE
FY 2009 Actual Obligation	\$63,292,692	375
FY 2010 Increases to Maintain Current Services:		
Personnel Compensation	3,029,721	
Personnel Benefits	821,027	
Transit Subsidy	46,947	
Mandatory Rent Increase	50,215	
Fixed Security Increase	45,000	
Fixed Legal Research Tools Increase	50,000	
<i>Subtotal, Current Service Increases</i>	4,042,910	
FY 2010 Program Increases:		
Hardware & Software Development and Maintenance	842,712	
Capitalized Equipment	88,053	
<i>Subtotal, Program Increases</i>	930,765	
Other Increases:		
Travel	196,234	
Printing and Supplies	100,884	
Training	68,699	
<i>Subtotal, Other Increases</i>	365,817	
Total Increases	5,339,492	
FY 2010 Program Decreases:		
IT Contracts	(1,541,884)	
Non-Capitalized Equipment	(422,067)	
Other Contract Services	(126,503)	
Communications and Utilities	(41,730)	
<i>Subtotal, Program Decreases</i>	(2,132,184)	
FY 2010 Net Total Changes	3,207,308	
FY 2010 Appropriation	\$66,500,000	375

Table 2 – Changes from FY 2010 to FY 2011

Category	Amount	FTE
FY 2010 Appropriation	\$66,500,000	375
FY 2011 Projected Increases to Maintain Current Services:		
Personnel Compensation	1,133,125	
Personnel Benefits	295,698	
Transit Subsidy	5,000	
Mandatory Rent Increase	62,927	
Fixed Security Increase	50,000	
Fixed Legal Research Tools Increase	55,000	
<i>Subtotal, Current Service Increases</i>	1,601,750	
FY 2011 Program Increases:		
Capitalized Equipment	892,182	
IT Contracts	403,109	
Hardware & Software Development and Maintenance	69,103	
<i>Subtotal, Program Increases</i>	1,364,394	
Other Increases:		
Training	3,500	
Goods & Services – Other Government Agencies	2,032	
<i>Subtotal, Other Increases</i>	5,532	
Total Increases	2,971,676	
FY 2011 Program Decreases:		
Other Contract Services	(376,067)	
Printing and Supplies	(184,103)	
Communications and Utilities	(52,121)	
Travel	(33,200)	
Non-Capitalized Equipment	(26,185)	
<i>Subtotal, Program Decreases</i>	(671,676)	
FY 2011 Net Total Changes	2,300,000	
FY 2011 Request	\$68,800,000	375

2-A Description of Budget Increases and Decreases

Fixed Costs Necessary to Maintain Current Service \$1,601,750 / +0 FTE

Personnel and Benefits \$1,433,823/0 FTE

This amount estimates the cost of living adjustment and forecasted within-grade increases based on expected staffing levels. This increase also includes estimates for expected associated employee benefit costs, including transit subsidy and performance awards.

The 2009 American Recovery and Reinvestment Act included a mandatory increase in the public transit subsidy benefit to eligible staff. This increase was absorbed in FY 2009 and will also be absorbed in FY 2010 by delaying other initiatives. The FY 2011 request will allow the FEC to realign the budget resources without negative program impact. The costs are included with the assumption that the Congress will amend the legislation to extend the increase indefinitely.

Rent Increase \$62,927/ 0 FTE

The annual rent payment to GSA is the agency's largest fixed cost. The 10-year lease contains annual rent hikes of approximately one percent. This increase reflects that hike. In addition to this lease-related cost, charges related to utilities and District of Columbia property taxes are anticipated to rise as well.

Security \$50,000/0 FTE

The Commission's security is a crucial and mandatory need. Over the past few years, the cost of guard services has increased significantly. Additionally, mandates issued by the Department of Homeland Security require that federal guards be armed, causing the cost to rise more than anticipated. This increase covers these enhanced security costs.

Legal Research Tools..... \$55,000/ 0 FTE

Legal research tools and other library products that support the Office of General Counsel (OGC) and the Commission comprise roughly 75 percent of OGC's non-personnel budget. Rate increases for these tools consistently exceed the rate of general inflation. For example, the Westlaw contract contains annual increases of 10 percent. This increase is necessary to meet the anticipated rate hikes.

Program Increases \$1,369,926/+0 FTE

Capitalized Equipment..... \$892,182/0 FTE

This FY 2011 budget request will position the FEC to better support the transparency and compliance objectives of the strategic plan. Without data warehousing, enterprise content management, and a platform for independent electronic filing capability enhancements and

upgrades, the FEC may be unable to keep pace with the technological challenges facing the agency as it carries out its statutory mandate in the future.

IT also requires a significant increase to cover rising option year costs on existing contracts. In FY 2008 and 2009, the FEC conducted comprehensive studies of its Case Management and Data Warehouse Systems. In FY 2010, the agency will begin implementing the results of these studies, and requires additional funding in FY 2011 to continue their implementation. If these initiatives are not funded in FY 2011, progress made to date will be negatively impacted and, should additional funds be appropriated for these projects in the future, the agency may incur additional re-start costs.

IT Contracts \$403,109/OFTE

Various IT service contracts provide vital technical assistance, expertise, consulting, and training for the FEC’s mission-essential systems. These include disclosure database development and maintenance; E-review development and maintenance; web applications design, development, and maintenance; database administration for all agency databases; and report generation and development. The E-review system, which ensures accurate and consistent reports analysis and is the primary tool for analyzing campaign finance reports, would also be jeopardized without continued contract support.

Hardware & Software Development and Maintenance..... \$69,103/OFTE

These services provide for software updates to the disaster recovery plan, any add-ons, and other updates that result from changes in agency policies or procedures, the law, or business processes throughout the agency. It also provides for annual reviews and updates to the disaster recovery plan. Oracle databases support the disclosure, E-review, and other mission systems, and failure to maintain them would put the major mission systems at risk of failure, and would result in higher reinstatement fees in the future.

Training and Other Federal Services \$5,532/OFTE

These slight increases are based on estimated service cost increases.

Program Decreases(\$671,676) / +0 FTE

Other Contract Services.....(\$376,067)/0 FTE

This decrease anticipates a reduction of contractual services, a portion of which would be performed by agency staff.

Printing and Supplies.....(\$184,103)/ 0 FTE

This reduction is based on more efficient purchasing and stocking of office supplies, publications and publication services, and minor IT supplies and equipment as well as a continued shift towards electronic, paperless operations.

Communications and Utilities.....(\$52,121)/ 0 FTE

This decrease is based on anticipated cost savings by consolidating several telecommunications services. With the expiration of a long-term contract, the FEC has been able to renew services with the GSA's WITS package that is available to all federal agencies.

Travel.....(\$33,200)/0 FTE

This decrease is expected to result from improved technology options.

Non-Capitalized Equipment.....(\$26,185)/ 0 FTE

This decrease anticipates a reduction in replacement furniture and purchases and of minor office equipment.

2-A.1 FY 2011 Program Changes

2-A.1.1 New Initiatives

As an IT-intensive agency responsible for reviewing and disclosing to the public an ever-increasing amount of detailed campaign finance data, the continuing development of hardware- and software-integrated systems are fundamental needs for furthering the agency's mission. For FY 2011, \$1.4 million is being requested for mission-essential system capitalized enhancements and modernizations, without which various applications may not keep pace with technological advancements and soon be rendered obsolete and un-maintainable.

Another new systems initiative vital to the maintenance and wellness of the agency's IT portfolio is an effort to virtualize all server hardware and applications. As described above, the virtualization initiative will reduce the number of computer servers required to operate the agency's IT systems.

In FY 2009, the agency launched Livelink, which, as described above, will provide the platform necessary to establish an enterprise content management system with full search capability. This project is being implemented over multiple years. Phase 1, launched in July 2009, is currently in progress. Phase 2 will be implemented in FY 2010, and the agency seeks funding for Phase 3 in FY 2011. This system will increase efficiency within the agency and enhance the agency's ability to carry out its mission in the areas of compliance and development of the law.

2.2 – Federal Election Commission

Table 3
Object Class Data
[In dollars]

Federal Election Commission	FY 2009 Actual	FY 2010 Estimate	FY 2011 Request	Change: FY 2010 to FY 2011
Object Classification:				
11.0 Personnel Compensation	33,728,382	36,723,718	37,840,929	3.0%
11.52 Cash Awards	713,239	747,624	763,538	2.1%
12.10 Personnel benefits	9,010,577	9,856,604	10,152,302	3.0%
12.18 Transit Subsidy	418,053	465,000	470,000	1.1%
13 Benefits of Former Personnel	25,000	-	-	-
Subtotal, Personnel	43,895,251	47,792,946	49,226,769	3.0%
21 Travel & transportation of persons	161,966	358,200	325,000	-9.3%
23.1 GSA Rent	5,705,136	5,755,351	5,818,278	1.1%
23.3 Communications & Utilities	723,851	682,121	630,000	-7.6%
24 Postage, Printing & reproduction	227,435	247,600	210,000	-15.2%
25.11 Training, Commercial Fed. & Tuition	382,801	451,500	455,000	0.8%
25.14 IT Contracts	6,930,113	5,388,229	5,791,338	7.5%
25.2 Other services	1,078,244	1,093,411	767,344	-29.8%
25.3 Other purchases of goods & services from Govt. accounts	1,060,294	963,624	965,656	0.2%
25.7 Hardware and Software Main.	668,188	1,510,900	1,580,003	4.6%
26 Supplies and materials	815,281	946,000	854,497	-9.7%
31.2 Capitalized Equipment	919,765	1,007,818	1,900,000	88.5%
31.3 Non-Capitalized Equipment	724,367	302,300	276,115	-8.7%
Subtotal, Non-Personnel	19,397,441	18,707,054	19,573,231	4.6%
Total	\$63,292,692	\$66,500,000	\$68,800,000	3.5%

2-B Appropriations Language

FEDERAL ELECTION COMMISSION
Federal Funds
Salaries and Expenses

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended, \$68,800,000 of which not to exceed \$5,000 shall be available for reception and representation expenses.

2-C Legislative Recommendations

In accordance with the Federal Election Campaign Act (FECA or the Act), on March 19, 2009, the Commission submitted the following Legislative Recommendations with the President and the Congress.

2-C.1 Electronic Filing of Senate Reports

Sections: 2 U.S.C. §§ 432(g) and 434(a)(11)

Recommendation: Congress should require electronic filing for all Senate candidates and their authorized committees (and for those persons and political committees filing designations, statements, reports or notifications pertaining only to Senate elections) if they have, or have reason to expect to have, aggregate contributions or expenditures in excess of the threshold amount determined by the Commission.

Potential Budgetary Impact: This recommendation would reduce agency operating costs such as printing, reproduction, and postage and data entry.

2-C.2 Fraudulent Misrepresentation of Campaign Authority

Section: 2 U.S.C. § 441h

Recommendation: Congress should revise the prohibitions on fraudulent misrepresentation of campaign authority to encompass all persons purporting to act on behalf of candidates and real or fictitious political committees and political organizations. In addition, Congress should remove the requirement that the fraudulent misrepresentation must pertain to a matter that is “damaging” to another candidate or political party.

Potential Budgetary Impact: No budgetary impact is anticipated.

2-C.3 Conversion of Campaign Funds

Section: 2 U.S.C. § 439a

Recommendation: Congress should amend FECA's prohibition of the personal use of campaign funds to extend its reach to all political committees.

Potential Budgetary Impact: No budgetary impact is anticipated.

2-C.4 Senior Executive Service

Sections: 5 U.S.C. § 3132(a)(1)(C)

Recommendation: Congress should delete the exclusion of the FEC from eligibility for the Senior Executive Service under the Civil Service Reform Act of 1978. This would align the Commission's personnel structure and practices with that of other comparable Federal agencies.

Potential Budgetary Impact: No budgetary impact is anticipated as recent legislation has put salary ranges for SES and SL employees in parity.

Section 3 – Budget and Performance Plan

3-A Strategic Goal and Framework

As reflected in the Commission’s FY 2008 – 2013 Strategic Plan, the FEC’s mission is supported by a single, overarching strategic goal:

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

The FEC pursues this strategic goal through three core objectives – transparency, compliance, and development of the law – that guide the Commission in accomplishing its mission and planning for future progress.

Objective A: Transparency

Objective B: Compliance

Objective C: Development of the Law

These core objectives and strategic activities also provide the framework needed to effectively measure the Commission’s success in achieving its strategic goal.

3-A.1 Transparency

Disclosing the sources and amounts of funds used to finance federal elections is one of the most important duties of the FEC. The FEC provides the public with the data to make educated, informed decisions in the political process based, in part, on information concerning where candidates for Federal office derive their financial support. It would be virtually impossible for the Commission to fulfill effectively any of its other responsibilities without disclosure. The public campaign finance reports are accessible through the FEC's website at <http://www.fec.gov/finance/disclosure.shtml>. By providing easy, online access to disclosure reports, the FEC provides an added incentive for the regulated community to comply with campaign finance law.

The FEC meets the objective of transparency by:

- Creating and maintaining a state-of-the-art electronic filing system to collect financial disclosure reports from Federal candidates and political committees;
- Making financial disclosure reports available to the public in a timely, efficient and useful manner;
- Reviewing these reports to ensure that they are accurate and complete; and
- Encouraging candidates and political committees to correct inaccurate or incomplete reports.

The FEC gauges its effectiveness through the following series of indicators designed to measure performance in areas that promote confidence in the campaign finance process:

Performance Measure	FY 2009 Goal	FY 2009 Actual	FY 2010 Goal	FY 2011 Goal
Meet the statutory requirement to make reports and statements filed on paper with the FEC available to the public within 48 hours of receipt.	100%	99.6%	100%	100%
Process reports within 30 days of receipt as measured quarterly.	95%	78%	95%	95%

Public Disclosure

The Commission's mandatory electronic filing (e-filing) rules require any committee that receives contributions or makes expenditures in excess of \$50,000 in a calendar year, or that has reason to expect to do so, to submit its reports electronically. These mandatory e-filing provisions apply to any political committee or other person required to file reports, statements and/or designations with the FEC. Although these requirements do not currently apply to Senate candidate committees (and other persons who support Senate candidates only), who file with the Secretary of the Senate, the Commission has submitted a Legislative Recommendation to the President and the Congress that these filers should be required to file electronically as well.

The primary function of the e-filing system is to act as the point of entry for submission of electronically filed campaign finance reports, providing faster public access to reports and

streamlining operations. Specifically, the system provides for public disclosure of electronically filed reports, via the FEC website, within minutes of being filed. When a committee files a financial disclosure report on paper, the information disclosed in the report is scanned and entered into the FEC electronic database. The Commission's Public Disclosure Division ensures that a copy is available for public inspection within 48 hours of receipt, both electronically on the website and at the FEC's headquarters. After the reports are imaged for disclosure purposes, the data is coded and entered into the FEC's database for review to assess accuracy and complete disclosure of campaign finance information.

The FEC Website

The FEC's website is the major source of Federal campaign finance information and provides access to this campaign finance data that has been submitted by candidates and committees and posted on-line by the FEC staff. In FY 2008, the website received approximately 169.5 million hits.

To make campaign finance data more accessible to the public, the FEC launched an interactive map providing users immediate access to contribution information for the 2008 Presidential, House and Senate elections. Users can access the amount of funds raised on a state-by-state basis, contributions, cash-on-hand, and the distribution of contributions by amount by clicking www.fec.gov/DisclosureSearch/mapApp.do. Users can also access lists of contributors by name, city, and amounts of contributions within the first three digits of any zip code. Contribution data is updated within one day of the FEC's receipt of electronically filed Presidential disclosure reports.

Assuring Accurate and Complete Reports

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

3-A.2 Compliance

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

The Commission encourages voluntary compliance through outreach programs. The FEC hosts instructional conferences in Washington, D.C., and in other cities across the country, where Commissioners and staff explain how the Act applies to candidates and political committees. These conferences specifically address recent changes in the campaign finance laws and focus on fundraising and reporting regulations. Additionally, the Commission responds to telephone inquiries and written requests seeking information about the law and assistance in filing disclosure reports.

The FEC has exclusive jurisdiction over the civil enforcement of the Federal campaign finance law. Commission enforcement actions originate from a number of sources, including external complaints, referrals from other government agencies, and internal referrals from the Audit or Reports Analysis Divisions. Instances of non-compliance may lead to an FEC enforcement case. In some cases, respondents may be given the option to participate in the Commission’s Alternative Dispute Resolution program, which seeks to resolve matters more swiftly. By law, all these matters must remain confidential until they are closed. Violations involving the late submission of FEC reports or failure to file reports are subject to the Administrative Fine program.

The Commission pursues the objective of compliance through:

- Expanding awareness of campaign finance laws by creating and disseminating educational materials, and through instructional conferences and workshops;
- Responding to complaints alleging violations of campaign finance laws;
- Imposing civil penalties for late-filed and non-filed disclosure reports;
- Conducting audits in a timely and efficient manner;
- Working with the Department of Justice in prosecuting criminal violations of the Act; and
- Making findings in completed compliance matters available to the public in a timely and useful manner.

The FEC gauges its effectiveness in this area through the following performance measures:

Performance Measure	FY 2009 Goal	FY 2009 Actual	FY 2010 Goal	FY 2011 Goal
Conduct educational conferences and host roundtable workshops on the campaign finance law each election cycle, achieving a mean satisfaction rating of 4.0 on a 5.0 scale.	100%	100%	100%	100%

Performance Measure	FY 2009 Goal	FY 2009 Actual	FY 2010 Goal	FY 2011 Goal
Issue press releases summarizing completed compliance matters within two weeks of a matter being made public by the Commission.	100%	63%	100%	100%
Issue press releases containing summaries of campaign finance data quarterly.	100%	75%	100%	100%
Process enforcement cases within an average of 15 months of receipt.	100%	75%	100%	100%
Process cases assigned to Alternative Dispute Resolution within 155 days of a case being assigned.	75%	26%	75%	75%
Process reason-to-believe recommendations for the Administrative Fine program within 60 days of the original due date of the subject untimely or unfiled report.	75%	84%	75%	75%
Process challenges in the Administrative Fine program within 60 days of a challenge being filed.	75%	60%	75%	75%
Conclude non-Presidential audits with findings in an average of 10 months, excluding time delays beyond the Commission's control, such as subpoenas and extension requests.	100%	12%	100%	100%
Conclude non-Presidential audits with no findings in an average of 90 days from beginning of fieldwork.	100%	0%	100%	100%
Conclude Presidential audits in an average of 24 months of the election, excluding time delays beyond the Commission's control, such as subpoenas and extension requests.	100%	100%	100%	100%

Expanding Awareness

In recent years, the Commission's website has become the single most important source of instantly accessible information about the Act and Commission regulations. Members of the regulated community and the general public can use the website to track Commission rulemakings, search advisory opinions and closed enforcement matters, view campaign finance data and find reporting dates. Moreover, while the Commission continues to make available printed copies of its educational brochures and publications, these materials are available and easy to access on the FEC's website along with other instructional information, such as the FEC's "Tips for Treasurers." In addition to its website, the FEC operates a press office and maintains a toll-free line to respond to inquiries regarding campaign finance data.

One way the Commission encourages voluntary compliance is by hosting conferences across the country, where Commissioners and staff explain how the Act applies to candidates, parties and political action committees. These conferences address recent changes in campaign finance laws and focus on fundraising and reporting regulations. The FEC held four conferences in FY 2009, three in the District of Columbia and one in Chicago, Illinois. Less formal educational seminars were held in Tallahassee, Florida, Columbus, Ohio, and Kansas City, Missouri. The FEC also hosted roundtable workshops at its headquarters to explain new regulations requiring disclosure of certain contributions bundled by lobbyists and to help committees prepare their campaign finance reports. The success of these efforts is evidenced by the evaluation scores and comments received. The overall rating for each event exceeded a 4.0 out of a possible 5.0.

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

Enforcement

In the last several years, the FEC has responded to a variety of enforcement matters through its Office of General Counsel (OGC), Alternative Dispute Resolution, and Administrative Fine programs. Under the Commission's traditional enforcement program, the Commission learns of possible election law violations primarily through:

- The Commission's review of a committee's reports or through a Commission audit;
- The complaint process, whereby anyone may file a sworn complaint alleging violations of the Act;
- Voluntary self-reporting by representatives of candidates or political committees who believe that they may have violated the Act; and
- The referral process, whereby other government agencies may refer possible violations of the Act to the FEC.

The most complex and legally significant enforcement matters are handled by the OGC that:

- Recommends to the Commission whether to find "reason to believe" the FECA has been violated, a finding which formally initiates an investigation;
- Investigates potential violations of the FECA by requesting, subpoenaing and reviewing documents and interviewing or deposing witnesses;
- Conducts settlement negotiations on behalf of the Commission, culminating in "conciliation agreements" with respondents on the assessment of fines; and

- Files suit in Federal district court when conciliation is unsuccessful. Closed enforcement matters are available online through the Commission's Enforcement Query System at <http://eqs.sdrdc.com/eqs/searcheqs>.

Office of General Counsel

Enforcement matters are handled by OGC pursuant to the procedures set forth in section 437g of the FECA. Over the past several years, the General Counsel has initiated a number of management and organizational changes to increase the quality and efficiency of the FEC's enforcement work, and has implemented policy initiatives to facilitate the processing of matters under review. A backlog of cases awaited Commission action at the beginning of the fiscal year due to the absence of a quorum of Commissioners from January through July 2008. The Commission processed 203 enforcement cases during FY 2009, which were processed in an average of 14.2 months. The Commission closed 152 cases (75%) within 15 months.

Alternative Dispute Resolution Program

The Alternative Dispute Resolution (ADR) program was implemented in FY 2001 to facilitate settlements outside of the traditional enforcement or litigation processes. The program's primary objective is to enhance the agency's overall effectiveness through more expeditious resolution of enforcement matters with fewer resources required to process complaints and internal referrals. Generally, a case is considered processed when it is closed. A case is closed when the Commission votes on the recommendation made by ADR as to what final action should be taken.

Administrative Fine Program

In response to a legislative mandate, an Administrative Fine program was implemented in July 2000 to address untimely filing or non-filing of disclosure reports in a more efficient and effective manner. This program is administered by the Office of Administrative Review and the Reports Analysis Division, which are within the Office of Compliance. Since the Program's inception, the Commission has closed 1,983 cases and assessed fines of almost \$3.66 million.

Conducting Audits

The Audit Division's major responsibilities concern the public funding of Presidential campaigns and audits of various political committees. Audit evaluates the Presidential primary candidates' applications for matching funds and determines the amount of contributions that may be matched with Federal funds. As required by 26 U.S.C. § 9007, the FEC audits all recipients of public funds. In addition, pursuant to 2 U.S.C. § 438(b), the Commission audits non-Presidential committees that, according to FEC determinations, have not substantially complied with the law. The FEC publishes its findings in audit reports, which can be found at http://www.fec.gov/audits/audit_reports.shtml.

3-A.3 Development of the Law

In fulfilling its statutory mission, the Commission often finds itself in a delicate balancing act. On the one hand, the Commission must administer, interpret and enforce the Federal Election Campaign Act, which was intended to serve a compelling governmental interest. On the other hand, the Commission must remain mindful of the First Amendment’s guarantees of freedom of speech and association, and the practical implication of its actions.

The FEC furthers the development of the law by:

- Conducting rulemaking proceedings to promulgate Commission regulations consistent with revisions to the Act and judicial decisions;
- Issuing advisory opinions to provide specific guidance to the regulated community;
- Defending challenges to the Act, Commission regulations or actions; and
- Certifying all Presidential public funding payments in a timely and efficient manner.

The FEC gauges its effectiveness in these areas through the following performance measures:

Performance Measure	FY 2009 Goal	FY 2009 Actual	FY 2010 Goal	FY 2011 Goal
Complete rulemakings within specific time frames that reflect the importance of the topics addressed, proximity to upcoming elections, and externally established deadlines.	100%	83%	100%	100%
Issue all advisory opinions within 60- and 20-day statutory deadlines.	100%	100%	100%	100%
Issue expedited advisory opinions for time-sensitive, highly significant requests within 30 days of receiving a complete request, or a shorter time when warranted.	100%	100%	100%	100%
Ensure that court filings meet all deadlines and rules imposed by the courts.	100%	100%	100%	100%
Process public funding payments in the correct amounts and within established time frames.	100%	100%	100%	100%

Regulations

The Commission updates or adopts new regulations in response to Congressional action, judicial decisions, petitions for rulemaking or other changes in campaign finance laws.

The Policy Division of OGC drafts Notices of Proposed Rulemaking (NPRMs) which, once adopted by the Commission, are published in the Federal Register. NPRMs are also made available on the FEC's website and at <http://www.regulations.gov/>. NPRMs provide an opportunity for members of the public and the regulated community to review proposed regulations, submit written comments to the Commission and testify at public hearings, which are conducted at the FEC when appropriate. The Commission considers the comments and testimony and deliberates publicly regarding the adoption of the final regulations. The text of final regulations and the corresponding Explanations and Justifications, once adopted by the Commission, are published in the Federal Register.

The Commission has undertaken a number of significant rulemaking projects during FY 2010. The first rulemaking, which the Commission completed during Quarter 1, implements the statutory provisions in the Honest Leadership and Open Government Act (HLOGA) concerning travel.

Three rulemakings on which the Commission has moved forward during FY 2010 will implement the Court of Appeals' decision in *Shays v. FEC*. The Commission issued an NPRM, obtained public comment and held hearings on the definitions of voter registration and get-out-the-vote activity, and issued an NPRM and obtained public comment on fundraising by candidates and Federal officeholders for party committees and other entities. The Commission also published an NPRM and received comments on communications coordinated with candidates or party committees.

A rulemaking was also initiated to effectuate the decision of the US Court of Appeals for the DC Circuit in *EMILY's List v. FEC*. Thus far, the Commission has published an NPRM and received public comment.

Finally, the Commission is working to complete all phases of a rulemaking to implement the Debt Collection Improvement Act of 1996.

Advisory Opinions

The Commission provides formal interpretation of the Act through the promulgation of regulations and the issuance of AOs, which are official Commission responses to questions regarding the application of Federal campaign finance laws to specific factual situations. The FEC's AO brochure at <http://www.fec.gov/pages/brochures/ao.shtml> provides a complete description of the AO process and explains how to request an advisory opinion.

Consistent with the Act, when the Commission receives a request for an AO, it generally has 60 days to respond. For AO requests from candidates in the two months leading up to an election, the time for the Commission to respond to the request is reduced to 20 days. Nevertheless, the Commission recently instituted an expedited process for handling certain time-sensitive requests in even shorter timeframes. The Commission has placed special emphasis on expediting its processing and consideration of certain highly significant AO requests. Although the Act allows the agency 60 days to respond to most requests, the Commission strives to issue these advisory opinions in thirty days.

The number of AO requests that the Commission receives is subject to cycles and is somewhat higher during election years. During FY 2009, the Commission completed 100 percent of AOs within the statutory deadlines. The Commission did not receive any 20-day requests. Furthermore, the Commission issued two expedited advisory opinions within thirty days during FY 2009. The average number of days from receipt of the complete AO request to issuance of the AO was 27 days for expedited requests and 47 days for 60-day requests that did not have extended deadlines. A summary of AOs can be reviewed at: <http://saos.nictusa.com/saos/searchao>.

Litigation

The Commission is the exclusive representative of the FEC before the Federal district and circuit courts, and the Supreme Court with respect to cases involving publicly financed Presidential candidates. It also has primary responsibility for defending the Act and Commission regulations against court challenges. The Commission's court filings met all deadlines and rules imposed by the courts 100 percent of the time.

On January 21, 2010, the Supreme Court issued its opinion in *Citizens United v. FEC*. That decision overruled two prior decisions of the Court and held that corporations could use their general treasury funds to pay for independent expenditures. The Commission is considering the impact of the opinion on its existing regulations, as well as its ongoing enforcement processes, and will be providing guidance to the public as soon as possible regarding what steps will be taken to comply fully with the opinion.

In other ongoing litigation, the Commission is defending a lawsuit brought by SpeechNow.org, which alleges that the Act's limits on contributions to political committees is unconstitutional as applied to groups that receive contributions only from individuals and who make only independent expenditures with their funds. The Commission is also defending against two "as applied" lawsuits brought by the Republican National Committee and other plaintiffs: one case concerns the application of BCRA's soft money ban to contributions that allegedly will be used solely for nonfederal activities, while the other case involves the Act's limits on party coordinated expenditures.

Public Funding

In addition to enforcing the FECA, the Commission is responsible for administering the public funding of Presidential elections, as outlined in 26 U.S.C. §§ 9001 – 9039. The Commission certifies a candidate's eligibility to participate in the program, establishes eligibility for payments, and conducts a thorough examination and audit of the qualified campaign expenses of every candidate who receives payments under the program.

To be eligible for public funds, a Presidential candidate or a party convention committee must first submit a letter of agreement and a written certification in which the candidate or committee agrees to:

- Spend public funds only for campaign-related expenses or, in the case of a party convention, for convention-related expenses;
- Limit spending to amounts specified by the campaign finance law;
- Keep records and, if requested, supply evidence of qualified expenses;
- Cooperate with an audit of campaign or convention expenses;
- Repay public funds, if necessary;
- Pay any civil penalties assessed by the FEC; and
- Document that Primary candidates have met the “threshold requirement” for eligibility by raising more than \$5,000 in each of 20 states.

Candidates and convention committees seeking to become eligible for public funds may start the application process anytime after January 1, 2011, the year preceding the 2012 Presidential election. During the 2008 Presidential election cycle, the Commission certified nine candidates eligible to receive matching payments and processed 34 matching fund submissions which resulted in payments totaling \$21.7 million. In addition, the Commission certified payments of \$16.8 million to each national party convention and \$84.1 million to a general election candidate, John McCain.

3-A.4 Indirect Program Costs

Information Technology

The Information Technology Division plans for, develops, and maintains an integrated system of hardware and software. It helps support the Commission’s responsibility for providing public disclosure by aiding in the analysis of all campaign finance reports. It maintains the contents of all agency operations.

The Division also secures the Commission’s IT structure against the ever-present threats of data misuse, destruction, or inappropriate disclosures, while ensuring continuity of operations in the event of a disaster. The Commission has taken aggressive actions to secure its IT infrastructure, including a mandatory security awareness training program for its employees and contractors. In addition the FEC recently began several initiatives as security enhancements relating to risk assessments of operations, disaster recovery, and continuity of operations in the event of a disaster.

3-B Office of the Inspector General

The OIG mission is to detect and prevent fraud, waste, and abuse, and violations of law and to promote economy, efficiency and effectiveness in the operations of the FEC. The OIG strives, as an agent of positive change, to promote improvements in the management of FEC programs and operations by independently conducting audits, evaluations and investigations. In addition, the OIG keeps the Commission and Congress informed regarding major developments associated

with the Inspector General's Office work. The OIG's accomplishments are reported semiannually to the Commission and Congress.

3-C Administrative Overhead

Office of the Chief Financial Officer

The OCFO produces timely, accurate, and useful financial information, essential for making day-to-day decisions and managing the government's operations more efficiently and effectively. This office is responsible for fully complying with all financial management laws and standards, and all aspects of budget formulation, execution, and procurement.

Human Resources

The Office of Human Resources provides services to the agency including hiring, coordinating training, processing personnel actions and ensuring receipt of benefits. To further support its employees, the Commission, through this office, undertook a comprehensive human capital management initiative. This initiative included changes in recruitment, strategic hiring, and evaluating and training the current workforce.

Administrative Services Division

The Administration Services Division is responsible for space management, records management, telecommunications, building security and maintenance. In addition, the office handles printing, document reproduction and mail services.

Equal Employment Opportunity and Programs

The EEO Office advises the Commission on the prevention of discriminatory practices and manages the agency's EEO Program.

Office of Inspector General's Fiscal Year 2011 Budget Request

The Inspector General Reform Act (Pub. L. 110-409) was signed by the President on October 14, 2008. Section 6(f)(1) of the Inspector General Act of 1978, 5 U.S.C. § app. 3, was amended to require certain specifications concerning Office of Inspector General (OIG) budget submissions each fiscal year.

Each Inspector General (IG) is required to transmit a budget request to the head of the establishment or designated Federal entity to which the IG reports specifying:

- the aggregate amount of funds requested for the operations of the OIG,
- the portion of this amount requested for OIG training, including a certification from the IG that the amount requested satisfies all OIG training requirements for that fiscal year, and
- the portion of this amount necessary to support the Council of the Inspectors General on Integrity and Efficiency (CIGIE).

The head of each establishment or designated Federal entity, in transmitting a proposed budget to the President for approval, shall include:

- an aggregate request for the OIG,
- the portion of this aggregate request for OIG training,
- the portion of this aggregate request for support of the CIGIE, and
- any comments of the affected IG with respect to the proposal.

The President shall include in each budget of the U.S. Government submitted to Congress:

- a separate statement of the budget estimate submitted by each IG,
- the amount requested by the President for each OIG,
- the amount requested by the President for training of OIGs,
- the amount requested by the President for support of the CIGIE, and
- any comments of the affected IG with respect to the proposal if the IG concludes that the budget submitted by the President would substantially inhibit the IG from performing the duties of the OIG.

Following the requirements as specified above, the OIG of the Federal Election Commission submits the following information relating to the OIG's requested budget for fiscal year 2011:

- the aggregate budget request for the operations of the OIG is \$1,325,940,
- the portion of this amount needed for OIG training is \$29,436, and
- the portion of this amount needed to support the CIGIE is \$3,182.

I, Lynne A. McFarland, certify as the IG of the Federal Election Commission that the amount I have requested for training satisfies all OIG training needs for fiscal year 2011.