

**The Equal Employment
Opportunity Commission's (EEOC)
Office of Inspector General**

**Evaluation of the Management of the
EEOC's State and Local Programs
Project Number 2010-09-AEP**

Final Evaluation Report

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Executive Summary

The Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. It is also illegal to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The laws apply to all types of work situations, including hiring, firing, promotions, harassment, training, wages, and benefits.

From 2000-2008 as a result of declining appropriation levels and hiring freezes, EEOC lost approximately 25% of its full time employees and its case backlog increased. As a small Federal agency in a budget-cutting and performance heightened administration, EEOC's effective and efficient use of its resources to deliver on its mission is extremely important. Therefore, maintaining a collaborative relationship with the Fair Employment Practices Agencies (FEPAs) is vital to ensuring that EEOC meets its strategic goal of justice, opportunities, and inclusive workplaces and reducing the case backlog. To assist in meeting its mission and reducing its backlog, the EEOC maintains Work Sharing Agreements with more than 90 state and local FEPAs to allocate responsibility for investigation and resolution of employment discrimination charges, which fall within the jurisdiction of both the EEOC and an enforcing state or local entity.

The overall objective of the evaluation of the EEOC's State and Local Programs is to assess the adequacy, effectiveness, and efficiency of the EEOC's FEPA program management activities. The specific key areas of the evaluation were performance goals and objectives, oversight of case quality, payment eligibility and amounts, and the voucher payment process.

Our evaluation recognized the overall dedication and commitment of EEOC management to their mission and their administering of EEOC's State and Local Programs. However, we noted several opportunities for improvement. The improvements recommended resulted from our analysis of written policies and procedures, survey instruments, published documents, interviews with EEOC management and site visits at two of 15 District Offices. We sent surveys to all 15 District Offices and 15 of 94 FEPAs. All surveys sent were returned. Based on our evaluation, we noted the following opportunities for improvement:

- EEOC has not established any performance goals or objectives related to the FEPAs performance. Without any performance goals and objectives, the EEOC is not holding itself accountable for achieving program results. We recommend that management develop and implement strategic performance goals and objectives that are reflective of the program; are measurable and in accordance with the requirements of Government Performance and Results Act; and that the goals and objectives are included in the annual performance and accountability report.

- Potential areas for improving efficiency through the use of technology and training should be capitalized upon by EEOC. We noted that the process for performing SWRs incurs significant monetary costs that could potentially be eliminated if electronic applications were used in the process. Because SWR training is not routinely provided, the State and Local Coordinator (SLC) spends more time addressing issues resulting from the SWR that could have been prevented by providing training upfront. We recommend that EEOC State and Local Program management consider including additional funding in future budget requests to invest in electronic applications /technology for SWRs and additional training for the FEPAs.
- The payment of \$550 to the FEPAs per charge resolution case is approximately 16 percent of the estimated actual processing costs. Although the payments are not intended to reimburse the FEPAs for the entire processing costs, the payments are intended to complement the fiscal resources available to each FEPA and to encourage cooperation between the EEOC and the FEPAs for employment discrimination charges. We recommend that State and Local Program management perform a full assessment of the costs for resolution and intakes; reassess the current payment amounts and the case quotas; and consider making appropriate adjustments to the payment amounts and budgeted quotas to be competitive with Department of Housing and Urban Development for FEPA time and productivity. Additionally, we recommend that State and Local Program management consider allocating additional funds to provide incentive payments to FEPAs to go beyond their case quota in order to encourage increased productivity.
- The internal EEOC budget allocation and funding process is not efficient because the allocations are not available and recorded in the financial management system until the middle of the fiscal year and thus no FEPA payments can be processed until that point, although, FEPAs have been processing cases since the beginning of the fiscal year. Once the budget is allocated to the FEPA, they submit an invoice for 50% of their budget allocation regardless of the number of cases actually processed. We recommend that EEOC revisit their budget allocation process to determine ways that the process can be improved to be more efficient and timely and provide better controls designed to reduce the potential for fraud.
- The EEOC's financial policies and procedures related to the voucher payment process are not documented and communicated effectively throughout the organization. Additionally, we noted that the monitoring that should be done of payments, open invoices, and open receiving reports is not performed, although the District Office officials have access to the financial management system that is able to provide information to perform effective monitoring. In conjunction, we noted that the District Office officials are not consistently monitoring the FEPAs budget. We recommend that EEOC develop written procedures for processing voucher payments and develop and institute a consistent monitoring

process for the District Offices that occurs throughout the fiscal year not just at fiscal year end.

Background

The Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws, such as Title VII of the Civil Rights Act of 1964, as amended; the Equal Pay Act of 1963; the Age Discrimination in Employment Act of 1967; Section 501 of the Rehabilitation Act of 1973 (in the Federal sector only); Title I of the Americans with Disabilities Act of 1990 and Americans with Disabilities Act Amendments Act of 2008; the Civil Rights Act of 1991; and the Lilly Ledbetter Fair Pay Act of 2009, that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. It is also illegal to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

With its headquarters in Washington, D.C., and through the operations of 53 field offices nationwide, the EEOC coordinates all federal equal employment opportunity regulations, practices, and policies. The Commission interprets employment discrimination laws, monitors the federal sector employment discrimination program, provides funding and support to state and local Fair Employment Practices Agencies (FEPAs), and sponsors outreach and technical assistance programs.

Many states, counties, cities, and towns have their own laws prohibiting discrimination, as well as FEPAs responsible for enforcing those laws. Usually the laws enforced by these FEPAs are similar to those enforced by EEOC. In some cases, these agencies enforce laws that offer greater protection to workers, such as protection from discrimination because you are married or unmarried, have children or because of your sexual orientation. FEPAs also may have different deadlines for filing a charge, different standards for determining whether you are protected by these laws, and different types of relief available to victims of discrimination.

From 2000-2008, as a result of declining appropriation levels and hiring freezes, EEOC lost approximately 25% of its full time employees and its case backlog increased. As a small Federal agency in a budget-cutting and performance heightened administration, EEOC's effective and efficient use of its resources to deliver on its mission is extremely important. Therefore, maintaining a collaborative relationship with the FEPAs is vital to ensuring that EEOC meets its strategic goal of justice, opportunities, and inclusive workplaces and reducing the case backlog. To assist in meeting its mission and reducing its backlog, the EEOC maintains work sharing agreements with more than 90 state and local FEPAs to allocate responsibility for investigation and resolution of employment discrimination charges, which fall within the jurisdiction of both the EEOC and an enforcing state or local entity.

The EEOC enters into work sharing agreements and contracts with the FEPAs. These documents establish the requirements, eligibility criteria, reviews, budgets, and responsibilities of EEOC and the FEPAs. Additionally, in the *Fiscal Year 2010*

Contracting Principles for State and Local Fair Employment Practices Agencies, the EEOC states that it will “conduct reviews and evaluations of the investigative and administrative charge processing procedures of contract FEPAs.” A Substantial Weight Review (SWR) is the review given to final actions of FEPAs in order to accord substantial weight to such findings as required by §706 of Title VII of the Civil Rights Act of 1964, as amended. FEPAs are required to submit to the EEOC documents pertinent to conducting a SWR. The EEOC conducts SWRs for all cases filed under the Americans with Disabilities Act and on no less than ten percent of Title VII and ADEA cases submitted for payment. Such reviews may require on-site visits and/or case file reviews by the EEOC’s Office of Field Programs.

The State and Local Programs unit of EEOC’s Office of Field Programs provides oversight for FEPA related activities. The various EEOC District Directors are the contract monitor for all contracts with the FEPAs. The District Director’s duties include recommending issuance and modification of charge processing contracts, monitoring contract production and rejection rates, and authorizing contract payment vouchers. The District Director, through the District Office’s State and Local Coordinator, ensures that the terms of contract and work sharing agreement are met, and charges are properly deferred and/or referred. The State and Local Coordinators are responsible for performing reviews of FEPA case information and handling day-to-day interaction with the FEPAs. The coordinators work with the FEPAs to address any issues noted during the SWRs and to provide one-on-one training.

In FY 2010, EEOC supported the FEPAs processing of their joint cases with funding of \$550 for each resolution and \$50 for each intake. These funding levels have not increased since FY2006 (resolutions were \$540). Annually, each FEPA is budgeted a specific case quota and funding level. The case and budget allocation/funding specifics are provided during the second quarter of the fiscal year. Initially, the FEPAs invoice the EEOC for 50% of the established quotas. Future invoices are adjusted for actual resolutions and intakes processed. Invoices are approved in the financial management system by matching the receiving reports received from the district offices to original invoices received directly by the accounting service provider. Disbursements are processed by the EEOC’s accounting service provider. During August each year the SLP management with assistance from the SLC assessed the status of FEPA processing and as needed, adjusted the budget and case allocations.

For FY 2010 and FY 2011, the funding level for the State and Local Programs was \$30 million, with \$28 million going to the FEPAs which represents a 7.7% increase over the FY 2009 funding level. A modest increase of \$1.5 million was requested in the FY 2012 budget.

The 2007-2012 EEOC Strategic Plan includes a focus on collaboration with the FEPAs. Also, the Performance and Accountability Reports (PAR) for FY 2009 and 2010 include an undeveloped performance measure for EEOC’s collaboration with the FEPAs. In 2007, the EEOC agreed with the Office of Management and Budget (OMB) to develop such a measure, but has not done so, despite a workgroup report and accompanying

recommendations for a performance measure. In April 2008, the EEOC/FEPA Performances Measures Workgroup finalized its recommendation for measurement approaches to track the FEPAs contribution to agency goals. However, because of significant changes in management, the recommendations have not been approved. In the PAR management has asserted that the recommendations will be considered in the upcoming revision to the strategic plan.

The Performance and Accountability Report provides financial and performance results that enable the public to assess the accomplishments of an agency for each fiscal year. This report provides an overview of programs, accomplishments, challenges, and management's accountability for the resources entrusted to them. The EEOC Inspector General included the State and Local Programs as a management challenge in the FY 2009 and 2010 Performance and Accountability Reports. As a result this evaluation was performed.

Objectives

The overall objective of the evaluation of the EEOC's State and Local Programs is to assess the adequacy, effectiveness, and efficiency of the EEOC's FEPA program management activities.

The specific key areas of the evaluation are as follows:

- 1. Performance Goals and Objectives** – What progress has the EEOC made in establishing and overseeing, high quality performance goals, performance targets, and performance standards for work the FEPAs perform for the EEOC?
- 2. EEOC Oversight of Case Quality** - Does the quality of employment discrimination cases for which FEPAs receive EEOC payment meet or exceed the standards of the SWR?
- 3. Payment Eligibility and Amounts** – How effective are the rationale and criteria for deciding which FEPAs are eligible to submit cases for payment?
- 4. Voucher Payment Process** – Do the financial transactions between EEOC and the FEPAs comply with the EEOC's system of internal controls? Are financial process transactions involving the EEOC and the FEPAs efficient, and effective?

Findings and Recommendations

Performance Goals and Objectives

The EEOC was required to develop performance goals and objectives for inclusion in the Strategic Plan for Fiscal Years 2007-2012. The EEOC State and Local Programs (SLP)

worked with a select group of District Directors to develop their portion of the strategic plan which was submitted to the former EEOC Chair Earp in October 2006. The strategic plan modifications state that “a placeholder was added for the development of a measure of the contribution of our FEPA partners toward achievement of agency goals. This development effort is required by the Program Assessment Rating Tool and the Improvement Plan adopted to change the agency rating.”

In 2007, the EEOC agreed with the Office of Management and Budget (OMB) to develop such a measure, but has not done so, despite a workgroup report and accompanying recommendations for a performance measure. In April 2008, the EEOC/FEPA Performances Measures Workgroup finalized its recommendation for measurement approaches to track the FEPAs contribution to agency goals.

The former EEOC Chair Earp decided changes to the Strategic Plan were needed prior to submission to the commissioners for approval. The Strategic Plan was never finalized and as of January 2011 has not been approved. Additionally, the Performance and Accountability Reports (PAR) for FY 2009 and 2010 that are made available to the public include the undeveloped performance measure on EEOC’s collaboration with the FEPAs. Without any performance goals and objectives, the EEOC is not holding itself accountable for achieving program results and is potentially providing the wrong impression about the management of the FEPAs based upon review of the PARs.

The lack of an approved strategic plan is preventing the SLP from implementing performance goals and objectives related to the FEPAs. The EEOC SLP management does not want to implement goals nor invest in training employees on those goals when they may be changed by the current EEOC Chair Berrien who took office in fiscal year 2010. However, interim goals should be considered as final goals are established. In the PARs, management has asserted that the workgroup recommendations will be considered in the upcoming revision to the strategic plan.

Recommendations:

We recommend that the State and Local Program management:

1. Develop and implement strategic performance goals and objectives that are reflective of the program; are measurable, and in accordance with the requirements of GPRA.
2. Work with the Chief Financial Officer to include the performance goals, objectives, and measures in the annual performance and accountability report.

EEOC Office of Field Programs Response:

An overarching issue relating to the Evaluation of State and Local concerns the varied comments made about the absence of a performance goal related to the FEPAs. While the Evaluation does acknowledge in passing that a goal was established---under the artful guidance of Mary McIver---it doesn’t seem to grasp that the proposed goal was

forwarded to the then-Chair's office but not acted upon, nor does it seem to grasp the impact of the Commission's not having a new strategic plan. In light of the Chair's office considering either an entirely new plan, or making major revisions to the prior plan, it would be inappropriate to have a State and Local goal set out at this point.

Evaluator's Analysis:

We believe that the evaluation grasped and stated that the proposed goal was forwarded to the Chair's office but not acted upon and that no new Strategic Plan has been prepared as of January 2011. However, establishing internal performance goals and objectives including interim goals is a valid and important management oversight control. We have determined that the finding related to Performance Goals and Objectives is valid and that the recommendations provided should be implemented.

Oversight of Case Quality

The quality of case processing, i.e. the results of the SWR, do not directly correlate to the receipt of an EEOC payment. After a FEPA has met the criteria to receive a charge resolution contract, the FEPA is eligible to receive payments. The State and Local Coordinators (SLCs) are required to perform a SWR on a minimum of 10% of cases processed by each FEPA, if the FEPA has processed at least 100 cases. If the FEPA has processed less than 100 cases, the SLCs perform a review of all cases processed. The SLC will also do SWRs if requested by a FEPA and in all right to sue cases.

The SWR process begins when the SLC picks a 10% random sample of closed cases from the Integrated Mission System (IMS). After the selected case files are provided by the FEPA, the SLC reviews the files to determine if the files reach the standards of the SWR. An EEOC Form 649 (Substantial Weight Review Form) is utilized to document each file reviewed. The EEOC SLC signs the Form 649 at review completion. If the review results in exceptions, the FEPA is given time to perform the necessary corrections. The SLCs work with and provide training to the FEPAs to ensure that the cases meet the SWR requirements. To date, the EEOC has not expelled a FEPA for performance deficiencies. EEOC does not have expulsion provisions in their policies and procedures nor in the contract. The unwritten policy is to work with the FEPA to meet the SWR standards. FEPAs have exited the program of their own accord if they determined that they could no longer meet the requirements to receive the minimum review level. Because of the increased SWRs that would have resulted, the FEPAs preferred to exit the program.

In order to perform the SWRs, the SLCs either request that the files be sent to them or visit the FEPA site to review the files. In our walkthroughs of the SWR process, we noted that the same procedures were performed by each SLC in performing the SWR. We also noted that the process for performing SWRs incurs significant travel and monetary costs that could potentially be used for other purposes. In one instance the FEPA is incurring approximately \$180 a year to copy and mail the SWR case files, and the District Office is incurring approximately \$7,100 per year of occupancy costs for storing

SWR case files. For the other District Office visited, the District Office is incurring approximately \$8,400 per year in travel costs including the SLC's travel time and per diem to review case files at the FEPA locations.

Currently, the EEOC SLP has not instituted nor required the use of technology to increase efficiency and reduce costs of the SWR. At the two District Offices visited, the SLC indicated that FEPAs do not have sufficient funds available to purchase scanners or other electronic applications to electronically send case files for SWR. In the current FY 2007-2012 Strategic Plan EEOC acknowledges a shared need for technological enhancements and efficiencies by stating "coordination issues will continue to drive the FEPA/EEOC relationship with respect to enforcement, technology enhancements, and other partnerships or collaborative efforts that influence the overall enforcement of civil rights in the United States." To date, no plan of action has been developed to purchase electronic applications or equipment for District Offices or its FEPAs. An effective use of technology can lead to efficiencies in conducting the SWR and potential reductions in other costs over the long term.

The feedback from the District Offices and FEPAs surveyed indicated that FEPAs have not received nor been given any formal SWR training. Also, the SLCs indicated that currently they do not have sufficient funds to travel to their FEPAs to provide SWR training on a regular basis. Because SWR training is not routinely provided, the SLC spends more time addressing issues resulting from the SWR that could have been prevented by providing training upfront. With SWR training, the FEPAs could be more efficient and effective in their case processing and completion of the appropriate documentation. Currently, only informal training is provided to the FEPA by the SLC as SWRs are performed. In the FY 2009 and 2010 PARs, EEOC indicated that training was an area of emphasis and was essential to successfully meeting its mission, ensuring the quality of its work and enhancing its workforce.

Recommendations:

We recommend that EEOC State and Local Program management:

1. Request additional funding to provide FEPAs with formal SWR training and other alternative training methods that will allow FEPAs to take advantage of the actual technology and to reach a widest audience in a more efficiently and cost effective structure.
2. Request additional funding in future budget requests to invest in electronic applications and equipment to reduce the costs related to the SWRs.

EEOC OFP Response:

"SWR training," which is mentioned and recommended several times, often in conjunction with technological improvements, seems to misunderstand what a substantial weight review is, and what it is designed to do. Section 706 of Title VII directs that we accord substantial weight to final findings and orders of the FEPAs; the substantial

weight reviews are conducted by our State and Local coordinators who review the FEPAs' work product to see if the finding is acceptable to us. State and Local Coordinators understand how to conduct substantial weight reviews, i.e., how to review a file, and receive training every year from State and Local Program staff. FEPA staff understands that the coordinator will be looking at the file to determine whether the investigation contains information necessary to support the resolution. Training on the sufficiency of the investigation is substantive training, and would not be denominated "SWR training." Several years ago, the Commission provided training to the FEPAs' investigators when resources to do so were available. On an on-going basis, District Offices provide training to FEPA personnel, where feasible, as training is being provided to their own staff, and FEPAs regularly provide substantive training to their own investigators.

On the other hand, to the extent that the Evaluation is attempting to suggest that there may be technological methods to facilitate the transfer of materials reviewed during an SWR, we would be happy to explore that. (In fact, we have taken steps to determine the feasibility of adopting technology used by one of the FEPAs that has multiple offices and uses a form of electronic file transfer.)

Evaluator's Analysis:

The evaluators understand the purpose and mechanics of a substantial weight review. The substantial weight review training referred to in the recommendation relates to training the FEPAs on the proper preparation of case files in accordance with SWR policies and procedures. The feedback received as a result of this evaluation indicates that training provided by the SLCs is sporadic at best and the FEPAs want training. See survey results at Appendices 2 and 3. We have determined that the finding related to FEPA training is valid and that the recommendations provided should be implemented.

We believe that OFF's decision to explore technological methods to facilitate the transfer of materials reviewed during SWRs addresses the oversight of case quality recommendation 2.

Payment Eligibility and Amounts

After a FEPA has met the criteria to receive a charge resolution contract, the FEPA is eligible to receive payments. The eligibility criteria are outlined in the *Fiscal Year 2010 Contracting Principles for State and Local Fair Employment Practices Agencies*. Although, District Office officials and FEPA officials believe that the rationale and criteria for payment eligibility is fair, they believe that the payments for resolutions and intake at \$550 and \$50 respectively are insufficient to compensate FEPAs for the work performed. The results of our survey indicated that 85% of the FEPAs and 55% of the District Offices believe that the resolution and intake payment amounts were not sufficient to compensate the FEPAs for the effort required for these cases.

In FY 2010 the EEOC SLP officials estimated the cost to adjudicate resolution cases at approximately \$3,366 based upon 24 representative FEPAs. The payment of \$550 is approximately 16 percent of the estimated costs. Although the payments are not intended to reimburse the FEPAs for the entire processing costs, the payments are intended to complement the fiscal resources available to each FEPA and to encourage cooperation and collaboration between the EEOC and the FEPAs for employment discrimination charges. An environmental challenge to be considered is the reduction in fiscal resources available at the federal, state, and local levels because of overall economic forces during the past two to three years.

The same FEPA and District Office officials expressed concerns about the budget amounts allocated to the individual FEPAs. The budget amount guides the total number of resolution cases and intakes that can be performed by a FEPA. Once the case quota and budget have been reached the FEPA will not be reimbursed for any additional cases unless reallocated funding from another FEPA that will not reach their goal. It is reasonable to assume that a limited budget can lead to a reduction in productivity toward the end of the fiscal year because of the fixed quota/ceiling.

Over 60 percent of the FEPAs also work on housing discrimination cases for the Department of Housing and Urban Development (HUD), which are similar in nature to EEOC cases. The HUD program payments are \$4,000 per case and the program does not have a fixed case quota to limit the productivity of the FEPA to process cases.

A contributing factor to the payment limits is that the EEOC's SLP budget has not been increased over the last several years leaving no leeway for EEOC to increase amounts for intakes and resolutions. The payment amounts have not increased since FY 2006. However, the fiscal year 2011 budget for the State and Local Programs included a modest increase in the payment amounts. Because EEOC is under a continuing resolution at the time of this report, the increase has not been implemented yet. EEOC staff stated that the agency is expected to be under continuing resolution for the remainder of the year.

Recommendations:

We recommend that State and Local Program management:

1. Perform a full assessment of the costs for resolution and intakes; reassess the current payment amounts and the case quotas; and consider making appropriate adjustments to the payment amounts and budgeted quotas to provide a fee that covers a greater percentage of the costs of case processing.
2. Request additional funds to provide incentive payments to FEPAs to go beyond their case quota in order to encourage continued productivity.

EEOC OFP Response:

Finally, and perhaps most significantly, if our math is correct, the Evaluation would place the cost of processing a charge at \$3,437. To the extent that the Evaluation not unreasonably suggests that more money should be forthcoming for charge processing (perhaps similar to HUD's level), it does not comprehend that the pool of money that is available to the Commission is limited to the State and Local budget. We all recognize that the pool is not unlimited. To take a very conservative number of FEPA resolutions--say 40,000 charges---and apply \$3,000 per charge to that number, \$120,000,000 would be required. (The proposed State and Local budget for FY 2011 is \$30,000,000.) There is no acknowledgment that the amount of money available for State and Local purposes is so small, relative to the "entire processing costs," that the notion of incentive-laden contracts may not be worthwhile. Otherwise stated, in light of the very meager State and Local budget, and the need to insure that sufficient funds are provided to promote cooperation from all the FEPAs in an effective and non-duplicative enforcement effort in partnership with the Commission, the extremely limited amount of monies available for any "incentives" may not generate sufficient benefit.

The mention at various points of case "quotas" for the FEPAs suggests that we can require the FEPAs to produce a particular number of charges. Rather, FEPAs enter into contracts with the Commission for a certain level of charge resolutions, based on projections of what they and we believe they can produce. That number is adjusted upward or downward, consistent with available resources, as the particular FEPA's capacity allows.

Evaluator's Analysis:

OFP provided to the evaluators the estimated cost per resolution of \$3,366. We did not separately calculate those costs. We certainly understood and acknowledged in the report that the State and Local budget has received for FY 11 and is requesting for FY 12 a modest increase. Also, we understand the tight fiscal picture of the entire federal government.

The evaluation does not indicate that EEOC should compensate the FEPAs for the total costs incurred nor does it indicate the dollar amount or percentage change that should be made to either the compensation amounts or the quotas. We have determined that the organization should determine the proper combination/balance of quotas and compensation.

We understand that FEPAs enter into contracts with the Commission for a certain level of charge resolutions based on projections of what can be produced. However, we also understand that expansion of a FEPA's case quota is dependent upon another FEPA's inability to meet their case quota.

We have determined that the findings related to Payment Eligibility and Amounts are valid and that the recommendations provided should be implemented.

Voucher Payment Process

The SLC and District Resource Manager (DRM) handle approving the payments made to FEPAs. Based upon information from the SLC, the DRM enters the number of cases into Momentum. Momentum is EEOC's general ledger system that is designed to manage EEOC's financial and administrative operations. EEOC uses Momentum to process and account for the payments to and budgets for the FEPAs. After entering the case numbers, the DRM generates a receiving report that is provided to the SLC for filing.

The FEPAs send the original invoice directly to the National Business Center (NBC), the EEOC's accounting service provider. The NBC is responsible for ensuring that the invoice amount matches the receiving report. If documents match, a disbursement is scheduled for electronic payment to the FEPA within 30 days. If the documents do not match, NBC contacts the District Office for resolution.

We noted during our walkthroughs at two District Offices that the receiving reports that are generated for payment have different supporting documentation. One SLC uses a copy of the FEPA invoice to generate the receiving report. The other SLC uses oral or written communication to obtain the case numbers. Additionally, we are unable to determine if the financial transactions between EEOC and the FEPAs comply with the EEOC's system of internal controls because the financial policies and procedures related to the FEPA's voucher payments are not documented and communicated effectively throughout the EEOC SLP

Also, we noted that the monitoring that should be done of payments, open invoices, and open receiving reports is not performed, although the District Office officials have access to Momentum and can obtain the information to perform effective monitoring.

Based upon our walkthroughs and interviews with the SLCs, we noted that the District Office officials are not consistently monitoring the FEPA's budget. The District Offices focus on the budget allocations toward the end of the fiscal year when reallocation assessments are made. Inconsistently monitoring the budgets can lead to unspent obligations and negatively affect EEOC's ability to make reallocations.

We also observed the budget allocation process is not efficient because the allocations are not available to process payments against until the middle of the fiscal year. The program memorandum is the document that establishes the budget amounts for EEOC including the allocations to the FEPAs. Once the allotments are made to EEOC, the funds are available. The Office of Field Programs enters purchase requests into Momentum for each FEPA. The purchase request tells Momentum which FEPAs get what dollar amount. The initial budget allocation and funding process is usually not completed until February or March. Once the budget is allocated to the FEPA and recorded in Momentum, the FEPAs submit invoices for 50% of their budget allocation regardless of the number of cases actually processed. The District Resource Managers submit receiving reports for 50% of the cases. The payments are expensed and no portion is recorded as an advance. This could lead to initial overpayments to the FEPAs.

The District Office officials indicated that any additional payments received during the fiscal year are adjusted to actual case numbers and no more than the ceiling is paid.

Recommendations:

We recommend that EEOC State and Local Program management:

1. Revisit their budget allocation process to determine ways that the process can be improved to be more efficient and timely and provide better controls designed to reduce the potential for fraud.
2. Develop and institute a consistent monitoring process for the District Offices that occurs throughout the fiscal year, and not just at fiscal year end.
3. Develop written procedures for processing voucher payments in collaboration with the Office of Finance.

EEOC OFP Response:

The various comments on vouchering do not seem to take into account that the receiver/voucher/NBC process is set in place by OCFOAS, and we are subject to those requirements. Each year, OCFOAS issues policy documents setting out processes for the year and has issued end-of-year guidance. We undertake to see that EEOC and FEPA staff adhere to the guidance that is issued.

The recommendations and the survey state that a process must be set in place for contracts to be awarded earlier in the year. This recommendation will require considerable coordination with the Office of Legal Counsel, and may require at least a two-step procurement process. We will undertake that coordination and work to issue a preliminary contract no later than January each year.

Evaluator's Analysis:

The evaluation reviewed the guidance provided and noted that the EEOC Voucher Payment Process is not documented and that the two site visit locations did not process the transactions in the same manner. We understand that SLP can not create financial policy in isolation must collaborate with the Office of Finance to ensure that the payment process has the appropriate controls and that the personnel responsible are properly trained in the process. We also believe that the recommendations will only enhance the Voucher Payment Process already established. We have determined that the findings related to developing a written procedure for processing voucher payments are valid and that the recommendations 2 and 3 provided should be implemented.

We have determined that OFP's decision to coordinate with the Office of Legal Counsel to issue preliminary contracts no later than January of each year addresses the intent of the voucher payment process recommendation 1.

Conclusion and Recommendations

Conclusion

Our evaluation recognized the overall dedication and commitment of EEOC management to their mission and their administering of EEOC's State and Local Programs. However, we found many opportunities for improvement. We believe that our recommendations for improvement would make EEOC more efficient and enhance the management of EEOC's State and Local Programs.

Summary of Recommendations

1. Develop and implement strategic performance goals and objectives that are reflective of the program; are measurable, and in accordance with the requirements of GPRA.
2. Work with the Chief Financial Officer to include the performance goals, objectives, and measures in the annual performance and accountability report.
3. Request additional funding for formal SWR training and other alternative training methods that take advantage of technology to reach the widest audience the most efficiently and cost effectively.
4. Request additional funding in future budget requests to invest in electronic applications and equipment to reduce the costs related to the SWRs.
5. Perform a full assessment of the costs for resolution and intake; reassess the current payment amounts and the case quotas; and consider making appropriate adjustments to the payment amounts and budgeted quotas to provide a fee that covers a greater percentage of the costs of case processing.
6. Request additional funds to provide incentive payments to FEPAs to go beyond their case quota in order to encourage continued productivity.
7. Revisit their budget allocation process to determine ways that the process can be improved to be more efficient and timely and provide better controls designed to reduce the potential for fraud.
8. Develop and institute a consistent monitoring process for the District Offices that occurs throughout the fiscal year not just at fiscal year end.
9. Develop written procedures for processing voucher payments in collaboration with the Office of Finance.

Appendices

1. Scope and Methodology

Scope

The evaluation focused, at a high level, on the adequacy, effectiveness, and efficiency of the EEOC's Fair Employment Practices Agencies (FEPA) program management activities in four key areas:

- 1) Program goals and performance related objectives, measures, and standards
- 2) Oversight of case quality
- 3) Determination of payment eligibility and payment amounts
- 4) The financial controls and processes in place to ensure efficiency in the voucher payment process and to prevent fraud, waste and abuse

The EEOC evaluation addressed the following five questions:

- 1) What progress has the EEOC made in establishing and overseeing, high quality performance goals, performance targets, and performance standards for work the FEPA's perform for the EEOC?
- 2) Does the quality of employment discrimination cases for which FEPAs receives EEOC payment meet or exceed the standards of the Substantial Weight Review?
- 3) How effective are the rationale and criteria for deciding which FEPAs are eligible to submit cases for payment (e.g., how much the EEOC will pay for cases, and the number of cases a FEPA should submit for payment each year)?
- 4) Do financial transactions between EEOC and the FEPAs comply with the EEOC's system of internal controls?
- 5) Are financial process transactions involving the EEOC and the FEPAs efficient, and effective?

Methodology

Our overall methodology to analyze the State and Local Program was to use a combination of techniques and to obtain information from people involved from policy to implementation. We interviewed EEOC headquarters personnel related to all aspects of

the program and the researchable questions. We also reviewed available documentation to capitalize on work already performed and thereby reduced the burden on EEOC staff to reiterate what has already been documented. We reviewed the current strategic plan and recent Performance and Accountability Reports. We reviewed applicable laws, regulations, guidance, policies and procedures applicable to the program, substantial weight reviews, and financial transactions.

We performed two site visits to the District Offices in Indiana and San Antonio. When performing the site visits, we interviewed the State and Local Coordinators related to the Substantial Weight Reviews, case quality, payments and voucher processing. The site visit to the Indiana District Office included interviews with FEPA personnel working with the Indiana District Office.

We sent questionnaires to fifteen District Office and FEPAs of various sizes and locales for responses and data on case quality, substantial weight reviews and voucher payments. This was a very cost and time effective way to obtain information from multiple sources.

We compiled the results of the procedures we performed to ensure that we achieved the primary objectives of answering the researchable questions and providing recommendations to improve the performance of the program. We performed this evaluation from September to December 2010. The evaluation was performed in accordance with the Quality Standards for Inspections, January 2005, issued by the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency (PCIE and ECIE). These standards were developed by the PCIE and ECIE Inspections and Evaluation Committee. The PCIE and ECIE were the predecessors of the Council of the Inspectors General on Integrity and Efficiency.

2. District Office Survey Results Summary and Instrument

Introduction

Surveys were sent to all 15 District Offices. The survey established some statements related to the District Office's role in EEOC's State and Local Programs on topics such as performance goals, case quality, substantial weight reviews and voucher payments. See the results indicated below and a summary of the responses to the open-ended questions.

Rated Statements

Statements and Questions	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
1. Funds from the budget are allocated to the FEPAs in a timely manner.	0	5	2	8	0
2. The budget amounts set by the EEOC Commission are reasonable.	0	4	6	4	1
3. The amounts allocated to the FEPAs from the budget are sufficient.	0	6	3	5	1
4. Subsequent year budgets should be adjusted upward or downward based upon prior year actual results.	3	10	0	1	1
5. It is fair that FEPAs are able to bill 50% of their budget in advance of any completed services.	4	8	3	0	0
6. The FEPAs submit accurate and timely invoices.	2	10	1	1	1
7. There is a difference in the accuracy and timeliness of invoices based on FEPA size.	1	2	5	5	2
8. It would be beneficial to me to receive invoices from the FEPAs.	5	3	5	2	0
9. The FEPAs receive timely payments from NBC.	1	10	3	1	0
10. The amounts paid to FEPAs match the invoice amounts.	4	8	3	0	0
11. District Offices should review payment reports from NBC after payments are made to FEPAs.	3	11	0	0	1
12. There is adequate communication between the District Offices and NBC.	2	5	5	2	1
13. The Substantial Weight Reviews is a sufficient method of ensuring case quality.	2	10	0	3	0
14. Substantial Weight Review Training is provided to FEPAs.	3	6	4	2	0
15. Most FEPA cases submitted for payment meet or exceed the standards of the Substantial Weight Reviews.	3	10	1	1	0

Statements and Questions	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
16. FEPAs understand and abide by the standards of the Substantial Weight Reviews.	3	10	0	2	0
17. The set case amounts for resolutions and intakes are reasonable compared to the amount of work involved.	1	4	4	3	3
18. EEOC should give incentives to FEPAs that exceed their targeted performance for number of cases and for higher then required quality.	4	9	2	0	0
19. Performance reviews or the Substantial Weight Reviews should affect a FEPA's eligibility.	4	8	3	0	0
20. Smaller FEPAs and larger FEPAs should have to meet the same criteria to be eligible to receive payments.	5	10	0	0	0
21. The eligibility requirements to receive payments from EEOC are fair.	5	8	0	2	0
22. The larger FEPAs consistently meet or exceed the Substantial Weight Review standards.	2	5	6	2	0
23. Controls are in place to ensure FEPAs meet the standards of the Substantial Weight Reviews before payment.	4	10	0	1	0
24. Substantial Weight Reviews are performed on an adequate percentage of FEPAs.	4	9	2	0	0

Open-ended Questions

<p>1. If you had to set an amount per case for resolutions and intakes what would be reasonable?</p> <ul style="list-style-type: none"> • The question is - are we looking for quantity of production or a closer focus on quality. The State and Local contract money is limited thus that drives the payment amounts. Maybe looking at contract payment amount that is not driven by productivity. The State and Local agencies have to do these cases anyway since they are filed under their statutes. • EEOC pays our contract mediators approximately \$800 (?) per case, so the FEPAs should be paid a comparable amount. I believe that the \$50 per intake service should be raised to \$100. • \$500 per resolution • Reasonable amount for resolutions \$750 and cause findings with successful conciliations \$1000. Intake \$50 is reasonable. • Scale the payments based on the type of resolution. Class violations would be paid highest, followed by individual cause findings, substantive no-cause findings and then administrative resolutions, all adjusted by timeliness. Maybe \$1000 for an individual cause finding which meets EEOC evidentiary standards. • I would take the average hourly rate for an investigator within the FEPA and make this the hourly rate to process resolutions and intakes. Then take the hourly rate and use it when determining how long it actually took the FEPA to process the intake or resolutions. I would

place a minimum amount and a not to exceed amount of time. S&L Coordinators are also investigators and so it should not be too difficult to determine whether an intake with one or two allegations and half a page on intake notes probably would take 1 to 2 hours to process. Further it would not be difficult to determine given the length of the position statement, rebuttal, and interviews, how many hours the investigation took. However, since the EEOC has not done this type of evaluation in its own cases it would be unlikely the FEPAs would be agreeable to such an idea. Investigative firms and law firms charge by the hour. Further I would set a different amount for a settlement that a CP's lawyer handled and a settlement that the FEPA staff negotiated.

- Amounts paid should be commensurate with rates paid by HUD for processing of housing cases.
- \$1,000 per case and \$100.00 per intake service.
- I would base the number on the population.
- The resolution amount should be increased \$50 per fiscal year incrementally for several years until the \$1000 per case resolution level is reached and intakes should be increased to \$75 per intake. This would require more monies from the EEOC's budget be allocated to the State and Local Program to cover these increases.
- 2-3 x current contract but note the budget does not support this level of funding and FEPA have overhead cost the EEOC cannot absorb.

2. If performance measures were developed for the State and Local Programs, what types of activities would you measure?

- The quality of reviews for a far more limited number of cases. Also the timeliness of the reviews and any other contract or work sharing agreement responsibilities.
- We could measure the FEPAs consistent with how EEOC offices are measured.
- Timeliness of reviews of FEPA closures, timeliness of coding, and timeliness of EEOC's issuance of their own closure documents on the FEPA cases.
- Amount of cases resolved; Quality of work; Timeliness of completion
- The actual time it took to complete the investigation.
- Timeliness and quality of investigations with special recognition for novel activities which advance the purpose of the statute.
- Quality of interviews, onsite visits and interviews, request for additional information, analysis of information received, analysis of comparators, theories applied, conclusions. Performance measures should not be developed for the S&L Program unless they are developed for the Commission. The FEPAs follow our pattern.
- IMS computer system provides for efficient monitoring of State and Local activities
- Quality of Intake, Investigations and Advice. Timeliness of activities.
- On sites, witness interviews, RFI follow-up, etc.
- Timeliness of investigation and education and outreach activities.
- If anything we would measure the same things we look at in Enforcement such as aged inventory and merit factor and development of significant cases.
- Resolutions, merit factor, processing time, user satisfaction level by user type

3. How do you think Payment Eligibility and the Payment Amounts can be improved?

- Payment based not on the quantity of cases but the overall quality of case reviews and the operation of the FEPA.
- Timely submission of payments.
- Based on performance measured in more than just productivity and basic SWR quality.
- Headquarters should take back the financial operations for the field (State and Local only). This is a better use of resources.
- Training to FEPA's on how to invoice timely and correctly.
- Difficult cases and PC cases should receive more funding.
- Contracts can be finalized much earlier in the fiscal year.

4. How could the Substantial Weight Review process be improved?

- Fewer SWRs and more focus on the quality of those reviews. Also going to a paperless system should be explored and implemented throughout the country.
- We could look into having FEPAs submit cases electronically (note: this might require additional resources).
- Update SWR forms and processes to more closely reflect EEOC's current enforcement procedures and practices (i.e. PCHP, etc.)
- Change form to be simple
- As discussed above, establish multifaceted assessment of case quality, timeliness and complexity.
- The process could be improved by having the review required to be given to the FEPA whether good or bad.
- FEPAs could be more responsive to EEOC's request for files/documents.
- Requirement that FEPA's submit files timely to the EEOC after receipt of a SWR.
- Have the FEPA's conduct a preliminary review and submit it to the district office with the case file.
- A checklist would be preferable over writing narratives for those cases we accept and require narratives for those cases we reject.

5. How do District Offices monitor FEPAs budget?

- Through discussions with FEPA directors.
- We don't monitor their budgets. However, we do communicate about their budgets; for example, a FEPA may contact us if they are having budgetary problems.
- The S&L Coordinator regularly reviews the FEPA's performance during the year, and advises the FEPA of the appropriate amount to voucher when eligible.
- Track on spreadsheet payments made to FEPAs and deduct from balances.
- Through constant verification between us and NBC. Better reports and controls are needed.
- FEPA reports to the EEOC which are usually copies of public records.
- The District's S&L Coordinator has a spreadsheet that she uses to monitor the FEPA's budget. She also gives instructions to FEPAs as to when they should prepare and submit vouchers. She has recently been given access to "review only" in Momentum and so she can look to see when and if payments are made. Before access to Momentum the Coordinator had to wait for a FEPA to say they have not been paid or wait until the District Resource Manager and/or HQ run reports and ask about payment. The S&L Coordinator is much more proactive instead of reactive with access o Momentum.
- Quarterly conference calls with FEPA Directors, internet and their local newspapers.
- It is a joint effort of the SLC and the DRM, reviewed by the District Director.
- Bi-weekly and monthly reports.
- This could be submitted to the district office quarterly.
- The FEPAs budgets are monitored via our finance system and through the SL Coordinators cuff file.

- Contract levels and billings are measured but not the FEPA budget. Not a role for EEOC

6. How can the Voucher Payment Process be improved?

- Based on the current system it appears to be adequate.
- It would be helpful if NBC told the relevant EEOC office when a FEPA has been paid (e.g., quarterly). This would give us the opportunity to better monitor the voucher payment process.
- Allow FEPAs/TEROs to send electronic vouchers to the National Business Center, rather than send by mail.
- Coordinators complete the vouchers and send to FEPA's to sign and return within 5 days.
- The original vouchers for payment should be sent to the S&L Coordinator. The Coordinator can then have the DRM prepare a receiver. Once the receiver is completed the voucher can be faxed or scanned to the NBC.
- Headquarters should reclaim the payment of vouchers to NBC (after vouchers prepared by District Office and forwarded to HDQTRS.)
- FEPA's should send their invoices to HQ directly for processing rather than to field offices.
- Have set dates in place at the beginning of the fiscal year.
- I would recommend that the District Office mail the payment voucher to NBC as we are required to review the voucher prior to the FEPA's mailing of the document to NBC.

3. Field Office Survey Results and Instrument

Introduction

We prepared and sent surveys to 15 haphazardly selected Fair Employment Practices Agencies (FEPAs). The survey established some statements related to the FEPA's role in EEOC's State and Local Programs on topics such as performance goals, case quality, substantial weight reviews and voucher payments. The FEPAS answers to the statements ranged from Strongly Agree to Strongly Disagree. Also, we established open-ended questions that required written answers.

Rated Statements

Questions	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
1. Smaller FEPAs and larger FEPAs should have to meet the same criteria to be eligible to receive payments.	5	6	2	2	0
2. The eligibility requirements to receive payments from EEOC are fair.	4	10	1	0	0
3. Performance reviews or the Substantial Weight Reviews should affect a FEPA's eligibility.	4	8	1	1	1
4. The set case amounts for resolutions and intakes are reasonable compared to the amount of work involved.	1	1	0	7	6
5. The budget amounts set by the EEOC are reasonable.	0	1	4	4	6
6. The amounts allocated to the FEPAs from the budget are sufficient.	0	0	3	5	7
7. Funds from the budget are allocated to the FEPAs in a timely manner.	2	3	2	5	3
8. It is fair that FEPAs are able to bill 50% of their budget in advance of any completed services.	6	5	3	1	0
9. The FEPAs receive timely payments from NBC	5	6	4	0	0
10. There is adequate communication between the District Offices and FEPAs.	7	4	1	2	1
11. The technical and financial support received from the District Offices and EEOC Headquarters is sufficient.	5	3	2	4	1
12. EEOC should give incentives to FEPAs that exceed their targeted performance for number of cases and for higher then required quality.	6	7	1	1	0
13. Subsequent year budgets should be adjusted upward or downward based upon prior year actual results.	2	8	2	3	0

Questions	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
14. FEPAs understand and abide by the standards of the Substantial Weight Reviews.	3	5	7	0	0
15. Training is provided to help FEPAs understand the standards of the Substantial Weight Review.	1	7	0	4	3
16. Your FEPA consistently meets the Substantial Weight Review Standards.	8	5	2	0	0

Open-ended Questions

<p>1. If you had to set an amount per case for resolutions and intakes what would be reasonable?</p> <ul style="list-style-type: none"> • Unable to provide a dollar amount. I do believe that the dollar amount should be based on level of complexity and/or closure type. As regards intake, I believe that the amount of payment is reasonable. • Minimum of \$1500 to maximum \$ for case investigations 2000 • 100 minimum to 300 maximum for intakes • \$1200/case. • \$750 PER CASE - - - \$75 INTAKE • \$1,000.00 • Intake - \$100, Case Resolutions - up to \$2500 • \$2600 per resolution and additional \$500 for cause cases. \$200 per intake. • Amounts similar to HUD. • \$2500 • An amount of \$1,200 per case and an additional \$500 per PC finding to help defray the cost of litigation. • \$75.00 Intake Credit / \$750.00 Case Resolutions • \$100.00 for Intake, \$600.00 for resolutions

<p>2. If performance measures were developed for the State and Local Programs, what types of activities would you measure?</p> <ul style="list-style-type: none"> • I believe that the FEPA should be measured by their onsite activity, merit factors and age of their inventory. • Timeliness, quality and complexity • EEOC should use standards in place in contracting principles and act on them. No need to change. • Difficult because of time, complexity, and FEPA procedures vary. • Performance measures should look at not only case processing but also litigation and education/technical assistance and provide additional funding for these efforts • quality of investigations; timeliness of case completion; local services provided in regional areas throughout the state via satellite offices; utilization of internal ADR services; • Time in which case is resolved, complexity, outcomes and if contract increased, whether cause cases go to administrative hearing or litigation. Also, training, outreach and education activities. • Primarily timeliness. • Timeliness; early resolution rate; administrative dismissal rate; adequate investigation (not similar to type #3 EEOC reviews and dismissals of cases) • Appropriate measurements would include : <ol style="list-style-type: none"> 1. Prompt review and approval of case submissions for payment. 2. Consistent feedback on case quality and rapid response regarding questions of which
--

- agency should conduct the investigation.
- Comparative Data, Witnesses Statements, Adverse Impact, Patterns and Practices, Outreach Activities

- 3. How do you think Payment Eligibility and the Payment Amounts can be improved?**
- The Contracting Principles do a good job at setting forth the manner in which payments are made. I don't necessarily know of any way it can be improved.
 - Increase and develop appropriate benchmarks in conjunction with the FEPAs. There have been some attempts in the past but they are in dispute and they are incomplete in many ways and have lacked discussion and input by the FEPAs.
 - Increase budget.
 - More funding should be made available for outreach activities and Mediations.
 - There should be some way to get the moneys and contract out by the first month of the second quarter of the fiscal year.
 - Adding administrative expense upfront and allowing advance payments to be drawn prior to the middle of the fiscal year.
 - More money and better communication.
 - EEOC should advocate significant increase in state and local budget or EEOC should allocate sufficient monies from its own budget to close any gap necessary to pay FEPAs for full number of cases closed and submitted at a rate commensurate with resources expended by FEPAs (e.g., \$2500/case)
 - EEOC should implement a process to pay FEPAs from the beginning of a contract period, rather than make first payment 6 months and over in a contract year
 - Payment amounts could be improved by simply increasing the amount per case approved.
 - The actual cost of conducting an investigation greatly exceeds \$550 per investigation.
 - The other major concern is the delay in setting initial contract goals and or the downward modification of the contract without input from the FEPA.
 - First of all, The U.S. Congress has to appropriate a larger budget for the EEOC/FEPAs

4. EEOC Office of Field Programs Responses to Draft Report

-----Original Message-----
From: LARKIN JENNINGS [<mailto:LARKIN.JENNINGS@EEOC.GOV>]
Sent: Thursday, March 03, 2011 9:46 AM
To: Juan Lasanta
Subject: Fwd: Response to Evaluation of SLP.doc

EEOC response,
let's discuss on Tuesday, March 10.

Larkin Jennings
Senior Evaluator
Office of Inspector General
U.S. Equal Employment Opportunity Commission
202-663-4391

Please consider the environment before printing this email.

>>> NICHOLAS INZEO 3/2/2011 7:59 PM >>>
Attached is our response to the draft report of the state and local program. Please let me know if you would like more information or would like to discuss these comments.

An overarching issue relating to the Evaluation of State and Local concerns the varied comments made about the absence of a performance goal related to the FEPAs. While the Evaluation does acknowledge in passing that a goal was established---under the artful guidance of Mary McIver---it doesn't seem to grasp that the proposed goal was forwarded to the then-Chair's office but not acted upon, nor does it seem to grasp the impact of the Commission's not having a new strategic plan. In light of the Chair's office considering either an entirely new plan, or making major revisions to the prior plan, it would be inappropriate to have a State and Local goal set out at this point.

Other matters that bear some mention include:

- (1) "SWR training," which is mentioned and recommended several times, often in conjunction with technological improvements, seems to misunderstand what a substantial weight review is, and what it is designed to do. Section 706 of Title VII directs that we accord substantial weight to final findings and orders of the FEPAs; the substantial weight reviews are conducted by our State and Local coordinators who review the FEPAs' work product to see if the finding is acceptable to us. State and Local Coordinators understand how to conduct substantial weight reviews, i.e., how to review a file, and receive training every year from State and Local Program staff. FEPA staff understands that the coordinator will be looking at the file to determine whether the investigation contains information necessary to support the resolution. Training on the sufficiency of the investigation is substantive training, and would not be denominated "SWR training." Several years ago, the Commission provided training to the FEPAs' investigators when resources to do so were available. On an on-going basis, District Offices provide training to FEPA personnel, where

feasible, as training is being provided to their own staff, and FEPAs regularly provide substantive training to their own investigators.

On the other hand, to the extent that the Evaluation is attempting to suggest that there may be technological methods to facilitate the transfer of materials reviewed during an SWR, we would be happy to explore that. (In fact, we have taken steps to determine the feasibility of adopting technology used by one of the FEPAs that has multiple offices and uses a form of electronic file transfer.)

- (2) The various comments on vouchering do not seem to take into account that the receiver/voucher/NBC process is set in place by OCFOAS, and we are subject to those requirements. Each year, OCFOAS issues policy documents setting out processes for the year and has issued end-of-year guidance. We undertake to see that EEOC and FEPA staff adhere to the guidance that is issued.
- (3) The mention at various points of case “quotas” for the FEPAs suggests that we can require the FEPAs to produce a particular number of charges. Rather, FEPAs enter into contracts with the Commission for a certain level of charge resolutions, based on projections of what they and we believe they can produce. That number is adjusted upward or downward, consistent with available resources, as the particular FEPA’s capacity allows.
- (4) The recommendations and the survey state that a process must be set in place for contracts to be awarded earlier in the year. This recommendation will require considerable coordination with the Office of Legal Counsel, and may require at least a two-step procurement process. We will undertake that coordination and work to issue a preliminary contract no later than January each year.

Finally, and perhaps most significantly, if our math is correct, the Evaluation would place the cost of processing a charge at \$3,437. To the extent that the Evaluation not unreasonably suggests that more money should be forthcoming for charge processing (perhaps similar to HUD’s level), it does not comprehend that the pool of money that is available to the Commission is limited to the State and Local budget. We all recognize that the pool is not unlimited. To take a very conservative number of FEPA resolutions--say 40,000 charges---and apply \$3,000 per charge to that number, \$120,000,000 would be required. (The proposed State and Local budget for FY 2011 is \$30,000,000.) There is no acknowledgment that the amount of money available for State and Local purposes is so small, relative to the “entire processing costs,” that the notion of incentive-laden contracts may not be worthwhile. Otherwise stated, in light of the very meager State and Local budget, and the need to insure that sufficient funds are provided to promote cooperation from all the FEPAs in an effective and non-duplicative enforcement effort in partnership with the Commission, the extremely limited amount of monies available for any “incentives” may not generate sufficient benefit.