

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

FY 2011

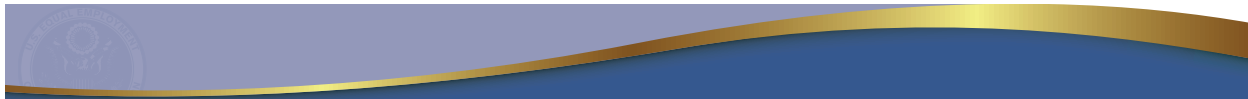
Performance and
Accountability Report
Highlights





United States Equal Employment Opportunity Commission

**FISCAL YEAR 2011
PERFORMANCE AND ACCOUNTABILITY REPORT
HIGHLIGHTS**



OUR VISION

A strong and prosperous nation secured
through a fair and inclusive workplace



OUR MISSION

We promote equality of opportunity in the
workplace and enforce federal laws
prohibiting employment discrimination



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A Message from the Chair



I am pleased to present the U.S. Equal Employment Opportunity Commission's (EEOC) Performance and Accountability Report Highlights (PAR Highlights) for Fiscal Year (FY) 2011. This report contains the agency's assessment of its FY 2011 program and financial performance.

Created by the *Civil Rights Act of 1964*, the EEOC opened its doors in 1965, under the leadership of inaugural Chair Franklin D. Roosevelt, Jr. Over the past four and a half decades, the work of the EEOC has helped to open doors to a wider range of opportunities for people who once might have been discouraged from applying or denied access to jobs on the basis of their race, color, national origin, sex, religion, age, pregnancy, disability, genetic information, or in retaliation for exercising their rights to seek relief under the laws enforced by the EEOC. Today, the EEOC is the nation's leading enforcer of federal laws prohibiting employment discrimination, and in the past year resolved more than

100,000 employment discrimination charges through investigation, conciliation, mediation and litigation. Recognizing that prevention is a critical part of effective law enforcement, the EEOC also provided training and technical assistance, conducted outreach and educational programs, promulgated regulations and published guidance and other materials to facilitate voluntary compliance with, and increase public awareness of the requirements of the laws we enforce.

The Commission's original charge was to end employment discrimination on the basis of race, color, national origin, sex, and religion in private sector employment throughout the United States. Through the years, new federal laws were passed to extend the EEOC's enforcement authority to include discrimination on the basis of age, disability, and, most recently, family medical history or genetic information. The agency's jurisdiction was also expanded to enforce employment discrimination laws and promote equal employment opportunity in the federal sector, as well as the private sector.

Over the past decade, a growing number of job seekers and workers across the country have turned to the EEOC for assistance with discrimination complaints. In each of the past three fiscal years, the EEOC has received nearly 100,000 new discrimination charges: a record number of new charges (99,922) were filed in FY 2010, and that total will be surpassed in FY 2011. Nevertheless, between FY 2000 and FY 2008, staffing levels and funding dropped nearly 30 percent. Increased demand for services coupled with reduced staffing fueled dramatic growth in the number of unresolved discrimination charges.

Fortunately, in FY 2009, an infusion of urgently needed resources allowed the EEOC to begin to take steps to reverse this trend. Additional appropriations of \$14.6 million in FY 2009 and \$23.4 million in FY 2010 allowed the EEOC to begin to reverse the effects of years of underfunding. New investigators, attorneys, mediators, and other mission critical staff were hired across the country, training was enhanced and technology was updated. As detailed in the *Performance and Accountability Report*, these strategic investments have yielded significant improvements in agency performance during FY 2011, and set the stage for a more efficient and effective EEOC in the 21st century.

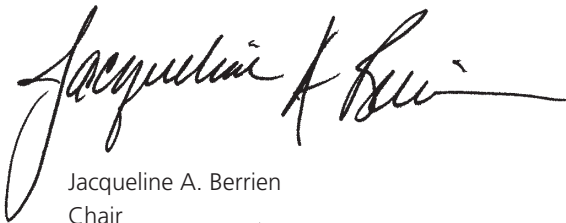
For example, between FY 2009 and FY 2010, the private sector charge inventory grew less than 1 percent, and in FY 2011, for the first time in nearly a decade, the private sector charge inventory decreased by more than 8,000 charges. Notably, these results were achieved despite the record number of private sector discrimination charges filed in FY 2010 and FY 2011. Also, despite a significant increase in the number of appeals of final agency decisions filed, the EEOC

resolved more than 4,500 federal sector appeals in FY 2011 and reduced the number of appeals pending more than 500 days by 30 percent.

As directed by the Government Performance and Results Act Modernization Act (GPRAMA) of 2010, the EEOC is currently developing a new Strategic Plan for implementation in FY 2012. However, in this final year of implementation of the agency's current strategic plan (http://www.eeoc.gov/eeoc/plan/strategic_plan_07to12_mod.cfm), the EEOC met or exceeded targets for five (out of nine) performance measures. As discussed more fully in the PAR, nearly all of the charging parties and respondents who participated in the agency's alternative dispute resolution program (96.9 percent) expressed confidence in the program; the EEOC successfully resolved 90 percent of the litigation it conducted in FY 2011; and the number of individuals benefitted from agency enforcement programs increased in FY 2011.

I am also pleased to report that, for the eighth consecutive year, the EEOC has received an unqualified opinion from independent auditors. Also, the agency effectively managed its internal controls environment during FY 2011. The agency's management and financial controls environment under the Federal Managers' Financial Integrity Act (FMFIA) was sound in FY 2011. Based on a review of agency-wide materials and the assurances of the agency's senior managers, the agency identified 10 financial non-conformances, including 5 that carried over from the previous fiscal year. The agency fully corrected all financial non-conformances in FY 2011. I am reasonably assured that the financial information and the data measuring EEOC's performance are complete and accurate.

From its creation in 1964, the EEOC has been guided by the principle of equal employment opportunity for all. As Chair of the EEOC, I am fully committed to continuing to work with Members of Congress, colleagues on the Commission, the leadership, staff, and stakeholders of the agency, and our enforcement partners at the federal, state and local level to ensure that we make meaningful progress towards fulfilling our mission of promoting equal opportunity in the workplace and enforcing federal laws prohibiting employment discrimination in the 21st century.



Jacqueline A. Berrien
Chair
U.S. Equal Employment Opportunity Commission
November 15, 2011



Management's Discussion and Analysis

INTRODUCTION

This *FY 2011 Performance and Accountability Report Highlights* (PAR Highlights) was prepared in accordance with the Reports Consolidation Act of 2000 and the Office of Management and Budget's (OMB) Circular A-136, Financial Reporting Requirements.

AGENCY OVERVIEW

The U.S. Equal Employment Opportunity Commission (EEOC or Commission) is the leading federal law enforcement agency dedicated to eradicating employment discrimination on the basis of race, color, national origin, sex, religion, pregnancy, age, disability, and family medical history or genetic information. The agency began its work more than 45 years ago and while there have been significant changes in society and the workplace, the public continues to rely on the EEOC to carry out its responsibility to bring justice and equal opportunity to the workplace.



The Commission receives, investigates, and resolves charges of employment discrimination filed against private sector employers, employment agencies, labor unions, and state and local governments. Where the Commission does not resolve these charges through conciliation or other informal methods, it may also file suit in court against private sector employers, employment agencies and labor unions (and against state and local governments in cases alleging age discrimination or equal pay violations). The EEOC also leads and coordinates equal employment opportunity efforts across the federal government, and conducts administrative hearings and issues appellate decisions on complaints of discrimination filed by federal employees and applicants for federal employment. Finally, the Commission engages in extensive communication and outreach, provides technical assistance, and promulgates regulations and written enforcement guidance to help employers and employees better understand their rights and responsibilities under the laws the EEOC enforces.

A more detailed explanation of the EEOC's structure and the laws it enforces can be found in Appendix A.

AGENCY RESULTS UNDER STRATEGIC PLAN PERFORMANCE MEASURES

The FY 2011 PAR is based on EEOC's current modified Strategic Plan for FY 2007 through FY 2012, which is located at: http://www.eeoc.gov/eeoc/plan/strategic_plan_07to12_mod.cfm. Following the enactment, on January 4, 2011, of the Government Performance and Results Act Modernization Act of 2010 (GPRAMA), the agency began a concerted effort to develop a new Strategic Plan for implementation in FY 2012. The results reported in this PAR, however, are linked to the performance measures contained in the agency's current modified Strategic Plan, which were in effect during FY 2011.

The current Strategic Plan provides one Strategic Objective: Justice, Opportunity and Inclusive Workplaces. The performance measures under this Strategic Objective include two long-term, six annual, and one efficiency measure. EEOC achieved or exceeded its targets for five measures and did not meet the targets for three other measures. The Commission intends to assess all of the agency's current measures during the overall strategic planning assessment for its new Strategic Plan.

EEOC FY 2011 Performance			
Measures	 Targets Met or Exceeded	 Targets Not Met	TBD Pending Strategic Planning Assessment
9	5	3	1

The agency's nine performance measures are directly related to its key front-line enforcement operations—processing private sector charges, litigating private sector cases, and conducting hearings and appeals of federal sector cases—in order to achieve its strategic objective of ensuring that employment opportunities are not based on impermissible factors and encouraging inclusive workplaces nationwide.

The first two of these measures seek to identify the degree to which the agency's enforcement programs enhance the workplace for other employees when it obtains relief for the people who originally claimed employment discrimination, as well as how efficient the Commission was in obtaining that broad relief. As noted in the table below and further described in the Performance Section of the PAR, the agency was extremely successful in achieving results for these two measures, when compared to the established targets. The Commission will reevaluate the utility of maintaining these performance measures and the associated targets established for FY 2012 in conjunction with its Strategic Plan development process.

		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Long-Term/Annual Measure 1 Percent increase of individuals benefited from enforcement programs	Target	Baseline Established	2.0%	10.0%	12.2%	15.6%
	Result	Baseline Established	222.9%	234.3%	326.3%	230.3%
Efficiency Measure Percent increase of individuals benefited for each agency employee (in FTEs)	Target	Baseline Established	1.8%	2.2%	4.3%	7.4%
	Result	Baseline Established	220.2%	229.1%	285.7%	184.5%

The following measures for which EEOC either met or exceeded its objectives also reflect key aspects of the agency's enforcement and litigation programs. They involve the agency's success in:

- Ensuring that the agency achieves a high level of quality in its investigations of private sector discrimination charges;
- Continuing to ensure that charging parties and respondents who choose to participate in the Commission's alternative dispute resolution (ADR) program are satisfied with the ADR process; and
- Maintaining a high level of success in the Commission's litigation program.

Completing a high percentage of its federal sector appellate cases within 180 days or less, remains a challenge for the agency, which fell short of its intended goals for this measure in FY 2011. Nevertheless, the EEOC is committed to reducing its appeals inventory moving toward the final goal in FY 2012. The results for these measures are summarized below.

Annual Performance Measures		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
2.3 Federal Sector Appellate Resolutions Measure	Target	60.0%	62.0%	64.0%	66.0%	68.0%
Percent of appellate resolutions completed within 180 days or less	Result	60.7%	63.3%	65.0%	66.2%	54.4%
2.4 Quality Measure	Target	88.0%	90.0%	90.0%	91.0%	92.0%
Percent of charge investigation files that meet quality criteria	Result	93.5%	97.0%	95.1%	96.0%	95.6%
2.5 ADR Measure	Target	90.0%	91.0%	92.0%	93.0%	94.0%
Percent of respondents and charging parties confident in ADR program	Result	95.8%	96.5%	96.0%	96.7%	96.9%
2.6 Litigation Measure	Target	90% or higher	90% or higher	90% or higher	90% or higher	90% or higher
Percent of litigation successfully resolved	Result	91.5%	91.2%	90.3%	90.2%	90.0%

EEOC's final two measures involve the resolution of private sector charges and federal sector hearings within 180 days or less. Because of a continued emphasis on reducing the large, pending inventory, along with increasing workloads, and the need for additional resources, the Commission did not meet its FY 2011 targets for these measures. However, it is anticipated that through its multi-year approach to reducing the pending inventory, the agency will make progress toward improving its performance and meeting these goals. These measures are being evaluated by the Commission as part of its strategic planning efforts.

The results for these measures are summarized below:

Annual Performance Measures		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
2.1 Private Sector Charge Resolutions Measure	Target	72.0%	48.0%	48.0%	48.0%	51.0%
Percent of private sector charge resolutions completed within 180 days or less	Result	55.7%	48.5%	39.7%	38.3%	40.7%
2.2 Federal Sector Hearings Resolutions Measure	Target	50.0%	50.0%	50.0%	52.0%	53.0%
Percent of hearings resolutions completed within 180 days or less	Result	42.8%	38.6%	40.6%	37.4%	34.3%

RELATED PROGRAM RESULTS AND ACTIVITIES HIGHLIGHTS

Serving the Public More Efficiently

In FY 2011, the EEOC produced historic levels in its year-end results. Most notably, the pending inventory of private sector charges was reduced by more than 8,000 charges over the FY 2010 level, bringing the level to 78,136, which is the first reduction in inventory since FY 2002. These results were achieved despite having received a record number of receipts, 99,947 charges. A total of 112,499 charges were resolved—an increase over the 104,999 charges resolved in FY 2010.

In FY 2011, the EEOC secured more than \$58 million in relief for parties who requested hearings in the federal sector. There were a total of 8,113 requests for hearings, more than the 7,707 received in FY 2010. Additionally, the Commission's hearings program resolved a total of 7,672 complaints.

During the last fiscal year, the EEOC received 5,176 appeals of final agency actions in the federal sector, 13.8% more than the 4,545 such appeals received in FY 2010. This represented the largest percentage increase in receipts in more than 15 years. In FY 2011, the EEOC applied a more balanced approach to the resolution of the newest and oldest appeals. The agency resolved 4,510 appeals, including 54.4 percent of them within 180 days of their receipt.

Enforcing the Law More Effectively

The Commission believes that securing changes in employment policies, practices, and procedures through enforcement programs has a positive impact beyond the immediate victims of discrimination to all individuals in the affected workplace. Through EEOC enforcement programs in both the private and federal sectors, 5.4 million individuals benefitted from workplace improvements. This is substantially above the annual target established in Long-Term/Annual Measure 1 for FY 2011.

The EEOC's private sector administrative enforcement activities secured more than \$364.6 million in monetary benefits in FY 2011, the highest level of monetary relief ever obtained by the Commission through the administrative process. This is \$45 million more than was recovered in FY 2010. Overall, the agency secured both monetary and non-monetary benefits for more than 19,570 people through administrative enforcement activities including mediation, settlements, conciliations and withdrawals with benefits.

Field legal units of the agency filed 261 merits lawsuits during FY 2011—and increase of 11 lawsuits over FY 2010. These included 177 individual suits, 61 multiple-victim suits (with fewer than 20 victims) and 23 systemic suits. Legal staff resolved 277 merits lawsuits—compared to 285 in FY 2010—for a total monetary recovery of \$90.9 million. At the end of FY 2011, the EEOC had 443 cases on its active docket, of which 116 (26 percent) involved multiple aggrieved parties (but fewer than 20) and 63 (14 percent) involved challenges to systemic discrimination.

In FY 2011, EEOC field offices completed work on 235 systemic investigations resulting in 35 settlements or conciliation agreements, recovering \$8.6 million. In addition, 96 systemic investigations were resolved with reasonable cause determinations. In FY 2011, the Commission filed 23 lawsuits—compared with 20 in FY 2010—with at least 20 known or expected class members. These were 9 percent of all merits filings, and are the largest volume of systemic suit filings since tracking started in FY 2006.

Leadership in Federal Civil Rights Enforcement

The work of the Commission is made more efficient with interagency coordination and to this end, the EEOC has established active and ongoing relationships with other agencies as well as the White House. Coordinating with partners allows shared resources, information and ideas, resulting in a greater impact on many different communities and issues. In FY 2011 these efforts included EEOC participation in the Asian American and Pacific Islander (AAPI) Task Force, the National HIV/AIDS Strategy, the National Reentry Council and the White House Equal Pay Task Force.

In FY 2011, the Commission published final regulations interpreting two new federal employment discrimination statutes. The EEOC issued its final rule implementing the *Genetic Information Nondiscrimination Act of 2008* (GINA) employment provisions on November 9, 2010, and a final rule implementing the *Americans with Disabilities Act Amendments Act of 2008* (ADAAA) on March 25, 2011.

Extending the EEOC's Reach

The agency's outreach programs reached nearly 540,000 persons in FY 2011—an increase over approximately 250,000 in FY 2010. The EEOC participated in 6,264 no-cost educational, training, and outreach events reaching almost 512,000 people. Additionally, in FY 2011, the Training Institute trained over 26,400 individuals at more than 480 events, including 320 field Customer Specific Training events with approximately 16,000 attendees.

These efforts targeted small businesses, and underserved geographic areas and communities, and emphasized new statutory responsibilities, issues related to migrant workers, human trafficking and youth in the workplace.

Improved Labor Management Relations

Pursuant to the President's Executive Order 13522: "Creating Labor-Management Forums to Improve Delivery of Government Services," the EEOC established a National Joint Labor Management Council (JLMC) in addition to Councils in each of its 15 Districts, the Washington Field Office, and Headquarters. The National JLMC established three metrics to measure goal-related activities associated with implementing the Executive Order: "Improve Mission and Service Delivery," "Employee Satisfaction and Engagement" and "Improved Labor-Management Relations."

The Office of Personnel Management recognized the EEOC as one of the Most Improved Agencies in creating better working environments for their employees according to the 2011 Federal Employee Viewpoint Survey. The Commission was recognized for greatest improvement in the Leadership and Knowledge Management Index.

FEDERAL MANAGERS' FINANCIAL INTEGRITY ACT

EEOC's management controls and financial management systems were sound during FY 2011, with the exception of 10 findings of financial non-conformances. Five financial non-conformances were carried over from FY 2010, three more of which were carried over from FY 2009 and two more from FY 2008. The financial non-conformances were identified in several audit reports prepared by the Office of Inspector General: OIG Report No. 2010-03-FIN, November 11, 2010; OIG Report No. 2009-05-FIN, January 12, 2010; OIG Report No. 2009-04-FIN, November 13, 2009; OIG Report No. 2008-06-FIN, December 11, 2008; OIG Report No. 2007-09-FIN, January 16, 2008; and OIG Report No. 2007-08-FIN, November 14, 2007.

In FY 2011, the agency corrected all of the 10 identified financial non-conformances. No new financial non-conformances were identified in FY 2011.

Based on the actions taken, and considering the agency's controls environment as a whole, the agency concludes that during FY 2011 its financial and management controls systems were in compliance with the Federal Managers' Financial Integrity Act (FMFIA). Thirty percent of the identified non-conformances were resolved during the fiscal year, and it has plans in place to resolve the remaining financial non-conformances in FY 2012. The controls systems were effective; agency resources were used consistent with the agency's mission; the resources were used in compliance with laws and regulations; and, there was minimal potential for waste, fraud, and mismanagement of the resources.

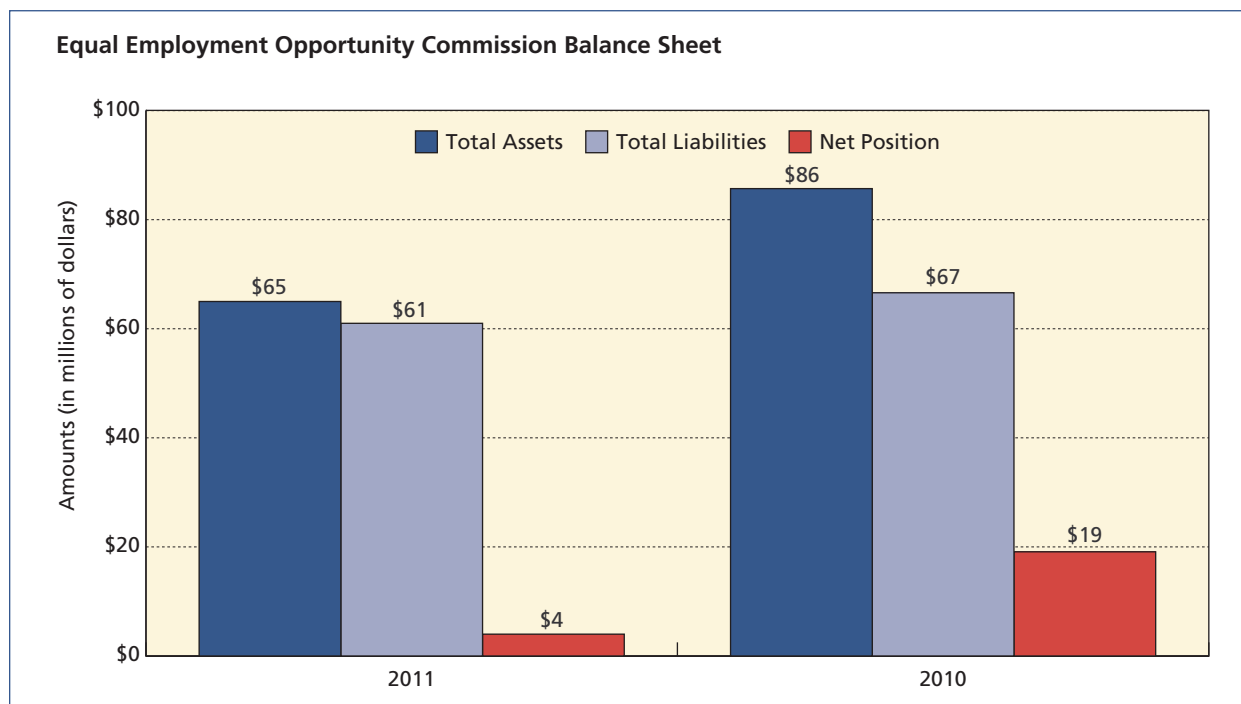
FINANCIAL HIGHLIGHTS

The Office of Management and Budget (OMB) Circular Number A-136 Revised dated October 27, 2011 was used as guidance for the preparation of the financial statements in the PAR. EEOC prepares four financial statements: the Consolidated Balance Sheets, Consolidated Statements of Net Cost, Consolidated Statement of Changes in Net Position, and the Combined Statements of Budgetary Resources.

Consolidated Balance Sheets

The Consolidated Balance Sheets present amounts that are owned or managed by EEOC (assets); amounts owed (liabilities); and the net position of the agency divided between the cumulative results of operations and unexpended appropriations.

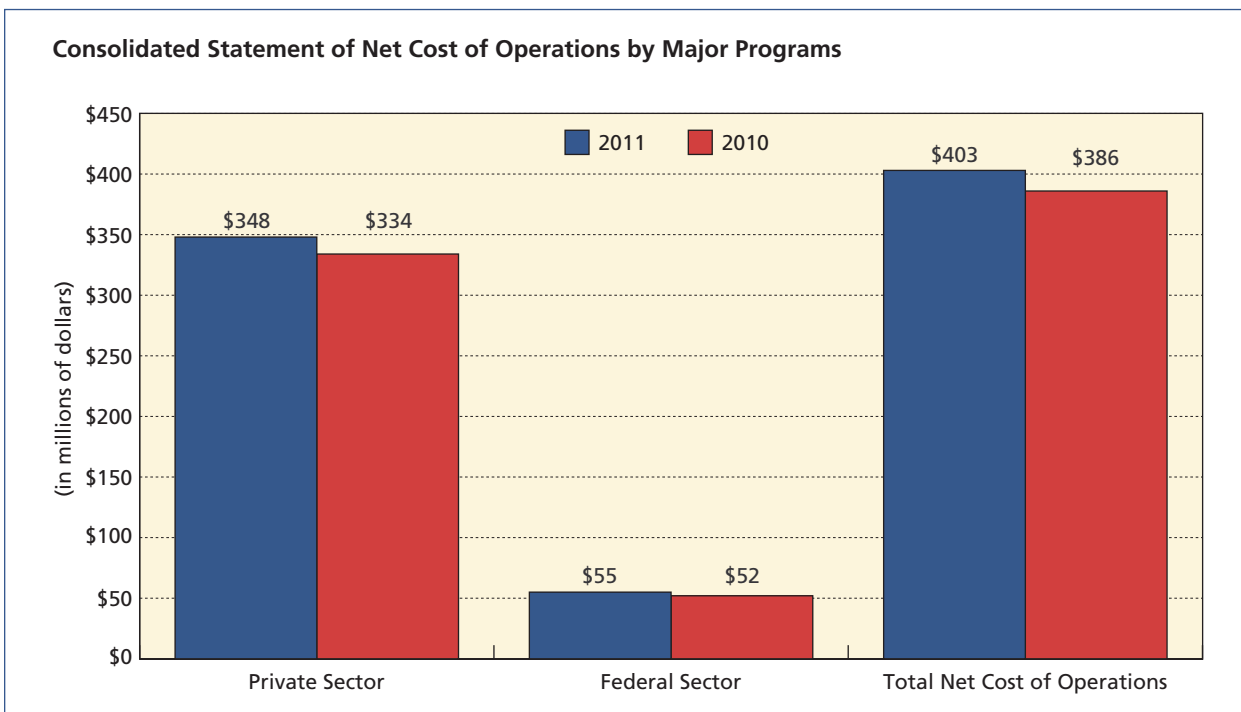
EEOC's balance sheets show total assets of \$65 million at the end of FY 2011. This is a decrease of \$21 million, or approximately a 24 percent change from EEOC's total assets of \$86 million for FY 2010. This change is due primarily to a decrease in EEOC's Fund Balance with Treasury of \$20 million offset by a decrease in Total Liabilities of \$6 million and a decrease in Net Position of \$15 million.



The Net Position is the sum of Unexpended Appropriations and the Cumulative Results of Operations. At the end of FY 2011, EEOC's Net Position on its Balance Sheets and the Statement of Changes in Net Position is \$4 million, a decrease of \$15 million, or 79 percent changed from the FY 2010 ending Net Position of \$19 million. This decrease is due primarily to a decrease in EEOC's Unexpended Appropriations for Fiscal Year 2011 and an offsetting increase in its Appropriations used the same year.

Consolidated Statements of Net Cost

The Consolidated Statements of Net Cost presents the gross cost incurred by major programs less any revenue earned. Overall, in FY 2011, EEOC's Consolidated Statements of Net Cost increased by \$17 million or 4 percent. The allocation of costs for FY 2011 shows that private sector resources used for enforcement and litigation increased \$14 million, or 4 percent, while the Federal Sector Programs increased by \$3 million or 6 percent.



Consolidated Statement of Changes in Net Position

The Consolidated Statement of Changes in Net Position represent the change in the net position for FY 2011 and FY 2010 from the cost of operations, appropriations received and used, net of rescissions, and the financing of some costs by other government agencies. The Consolidated Statement of Changes in Net Position decreased over last year by \$15 million, or 79 percent. EEOC's total assets exceeded total liabilities (funded and unfunded) by approximate \$4 million, or 6 percent.

Combined Statements of Budgetary Resources

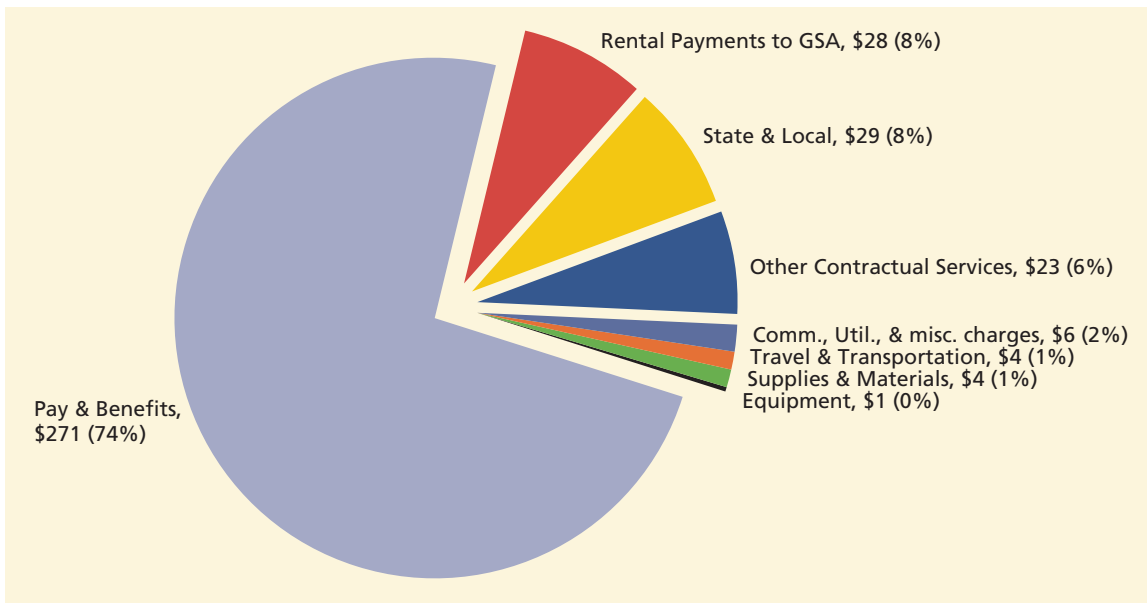
The Combined Statements of Budgetary Resources shows how budgetary resources were made available and the status of those resources at the end of the fiscal year. In FY 2011, EEOC received a \$367.3 million appropriation, with a rescission of \$735,000.

EEOC ended FY 2011 with no increase in total budgetary resources. Resources not available for new obligations at the end of the year totaled \$12 million and \$10 million in FY 2011 and FY 2010, respectively. The unobligated balance not available represents expired budget authority from prior years that are no longer available for new obligations.

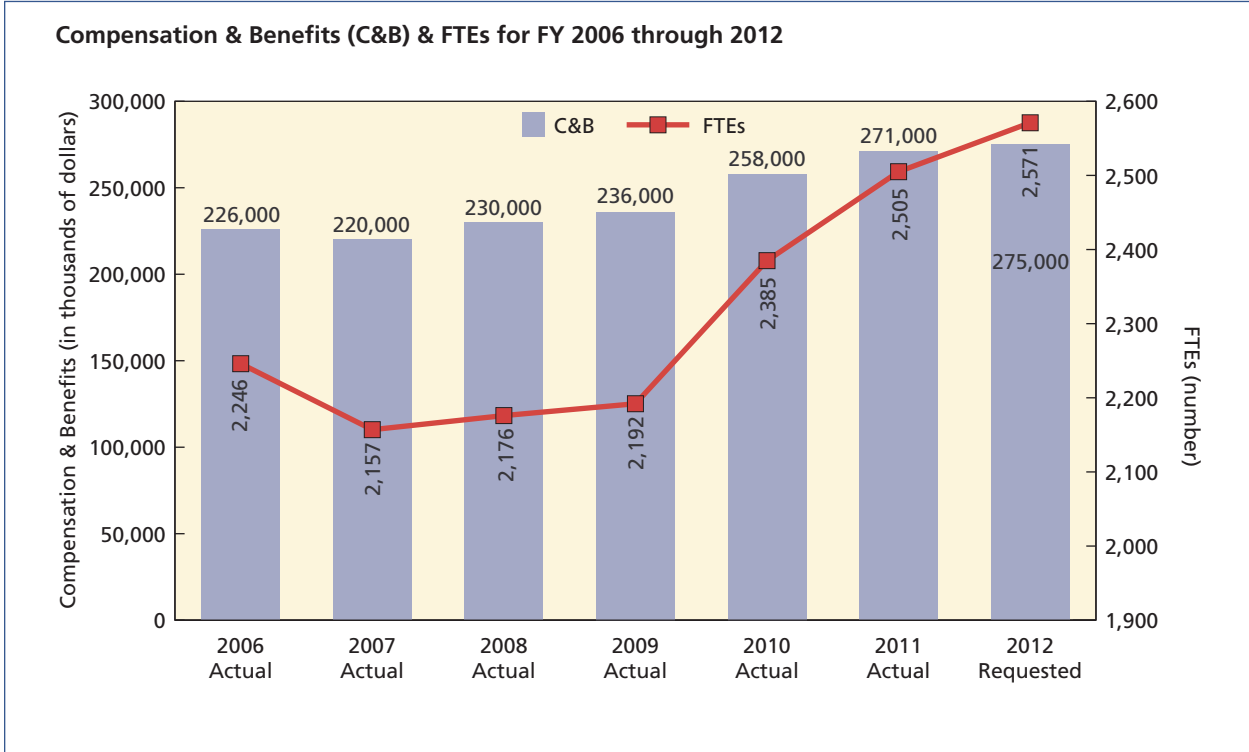
Use of Resources

The pie chart displays EEOC's FY 2011 use of resources by major object class. The chart shows that Pay and Benefits, State & Local, Rent to GSA and Other Contractual Services consumed 96 percent of EEOC's resources, and other expenses (e.g., travel & transportation, equipment, supplies & materials, etc.) consumed less than 4 percent of EEOC's resources for FY 2011.

FY 2011 Obligations by Major Object Class (in millions)



The **dual axis** chart below depicts EEOC's compensation and benefits versus full-time equivalents (FTE) over the past six years. EEOC ended FY 2011 with 2,505 FTEs, a net increase of 120, or 5 percent, above FY 2010.





Inspector General's Statement

SUMMARY OF SIGNIFICANT MANAGEMENT CHALLENGES

The Reports Consolidation Act of 2000 provides that the Inspector General of each federal agency is to describe what he or she considers to be the most serious management and performance challenges facing the agency and assess the agency's progress in addressing those challenges. In accordance with the Reports Consolidation Act of 2000, the Inspector General prepared his annual assessment of the significant management challenges facing EEOC. The three challenges contained in this report present EEOC with areas of potential weakness requiring heightened scrutiny by agency leadership.

BUDGET AND ITS IMPACT ON THE AGENCY'S MISSION

The Chair of the agency stated the following in her 2012 budget justification to OMB:

"EEOC's progress toward rebuilding lost capacity has been hampered in fiscal year 2011 by the possibility of a year-long continuing resolution which would hold the agency's appropriation at fiscal year 2010 levels. Because the EEOC was recovering from years of declining resources the prospect of level funding would be particularly damaging to our efforts to hire and train mission critical staff. Should the EEOC be held to fiscal year 2010 levels in 2011, agency plans for new hiring, as well as backfilling vacancies, would be shelved with deleterious effects on our pending inventory and customer service."

The possibility of the agency being held to 2010 spending levels became a reality for the agency throughout FY 2011. The hiring freeze implemented during FY 2011 on backfills and new positions is projected to remain in place for FY 2012. The agency is faced with meeting all of its mission responsibilities in a budget climate that may require fundamental changes in its management culture to effectively meet major challenges including the reduction of private sector inventory, the strategic management of human capital, and the implementation of other strategies that will enable the agency to ultimately achieve its core mission prime directive.

STRATEGIC MANAGEMENT OF HUMAN CAPITAL

The agency has made significant progress in strategic management of human capital including senior management approving a draft Strategic Human Capital plan and the implementation of major components of the plan. The draft Strategic Human Capital plan appears to have all of the recommended elements for the strategic management of human capital provided by the U.S. Office of Personnel Management (OPM).

In a memorandum dated July 5, 2011, the Chief Operating Officer (COO) directed the EEOC's leadership to implement workforce planning. The COO stated that workforce planning was needed in order to ensure that the agency maximizes use of its Compensation and Benefits (C&B) budget to hire the best employees while ensuring that, "we have the right employee in the right job to achieve the EEOC's mission. To achieve this goal, we must begin workforce planning for FY 2012 as we enter into the last half of FY 2011 and work through the FY 2013 budget justification process."

Examples of EEOC's progress are the implementation of workforce planning, a key element of the strategic management of human capital, and the second launching of EEOC's mentoring program. During the last quarter of the fiscal year the agency launched the second offering of the EEOC Mentoring Program. The EEOC mentoring program partners a group of 40 established EEOC employees (mentors) who understand the agency and its culture with junior employees (mentees) to

provide opportunities for mentees to learn more about the organization and develop and broaden core competencies and leadership skills to enhance their professional growth and development.

The driving factor for this immediate shift to strategic planning for human capital is the need to maximize our compensation and benefits budget and OMB's call for all agencies' to reduce their appropriation requests 5–10 percent below the agency's enacted FY 2011 level. The agency must take steps to finalize its strategic planning for human capital to ensure that it is fully staffed to continue to meet its mission of eradicating discrimination in the workplace.

EEOC's leadership succession plan is being updated with current data for immediate release. Once the agency's strategic plan is released, OHR managers must make aligning the Strategic Management of Human Capital plan and the succession plan a priority and work to ensure this implementation is finalized.

PRIVATE-SECTOR CHARGE INVENTORY

The EEOC has made progress but continues to face major challenges in adequately addressing the large backlog of private-sector discrimination charges. According to preliminary data, the charge inventory at the end of FY 2011 was decreased by 8,785 charges. Total receipts for 2011 were 99,947. Total resolutions were 112,499 and total pending at the end of FY 2011 was 86,921.

The Office of Field Programs (OFP) attributes its progress to its efforts to create performance goals that were more in line with the Chair's vision on how the reduction of inventory should be achieved. OFP also attributed their progress to two new major program initiatives. One initiative focused on identifying best practices that increase the effectiveness of the work completed by front line staff including investigators, supervisors, and managers. This initiative has been partially implemented for investigators resulting in the issuance of a handbook for use in managing their individual caseloads. Similarly, OFP indicates that a handbook is being developed to help field management manage the inventories in their offices.

The second OFP initiative is currently being reviewed by agency leadership. This initiative includes an operations plan to manage and reduce charge inventory. The plan includes elements of a results oriented approach to measuring the performance of the agency in charge processing. For instance, the plan proposes to implement mechanisms to achieve consistent productivity throughout the fiscal year.

OFP lost approximately seven percent of its investigators during 2009–2010. However, despite the increasing challenges presented by a declining budget, the lost of frontline staff, and expanding enforcement responsibilities, OFP's new program initiatives have shown a positive impact on the reduction of the charge inventory. Additional sustained progress in this area is conditioned upon approval of this plan.



Appendices

APPENDIX A: ORGANIZATION AND JURISDICTION

The U.S. Equal Employment Opportunity Commission is a bipartisan Commission comprised of five presidentially-appointed members, including the Chair, Vice Chair, and three Commissioners. The Chair is responsible for the administration and implementation of policy and the financial management and organizational development of the Commission. The Commissioners participate equally in the development and approval of Commission policies, issue charges of discrimination where appropriate, and authorize the filing of some lawsuits. In addition to the Commissioners, the President appoints a General Counsel to support the Commission and provide direction, coordination, and supervision to the EEOC's litigation program. A brief description of major program areas is provided on the following pages.

When the Commission first opened its doors in 1965, it was charged with enforcing the employment provisions of the landmark Civil Rights Act of 1964. The EEOC's jurisdiction over employment discrimination issues has since grown and now includes the following areas:

- **Title VII of the Civil Rights Act of 1964**, which prohibits employment discrimination on the basis of race, color, religion, sex, and national origin.
- **Pregnancy Discrimination Act**, which amended Title VII to clarify that discrimination on the basis of pregnancy, childbirth, or related medical conditions constitutes sex discrimination and requires employers to treat pregnancy and pregnancy-related medical conditions as any other medical disability with respect to terms and conditions of employment, including health benefits.
- **Equal Pay Act of 1963 (included in the Fair Labor Standards Act)**, which prohibits sex discrimination in the payment of wages to men and women performing substantially equal work in the same establishment.
- **Age Discrimination in Employment Act of 1967**, which protects workers 40 and older from discrimination in hiring, discharge, pay, promotions, fringe benefits, and other aspects of employment. ADEA also prohibits the termination of pension contributions and accruals on account of age and governs early retirement incentive plans and other aspects of benefits planning and integration for older workers.
- **Title I and Title V of the Americans with Disabilities Act of 1990, as amended by the Americans with Disabilities Act Amendments Act of 2008**, which prohibits discrimination by private sector respondents and state and local governments against qualified individuals on the basis of disability.
- **Rehabilitation Act of 1973**, which prohibits discrimination on the basis of disability in the federal government.
- **Title II of the Genetic Information Nondiscrimination Act**, which prohibits employment discrimination on the basis of an applicant's or employee's genetic information, generally prohibits acquisition of genetic information from applicants and employees, and requires covered entities to keep such information confidential.
- **Lilly Ledbetter Fair Pay Act of 2009**, which overturned adverse Supreme Court precedent and restored the EEOC's long-held position on the timeliness of pay discrimination claims.

The **Office of Field Programs**, the **Office of General Counsel**, and **53 field offices**, insure that the EEOC effectively enforces the statutory, regulatory, policy, and program responsibilities of the Commission through a variety of resolution methods tailored to each charge. Staff is responsible for achieving a wide range of objectives, which focus on the quality, timeliness, and appropriateness of individual, class, and systemic charges and for securing relief for victims of discrimination in accordance with Commission policies. Staff also counsel individuals about their rights under the laws enforced by the EEOC and conduct outreach and technical assistance programs. The **Office of General Counsel** conducts litigation in federal district courts and in the federal courts of appeals.

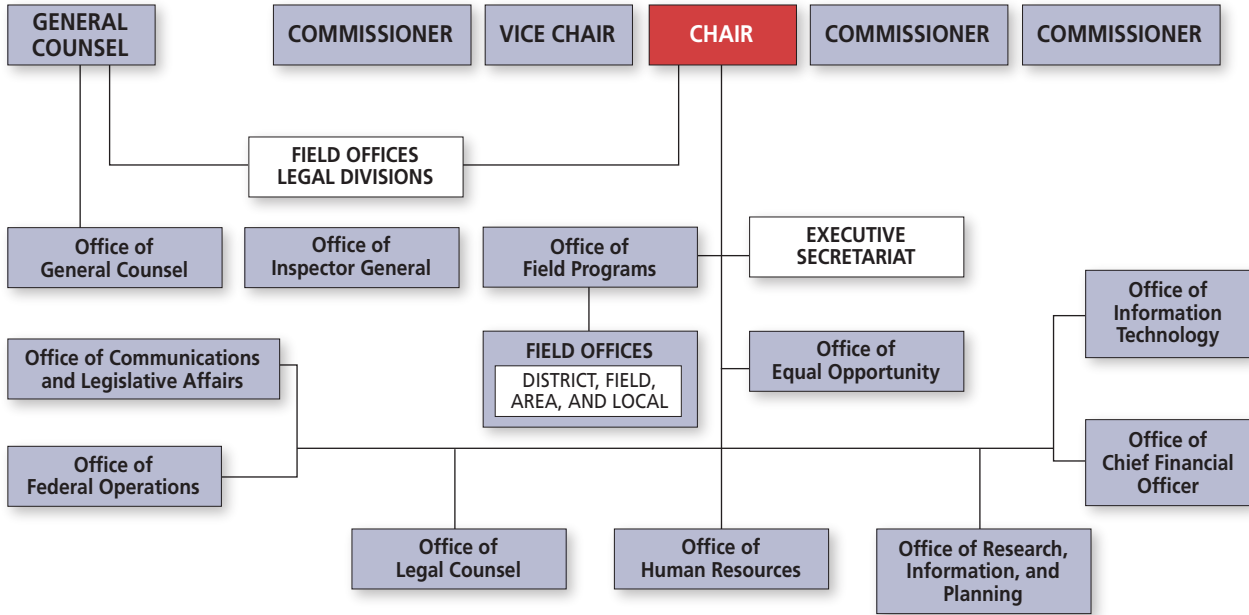
Additionally, through the **Office of Field Program's State and Local Program**, the EEOC maintains work sharing agreements and a contract services program with 94 state and local **Fair Employment Practices Agencies (FEPAs)** for the purpose of coordinating the investigation of charges dual-filed under state and local laws and federal law, as appropriate. The EEOC partners with more than 60 **Tribal Employment Rights Offices (TEROs)** to promote equal employment opportunity on or near Indian reservations.

The **Office of Legal Counsel** develops policy guidance, provides technical assistance to employers and employees, and coordinates with other agencies and stakeholders regarding the statutes and regulations enforced by the Commission. The Office of Legal Counsel also includes an external litigation and advice division and a Freedom of Information Act unit.

Through its **Office of Federal Operations**, the EEOC provides leadership and guidance to federal agencies on all aspects of the federal government's equal employment opportunity program. This office assures federal agency and department compliance with EEOC regulations, provides technical assistance to federal agencies concerning EEO complaint adjudication, monitors and evaluates federal agencies' affirmative employment programs, develops and distributes federal sector educational materials and conducts training for stakeholders, provides guidance and assistance to EEOC administrative judges who conduct hearings on EEO complaints, and adjudicates appeals from administrative decisions made by federal agencies on EEO complaints.

The EEOC receives a congressional appropriation to fund the necessary expenses of enforcing civil rights legislation, as well as performing the prevention, outreach, and coordination of activities within the private and public sectors. In addition, the EEOC maintains a Training Institute for technical assistance programs. These programs provide fee-based education and training relating to the laws administered by the Commission.

EEOC Organization



APPENDIX B: BIOGRAPHIES OF THE CHAIR, COMMISSIONERS AND GENERAL COUNSEL

Jacqueline A. Berrien, Chair



Jacqueline A. Berrien was sworn in as Chair of the U.S. Equal Employment Opportunity Commission (EEOC) on April 7, 2010. President Barack Obama nominated Berrien on July 16, 2009, to a term ending July 1, 2014. In announcing her nomination, the President said that Berrien “has spent her entire career fighting to give voice to underrepresented communities and protect our most basic rights.” President Obama signed a recess appointment for her on March 27, 2010. She received a recess appointment to the position on March, 27, 2010, and was confirmed by the Senate for her full term on December 22, 2010.

Chair Berrien comes to the EEOC from the NAACP Legal Defense and Educational Fund (LDF), where she served as Associate Director-Counsel for five and a half years. In that position, she reported directly to the organization’s President and Director-Counsel and assisted with the direction and implementation of LDF’s national legal advocacy and scholarship programs.

Chair Berrien is a graduate of Harvard Law School, where she served as a General Editor of the Harvard Civil Rights-Civil Liberties Law Review. She received her Bachelor of Arts degree with High Honors in Government from Oberlin College and also completed a major in English. In her junior year at Oberlin she received the Harry S. Truman Scholarship in recognition of her leadership potential and commitment to a career in public service. She is a native of Washington, D.C. and has lived in Brooklyn, NY, with her husband, Peter M. Williams since 1987.

For more information about Chair Berrien, please see: www.eeoc.gov/eeoc/berrien.cfm.

Stuart J. Ishimaru, Commissioner



Stuart J. Ishimaru has been a member of the U.S. Equal Employment Opportunity Commission since 2003, nominated by President George W. Bush upon the recommendation of Senate Democratic Leader Tom Daschle. He currently is serving a second term that expires July 1, 2012. He was designated by President Obama as Acting Chairman of the Commission on January 20, 2009 and served in that capacity until April 7, 2010.

Mr. Ishimaru previously served as Deputy Assistant Attorney General in the Civil Rights Division of the U.S. Department of Justice between 1999 and 2001, where he served as a principal advisor to the Assistant Attorney General for Civil Rights, advising on management, policy, and political issues involving the Civil Rights Division. He supervised the Division’s attorneys in high-profile litigation, including employment discrimination cases, fair housing and fair lending cases, criminal police misconduct, hate crime and slavery prosecutions, and enforcement of the Americans with Disabilities Act. From 1994–1999, Mr. Ishimaru served as Counsel to the Assistant Attorney General for Civil Rights and provided advice on a broad range of issues.

Mr. Ishimaru, a native of San Jose, California, received his A.B. in Political Science and in Economics from the University of California, Berkeley, and his law degree from the George Washington University. He is married to Agnieszka Fryszman, an attorney, and they have two sons, Matthew and Benjamin.

For more information about Commissioner Ishimaru, please see: www.eeoc.gov/eeoc/ishimaru.cfm.

Constance S. Barker, Commissioner



Constance Smith Barker has been a member of the Commission since 2008. She was nominated by President George W. Bush on March 31, 2008, and unanimously confirmed by the Senate on June 27, 2008 to serve the remainder of a five-year term expiring on July 1, 2011. On May 19, 2011, Ms. Barker was nominated by President Barack Obama to serve a second term to expire on July 1, 2016. The nomination to the second term was unanimously confirmed by the United States Senate on September 26, 2011.

Prior to her appointment to the Commission, Ms. Barker was a shareholder for 13 years at the law firm of Capell & Howard, P.C. in Montgomery, Alabama. As a member of the firm’s Labor and Employment Section, she provided advice and counsel to businesses and defended businesses sued for employment discrimination. She also provided training on state and federal employment discrimination laws. Her public sector experience includes serving for four years as a prosecutor in the 11th Judicial Circuit and later in the 13th Judicial Circuit of Alabama. As an Assistant District Attorney she tried numerous jury and bench trials. Ms. Barker also served for 11 years as General Counsel to the Mobile County Public School System, a large city and county school system. Ms. Barker also served as a part-time municipal judge for two municipalities in Mobile, Alabama and was actively involved in Mobile’s juvenile justice system.

A native of Florence, Alabama, Ms. Barker was awarded a juris doctor from the University of Alabama School of Law in 1977. She received a bachelor’s degree from Notre Dame University in 1973, where she was in the first class of women to graduate from that previously all-male institution. While at Notre Dame, she also studied for a year in Angers, France at l’Université Catholique de l’Ouest.

For more information about Commissioner Barker, please see: www.eeoc.gov/eeoc/barker.cfm.

Chai R. Feldblum, Commissioner



Chai R. Feldblum was nominated to serve as a Commissioner of the EEOC by President Barack Obama on September 15, 2009 for a term ending on July 1, 2013. On March 27, 2010, she was given a recess appointment to the post, and was sworn in on April 7, 2010. She was confirmed by the Senate for her term on December 22, 2010.

Prior to her appointment to the EEOC, Ms. Feldblum was a Professor of Law at the Georgetown University Law Center where she had taught since 1991. At Georgetown, she founded the Law Center’s Federal Legislation and Administrative Clinic, a program designed to train students to become legislative lawyers. As Co-Director of Workplace Flexibility 2010, Ms. Feldblum has worked to advance flexible workplaces in a manner that works for employees and employers. Commissioner Feldblum also previously served as Legislative Counsel to the AIDS Project of the American Civil Liberties Union. In this role, she developed legislation, analyzed policy on various AIDS-related issues, and played a leading role in drafting the ground-breaking Americans with Disabilities Act of 1990. Later, as a law professor, she was equally instrumental helping in the passage of the ADA Amendments Act of 2008.

Ms. Feldblum has also worked on advancing lesbian, gay, bisexual and transgender rights and has been a leading expert on the Employment Nondiscrimination Act. She clerked for Judge Frank Coffin of the First Circuit Court of Appeals and for Supreme Court Justice Harry A. Blackmun after receiving her J.D. from Harvard Law School. She received her B.A. degree from Barnard College.

For more information about Commissioner Feldblum, please see: www.eeoc.gov/eeoc/feldblum.cfm.

Victoria A. Lipnic, Commissioner



Victoria A. Lipnic was nominated to serve as a Commissioner of the EEOC by President Barack Obama on November 3, 2009. She was nominated for a term ending on July 1, 2010, and has been confirmed by the Senate for a second term ending on July 1, 2015.

Immediately before coming to the EEOC, Ms. Lipnic was of counsel to the law firm of Seyfarth Shaw LLP in its Washington, DC, office. She brings to the EEOC a breadth of experience working with federal labor and employment laws, most recently as the U.S. Assistant Secretary of Labor for Employment Standards, a position she held from 2002 until 2009. In that position, Ms. Lipnic oversaw the Wage and Hour Division, the Office of Federal Contract Compliance Programs, the Office of Workers' Compensation Programs, and the Office of Labor Management Standards. Under her tenure, the Wage and Hour Division revised regulations regarding overtime under the Fair Labor Standards Act, reissued regulations under the Family and Medical Leave Act, and the Office of Federal Contract Compliance Programs issued new guidance and regulations for evaluating compensation discrimination.

A native of Carrolltown, Penn., where her late father was a teacher and long-serving mayor, Ms. Lipnic earned a B.A. degree in Political Science and History from Allegheny College and a J.D. degree from George Mason University School of Law.

For more information about Commissioner Lipnic, please see: www.eeoc.gov/eeoc/lipnic.cfm.

P. David Lopez, General Counsel



P. David Lopez was sworn in on April 8, 2010, as General Counsel of the U.S. Equal Employment Opportunity Commission (EEOC). He was nominated by President Obama on Oct. 22, 2009, and given a recess appointment on March 27, 2010, and confirmed by the Senate on December 22, 2010.

Mr. Lopez is the first field staff attorney to be appointed as General Counsel, having served in the Commission for 15 years in the field and at headquarters. Prior to his appointment, Mr. Lopez was a Supervisory Trial Attorney at the Commission's Phoenix District Office, where he oversaw the litigation of a team of trial attorneys. When Mr. Lopez initially joined the Commission 1996, he served as Special Assistant to then-Chairman Gilbert F. Casellas in Washington, D.C. In this capacity, he advised Chairman Casellas on policy and litigation matters and helped develop the agency's strategic plan for development of pattern or practice cases.

Immediately prior to joining the Commission, Mr. Lopez was a Senior Trial Attorney with the Civil Rights Division, Employment Litigation Division, of the U.S. Department of Justice in Washington, D.C. between 1991 and 1994. In this capacity, he litigated employment discrimination cases against state and local governments in numerous jurisdictions throughout the United States on behalf of the Department of Justice.

Mr. Lopez graduated from Harvard Law School in 1988 and graduated magna cum laude from Arizona State University in 1985, with a B.S. in Political Science. He has been married 19 years to Maria Leyva. They have three children, Javier David, Julian Diego and Luis Andres.

For more information about General Counsel Lopez, please see: www.eeoc.gov/eeoc/lopez.cfm.

APPENDIX C: GLOSSARY OF ACRONYMS

ADA	Americans with Disabilities Act of 1990
ADAAA	Americans with Disabilities Act Amendments Act of 2008
ADEA	Age Discrimination in Employment Act of 1967
ADR	Alternative Dispute Resolution
AJ	Administrative Judge
CFO	Chief Financial Officer
CHCO	Chief Human Capital Officer
DMS	Document Management System
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
EPA	Equal Pay Act of 1963
EXCEL	Examining Conflicts in Employment Laws
FEPA	Fair Employment Practice Agency
FLSA	Fair Labor Standards Act
FMFIA	Federal Managers Financial Integrity Act
FOIA	Freedom of Information Act
FTE	Full-Time Equivalent
GINA	Genetic Information Nondiscrimination Act of 2008
GSA	General Services Administration
IIG	Intake Information Group
IFMS	Integrated Financial Management System
IMS	Integrated Mission System
LEAD	Leadership for the Employment of Americans with Disabilities
OFO	Office of Federal Operations
OFF	Office of Field Programs
OGC	Office of General Counsel
OIG	Office of Inspector General
OMB	Office of Management and Budget
OPM	Office of Personnel Management
PMA	President's Management Agenda
PCHP	Priority Charge Handling Procedures
TAPS	Technical Assistance Program Seminar
TERO	Tribal Employment Rights Offices
UAM	Universal Agreement to Mediate

APPENDIX D: INTERNET LINKS

EEOC: <http://www.eeoc.gov/>

EEOC FY 2011 Performance and Accountability Report: <http://www.eeoc.gov/eeoc/plan/2011par.cfm>

Prior Performance and Accountability Reports: <http://www.eeoc.gov/eeoc/plan/archives/annualreports/index.cfm>

EEOC Strategic Plan: http://www.eeoc.gov/eeoc/plan/strategic_plan_07to12_mod.cfm

EEOC FY 2012 Performance Budget: <http://www.eeoc.gov/eeoc/plan/2012budget.cfm>

Prior EEOC Performance Budgets: <http://www.eeoc.gov/eeoc/plan/archives/budgets/index.cfm>

EEOC Commission Meetings: <http://www.eeoc.gov/eeoc/meetings/index.cfm>

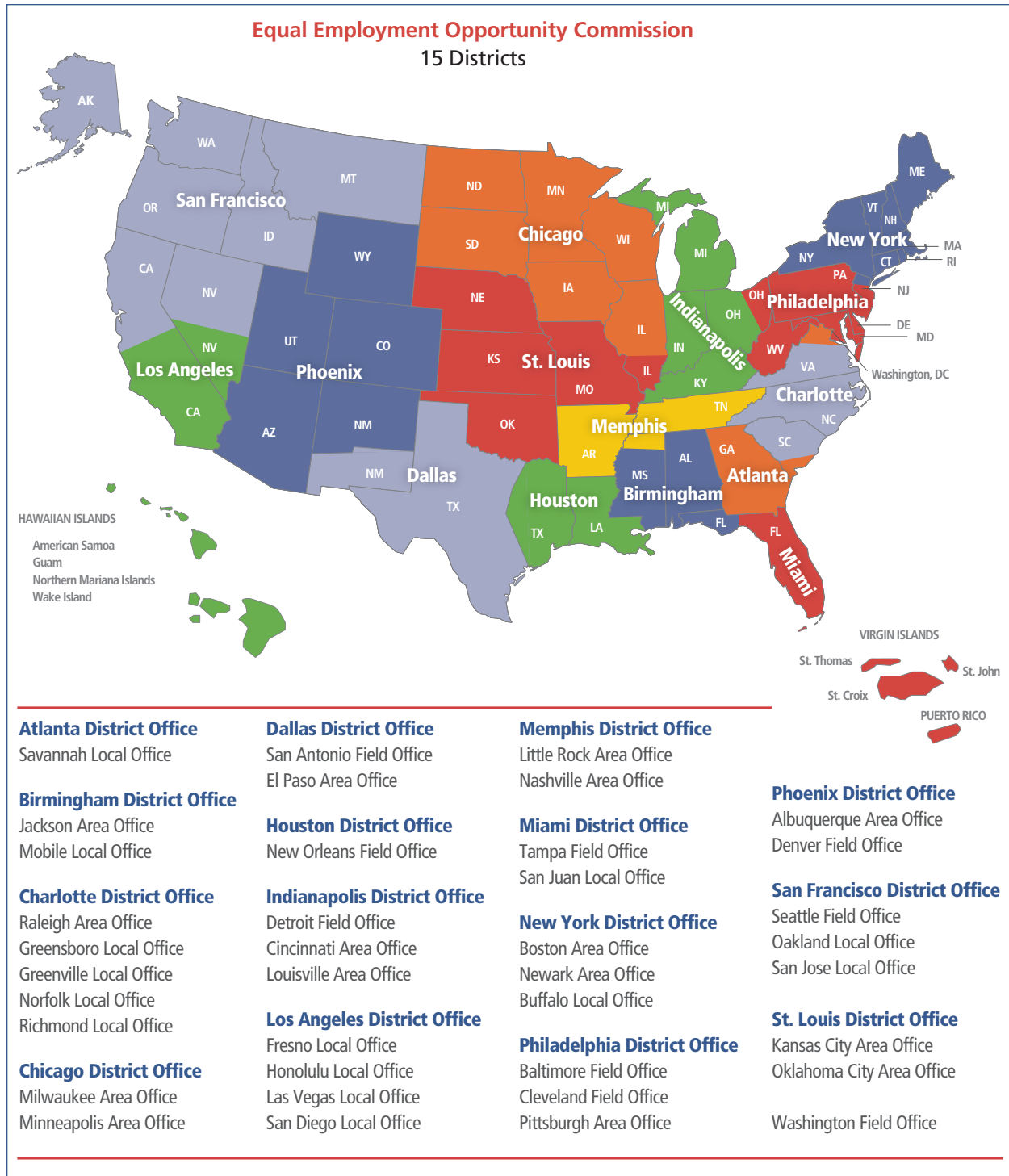
EEOC Annual Report on the Federal Workforce: <http://www.eeoc.gov/federal/reports/fsp2008/index.html>

Youth@Work Initiative: <http://www.eeoc.gov/eeoc/initiatives/youth/index.cfm>

LEAD Initiative: <http://www.eeoc.gov/eeoc/initiatives/lead/index.cfm>

EEOC Newsroom: <http://www.eeoc.gov/eeoc/newsroom/index.cfm>

APPENDIX E: EEOC FIELD OFFICES





Acknowledgments

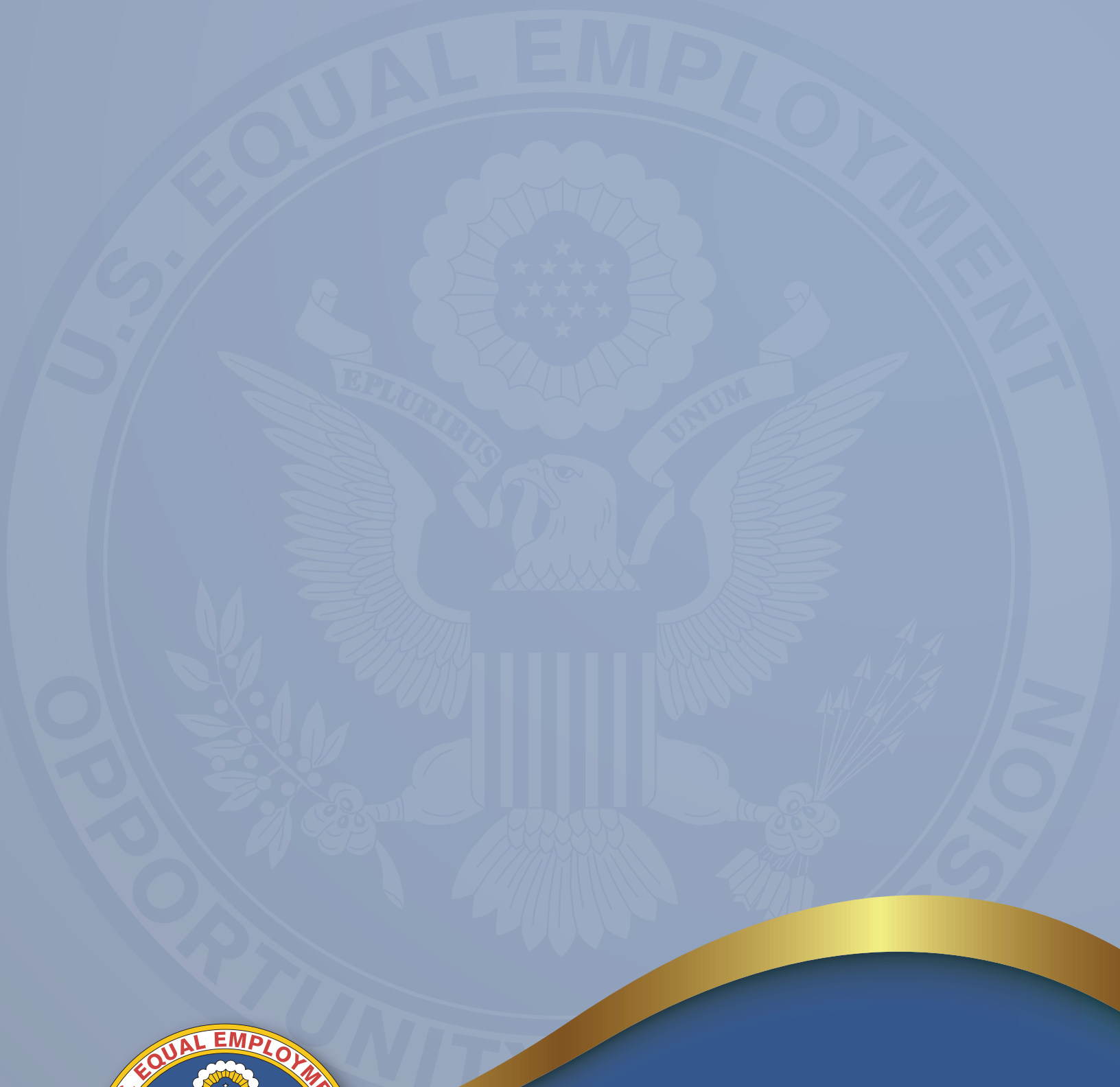
The EEOC's FY 2011 Performance and Accountability Report is a collaborative endeavor on the part of many EEOC employees and contractors. We would like to acknowledge and thank them for their hard work and commitment in successfully preparing this report and in supporting the audit of the financial statements.

WE WELCOME YOUR COMMENTS

Thank you for your interest in the EEOC's FY 2011 Performance and Accountability Report. We welcome your comments on how we can make this report more informative for our readers. Please send your comments to:

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