U.S. OCCUPATIONAL SAFETY & HEALTH REVIEW COMMISSION

PERFORMANCE AND ACCOUNTABILITY REPORT,

INDEPENDENT AUDITOR'S REPORT AND FINANCIAL STATEMENTS

FOR THE YEARS ENDED SEPTEMBER 30, 2012 AND 2011

Prepared By
Brown & Company CPAs, PLLC
November 5, 2012

U.S. OCCUPATIONAL SAFETY & HEALTH REVIEW COMMISSION
FINANCIAL STATEMENTS
FOR THE YEAR ENDED SEPTEMBER 30, 2012 AND 2011

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UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF THE CHAIRMAN

November 15, 2012

The President
The White House
Washington, DC 20500

Dear Mr. President:

I am pleased to transmit the Occupational Safety and Health Review Commission's (OSHRC's) Fiscal Year 2012 Performance and Accountability Report (PAR). The PAR includes performance information, as required by the Government Performance and Results Act (GPRA) and the GPRA Modernization Act, and audited financial statements and related documentation, as required by the Accountability of Tax Dollars Act of 2002.

The mission of the Occupational Safety and Health Review Commission is to provide fair and timely adjudication of workplace safety and health disputes between the Department of Labor, employers and employees and/or their representatives under the Occupational Safety and Health Act of 1970. OSHRC continues to set high standards of performance for itself and, during this past fiscal year, we were generally successful in meeting our stated goals.

At the Commission level, 23 cases were resolved, and all performance goals were met. Our Administrative Law Judge (ALJ) function disposed of 2,887 cases, an increase over the previous fiscal year. However, it was unable to meet its two performance goals as the ALJ function experienced several challenges. In particular, our ALJs have handled a significant increase in caseload over the last several years, with the number of new cases fifty-four percent higher in fiscal year 2011, and thirty-one percent higher in fiscal year 2012, than in fiscal year 2009. In addition, our ALJ function operated at less than full capacity due to vacancies which had occurred over the past two years. These factors impacted the time to resolve cases. Nevertheless, our ALJs have performed outstanding work in the face of the significant increase in workload, reducing the case inventory of 1,345 at the end of fiscal year 2011 to 1,154 at the end of fiscal year 2012. (As a point of comparison, our case inventory at the end of fiscal year 2009 – before the large caseload increase – stood at 777.) The Executive Director function met two of its three performance goals. It only partially met the performance goal to invest .55 percent of basic payroll in training and provide no fewer than twelve hours of training per staff member. Approximately .54 percent of basic payroll was devoted to training, and approximately 62 percent of agency employees received twelve or more hours of training during fiscal year 2012. The Office of the Executive Director was challenged in fully meeting this goal due to being under a continuing resolution the first quarter of fiscal year 2012, during which spending on training was severely constrained.

As Chairman, I remain committed to providing outstanding performance during the current fiscal year. We will continue to explore new ways of increasing our efficiency and effectiveness, and to provide high quality adjudication of safety and health issues that come before the Review Commission.

I am also pleased to report that the Review Commission received its 10th consecutive unqualified opinion from an independent audit of its financial statements. The audit report identified no material weaknesses or other significant deficiencies. In addition, the Review Commission can provide reasonable assurance that the agency is in substantial compliance with the Federal Managers Financial Integrity Act of 1982 and the Office of Management and Budget (OMB) Circular A-123, Management's Responsibility for Internal Control, and that internal control over financial reporting is operating effectively to produce reliable financial reporting.

If you have any questions regarding this report, please contact me.

Sincerely,

Thomasina V Rogers

Thomasina V. Rogers
Chairman

Enclosure

Occupational Safety and Health Review Commission
FY 2012 Performance and Accountability Report

Management Discussion and Analysis

Overview

The Occupational Safety and Health Review Commission (OSHRC or Review Commission) is an independent, adjudicatory agency created by the Occupational Safety and Health Act of 1970. Its sole statutory mandate is to serve as an administrative court providing fair and expeditious resolution of disputes involving the Occupational Safety and Health Administration (OSHA), employers charged with violations of Federal safety and health standards, and employees and/or their representatives. The Review Commission was created by Congress as an agency completely independent of the Department of Labor to ensure that OSHA's enforcement actions are carried out in accordance with the law and that all parties are treated consistent with due process when disputes arise.

The Occupational Safety and Health Act and the Review Commission's Rules of Procedure provide for two levels of adjudication when an employer contests an OSHA citation for alleged violations of the Act or failure to abate such alleged violations. The first is a trial level, which affords an opportunity for a hearing before a Review Commission Administrative Law Judge (ALJ). The Judge's decision becomes final unless the decision is directed for review to the Commission by an individual Commissioner. The second level of review is by Commission members who are appointed by the President with the advice and consent of the Senate. Both before its Judges and the Commissioners, the Review Commission provides fair and impartial adjudication of cases concerning the safety and health of employees' working conditions in the United States.

Mission and Organizational Structure

The mission of the Review Commission is to provide an impartial forum for the just and prompt adjudication of workplace safety and health disputes involving the Department of Labor, employers, and employees and/or their representatives under the Occupational Safety and Health Act of 1970.

The Review Commission has three members, who serve six-year terms, each of whom is appointed by the President and confirmed by the Senate. One of the members also serves as Chairman of the agency. The Review Commission has three major functions: the Commission function, the Administrative Law Judge function, and the Office of the Executive Director function.

The principal (national) office of the Review Commission is located in Washington, D.C. There are two regional offices, one in Atlanta, Georgia, and the other in Denver, Colorado.

Our vision is simple, direct and performance oriented. We strive to be:

- A quasi-judicial body that is -- and is recognized for being -- objective, fair, prompt, and professional;
- An agency that creates a body of law through its decisions that define and explain the rights and responsibilities of employers and employees under the Occupational Safety and Health Act of 1970;
- A model Federal agency with highly effective processes, a highly motivated, qualified and diverse workforce, and modern information management, communications, and administrative systems; and;
- An agency that values team work, develops its employees, and strives to improve its performance, service, and value to the American people.

Challenges and Opportunities

The Review Commission's ability to meet its case disposition goals depend on a variety of factors. These include: (1) continued presence of a quorum at the Commission level; (2) the magnitude and nature of the cases received; (3) the success of the parties' settlement negotiations and the Agency's Simplified Proceedings and Mandatory Settlement programs in reducing the number of hearings needed; and (4) the number, location, length and complexity of hearings held. Although these factors are largely outside the Review Commission's control, the Review Commission is committed to working within such constraints to improve its service to the public.

The Commission consists of three members appointed by the President with the advice and consent of the Senate. The Occupational Safety and Health Act requires a quorum of two Commissioners. By statute, decisions can only be decided on the affirmative vote of two Commissioners. During periods when the Commission lacks a quorum, no cases can be decided. In addition, with only two Commissioners, it may be more difficult to reach agreement sufficient to dispose of some cases. In cases where such agreement cannot be reached, deadlocks result. Consequently, action on important issues may be postponed and issuance of some pending cases will be delayed.

The Commission operated with only two Commissioners during FY 2012 due to the third Commissioner's term expiring in FY 2011.

The number of safety and health inspections carried out by OSHA each year, the nature of those inspections, and the rate at which employers choose to contest the citations issued and penalties proposed by OSHA all have an impact on the number of cases contested before the Review Commission. In addition, OSHA's targeting during recent years of workplaces experiencing more serious workplace hazards, and the consequent increase in proposed penalties, has resulted in a greater number of complex cases, and more extensive pretrial and trial processes. Consequently, both the size and complexity of the cases at both the Administrative Law Judge and Commission levels has increased in recent years.

OSHA conducted 40,961 inspections in FY 2012. The number of OSHA inspections and their likely focus on the highest hazard workplaces affects the Review Commission's ALJ caseload. These inspections have tended to result in more complex and contentious cases, which consume extensive judicial time. For such cases, the discovery process is lengthy and time consuming, motion practice is expanded, legal research and decision-writing time is protracted and, of necessity, the trial process is elongated and complicated.

The Commission utilizes two alternative procedures to facilitate case adjudication in appropriate circumstances – Settlement Part, for certain relatively complex cases, and Simplified Proceedings, for certain relatively simple cases.

Under Commission Rule 2200.120, where the parties consent thereto, the Chief Administrative Law Judge may assign a Settlement Judge to a pending proceeding to aid the parties in disposing of cases. Where the aggregate amount of the penalty sought by the Secretary of Labor is $100,000 or greater, the Mandatory Settlement procedure goes into effect. The Settlement Judge appointed by the Chief Administrative Law Judge has full control of the proceeding and may require that the parties' representatives be accompanied by officials having full settlement authority. This procedure has aided the Commission in disposing of some extremely complex cases, with the approval of all parties.

The Simplified Proceedings process has been expanded to include cases where proposed penalties are not more than $20,000, and up to $30,000, when found eligible by the Chief Judge. The Simplified Proceedings process allows parties with relatively simple cases to have their "day in court" unencumbered by the formal Rules of Procedure and evidence, while ensuring that due process requirements will be maintained. Under this process, a business, with or without counsel, can present its case before an administrative law judge and receive a prompt decision. Most paperwork, including legal filings, has been eliminated so that justice can be rendered swiftly and inexpensively. The process is intended to reduce the time and legal expenses to employers contesting relatively small penalty cases.

Performance Goals and Results

OSHRC's case resolution strategic goal is straightforward: To ensure fair, just, and expeditious adjudication of disputes brought before the Commission and its Administrative Law Judges. The Review Commission's Strategic Plan covering the period FY 2010 - 2015 reflects this objective. It also reflects the Review Commission's overall goal of management excellence.

Commission Function

The function of the Commissioners is to review and decide cases contested under the Act, following an initial decision by an Administrative Law Judge. This higher level of review must be prompt, fair, and protective of the parties' rights, consistent with our overall strategic goals.

In FY 2012, the Commission had 35 cases pending at the beginning of the year. It received 19 new cases and resolved 23 cases by year-end. Thus, the Commission entered FY 2013 with 31 cases pending review.

The Commission operated with only two Commissioners in FY 2012 due to one Commissioner's term expiring in FY 2011.

New performance goals have been developed for fiscal years 2010, 2011, and 2012 to support the FY 2010 – 2015 Strategic Plan. The following table provides the performance goals and results for FY 2008 – FY 2012:

Outcome Goals	Performance Measures	FY 2008 Actual (Target)	FY 2009 Actual (Target)	FY 2010 Actual (Target)	FY 2011 Actual (Target)	FY 2012 Actual (Target)
Reduce the length of time to resolve Commission-level cases	Percent of cases over 2 years old disposed of at the Commission level	23% Target not met (100%)	18% Target not met (75%)	New Goal developed for FY 2010	New Goal developed for FY 2011	New Goal developed for FY 2012
Reduce the length of time to resolve priority cases	Percent of priority cases disposed of within 6 months	100% Target met (100%)	100% Target met (100%)	New Goal developed for FY 2010	New Goal developed for FY 2011	New Goal developed for FY 2012
Resolve the oldest cases on the Review Commission's docket.	All cases docketed at the Commission level prior to 2008 resolved.	New Goal developed to support FY 2010 – 2015 Strategic Plan	New Goal developed to support FY 2010 – 2015 Strategic Plan	20% Target not met (30% of oldest cases)	80% Target met (70% of oldest cases)	Complete d by end of FY 2011
Reduce the average age of open cases at the Commission-level.*	Average age of open cases.	New Goal developed to support FY 2010 – 2015 Strategic Plan	New Goal developed to support FY 2010 – 2015 Strategic Plan	32 Months Target met (41 months or less)	15 months Target met (36 months or less)	18 months Target Met (33 months or less)
Resolve all priority cases in a timely manner.	Percent of priority cases disposed of within 6 months.	New Goal developed to support FY 2010 – 2015 Strategic Plan	New Goal developed to support FY 2010 – 2015 Strategic Plan	100% Target met (100%)	100% Target met (100%)	100% Target Met (100%)

* As of September 30, 2009, and September 30, 2010, the average (mean) period of time for a case on the Review Commission's docket was 46 months, and 32 months, respectively. The Review Commission's revised Strategic Plan (FY 2010- 2015) anticipated reducing this average to 24 months by the end of FY 2015.

The Commission met all of its Commission-level case resolution targets in FY 2012.

The following table summarizes actual Commission case activity for fiscal years 2009, 2010, 2011, and 2012, and provides estimated case activity for fiscal years 2013 and 2014.

Commission Case Activity

	FY 2009 Actual	FY 2010 Actual	FY2011 Actual	FY 2012 Actual	FY 2013 Estimate	FY 2014 Estimate
New Cases:						
Cases Directed for Review:	16	24	24	14	15	20
Other New Cases:						
Interlocutory Appeals	0	0	6	2	2	2
Remands	6	0	0	3	2	2
Other	0	0	0	0	0	0
Total Other New Cases:	6	0	6	5	4	4
Total New Cases:	22	24	30	19	19	24
Case Inventory from Prior Year:	20	22	31	35	31	35
Total Caseload:	42	46	61	54	50	59
Dispositions:	20	15	26	23	15	25
Case Inventory, End of Year:	22	31	35	31	35	34

Administrative Law Judge Function

The function of the Review Commission's Administrative Law Judges is to conduct formal hearings and related proceedings in a fair, just, and expeditious manner, consistent with OSHRC's overall strategic goals.

The Administrative Law Judge function began the fiscal year with 1,345 cases in its inventory and received 2,696 new cases during the year, for a total of 4,041 cases. A total of 2,887 cases were disposed of, leaving 1,154 cases in the inventory at the end of the fiscal year.

The following table provides the performance goals and results for this function for FYs 2008-2012.

Outcome Goals	Performance Measures	FY 2008 Actual (Target)	FY 2009 Actual (Target)	FY 2010 Actual (Target)	FY 2011 Actual (Target)	FY 2012 Actual (Target)
Ensure that a significant proportion of non-complex cases at the ALJ level are	Percent within one year.	99% Target met (99%)	98% Target met (98%)	98% Target met (98%)	98% Target met (98%)	96% Target not met (98%)

Outcome Goals	Performance Measures	FY 2008 Actual (Target)	FY 2009 Actual (Target)	FY 2010 Actual (Target)	FY 2011 Actual (Target)	FY 2012 Actual (Target)
resolved in less than one year.						
Ensure that a significant proportion of complex cases at the ALJ level are resolved in less than one year.	Percent within one year.*	99% Target met (99%)	98% Target exceeded (95%)	89% Target not met (95%)	84% Target not met (95%)	87% Target not met (95%)

*Note: For FY 2008 – 2009, the target case resolution period for complex cases at the ALJ level was 18 months (540 days). In accordance with the Review Commission's revised Strategic Plan (FY 2010- 2015), the target period has been reduced to one year commencing in FY 2010.

In the last year, the Office of the Chief Administrative Law Judge has operated at less than full capacity due to vacancies which have occurred over the past two years. This, along with the significant increase in our caseload, has impacted the time to resolve cases. However, as of May 2012, all the judicial vacancies have been filled and we are now operating with a full complement of ALJs. Nevertheless, our end-of-the fiscal year case inventory was 49 percent higher than it was in FY 2009. Furthermore, the number of new cases in FY 2012, while lower than in FY 2011, was still 31 percent over the level in FY 2009. In addition, this workload included a 42% increase in the number of cases disposed of with hearings compared to FY 2009. Hearings are necessarily time consuming, and this had an effect on case disposal.

The following table provides actual Administrative Law Judge workloads for fiscal years 2009, 2010, 2011, and 2012, and estimated workloads for fiscal years 2013 and 2014.

	FY 2009 Actual	FY 2010 Actual	FY 2011 Actual	FY2012 Actual	FY 2013 Estimate	FY 2014 Estimate
OSHA Inspections*:	40,549	40,942	40,648	40,961	40,100	39,170
Administrative Law Judge Workload:						
a. Case Inventory, Start of Year	739	777	983	1,345	1,154	1,179
b. New Cases	2,058	2,565	3,175	2,696	2,800	2,800
c. Total Caseload	2,797	3,342	4,158	4,041	3,954	3,979
d. Disposals						
(1) With Hearing	67	107	111	95	110	120
(2) Without Hearing	1,953	2,252	2,702	2,792	2,665	2,655
e. Total Dispositions	2,020	2,359	2,813	2,887	2,775	2,775
Total Case Inventory, End of Year	777	983	1,345	1,154	1,179	1,204

*Provided by Directorate of Evaluation and Analysis, OSHA.

Office of the Executive Director Function

The Office of the Executive Director provides administrative services to support the Review Commission in fulfilling its mission.

The Executive Director function provides strategic planning and operational management for the organization. The Office of the Executive Director also includes: technology management, computer and information security, financial, and administrative services. The day-to-day work performed under the direction of the Executive Director includes:

- Supporting the development and implementation of the Agency's strategic goals;
- Maintaining and enhancing a website to provide the public with access to Review Commission information;
- Providing agency-wide support in the areas of finance, budget, procurement and contracting, human resources, equal opportunity and general administrative services;
- Providing personnel, payroll, benefits, reproduction, mail services, and travel assistance to agency employees;
- Procuring goods and services, maintenance and needed repairs of equipment, training, reference materials, supplies and office space;
- Implementing case management and administrative systems through information technology hardware and software;
- Developing and maintaining computer systems and information security enhancements; and
- Enhancing telecommunications and improving technology efficiency and effectiveness.

The following performance goals have been developed for fiscal years 2011, 2012, 2013, and 2014 to support the FY 2010 – 2015 Strategic Plan:

Outcome Goals	**Performance Measures**	**FY 2011 Actual (Target)**	**FY 2012 Actual (Target)**	**FY 2013 (Target)**	**FY 2014 (Target)**
Invest in human capital by increasing staff development and training opportunities and increasing employees' capabilities and potential.	One percent of basic payroll devoted to staff training and development by FY 2015, and no fewer than 24 hours training per staff member per year.	.45% Target Partially Met (.45% of basic payroll to training and 10 hours)	.54% of basic payroll to training/62% of staff had 12 hours of training* Target Not Met (.55% of basic payroll to training and 12 hours)	(.55 of basic payroll to training and 12 hours)	(.55 of basic payroll to training and 12 hours)

Outcome Goals	Performance Measures	FY 2011 Actual (Target)	FY 2012 Actual (Target)	FY 2013 (Target)	FY 2014 (Target)
Examine and identify contracted positions appropriate for insourcing.	Percentage of positions identified appropriate for insourcing that are insourced	One position identified Target Met (Positions identified)	One position insourced. No other position eligible. Target Met (Insource position identified and identify additional positions to insource)	(Insource any additional positions identified)	(Insource any additional positions identified)
Use of 360 degree employee-supervisor feedback mechanisms.	All supervisors subject to 360 degree feedback, and feedback is used to ensure that individual and organizational effectiveness goals are being met.	Feedback Instrument developed Target Met (Appropriate feedback instrument developed)	Feedback Instrument used to evaluate supervisors Target Met (Feedback mechanism used to evaluate all supervisors)	(Feedback mechanism used to evaluate all supervisors)	(Feedback mechanism used to evaluate all supervisors)

*$39,589, or .54 percent of basic payroll, was devoted to staff training and development in FY 2012. We were challenged in fully meeting this goal due in part to being under a continuing resolution the first quarter of FY 2012, during which spending on training was severely constrained. Tracking of the number of hours devoted to employee training was implemented in FY 2012. Approximately 62 percent of employees received twelve or more hours of training.

Analysis of Financial Statements

The Review Commission had biennial audits of its financial statements from 1996 through 2002. Consistent with the Accountability of Tax Dollars Act of 2002, OSHRC began annual audits in FY 2003. OSHRC has received an “unqualified” opinion for each biennial and annual review conducted by an independent auditor.

Since 2002, the Review Commission has contracted with the Treasury Franchise Fund, Administrative Resources Center (Bureau of the Public Debt – BPD), for accounting services. The Administrative Resources Center prepared the Review Commission’s FY 2012 financial statements, which include comparative data for FY 2011. The principal financial statements include the Balance Sheet, Statement of Net Cost, Statement of Changes in Net Position, and Statement of Budgetary Resources.

The changes described in the analyses below generally indicate that the budget execution process has become more effective, given improved budget management, higher payroll costs, the costs of improving our IT infrastructure, and higher costs for goods and services to maintain operations and fulfill our mission.

Analysis of the Balance Sheet

OSHRC's assets in fiscal year 2012 were $3,476,133 as of September 30, 2012. This represents an increase of $222,377 from fiscal year 2011. The Fund Balance with Treasury of $3,420,650 represents OSHRC's largest asset as of September 30, 2012. This is an increase of approximately 8 percent from fiscal year 2011 and represents approximately 98 percent of the agency's total assets. General Property, Plant, and Equipment account for approximately 1.60 percent of OSHRC's total assets as of September 30, 2012. The net fixed asset value of $55,248 equals the cost less accumulated depreciation and represents the current book value of those assets.

OSHRC's liabilities in fiscal year 2012 totaled $1,252,244 as of September 30, 2012. This is a decrease of $406 from fiscal year 2011. The accounts payable balance at September 30, 2012, was $86,514, a decrease of $94,823 from September 30, 2011. Unfunded annual leave increased $23,540 in 2012 from 2011. Unfunded annual leave represents approximately 50 percent of total agency liabilities.

Net Position is the difference between total assets and total liabilities. The total net position for fiscal year 2012 increased by $222,783 from fiscal year 2011.

Analysis of Statement of Net Cost

The Statement of Net Cost shows the net cost of operations for the agency, and it is broken out between OSHRC's two major programs, Administrative Law Judge and Commission. The Total net cost of operations in 2012 was $11,931,704, a decrease of $209,522, or 1.73 percent less than the 2011 net cost of operations of $12,141,226

Analysis of the Statement of Changes in Net Position

The Statement of Changes in Net Position reports the change in the agency's net position during the reporting period. The net position consists of two components, the unexpended appropriations and the cumulative results of operations. The Net Position increased $222,783 in 2012 from 2011, a change of approximately 11 percent.

Analysis of the Statement of Budgetary Resources

The Statement of Budgetary Resources presents how the budgetary resources were made available and the status of the budgetary resources at the end of the reporting period. The total budgetary resources must always equal the total status of budgetary resources. For fiscal year 2012, OSHRC had total budgetary resources of $12,710,857, which is $66,211 less than in 2011.

Management Assurances

Systems, Controls, and Legal Compliance

The Review Commission is in compliance with the Federal Managers Financial Integrity Act and OMB Circular A-123, Management's Responsibility for Internal Control. The system of internal controls for this agency is functioning well. It provides reasonable assurance as to the efficiency and effectiveness of programs and operations, reliability of financial and performance information, and compliance with laws and regulations. These controls satisfy the requirements of the Federal Managers' Financial Integrity Act.

The Review Commission is a small agency and does not have a separate Inspector General Office. Therefore, the Review Commission's management team assumes the responsibility for assessing the Agency's internal operations and determining if there are any weaknesses that need correction. In FY 2012, two program reviews took place: an audit of FY 2012 financial statements, and an audit of computer and information security.

Financial Audit

The Review Commission has had annual audits of its financial statements since FY 2003, including reviews of the adequacy of the Review Commission's internal control systems. The Review Commission has received an unqualified opinion for each financial audit conducted, including FY 2012.

With regard to financial management, the National Finance Center (NFC) provided payroll services, and the Bureau of Public Debt (BPD) provided accounting, disbursement, and financial statement preparation services for the agency. Accordingly, certain aspects of the Review Commission's financial management system are largely influenced by the practices and procedures of the NFC and the BPD.

In addition to the practices and procedures of the NFC and BPD, the Review Commission has established certain internal controls and procedures that safeguard assets and ensure that obligations and disbursements are made consistent with management's direction. For example, BPD reports are reviewed and reconciled to assure that the agency's obligation and disbursement actions are properly recorded and that the year-end financial statements are correctly stated. The agency's Budget and Finance Office also prospectively certifies funds availability for all obligations and conducts periodic reviews of internal systems including travel, payroll, and procurement.

The financial audit resulted in an "unqualified" opinion with no reported material weaknesses or other significant deficiencies. Generally, the system of internal controls for this Agency is functioning well. It provides reasonable assurance as to the efficiency and effectiveness of programs and operations, reliability of financial and performance information, and compliance with laws and regulations. These controls satisfy the requirements of the Federal Managers' Financial Integrity Act. As previously mentioned, the Review Commission has had annual audits of its financial statements since 2003, including reviews of the adequacy of the Review Commission's internal control systems. The Review Commission has received an unqualified opinion for each audit conducted.

The Review Commission contracts with the Treasury Franchise Fund, Administrative Resource Center, (Bureau of Public Debt (BPD)), for accounting, disbursement, and travel services and with the National Finance Center for payroll and personnel services. In addition to the Agency's internal controls and procedures that safeguard assets and ensure that obligations and disbursements are made consistent with management's direction, the BPD and the National Finance Center have established practices and procedures that assure appropriate internal controls. The two agencies' internal control systems are evaluated independently.

Improper Payments

The Review Commission did not have any improper payments in FY 2012. Prior to awarding procurement actions, the Review Commission matched against the General Services Administration (GSA) Excluded Parties List (EPLS) and the Central Contractor Registry (CCR) to determine vendor's eligibility to receive payments. All payments were verified using this method with the exception of payments to Federal vendors, payroll and credit card payments.

In FY 2012, the Review Commission's "Do Not Pay Implementation Plan" was developed. This plan outlines the Agency's proposed strategy to develop and implement a robust, centralized fraud-detection and prevention solution. Specifically, the plan is based on the Agency's systematic review of current pre-payment and pre-award procedures to reduce and eliminate improper payments pursuant to Executive Order 13520 dated November 20, 2009. This plan will be implemented in FY 2013.

Computer and Information Security Program

Since FY 2003, the Review Commission has contracted for annual independent evaluations of its computer and information security programs, consistent with the Federal Information Security Management Act (December 17, 2002) which was signed into law as part of the E-Government Act (Public Law 107-347). These evaluations are conducted under the requirements of the *Government Information Security Reform Act* (the predecessor to *Federal Information Security Management Act (FISMA)*), as well as the Office of Management and Budget's (OMB) implementing guidelines, and National Institute of Standards and Technology (NIST) guidance.

Our FISMA audits have revealed a weakness in supporting policies. In response, OSHRC has upgraded its Certification and Authorization (C&A). OSHRC maintains updated security processes, and maintains a system security plan that complies with NIST standards. OSHRC tested its continuity of operations plan (COOP) in June 2012 and August 2012 during a Department of Homeland Security exercise and is in the process of fine-tuning the plan to fully incorporate all newly adopted technologies.

The executive summary for the current (FY 2012) FISMA Program Review Report reveals that the Review Commission continues to take steps to enhance its computer security posture.

The provisions of the Review Commission's security policy directive apply to all employees and contractors who use our computer and network systems or gain access to our computer generated information.

The agency's information security program will, at a minimum, continue to implement appropriate recommendations made by the independent evaluator; incorporate performance measures to ensure that the security plan is practiced throughout the life cycle of the agency's system; establish additional personnel controls for sensitive information; monitor procedures for program effectiveness and compliance with security requirements; assure that systems and applications operate effectively and provide appropriate confidentiality, integrity and availability; and protect information commensurate with the level of risk and magnitude of harm resulting from loss, misuse, unauthorized access, or modification.

Performance Data Verification

For each strategic goal and its related objectives, the Review Commission formulated performance measures and numerical annual targets, whenever possible. A few measures are necessarily qualitative in nature. Case processing and adjudication measurements are used for several objectives contained in our Public Service Goal. Most of the data related to the Public Service Goal resides in the Review Commission's case management/tracking system. In FY 2012, each of the 2,696 new cases docketed at the Administrative Law Judge level were entered into the case management system, and progress on all cases was tracked. In order to assure the quality of the data, management periodically reviews the information in the case management/tracking system. The agency conducts test runs of the data to ensure that information is entered and updated on a timely basis. The reports are used to assess workload and make workload adjustments, when necessary. At the end of the year, this data is used by the offices to measure performance related to the goals and to improve management.

Human resource measurements are used for the goals in the Office of the Executive Director function. The data related to these goals is maintained and tracked in the Human Resource system, which includes spreadsheets to track training costs and hours, employee performance files, and personnel files. Management reviews the information to ensure that the information is accurate.

Limitations of the Financial Statements

The principal financial statements have been prepared to report the financial position and results of operations of the Review Commission, pursuant to the requirements of 31 U.S.C. 3515(b).

The statements have been prepared from the books and records of the Review Commission in accordance with generally accepted accounting principles (GAAP) for Federal entities and formats prescribed by the Office of Management and Budget (OMB). The statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records. These statements should be read with the realization that they are for a component of the United States Government, a sovereign entity.

U.S. OCCUPATIONAL SAFETY & HEALTH REVIEW COMMISSION

INDEPENDENT AUDITOR'S REPORT AND FINANCIAL STATEMENTS

FOR THE YEARS ENDED SEPTEMBER 30, 2012 AND 2011

Prepared By
Brown & Company CPAs, PLLC
November 5, 2012

INDEPENDENT AUDITOR'S REPORT ON THE FINANCIAL STATEMENTS

U.S. Occupational Safety and Health Review Commission
Washington, D.C.

We have audited the accompanying balance sheet of the U.S. Occupational Safety and Health Review Commission (OSHRC) as of September 30, 2012 and 2011, and the related statements of net cost, changes in net position, and budgetary resources, for the years then ended (collectively referred to as the financial statements). These financial statements are the responsibility of OSHRC's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *U.S. Government Auditing Standards*, issued by the Comptroller General of the United States; and, Office of Management and Budget (OMB) Bulletin No. 07-04 as amended, *Audit Requirements for Federal Financial Statements.* Those standards and OMB Bulletin No. 07-04 as amended, require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the OSHRC as of September 30, 2012 and 2011 and its net costs, changes in net position, and budgetary resources for the years then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *U.S. Government Auditing Standards* and OMB Bulletin No. 07-04 as amended, we have also issued reports dated November 5, 2012 on our consideration of the OSHRC internal control over financial reporting and its compliance with provisions of laws and regulations. Those reports are an integral part of an audit performed in accordance with *U.S. Government Auditing Standards* and should be read in conjunction with this report in considering the results of our audit.

Accounting principles generally accepted in the United States of America require that the Management Discussion and Analysis (MD&A) be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by OMB Circular A-136, *Financial Reporting Requirements*, as revised, that considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

1101 MERCANTILE LANE, SUITE 122 • LARGO, MD 20774
PHONE: (240) 770-4900 • FAX: (301) 773-2090 • mail@brownco-cpas.com • www.brownco-cpas.com

This report is intended solely for the information and use of the management of the OSHRC, OMB and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

Brown & Company

Largo, Maryland
November 5, 2012

**INDEPENDENT AUDITOR'S REPORT
ON INTERNAL CONTROL OVER FINANCIAL REPORTING**

U.S. Occupational Safety and Health Review Commission
Washington, D.C.

We have audited the financial statements of the U.S Occupational Safety and Health Review Commission (OSHRC) as of and for the year ended September 30, 2012 and have issued our report thereon dated November 5, 2012. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *U.S. Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 07-04 as amended, *Audit Requirements for Federal Financial Statements.*

In planning and performing our audit, we considered the OSHRC's internal control over financial reporting by obtaining an understanding of the OSHRC's internal control, determined whether internal controls had been placed in operation, assessed control risk, and performed tests of controls in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 07-04 as amended. The objective of our audit was not to provide an opinion on internal control and therefore, we do not express an opinion on internal control.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be a significant deficiency or material weakness. Under standards issued by the American Institute of Certified Public Accountants and OMB Bulletin No. 07-04 as amended, a material weakness is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A significant deficiency is a deficiency in internal control, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. Because of inherent limitations in internal controls, misstatements, losses, or non-compliance may nevertheless occur and not be detected. However, we noted no matters involving the internal control and its operation that we considered to be a material weakness as defined above.

This report is intended solely for the information and use of the management of the OSHRC, OMB and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

Brown & Company

Largo, Maryland
November 5, 2012

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BROWN & COMPANY CPAs, PLLC
CERTIFIED PUBLIC ACCOUNTANTS AND MANAGEMENT CONSULTANTS

INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH LAWS AND REGULATIONS

U.S. Occupational Safety and Health Review Commission
Washington, D.C.

We have audited the financial statements of the U.S. Occupational Safety and Health Review Commission (OSHRC) as of and for the year ended September 30, 2012, and have issued our report thereon dated November 5, 2012. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *U.S. Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 07-04 as amended, *Audit Requirements for Federal Financial Statements.*

The management of the OSHRC is responsible for complying with laws and regulations applicable to the OSHRC. As part of obtaining reasonable assurance about whether the OSHRC's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain other laws and regulations specified in OMB Bulletin No. 07-04 as amended. We limited our tests of compliance to these provisions and we did not test compliance with all laws and regulations applicable to the OSHRC.

The results of our tests of compliance disclosed no material noncompliance with laws and regulations discussed in the preceding paragraph that are required to be reported under *U.S. Government Auditing Standards* or OMB Bulletin No. 07-04 as amended.

Providing an opinion on compliance with certain provisions of laws and regulations was not an objective of our audit, and, accordingly, we do not express such an opinion. However, we noted no noncompliance with laws and regulations, which could have a direct and material effect on the determination of financial statement amounts.

This report is intended solely for the information and use of the management of the OSHRC, OMB and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

Brown & Company
Largo, Maryland
November 5, 2012

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PHONE: (240) 770-4900 • FAX: (301) 773-2090 • mail@brownco-cpas.com • www.brownco-cpas.com

FINANCIAL STATEMENTS AND NOTES

OCCUPATIONAL HEALTH AND SAFETY REVIEW COMMISSION
BALANCE SHEET
AS OF SEPTEMBER 30, 2012 AND 2011
(In Dollars)

		2012		2011
Assets :				
Intragovernmental				
Fund Balance With Treasury (Note 2)	$	3,420,650	$	3,158,051
Accounts Receivable (Note 3)		-		13,719
Total Intragovernmental		3,420,650		3,171,770
Accounts Receivable, Net (Note 3)		(96)		6,438
Property, Equipment, and Software, Net (Note 4)		55,248		75,548
Other		331		-
Total Assets	$	3,476,133	$	3,253,756
Liabilities:				
Intragovernmental				
Accounts Payable	$	28,696	$	3,696
Other (Note 6)		88,838		80,499
Total Intragovernmental		117,534		84,195
Accounts Payable		86,514		181,337
Other (Note 6)		1,048,196		987,118
Total Liabilities	$	1,252,244	$	1,252,650
Commitments and Contingencies				
Net Position:				
Unexpended Appropriations - Other Funds		2,794,929		2,526,322
Cumulative Results of Operations - Other Funds		(571,040)		(525,216)
Total Net Position	$	2,223,889	$	2,001,106
Total Liabilities and Net Position	$	3,476,133	$	3,253,756

The accompanying notes are an integral part of these financial statements.

OCCUPATIONAL HEALTH AND SAFETY REVIEW COMMISSION
STATEMENT OF NET COST
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2012 AND 2011
(In Dollars)

		2012		2011
Program Costs:				
Administrative Law Judge (Note 8)	$	5,393,130	$	5,299,556
Less: Earned Revenue		-		(5,981)
Net Program Costs	$	5,393,130	$	5,293,575
Commission (Note 8)	$	6,538,574	$	6,855,389
Less: Earned Revenue		-		(7,738)
Net Program Costs	$	6,538,574	$	6,847,651
Net Cost of Operations	$	11,931,704	$	12,141,226

The accompanying notes are an integral part of these financial statements.

OCCUPATIONAL HEALTH AND SAFETY REVIEW COMMISSION
STATEMENT OF CHANGES IN NET POSITION
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2012 AND 2011
(In Dollars)

	2012 Consolidated Total	2011 Consolidated Total
Cumulative Results of Operations:		
Beginning Balances	$ (525,216)	$ (651,326)
Budgetary Financing Sources:		
Other Adjustments	-	-
Appropriations Used	11,225,366	11,519,037
Other Financing Sources (Non-Exchange):		
Imputed Financing Sources (Note 9)	660,514	748,299
Total Financing Sources	11,885,880	12,267,336
Net Cost of Operations	(11,931,704)	(12,141,226)
Net Change	(45,824)	126,110
Cumulative Results of Operations	$ (571,040)	$ (525,216)
Unexpended Appropriations:		
Beginning Balances	$ 2,526,321	$ 2,582,875
Budgetary Financing Sources:		
Appropriations Received	11,689,000	11,712,000
Other Adjustments	(195,026)	(249,516)
Appropriations Used	(11,225,366)	(11,519,037)
Total Budgetary Financing Sources	268,608	(56,553)
Total Unexpended Appropriations	$ 2,794,929	$ 2,526,322
Net Position	$ 2,223,889	$ 2,001,106

The accompanying notes are an integral part of these financial statements.

OCCUPATIONAL HEALTH AND SAFETY REVIEW COMMISSION
STATEMENT OF BUDGETARY RESOURCES
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2012 AND 2011
(In Dollars)

	2012	2011
Budgetary Resources:		
Unobligated Balance Brought Forward, October 1	$ 1,185,633	$ 1,192,210
Adjustment to Unobligated Balance Brought Forward, October 1	-	-
Unobligated Balance Brought Forward, October 1, as adjusted	1,185,633	1,192,210
Recoveries of Prior Year Unpaid Obligations	31,250	108,655
Other changes in unobligated balance	(172,934)	(226,092)
Unobligated balance from prior year budget authority, net	1,043,949	1,074,773
Appropriations	11,666,908.00	11,688,576.00
Borrowing authority	-	-
Contract Authority	-	-
Spending authority from offsetting collections	-	13,719.00
Total Budgetary Resources	$ 12,710,857	$ 12,777,068
Status of Budgetary Resources:		
Obligations Incurred (Note X)	11,488,109	11,591,435
Unobligated balance, end of year:		
Apportioned	$ 213,987	$ 246,666
Exempt from apportionment	$ -	$ -
Unapportioned	$ 1,008,761	$ 938,967
Total unobligated balance, end of year	1,222,748	1,185,633
Total Budgetary Resources	$ 12,710,857	$ 12,777,068
Change in Obligated Balance:		
Unpaid Obligations, Brought Forward, October 1	1,986,137	1,997,131
Uncollected customer payments from Federal sources, brought forward, October 1	(13,719)	-
Obligated balance, start of year	1,972,418	1,997,131
Adjustment to obligated balance, start of year	(2,197,903)	(1,972,418)
Obligated balance, start of year, as adjusted	(225,485)	24,713
Obligations Incurred	11,488,109	11,591,435
Outlays (gross)	(11,245,093)	(11,493,774)
Change in uncollected customer payments from Federal Sources	13,719	(13,719)
Recoveries of Prior Year Unpaid	(31,250)	(108,655)
Obligated balance, end of year		
Unpaid obligations, end of year	2,197,903	1,986,137
Obligated balance, end of year	2,197,903	1,972,418
Budget Authority and Outlays, Net:		
Budget authority, gross	$ 11,666,908	$ 11,702,295
Actual offsetting collections	(13,719)	-
Change in uncollected customer payments from Federal sources	13,719	(13,719)
Budget Authority, net	$ 11,666,908	$ 11,688,576
Outlays, gross	11,245,093	11,493,774
Actual offsetting collections	(13,719)	
Outlays, net	$ 11,231,374	$ 11,493,774
Distributed Offsetting Receipts	(2,401)	(177,255)
Agency outlays, net	11,228,973	11,316,519

The accompanying notes are an integral part of these financial statements.

OCCUPATIONAL HEALTH AND SAFETY REVIEW COMMISSION
STATEMENT OF CUSTODIAL ACTIVITY
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2012 AND 2011
(In Dollars)

	2012	2011
Revenue Activity:		
Sources of Cash Collections:		
Miscellaneous	$ 2,401	$ 177,255
Total Cash Collections	2,401	177,255
Disposition of Collections:		
Transferred to Others (by Recipient)	2,401	177,255
Net Custodial Activity	$ -	$ -

The accompanying notes are an integral part of these financial statements.

U.S. OCCUPATIONAL SAFETY & HEALTH REVIEW COMMISSION
NOTES TO THE FINANCIAL STATEMENTS

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Reporting Entity

The Occupational Safety and Health Review Commission (The Review Commission) is an independent, adjudicatory agency created by the Occupational Safety and Health Act (OSHA) of 1970. Its sole statutory mandate is to serve as an administrative court providing just and expeditious resolution of disputes involving OSHA, employers charged with violations of Federal safety and health standards, and employees and/or their representatives. The Review Commission was created by Congress as an agency completely independent of the Department of Labor to ensure that OSHA's enforcement actions are carried out in accordance with the law and that all parties are treated consistent with due process should a dispute arise.

The Review Commission reporting entity is comprised of General Funds and General Miscellaneous Receipts.

General Funds are accounts used to record financial transactions arising under congressional appropriations or other authorizations to spend general revenues.

General Fund Miscellaneous Receipts are accounts established for receipts of non-recurring activity, such as miscellaneous receipts for services and benefits.

The Review Commission receives custodial collections and holds custodial receivables that are non-entity assets and are transferred to Treasury at fiscal year end.

B. Basis of Presentation

The financial statements have been prepared to report the financial position and results of operations of the Review Commission. The Balance Sheet presents the financial position of the agency. The Statement of Net Cost presents the agency's operating results; the Statement of Changes in Net Position displays the changes in the agency's equity accounts. The Statement of Budgetary Resources presents the sources, status, and uses of the agency's resources and follow the rules for the Budget of the United States Government.

The statements are a requirement of the Chief Financial Officers Act of 1990, the Government Management Reform Act of 1994 and the Accountability of Tax Dollars Act of 2002. They have been prepared from, and are fully supported by, the books and records of the Review Commission in accordance with the hierarchy of accounting principles generally accepted in the United States of America, standards issued by the Federal Accounting Standards Advisory Board (FASAB), Office of Management and Budget (OMB) Circular A-136, *Financial Reporting Requirements,* as amended, and the Review Commission's accounting policies which are summarized in this note. These statements, with the exception of the Statement of Budgetary Resources, are different from financial management reports, which are also prepared pursuant to OMB directives that are used to monitor and control the Review Commission's use of budgetary resources. The financial statements and associated notes are presented on a comparative basis. Unless specified otherwise, all amounts are presented in dollars.

C. Basis of Accounting

Transactions are recorded on both an accrual accounting basis and a budgetary basis. Under the accrual method, revenues are recognized when earned, and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. Budgetary accounting facilitates compliance with legal requirements on the use of federal funds.

D. Fund Balance with Treasury

Fund Balance with Treasury is the aggregate amount of the Review Commission's funds with Treasury in expenditure, receipt, and deposit fund accounts. Appropriated funds recorded in expenditure accounts are available to pay current liabilities and finance authorized purchases.

The Review Commission does not maintain bank accounts of its own, has no disbursing authority, and does not maintain cash held outside of Treasury. Treasury disburses funds for the agency on demand.

E. Accounts Receivable

Accounts receivable consists of amounts owed to the Review Commission by other Federal agencies and the general public. Amounts due from Federal agencies are considered fully collectible. Accounts receivable from the public include reimbursements from employees. An allowance for uncollectible accounts receivable from the public is established when, based upon a review of outstanding accounts and the failure of all collection efforts, management determines that collection is unlikely to occur considering the debtor's ability to pay.

F. Property, Equipment, and Software

Property, equipment and software represent furniture, fixtures, equipment, and information technology hardware and software which are recorded at original acquisition cost and are depreciated or amortized using the straight-line method over their estimated useful lives. Major alterations and renovations are capitalized, while maintenance and repair costs are expensed as incurred. The Review Commission's capitalization threshold is $50,000 for individual purchases and $500,000 for bulk purchases. Property, equipment, and software acquisitions that do not meet the capitalization criteria are expensed upon receipt. Applicable standard governmental guidelines regulate the disposal and convertibility of agency property, equipment, and software. The useful life classifications for capitalized assets are as follows:

Description	Useful Life (years)
Office Furniture	7
Office Equipment	5

G. Advances and Prepaid Charges

Advance payments are generally prohibited by law. There are some exceptions, such as reimbursable agreements, subscriptions and payments to contractors and employees. Payments made in advance of the receipt of goods and services are recorded as advances or prepaid charges at the time of prepayment and recognized as expenses when the related goods and services are received.

H. Liabilities

Liabilities represent the amount of funds likely to be paid by the Review Commission as a result of transactions or events that have already occurred.

The Review Commission reports its liabilities under two categories, Intragovernmental and With the Public. Intragovernmental liabilities represent funds owed to another government agency. Liabilities With the Public represents funds owed to any entity or person that is not a federal agency, including private sector firms and federal employees. Each of these categories may include liabilities that are covered by budgetary resources and liabilities not covered by budgetary resources.

Liabilities covered by budgetary resources are liabilities funded by a current appropriation or other funding source. These consist of accounts payable and accrued payroll and benefits. Accounts payable represent amounts owed to another entity for goods ordered and received and for services rendered except for employees. Accrued payroll and benefits represent payroll costs earned by employees during the fiscal year which are not paid until the next fiscal year.

Liabilities not covered by budgetary resources are liabilities that are not funded by any current appropriation or other funding source. These liabilities consist of accrued annual leave and Unemployement Insurance.

I. Annual, Sick, and Other Leave

Annual leave is accrued as it is earned, and the accrual is reduced as leave is taken. The balance in the accrued leave account is adjusted to reflect current pay rates. Liabilities associated with other types of vested leave, including compensatory, restored leave, and sick leave in certain circumstances, are accrued at year-end, based on latest pay rates and unused hours of leave. Funding will be obtained from future financing sources to the extent that current or prior year appropriations are not available to fund annual and other types of vested leave earned but not taken. Nonvested leave is expensed when used. Any liability for sick leave that is accrued but not taken by a Civil Service Retirement System (CSRS)-covered employee is transferred to the Office of Personnel Management (OPM) upon the retirement of that individual. Credit is given for sick leave balances in the computation of annuities upon the retirement of Federal Employees Retirement System (FERS)-covered employees effective at 50% beginning FY 2010 and 100% in 2014.

J. Accrued and Actuarial Workers' Compensation

The Federal Employees' Compensation Act (FECA) administered by the U.S. Department of Labor (DOL) addresses all claims brought by the Review Commission's employees for on-the-job injuries. The DOL bills each agency annually as its claims are paid, but payment of these bills is deferred for two years to allow for funding through the budget process. Similarly, employees that the Review Commission terminates without cause may receive unemployment compensation benefits under the unemployment insurance program also administered by the DOL, which bills each agency quarterly for paid claims. Future appropriations will be used for the reimbursement to DOL. The liability consists of (1) the net present value of estimated future payments calculated by the DOL and (2) the unreimbursed cost paid by DOL for compensation to recipients under the FECA.

K. Retirement Plans

The Review Commission employees participate in either the CSRS or the FERS. The employees who participate in CSRS are beneficiaries of the Review Commission's matching contribution, equal to seven percent of pay, distributed to their annuity account in the Civil Service Retirement and Disability Fund.

Prior to December 31, 1983, all employees were covered under the CSRS program. From January 1, 1984 through December 31, 1986, employees had the option of remaining under CSRS or joining FERS and Social Security. Employees hired as of January 1, 1987 are automatically covered by the FERS program. Both CSRS and FERS employees may participate in the federal Thrift Savings Plan (TSP). FERS employees receive an automatic agency contribution equal to one percent of pay and the Review Commission matches any employee contribution up to an additional four percent of pay. For FERS participants, the Review Commission also contributes the employer's matching share of Social Security.

FERS employees and certain CSRS reinstatement employees are eligible to participate in the Social Security program after retirement. In these instances, the Review

Commission remits the employer's share of the required contribution.

The Review Commission recognizes the imputed cost of pension and other retirement benefits during the employees' active years of service. OPM actuaries determine pension cost factors by calculating the value of pension benefits expected to be paid in the future and communicate these factors to the Review Commission for current period expense reporting. OPM also provides information regarding the full cost of health and life insurance benefits. The Review Commission recognized the offsetting revenue as imputed financing sources to the extent these expenses will be paid by OPM.

The Review Commission does not report on its financial statements information pertaining to the retirement plans covering its employees. Reporting amounts such as plan assets, accumulated plan benefits, and related unfunded liabilities, if any, is the responsibility of the OPM, as the administrator.

L. Other Post-Employment Benefits

The Review Commission employees eligible to participate in the Federal Employees' Health Benefits Plan (FEHBP) and the Federal Employees' Group Life Insurance Program (FEGLIP) may continue to participate in these programs after their retirement. The OPM has provided the Review Commission with certain cost factors that estimate the true cost of providing the post-retirement benefit to current employees. The Review Commission recognizes a current cost for these and Other Retirement Benefits (ORB) at the time the employee's services are rendered. The ORB expense is financed by OPM, and offset by the Review Commission through the recognition of an imputed financing source.

M. Use of Estimates

The preparation of the accompanying financial statements in accordance with generally accepted accounting principles requires management to make certain estimates and assumptions that affect the reported amounts of assets, liabilities, revenues, and expenses. Actual results could differ from those estimates.

N. Imputed Costs/Financing Sources

Federal Government entities often receive goods and services from other Federal Government entities without reimbursing the providing entity for all the related costs. In addition, Federal Government entities also incur costs that are paid in total or in part by other entities. An imputed financing source is recognized by the receiving entity for costs that are paid by other entities. The Review Commission recognized imputed costs and financing sources in fiscal years 2012 and 2011 to the extent directed by accounting standards

O. Reclassification

Certain fiscal year 2011 balances have been reclassified, retitled, or combined with other financial statement line items for consistency with the current year presentation.

NOTE 2. FUND BALANCE WITH TREASURY

Fund balance with Treasury account balances as of September 30, 2012 and 2011 were as follows:

	2012	2011
Fund Balances:		
Appropriated Funds	$ 3,420,650	$ 3,158,051
Total	$ 3,420,650	$ 3,158,051
Status of Fund Balance with Treasury:		
Unobligated Balance		
Available	$ 213,987	$ 246,666
Unavailable	1,008,761	938,967
Obligated Balance Not Yet Disbursed	2,197,902	1,972,418
Total	$ 3,420,650	$ 3,158,051

The available unobligated fund balances represent the current-period amount available for obligation or commitment. At the start of the next fiscal year, this amount will become part of the unavailable balance as described in the following paragraph.

The unavailable unobligated fund balances represent the amount of appropriations for which the period of availability for obligation has expired. These balances are available for upward adjustments of obligations incurred only during the period for which the appropriation was available for obligation or for paying claims attributable to the appropriations.

The obligated balance not yet disbursed includes accounts payable, accrued expenses, and undelivered orders that have reduced unexpended appropriations but have not yet decreased the cash balance on hand (see also Undelivered Orders at the End of the Period, Note 13).

No discrepancies exist between the Fund Balance reflected on the Balance Sheet and the balances in the Treasury accounts.

NOTE 3. ACCOUNTS RECEIVABLE

Accounts receivable balances as of September 30, 2012 and 2011 were as follows:

	2012	2011
Intragovernmental		
Accounts Receivable	$ -	$ 13,719
Total Intragovernmental Accounts Receivable	$ -	$ 13,719
With the Public		
Accounts Receivable	$ (96)	$ 6,438
Total Public Accounts Receivable	$ (96)	$ 6,438
Total Accounts Receivable	$ (96)	$ 20,157

Historical experience has indicated that most of the receivables are collectible. There are no material uncollectible accounts as of September 30, 2012 and 2011.

NOTE 4. PROPERTY, EQUIPMENT, AND SOFTWARE

Schedule of Property, Equipment, and Software as of September 30, 2012

Major Class	Acquisition Cost	Accumulated Amortization/ Depreciation	Net Book Value
Furniture & Equipment	$ 441,237	$ 385,989	$ 55,248
Total	$ 441,237	$ 385,989	$ 55,248

Schedule of Property, Equipment, and Software as of September 30, 2011

Major Class	Acquisition Cost	Accumulated Amortization/ Depreciation	Net Book Value
Furniture & Equipment	$ 441,237	$ 365,689	$ 75,548
Total	$ 441,237	$ 365,689	$ 75,548

NOTE 5. OTHER ASSETS

Other asset account balances as of September 30, 2012 and 2011, were as follows:

	2012	2011
With the Public		
Advances and Prepayments	$ 331	$ -
Total Public Other Assets	$ 331	$ -

The 2012 balance consists of a one time travel advance.

NOTE 6. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities for The Review Commission as of September 30, 2012 and 2011, include liabilities not covered by budgetary resources. Congressional action is needed before budgetary resources can be provided. Although future appropriations to fund these liabilities are likely and anticipated, it is not certain that appropriations will be enacted to fund these liabilities.

	2012	2011
Intragovernmental – Unemployment Insurance	$ -	$ 4,550
Unfunded Leave	626,192	602,652
Total Liabilities Not Covered by Budgetary Resources	$ 626,192	$ 607,202
Total Liabilities Covered by Budgetary Resources	626,052	645,448
Total Liabilities	$ 1,252,244	$ 1,252,650

Unemployment Insurance liabilities represent the unfunded liability for actual unemployment benefits paid on The Review Commission's behalf and payable to the DOL.

Unfunded leave represents a liability for earned leave and is reduced when leave is taken. The balance in the accrued annual leave account is reviewed quarterly and adjusted as needed to accurately reflect the liability at current pay rates and leave balances. Accrued annual leave is paid from future funding sources and, accordingly, is reflected as a liability not covered by budgetary resources. Sick and other leave is expensed as taken.

NOTE 7. OTHER LIABILITIES

Current Year: 2012

		Current
Intragovernmental		
Payroll Taxes Payable	$	88,838
Total Intragovernmental Other Liabilities	$	88,838
With the Public		
Payroll Taxes Payable	$	12,708
Accrued Funded Payroll and Leave		409,296
Unfunded Leave		626,192
Total Public Other Liabilities	$	1,048,196

Prior Year: 2011

		Current
Intragovernmental		
Unemployment Insurance Liability	$	4,550
Payroll Taxes Payable		75,949
Total Intragovernmental Other Liabilities	$	80,499
With the Public		
Payroll Taxes Payable	$	11,014
Accrued Funded Payroll and Leave		373,452
Unfunded Leave		602,652
Total Public Other Liabilities	$	987,118

NOTE 8. OPERATING LEASES

The Review Commission occupies office space under a lease agreements that are accounted for as operating leases. Annual rent for each location is charged by the General Services Administration (GSA), which acts as the leasing agent for The Review Commission. There is not a lease contract in place beyond April 2013, for the Washington D.C office, however the intent is to renew the agreement. The lease locations and terms are listed below:

Location	Term	Lease Expiration Date
Washington DC	60 months	04/23/2013
Atlanta, GA	59 months	01/31/2014
Denver, CO	120 months	09/30/2018

Lease payments are increased annually based on the adjustments for operating cost and real estate tax escalations. Below is a schedule of future payments for the term of the lease.

Fiscal Year		Building
2013	$	849,493
2014		124,520
2015		95,770
2016		96,604
2017		97,457
Thereafter		98,330
Total Future Payments	$	1,362,174

The operating lease amount does not include estimated payments for leases with annual renewal options.

NOTE 9. INTRAGOVERNMENTAL COSTS AND EXCHANGE REVENUE

Intragovernmental costs and revenue represent exchange transactions between The Review Commission and other federal government entities, and are in contrast to those with non-federal entities (the public). Such costs and revenue are summarized as follows:

		2012		2011
Administrative Law Judge				
Intragovernmental Costs	$	1,748,031	$	1,784,469
Public Costs		3,645,099		3,515,087
Total Program Costs		5,393,130		5,299,556
Intragovernmental Earned Revenue		-		(5,981)
Net Program Costs	$	5,393,130	$	5,293,575
Commission				
Intragovernmental Costs	$	2,119,294	$	2,308,350
Public Costs		4,419,280		4,547,039
Total Program Costs		6,538,574		6,855,389
Intragovernmental Earned Revenue		-		(7,738)
Net Program Costs	$	6,538,574	$	6,847,651
Total Intragovernmental costs	$	3,867,325	$	4,092,819
Total Public costs		8,064,379		8,062,126
Total Costs		11,931,704		12,154,945
Total Intragovernmental Earned Revenue				(13,719)
Total Net Cost	$	11,931,704	$	12,141,226

NOTE 10. IMPUTED FINANCING SOURCES

The Review Commission recognizes as imputed financing the amount of accrued pension and post-retirement benefit expenses for current employees. The assets and liabilities associated with such benefits are the responsibility of the administering agency, OPM. For the fiscal years ended September 30, 2012 and 2011, respectively, imputed financing was as follows.

		2012		2011
Office of Personnel Management	$	660,514	$	748,299
Total Imputed Financing Sources	$	660,514	$	748,299

NOTE 11. BUDGETARY RESOURCE COMPARISONS TO THE BUDGET OF THE UNITED STATES GOVERNMENT

The President's Budget that will include fiscal year 2012 actual budgetary execution information has not yet been published. The President's Budget is scheduled for publication in February 2013 and can be found at the OMB Web site: *http://www.whitehouse.gov/omb/*. The 2013 Budget of the United States Government, with the "Actual" column completed for 2011, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

NOTE 12. APPORTIONMENT CATEGORIES OF OBLIGATIONS INCURRED

Obligations incurred and reported in the Statement of Budgetary Resources in 2012 and 2011 consisted of the following:

	2012	2011
Direct Obligations, Category A	$ 11,488,109	$ 11,577,716
Reimbursable Obligations, Category A	-	13,719
Total Obligations Incurred	$ 11,488,109	$ 11,591,435

Category A apportionments distribute budgetary resources by fiscal quarters.

NOTE 13. UNDELIVERED ORDERS AT THE END OF THE PERIOD

For the fiscal years ended September 30, 2012 and 2011, budgetary resources obligated for undelivered orders amounted to $1,571,852 and $1,340,688, respectively.

NOTE 14. CUSTODIAL ACTIVITY

The Review Commission is an administrative agency collecting for the General Fund. The Review Commission reports cash collections and refunds as custodial activity. The type of cash collected primarily consists of Freedom of Information Act fees. However, during fiscal year 2011, The Review Commission received a large custodial receipt for a refund of tenant improvement allowance. While these collections are considered custodial, they are neither primary to the mission of The Review Commission nor material to the overall financial statements. The Review Commission's total custodial collections are $2,401 and $177,255 for the fiscal years ended September 30, 2012, and 2011, respectively.

NOTE 15. RECONCILIATION OF NET COST OF OPERATIONS TO BUDGET

The Review Commission has reconciled its budgetary obligations and non-budgetary resources available to its net cost of operations.

		2012		2011
Resources Used to Finance Activities:				
Budgetary Resources Obligated				
Obligations Incurred	$	11,488,109	$	11,591,435
Spending Authority From Offsetting Collections and Recoveries		(31,250)		(122,374)
Offsetting Receipts		(2,401)		(177,255)
Net Obligations		11,454,458		11,291,806
Other Resources				
Imputed Financing From Costs Absorbed By Others		660,514		748,299
Net Other Resources Used to Finance Activities		660,514		748,299
Total Resources Used to Finance Activities		12,114,972		12,040,105
Resources Used to Finance Items Not Part of the Net Cost of Operations		(227,108)		52,417
Total Resources Used to Finance the Net Cost of Operations		11,887,864		12,092,522
Components of the Net Cost of Operations That Will Not Require or Generate Resources in the Current Period:		43,840		48,704
Net Cost of Operations	$	11,931,704	$	12,141,226