



Federal Election Commission
Performance and Accountability Report
(Reports Consolidation Act of 2000)
Fiscal Year 2012



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Federal Election Commission
999 E St., N.W.
Washington, D.C. 20463

(202) 694-1000
1-(800) 424-9530
www.fec.gov

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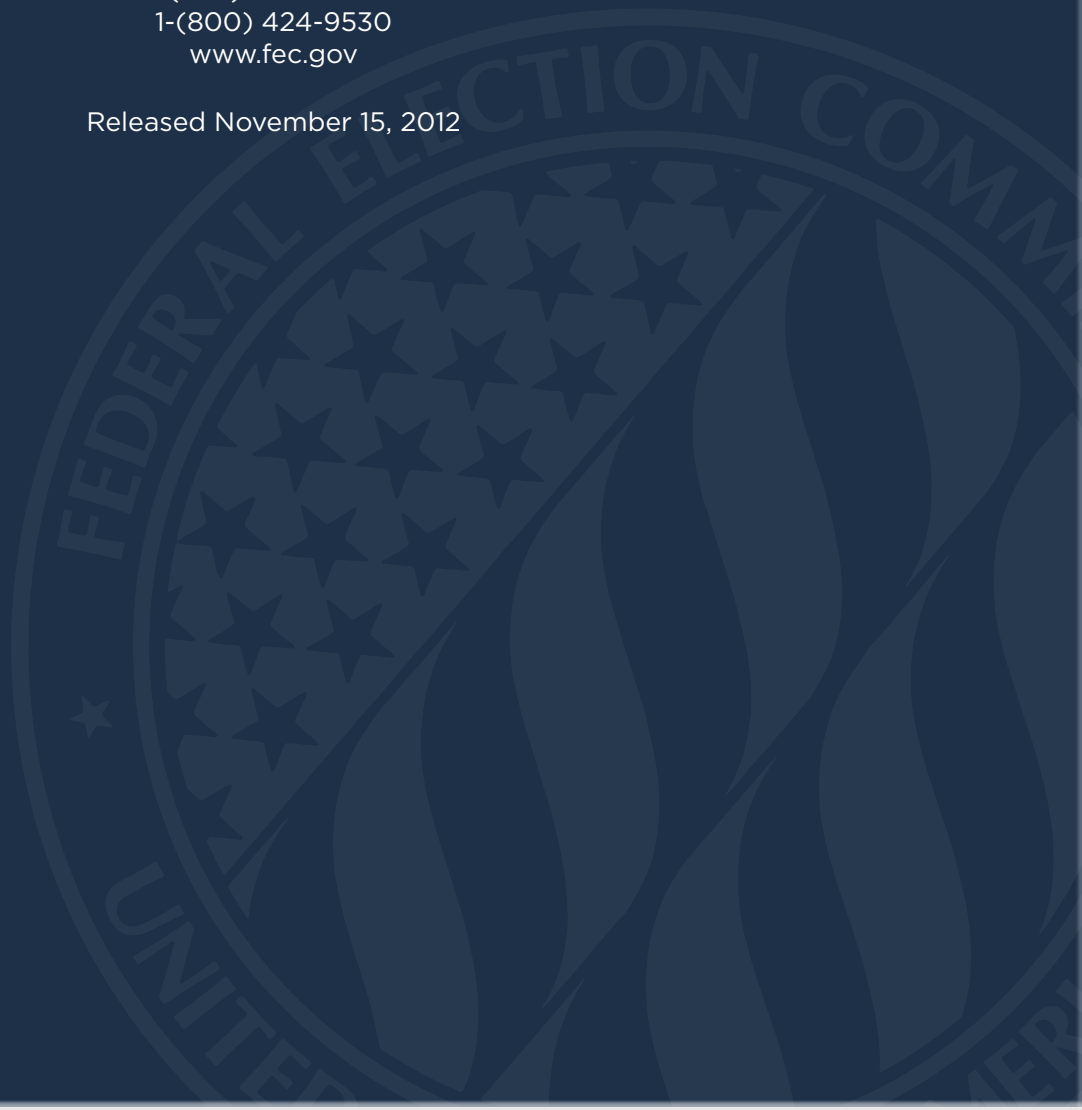


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Message From The Chair

November 15, 2012

I am pleased to present the Federal Election Commission's (FEC) *Performance and Accountability Report* (PAR) for Fiscal Year (FY) 2012. The PAR reflects the agency's program performance and financial activities over the past year and demonstrates our continued commitment to administering the *Federal Election Campaign Act of 1971*, as amended (the Act).

The Commission received an unqualified opinion from its independent auditors with respect to the agency's FY 2012 annual financial statements. This unqualified opinion reflects the continued commitment by the Commissioners and FEC staff to ensure that the FEC's financial statements present fairly the agency's fiscal position.

As detailed in this report, the Commission took a number of steps during FY 2012 to ensure that it would be fully successful in its mission to receive and make public campaign finance reports filed in connection with the 2012 elections. The FEC received 73,900 documents filed during FY 2012. Campaign finance reports and statements filed electronically are made available to the public on the FEC's website nearly instantaneously, and the agency met its statutory requirement to make all reports and statements filed on paper with the FEC available to the public within 48 hours of receipt. In addition, the agency has made a tremendous effort to place 24 and 48 hour reports of independent expenditure spending filed on paper available on the FEC website within one business day of receipt. The Commission has also augmented its program to help make data from these reports and other campaign finance information available to the public in more accessible formats. For example, this year the FEC launched a new Disclosure Portal and a Candidate and Committee Viewer on its website to give the public better access to data and more flexibility in how that data can be searched and viewed.

The Commission also created opportunities this year to reach out to the public to learn more from the people it serves and to use this feedback to improve its operations in the areas of compliance, disclosure, enforcement and policy. In February, the Commission invited members of the public to discuss the FEC's activities in these areas at a series of informal forums held at the FEC. Commissioners and senior FEC staff members who help to set FEC policy were available at each forum to answer questions, and the insights and concerns voiced by attendees have helped to frame the agency's efforts throughout the year.

The Commission also completed action on 39 advisory opinion requests during FY 2012 to address questions regarding many areas of the law, including the implications of recent court cases, such as *Citizens United v. FEC*, *SpeechNow.org v. FEC* and *EMILY's list v. FEC*. A num-

ber of these opinions also addressed ways in which campaigns may operate using available technology, such as text messaging.

The performance data described in the FEC's FY 2012 PAR were compiled and evaluated using the techniques described in this report for achieving the desired level of credibility for the verification and validation of performance data relative to its intended use, and I have no reason to doubt the completeness or reliability of our performance data.


The efforts described in this report reflect the work and dedication of the agency's staff. The Commission looks forward to building on its achievements in FY 2012 in order to fulfill the mission of the agency in the most efficient manner possible.

On behalf of the Commission,



Caroline C. Hunter

HOW TO USE THIS REPORT



This *Performance and Accountability Report (PAR)* presents comprehensive performance and financial information on the Federal Election Commission's (FEC or Commission) operations. The report was prepared pursuant to the *Accountability of Tax Dollars Act of 2002* and Office of Management and Budget (OMB) Circular A-136, revised, *Financial Reporting Requirements*, and covers activities from October 1, 2011 through September 30, 2012.

The FEC places a high importance on keeping the public informed of its activities. To learn more about the FEC and what the agency does to serve the American public, visit the FEC's website at <http://www.fec.gov>. To access this report, click on "About the FEC" and then "Budget."

The *FY 2012 Performance and Accountability Report* is organized into four sections:

Section I - Management's Discussion and Analysis (MD&A) provides an overview of the FEC. It describes our mission, organizational structure and regulatory responsibilities.

Section II - Performance Information summarizes the FEC's strategic goal and related objectives and provides a forward-looking discussion of future challenges.

Section III - Financial Information, including Auditor's Report, details the FEC's financial performance by 1) highlighting the agency's financial position and audit results and 2) describing the FEC's compliance with key legal and regulatory requirements.

Section IV - Other Accompanying Information includes our Inspector General's assessment of the FEC's management challenges and the FEC's response.

SECTION I Management's Discussion And Analysis

Section I.A: Mission And Organizational Structure

The Commission was created in 1975 as an independent regulatory agency to strengthen the integrity of the federal campaign finance process under the *Federal Election Campaign Act of 1971*, as amended ("FECA" or "the Act"). The Commission is also responsible for administering the public funding program for Presidential campaigns and nominating conventions under the *Presidential Election Campaign Fund Act* and the *Presidential Primary Matching Payment Account Act*.

The Act reflects Congress's efforts to ensure that voters are fully informed about the sources of candidates' financial support. Public confidence in the political process depends not only on laws and regulations to ensure transparency of campaign finance, but also on the knowledge that non-compliance may lead to enforcement proceedings.

The primary objectives of the FEC are 1) to facilitate transparency through public disclosure of campaign finance activity; 2) to encourage voluntary

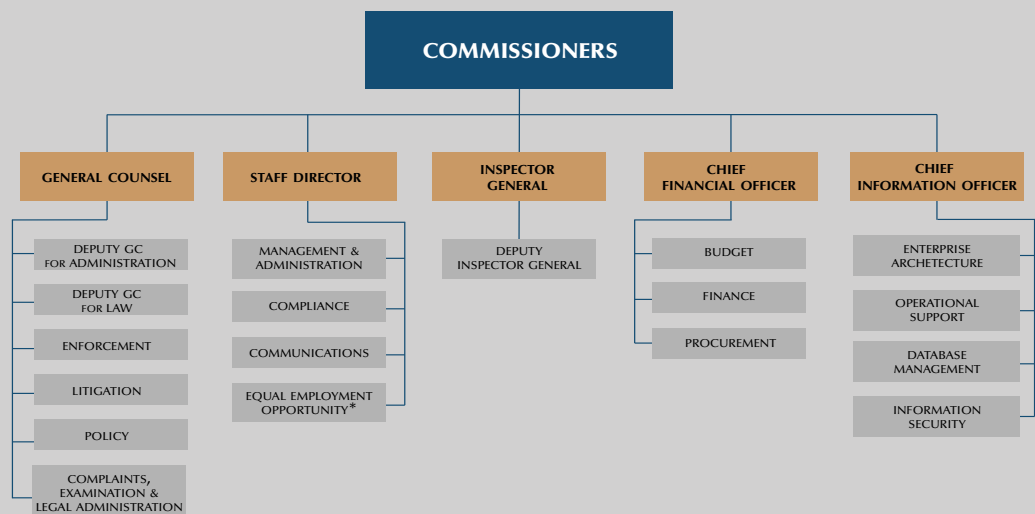
compliance with the Act by providing information and policy guidance to the public, media, political committees and election officials on the FECA and Commission regulations and to enforce the statute through audits, investigations and civil litigation; 3) to develop the law by administering and interpreting the FECA as well as the *Presidential Election Campaign Fund Act* and the *Presidential Primary Matching Payment Account Act* and 4) to achieve management excellence.

How the FEC is Organized

Organization

To accomplish its legislative mandate, the FEC is directed by six Commissioners who are appointed

FIGURE 1- FEC Organization Chart



* The Director for Equal Employment Opportunity reports to the Staff Director on administrative issues but has direct reporting authority to the Commission on all EEO matters.

SECTION 1 - Management's Discussion And Analysis

by the President with the advice and consent of the Senate. By law, no more than three Commissioners can be members of the same political party. Each member serves a six-year term and two seats are subject to appointment every two years. The Chairmanship of the Commission rotates among the members, with no member serving as Chair more than once during his or her term. The Commissioners meet regularly to formulate policy and to vote on significant legal and administrative matters. The Act requires at least four votes for the Commission to adopt any official action or policy, thus requiring bipartisan decision-making. The FEC has its headquarters in Washington, D.C. and does not have any regional offices.

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

Disclosing Campaign Finance Information

Disclosing the sources and amounts of funds used to finance federal elections is one of the most important duties of the FEC. The public campaign finance reports are accessible through the FEC's website at <http://www.fec.gov/disclosure.shtml>. By making disclosure reports available online immediately after they are filed, the FEC provides the public with up-to-date information about the financing of federal elections and political committees' compliance with campaign finance law.

In addition to making campaign finance reports available to the public, the FEC works to ensure that the information disclosed is accurate and complete. The Office of Compliance's Reports Analysis Division (RAD) reviews all filed statements and financial reports to track compliance with the law and to ensure that the public record provides a full and accurate representation of campaign finance activity. Analysts provide frequent telephone assistance to filing entities who

have reporting questions or compliance problems and provide one-on-one assistance through "Reporting Roundtables" and webinars.

If RAD identifies an error, omission, need for additional clarification or possible prohibited activity, a request for additional information (RFAI) is sent to the committee, affording the committee an opportunity to correct the public record, if necessary. If the committee is able to resolve RAD's concerns, it may avoid further Commission action. Should the committee not address RAD's concerns sufficiently, the FEC may initiate an audit, begin an enforcement action or utilize alternative dispute resolution to remedy the apparent violation.

RAD makes its determinations for sending RFAIs and referring a committee for further action based on Commission-approved thresholds contained in the RAD Review and Referral Procedures. This and other documents describing the agency's policies and procedures were made public on May 23, 2012, subject to limited redactions, following an oversight hearing on November 3, 2011 before the Subcommittee on Elections of the House of Representatives Committee on House Administration.

Encouraging Compliance through Education

Helping the filing community understand its obligations under federal campaign finance laws is an essential component of voluntary compliance. The FEC, through its Office of Communications, places a significant emphasis on encouraging compliance. The Office of Communications consists of the following offices/divisions: 1) Information Division, 2) Public Disclosure Division, 3) Press Office and 4) the Office of Congressional, Legislative and Intergovernmental Affairs.

The Commission's website is its most important source of instantly accessible information about the Act, Commission regulations and Commission proceedings. Members of the public can use the website to track Commission rulemakings; search advisory opinions, completed audits and closed enforcement matters; view campaign finance data and find reporting dates.

The Commission encourages voluntary compliance through outreach programs. The FEC hosts instructional conferences and seminars in Washington, D.C. and in other cities across the country, where Commissioners and staff explain the Act's requirements to candidates and political committees. These conferences specifically address recent changes in the campaign finance laws and focus on fundraising and reporting regulations. Additionally, Commission staff meet with political committees upon request and respond to telephone inquiries and written requests from those seeking information about the law and assistance in filing disclosure reports. This year, the Commission added webinars to its outreach program. These online workshops, along other enhancements, have made the program more cost effective for the agency and more affordable for candidates and committees who attend conferences and seminars.

Enforcing the FECA

The Commission's statutory obligation is to administer, interpret and enforce the *Federal Election Campaign Act*, which serves the compelling governmental interest in deterring corruption and the appearance of corruption in financing elections. In doing so, the Commission remains mindful of the First Amendment's guarantees of freedom of speech and association, and the practical implication of its actions on the political process.

The FEC has exclusive jurisdiction over civil enforcement of federal campaign finance laws and consults with the U.S. Department of Justice, as appropriate, on matters involving both civil and criminal enforcement of the Act. Commission enforcement actions, which are handled primarily by the Office of General Counsel (OGC), originate from a number of sources, including external complaints, referrals from other government agencies, and matters generated by information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities.

To augment OGC's traditional enforcement role, the Office of Compliance manages several programs that seek to remedy alleged violations of the Act and encourage voluntary compliance. These programs include: 1) the Alternative Dispute Resolution Program, 2) the Administrative

Fine Program and 3) the Audit Program. The Commission's Alternative Dispute Resolution Program is designed to resolve matters more swiftly by encouraging the settlement of less-complex enforcement matters via a streamlined process that focuses on remedial measures for candidates and political committees, such as training, internal audits and hiring compliance staff. Violations involving the late submission of, or failure to file, disclosure reports are subject to the Administrative Fine Program. This Program is administered by the Office of Administrative Review (OAR) and RAD, which assess monetary penalties and handle challenges to the penalty assessments. Finally, the Audit Program conducts mandatory audits under the public funding statutes and performs "for cause" audits under the FECA in those cases where political committees have failed to meet the threshold requirements for demonstrating substantial compliance with the Act. Threshold requirements approved by the Commission and used by the Audit Division were made public on May 23, 2012, subject to limited redactions, following an oversight hearing on November 3, 2011 before the Subcommittee on Elections of the House of Representatives Committee on House Administration.

If the Commission cannot settle or conciliate a matter involving an alleged violation of the Act, the Commission may initiate civil litigation by filing and prosecuting a civil action in federal district court to address the alleged violation.

Interpreting and Developing the Law

The Commission responds to questions from the public about how the Act applies to specific situations by issuing advisory opinions (AOs). In addition, Commission initiatives, Congressional action, judicial decisions, petitions for rulemaking or other changes in campaign finance law often necessitate that the Commission update or adopt new regulations. Consequently, the FEC undertakes rulemakings either to write new Commission regulations or revise existing regulations.

Funding Presidential Elections

The Commission's responsibilities also include administering the public funding of Presidential elections, as provided in the *Presidential Election*

SECTION 1 - Management's Discussion And Analysis

Campaign Fund Act and the *Presidential Primary Matching Account Act*. The program is funded by taxpayers who voluntarily check off the \$3 designation for the Presidential Election Campaign Fund on their income tax returns. Through the public funding program, the federal government provides 1) matching funds to candidates seeking their party's Presidential nomination, 2) grants to Presidential nominating conventions and 3) grants to Presidential nominees for their general election campaigns.

Under the Presidential public funding program, the Commission 1) determines a candidate's eligibility to participate in the program, 2) certifies the amount of public funds to which the candidate or convention committee is entitled and 3) conducts a thorough examination and audit of the qualified campaign expenses of every recipient of payments under the program.

Managing Human Capital Strategically and Effectively

The Commission understands that its greatest resource is its employees. During FY 2012, the agency improved its internal communications and plans for how to manage its human capital resources strategically to fulfill the agency's mission in a more effective and efficient way. Building on its efforts in FY 2011 to complete a Strategic Human Capital Management Plan, the FEC worked throughout FY 2012 to draft a new Strategic Plan for FY 2014 through FY 2019 that includes human capital planning as a strategic objective. The draft strategic plan builds on the management excellence objective the agency added to its current strategic plan through the *Addendum to the Strategic Plan FY 2008-2013* published in FY 2012.¹ The *GPR Modernization Act* requires agencies to publish an updated strategic plan in February 2012 and to issue a new strategic plan in Febru-

ary 2014. In addition to providing a human capital element in the FEC's strategic plan, the Addendum extends the FEC's 2008-2013 Strategic Plan through FY 2014.

The FEC's strategic planning efforts are supported by a comprehensive workforce analysis to assess the FEC's workforce characteristics and future needs, in accordance with the *Chief Human Capital Officer Act of 2002*. This workforce analysis will help the agency ensure that the FEC's staff continues to have the types of knowledge and skills needed to fulfill the agency's mission. The workforce analysis identifies strategies to reduce costly attrition, mitigate the loss of institutional knowledge, plan for leadership succession and spend the agency's limited training funds strategically and effectively. Each of these strategies is intended to avoid increases in the FEC's human capital costs.

As part of drafting a new strategic plan, the FEC has engaged its full staff and external stakeholders by conducting a comprehensive analysis of its "strengths, weaknesses, opportunities and threats (SWOT)." The FEC surveyed its employees and external stakeholders and held intensive interviews with selected stakeholders and staff to identify challenges faced by the agency in meeting its stakeholders' needs while fulfilling its mission. Based on the challenges identified through these surveys and interviews, a Strategic Planning Steering Committee composed of key agency managers drafted a Strategy Map that illustrates high-level activities the agency will undertake to strengthen its ability to fulfill its mission. Leaders for each activity were identified across divisions and the draft Strategy Map was communicated to all FEC staff to ensure that staff remain actively engaged in the strategic planning activities and recognize their roles and responsibilities in successfully moving the agency in the identified direction.

At the same time, the FEC has begun the process of revising its performance appraisal system to align individuals' performance plans with the agency's strategic objectives. The new performance appraisal system will be designed based on OPM's newly approved Senior Executive Service (SES) appraisal system. The rollout of this new system will occur in phases throughout FYs

¹ The FEC's *FY 2012-2014 Addendum to the Strategic Plan FY 2008-2013* is available on the FEC website at http://www.fec.gov/strategic_plan/FY_2012-2014_Addendum_to_the_FEC_Strategic_Plan_FY_2008-2013.pdf. The agency published this *Addendum* to bridge the gap between the FEC's current Strategic Plan and the FY 2014-2019 plan, providing a balanced approach to the agency's strategic planning activities and meeting the requirements of the *GPR Modernization Act of 2010* (*GPR Modernization Act*).

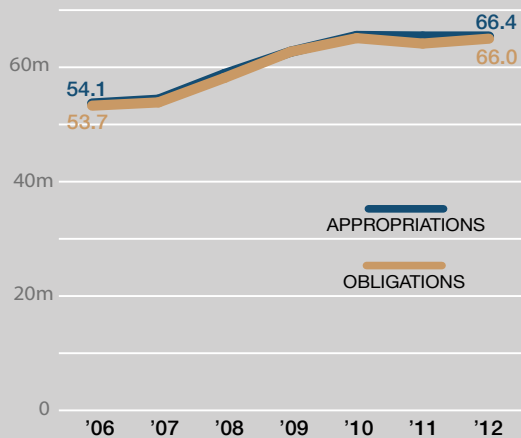
2013 and 2014, in accordance with the FY 2014 - FY 2019 Strategic Plan.

Sources of Funds

The FEC receives a single, annual appropriation for Salaries and Expenses. In FY 2012, the FEC’s authorized funding level included an appropriation of \$66.4 million. The FEC also has the authority to collect fees from attendees of agency-sponsored educational conferences. The Commission uses those fees to defray the costs of conducting those conferences. In an effort to keep the fees as low as possible, the agency has not fully exercised that authority. Rather, the Commission sets its registration fees at a level that covers only the costs incurred by the agency’s conference-management contractor, including meeting room rental and conference meals and compensation. All other conference-related expenses, such as materials and staff travel, are paid using appropriated funds. Registration fees for FY 2012 were \$159,855.

Figure 2 shows the agency’s appropriations and obligations from FY 2006 to 2012.

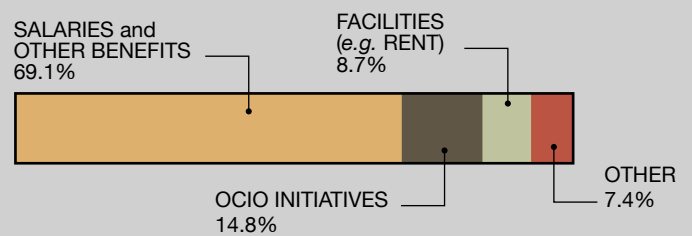
FIGURE 2 – SUMMARY OF FUNDING
(in millions of dollars)



Personnel vs. Non-Personnel Costs

Figure 3 represents the Commission’s FY 2012 obligations by personnel and non-personnel costs. Personnel costs comprised 69 percent of the FEC’s costs; the remaining 31 percent was spent primarily on infrastructure and support, including software and hardware, office rent, building security and other related costs.

FIGURE 3 – FISCAL YEAR 2012 BY MAJOR CATEGORY



Section 1.B: FEC Performance Goals, Objectives And Results

Summary of Significant Performance Results

This section provides a summary of the results of the FEC's key performance objectives, which are discussed in greater detail in Section II of this report.

The FEC's strategic framework consists of a mission statement supported by a single, overarching strategic goal, which is: To protect the integrity of the federal campaign process by providing transparency, enforcing contribution restrictions and fairly administering the FECA and related statutes. To help the Commission achieve its goal, it established the following four objectives:

Transparency – Receiving Accurate and Complete Campaign Finance Disclosure Reports and Making Them Available to the Public

Compliance – Education and Enforcement

Development of the Law – Interpreting, Administering and Defending the Act

Manage Human Capital Strategically and Effectively – Fostering a Results-Oriented Culture

The following table provides a summary of the Commission's actual results of its performance measures, from FY 2008 through FY 2012, along with the targets set by the strategic plan. Note that in December 2011 the Commission approved an addendum to its Strategic Plan 2008-2013 that adds a fourth objective and extends the plan through FY 2014. Results for performance measures under Manage Human Capital Strategically and Effectively are reported for the first time this year. These performance measure are not reflected in the chart below, but are described in detail in section 2.D.

	PERFORMANCE MEASURE	TARGET	FY 2008 ACTUAL	FY 2009 ACTUAL	FY 2010 ACTUAL	FY 2011 ACTUAL	FY 2012 ACTUAL
STRATEGIC OBJECTIVE A: TRANSPARENCY							
1.	Process reports within 30 days of receipt as measured quarterly	95%	91%	78%	91%	71%	94%
2.	Meet the statutory requirement to make reports and statements filed on paper with the FEC available to the public within 48 hours of receipt	100%	100%	100%	100%	100%	100%
STRATEGIC OBJECTIVE B: COMPLIANCE							
3.	Conduct educational conferences and host roundtable workshops on the campaign finance law each election cycle, achieving a mean satisfaction rating of 4.0 on a 5.0 scale	100%	100%	100%	100%	100%	100%
4.	Issue press releases summarizing completed compliance matters within two weeks of a matter being made public by the Commission	100%	22%	63%	98%	100%	100%
5.	Issue press releases containing summaries of campaign finance data quarterly	100%	100%	75%	75%	75%	75%
6.	Process enforcement cases within an average of 15 months of receipt	100%	66%	76%	75%	89%	70%

1 Note that the FEC now issues press releases summarizing campaign finance data three times per fiscal year, rather than on a quarterly basis.

	PERFORMANCE MEASURE	TARGET	FY 2008 ACTUAL	FY 2009 ACTUAL	FY 2010 ACTUAL	FY 2011 ACTUAL	FY 2012 ACTUAL
7.	Process cases assigned to Alternative Dispute Resolution within 155 days of a case being assigned	75%	64%	26%	64%	84%	51%
8.	Process reason-to-believe recommendations for the Administrative Fine Program within 60 days of the original due date of the subject untimely or unfiled report	75%	79%	84%	100%	100%	100%
9.	Process the challenges in the Administrative Fine Program within 60 days of a challenge being filed	75%	14%	60%	100%	77%	90%
10.	² Conclude non-Presidential audits with findings in an average of ten months, excluding time delays beyond the Commission's control, such as subpoenas and extension requests	100%	95%	12%	60%	26%	27%
11.	² Conclude non-Presidential audits with no findings in an average of 90 days from beginning of fieldwork	100%	100%	0%	100%	67%	100%
12.	² Conclude Presidential audits in an average of 24 months of the election, excluding time delays beyond the Commission's control, such as subpoenas and extension requests	100%	N/A	100%	100%	0%	0%

STRATEGIC OBJECTIVE C: DEVELOPMENT OF THE LAW

13.	³ Complete rulemakings within specific time frames that reflect the importance of the topics addressed, proximity to upcoming elections and externally established deadlines	100%	50%	83%	50%	N/A	N/A
14.	⁴ Issue all advisory opinions within 60-day and 20-day statutory deadlines	100%	97%	100%	100%	100%	100%
15.	⁵ Issue expedited advisory opinions for time-sensitive highly significant requests within 30 days of receiving a complete request, or a shorter time when warranted	100%	60%	100%	N/A	100%	50%
16.	Ensure that court filings meet all deadlines and rules imposed by the Courts	100%	100%	100%	100%	98%	97%
17.	Process public funding payments in the correct amounts and within established time frames	100%	100%	100%	N/A	100%	100%

2 Note that in FY 2009 and 2010 the Commission adopted procedures that provide additional opportunities for audited committees to respond to potential findings, as well as more opportunities for the Commission to review audit reports prior to approval. The performance measures related to audits will be reconsidered when the agency revises its strategic plan.

3 There were no internally or externally established rulemaking deadlines requiring rulemakings to be completed by dates in FY 2011 or 2012.

4 Three 60-day advisory opinions and both 20-day advisory opinions had extended deadlines.

5 In FY 2012 the Commission received 8 requests for expedited advisory opinions. The Commission was able to complete action on four of those requests within 30 days, and three others within 31, 31, and 34 days.

Section II of this report presents the FEC's Performance Report, which provides the annual program performance information submitted in accordance with the *Government Performance Results Act* in greater detail.

Highlights of Performance Measures

In FY 2012, the Commission focused significant attention on ensuring that it provided the public with the most up-to-date and accessible campaign finance information; Commission procedures that are fair, efficient and transparent; and comprehensive and affordable educational outreach programs.

In order to improve the agency's administration of the law and gain valuable feedback from the people the agency serves, in addition to the surveys and interviews conducted as a part of the strategic planning effort, the Commission held a series of informal public forums in February 2012 to discuss agency operations in the areas of compliance, disclosure, enforcement and policy. The compliance forum considered the agency's Audit, Reports Analysis, Alternative Dispute Resolution (ADR) and Administrative Fines (AF) programs and specifically solicited comments regarding the FEC's newly released Reports Analysis Division (RAD) webpage (www.fec.gov/rad), new audit procedures, challenges to the AF program and the ADR process. The disclosure data forum focused on the agency's new disclosure portal, which was then still in development, and the enforcement and policy forum was designed to gain feedback about the Office of General Counsel's enforcement and advisory opinion processes. Commissioners and senior FEC staff members who help to set FEC policy were available at each forum to answer questions, and the insights, experiences and concerns voiced by attendees helped to frame the agency's efforts for the calendar year.

The Commission also increased the transparency of the FEC's internal policies by making available on its website previously non-public documents (www.fec.gov/law/procedural_materials.shtml). These disclosures followed an oversight hearing on November 3, 2011, before the Subcommittee on Elections of the House of Representatives Committee on House Administration. The information released includes documents related to the FEC's enforcement process, the procedures RAD uses when reviewing disclosure reports filed with the Commission and materiality thresholds by which the Audit Division determines whether

an issue is significant enough to warrant inclusion as a finding in an audit report and is subsequently referable for possible enforcement action, whether through OGC, the Alternative Dispute Resolution Office or the Administrative Fines Program.

Making the agency's vast store of campaign finance data retrievable, searchable and meaningful to the public remains a high priority for the Commission, especially during peak filing periods. In March 2012, the Commission introduced a new campaign finance disclosure portal that simplifies access to the wide range of disclosure data available on the agency's website (www.fec.gov/pindex.shtml). The disclosure portal provides a single point of entry to federal campaign finance data and features new map-based presentations on national parties and political action committees (PACs). It offers quick access to data on the most frequently requested categories of committees that file reports with the FEC. The disclosure portal was augmented in September 2012 to include a Candidate and Committee Viewer—a streamlined search system that simplifies the accessing, downloading and analysis of campaign finance data (www.fec.gov/finance/disclosure/candcmte_info.shtml). The Viewer allows users to find any federal candidate, political committee, independent expenditure or other campaign finance report filer through a single search portal. The Viewer encompasses two-year period-to-date summaries, report summaries, images of reports and statements and downloadable electronic filings. It also provides both dynamic graphic charts and complete data sets in a downloadable, spreadsheet format. An accompanying video provides an overview of the Viewer's main features.

Also during the year, the FEC launched an updated Electronic Filing RSS Feed that notifies website users when a filer has sent a new report or document electronically to the Commission. Users can subscribe to six pre-established RSS (Really Simple Syndication) feeds or customize their feeds by committee identification number, state or district. Additional subscription options are based on filers' party affiliation and report type. An online user guide provides further information on using the RSS feed.

In addition to making campaign finance data readily available to the public, the FEC reviews re-

ports, amendments and statements for accuracy, completeness and compliance with the law. The Commission received 73,900 documents during FY 2012, including new and amended reports for the current and past election cycles. As part of an ongoing effort to assist the public with compliance, the Commission has developed the RAD web page which offers a list of frequently asked questions regarding filing and disclosure requirements, as well as access to the various resources available to assist filers with compliance. Further, RAD continues to offer extended phone coverage on filing due dates and has initiated a program to send RFAIs via email, to provide faster and more convenient notification to committees.

Finally, the Commission responded to the needs of the public by making changes to its educational outreach programs to provide more cost-effective training. In addition to its YouTube channel and E-Learning page, the FEC now offers live, interactive webinars to provide additional distance learning to the public at a fraction of the registration fee for on-site attendance and without the costs of travel. During FY 2012, these webinars were available in connection with a series of one-day seminars and topic-based roundtable workshops at FEC headquarters. Taken together, these additions and enhancements to the FEC website and outreach efforts offer the public unprecedented access to the Commission's data, services and policies.

Section 1.C: Analysis Of FEC Financial Statements And Stewardship Information

The FEC's FY 2012 financial statements and notes are presented in the required format in accordance with OMB Circular A-136, as revised, *Financial Reporting Requirements*. The FEC's current-year financial statements and notes are presented in a comparative format in Section III of this report.

The following table summarizes the significant changes in the FEC's financial position during FY 2012:

NET FINANCIAL CONDITION	FY 2012	FY 2011	INCREASE/ (DECREASE)	% CHANGE
Assets	\$ 16,085,160	\$ 19,322,268	\$ (3,237,108)	-16.8%
Liabilities	\$ 7,328,045	\$ 8,768,399	\$ (1,440,354)	-16.4%
Net Position	\$ 8,757,115	\$ 10,553,869	\$ (1,796,754)	-17.0%
Net Cost	\$ 70,268,549	\$ 68,145,263	\$ 2,123,286	3.1%
Budgetary Resources	\$ 69,395,836	\$ 68,464,522	\$ 931,314	1.4%
Custodial Revenue	\$ 995,743	\$ 1,157,318	\$ (161,575)	-14.0%

The following is a brief description of the nature of each required financial statement and its relevance. The impact of some significant balances or conditions on the FEC's operations are explained.

Balance Sheet

The Balance Sheet presents the total amounts available for use by the FEC (assets) against the amounts owed (liabilities) and amounts that comprise the difference (Net Position). As a small independent agency, all of the FEC's assets consist of Fund Balance with Treasury (FBWT), Property and Equipment (P&E) and Accounts Receivable. Fund Balance with Treasury (e.g., cash) is available through the Department of Treasury accounts, from which the FEC is authorized to make expenditures (i.e., obligations) and payments. FBWT decreased by approximately \$1.1 million or 7.9 percent from the prior year.

Accounts Receivable represent amounts due from the public for fines and penalties assessed by the FEC and referred to Treasury for collection, as deemed appropriate. In compliance with the *Debt Collection Improvement Act of 1996* (DCIA), the OCFO takes into consideration the most appropriate approach to debt management. These amounts are not available for FEC operations and are sent to the U.S. Treasury as miscellaneous receipts. Net accounts receivable decreased by approximately \$159,000 to \$51,000 from FY 2011.

Property and equipment consists of software, general-purpose equipment used by the agency, and software development. In FY 2012, the FEC continued to evaluate existing systems and retired

outdated software systems. In FY 2011, the FEC increased the capitalization threshold for internal-use software development cost from \$25,000 to \$250,000 to capture significant system development and enhancement projects. Net property and equipment decreased by \$1.9 million to \$2.6 million from FY 2011.

In 2010, the FEC issued Final Rules to implement the DCIA. The FEC entered into a Letter of Agreement, which included the agency profiles, with the Department of Treasury effective September 29, 2011, in accordance with the DCIA.

Statement of Net Cost

The Statement of Net Cost presents the annual cost of operating the FEC program. Gross costs are used to arrive at the total net cost of operations. The FEC's total appropriation in FY 2012 was \$66.4 million, the same as FY 2011's. Approxi-

mately \$45.2 million, or 69 percent, of expenses were dedicated to personnel costs. Overall, net costs increased by approximately \$2.1 million or 3.1 percent from FY 2011. The increase is reflective of approximately \$1.7 million increase in the costs of operations, including an increase of approximately \$0.5 million in payroll and benefit expenses, an increase in future funded expenses, and an impact from the implementation of the capitalization threshold for software.

Statement of Changes in Net Position

This statement presents in greater detail the net position section of the Balance Sheet, which includes Cumulative Results of Operations and Unexpended Appropriations. The statement identifies the activity that caused the net position to change during the reporting period. Total Net Position decreased by approximately \$1.8 million or 17 percent, which is primarily the result of depreciation, amortization, and impairment expenses that are offset by acquisition of assets and the change in unexpended appropriations.

Statement of Budgetary Resources

The Statement of Budgetary Resources (SBR) provides information on the source and status of budgetary resources made available to the FEC during the reporting period. It presents the relationship between budget authority and budget outlays, as well as the reconciliation of obligations to total outlays. Total Budgetary Resources and SBR increased by approximately \$931,000, or 1.4 percent, from FY 2011. The FEC utilized more resources in the current fiscal year than the prior fiscal year.

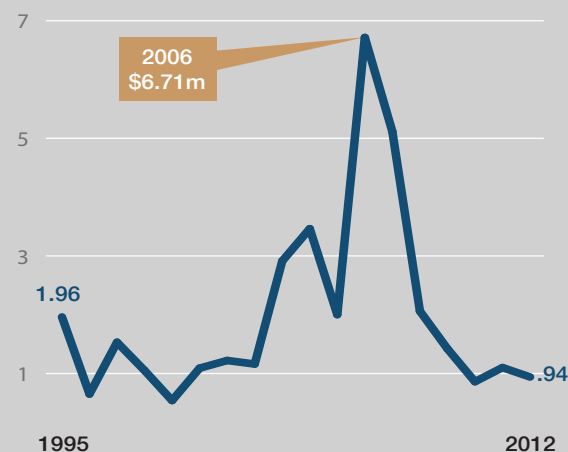
Statement of Custodial Activity

The Statement of Custodial Activity (SCA) represents an accounting of revenue and funds collected by the FEC that are owed to the U.S. Treasury's general fund. These monies are not available for the FEC's use. Collection and revenue activity primarily result from enforcement actions that come before the Commission during the fiscal year. Revenue and collections on the SCA consist of collections on new assessments, prior year(s) receivables, and Miscellaneous Receipts. In FY 2012, the total custodial revenue and collec-

tions decreased by approximately \$162,000 or 14 percent from FY 2011.

The chart below displays the assessment history since 1995.

FIGURE 4 - FINES ASSESSED, BY FISCAL YEAR (in millions of dollars)



Section 1.D: Analysis Of FEC's Systems, Controls And Legal Compliance

1.D.i - FEC Integrated Internal Control Framework and Legal Compliance

The Commission is subject to numerous legislative and regulatory requirements that promote and support effective internal controls. The FEC complies with the following laws and regulations:

- Annual Appropriation Law - establishes the FEC's budget authority;
- *Inspector General Act of 1978*, as amended;
- *Government Performance and Results Act of 1993*, as amended;
- *Federal Financial Management Improvement Act of 1996*;
- *Clinger-Cohen Act of 1996*;
- *Debt Collection Improvement Act of 1996*, as amended; and
- *Chief Financial Officers Act*, as amended by the *Accountability of Tax Dollars Act of 2002*.

The proper stewardship of federal resources is a fundamental responsibility of the FEC. These laws help the FEC improve the management of its programs and financial operations, and assure that programs are managed in compliance with applicable law.

1.D.ii - Management Assurances

The *Federal Managers' Financial Integrity Act of 1982* (FMFIA) is implemented by OMB Circular A-123, revised, *Management's Responsibility for Internal Control* and OMB Circular A-127, *Financial Management Systems*. The FEC management is responsible for establishing and maintaining effective internal control and financial management systems that meet the objectives of the FMFIA and for performing a self-assessment under the guidance of its Directive 53, *Implementation of OMB Circular A-123, Internal Control Review*.

Directive 53 outlines the process and describes roles and responsibilities for conducting risk assessments and internal control reviews.

Section 2 of the FMFIA requires federal agencies to report, on the basis of annual assessments, any material weaknesses that have been identified in connection with their internal and administrative controls. The reviews that took place during FY 2012 provide unqualified assurance that FEC systems and management controls comply with the requirements of the FMFIA.

Section 4 of the FMFIA requires that agencies annually provide assurance on programmatic internal controls and financial management systems, and effectiveness of internal control over financial reporting. The FEC evaluated its financial management systems in accordance with the FMFIA and OMB Circular A-127, as applicable. The results of management reviews provide unqualified assurance under Section 4 of the FMFIA that the FEC's financial systems controls generally conform to the principles and standards required.

Prompt Payment Act

The *Prompt Payment Act* (PPA) requires federal agencies to make timely vendor payments and to pay interest penalties when payments are late. The FEC's on-time payment rate for FY 2012 was nearly 100 percent, with less than 0.01 percent of all invoices paid after the date required by the PPA.

Improper Payments

The *Improper Payments Information Act of 2002* (IPIA), the *Improper Payments Elimination and Recovery Act of 2010* (IPERA) and OMB guidance require agencies to identify those programs that are susceptible to significant erroneous payments, and determine an annual estimated amount of erroneous payments made in their operations. The FEC reviewed all of its programs and activities to identify those susceptible to significant erroneous payments. Approximately 69 percent of the FEC's obligations pertain to salaries and benefits, which represents a low risk for improper payments, based on established internal controls. The FEC also reviewed all of its FY 2012 procurements for non-personnel costs to verify their accuracy and



THE FEDERAL ELECTION COMMISSION
Washington, D.C. 20463

Annual Assurance Statement on Internal Control

The Federal Election Commission (FEC) is responsible for establishing and maintaining effective internal control and financial management systems that meet the objectives of the *Federal Managers' Financial Integrity Act of 1982 (FMFIA)*, as implemented by OMB Circular A-123, revised, *Management's Responsibility for Internal Control*. Internal control is an integral component of management to provide reasonable assurance that (1) programs operate effectively and efficiently, (2) financial reports are reliable, and (3) programs comply with applicable laws and regulations.

The FEC conducted its evaluation of internal control with applicable laws and regulations in accordance with OMB Circular A-123, as revised. Based on the results of the Fiscal Year 2012 internal control review, the FEC reports no material weakness under the FMFIA and is able to provide an unqualified statement of assurance that the internal controls and financial management systems meet the objectives of FMFIA.

Carole C. Hunter

Caroline C. Hunter
Chair
October 26, 2012

completeness. Accordingly, the FEC is unaware of any improper payments. The FEC continues to monitor its payment process to ensure that the risk of improper payments remains low.

1.D.iii - Management's Response to the Inspector General's Management and Performance Challenges

The Inspector General's report in Section IV identifies three areas specific to management and performance challenges, which were also identified last year: 1) Governance Framework, 2) Human Capital Management and 3) Information Technology Security. Over the past year, the FEC has taken significant steps to improve its strategic planning, streamline its processes for responding to audit findings and address its human capital challenges. The agency also continues to maintain the highest level of commitment to information technology security. The FEC's full response to the Inspector General's assessment of its performance in these areas appears in Section IV.

Section 1.E: Possible Future Effects Of Existing Events And Conditions

Several existing events and conditions may affect the FEC in the future. As detailed in Section 2.C., the campaign finance law has been altered in recent years by a series of court decisions, including *Citizens United v. FEC*, that have significantly changed the regulatory environment by removing restrictions on the use of financial resources.² In addition, a number of challenges to campaign finance disclosure requirements are pending in the courts. Additional changes to the campaign finance law would require new guidance from the FEC and could affect the scope and volume of campaign finance disclosure. Between January 1,

2 In *Citizens United v. FEC*, 558 U.S. 310 (2010), the Supreme Court held that corporations (and, by implication, unions) may use their general treasury funds to pay for electioneering communications and independent expenditures. Subsequently, the U.S. Court of Appeals for the D.C. Circuit held in *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C.Cir. 2010) (*en banc*), that certain political committees that make only independent expenditures, but do not make any contributions to federal candidates, may accept funds in unlimited amounts. These committees have come to be known as "Super PACs."

2011 and October 29, 2012, committees and other entities that report to the FEC reported total financial activity of \$7.7 billion in receipts and \$7.1 billion in disbursements. The table below shows total reported financial activity over the last three Presidential cycles for political parties, candidates, committees and other entities that report to the FEC.³

Total Receipts and Disbursements Reported

Presidential Election Cycle	Total Receipts	Total Disbursements
2000	\$ 4,121,359,000	\$ 4,021,023,000
2004	\$ 5,636,554,000	\$ 5,421,843,000
2008	\$ 8,240,991,000	\$ 8,235,114,000

Section 1.F: Other Management Information, Initiatives And Issues

Website Improvement

The Commission places a high priority on ensuring the effective use of technology and internal procedures to optimize its communication with the public. During FY 2012, the Commission released the Campaign Finance Disclosure Portal. The Portal simplifies access to the wide range of data available on the agency's website. The disclosure portal provides a single point of entry to federal campaign finance data. It features easily navigable maps, as well as a variety of search tools that will help users make the best use of the Commission's data sources. Users can download many of the data sets available through the disclosure portal to perform their own analyses. The Commission continued to enhance the search functionality of the Data Catalog. The FEC also released the Candidate and Committee Viewer in FY 2012. The Viewer brings together two-year

3 These numbers include all receipts and disbursements reported by all federal candidates, party committees, political committees, and for nominating conventions. The numbers also include electioneering communications and certain independent expenditures. These figures are not adjusted to subtract funds, such as refunds, rebates or loan repayments, that pass through the committee's accounts without increasing the total amount of funds available for the election.

period-to-date summaries, report summaries, images of reports and statements and downloadable electronic filings to produce an overview of each committee that includes dynamic graphic charts and complete data sets in a downloadable, spreadsheet format. These features allow users to analyze specific transactions in a customizable way. The FEC additionally released a mobile website specifically designed for mobile devices that allows users to view 2012 Presidential campaign finance data, the Commission calendar and other information. The FEC also released an electronic filing RSS Feed to help users follow the filing activity of a specific committee or group of committees.

Enterprise Content Management System

Following a study in FY 2009, the FEC launched an agency-wide Enterprise Content Management (ECM) system for sharing and storing documents in a way that fosters collaboration between FEC offices, maximizes efficiency and supports compliance with agency document policies and records management. The ECM system was initially deployed with a small user group. In FY 2010, the FEC began transitioning additional staff to its ECM system. Although the system has only been live for FEC staff for a short time, the agency has already begun to realize efficiencies in automating workflow processes through ECM. All of the agency's staff will use the ECM system by FY 2014. The ECM system will also support an agency collaboration platform that will function as a communications hub for staff to share information through an agency-wide Wiki and a shared folder system that fosters collaboration among teams. The ECM system will additionally form the base for the initiation of Enterprise Search Capability.

Data Warehouse

The FEC's data warehouse framework allows FEC staff and the public to retrieve information stored across a range of systems by providing a single source of reliable, time-oriented and subject-oriented data in an easy-to-access, flexible form. The data warehouse prototype was developed in FY 2011. In FY 2012, an FEC team of technical staff and subject matter experts worked closely with a data warehouse contractor to implement the pro-

tototype. The FEC intends for the data warehouse to replace and enhance the existing campaign finance search processes currently available at fec.gov, a system that is currently limited by the amount of data available for searches. The data warehouse will provide a single repository for raw data submitted by filing entities and categorized, or processed, data. This more flexible framework will help the Reports Analysis Division streamline parts of its review process. For public consumers of campaign finance data, the data warehouse will allow the FEC to provide data files in multiple formats and to more easily distribute large data files containing itemized receipts and disbursements.

The FEC began its data warehousing project in FY 2009, and implementation is expected to span FY 2012 to FY 2014.

Enterprise Search Capability

Agency-wide Enterprise Search Capability will allow FEC staff and the public to search multiple and disparate content sources in a single query. With Enterprise Search, a user can perform searches of multiple data sources and receive results that are sorted and arranged into a useful form. In the FEC's context, this capability would permit a website user, for example, to perform a single topic search to find Commission regulations, advisory opinions, audit reports and enforcement documents that address a particular topic, instead of requiring separate searches in each of those databases. In FY 2012, the FEC's technical team worked with contractors to begin implementing the Enterprise Search tool that was selected in FY 2011. By implementing this new tool, the FEC aims to enhance existing fec.gov website search capacities to include all data sources. This will ensure that FEC web users can search all web content, including static, dynamic and multimedia contents. In the future, the agency intends to expand the Enterprise Search infrastructure to search across ECM and FEC e-mail databases. The agency expects to complete this project by FY 2015.

Section 1.G: Limitations Of The Financial Statements

The principal financial statements have been prepared to report the financial position and results of operations of the FEC pursuant to the requirements of 31 U.S.C. §3515(b). While the statements have been prepared from the books and records of the FEC in accordance with U.S. generally accepted accounting principles (GAAP) for federal entities and the formats prescribed by the 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.

The statements should be read with the realization that they are for a component of the U.S. Government, a sovereign entity.

SECTION II Performance Report

Performance Purposes, Objectives And Results

This section of the report serves as the Commission's Annual Performance Report as specified in OMB Circular A-11, Part 6, *Preparation and Submission of Strategic Plans, Annual Performance Plans, and Annual Program Performance Reports*, as amended. In addition, this section fulfills the FEC's requirements under the *Government Performance and Results Act*.

Strategic Goal And Objectives For FY 2012

To achieve its mission, as detailed in Section I, the FEC has identified one overarching strategic goal. This goal is supported, in turn, by four strategic objectives and underlying activities that guide the operations of the FEC and its staff on a day-to-day basis.

STRATEGIC GOAL

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

OBJECTIVE A: Transparency

Receiving Accurate and Complete Campaign Finance Disclosure Reports and Making Them Available to the Public

OBJECTIVE B: Compliance

Education and Enforcement

OBJECTIVE C: Development Of The Law

Interpreting, Administering and Defending the Act

OBJECTIVE D: Manage Human Capital Strategically And Effectively

Foster a results-oriented culture that supports the agency as it carries out its mission to administer, enforce and formulate policy with respect to federal campaign finance statutes

In FY 2008 the Commission reviewed its performance measures and refined them in the agency's five-year Strategic Plan, thereby enhancing the FEC's ability to capture and report data in a more meaningful manner. In FY 2012, the Commission published an addendum to that plan, which adds a new management excellence objective and extends the plan through FY 2014. The following provides a detailed discussion of the FEC's performance measures, as outlined in its 2008-2013 Strategic Plan, as amended.

The *GPRM Modernization Act of 2010* and OMB Circular A-136 require each agency to describe the accuracy and reliability of the data used to measure progress toward its performance goals, including an identification of the means used to verify and validate the measured values and the source for the data. Agencies are encouraged to

SECTION II - Performance Report

determine the appropriate frequency of data validation and verification needed for the intended use and should allocate appropriate resources to carry out validation and verification on an appropriately periodic basis. In connection with this report, the FEC conducted an agency-wide survey of its data validation and verification systems, as described below. Most of the FEC's performance measures set goals for the timely completion of tasks that are either internally generated or triggered through reports or complaints filed with the Commission. As a result, the universe of data the FEC must collect and verify to support its performance information is generally small, centrally located and easily verified. While the FEC believes that its current methods for verifying and validating performance data are appropriate and cost effective, it is also undertaking a broad review of these methods and systems as part of its overall assessment of its strategic and performance plans.

The FEC tracks data to support its performance measures through its internal databases and with spreadsheets maintained by program managers. In cases where performance is measured based on the timeframe for completing a decision, matter or inquiry, the universe of data to be measured and the dates on which performance milestones are reached are tracked electronically. Data provided by the agency's litigation, policy, enforcement and compliance offices are reported at least quarterly to the Commission, which provides regular opportunities for the accuracy of the data to be verified. Data regarding enforcement and compliance matters are subject to human error in the process of entering information into the system. However, the risk of such error is low given the small number of cases tracked (generally fewer than 200 cases involved in determining any single performance result) and the frequent review of the data. The agency expects 100 percent accuracy in performance data collected by litigation, policy, enforcement and compliance offices.

The FEC's public outreach offices track performance based on the timeliness of press releases and participant scores on evaluation forms distributed at conferences, seminars and outreach workshops. Press releases are internally generated and tracked manually. This method of collecting

and verifying data is both cost effective and consistent with the limited number of press releases made available during the fiscal year. Participants' written responses to conferences, seminars and workshops are collected at the conclusion of each outreach program, entered into a spreadsheet and distributed to the conference presenters who were rated on the evaluation. For both timeliness of press releases and satisfaction with outreach programs, the agency expects 100 percent accuracy in the performance data collected.

The FEC also tracks its performance in making campaign finance information available to the public. Reports filed with the FEC represent the largest universe of data the agency must consider in determining its performance. For example, in FY 2012, the FEC received 73,900 documents. Campaign finance reports and statements filed electronically are made available on the FEC website nearly instantaneously, and reports and statements filed on paper with the FEC are placed on the FEC website within 48-hours of receipt. In addition, FEC staff process the data contained in campaign finance reports so that the information can be accurately organized, categorized and searched in the agency's databases. The FEC sets as a performance goal processing 95 percent of reports through its data and coding system within 30 days. The entry and completion dates for each report are retrievable through the FEC's electronic systems. The FEC expects 100 percent accuracy with regard to this performance data. The FEC also rates its performance in meeting its statutory obligation to make reports and statements filed on paper available to the public within 48 hours of receipt. The agency stamps reports in the FEC's mailroom with the date and time of arrival. Any instance of a report appearing on the FEC website after the 48-hour deadline is tracked manually. Given the number of paper filed reports and the physical limitations of the FEC's systems, the agency accepts 90 percent accuracy in the collection of data to support this measure.

Results By Objective

OBJECTIVE A: Transparency

Receiving Accurate And Complete Campaign Finance Disclosure Reports And Making Them Available To The Public

The FEC provides the public with the data to make educated, informed decisions in the political process based, in part, on information concerning the sources and amounts of funds used to finance federal elections. The FEC gauges its effectiveness through a series of indicators designed to measure performance in areas that promote confidence in the campaign finance process.

Public Disclosure

The FEC promotes voluntary compliance by fully disclosing campaign finances for federal elections. The following provides a discussion of the results achieved in carrying out these objectives and activities.

PERFORMANCE MEASURES

- Process reports within 30 days of receipt as measured quarterly; and
- Meet the statutory requirement to make reports and statements filed on paper with the FEC available to the public within 48 hours of receipt.

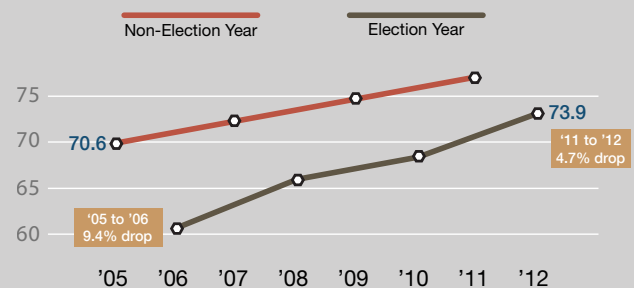
The Commission's mandatory electronic filing ("e-filing") rules require any committee that receives contributions or makes expenditures in excess of \$50,000 in a calendar year, or that has reason to expect to do so, to submit its reports electronically. Under the Act, these mandatory e-filing provisions apply to any political committee or other person required to file reports, statements or designations with the FEC, except for Senate candidate committees (and other persons who support Senate candidates only).

The e-filing system acts as the point of entry for submission of electronically filed campaign finance reports, providing faster access to reports and streamlining operations. Specifically, the system provides for public disclosure of electronically filed reports, via the FEC website, within

minutes of being filed. When a committee files a financial disclosure report on paper, FEC staff scan and enter the information disclosed in the report into the FEC electronic database. The Commission's Public Disclosure Division ensures that a copy is available for public inspection within 48 hours of receipt, both electronically on the website and at the FEC's offices in Washington, D.C.

Figure 5 shows the total number of campaign finance reports and statements filed with the FEC each fiscal year since 2005. Because elections occur in November, the associated spike in the number of filings received by the FEC is reflected in the odd-numbered fiscal years. The public can access the campaign finance reports and data at <http://www.fec.gov/disclosure.shtml>.

FIGURE 5 - REPORTS AND STATEMENTS FILED (in thousands)



The FEC achieved a 100 percent success rate in making the financial disclosure reports and statements available to the public within 48 hours of receipt by the Commission. This fiscal year has seen a significant increase over the last Presidential election year in the volume of data associated with filings.

After the reports are imaged for disclosure purposes, the data is coded and entered into the FEC's database for review to assess accuracy and ensure complete disclosure of campaign finance information. The agency's goal is to code and enter 95 percent of the reports within 30 days of receipt. For FY 2012, the FEC processed 94 percent of the reports within 30 days of receipt.

A Presidential election cycle includes expenditures related to the election of 1) the President, 2) all seats in the House of Representatives and

SECTION II - Performance Report

3) one-third of the Senate seats. Total receipts reported between January 1, 2011 and October 29, 2012, were \$7.7 billion, while disbursements were \$7.1 billion.

The FEC Website

The FEC's website (www.fec.gov) represents the major source of federal campaign finance information. The FEC website provides access to campaign finance data submitted by candidates and committees and posted on-line by the FEC staff. In FY 2012, the FEC began utilizing a web counting software program that provides more detailed information on website usage. This more sophisticated tool allows the FEC to tailor its website content and structure to better meet agency disclosure and outreach goals. During FY 2012, the website received approximately 21.6 million web page views.

To make campaign finance data more accessible to the public, the FEC provides an interactive map allowing users immediate access to contribution information for the 2012 Presidential election. Users can access the amount of funds raised on a state-by-state basis, contributions, cash-on-hand and the distribution of contributions by amount with a simple click at <http://www.fec.gov/DisclosureSearch/mapApp.do>. Furthermore, users can access lists of contributors by name, city and amounts of contributions within the first three digits of any zip code. Contribution data is updated within one day of the FEC's receipt of electronically filed disclosure reports. The agency provides a similar map for House and Senate elections.

In addition, in March 2012 the FEC introduced a campaign finance disclosure portal that simplifies access to the disclosure data available in the agency's website. The disclosure portal provides a single point of entry to federal campaign finance data and offers new map-based presentations on national parties and political action committees (PACs). It also offers quick access to data on the most frequently requested categories of committees that file reports with the FEC. In September the FEC launched the Candidate and Committee Viewer to further simplify the accessing, downloading and analysis of campaign finance data. With the Viewer, users can find any federal can-

didate, political committee, independent expenditure or other campaign finance report filer through a single search portal. The Viewer also provides dynamic graphic charts and complete data sets in a downloadable, spreadsheet format.

The FEC also launched an updated Electronic Filing RSS Feed that notifies website users when a filer has sent a new report or document electronically to the Commission. Users can subscribe to pre-established feeds or customize their feeds by committee identification number, state or district. Additional subscription options are based on filers' party affiliation and report type. Taken together, these enhancements helped to make the vast amount of campaign finance data available on the FEC website searchable, usable and relevant during the 2012 campaign cycle.

The agency also provides a Compliance Map to assist members of the public in their efforts to comply with campaign finance law (<http://www.fec.gov/info/ElectionDate>). The Compliance Map lists all reporting dates and other significant information tied to each state's election calendar, such as the time periods when special requirements for electioneering communications and federal election activity apply. Like the interactive Disclosure Map of contribution information, the Compliance Map provides quick access to information on a state-by-state basis in an easy-to-use format.

Assuring Accurate and Complete Reports

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

Dispute Resolution Program and the traditional enforcement program.

As part of a continued effort to increase the transparency of RAD's processes and to assist the public with compliance, the Commission recently launched a RAD web page which provides filers with an easy way to find the resources most relevant to their committee or filer type, all in one place. The web page has been organized to enable filers to click on their type of committee (candidate, party, PAC) and find the resources, frequently asked questions and report guidance relevant to them. The web page also provides more transparency of the RAD review process by including an overview of the review process, as well as frequently asked questions on RFAs and other RAD processes. Filers may also obtain the name and contact information of their assigned Campaign Finance Analyst through the "Campaign Finance Analyst look up" feature on the web page. Further, RAD continues to offer extended phone coverage on filing due dates in order to ensure timely disclosure of campaign finance activity and has implemented a program to send RFAs via email, which has resulted in more timely notification to committees, as well as significant savings in printing and mailing costs.

OBJECTIVE B: Compliance

Education and Enforcement

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

The Commission also encourages voluntary compliance through outreach programs. The FEC hosts instructional conferences and seminars in Washington, D.C., and in other cities across the country, where Commissioners and staff explain how to comply with the Act to candidates and political committees. Many of these programs are simultaneously available as webinars, offering a low-cost alternative for committees seeking training. These outreach programs specifically address

recent changes in the campaign finance laws and focus on fundraising and reporting regulations. Additionally, the Commission responds to telephone inquiries and written requests seeking information about the law and assistance in filing disclosure reports.

The FEC has exclusive jurisdiction over the civil enforcement of the federal campaign finance law. In exercising that authority, the Commission uses a variety of methods to uncover possible campaign finance violations. Instances of non-compliance may lead to an FEC enforcement case, or Matter under Review (MUR). In some cases, respondents may be given the option to participate in the Commission's Alternative Dispute Resolution Program, which seeks to resolve less-complex matters more swiftly by encouraging settlement using a streamlined process that focuses on remedial measures for candidates and political committees. Normally, violations involving the late submission of FEC reports or failure to file reports are subject to the Administrative Fine Program.

Performance Measures

- Conduct educational conferences and host roundtable workshops on the campaign finance law each election cycle, achieving a mean satisfaction rating of 4.0 on a 5.0 scale 100 percent of the time;
- Issue press releases summarizing completed compliance matters within two weeks of a matter being made public by the Commission;
- Issue quarterly press releases containing summaries of campaign finance data;
- Process 100 percent of enforcement cases within an average of 15 months of receipt;
- Process 75 percent of the cases assigned to Alternative Dispute Resolution within 155 days of a case being assigned;
- Process 75 percent of reason-to-believe recommendations for the Administrative Fine Program within 60 days of the original due date of the subject untimely or unfiled report;

SECTION II - Performance Report

- Process 75 percent of the challenges in the Administrative Fine Program within 60 days of a challenge being filed;
- Conclude non-Presidential audits with findings in an average of ten months, excluding time delays beyond the Commission's control, such as subpoenas and extension requests;
- Conclude non-Presidential audits with no findings in an average of 90 days from beginning of fieldwork; and
- Conclude Presidential audits in an average of 24 months of the election, excluding time delays beyond the Commission's control, such as subpoenas and extension requests.

Results achieved in carrying out these objectives and activities are detailed below.

Expanding Awareness

The FEC's education and outreach programs provide the information necessary for compliance with the campaign finance laws and provide the public with the context necessary to interpret the campaign finance data filers disclose. The FEC maintains a toll-free line to respond to inquiries regarding campaign finance data. Additionally, Campaign Finance Analysts in the Reports Analysis Division provide assistance with filing disclosure reports. The FEC also operates Press and Congressional Affairs offices.

The Commission's website is one of the most important sources of instantly accessible information about the Act, Commission regulations and Commission proceedings. In addition to viewing campaign finance data, anyone with Internet access can use the website to track Commission rulemakings, search advisory opinions, audits and closed enforcement matters, view campaign finance data and find reporting dates. The Commission places a high emphasis on providing educational materials about campaign finance laws and their requirements. Toward this end, the FEC has moved its focus away from the printing and manual distribution of its educational materials and instead looked for ways to leverage available technologies to create and disseminate dynamic and up-to-date educational materials through the

website. While the Commission continues to make available printed copies of its educational brochures and publications, transitioning to primarily web-based media has already allowed the agency to reduce significantly its printing and mailing costs and use of resources while at the same time encouraging new and expanded ways of communicating with the public via the website.

One way the Commission encourages voluntary compliance is by hosting conferences across the country, where Commissioners and staff explain how the Act applies to candidates, parties and political action committees. These conferences address recent changes in campaign finance laws and focus on fundraising and reporting regulations. The FEC held two regional conferences in FY 2012 in San Diego, California, and Miami, Florida. The agency also hosted a series of one-day seminars and topic-based roundtable workshops at FEC headquarters. For the first time, these programs were available simultaneously as webinars for on-line attendees. The success of these efforts is evidenced by the evaluation scores and comments received. The overall rating for each event exceeded a 4.0 out of a possible 5.0.

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

Responding to Potential Violations

The FEC responds to a variety of enforcement matters through its Office of General Counsel

(OGC) and Audit, Administrative Fine and Alternative Dispute Resolution (ADR) programs.

Office of General Counsel

Under the Commission's traditional enforcement program, the Commission learns of possible election law violations through:

- The complaint process, whereby anyone may file a sworn complaint alleging violations of the Act;
- Information ascertained in the normal course of carrying out its supervisory responsibilities;
- Voluntary self-reporting by representatives of candidates or political committees who believe that they may have violated the Act; and
- The referral process, whereby other government agencies may refer possible violations of the Act to the FEC.

The most complex and legally significant enforcement matters are handled by OGC, which:

- Recommends to the Commission whether to find "reason to believe" the FECA has been violated;
- Investigates potential violations of the FECA by requesting, subpoenaing and reviewing documents and interviewing or deposing witnesses;
- Conducts negotiations on behalf of the Commission to reach conciliation agreements with respondents; and
- Files suit in federal district court if conciliation is unsuccessful.

Closed enforcement matters are available online through the Commission's Enforcement Query System at <http://eqs.sdrdc.com/eqs/searcheqs>.

Enforcement matters are handled by OGC pursuant to the procedures set forth in the FECA. Over the past several years, OGC has initiated a number of management and organizational changes to increase the quality and efficiency of the FEC's

enforcement work, and has implemented policy initiatives to facilitate the processing of matters under review. As a result, OGC continues to meet its obligations to the Commission and the public to handle its caseload efficiently and effectively. In FY 2012, the Commission closed 77 enforcement cases in an average of 14.2 months, which included \$603,200 in negotiated civil penalties. The Commission closed 54 cases (70%) within 15 months.

Alternative Dispute Resolution

The Alternative Dispute Resolution (ADR) Program was implemented in FY 2001 to facilitate settlements outside of the traditional enforcement or litigation processes. The ADR Program's primary objective is to enhance the agency's overall effectiveness through more expeditious resolution of enforcement matters with fewer resources required to process complaints and internal referrals. A case is closed when the Commission votes on the recommendation made by the ADR Office as to what final action should be taken. During FY 2012, the Commission completed 41 ADR cases, which included \$140,126 in negotiated civil penalties. The Commission's performance measure for ADR is to close 75 percent of cases within 155 days of a case being assigned. Fifty-one percent of cases met the 155-day benchmark.

Administrative Fine Program

In response to a legislative mandate, an Administrative Fine (AF) Program was implemented in July 2000 to address late and non-filing of disclosure reports in a more efficient and effective manner. The AF Program is administered by the Commission's Office of Administrative Review (OAR) and Reports Analysis Division (RAD), which are within the Office of Compliance. Since the AF Program's inception in July 2000 through September 30, 2012, the Commission has closed 2,399 cases and assessed fines of \$4.27 million.

An administrative fine case begins when the Commission finds that a committee failed to file a required report or filed a required report late, and makes a reason-to-believe (RTB) finding. For FY

SECTION II - Performance Report

2012, RAD exceeded its performance goal, processing 100 percent of the RTB recommendations within 60 days of the subject report's due date. The average completion time for these recommendations was 40.5 days.

During FY 2012, OAR reviewed 10 challenges submitted by committees in response to a RTB finding and/or civil money penalty. OAR reviewed 90 percent of these challenges within 60 days of receipt. The average completion time for challenges was 46.8 days. Overall, OAR has reviewed 635 challenges submitted from the Program's inception through FY 2012. The Program continues to successfully reduce the number of late and non-filed reports and encourages campaign finance transparency through the timely filing of campaign finance reports.

Conducting Audits

The FEC conducts audits of any committees that, according to internal thresholds, have not substantially complied with the law. As required by the public funding statutes, the FEC also audits all Presidential campaigns and nominating conventions that receive public funds. Audit Reports and related documents are located at http://www.fec.gov/audits/audit_reports.shtml.

Over the past several years, the Commission has adopted procedures that provide additional opportunities for audited committees to respond to potential findings, as well as more opportunities for the Commission to review audit reports prior to approval. In addition, significant changes have been made to the format of the audit reports in an effort to more clearly present the findings of the Audit staff and to distinguish the disposition of the matter by the Commission. In order to maintain alignment with the agency's Strategic Plan for FY 2008 to 2013, the performance measures related to audits have not been revised to reflect the significant changes made to the audit report processing system. The Audit Division has initiated several new time management procedures in response to the changes noted above. These policy initiatives should facilitate the efficiency of the audit process.

In FY 2012, the Commission approved 18 audit reports, and 15 of these included findings. Four of

the audits with findings were completed within an average of ten months. The average processing time of audits with findings was approximately 24 months. Three audits with no findings were completed within an average of 88 days, which meets the performance measure of completing these audits within an average of 90 days. One audit of a Presidential committee that received public funding for the 2008 cycle was also completed during FY 2012.

OBJECTIVE C: Development Of The Law Interpreting and Administering the Act

The Commission provides formal interpretation of the Act through the promulgation of regulations and the issuance of advisory opinions (AOs).

Performance Measures

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

Results achieved in carrying out these objectives and activities are detailed below.

Regulations

Commission initiatives, Congressional action, judicial decisions, petitions for rulemaking or other changes in campaign finance law often necessitate that the Commission update or adopt new regulations. Consequently, the FEC undertakes rulemakings either to write new regulations or revise existing regulations.

The Policy Division of OGC drafts Notices of Proposed Rulemaking (NPRMs) for Commission consideration. NPRMs provide an opportunity for members of the public to review proposed regulations, submit written comments to the Commission and testify at public hearings, which are conducted at the FEC, when appropriate. The Commission considers the comments and testimony and deliberates publicly regarding the adoption of the final regulations and the corresponding Explanations and Justifications, which provide the rationale and basis for the new or revised regulations.

The Commission has continued to work on a number of significant rulemaking projects during FY 2012. In this regard, the Commission issued a NPRM on "Independent Expenditures and Electioneering Communications by Corporations and Labor Organizations," held a hearing on the NPRM, and is now in the process of developing final rules. The Commission continues to work on rulemakings in connection with *SpeechNow v. FEC*, *EMILY's List v. FEC* and *Carey v. FEC*.¹ In addition, the Commission issued an Advance Notice of Proposed Rulemaking regarding disclaimers appearing on Internet communications. Lastly, the Commission, together with the Office of Government Ethics, developed final rules on standards of conduct for FEC employees. The Commission approved these rules in October 2011.

The Commission's strategic plan contemplates the completion of rulemakings within time frames that take into account the importance of the topics addressed, proximity to upcoming elections and externally established deadlines. None of the rulemaking projects that the Commission worked

on during FY 2012 had externally imposed or internally established deadlines in FY 2012.

Advisory Opinions

Advisory opinions (AO) are official Commission responses to questions regarding the application of federal campaign finance law to specific factual situations. The Act generally provides the Commission with 60 days to respond to an AO request. For AO requests from candidates in the two months leading up to an election, the Act provides the Commission with 20 days to respond to the request. On its own initiative, the Commission also makes available an expedited process for handling certain time-sensitive requests that are not otherwise entitled to expedited processing under the Act. The Commission has placed special emphasis on expediting its processing and consideration of these highly significant AO requests. The Commission strives to issue these advisory opinions in 30 days.

The number of AO requests that the Commission receives is subject to cycles and is somewhat higher during election years. The Commission issued several AOs during FY 2012 addressing the implications of the *Citizens United*, *SpeechNow* and *EMILY's List* decisions, as well as many dealing with technology such as text messaging. During FY 2012, the Commission completed within the statutory deadlines 100 percent of the 39 AOs considered. The Commission completed work on 29 60-day requests, two 20-day requests and eight expedited requests during FY 2012.² The average number of days from receipt of a complete AO request to Commission action on it was 47 days for 60-day requests that did not have extended deadlines and 32 days for expedited AOs.

Defending Challenges to the Act

The Commission represents itself in litigation before the federal district and circuit courts and before the Supreme Court with respect to cases involving publicly financed Presidential candidates. It also has primary responsibility for defending the Act and Commission regulations against court challenges. In addition, the FECA authorizes the

¹ See Stipulated Order and Judgment, *Carey v. FEC*, No. 1:11-cv-00259-RMC (D.D.C. Aug. 19, 2011).

² Three 60-day advisory opinions and both 20-day advisory opinion had extended deadlines.

SECTION II - Performance Report

Commission to institute a civil action in enforcement matters that cannot be resolved through voluntary conciliation. The Commission's litigation docket currently includes 23 cases in eight district courts, two appellate courts and the Supreme Court. The Commission's court filings in FY 2012 met deadlines and rules imposed by the courts 97 percent of the time.

The Commission's litigation docket is influenced by major cases that were concluded in FY 2010, such as the Supreme Court's decision in *Citizens United v. FEC*, which held that the Act's prohibitions on financing independent expenditures or electioneering communications with corporate general treasury funds were unconstitutional. The court upheld the disclosure requirements for these disbursements. In addition, two decisions of the U.S. Court of Appeals for the D.C. Circuit have further altered the state of the law: *Speech-Now.org v. FEC*, which concerned whether certain FECA provisions were constitutional as applied to a group that is devoted to running independent advertisements for and against candidates and makes no direct contributions to candidates; and *EMILY's List v. FEC*, which concerned sources of funding for various types of activities and public communications by non-connected committees, and the treatment of funds received in response to solicitations as contributions.

For instance, the Commission is currently defending a challenge by a corporation and its separate segregated fund that contend that the latter should be permitted to establish a "non-contribution" account to accept unlimited individual and corporate contributions to finance independent expenditures (*Stop This Insanity Inc. Employee Leadership Fund v. FEC*). In addition, the Commission's current litigation docket includes two challenges to its regulation defining "express advocacy" and its approach to determining whether an organization is a political committee (*Real Truth Abortion, Inc. v. FEC* and *Free Speech v. FEC*) and the Commission's regulation governing disclosure by persons who make electioneering communications (*Van Hollen v. FEC*).

Public Funding

In addition to enforcing the FECA, the Commission is responsible for administering the public

funding of Presidential elections, as specified in the public funding statutes. The Commission certifies a candidate's eligibility to participate in the program, establishes eligibility for payments and conducts a thorough examination and audit of the qualified campaign expenses of every candidate and convention committee that receives payments under the program.

Thus far in the 2012 Presidential election, the Commission has certified public funding of \$36,496,600 for two convention committees and, as of September 28, 2012, \$916,101 for three candidates eligible for public funds for the 2012 Presidential primary elections.

OBJECTIVE D: Manage Human Capital Strategically And Effectively

Fostering a Results-Oriented Organizational Culture

In accordance with the *GRPA Modernization Act of 2010*, in FY 2012 the FEC published an addendum to its Strategic Plan to include a new strategic objective: Manage Human Capital Strategically and Effectively. Under this objective, the FEC fosters a results-oriented organizational culture that supports the agency's mission through three strategic activities:

- Strengthening Performance Management—by conducting an agency workforce analysis and aligning individuals' performances to the agency's strategic goals and initiatives;
- Improving Labor Management Relations—by implementing improvements identified by the FEC's Labor Management Forum and maintaining a comprehensive labor management agreement (LMA); and
- Improving Leadership and Knowledge Management—by retaining stability in key leadership positions and developing and implementing a succession plan.

The FEC gauges its effectiveness through the following series of indicators designed to measure performance in areas that promote the strategic

and effective management of its human capital resources:

- Fill competency gaps;
- Link individuals' performance plans to the Strategic Plan;
- Meet Labor Management Forum performance goals; and
- Fill key leadership positions.

Strengthening Performance Management

The Commission recognizes the need for consistency in conducting performance evaluations and building a culture of excellence by making meaningful distinctions in performance management. Accordingly, the FEC is conducting a comprehensive evaluation of its performance appraisal system to improve the system's overall effectiveness. The FEC also made significant progress during the year toward educating its managers about aligning individual employees' performance plans with the FEC's strategic plan. The FEC's draft Strategic Plan, FY 2014 through FY 2019, includes a robust management excellence component. The FEC has made the development of its new strategic plan and performance appraisal system a fundamentally collaborative effort among FEC staff. The new Strategic Plan was drafted and communicated to staff with the intention of ensuring that every FEC employee understands how his or her personal workplan relates to the agency's strategic plan. In FY 2012, the agency formed a design group of senior leaders to create the new performance system, based on OPM's newly approved Senior Executive Service (SES) appraisal system, in order to increase accountability and communicate roles and responsibilities for implementation of the agency's strategic objectives and priorities. The revisions to the FEC's system will proceed in phases and will track the completion of the new FY 2014 - FY 2019 Strategic Plan. During the first phase, all senior leaders will develop individual performance plans that will identify their own accountability for implementing the Commission's objectives, as articulated in the new strategic plan. Then, in the second and third phases, managers and then employees will align their individ-

ual plans to that of their senior leader or manager. In this way, every employee's performance will be measured by the successful implementation of the objectives and priorities the Commission sets out. In addition, management is working with the Labor Union through the Labor Union Forum to inform and seek feedback from the Bargaining Unit and to ensure that the FEC's Labor Management Agreement can be revised to include any necessary changes. The new performance system is expected to become effective when the new strategic plan is finalized.

In addition, the FEC conducted a human capital project during FY 2012 designed to create a path to lead the agency successfully through changes and maintain a productive work environment to fulfill the FEC's mission. For the first phase of this project, the agency conducted a workforce analysis to determine what the size and skills of its workforce should be three to five years into the future. The analysis incorporated the results of an assessment of the agency's current and projected workforce needs and competency gaps. It also evaluated the status of succession planning and leadership development at the FEC. Having identified competency gaps in FY 2012, the FEC is well-placed to develop a plan to close these gaps during FY 2013 and to have a standardized, agency-wide training program in place during FY 2014.

For the second phase, the agency developed a Human Capital Accountability System that addresses OPM's five Human Capital Accountability and Assessment Framework dimensions, including Strategic Alignment, Leadership/Knowledge Management, Results-Oriented Performance Culture, Talent Management and Accountability. The Accountability System allows the FEC and OPM to review and assess the FEC's human capital management programs, policies, goals and objectives against a system of standards and measurable outcomes.

Improve Labor Management Relations

The FEC is committed to building an effective and collaborative relationship with the National

SECTION II - Performance Report

Treasury Employees Union (NTEU), which is the exclusive representative of FEC bargaining unit employees. The current labor-management agreement between the FEC and NTEU Local Chapter 204 expired on May 6, 2010. The FEC and NTEU began negotiating a new LMA in May 2010, after agreeing to the ground rules in mid-April 2010. Negotiations came to an impasse after coming to a tentative agreement on 31 articles. The parties mutually agreed to a mediation-arbitration before an arbitrator in hopes of resolving the dispute. The parties came to an agreement on 13 of the articles at impasse during mediation. Attempts to resolve the remaining issues continue.

In accordance with Executive Order 13522, *Creating Labor-Management Forums to Improve Delivery of Government Services*, the FEC and the NTEU have established the FEC Labor-Management Forum (Forum). The Forum is intended to promote improvements in overall FEC efficiency and effectiveness, improve employee satisfaction, assist in the development of cooperative and productive labor-management relations and encourage the involvement of employees in workplace issues through their union representatives. The Forum's performance goals include:

- Improving telework management and satisfaction;
- Improving employee satisfaction, as measured by specific questions on OPM surveys;
- Facilitating and communicating revisions to the FEC's performance and evaluation system; and
- Maintaining institutional knowledge by promoting expanded use of the FEC's Enterprise Content Management (ECM) system and the agency's Intranet site and by researching the creation of a mentoring program.

While each of these performance goals is designed to be met in stages over multiple fiscal years, the Forum nevertheless made progress toward reaching two of these goals during its first year of existence. For example, one goal set by the Forum was to identify and communicate to staff each office and work unit's goals, as a pre-

liminary step toward communicating to staff the upcoming revisions to the agency's performance and evaluation system. In consultation with the Union, FEC Management met this goal during June 2012, when staff from the Office of the Deputy Staff Director for Management and Administration held a series of meetings with each office and division of the FEC to ensure that staff are aware of and engaged in the development of the Strategic Plan, 2014-2019, and recognize their role in fulfilling the Commission's plans. In addition to educating staff about their individual work unit's goals and gaining valuable feedback from those employees who are closest to the agency's work, these meetings offered an opportunity for staff to discuss their perceptions and concerns about the way the FEC works and to ask direct questions about the Commission's plans and needs. The FEC also created a dedicated email account to receive staff comments on the agency's draft strategic objectives. Comments and feedback from these meetings and emails were subsequently incorporated into the FEC's draft Strategy Map.

The FEC also took steps to better maintain institutional knowledge. During FY 2012, the FEC implemented an improved ECM system and began bringing individual offices into the system through targeted staff training programs, with the goal of migrating the entire agency to the ECM system during FY 2013. The FEC additionally developed a succession plan for the agency during the year, which includes recommendations for instituting an agency-wide knowledge capture program.

In FY 2012, the FEC also implemented a new telework program for non-bargaining unit employees in accordance with the *Telework Enhancement Act of 2010*. During the recent labor management agreement negotiations, the FEC and the NTEU negotiated updates to the parties' June 3, 2008, memorandum of understanding telework policy for bargaining unit employees.

The Forum continues to meet regularly to facilitate efficiency, cooperation and employee satisfaction. As additional information becomes available, including the results from OPM's Federal Employee Viewpoint Survey and the data from the agency's testing of new tools and software to improve its support of staff telework, the Forum

will continue to work toward meeting its performance targets.

Leadership and Knowledge Management

Over the past several years, the FEC has been challenged by a high number of vacancies in key leadership positions, including the Staff Director, General Counsel and Deputy Staff Director for Management and Administration. However, in FY 2011 the Commission filled each of these positions, and by the end of FY 2012 the FEC had filled 10 of the 11 leadership positions identified as key to the agency's success.³ The agency's FY 2012 workforce analysis supported the development of a Leadership Succession Plan for the agency that outlines the agency's plans to recruit and maintain a diverse workforce and cultivate emerging leaders through formal and informal mentoring and training programs targeted to each mission critical occupation. In addition, the Leadership Succession Plan will direct the agency in its efforts to create processes to identify and maintain critical institutional knowledge and to ensure that agency expertise is preserved, regardless of changes in staffing.

³ The FEC's CFO left the agency early in FY 2013 creating an additional leadership vacancy.

SECTION III

Auditor's Report And Financial Statements

Message from the Chief Financial Officer

November 15, 2012

I am pleased to present the Commission's financial statements for Fiscal Year (FY) 2012. The financial statements are an integral part of the Performance and Accountability Report. The Commission received an unqualified (clean) opinion on the Agency's financial statements from the independent auditors. This marks the fourth consecutive year with no material weaknesses identified. This is the first year there are no significant deficiencies reported for the Office of the Chief Financial Officer (OCFO).

In FY 2011, financial statement auditors reported two significant deficiencies, one for OCFO and one for Information Technology (IT). The deficiency over financial reporting related primarily to the lack of an automated interface between National Finance Center (NFC) and General Services Administration (GSA) for payroll and a replacement for an outdated legacy system, PeopleSoft. The implementation of the interface successfully closed the OCFO deficiency in FY 2012. The Commission continues to improve its overall financial management by taking advantage of opportunities to modernize and upgrade business systems, facilitate training initiatives, and update directives and policies to build toward more effective and efficient management of its resources. The continued efforts of FEC employees can be seen through the results of the financial statement audit.

The agency continues to improve its information technology (IT) security controls. As technology becomes more and more sophisticated, so does the need for increased cyber security. While the auditors still identified IT security controls as a significant deficiency for FY 2012, the agency is making progress on this issue for FY 2013.

Key accomplishments for the Federal Election Commission are as follows:

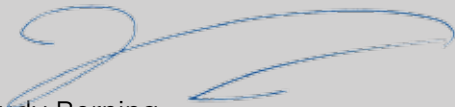
- Implemented an interface between the NFC payroll system and the GSA financial management system;
- Implemented the FEC Payroll Bridge to replace the PeopleSoft tool to provide payroll reports. This initiative was implemented in order to upgrade to a supported Oracle database and reporting tool (Crystal Reports);

SECTION III - AUDITOR'S REPORT AND FINANCIAL STATEMENTS

- Established an agreement in FY 2011 with the U.S. Department of Treasury to refer debt in order to fully comply with the *Debt Collection Improvement Act of 1996*. In FY 2012, the agency began referrals for the Office of General Counsel and continued referrals for the Office Administrative Review;
- Continued to implement electronic processing of documents to facilitate the agency's telework program and the continuity of operations plan;
- Complied with OMB M-11-32 *Accelerating Payments to Small Businesses for Good and Service*, enabling payments to be made as promptly as possible. This action improves cash flow for small businesses and provides them with a more predictable stream of resources, thereby protecting and increasing participation of small business Federal contractors; and
- Provided training on contracting officer technical representative responsibilities, leadership management, retirement, federal benefits, and in-house training on legal writing and editing.

The FEC staff work toward accomplishing the agency's mission and are proud of the work we were able to accomplish in FY 2012. For FY 2013, the FEC will continue to seek opportunities to modernize and upgrade its business systems and processes to achieve even greater levels of operational efficiency. The Office of the Chief Financial Officer looks forward to another successful year.

Sincerely,



Judy Berning
Acting Chief Financial Officer



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Office of Inspector General

MEMORANDUM

TO: The Commission

FROM: Inspector General

SUBJECT: Audit of the Federal Election Commission's Fiscal Year 2012 Financial Statements

DATE: November 14, 2012

Pursuant to the Chief Financial Officers Act of 1990, commonly referred to as the "CFO Act," as amended, this letter transmits the Independent Auditor's Report issued by Leon Snead & Company (LSC), P.C. for the fiscal year ending September 30, 2012. The audit was performed under a contract with, and monitored by, the Office of Inspector General (OIG), in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and applicable provisions of Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*, as amended.

Opinion on the Financial Statements

LSC audited the balance sheet of the Federal Election Commission (FEC) as of September 30, 2012, and the related statements of net cost, changes in net position, budgetary resources, and custodial activity (the financial statements) for the year then ended. The objective of the audit was to express an opinion on the fair presentation of those financial statements. In connection with the audit, LSC also considered the FEC's internal control over financial reporting and tested the FEC's compliance with certain provisions of applicable laws and regulations that could have a direct and material effect on its financial statements. The financial statements of the FEC as of September 30, 2011, were also audited by LSC whose report dated November 14, 2011, expressed an unqualified opinion on those statements.

In LSC's opinion, the financial statements present fairly, in all material respects, the financial position, net cost, changes in net position, budgetary resources, and custodial activity of the FEC as of, and for the year ending September 30, 2012, in conformity with accounting principles generally accepted in the United States of America.

Report on Internal Control

In planning and performing the audit of the financial statements of the FEC, LSC considered the FEC's internal control over financial reporting (internal control) as a basis for designing auditing procedures for the purpose of expressing their opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the FEC's internal control. Accordingly, LSC did not express an opinion on the effectiveness of the FEC's internal control.

Because of inherent limitations in internal controls, including the possibility of management override of controls; misstatements, losses, or noncompliance may nevertheless occur and not be detected. According to the American Institute of Certified Public Accountants:

- A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis.
- A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is a more than remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control.
- A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control.

LSC's consideration of internal control was for the limited purpose described in the first paragraph in this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. LSC did not identify any deficiencies in internal control that LSC would consider to be material weaknesses, as defined above. However, LSC did identify a significant deficiency in internal controls related to Information Technology security.

Report on Compliance with Laws and Regulations

FEC management is responsible for complying with laws and regulations applicable to the agency. To obtain reasonable assurance about whether FEC's financial statements are free of material misstatements, LSC performed tests of compliance with certain provisions of laws and regulations, noncompliance 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. LSC did not test compliance with all laws and regulations applicable to FEC.

The results of LSC's tests of compliance with laws and regulations described in the audit report disclosed no instance of noncompliance with laws and regulations that are required to be reported under U.S. generally accepted government auditing standards or OMB guidance.

Audit Follow-up

The independent auditor's report contains recommendations to address deficiencies found by the auditors. Management was provided a draft copy of the audit report for comment and generally concurred with some of the findings and recommendations. In accordance with OMB Circular No. A-50, *Audit Follow-up*, revised, the FEC is to prepare a corrective action plan that will set forth the specific action planned to implement the agreed upon recommendations and the schedule for implementation. The Commission has designated the Chief Financial Officer to be the audit follow-up official for the financial statement audit.

OIG Evaluation of Leon Snead & Company's Audit Performance

We reviewed LSC's report and related documentation and made necessary inquiries of its representatives. Our review was not intended to enable the OIG to express, and we do not express an opinion on the FEC's financial statements; nor do we provide conclusions about the effectiveness of internal control or conclusions on FEC's compliance with laws and regulations. However, the OIG review disclosed no instances where LSC did not comply, in all material respects, with *Government Auditing Standards*.

We appreciate the courtesies and cooperation extended to LSC and the OIG staff during the audit. If you should have any questions concerning this report, please contact my office on (202) 694-1015.



Lynne A. McFarland
Inspector General

Attachment

Cc: Alec Palmer, Staff Director/Chief Information Officer
Judy Berning, Acting Chief Financial Officer
Anthony Herman, General Counsel

Federal Election Commission

Audit of Financial Statements

**As of and for the Years Ended
September 30, 2012 and 2011**

Submitted By

Leon Snead & Company, P.C.
Certified Public Accountants & Management Consultants

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The Commission, Federal Election Commission
Inspector General, Federal Election Commission

Independent Auditor's Report

We have audited the balance sheets of the Federal Election Commission (FEC) as of September 30, 2012 and 2011, and the related statements of net cost, changes in net position, budgetary resources, and custodial activity (the financial statements) for the years then ended. The objective of our audit was to express an opinion on the fair presentation of those financial statements. In connection with our audit, we also considered the FEC's internal control over financial reporting and tested the FEC's compliance with certain provisions of applicable laws and regulations that could have a direct and material effect on its financial statements.

SUMMARY

As stated in our opinion on the financial statements, we found that the FEC's financial statements as of and for the years ended September 30, 2012 and 2011, are presented fairly, in all material respects, in conformity with accounting principles generally accepted in the United States of America.

Our consideration of internal control would not necessarily disclose all deficiencies in internal control over financial reporting that might be material weaknesses under standards issued by the American Institute of Certified Public Accountants. However, our testing of internal control identified no material weaknesses in financial reporting. We did note one significant deficiency related to internal controls for the FEC's agency-wide Information Technology (IT) security program that are discussed later in our report.

The results of our tests of compliance with certain provisions of laws and regulations disclosed no instance of noncompliance that is required to be reported herein under *Government Auditing Standards*, issued by the Comptroller General of the United States and Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements* (as amended).

The following sections discuss in more detail our opinion on the FEC's financial statements, our consideration of the FEC's internal control over financial reporting, our tests of the FEC's compliance with certain provisions of applicable laws and regulations, and management's and our responsibilities.

OPINION ON THE FINANCIAL STATEMENTS

We have audited the accompanying balance sheets of the FEC as of September 30, 2012 and 2011, and the related statements of net cost, changes in net position, budgetary resources and custodial activity for the years then ended.

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

Accounting principles generally accepted in the United States of America require that Management's Discussion and Analysis be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Federal Accounting Standards Advisory Board (FASAB) who 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.

RESPONSIBILITIES

Management Responsibilities

Management of the FEC is responsible for: (1) preparing the financial statements in conformity with generally accepted accounting principles; (2) establishing, maintaining, and assessing internal control to provide reasonable assurance that the broad control objectives of the Federal Managers Financial Integrity Act (FMFIA) are met; and (3) complying with applicable laws and regulations. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control policies.

Auditor Responsibilities

Our responsibility is to express an opinion on the financial statements based on our audit. 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 *Government Auditing Standards*, issued by the Comptroller General of the United States; and OMB Bulletin 07-04, *Audit Requirements for Federal Financial Statements* (as

amended). Those standards 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 (1) examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; (2) assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In planning and performing our audit, we considered the FEC's internal control over financial reporting by obtaining an understanding of the agency's internal control, determining whether internal controls had been placed in operation, assessing control risk, and performing 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 07-04 (as amended) and *Government Auditing Standards*. We did not test all internal controls relevant to operating objectives as broadly defined by FMFIA. Our procedures were not designed to provide an opinion on internal control over financial reporting. Consequently, we do not express an opinion thereon.

As part of obtaining reasonable assurance about whether the agency's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, and significant provisions of contracts, 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 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 FEC. Providing an opinion on compliance with certain provisions of laws, regulations, and significant contract provisions was not an objective of our audit and, accordingly, we do not express such an opinion.

INTERNAL CONTROL OVER FINANCIAL REPORTING

In planning and performing our audit of the financial statements of the FEC as of and for the years ended September 30, 2012 and 2011, in accordance with auditing standards generally accepted in the United States of America, we considered the FEC's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the FEC's internal control. Accordingly, we do not express an opinion on the effectiveness of the FEC's internal control.

Because of inherent limitations in internal controls, including the possibility of management override of controls, misstatements, losses, or noncompliance may nevertheless occur and not be detected. A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. 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 financial statements will not be prevented or detected and corrected on a timely basis. A significant deficiency is a deficiency, 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 of the FEC.

Our consideration of internal control was for the limited purpose described in the first paragraph in this section of the report and would not necessarily identify all deficiencies in internal control that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control that we consider to be material weaknesses, as defined above. However, as discussed below, we identified a deficiency in internal control that we consider to be a significant deficiency.

Findings and Recommendations

FEC's governance and management officials' decision to not fully adopt Information Technology (IT) best practices increases risk to the agency's information and information systems. Other federal agencies exempted from the Federal Information Security Management Act (FISMA)¹ have adopted these best practices to ensure information and information systems are properly secured. The absence of FEC policies requiring the Office of the Chief Information Officer (OCIO) personnel to perform and document a fact-based risk assessment when deciding not to adopt an IT security best practice requirement increases risk to the agency's information and information systems. Without adopting and implementing National Institute of Science and Technology (NIST)

¹ The National Institute of Science and Technology (NIST) noted that the E-Government Act (Public Law 107-347), passed by the 107th Congress and signed into law by President George W. Bush in December 2002, recognized the importance of information security to the economic and national security interests of the United States. "NIST employs a comprehensive public review process on every FISMA standard and guideline to ensure the security standards and guidelines are of the highest quality—that is, technically correct and implementable. NIST actively solicits and encourages individuals and organizations in the public and private sectors to provide feedback on the content of each of the FISMA publications. In most cases, the FISMA security publications go through three full public vetting cycles providing an opportunity for individuals and organizations to actively participate in the development of the standards and guidelines. NIST also works closely with owners, operators, and administrators of information systems within NIST to obtain real-time feedback on the implementability of the specific safeguards and countermeasures (i.e., security controls) being proposed for federal information systems. Finally, NIST has an extensive outreach program that maintains close contact with security professionals at all levels to ensure important feedback can be incorporated into future updates of the security standards and guidelines. The combination of an extensive public review process for standards and guideline development, the experience in prototyping and implementing the safeguards and countermeasures in the information systems owned and operated by NIST, and the aggressive outreach program that keeps NIST in close contact with its constituents, produces high-quality, widely accepted security standards and guidelines that are not only used by the federal government, but are frequently adopted on a voluntary basis by many organizations in the private sector."

minimum security controls, the FEC's computer network, data and information is at an increased risk of loss, theft, manipulation, interruption of operations, and other adverse actions.

Best practice guidance and/or FEC policies that provide guidance on issues discussed in this finding include: OMB Circular A-130, *Management of Federal Information Resources* (FIPS) Publication 200, *Minimum Security Requirements for Federal Information and Information Systems*; Special Publication (SP) 800-53, *Recommended Security Controls for Federal Systems and Organizations*; SP 800-118, *Guide to Enterprise Password*; SP 800-34, *Contingency Planning Guide for Federal Information Systems*; OMB Bulletins; Department of Homeland Security directives; and FEC IT Security Policies 58.2.2, 58.2.4, and 58-4.3. In addition, Office of Management and Budget Circular A-50, *Audit Follow-up*, as revised, and FEC Directive 50, *Audit Follow-up*, provide guidance on the requirements for audit follow-up.

The issues we identified with FEC IT security controls are detailed below.

A. Full Adoption of NIST Best Practices Would Strengthen FEC's Information and Information Systems

As we have reported since 2009, FEC, unlike other Federal agencies exempted from FISMA compliance, has not fully adopted the minimum government-wide IT security controls and techniques released by the NIST. FEC officials advised that they follow NIST "best practices" where applicable to their operations. However, there are no FEC policies that guide when an analysis should be performed in making a decision whether or not to implement required government-wide security practices. In addition, we were advised that there is no documentation retained to support such critical decisions that impact the security of FEC's information and information systems. Tests of selected IT security controls found numerous instances where applicable best practice controls were not implemented by FEC, and we were unable to locate substantive analysis of the risk to the agency of not adopting these minimum best practices. Controls tested included: vulnerability scanning of the FEC's entire network; implementation of minimum established password controls; configuration management; user access controls; certification and accreditation controls; and implementation of one of the President's national security initiatives, TIC (Trusted Internet Connections).

In prior audit reports, we recommended that FEC adopt the NIST IT security controls established in FIPS 200 and SP 800-53, and other related FISMA security documents. We also reported that the Government Accountability Office (GAO), another Federal agency exempt from FISMA, had adopted the NIST security requirements. GAO stated² that it "adheres to federal information security governance, such as OMB and National Institute of Standards and Technology guidance."

² See GAO Performance and Accountability Report – 2011, page 58.

The Inspector General's "Statement on the Federal Election Commission's Management and Performance Challenges," dated October 14, 2011, stated:

"...Since 2004, the OIG (Office of Inspector General) has reported, and continues to believe that it is in the best interest of the agency to formally adopt government-wide IT security standards to ensure the FEC has an effective information security program. For several years, the OIG's auditors have identified IT practices that are not aligned with the minimal best practice standards that are followed by federal agencies government-wide. Lastly, the agency has failed to adequately define the set of best practices used to secure the FEC's information technology."

FEC officials have indicated that the agency makes informed decisions when deciding whether to adopt government-wide IT security requirements. As part of our audit testing, we requested that OCIO officials provide us with FEC policy guidance that requires a risk-based analysis of IT security requirements, and/or documentation that would provide support for a decision to not adopt a government-wide IT security requirement for the period 2010 to present. We also requested that FEC provide us with any documentation that would support the decision to not adopt two key government-wide IT security requirements, the Trusted Internet Connections (TIC)³ which has been a requirement since 2007, and Federal Acquisition Regulations⁴(FAR) that mandate that FISMA security requirements be included in IT service and related contracts. OCIO officials advised us that FEC does not have a procedure that requires such an analysis, and there was no documentation of any analysis identifying the risks of not adopting these two key security requirements.

An illustration of the importance of FEC implementing a policy requirement to perform a risk-based analysis when deciding not to adopt a government-wide security requirement, and to document this decision with the approval of the CIO, at a minimum, is the decision of FEC officials to not implement the TIC.

TIC was introduced in OMB Memorandum M-08-05, dated November 20, 2007. The initiative was described in the memorandum as an effort to develop "a common [network] solution for the federal government" that would reduce the

³ TIC was introduced in OMB Memorandum M-08-05, *Implementation of Trusted Internet Connections (TIC)*, dated November 20, 2007, and required that agencies develop "a common solution for the federal government" that would reduce the number of external Internet connections for the entire government to 50. National Security Presidential Directive 54/Homeland Security Presidential Directive 23, *Cyber Security and Monitoring*, (NSPD-54 and HSPD-23) issued in January 2008 included TIC as Initiative #1, Manage the Federal Enterprise Network as a single network enterprise with Trusted Internet Connections. The Trusted Internet Connections (TIC) initiative, headed by the Office of Management and Budget and the Department of Homeland Security, covers the consolidation of the Federal government's external access points (including those to the Internet). This consolidation will result in a common security solution which includes: facilitating the reduction of external access points; establishing baseline security capabilities; and, validating agency adherence to those security capabilities.

⁴ Page 7.1-2, FAR Section 7.103 states: "Agency-head responsibilities--- The agency head or a designee shall prescribe procedures for ensuring that agency planners on information technology acquisitions comply with the information technology security requirements in the Federal Information Security Management Act (44 U.S.C. 3544)..."

number of external Internet connections for the entire government to 50. The memorandum stated that "each agency will be required to develop a comprehensive POA&M (Plan of Action and Milestones)" to implement TIC, but it neither defined "agency" nor referred to any legal authority supporting the initiative. FEC's Office of General Counsel (OGC) analyzed this document and determined that since POA&Ms were required by FISMA or its predecessor statute, and because this POA&M requirement appeared to be an expansion of an existing requirement from which the Commission was exempt, the FEC was exempt from TIC.

In a June 2009 memorandum to the Staff Director, OGC noted that on January 8, 2008, former President Bush signed Homeland Security Presidential Directive (HSPD) Number 23 which authorizes the Department of Homeland Security (DHS) to deploy Einstein 2, an automated intrusion detection system, across Federal networks. Einstein 2 would allow the DHS, National Cyber Security Division, and U.S. Computer Emergency Readiness Team (US-CERT) to consolidate Federal system intrusion detection, incident analysis and cyber response capabilities. HSPD-23 is classified; therefore, the specific authorizing statute for the directive and the extent of its application to the Federal Election Commission is unknown. The OGC stated that "We confirmed with DHS on November 12, 2008 that in DHS's view the Commission is within the scope of the presidential directive. However, unclassified legal briefing materials provided by the Department of Justice indicate that at least part of the directive may be authorized by FISMA, from which the FEC is exempt. Thus, there is a possibility that HSPD-23 is only partially applicable to the FEC, or is not applicable at all to the FEC. Since the directive itself is classified, and limited unclassified information has been released, we do not have sufficient information at this time to confirm HSPD-23's applicability to the FEC."

While it was DHS's position, as confirmed by the FEC GC in a memorandum issued in August 2012 to the Staff Director, that the TIC was a critically important IT security measure that was applicable to FEC; the FEC did not implement this Presidential security initiative. Instead, FEC officials took no action to assess the importance of this government-wide initiative or evaluate whether risks would be reduced if FEC implemented this security requirement. As a result of this audit, the FEC now agrees that the TIC initiative must be implemented. A failure by the FEC to perform due diligence on this control as required in 2007, increased the risk that the agency's network could have been exposed to a network intrusion or other computer network attack.

Recommendations

1. Formally adopt as a model for FEC, the NIST IT security controls established in FIPS 200 and SP 800-53, as the Government Accountability Office has done.

Agency Response

The Deputy CIO for Operations advised that the OCIO disagrees with this recommendation. The FEC has adopted, and has put in place the necessary security requirements and controls to ensure that the FEC IT systems are secure. As an agency exempt from FISMA, the controls in place reflect the appropriate level of security and acceptable risk to support the mission and safeguard the data of the agency. The agency's security program is governed by Directive 58 which consists of 34 policies, 8 distinct procedures, adoption of 18 standards, all documented and signed and endorsed by the CIO.

Auditor's Comments

We continue to believe that the FEC's information and information systems are at high risk because of the decision made by FEC officials not to adopt all minimum security requirements that the Federal government has adopted, including the GAO which is also exempt from FISMA requirements. We do not dispute that the FEC has issued policies and procedures. Our position is that these policies and procedures are not currently adequate to secure FEC's information and information systems. As discussed above, had FEC not declined to adopt mandatory security procedures included in the "trusted internet connection," even after the DHS advised the requirement was applicable to FEC, risk to the agency computer network could have been minimized.

2. Revise FEC policies to require that FEC contractors adhere to the FAR FISMA related requirements, and mandate that FEC contractors follow FISMA IT controls when providing services to the federal government. Use NIST SP 800-53 as guidance for establishing IT controls that contractors must follow.

Agency Response

The Deputy CIO for Operations advised that the OCIO disagrees with this recommendation. As a FISMA exempt agency, the FEC incorporates language and is supported by FAR clauses that address the level of security necessary to safeguard agency security in all of its contracts. This language was agreed to by the agency contracting officer and ISSO, contractors are required to adhere to the same level of security that FEC employees are.

Auditor's Comments

FEC should not use the agency's FISMA exemption to also exempt its contractors from meeting minimum federal government IT security requirements. The federal government has established a comprehensive IT services contracting process that assures that minimum security requirements are met, including the requirement of a continuous monitoring process over these IT services. If FEC continues to refuse to adopt these federal requirements, the agency will be required to stand alone in its development of

IT security controls, and complete a duplicate and ineffective continuous monitoring process.

3. Develop a time-phased corrective action plan to address the prompt implementation of the TIC by FEC. Ensure that TIC is implemented as soon as possible, but no later than June 2013.

Agency Response

The Deputy CIO for Operations advised that the OCIO agrees with this recommendation that the FEC must now comply with TIC. In light of new information provided to the FEC in August 2012, that requires the FEC to implement TIC, the FEC will develop a plan to address TIC implementation. This plan will be developed dependent upon the availability of resources required, and we cannot commit to a specific timeframe until a detailed analysis of what is required is performed. The FEC is scheduled to meet with Commerce Department to discuss lessons learned.

Auditor's Comments

The OCIO agreed to implement this recommendation; however, the agency would not commit to a specific timeframe for completion. It has been almost four years since the DHS advised the agency that the implementation of TIC was a requirement for FEC. We believe that this Presidential initiative should be implemented immediately, and until the agency fully implements this project, the agency's information and information systems remain at high risk.

4. Revise FEC policies and procedures to require a documented, fact-based risk assessment prior to deciding not to adopt a government-wide IT security best practice, or IT security requirement contained in the Federal Acquisition Regulations. Require the CIO to approve and accept the risk of any deviation from government-wide IT security best practices (i.e. NIST, FAR IT controls) that are applicable to the FEC business operations. Retain documentation of these decisions.

Agency Response

The Deputy CIO for Operations advised that the OCIO disagrees with this recommendation. The Office of General Counsel provides opinion on which government-wide security requirements are applicable to this agency, based upon specific exemptions granted by Congress. If the agency is indeed exempted from a requirement, the OCIO will determine whether or not the agency will establish and maintain "best practice" of that exemption within the resources available. Documentation of the opinion of the agency's General Counsel on each exemption of applicable law or regulation is maintained on file.

Auditor's Comments

The FEC's information and information systems will continue to remain at risk until the agency begins to make documented, risk-based IT security decisions. Currently, FEC's IT security decisions appear to be based primarily upon whether the agency is legally exempt from the government-wide requirement, instead of a determination that implementation of the security requirement would make the agency's information and information systems more secure. As noted above, the agency failed to implement one of the President's top IT security priorities because the agency erroneously believed it may have been indirectly linked to the legislation that implemented FISMA.

B. Access Controls

FEC's access controls do not meet best practice controls, and in some instances FEC policies. Our tests of this key IT security control identified the following problems:

User Accounts: Passwords are the keys to accessing FEC's general support system (GSS) and related information and information systems, and provide front-end access to FEC's accounting, financial management and payroll systems. Therefore, the strength of FEC's access controls and passwords is critically important. We have reported since 2009 that the password requirements established by FEC are weak, and do not meet OMB mandated government-wide requirements for password strength (see issues below for further details). Because FEC is exempt from the legislation underlining OMB requirements relating to this area, FEC officials have elected not to implement several of the minimum government-wide requirements for strengthening passwords. The agency did not have any documentation to support this decision.

Accounts with Passwords that Never Expire: During our review of access controls, we obtained a listing of user accounts with passwords set never to expire (therefore, the same password would be used for this account until either this setting is changed, or the account's password is changed manually). From a total listing of about 570 accounts, approximately 140 accounts had passwords without expiration dates. We identified that approximately 100 of the 140 accounts had passwords that had not been changed since 2010. According to the records provided, approximately 80 of the 140 accounts had not had a password change since 2007, and a large number of these dated to 1998. In addition, our analysis of the records provided, found approximately 40 of the 140 accounts listed as active users were shown as having never logged into the accounts. Further, we noted that many of these accounts contained some form of administrator⁵ authority for selected areas or network operations.

⁵ The term used for an account that has access privileges that a normal account would not be allowed to obtain. In most cases, for the system or network on which it is located, the administrator account could have almost unlimited authority.

Disabled Accounts Remain on Active Directory: As part of our analysis of user accounts, we noted that approximately 400 apparently disabled user accounts remained on the active directory. The records provided by OCIO showed that the accounts had never logged into the network. OCIO officials advised that a review will be conducted of these accounts this year.

Processes for Assigning Replacement and Initial Passwords⁶: We requested all FEC policies and operating procedures relating to this area for testing. However, we were advised by OCIO officials that the FEC does not have written policies or operating procedures for establishing initial account passwords or replacement passwords. OCIO officials stated that “When systems administrators (SAs) are notified, through the FEC System Access (FSA) system, that there is a need to establish an account, the SA then establishes an account with a generic password of his or her choosing; this is not recorded for security reasons. Then either through the new hire orientation program, or through the help desk, the person is instructed to change this password and it must be changed before access to the system is granted.”

The absence of specific FEC policies and operating procedures prevents FEC from setting requirements for this important area. For example, as discussed below, we identified that a FEC issued default password had not been changed in six months. Because of the absence of appropriate controls in this area, we were able to obtain access to other contractor personnel email accounts using this default password.

Login Passphrase for Contractors: An audit report released by OIG, *2010 Follow-Up Audit of Privacy and Data Protection, Federal Election Commission, Audit Report Number OIG-10-03*, contained a finding related to access controls, the Inspector General stated, “We were informed by the Information Systems Security Officer that encrypted laptops assigned to contractors use an encryption passphrase assigned by the FEC. This is done to allow access to the information on the laptop if the contractor suddenly or unexpectedly departed the FEC. This process differs from that of FEC employees, who choose their own unique passphrase. Based on mobile devices assigned to contract auditors as part of another follow-up audit, it appears the same passphrase is used for all contractors. The passphrase assigned to contractors is not suitably complex, is relatively intuitive, and could be easily guessed or “hacked” by using basic password detection or “cracking” software. The lack of a unique secret passphrase for each

⁶ These terms are used to describe that part of password administration (authentication controls) when a predetermined password is provided to a new user during initial login process and when replacement passwords are provided to existing users who are unable to login with an existing password (e.g. password is forgotten). We experienced difficulty in finalizing our audit testing of the policies, procedures and processes FEC follows when assigning replacement and initial passwords for users' network accounts. Because of the departure of a key OCIO official and other reasons, delays occurred in obtaining necessary documentation to enable us to complete testing for this area. However, based upon the information provided, we have identified areas where policies, procedures and processes are absent, or need improvement.

individual increases the risk that the data on that laptop could be accessed by an unauthorized individual.”

We followed up on this issue and confirmed that the problem reported by the auditors in 2010 continued in 2012. For example, the same passphrase for contractor laptops has been used since 2009, and cannot be changed by the contractor. We agree with the prior auditors’ conclusion that this weakness substantially negates the effectiveness of this control.

Remote Access: During our audit, we identified that FEC had recently purchased approximately 150 laptop computers for use by FEC employees. These laptops can be used to access the FEC system remotely when the employees are working offsite. We identified that these laptops currently are not configured to use two-factor authentication, as required by best practices and FEC policies.

Recommendations

5. Immediately implement government-wide requirements relating to strengthened password controls. Revise FEC policies and operating procedures to require the minimum best practices controls contained in FDCC and USGCB⁷.

Agency Response

The Deputy CIO for Operations advised that the OCIO does not agree with this recommendation. The agency's password standard contains sufficiently strong password controls for the classification of this agency.

Auditor’s Comments

FEC advised that the password controls for the agency are sufficient for the classification of this agency. However, government-wide best practices as established by OMB and endorsed by the council of CIOs require that passwords contain twelve characters. These controls are applicable to the risk rating of the FEC general support system.

6. Undertake a comprehensive review of user accounts that have been granted non-expiring passwords. Require certification from account owners detailing the need for non-expiring accounts, including the development of other alternatives, before reauthorizing the accounts’ access. Develop FEC policies and operating procedures to implement this recommendation.

⁷ Federal Desktop Core Configuration (FDCC) and United States Government Configuration Baseline (USGCB) are requirements that OMB have set for government-wide security settings directing agencies with Windows deployed operating system to adopt the security configurations developed by the National Institute of Standards and Technology (NIST), the Department of Defense (DoD) and the Department of Homeland Security (DHS).

7. Whenever possible, require accounts with non-expiring passwords to be changed at least annually. Establish substantially more robust password requirements for accounts granted non-expiring passwords. Develop FEC policies and operating procedures to implement this recommendation.
8. Immediately terminate those accounts with non-expiring passwords that have not accessed their accounts within the last 12 months. Develop FEC policies and operating procedures to implement this recommendation.

Agency Response (Recommendations 6 through 8)

The Deputy CIO for Operations advised that the OCIO agrees in part with these recommendations. There are no user accounts that have been granted non-expiring passwords. The only accounts that have non-expiring passwords are accounts that have been established as administrative accounts or application accounts that need to be set up to run applications. These accounts are only accessible by systems administrators in the performance of "sys admin" duties. There are such accounts that have been established in the past that are no longer required, and we are reviewing these accounts for applicability. The operating procedures that are followed in this process are standard system administration functions performed by qualified system administrators. The account review will be completed by July 2013.

Auditor's Comments (Recommendations 6 through 8)

We continue to believe that the recommendations should be implemented by FEC, in total, based upon the problems noted with these accounts.

9. Remove the 400 disabled accounts noted during this audit by the end of the calendar year, and on a semi-annual basis conduct a review of the active directory to remove disabled accounts. Revise FEC policies and operating procedures to implement this recommendation.

Agency Response

The Deputy CIO for Operations advised that the disabled accounts remain in the list of accounts for historical purposes, and will be reviewed as part of the actions taken for recommendations 2-4.

Auditor's Comments

We continue to believe that the recommendation should be implemented by FEC based upon the problems noted with these accounts.

10. Strengthen controls over the establishment of initial and replacement (default) passwords, to include requiring that random passwords be used, and the default passwords used be changed monthly. Develop FEC policies and operating procedures to implement this recommendation.

Agency Response

The Deputy CIO for Operations advised that the OCIO disagrees with this recommendation. The FEC password standard is documented and followed by the FEC. The password standard is adequate for the security level of this agency.

Auditor's Comments

We continue to believe that the recommendation should be implemented by FEC based upon the problems noted with these accounts.

11. Research and fix the problem that enables use of a default password to access other contractor email accounts.

Agency Response

The Deputy CIO for Operations advised that the OCIO agrees with this recommendation. FEC will research this issue, but policy dictates that each contractor that requires an email account has a unique password.

Auditor's Comments

Since the FEC agreed to this recommendation, we have no additional comments.

12. Establish procedures that require contractors to create their own unique login passphrase.

Agency Response

The Deputy CIO for Operations advised that the OCIO agrees with this recommendation. The FEC will research this recommendation to ensure that all FEC policies are applied equally, unless a unique exemption is documented.

Auditor's Comments

Since the FEC agreed to this recommendation, we have no additional comments.

13. Require all employees and contractors with remote access to FEC's networks to comply with the dual-factor authentication requirement for their FEC laptop, as federal and FEC policies mandate.

Agency Response

The Deputy CIO for Operations advised that the OCIO agrees with this recommendation. The FEC does require all employees and contractors to comply with dual factor authentication. The agency requires a password and a secure key or HSPD-12 ID to affect dual authentication. The agency is currently in transition from secure key to HSPD-12 ID's and expects to complete the transition by March 2013.

Auditor's Comments

While FEC officials agreed with this recommendation, and stated that the agency requires dual factor authentication, FEC currently has up to 150 laptops in service that currently do not have dual factor authentication and can remotely access the FEC network.

C. A System to Recertify Users Access Authorities is Needed

FEC has not developed an effective process to periodically review user access authorities by the users' supervisors, even though agency officials agreed to implement this recommendation in response to our 2009 financial statement audit. Auditing standards required our follow up on the actions taken by FEC to address this problem. FEC officials indicated that a new approach to implementing this control process would be associated with the FEC's "Livelink" project. However there was no documentation provided to support that this process was being implemented into "Livelink," and we were advised that "Livelink" was never meant to provide a means for users' supervisors to review their employees' access authorities.

In meetings with the CIO and Deputy CIO for Operations we were advised that the FEC still had not developed a method for performing periodic reviews of user access authorities. The CIO indicated that this project was one that the FEC wanted to implement, and when the new CISO was on board the OCIO would again address this project. FEC is at unnecessary risk, and is not in compliance with best practice control processes and its own policies. Without periodically performing a review of user access authorities, FEC officials do not have assurance that users only have access to information and information systems that are necessary to accomplish job responsibilities, resulting in a recent incident of an FEC employee having unauthorized access to information on network files.

Recommendations

14. Establish an FEC policy that requires annual recertification of users' access authorities.
15. Review FEC current system capabilities in implementing recertification of user access authorities. Develop and document a detailed project plan based on management's review, and assign sufficient resources to this project so that it can be completed on or prior to June 2013.

Agency Response (Recommendations 14 and 15)

The Deputy CIO for Operations advised that the OCIO disagrees with these recommendations. Annual recertification is not necessary and would be redundant with the procedures of the agency's FEC System Access system. All access requests and removals are recorded in the agency's FSA. Access remains in effect until the request for removal is submitted.

Auditor's Comments (Recommendations 14 and 15)

Since we first reported that FEC needed to perform a recertification of user access authorities, and made recommendations in our 2009 financial statement audit report, FEC officials have agreed to implement this recommendation. In a recent meeting in September 2012, senior agency officials confirmed that the agency intended to implement a recertification process. OCIO officials have now changed the agency's position and disagree with our recommendation. OCIO officials advised that the FSA system provides this recertification control, and a separate independent recertification of user access authorities would be redundant. However, there can never be full assurance that the FSA system will actually reflect the status of network users in active directory. The recertification of active users must come from the original controlling files – active directory. FSA does not provide an accurate snapshot of users' access authorities. For example, we identified five separated contractors listed as active users in the FSA system, and having access to FEC's network although they no longer worked for the FEC. We have noted similar problems with the system in prior audits. In addition, FSA allows FEC personnel who are not managers or supervisors to grant network access to other FEC staff. These requests are not required to be approved or reviewed by a supervisor and/or manager prior to granting access. Further, all managers and supervisors do not have access to FSA, and have not been trained on FSA in order to periodically review FEC personnel access authorities. Therefore, in its current state, FSA cannot be used as an accurate source for recertification of user's access authorities. Without such a control, FEC will continue to experience problems with separated personnel retaining network access as we have reported since our 2009 audit.

D. Certification and Accreditation Controls

FEC's Certification and Accreditation Controls need to be strengthened to ensure that appropriate IT security controls are in place and operating as designed. FEC has not performed a certification review of its key medium risk GSS since December 2008. In addition, our review of FEC IT policies identified that FEC needs to strengthen FEC policy 58.2.4, *Certification and Accreditation (C&A) Policy*, issued September 2004, to provide additional guidance on what decision points drive when a new C&A is required, and to provide specific documentation requirements to be maintained in order for the agency to track changes made to systems, and to make informed decisions on when major changes drive the need for a re-certification. OMB best practices require that a re-certification review be performed at least every three years.

FEC performed a certification of its general support system, using NIST SP 800-53 as guidance, and issued a security controls assessment report (SCAR) in December 2008. The CIO accredited the system in January 2009 with authority to operate until January 15, 2010. The SCAR identified a significant number of high and medium risks, and FEC developed a corrective action plan to address

most weaknesses. Some of the weaknesses FEC decided not to implement because the agency is "exempt from FISMA."

We discussed the importance of C&A controls, the status of a new C&A on the GSS, whether the certification would follow NIST guidelines, and the date the certification would take place with the prior CISO and the Deputy CIO for Operations. We also requested information on how the agency determined when changes made to the GSS, individually or in aggregate, modified or upgraded the system in a way that impacted information security and assurance, and therefore warranted a new C&A. We were advised that the agency is planning to perform another C&A, but a date has not been set, and a decision has not been made on whether the agency would use NIST SP 800-53 as the guidance document. In addition, OCIO officials were unable to provide information as to how the agency made determinations that changes to the GSS met the FEC standard that would require another C&A.

Recommendations

16. Revise FEC policies to: require a certification of its systems at least once every three years.

Agency Response

The Deputy CIO for Operations advised that the OCIO does not agree with this recommendation. Recertification is addressed in policy 58-2.4. FEC performed the Certification and Accreditation of systems pursuant to the first iteration of NIST SP 800-37 which recommended continuous monitoring of selected security controls, plus comprehensive testing of all security controls and reauthorization every three years. However, the new framework (NIST SP 800-37 rev1, Risk Management Framework) provides a more dynamic approach which leverages robust continuous monitoring to support on-going authorization and risk management as part of a more steady state, less cyclical process. The FEC is investigating this as an option.

Auditor's Comments

The OCIO is correct that the risk management framework discusses a robust continuous monitoring framework, similar to the recommendations that we have been making since our 2009 audit report. FEC has not performed a complete assessment of the GSS, either through continuous monitoring or as a periodic assessment since the first assessment was completed in December 2008, almost four years ago. OMB Circular A-130, Appendix III, provides that agencies should "review the security controls in each system when significant modifications are made to the system, but at least every three years."

17. Perform a re-certification of the GSS using NIST SP 800-53 as review criteria within this calendar year.

Agency Response

The Deputy CIO for Operations advised that the OCIO disagrees with this recommendation. Recertification of any FEC system will be performed in accordance with policy 58-2.4

Auditor's Comments

FEC policy 58-2.4 is in need of substantial revision. The FEC policy discusses that all FEC major applications and general support systems shall be re-certified/re-accredited when modified or upgraded in a way that impacts information security and assurance, or in response to changes in the risk environment. However, when we inquired as to how the agency determines, individually and in aggregate, when system modifications or upgrades impacted the system's security, OCIO officials were unable to provide a meaningful response. In addition, when we requested documentation of such reviews and decisions on system changes, such as the changes made for the FEC System Access module, or the changes made for the Enterprise Content Management, OCIO officials were unable to provide any documentation of such analyses.

We continue to believe that a new security assessment, completed in accordance with the NIST SP 800-37, Risk Management Framework, needs to be completed as soon as possible.

18. Strengthen FEC Policy 58.2.8 so that it provides additional guidance on what decision points drive when a new C&A is required; and specific documentation requirements that need to be maintained in order for the agency to track changes so it can make informed decisions on when major changes drive the need for a re-certification.

Agency Response

The Deputy CIO for Operations advised that the OCIO agrees in part. The FEC is in consultation with the Department of Commerce will obtain lessons learned and perform a cost-benefit analysis on potentially implementing the new recommendation by NIST in lieu of prior Certification and Accreditation recommendation. FEC does not have a startup, or finish date to implement the new Risk Management Framework due to unknown cost at this time. However, FEC hopes to implement in fiscal year 2014, if funding is available.

Auditor's Comments

While agency officials agreed with the recommendation, in part, we believe that the problems discussed in this report support the recommendation. Without full adoption of the recommendation, FEC information and information systems will remain at high risk.

E. Vulnerability Scanning

Problems related to FEC's vulnerability scanning⁸ program reported in our 2011 and prior audit reports have not been addressed by FEC. While the FEC had established a vulnerability scanning program; the program did not meet best practices in several key areas. For example, individual workstations were excluded from the scanning process – a significant omission, and vulnerabilities identified in the components of the general support system that were scanned, were not mitigated timely.

We identified that about 60 percent of the 250 vulnerabilities identified in the agency's 2012 scanning report had also been identified in scans performed by the agency in 2011. In addition, we continued to find that improvements are needed in the agency's patching system⁹. For example, about 65 percent of the vulnerabilities identified in the agency's 2012 scan results related to outdated versions of software or inadequate patching of systems. These vulnerabilities would have been mitigated had FEC implemented an effective patch management program.

Recommendations

19. Include all components of the general support system, including workstations, into the organization's vulnerability/security scanning process and ensure that the general support system in its entirety is assessed at least annually.

Agency Response

The Deputy CIO for Operations advised that the OCIO agrees in part with this recommendation. All components of the general support system, including workstations have been recently scanned for vulnerability and security. The report of this scanning will be available in November and the confidential results will determine the frequency of future scans. The OCIO disagrees on the need for a semi-annual assessment. Frequency of vulnerability scanning will be determined based upon results of scan and available resources and funding.

⁸ NIST controls for a vulnerability scanning program include: performing scans for vulnerabilities in the information system and hosted applications on a periodic basis; checklists and procedures for the scanning program; processes for analyzing vulnerability scan reports; and processes for remediating legitimate vulnerabilities.

⁹ NIST defines patch management as the process for identifying, acquiring, installing, and verifying patches for products and systems. Patches correct security and functionality problems in software and firmware. From a security perspective, patches are most often of interest because they are mitigating software flaw vulnerabilities; applying patches to eliminate these vulnerabilities significantly reduces the opportunities for exploitation. Also, patches are usually the most effective way to mitigate software flaw vulnerabilities, and are often the only fully effective solution.

Auditor's Comments

Because of the number and age of the vulnerabilities identified in agency scans, and the exclusion of workstations from periodic scans, we continue to believe that this recommendation should be implemented.

20. Implement procedures to ensure that scan results are subject to a "root cause" analysis to ensure that remediation actions address technical as well as organizational processes and procedures.

Agency Response

The Deputy CIO for Operations advised that the OCIO disagrees with this recommendation. The agency's current processes contained in Directive 58-2.1 addresses root cause analysis, and it's role in mitigation techniques.

Auditor's Comments

While FEC policy 58-2.1 provides "This policy takes into consideration: Threat/vulnerability identification and root cause analyses," our 2012 and prior audit tests found that these analyses were not effectively performed. For example, our 2010 and 2011 audit reports identified that a large number of vulnerabilities that were identified by the agency were related to outdated software and inadequate patching. We also noted that many of the issues had been included in more than one scanning report. A "root cause" analysis of the scanning results would have identified that the FEC's patch management system was not working properly, and that additional corrective actions were necessary.

21. Strengthen controls to ensure that vulnerabilities identified through the vulnerability scanning tests are remediated within 30 days, or document acceptance of these risks.

Agency Response

The Deputy CIO for Operations advised that the OCIO agrees in part with this recommendation. The FEC will address level 1 threats, within the 30 day requirement. Threats of a lesser nature will be dealt with as soon as possible depending on staff and budget restrictions. The policies and procedures established in Directive 58, address all this recommendation, and are deemed to meet the requirements of the FEC.

Auditor's Comments

FEC officials agreed in part with this recommendation. While FEC officials plan to address more significant threats within 30 days, the officials did not provide a timeframe for completing other risks identified in the agency scans. We believe that the agency directives are in need of revision, and should address the problems noted in this report.

F. Configuration Security Controls and FDCC/USGCB Requirements

While FEC has incorporated workstations into the change management¹⁰ framework which addressed a problem we identified in our prior audits, the agency's change management process relies on the manual recording of all system changes in an outside application. As reported in our 2011 audit, there was no effective process in place to identify all changes to the configuration of FEC's system, and no logs identifying changes to the system are collected. Therefore, there is reduced assurance that all changes are processed under the agency's change management framework, or that changes made outside the framework will be identified.

In addition, while FEC has issued configuration baseline standards for a number of its systems, these standards have not been fully implemented for the computers we tested. We compared the FEC provided configuration settings to several laptop computers, and identified that the baseline configuration standards were not fully implemented for any of the computers we tested. For workstations and configuration standards tested, we identified that 5 of the 15 baseline configuration standards settings had not been implemented. We also noted that two of the configuration settings could be changed by the user, as users were provided administrative rights to the local machine. The current FEC baseline configuration standards require that on Windows XP machines the "administrator account" be renamed and that access to administrator authorities is limited to only those users requiring such access. However, based on the computer settings we reviewed, users had been given administrator rights allowing them to change local settings.

As we have reported since our 2009 audit, FEC has not fully implemented security control requirements that OMB mandated in 1997 for Windows computers. FEC has established a project to adopt "selected" control requirements, and estimates that full implementation of "selected" controls will not be implemented until the end of 2012. Our tests found the following non-compliant requirements that can be easily implemented and strengthen FEC's network:

¹⁰ The objective of change management is to ensure that standardized methods and procedures are used for efficient and prompt handling of all changes to control IT infrastructure, in order to minimize the number and impact of any related incidents upon service. Changes in the IT infrastructure may arise reactively in response to problems or externally imposed requirements, e.g. legislative changes, or proactively from seeking improved efficiency and effectiveness or to enable or reflect business initiatives, or from programs, projects or service improvement initiatives. Change Management can ensure standardized methods, processes and procedures which are used for all changes, facilitate efficient and prompt handling of all changes, and maintain the proper balance between the need for change and the potential detrimental impact of changes.

Access Control Objective	FEC Settings	FDCC Requirements	Meets or exceed OMB Requirements
Enforce password history	5 passwords	24	No
Maximum password age	180 days	60	No
Minimum password age	0 days	1	No
Minimum password length	8 characters	12 characters	No

Recommendations

- 22. Implement baseline configuration standards for all workstations.
- 23. Fully implement USGCB/FDCC standards and perform scanning of Internet Explorer configuration settings.

Agency Response (Recommendations 22 and 23)

The Deputy CIO for Operations advised that the OCIO agrees with these recommendations. The FEC is in the process of implementing baseline configuration. The CIO estimated the completion date as the summer 2013.

Auditor’s Comments (Recommendations 22 and 23)

Since the agency agreed to implement these recommendations, we have no additional comments.

- 24. Implement logging of all configuration changes and review logs regularly to ensure that all system changes, including changes to workstations, are processed through the change management framework.

Agency Response

The Deputy CIO for Operations advised that the OCIO believes that the current processes are in compliance with the recommendation. All change management processes are logged and maintained by the Change Advisory Board.

Auditor’s Comments

While the current GSS security plan states that an automated system logging of configuration changes is in place for network components, our audit tests determined that FEC personnel had not been consistently reviewing the system logs. Instead, we found that FEC’s current change management process relies on a manual process in which personnel are to record configuration changes into a tracking system. However, there is no process in place to compare the system logs being generated on these network components to those configuration changes recorded in the manual tracking system. A comparison would identify configuration changes that were made outside the current change management process, and also reveal policy

deviations. Further, based on the FDCC/USGCB evaluation performed by the agency, the system logging capabilities available on the workstations have not been implemented. Therefore, there is no assurance that all changes are identified and managed through the Change Advisory Board, and the current change management framework.

G. Personnel Security Controls

Follow up on the actions taken by FEC to address recommendations in our 2011 report identified the following unresolved personnel security control issues:

- While improvements were noted in controls related to separated FEC employees, we did note that for five FEC employees tested, one was not removed within the one day requirement established in FEC procedures. The employee's network access was terminated seven days after separation.
- Our tests of FEC contractors who had access to FEC's network showed five separated contractor employees were listed in the FEC System Access (FSA) system as active users indicating weaknesses in the agency's main application for tracking employees/contractors network access.

Recommendations

25. Review the conditions that caused the employee to retain network access beyond the FEC's standard, and strengthen controls as appropriate.

Agency Response

The Deputy CIO for Operations advised that the OCIO has reviewed the condition and it was due to the nature of the person's position. The employee was allowed to retain access beyond the FEC's standard due to a human bypass of FSA policy. The employee was allowed to exit the agency without completing the FSA process. The FSA process and policy was put in place to preclude any human intervention.

Auditor's Comments

We are uncertain of the agency's response to this recommendation. However, we continue to believe an analysis of the problems that continue to impact the prompt removal of network access for separated personnel needs to be performed. We have reported problems related to continued network access for separated personnel since our 2009 audit report, and the prior financial statement auditors reported similar problems in their 2008 audit report.

26. Review the FSA database and remove those personnel shown as current employees or contractors who have departed the agency.

Agency Response

The Deputy CIO for Operations advised that the OCIO disagrees with this recommendation. To maintain historical records, employees that have departed will be kept in the system even though their access rights are disabled.

Auditor's Comments

The agency's response does not address our recommendation. Contractors listed in FSA as currently on-board had, in fact, separated, in some cases years ago. We continue to believe that the FEC should implement this recommendation to reduce the risk of unauthorized access.

H. Oversight and Monitoring of IT Corrective Actions

FEC has not timely implemented actions necessary to remediate identified weaknesses in IT controls, some of which were first reported in 2008. We reviewed financial statement audit reports along with other reports issued since 2008 to determine whether the FEC has timely and effectively implemented controls on weaknesses that FEC officials agreed to correct.

The results of our review of open financial statement audit recommendations are discussed in detail in Attachment 1.

Recommendations

- 27. Review all outstanding audit recommendations contained in the agency's financial statement audit reports, and develop a current, detailed, time-phased corrective action plan (CAP) for each audit finding and recommendation.

Agency Response

The Deputy CIO for Operations advised that the OCIO disagrees with this recommendation since there is already an agreement in place with OIG that CAP's are updated twice per year in May and November.

Auditor's Comments

Management's May and November CAP updates have been required by Commission Directive 50: Audit Follow-up since 2006, and are not the result of "an agreement in place with the OIG..." In addition, the CAP updates have not resulted in resolution of outstanding financial statement audit recommendations that have been reported since 2009. The FEC continuously fails to meet implementation due dates, and to adequately monitor and resolve outstanding audit recommendations. Failure to adequately plan and develop useful and achievable corrective actions, results in repeat audit findings being reported for several years. For example, concerning the periodic recertification of users' access authorities, FEC has not yet implemented this recommendation even though the agency agreed with the recommendation in

their response to the 2009 financial statement audit. We continue to believe that this recommendation should be implemented.

28. Modify key officials' position descriptions and rating elements to include, as a critical element, the timely completion of corrective action plans.

Agency Response

The Deputy CIO for Operations advised that the OCIO disagrees with this recommendation. Completion of CAP's is not appropriate for inclusion into a key official's position description and is not a critical element.

Auditor's Comments

We have identified a significant number of problems that remained uncorrected, in many cases since 2009. In addition, the OIG's report, *Review of Outstanding Audit Recommendations*, dated June 2012, reported issues with timely completion of corrective actions.

We disagree that it is not appropriate for timely completion of agreed upon corrective actions to be included as a rating element for applicable FEC officials. As OMB Circular A-50, *Audit Followup*, provides, "Audit followup is an integral part of good management, and is a shared responsibility of agency management, officials, and auditors. Corrective action taken by management on resolved findings and recommendations is essential to improving the effectiveness and efficiency of Government operations." Because of the problems noted, we continue to believe that this recommendation should be implemented.

29. Develop a tracking process that would include monthly reports to the CIO, highlight key tasks that may or have miss(ed) target dates, and assign one key OCIO official as responsible for monitoring OCIO corrective action plans.

Agency Response

The Deputy CIO for Operations advised that the OCIO agrees in part with this recommendation. OCIO will review CAP's on a monthly basis at the weekly OCIO management meetings.

Auditor's Comments

The issues included in this report support that this recommendation should be fully implemented by FEC.

I. Testing and Exercise FEC's COOP

During fiscal year 2011, FEC completed most of the last phase of its multi-year plan to implement a Continuity of Operations Plan (COOP) document. However, FEC has not yet fully tested and exercised the COOP – a critical element in development of a comprehensive and effective plan. FEC's planning documents

showed the agency was to have completed necessary testing and exercise by July 2011. FEC officials advised that the delay was due to the illness of a key project team member, and that completion of testing was deferred until approximately the beginning of calendar year 2012. As of September 2012, testing has not been completed.

At the beginning of our 2012 audit, we requested documentation from FEC officials to enable us to determine whether the FEC COOP had been appropriately tested, and whether the tests and related documentation met FEC's policies and Federal Continuity Directive No. 1 requirements for testing. We were initially advised by OCIO personnel that no documentation was available related to COOP testing. Subsequently, some FEC COOP test planning and related documents were located and provided. We were unable to determine from these documents whether FEC met either its own testing requirements, or the federal requirements that are applicable to the agency.

The table below lists key federal requirements, and whether documentation provided enabled us to conclude whether FEC was in substantial compliance with these requirements.

FCD¹¹ No. 1, Appendix K	Auditor's Comments
Annual testing of alert, notification, and activation procedures for continuity personnel and quarterly testing of such procedures for continuity personnel at agency headquarters.	No documentation provided to show that this requirement was met.
Annual testing of plans for recovering vital records (both sensitive and non-sensitive), critical information systems, services, and data.	Some documentation was provided to show that critical information systems were tested.
Annual testing of primary and backup infrastructure systems and services (e.g., power, water, fuel) at alternate facilities.	No documentation provided to show that this requirement was met.
Annual testing and exercising of required physical security capabilities at alternate facilities.	No documentation provided to show that this requirement was met.
Testing and validating equipment to ensure the internal and external interoperability and viability of communications systems, through monthly testing of the continuity communications capabilities.	No documentation provided to show that this requirement was met.
An annual opportunity for continuity personnel to demonstrate their familiarity with continuity plans and procedures and to demonstrate the agency's capability to continue its essential functions.	No documentation provided to show that this requirement was met.

¹¹ Federal Continuity Directive (FCD) No.1, Federal Executive Branch National Continuity Program, Appendix K, Test, Training and Exercise, was issued by the Department of Homeland Security to guide federal agencies in the development of COOP documents.

FCD^{II} No. 1, Appendix K	Auditor's Comments
An annual exercise that incorporates the deliberate and preplanned movement of continuity personnel to an alternate facility or location.	No documentation provided to show that this requirement was met.
An opportunity to demonstrate that backup data and records required supporting essential functions at alternate facilities or locations are sufficient, complete, and current.	Some records were available to show some aspects of this requirement were tested.

Because the documentation provided was insufficient to support that FEC met these federal requirements or addressed the issues reported in our 2011 audit report, this problem remains open and requires further review and corrective action by FEC personnel.

Recommendations

- 30. Ensure that sufficient resources are assigned to timely complete the testing of FEC's COOP in order to reduce risk to the FEC.

Agency Response

The Deputy CIO for Operations advised that the OCIO agrees with this recommendation. In accordance with Annex A of HSPD 20, the FEC is a category 4 agency. The agency COOP is sufficiently tailored to appropriate level of preparedness for a Cat 4 agency. The COOP is more aptly aimed at providing guidance for continuity after an incident at a local agency level, affecting only this agency. The testing completed and documented and results provided as a PBC item.

- 31. Ensure that appropriate documentation is retained as required by FCD No. 1 to support that FEC has met all applicable federal testing requirements.

Agency Response

The Deputy CIO for Operations advised that the OCIO agrees with this recommendation. The FEC has met all TT&E requirements for a category 4 agency in accordance with internal IT policies and directives. Management deems that policies and testing of those policies, directives, COOP and DR plans are commensurate with the risk analysis appropriate for this agency.

- 32. Develop a detailed POA&M to ensure that required COOP testing and exercises are completed as soon as possible.

Agency Response

The Deputy CIO for Operations advised that the OCIO disagrees with this recommendation and the OCIO believes the COOP testing is complete and CAP submitted as a PBC.

Auditor's Comments (Recommendations 30 through 32)

Documentation provided by FEC was analyzed and did not meet federal requirements. Therefore, we continue to believe that the recommendations should be implemented by FEC.

COMPLIANCE WITH LAWS AND REGULATIONS

The results of our tests of compliance with certain provisions of laws and regulations, as described in the Responsibilities section of this report, disclosed no instance of noncompliance with laws and regulations that is required to be reported under *Government Auditing Standards* and OMB Bulletin 07-04, (as amended).

AGENCY RESPONSE AND AUDITOR COMMENTS

FEC management responded to the draft report in a memorandum dated November 9, 2012, which indicated that the agency responses to each recommendation are included in the body of this report. We have included their comments and our response after each recommendation. FEC also noted in their response that they believe “that such an extensive IT concentrated audit is perhaps not appropriate” as part of the financial statement audit.

As we have previously discussed with FEC officials, *Government Auditing Standards* require us to perform testing of agency IT systems that could have a direct and material effect on the audited agency's financial controls and/or financial statement presentation, or disclosures. Therefore, we continue to believe our audit testing of IT controls was appropriate.

The FEC's written response to the significant deficiency identified in our audit was not subjected to the auditing procedures applied in the audit of the financial statements and accordingly, we express no opinion on it.

DISTRIBUTION

This report is intended solely for the information and use of the management, the FEC Board, the Office of Inspector General, and others within the FEC, OMB, and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

Leon Snead & Company, P.C.

November 14, 2012

SECTION III - AUDITOR'S REPORT AND FINANCIAL STATEMENTS

Chart on FEC's Corrective Actions

Attachment 1

Audit Reports	Finding	Recommendation	FEC Responses ¹²	Background Information/Current Status
2008-2012 FEC Financial Statement Audit Reports	Configuration Management FDCC/USGCB	Ensure that FEC baseline configuration standards are implemented in accordance with FDCC requirements for all workstations.	FEC generally agreed to implement recommendations in its response to our 2009 audit.	Remains open. First reported in our 2009 audit report. We found in our 2012 audit that according to FEC scans, the agency has implemented a large percentage of FDCC requirements. However, several key controls that would be easily implemented have not been implemented by FEC relating to password strength and related areas. Also, the FDCC and USGCB contain control settings for Internet Explorer. We were advised that FEC does not scan for these settings.
		Perform periodic assessments of baseline configuration settings as part of FEC's continuous monitoring program.	FEC generally agreed to implement recommendations in its response to our 2010 audit.	Remains open. First reported in our 2010 audit report. We found in our 2012 audit that the problems remain essentially the same as we reported in 2010.
	Vulnerability Scanning	Include all components of the general support system, including workstations, into the organization's vulnerability scanning process to ensure that the general support system, in its entirety, is periodically assessed.	FEC generally agreed to implement recommendations in its response to our 2009 audit. However, FEC added that the agency needed to implement portions of FDCC it agreed to adopt prior to implementing this recommendation.	Remains open. First reported in our 2009 audit report. We found in our 2012 audit that the problems remain essentially the same as we reported in 2009. FEC officials advised us that they have recently completed scanning of the FEC's network. However, we have not reviewed the scanning process or the scanning reports.

¹² FEC responses are briefly summarized for presentation. Where FEC disagreed with a recommendation, or significant portions of a recommendation, we show that information. However, when in our opinion, the FEC response is in general agreement with the recommendations we did not include minor points.

Chart on FEC's Corrective Actions

Attachment 1

Audit Reports	Finding	Recommendation	FEC Responses ¹³	Background Information/Current Status
	Personnel Security and Access Controls	<p>Implement additional controls to ensure that former employees' access to the network is terminated in accordance with FEC policies.</p> <p>Assure sufficient resources are provided to complete the project dealing with the establishment of processes to enable periodic review of users' access authorities.</p>	<p>FEC generally agreed to implement recommendations in its response to our 2009 audit.</p> <p>FEC in its response generally agreed to implement the recommendations in this area in our 2009 audit report.</p>	<p>Remains open. Issue first reported in 2008 audit report. While we found improvements in this control from the significant problems noted in our 2011 audit, we noted that one sampled individual was removed untimely, and five separated contractor employees were listed in the FEC System Access (FSA) system as active users indicating weaknesses in the agency's main application for tracking employees/contractors network access.</p> <p>Remains open. First reported in our 2009 audit report. We found in our 2012 audit that the problems remain essentially the same as we reported in 2009.</p>
	Security Awareness Training	Revise FEC procedures to require that all new personnel and contractors take the security awareness training, and acknowledge rules of behavior prior to being granted access to FEC systems.	First reported in our 2010 audit report. Management partially agreed with recommendations, and provided alternative process. We agreed to this alternative process as a way of remediating the issue.	Remains open. Completion of the security awareness training was delayed until after our scheduled field work completion date, and was not tested during this year's audit. Security awareness training was included as a problem area in our 2011 audit report.
	COOP Development and Testing	Multiple recommendations were made on this area since our 2009 audit report, and it was reported in the predecessor auditor's 2008 audit report.	FEC management concurred with our recommendation that the COOP be completed and fully tested by the end of 2010 calendar year.	Remains open. Over the five years, FEC has developed the COOP and implemented portions of a testing, training, and exercise (TTE) program required by FCD No. 1, Appendix K. However, documentation of test plans, test results, and analysis of test results was not sufficient to enable us to conclude that FEC met the federal requirements for TTE of its COOP.

¹³ FEC responses are briefly summarized for presentation. Where FEC disagreed with a recommendation, or significant portions of a recommendation, we show that information. However, when in our opinion, the FEC response is in general agreement with the recommendations we did not include minor points.

Attachment 2

Status of Prior Year Recommendations

Rec. No.	Recommendation	Status As of September 30, 2012
1.	Continue to work with NFC and GSA so that the two service provider's systems can be interfaced according to the current timeline.	Recommendation closed.
2.	Develop a time-phased corrective action plan to convert the manual accounts receivable process to an automated and integrated system.	Recommendation closed.
3.	Implement baseline configuration standards for all workstations and require documentation and approval of any deviations from this standard.	Recommendation open.
4.	Fully implement USGCB/FDCC standards.	Recommendation open.
5.	Implement logging of configuration changes to ensure that all system changes are processed through the change management framework.	Recommendation open.
6.	Include all components of the general support system, including workstations, into the organization's vulnerability scanning process.	Recommendation open.
7.	Implement procedures to ensure that scan results are subject to a "root cause" analysis to ensure that problems are fully resolved.	Recommendation open.
8.	Develop a process to ensure that vulnerabilities identified through scanning are documented in a corrective action plan, and monitored to ensure timely remediation.	Recommendation open.
9.	Establish and publish a policy that requires annual recertification of users' access authorities.	Recommendation open.
10.	Assure sufficient resources are provided to the document and records management system (LiveLink) so that it can be completed no later than June 2012.	Recommendation closed. This recommendation was rolled into Recommendation 9 since LiveLink is no longer being used for this purpose.
11.	Validate all active users to assure that only individuals who are currently and properly authorized have access to FEC's information and information systems.	Recommendation open.
12.	Analyze the reasons separated personnel retained access to FEC systems, and develop additional controls to ensure that FEC timely removes access for individuals who leave the agency.	Recommendation open.
13.	Establish controls that would automatically suspend an individual's network access if security awareness training is not completed within required timeframes.	Recommendation open.
14.	Ensure all personnel and contractors that have not yet taken the security awareness training complete it within the next 30 days.	Recommendation open.
15.	Ensure that sufficient resources are assigned to the task of testing the COOP in order to reduce the risks to FEC operations.	Recommendation open.

Attachment 2

Rec. No.	Recommendation	Status As of September 30, 2012
16.	Develop specific control processes and issue operational policies that establish automated control procedures to ensure that FEC uses software and associated documentation in accordance with contract agreements and copyright laws.	Recommendation closed.
17.	Restrict network folders & subfolders containing copyright applications and software to only authorized users based on the operational policies developed and implemented.	Recommendation closed.
18.	Review all folders and files on the "userinstall" network folder, and remove all applications and data that are not current, or do not meet the specific operational purposes of this folder.	Recommendation closed.
19.	Formally adopt the NIST IT security controls established in FIPS 200, Minimum Security Requirements for Federal Information and Information Systems, and SP 800-53, Recommended Security Controls for Federal Systems and Organizations.	Recommendation open.
20.	Require FEC contractors to adhere to the FAR related IT controls when providing services to the FEC to ensure sufficient controls are in place to meet best practices.	Recommendation open.



THE FEDERAL ELECTION COMMISSION
Washington, DC 20463

November 9, 2012

MEMORANDUM

TO: Leon Snead and Company

FROM: Judy Berning
Acting Chief Financial Officer

SUBJECT: Management Responses to Audit Findings

Judy Berning

Digitally signed by Judy Berning
DN: cn=Judy Berning, o=OCFO, ou=OCFO,
email=jberning@fec.gov, c=US
Date: 2012.11.09 13:31:11 -0500

Please find attached the management responses to the audit findings as provided in the draft document sent by the Office of the Inspector General on November 6, 2012.

Please contact me at X1230 should there be additional questions.

cc: Lynne McFarland, Inspector General
Alec Palmer, Staff Director
Tony Herman, General Counsel

Federal Election Commission
Fiscal Year 2012 Financial Statement Audit
Management Responses to Audit Findings

The Federal Election Commission has made significant strides in addressing findings and recommendations that arise through the annual financial statement audit. In FY 2012, the FEC fully resolved the significant deficiency related to internal controls over financial reporting and continues to address Information Technology (IT) security control needs identified that relate to Information Technology policies, practices and procedures. The Federal Election Commission's responses to the FY 2012 audit findings were provided in the draft document sent by the Office of the Inspector General on November 6, 2012.

The agency maintains the highest level of commitment to its information technology security and systems. Although the FEC is exempt from most of the requirements of the Federal Information Security Management Act (FISMA), the agency still incorporates many of FISMA's best practices. The FEC has in place directives and a corrective action plan that is reviewed twice a year to mitigate potential risk factors. The agency's financial management systems are provided by NFC and GSA under shared service agreements. The FEC receives and relies upon SSAE 16 audit reports to obtain assurance over financial applications provided by GSA and NFC.

The FEC has established 34 policies, 18 standards and 8 procedures to govern and define the agency's IT security program, following the guidance published by the National Institute of Standards and Technology (NIST), although the agency is exempt from many of those requirements. The FEC has concurred with a number of the recommendations provided by the audit, and will continue to implement those recommendations where economically and technically feasible and where such actions fit within the management framework of the agency. While the FEC requests budget funds to comply with applicable IT control standards, the FEC does not find it feasible to request additional funding to adopt FISMA requirements that Congress has exempted this agency from adhering to. The Office of the Chief Information Officer has incorporated many industry "best practices" in establishing the FEC's IT security and monitoring program.

A large portion of the findings and recommendations stemming from the Financial Statements Audit are concerned with the agency's Continuity of Operations Plan (COOP). The audit does not identify the FEC's category rating in the continuity of government plans. The FEC is a category 4 agency in the continuity of government plans which translates to the lowest priority for continuing agency operations in the event of a government-wide disruption of government services. Therefore, the FEC's approach to the COOP centers on an event that would affect FEC agency operations only, and does not address events affecting the government as a whole. An

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example of this would be if the FEC's building alone became unavailable for use due to a building malfunction. This approach greatly reduces the scope of the COOP to FEC-specific mission functions. To further reduce the risk of FEC systems loss due to a building malfunction, the agency has recently completed the data center consolidation project to close down its internally operated data center and move it off-site to a certified contractor data center. Therefore, the FEC's COOP has been tailored to suffice in support of the agency's mission and responsibility to the government as a whole, as well as within the availability of resources (budget and personnel) as approved through the budget process.

Management's responses to each individual IT finding are contained within this report, with an explanation as to why the FEC may not agree with the finding. It is also noted that such an extensive IT concentrated audit is perhaps not appropriate under the guise of a Financial Statement Audit, and may dilute the objective of the audit.

BALANCE SHEET

As of September 30, 2012 and 2011 (in dollars)

Assets (Note 2)	2012	2011
Intragovernmental:		
Fund balance with Treasury (Note 3)	\$ 13,472,418	\$ 14,625,074
Total Intragovernmental	<u>13,472,418</u>	<u>14,625,074</u>
Accounts receivable, net (Note 4)	51,443	211,054
General property and equipment, net (Note 5)	2,561,299	4,486,140
Total Assets	<u><u>\$ 16,085,160</u></u>	<u><u>\$ 19,322,268</u></u>
Liabilities (Note 6)		
Intragovernmental:		
Accounts payable	\$ 30,000	\$ 81,899
Employer contributions and payroll taxes payable	541,608	481,949
Deferred rent	435,299	522,359
Custodial liability (Note 11)	51,443	211,054
Other	1,633	5,923
Total intragovernmental	<u>1,059,983</u>	<u>1,303,184</u>
With the public:		
Accounts payable	1,464,099	2,756,162
Accrued payroll and benefits	2,138,346	2,147,344
Unfunded leave	2,665,165	2,560,109
Other	452	1,600
Total liabilities	<u><u>7,328,045</u></u>	<u><u>8,768,399</u></u>
Commitments and contingencies (Note 7)		
Net Position		
Unexpended appropriations	9,296,865	9,154,459
Cumulative results of operations	(539,750)	1,399,410
Total net position	<u><u>8,757,115</u></u>	<u><u>10,553,869</u></u>
Total liabilities and net position	<u><u>\$ 16,085,160</u></u>	<u><u>\$ 19,322,268</u></u>

The accompanying notes are an integral part of these statements.

STATEMENT OF NET COST

For The Years Ended September 30, 2012 and 2011 (in dollars)

Program Costs:	2012	2011
Administering and Enforcing the <i>FECA</i>	<hr/>	<hr/>
Gross costs	\$ 70,268,549	\$ 68,145,263
Net program costs	<hr/> 70,268,549	<hr/> 68,145,263
Net cost of operations (Note 9)	<hr/> \$ 70,268,549 <hr/>	<hr/> \$ 68,145,263 <hr/>

The accompanying notes are an integral part of these statements.

STATEMENT OF CHANGES IN NET POSITION

For The Years Ended September 30, 2012 and 2011 (in dollars)

	<u>2012</u>	<u>2011</u>
Cumulative results of operations		
Beginning balances	\$ 1,399,410	\$ 1,429,082
Corrections of Errors	2,530	-
Beginning balances, as adjusted	\$ 1,401,940	\$ 1,429,082
Budgetary financing sources		
Appropriations used	65,613,294	65,197,402
Other financing resources (non-exchange)		
Imputed financing	2,713,565	2,918,189
Total financing sources	68,326,859	68,115,591
Net cost of operations	(70,268,549)	(68,145,263)
Net change	(1,941,690)	(29,672)
Cumulative results of operations	\$ (539,750)	\$ 1,399,410
Unexpended appropriations		
Beginning balances	\$ 9,154,459	\$ 8,406,931
Corrections of Errors	(2,530)	-
Beginning balances, as adjusted	\$ 9,151,929	\$ 8,406,931
Budgetary financing sources		
Appropriations received	66,367,000	66,500,000
Other adjustments	(608,770)	(555,070)
Appropriations used	(65,613,294)	(65,197,402)
Total budgetary financing sources	144,936	747,528
Total unexpended appropriations	9,296,865	9,154,459
Net position	\$ 8,757,115	\$ 10,553,869

The accompanying notes are an integral part of these statements.

STATEMENT OF BUDGETARY RESOURCES

For The Years Ended September 30, 2012 and 2011 (in dollars)

	<u>2012</u>	<u>2011</u>
Budgetary Resources (Note 10)		
Unobligated balance brought forward, October 1	\$ 3,300,156	\$ 2,356,330
Recoveries of prior year unpaid obligations	328,284	141,022
Other changes in unobligated balance	(608,770)	(422,070)
Unobligated balance from prior year budget authority, net	<u>3,019,670</u>	<u>2,075,282</u>
Appropriations	66,367,000	66,367,000
Spending authority from offsetting collections	9,166	22,240
Total budgetary resources	<u>\$ 69,395,836</u>	<u>\$ 68,464,522</u>
Status of Budgetary Resources		
Obligations incurred	\$ 66,099,564	\$ 65,164,366
Apportioned	335,131	1,295,458
Unapportioned	2,961,141	2,004,698
Total unobligated balance, end of year	<u>3,296,272</u>	<u>3,300,156</u>
Total budgetary resources	<u>\$ 69,395,836</u>	<u>\$ 68,464,522</u>
Change in Obligated Balance		
Unpaid obligations, brought forward, October 1	\$ 11,324,918	\$ 10,565,751
Obligations incurred	66,099,564	65,164,366
Outlays (gross)	(66,920,052)	(64,264,177)
Recoveries of prior year unpaid obligations	(328,284)	(141,022)
Unpaid obligations, end of year (gross)	<u>10,176,146</u>	<u>11,324,918</u>
Obligated balance, end of year (net)	<u>\$ 10,176,146</u>	<u>\$ 11,324,918</u>
Budget Authority and Outlays, Net		
Budget authority, gross	\$ 66,376,166	\$ 66,389,240
Actual offsetting collections	(9,166)	(22,240)
Budget authority, net	<u>66,367,000</u>	<u>66,367,000</u>
Outlays, gross	66,920,052	64,264,177
Actual offsetting collections	(9,166)	(22,240)
Agency outlays, net	<u>\$ 66,910,886</u>	<u>\$ 64,241,937</u>

The accompanying notes are an integral part of these statements.

STATEMENT OF CUSTODIAL ACTIVITY

For The Years Ended September 30, 2012 and 2011 (in dollars)

	<u>2012</u>	<u>2011</u>
Revenue Activity		
Sources of cash collections		
Civil penalties	\$ 961,901	\$ 494,014
Administrative fines	113,406	363,849
Miscellaneous receipts	80,047	103,883
Total cash collections	<u>1,155,354</u>	<u>961,746</u>
Accrual adjustments	(159,611)	195,572
Total custodial revenue (Note 11)	<u><u>\$ 995,743</u></u>	<u><u>\$ 1,157,318</u></u>
Disposition of Collections		
Transferred to Treasury	\$ 1,155,354	\$ 961,746
Amount yet to be transferred	(159,611)	195,572
Total disposition of collections	<u>\$ 995,743</u>	<u>\$ 1,157,318</u>
Net custodial activity	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>

The accompanying notes are an integral part of these statements.

Notes to the Financial Statements

Note 1 – Summary of Significant Accounting Policies

Reporting Entity

The Federal Election Commission (FEC or Commission) was created in 1975 as an independent regulatory agency with exclusive responsibility for administering, enforcing, defending and interpreting the *Federal Election Campaign Act of 1971* (FECA), 2 U.S.C. 431 et seq., as amended (“the Act”). The Commission is also responsible for administering the public funding programs (26 U.S.C. §§ 9001- 9039) for Presidential campaigns and conventions, which include certification and audits of all participating candidates and committees, and enforcement of public funding legislation.

The financial activity presented relates to the execution of the FEC Congressionally approved budget. Consistent with Federal Accounting Standards Advisory Board’s (FASAB) *Statement of Federal Financial Accounting Concept No. 2, “Entity and Display,”* the Presidential Election Campaign Fund is not a reporting entity of the FEC. Financial activity of the fund is budgeted, apportioned, recorded, reported and paid by the U.S. Department of Treasury (Treasury), and therefore, the accounts of the Presidential Election Campaign Fund are not included in the FEC’s financial statements.

Basis of Accounting and Presentation

As required by the *Accountability of Tax Dollars Act of 2002*, the accompanying financial statements present the financial position, net cost of operations, changes in net position, budgetary resources and custodial activity of the FEC. While these financial statements have been prepared from the books and records of the FEC in accordance with U.S. generally accepted accounting principles (GAAP) for the Federal Government and in accordance with the form and content for entity financial statements specified by the Office of Management and Budget (OMB) in Circular A-136, as revised, *Financial Reporting Requirements*, as well as the accounting policies of the FEC, the statements may differ from other financial reports submitted pursuant to OMB directives for the purpose of monitoring and controlling the use of the FEC’s budgetary resources.

These financial statements reflect both accrual and budgetary accounting transactions. Under the accrual method of accounting, revenues are recognized when earned and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. Budgetary accounting is designed to recognize the obligation of funds according to legal requirements. Budgetary accounting is essential for compliance with legal constraints and controls over the use of federal funds.

Throughout these financial statements, assets, liabilities, revenues and costs have been classified according to the type of entity with which the transactions are associated. Intragovernmental assets and liabilities are those from or to other federal entities. Intragovernmental earned revenues are collections or accruals of revenue from other federal entities and intragovernmental costs are payments or accruals to other federal entities. These statements should be read with the understanding that they are for a component of the Federal Government, a sovereign entity.

Assets

Assets that an entity is authorized to use in its operations are termed entity assets, while assets that are held by an entity and are not available for the entity’s use are termed non-entity assets. Most of the

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FEC's assets are entity assets and are available to carry out the mission of the FEC, as appropriated by Congress. The FEC also has non-entity assets, which primarily consist of receivables from fines and penalties. These custodial collections are not available to the FEC to use in its operations and must be transferred to Treasury.

Fund Balance with Treasury

The FEC does not maintain cash in commercial bank accounts. Treasury processes cash receipts and disbursements. Fund Balance with Treasury consists of appropriated funds and custodial collections. With the exception of the custodial collections, these funds are available to pay current liabilities and finance authorized purchase commitments. Custodial collections, which are not available to finance FEC activities, are classified as non-entity assets.

Accounts Receivable

The FEC's accounts receivable represent amounts due from the public for fines and penalties assessed by the FEC and referred to Treasury for collection. The FEC establishes an allowance for the loss on accounts receivable from the public that are deemed uncollectible accounts, which is included in Accounts Receivable, net on the balance sheet. The allowance is a percentage of the overall receivable balance based on the collection rate of past balances.

General Property and Equipment

General Property and Equipment (P&E) is reported at acquisition cost. General P&E consists of items that are used by the FEC to support its mission. Depreciation or amortization on these assets is calculated using the straight-line method with no salvage value. Depreciation or amortization begins the day the asset is placed in service. Maintenance, repairs and minor renovations are expensed as incurred. Expenditures that materially increase the value, capacity or useful life of existing assets are capitalized. Refer to Note 5 *General Property and Equipment, Net* for additional details.

Liabilities

Liabilities represent amounts that are likely to be paid by the FEC as the result of transactions or events that have already occurred; however, no liabilities are paid by the FEC without an appropriation. Intragovernmental liabilities arise from transactions with other federal entities. Liabilities classified as not covered by budgetary resources are liabilities for which appropriations have not been enacted (e.g., annual leave benefits and actuarial liability under the *Federal Employees Compensation Act*), and liabilities resulting from the agency's custodial activities. The FEC has an intragovernmental liability to Treasury for fines, penalties and miscellaneous receipts due from the public but not yet transferred. These funds may not be used to fund FEC operations.

Accounts Payable

Accounts payable consists of liabilities to other entities or persons for amounts owed for goods, services and other expenses received but not yet paid at the end of the fiscal year. Accounts payable also consists of disbursements in transit recorded by the FEC but not paid by Treasury.

Accrued Payroll and Employer Contribution

Accrued payroll and benefits represent salaries, wages and benefits earned by employees, but not disbursed as of the statement date. Accrued payroll is payable to employees and therefore not classified as intragovernmental. Employer contributions and payroll taxes payable are classified as intragovernmental. Thrift Savings Plan (TSP) contributions are classified as with the public.

Annual, Sick and Other Leave

Annual leave is recorded as a liability when it is earned; the liability is reduced as leave is taken. Each quarter, the balance in the accrued leave account is adjusted to reflect the current leave balances and pay rates. Accrued annual leave is paid from future funding sources and accordingly is reflected as a liability not covered by budgetary resources. Sick leave and other types of non-vested leave are expensed as taken.

Federal Employee Benefits

A liability is recorded for estimated and actual future payments to be made for workers' compensation pursuant to the *Federal Employees Compensation Act*. The liability consists of the net present value of estimated future payments calculated by the Department of Labor (DOL) and the actual unreimbursed cost paid by DOL for compensation paid to recipients under the *Federal Employee's Compensation Act*. The future workers' compensation estimate was generated by DOL from an application of actuarial procedures developed to estimate the liability for the *Federal Employee's Compensation Act*, which includes the expected liability for death, disability, medical and miscellaneous costs for approved compensation cases. The liability is calculated using historical benefit payment patterns related to a specific incurred period to predict the ultimate payments related to that period. These projected annual benefits payments were discounted to present value.

Employee Retirement Plans

FEC employees participate in either the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS), which became effective on January 1, 1987. Most FEC employees hired after December 31, 1983, are automatically covered by FERS and Social Security. For employees covered by CSRS, the FEC withheld 7.0 percent of base pay earnings and provided a matching contribution equal to the sum of the withholding.

For each fiscal year, the Office of Personnel Management (OPM) calculates the Federal Government service cost for covered employees, which is an estimate of the amount of funds that, if accumulated annually and invested over an employee's career, would be enough to pay that employee's future benefits. Since the Federal Government's estimated service cost exceeds contributions made by employer agencies and covered employees, this plan is not fully funded by the FEC and its employees. The FEC recognized approximately \$2,714,000 and \$2,918,000, as of September 30, 2012, and 2011 respectively, as an imputed cost and related imputed financing source for the difference between the estimated service cost and the contributions made by the FEC and its employees.

FERS contributions made by employer agencies and covered employees are comparable to the Federal Government's estimated service costs. For FERS covered employees, the FEC made contributions of 11.9 percent basic pay for FY 2012 and 11.7 percent for FY 2011. Employees participating in FERS are covered under the *Federal Insurance Contribution Act (FICA)* for which the FEC contributed 6.2% to the Social Security Administration in FY 2012 and FY 2011. Effective in FY 2011 FERS and CSRS - Offset employees were granted a 2% decrease in Social Security for tax year 2011 and 2012 under the *Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010*; the *Temporary Payroll Tax Cut Continuation Act of 2011*; and H.R. 3630, the *Middle Class Tax Relief and Job Creation Act of 2012*. During FY 2012 and FY 2011 employees contributed 4.2% to Social Security.

Thrift Savings Plan (TSP)

The Thrift Savings Plan (TSP) is a retirement savings and investment plan for employees covered by either CSRS or FERS. The TSP is administered by the Federal Retirement Thrift Investment Board on be-

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half of federal agencies. For employees belonging to FERS, the FEC automatically contributes 1 percent of base pay to their account and matches contributions up to an additional 4 percent. For employees belonging to CSRS, there is no governmental matching contribution.

The FEC does not report on its financial statements CSRS and FERS assets, accumulated plan benefits or unfunded liabilities, if any, which may be applicable to FEC employees. Reporting such amounts is the responsibility of the Office of Personnel Management. The portion of the current and estimated future outlays for CSRS and FERS not paid by the FEC is in accordance with *Statement of Federal Financial Accounting Standards (SFFAS) No. 5, Accounting for Liabilities of the Federal Government*, and is included in the FEC's financial statements as an imputed financing source.

Commitments and Contingencies

A contingency is an existing condition, situation or set of circumstances involving uncertainty as to possible gain or loss. The uncertainty will ultimately be resolved when one or more future events occur or fail to occur. SFFAS No. 5 as amended by SFFAS No. 12, contains the criteria for recognition and disclosure of contingent liabilities. A contingency is recognized when a past event or exchange transaction has occurred, a future outflow or other sacrifice of resources is probable and the future outflow or sacrifice of resources is measurable. A contingency is disclosed where any of the conditions for liability recognition are not met and the chance of the future confirming event or events occurring is more than remote but less than probable.

According to OMB Circular A-136, as revised, in addition to the contingent liabilities required by SFFAS No. 5, the following commitments should be disclosed: 1) an estimate of obligations related to cancelled appropriations for which the reporting entity has a contractual commitment for payment; and 2) amounts for contractual arrangements which may require future financial obligations. The FEC does not have commitments related to cancelled appropriations or amounts for contractual arrangements that would require future financial obligations.

Revenues and Other Financing Sources

Annual Appropriation

The FEC received all of its funding through an annual appropriation as provided by Congress.

Imputed Financing Sources

In accordance with OMB Circular A-136, as revised, all expenses should be reported by agencies whether or not these expenses would be paid by the agency that incurs the expense. The amounts for certain expenses of the FEC, which will be paid by other federal agencies, are recorded in the Statement of Net Cost (SNC). A corresponding amount is recognized in the "Statement of Changes in Net Position" as an "Imputed Financing Source." These imputed financing sources primarily represent unfunded pension costs of FEC employees, as described above.

Statement of Net Cost

Net cost of operations is the total of the FEC's expenditures. The presentation of the statement is based on the FEC's strategic plan, which presents one program that is based on the FEC's mission and strategic goal. The program that reflects this strategic goal is to administer and enforce the *Federal Election Campaign Act* efficiently and effectively.

Net Position

Net position is the residual difference between asset and liabilities and consists of unexpended appropriations and cumulative results of operations. Unexpended appropriations include the portion of the FEC's appropriations represented by undelivered orders and unobligated balances. Unobligated balances associated with appropriations that expire at the end of the fiscal year remain available for obligation adjustments, but not for new obligations, until that account is cancelled, five years after the appropriations expire. Cumulative results of operations represent the excess of financing sources over expenses since inception.

Statement of Custodial Activity

The Statement of Custodial Activity summarizes collections transferred or transferable to Treasury for miscellaneous receipts, fines and penalties assessed by the FEC. These amounts are not available for FEC operations, and accordingly, are reported as custodial revenue.

Use of Estimates

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

Note 2 - Non-Entity Assets

Non-entity assets, which primarily represent amounts due to the FEC for fines and penalties on those that violated the requirements of the *Federal Election Campaign Act*, consisted of the following as of September 30, 2012 and September 30, 2011:

	2012	2011
With the Public		
Accounts Receivable - Custodial	\$ 51,443	\$ 211,054
Total non-entity assets	<u>51,443</u>	<u>211,054</u>
Total entity assets	<u>16,033,717</u>	<u>19,111,214</u>
Total Assets	<u><u>\$ 16,085,160</u></u>	<u><u>\$ 19,322,268</u></u>

Note 3 - Fund Balance with Treasury

Fund Balance with Treasury consisted of the following as of September 30, 2012 and September 30, 2011:

	<u>2012</u>	<u>2011</u>
Fund Balances		
Appropriated Funds	\$ 13,472,418	\$ 14,625,074
Total	<u>\$ 13,472,418</u>	<u>\$ 14,625,074</u>
	<u>2012</u>	<u>2011</u>
Status of Fund Balance with Treasury		
Unobligated Balance		
Available	\$ 335,131	\$ 1,295,458
Unavailable	2,961,141	2,004,698
Obligated Balance not yet Disbursed	10,176,146	11,324,918
Total	<u>\$ 13,472,418</u>	<u>\$ 14,625,074</u>

Available unobligated balances represent amounts that are apportioned for obligation in the current fiscal year. Unavailable unobligated balances represent amounts that are not apportioned for obligation during the current fiscal year and expired appropriations that are no longer available to incur new obligations. Obligated balances not yet disbursed include unpaid delivered and undelivered orders.

Note 4 – Accounts Receivables, Net

All accounts receivable are with the public and consisted of the following as of September 30, 2012 and September 30, 2011:

2012			
	Gross Accounts Receivable	Allowance	Net Accounts Receivable
With the Public			
Fines and Penalties	\$ 153,020	\$ 101,577	\$ 51,443
Total Non-Entity	<u>\$ 153,020</u>	<u>\$ 101,577</u>	<u>\$ 51,443</u>
2011			
	Gross Accounts Receivable	Allowance	Net Accounts Receivable
With the Public			
Fines and Penalties	\$ 295,655	\$ 84,601	\$ 211,054
Total Non-Entity	<u>\$ 295,655</u>	<u>\$ 84,601</u>	<u>\$ 211,054</u>

Non-Entity receivables consist of civil penalties and administrative fines assessed by the FEC through its enforcement processes or conciliation agreements reached with parties. The FEC has three offices that administer the penalties: the Office of General Counsel (OGC); the Office of Administrative Review (OAR); and the Office of Alternative Dispute Resolution (ADR). Each office has a distinct role in the enforcement and collection process. The allowance is based on the historical rate of collection and an overall assessment of the debtor's willingness and ability to pay. Delinquent debts are referred to Treasury in accordance with the *Debt Collection Improvement Act of 1996*. The terms of the agreement between the FEC and the parties establish the conditions for collection.

Note 5 – General Property and Equipment, Net

General Property and Equipment (P&E) is reported at acquisition cost. The capitalization threshold is established at \$25,000 and a useful life of two or more years. For bulk purchases, items are capitalized when the individual useful lives are at least two years and have an aggregate value of \$250,000 or more. Acquisitions of P&E that do not meet the capitalization criteria are recorded as operating expenses.

General P&E consists of items that are used by the FEC to support its mission. Depreciation or amortization on these assets is calculated using the straight-line method with no salvage value. Depreciation or amortization begins the day the asset is placed in service. Maintenance, repairs and minor renovations are expensed as incurred. Expenditures that materially increase values, change capacities or extend useful lives are capitalized.

Effective FY 2009, the estimated useful life of assets such as office furniture, office equipment, telecommunications equipment and audio/visual equipment is five years and the estimated useful life of information technology equipment is three years.

The office building in which the FEC operates is leased through the General Services Administration (GSA) under an occupancy agreement, which manages the lease agreement between the Federal Government and the commercial leasing entity. The FEC is billed by GSA for the leased space based upon estimated lease payments made by GSA plus an administrative fee. The cost of the office building is not capitalized. The costs of any leasehold improvements, which are managed through GSA, are financed with FEC appropriated funds. Construction costs of \$25,000 or more are accumulated as construction in progress until completion and then are transferred and capitalized as a leasehold improvement. Leasehold improvements are amortized over the lesser of five years or the remaining life of the lease term.

The internal use software development acquisition costs capitalization threshold changed as a result of a new policy that was implemented in FY 2011. Internal use software development acquisition costs of \$250,000 are capitalized as software in development until the development stage is completed and the software is tested and accepted. At acceptance, costs of software in development are reclassified as internal use software costs and amortized using the straight-line method over an estimated useful life of three years. Purchased commercial software that does not meet the capitalization criteria is expensed. In addition, enhancements which do not add significant new capability or functionality are also expensed.

The general components of capitalized property and equipment, net of accumulated depreciation or amortization, consisted of the following as of September 30, 2012 and September 30, 2011, respectively:

2012

Asset Class	Service Life (years)	Acquisition Value	Accumulated Depreciation/ Amortization	Net Book Value
Software	3	\$ 6,774,201	\$ 5,251,737	\$ 1,522,464
Computers and peripherals	3	3,290,007	2,815,631	474,376
Furniture	5	852,754	852,754	-
Software-in-Development	n/a	564,459	-	564,459
Total		<u>\$ 11,481,421</u>	<u>\$ 8,920,122</u>	<u>\$ 2,561,299</u>

2011

Asset Class	Service Life (years)	Acquisition Value	Accumulated Depreciation/ Amortization	Net Book Value
Software	3	\$ 12,819,125	\$ 11,332,522	\$ 1,486,603
Computers and peripherals	3	3,747,630	2,748,888	998,742
Furniture	5	852,754	841,440	11,314
Software-in-Development	n/a	1,989,481	-	1,989,481
Total		<u>\$ 19,408,990</u>	<u>\$ 14,922,850</u>	<u>\$ 4,486,140</u>

Note 6 – Liabilities Not Covered by Budgetary Resources

Liabilities Not Covered by Budgetary Resources consisted of the following as of September 30, 2012 and 2011:

Liabilities Not Covered by Budgetary Resources	2012	2011
Intragovernmental		
Custodial Fines and Civil Penalties	\$ 51,443	\$ 211,054
Deferred Rent	435,299	522,359
Unfunded FECA Liability	133	133
Total Intragovernmental	<u>\$ 486,875</u>	<u>\$ 733,546</u>
With the Public		
Unfunded Annual Leave	\$ 2,665,165	\$ 2,560,109
Contingent Liability	-	-
Actuarial FECA Liability	452	1,600
Total Liabilities Not Covered by Budgetary Resources	<u>\$ 3,152,492</u>	<u>\$ 3,295,255</u>
Total Liabilities Covered by Budgetary Resources	<u>4,175,553</u>	<u>5,473,144</u>
Total Liabilities	<u><u>\$ 7,328,045</u></u>	<u><u>\$ 8,768,399</u></u>

The FEC accrued a liability related to the *Federal Employee's Compensation Act* as of September 30, 2012 and September 30, 2011.

Beginning FY 2008, the FEC entered into a new lease agreement for its office building that provided a rent abatement of \$870,598, which covers the equivalent of two months of rent. Consistent with generally accepted accounting principles, the FEC has recorded rent abatement as deferred rent, which is amortized over the life of the ten-year lease.

Note 7 – Commitments and Contingencies

As of September 30, 2012 and September 30, 2011, in the opinion of FEC management and legal counsel, the FEC was not a party to any legal actions which were likely to result in a material liability. Accordingly, no provision for loss is included in the financial statements.

Note 8 – Leases

The FEC did not have any capital leases as of September 30, 2012 and September 30, 2011. The FEC has a commitment under an operating lease for its office space. Future payments due under the lease through September 30, 2017 are as follows:

Future Operating Lease Payments 2012

<u>Fiscal Year</u>	<u>Lease Payment</u>
2013	\$ 5,857,305
2014	5,922,515
2015	5,989,682
2016	6,058,864
2017	6,130,122
Total	\$ 29,958,488

Note 9 – Statement of Net Cost

The FEC's costs are consolidated into one program, "Administering and Enforcing the FECA," and consisted of the following as of September 30, 2012 and September 30, 2011, respectively:

	<u>2012</u>	<u>2011</u>
Intragovernmental:		
Intragovernmental gross costs	\$ 18,449,642	\$ 18,390,897
Intragovernmental net costs	<u>18,449,642</u>	<u>18,390,897</u>
Public:		
Gross costs with the public	51,818,907	49,754,366
Net costs with the public	<u>51,818,907</u>	<u>49,754,366</u>
Net Cost of Operations	<u>\$ 70,268,549</u>	<u>\$ 68,145,263</u>

Costs incurred for goods and services provided by other federal entities are reported in the full costs of the FEC's program and are identified as "intragovernmental." All other costs are identified as "with the public."

Note 10 – Statement of Budgetary Resources

The Statement of Budgetary Resources (SBR) compares budgetary resources with the status of those resources. For the year ended September 30, 2012, budgetary resources were \$69,395,836 and net outlays were \$66,910,886. For the year ended September 30, 2011, budgetary resources were \$68,464,522 and net outlays were \$64,241,937.

Apportionment Categories of Obligations Incurred

The FEC receives apportionments of its resources from OMB. Apportionments are for resources that can be obligated without restriction, other than to be in compliance with legislation for which the resources were made available.

For the years ended September 30, 2012 and September 30, 2011, direct obligations incurred amounted to \$66,099,564 and \$65,164,366, respectively.

Comparison to the Budget of the United States Government

SFFAS No. 7, *Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting*, requires an explanation of material differences between budgetary resources available, the status of those resources and outlays as presented in the Statement of Budgetary Resources to the related actual balances published in the *Budget of the United States Government* (Budget). The Budget that will include FY 2012 actual budgetary execution information is scheduled for publication in February 2013, which will be available through OMB's website at <http://www.whitehouse.gov/omb>. Accordingly, information required for such disclosure is not available at the time of publication of these financial statements.

Balances reported in the FY 2011 SBR and the related President's Budget reflected the following:

FY 2011	Budgetary Resources	Obligations Incurred	Distributed Offsetting Receipts	Net Outlays
Statement of Budgetary Resources	\$ 68,464,522	\$ 65,164,366	-	\$ 64,241,937
<i>Budget of the U.S. Government</i>	66,000,000	65,000,000	-	64,000,000
Difference	<u>\$ 2,464,522</u>	<u>\$ 164,366</u>	<u>\$ -</u>	<u>\$ 241,937</u>

The difference between the Statement of Budgetary Resources and the *Budget of the United States Government* for budgetary resources is primarily due to expired unobligated balances. The differences for obligations incurred and net outlays are due to rounding.

Note 11 – Custodial Revenues and Liability

The FEC uses the accrual basis of accounting for the collections of fines, penalties and miscellaneous receipts. The FEC's ability to collect fines and penalties is based on the responsible parties' willingness and ability to pay:

Custodial Revenue	2012	2011
Fines, Penalties, and Other Miscellaneous Revenue	\$ 995,743	\$ 1,157,318
Custodial Liability		
Receivable for Fines and Penalties	\$ 153,020	\$ 295,655
Less: Allowance for Doubtful Accounts	(101,577)	(84,601)
Total Custodial Liability	\$ 51,443	\$ 211,054

The Custodial Liability account represents the amount of custodial revenue pending transfer to Treasury. Accrual adjustments reflected on the Statement of Custodial Activity represent the difference between the FEC's opening and closing accounts receivable balances. Accounts receivable are the funds owed to the FEC (as a custodian) and ultimately to Treasury. The accrual adjustment for civil penalties is composed of a net decrease of approximately \$163,000 for FY 2012 and a net increase of approximately \$174,000 for FY 2011, respectively. The accrual adjustment for administrative fines is composed of a net increase of approximately \$4,000 in FY 2012 and a net increase of approximately \$21,000 in FY 2011, respectively.

Note 12 – Undelivered Orders at the End of the Period

Undelivered orders as of September 30, 2012 and September 30, 2011 totaled \$6,000,593 and \$5,851,773, respectively.

Note 13 – Reconciliation of Net Cost of Operations to Budget

The objective of this information is to provide an explanation of the differences between budgetary and financial (proprietary) accounting. This is accomplished by means of a reconciliation of budgetary obligations and non-budgetary resources available to the reporting entity with its net cost of operations.

	<u>2012</u>	<u>2011</u>
Resources used to finance activities		
Budgetary resources obligated		
Obligations incurred	\$ 66,099,564	\$ 65,164,366
Less: Recoveries and offsetting collections	(337,450)	(163,262)
Net obligations	<u>65,762,114</u>	<u>65,001,104</u>
Other resources		
Imputed financing from costs absorbed by others	2,713,565	2,918,189
Total resources used to finance activities	<u>68,475,679</u>	<u>67,919,293</u>
Resources used to finance items not part of the net cost of operations		
Change in budgetary resources obligated for goods, services, and benefits ordered but not yet provided	148,820	(196,299)
Resources that fund expenses recognized in prior periods	88,207	149,295
Resources that finance the acquisition of assets that do not affect net cost of operations	<u>399,401</u>	<u>2,191,441</u>
Total resources used to finance items not part of the net cost of operations	<u>636,428</u>	<u>2,144,437</u>
Total resources used to finance the net cost of operations	67,839,251	65,774,856
Components of the net cost of operations that will not require or generate resources in the current period		
Components requiring or generating resources in future periods		
Increase in annual leave liability	105,056	43,484
Other	-	132
Total	<u>105,056</u>	<u>43,616</u>
Components not requiring or generating resources		
Depreciation and amortization	2,109,421	2,184,617
Revaluation of assets or liabilities	<u>214,821</u>	<u>142,174</u>
Total	<u>2,324,242</u>	<u>2,326,791</u>
Total components of the net cost of operations that will not require or generate resources in the current period	<u>2,429,298</u>	<u>2,370,407</u>
Net cost of operations	<u>\$ 70,268,549</u>	<u>\$ 68,145,263</u>

SECTION IV
Other Accompanying Information





FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Office of Inspector General

MEMORANDUM

TO: The Commission

FROM: Inspector General

SUBJECT: Inspector General Statement on the Federal Election Commission's Management and Performance Challenges

DATE: October 12, 2012

Each year, the Inspector General is required to provide a summary and assessment of the most serious management and performance challenges facing the Federal Election Commission (FEC). The requirement is contained in the *Reports Consolidation Act of 2000* (Public Law 106-531), an amendment to the *Chief Financial Officers (CFO) Act of 1990*. The attached document responds to the requirement, and provides the annual statement on Commission challenges to be included in the *Federal Election Commission Performance and Accountability Report (PAR) Fiscal Year (FY) 2012*.

The Inspector General has identified three management and performance challenges for inclusion in the FEC's FY 2012 PAR:

Governance Framework
Human Capital Management
Information Technology Security

The Inspector General first identified information technology security as a challenge in 2004, the first year the Inspector General prepared a report of this kind. In 2005, human capital management was added, and in 2008, governance framework was also identified as a challenge for the FEC. The FEC has been successful in filling multiple key leadership positions that were vacant during fiscal years (FYs) 2010 and 2011. Stability and continuity in key leadership positions is a component of an effective governance framework and is critical for an organization to achieve its mission and objectives; however, challenges still remain in this area and are detailed in the accompanying report.

The OIG acknowledges that progress has been made with respect to human capital management. In FY 2012, FEC finalized the Strategic Human Capital Management Plan. The biggest challenge will be ensuring that the appropriate resources and collaboration amongst the appropriate divisional level staff is given to fully implement and execute a comprehensive Human Capital Assessment and Accountability Framework.

Since 2004, the Office of Inspector General (OIG) has devoted additional resources through the OIG's annual financial statement audit to review the FEC's information technology security. While there has been some progress since 2004 in addressing IT security weaknesses, the OIG believes that a more robust approach by the Commission is needed to address the FEC's continued IT security weaknesses.

The Inspector General's annual assessment of management and performance challenges is based on information derived from a combination of several sources, including Office of Inspector General audit and inspection work, Commission reports, and a general knowledge of the Commission's programs and activities. The *Reports Consolidation Act of 2000* permits agency comment on the Inspector General's statements. Agency comments, if applicable, are to be included in the final version of the PAR that is due November 15, 2012.



Lynne A. McFarland
Inspector General

Attachment

Cc: Alec Palmer, Staff Director and Chief Information Officer
Anthony Herman, General Counsel
Judy Berning, Acting Chief Financial Officer
Mitra Nejad, Deputy Staff Director for Management and Administration
Judy S. McLaughlin, Director, Office of Human Resources

SECTION IV - OTHER ACCOMPANYING INFORMATION

FEDERAL ELECTION COMMISSION (FEC) MANAGEMENT and PERFORMANCE CHALLENGES FY 2012		
<u>Governance Framework</u>		
<p>A governance framework consists of the structure and stability of an organization’s senior leadership that are accountable for the organization’s mission and objectives. The absence of a proper governance framework hinders the organization from efficiently and effectively carrying out the mission of the organization. The FEC has been successful in filling multiple key leadership positions that were vacant during fiscal years (FYs) 2010 and 2011. More recently, the FEC has been successful in filling vacancies for the FEC’s Information Security Officer and Procurement Director. Although the FEC has made progress addressing challenges in the agency’s governance framework, the challenges described below continue to be consistent issues at the FEC.</p>		
Challenge	Management Solution*	OIG Assessment/Comment
1. Audit Follow-up		
<ul style="list-style-type: none"> During fiscal year 2012, FEC management continued to be challenged to implement OIG recommendations in a timely manner and to make a concerted effort to ensure audit follow-up is a priority. 	<ul style="list-style-type: none"> The Office of Inspector General (OIG) devoted additional resources in FY 2012 to audit follow-up by initiating more frequent meetings with FEC management and an increased focus to ensure implementation of OIG recommendations remained a priority for FEC management. In addition, the Office of the Staff Director (OSD) assumed an increased role in the audit follow-up process by ensuring the Commission is kept informed on the status of outstanding audit recommendations. The OSD, in conjunction with the OIG, also developed a standard report template for reporting the status of outstanding audit recommendations to the Commission. 	<ul style="list-style-type: none"> The OIG currently has six (6) audits that collectively have 143 recommendations outstanding for more than six (6) months. Some of the outstanding recommendations have been open since 2009. Included in the 143 recommendations are several issues that the FEC has decided not to implement based on legal exemption, rather than considering good business practice for the agency. In addition, completion dates for recommendations are often times not met and must be extended. A more rigorous focus by the Commission is needed to ensure the timely implementation of audit recommendations.
2. Business Plans		
<ul style="list-style-type: none"> As reported in the 2011 Inspector General (IG) challenges, the agency continues to lack detailed business plans for the individual agency offices and divisions as part of the strategic planning process. These business plans should be linked to the agency’s goals and objectives contained in the FEC strategic plan. 	<ul style="list-style-type: none"> In response to the 2011 IG’s challenges, FEC stated, “At the beginning of FY 2011, each division developed and submitted divisional goals.” In October 2012, the OIG followed up with management regarding the status of developing the divisional business plans, and requested copies of the divisional goals as described 	<ul style="list-style-type: none"> The OIG concludes that the development of business plans for FEC divisions continues to be a challenge for the FEC. The plans are a critical component of the agency strategic planning process and help ensure clear performance measures and reporting of adequate performance results.

* The FEC management’s response to the Inspector General’s assessment follows in a separate document.

Challenge	Management Solution*	OIG Assessment/Comment
<p><u>Business Plans Cont'd.</u></p> <ul style="list-style-type: none"> Due to the lack of business plans for the offices and divisions, individual employee performance plans are not aligned with documented goals and objectives of the offices and divisions, which can cause inadequate performance measures and performance results. 	<p>in the FEC's 2011 management response. The OIG determined that the documents provided by FEC do not contain divisional goals, but instead are budget documents that are regularly used to manage the divisional budgets. When OIG specifically followed-up on this, management stated that the FEC monthly management plan and the FEC's 2014 budget justification do contain divisional goals. The OIG determined neither of these documents are suitable business plans and do not constitute divisional goals.</p> <ul style="list-style-type: none"> FEC proposed plan is to link individual performance plans directly to the strategic goals. 	<p>Each office/division should have a separate business plan that details the functions and goals of that particular office, which links to the FEC's strategic plan, and guides the development of individual performance plans.</p> <ul style="list-style-type: none"> Business plans continue to be a missing link between the agency's strategic plan and individual performance plans. Business plans are a critical component of strategic planning and link individual employee performance plans to the agency plan.
<p>3. Commission Directives</p> <ul style="list-style-type: none"> As stated in the IG's FY 2010 & 2011 management challenges, the Commission rescinded several policy directives covering agency programs/issues in 2007. However, updates or replacement guidance for agency staff has not been provided. The Commission currently has several directives that have been rescinded, but have not been replaced with new directives for programs/issues still active. In addition, the Commission has directives that are still in draft, and official directives that have effective dates as early as 1978. 	<ul style="list-style-type: none"> Minimal progress has occurred to update or replace directives, or provide a better communication method to inform staff of policies and procedures. 	<ul style="list-style-type: none"> It is important that the agency maintain up-to-date policies and procedures so that expectations are clear and to illustrate proper business conduct to all staff. The agency should establish a better process to ensure that all Commission directives are updated and communicated to staff in a timely manner.

* The FEC management's response to the Inspector General's assessment follows in a separate document.

SECTION IV - OTHER ACCOMPANYING INFORMATION

FEDERAL ELECTION COMMISSION (FEC) MANAGEMENT and PERFORMANCE CHALLENGES FY 2012		
<u>Human Capital Management</u>		
<p>The Office of Human Resources (OHR) and Labor Relations is vital to ensuring a human capital management framework is developed and implemented at the Commission, and that the framework supports the agency’s overall goals and objectives. In FY 2012, the FEC has made progress with respect to human capital management that includes a finale <i>Strategic Human Capital Management Plan (HCMP)</i>. In addition, the FEC is in the process of completing competency gap analysis for all mission critical positions, and creating training and succession action plans for the respective mission critical positions. Standard performance management plans, which will be aligned with FEC strategic goals, are currently being drafted for senior leaders and managers. These performance plans will include standard performance measures based on Office of Personnel Management (OPM) guidelines. Based on OHR’s action plan, it will take several more years to fully actualize a comprehensive Human Capital Assessment and Accountability Framework (HCAAF). The OIG has identified several of the major challenges that still face OHR as described below.</p>		
Challenge	Management Solution*	OIG Assessment/Comment
<i>1. Human Capital Framework</i>		
<ul style="list-style-type: none"> Human Capital has been a reported challenge since 2005. In FY 2012, Management has finalized the HCMP. However, a performance management system that is aligned with agency strategic goals has not yet been implemented. The FEC’s biggest challenge with successfully executing a comprehensive HCAAF will be to ensure that the FEC devotes the necessary resources (including, tools, personnel, and time) to this program. 	<ul style="list-style-type: none"> Management is in the process of finalizing the FEC strategic plan which will be submitted to the Office of Management and Budget (OMB) by June 2013. Once the strategic plan is reviewed and approved by the appropriate officials, the HCMP will be updated and implemented agency-wide, which is expected to occur during FY 2014. In the interim, standard performance management plans, which will be aligned with strategic goals, are being developed for all senior leaders and managers. The FEC then expects these standard performance plans to be cascaded to staff for the performance year beginning in July 2013. 	<ul style="list-style-type: none"> To determine if the FEC’s HCAAF is fully implemented and working effectively, the entire staff will need to be educated on the new system and managers/supervisors will need to be equipped to properly evaluate employees against desired results. Then, continuous monitoring will need to be performed to ensure any new regulations or necessary changes are reflected in a timely manner. OIG notes that OPM is scheduled to perform a human capital management evaluation of the FEC during the 3rd or 4th quarter of FY 2013 which will focus on the FEC’s performance management system.

* The FEC management’s response to the Inspector General’s assessment follows in a separate document.

Challenge	Management Solution*	OIG Assessment/Comment
<p>2. Customer Service</p> <ul style="list-style-type: none"> The results of FEC OHR's 2011 internal employee survey listed OHR's customer service as one area that needed significant improvement. Despite efforts by OHR to improve customer service, it seems that the timeliness of OHR in responding to FEC staffs' inquiries and requests continues to be a challenge. 	<ul style="list-style-type: none"> On Oct. 31, 2011, OHR implemented "HR on Demand" which is a centralized email system that employees are instructed to use for all HR inquiries. This new process allows OHR management to track, assign, and monitor progress on inquiries. Periodic meetings are held with the Deputy Staff Director for Management and Administration and OHR staff to review the status of open items and how to resolve them. In addition, OHR has restructured the office into two functional groups and assigned two team leads that are responsible for ensuring that each group is operating effectively. While management does agree improvements are still needed, they also believe that progress is being made to improve timeliness and accuracy. 	<ul style="list-style-type: none"> OIG commenced an audit of FEC OHR in July 2012. As part of the audit, we developed and conducted our own survey of OHR customer service. The OIG plans to share the results with OHR. In addition, we plan to utilize the results of the survey to help concentrate audit testing on those HR functions that will have the greatest impact on the lower customer service ratings.
<p>3. Policies and Procedures</p> <ul style="list-style-type: none"> As reported in the 2011 IG management challenges, many policies for human resource management are outdated and have not been revised in a timely manner. Timely updating and communicating of current policies and procedures are essential to ensure compliance, and an effective and efficient workforce. 	<ul style="list-style-type: none"> During FY 2012, HR policies were reviewed by OHR to determine which policies needed to be updated. Policies that do not require Commission approval are in the process of being finalized by OHR and other policies that require Commission approval are being updated and will then be submitted to the Commission. The Director of OHR is considering utilizing Livelink, a computer software application, to house all HR policies for easy access by FEC staff. 	<ul style="list-style-type: none"> OIG will review and assess the status of HR related policies and procedures as part of the OHR audit that is in progress. Although there appears to be some work on the policies based on information received from the OHR by the OIG, the lack of substantive progress through the issuance of updated policies continues to be a challenge for OHR.

* The FEC management's response to the Inspector General's assessment follows in a separate document.

SECTION IV - OTHER ACCOMPANYING INFORMATION

FEDERAL ELECTION COMMISSION (FEC) MANAGEMENT and PERFORMANCE CHALLENGES FY 2012		
<u>Information Technology Security</u>		
<p>The FEC’s information technology (IT) security program has made several improvements since 2004, the first year the OIG devoted additional audit resources to this area. However, steps still need to be taken to ensure that the FEC has a complete and robust security program. The FEC places a significant reliance on IT to fulfill the agency mission. Therefore, an agency–wide security management program should be in place to establish a framework to manage security risks, develop security policies, assign responsibilities and monitor the adequacy of computer security related controls.</p>		
Challenge	Management Solution*	OIG Assessment/Comment
1. Best Practice Standards		
<ul style="list-style-type: none"> FEC has not implemented information technology (IT) security standards issued by the National Institute of Standards and Technology (NIST) due to the FEC’s exemption from the Paperwork Reduction Act (PRA), a law which includes a requirement that federal agencies adhere to NIST IT security standards. Rather than voluntarily adopt the NIST standards, or another set of IT security best practices, as other PRA exempt agencies have done, the FEC has chosen an ad-hoc set of IT security policies and procedures. This approach increases the risk that FEC information is subject to unauthorized access, use, disclosure, and modification. 	<ul style="list-style-type: none"> The Commission disagrees that the agency should 1) formally adopt government-wide IT security standards; 2) require FEC contractors who access sensitive FEC data to follow federal agency IT security requirements; and 3) conduct “fact-based” risk assessments for government-wide IT security best practices that could be applicable to the FEC. 	<ul style="list-style-type: none"> Since 2004, the OIG has reported, and continues to believe that it is in the best interest of the agency to formally adopt government-wide IT security standards to ensure the FEC has an effective information security program. For several years, the OIG’s auditors have identified IT security practices that are not aligned with the minimal best practice standards that are followed by federal agencies government-wide. The agency has failed to adequately define the set of best practices used to secure the FEC’s information technology. The Commission, in consultation with the Chief Information Officer, should formally adopt the IT security requirements applicable to nearly all federal government agencies.

* The FEC management’s response to the Inspector General’s assessment follows in a separate document.

Challenge	Management Solution*	OIG Assessment/Comment
<p><u>Best Practice Standards Cont'd.</u></p> <ul style="list-style-type: none"> Although mandated in the Federal Acquisition Regulation (FAR), the FEC does not require their IT contractors to follow FAR IT security standards due to the FEC's exemption from the government-wide IT security requirements. 	<ul style="list-style-type: none"> FEC management does not plan to change the requirements of the contractors in this area. 	<ul style="list-style-type: none"> The FEC has stated that IT contractors are evaluated against the FEC's established best practice standards; however, the OIG believes this approach is inadequate because the best practice standards used by the FEC consistently do not meet the minimal best practice standards used government-wide, are often times not documented, and risk analyses have not been conducted to justify the agency's deviations from the government-wide IT best practice standards.
<p>2. <i>Disaster Recovery Plan (DRP)/ Continuity Of Operations Plans (COOP)</i></p>		
<ul style="list-style-type: none"> FEC has not completed training or sufficient testing of the FEC's DRP and COOPs, which are critical control processes in the design and finalization of an effective DRP and COOP. 	<ul style="list-style-type: none"> FEC has recently moved all computer servers off-site and completed "tabletop" testing of the DRP and documented testing results. 	<ul style="list-style-type: none"> The OIG believes that the FEC has not devoted sufficient resources to ensure the agency's COOP is finalized, the plan is tested, and responsible officials are trained on the plan. To properly prepare the agency in case of a disaster, "live" testing has to be conducted and documented in order to verify the DRP and COOPs are sufficient to ensure the continuance of business operations. FEC procured contract services to assist in developing the DRP and COOPs, however, the work and resources put into developing these plans will diminish over time if testing, training, and updates are not conducted in a timely manner. Due to the OIG's concern in this area, the OIG has initiated an inspection of the FEC's DRP/COOP implementation.

* The FEC management's response to the Inspector General's assessment follows in a separate document.

SECTION IV - OTHER ACCOMPANYING INFORMATION



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MANAGEMENT'S RESPONSE TO THE MANAGEMENT AND PERFORMANCE CHALLENGES IDENTIFIED BY THE INSPECTOR GENERAL

In a memorandum dated October 12, 2012, the agency's Inspector General (IG) identified three challenges facing management. The Federal Election Commission's response to the IG's assessment is detailed below.

Governance Framework

The FEC has taken significant actions to improve and streamline its process for responding to audit recommendations. In consultation with the IG, Office of General Counsel and Office of the Chief Financial Officer, the Office of the Staff Director has revised Directive 50, Audit Follow-Up, to identify new processes and timeframes for submitting corrective action plans (CAPs). The FEC is following the guidelines of this revised policy while it is pending approval. Under the revised draft Directive 50, CAPs are submitted twice yearly, in May and November. This year, all CAPs were timely submitted to the Commission in May, and Management expects to meet its November deadline as well. Management will consider outstanding recommendations to determine what can be closed during the next period. In areas where Management and the IG do not agree on a finding, Management looks forward to its discussions with the IG to resolve those issues.

Management has also made progress in recent years to update its Directives, where necessary, and to make Directives available to staff on the FEC's intranet site. A number of agency Directives have also been made available on the FEC's website, as determined by the Commission. When a Directive requires revisions to address changes in internal processes, as with Directive 50, Management takes action to revise the policy. In other cases, Management has rescinded Directives with no plans to re-issue the policy as an agency Directive. For example, Directives have been rescinded because the information contained in the Directive has instead been instituted as the policy of the relevant office or division, or because the policy or issue has been included in the Labor Management Agreement. In other cases, such as Directive 33, Smoking in Commission Meetings, Directives have been rescinded because they are not applicable within the government's contemporary operating environment. Directives that remain applicable have not been rescinded or replaced, irrespective of their date of issuance.

Management agrees with the IG concerning the importance of linking individual and office/division plans to the FEC's strategic plan. During FY 2012, the FEC began drafting its strategic plan for 2014-2019, in compliance with the *GPR Modernization Act of 2010*. As discussed in detail below, Management simultaneously began work to create a new performance appraisal system that will tie each senior leader, manager and employee's performance

measurement to the activities and objectives of the new strategic plan. Both the new strategic plan and the new performance appraisal system will take effect in FY 2014. In order to ensure that it successfully fulfills its mission and makes the best use of its resources, the Commission devotes significant attention to the agency's management plan and annual performance plan. Management does not agree that it is a productive use of agency resources to additionally develop separate division or office business plans while these changes in both the FEC's strategic plan and its system for identifying and assessing the accomplishments of its staff are underway.

Human Capital Management

The FEC recognizes the need for consistency in conducting performance evaluations and the importance of making meaningful distinctions in performance management. Accordingly, the FEC has begun a comprehensive evaluation of its performance appraisal system. In FY 2012, the agency formed a design group of senior leaders to create the new performance system, based on OPM's newly approved Senior Executive Service (SES) appraisal system. Under the new system, each FEC employee's performance will be measured based on her work toward meeting the objectives of the FEC's strategic plan, as appropriate to her workgroup and organizational level. The revisions to the FEC's system will proceed in phases, and will track the completion of the new FY 2014 – FY 2019 Strategic Plan. During the first phase, all senior leaders will develop individual performance plans that will identify their own accountability for implementing the Commission's objectives, as articulated in the new strategic plan. Then, in the second and third phases, managers and then employees will align their individual plans to that of their senior leader or manager. The FEC understands that, in order for the new performance appraisal system to be effective, all FEC managers and employees will require training on the new system. The FEC began this process in FY 2012, communicating the strategic activities outlined in the draft strategic plan to all agency staff with the intention of ensuring that every FEC employee understands his or her role in the FEC's mission and how his or her work unit's activities support the agency's overarching plans and objectives.

The FEC has also made progress in improving the quality of services provided by its Office of Human Resources (OHR). For example, OHR has measurably improved the timeliness of responses to staff inquiries by implementing an "HR on Demand" system, which is a centralized email system that allows OHR management to track, assign and monitor progress on inquiries. OHR has made significant progress toward revising its policies and procedures. Management anticipates that it will issue finalized policies to FEC staff by the end of the calendar year. The revised and updated policies will be actively communicated to staff and housed in centralized and easily accessible locations, including the FEC's intranet site and Enterprise Content Management system. OHR looks forward to reviewing the results of the Inspector General's audit of its programs and hearing any recommendations for ways to strengthen the Office in advance of OPM's audit of the FEC's OHR, scheduled for late FY 2013.

Information Technology Security

The agency maintains the highest level of commitment to its information technology security. Although the FEC is exempted from the Paperwork Reduction Act (PRA), which requires federal agencies to adhere to the National Institute of Standards and Technology (NIST) standards for information technology security, it continues to use these standards as guidance. As a small agency, the FEC would be especially burdened by the additional overhead expenses associated with adhering to all NIST standards. Instead, the agency retains the flexibility to adopt NIST guidelines as appropriate, which was the original intent of these standards, and to consider best practices identified from other sources where those standards will best serve the FEC's needs. NIST standards nevertheless form the basis for the FEC's security program. Utilizing this guidance, the FEC has identified 29 best practices and implemented policies based upon them. The FEC is currently evaluating additional best practices to determine whether incorporating them into its security program will support the agency's overall IT security needs. In addition, the agency's 2009 third party, independent Certification and Accreditation project was based upon NIST standards. These policies and the Certification and Accreditation process describe not only the FEC's minimum security controls, but also affirm its decision not to rely upon a single source of guidance for best practices. Instead, the FEC draws upon other sources and tailors those best practices to its unique computing environment.

The FEC has established and implemented its Continuity of Operations Plan (COOP). The COOP for the entire agency, complete with individual division volumes, was completed in November 2010. Agency leadership and division management played a major role in the development of the overall COOP. The FEC conducted testing of the COOP at the individual division level, as well as at the overall agency level, during FY 2012. The FEC's COOP is accessible to all agency personnel via the agency's internal network. The FEC is designated a category IV agency in the Continuity of Government program and, therefore, the COOP employed by the FEC is deemed adequate to restore functionality at the agency level only.

SECTION IV - OTHER ACCOMPANYING INFORMATION

Improper Payments Information Act Reporting Details

The *Improper Payments Information Act (IPIA) of 2002*, as amended by the *Improper Payments Elimination and Recovery Act (IPERA) of 2010*, requires agencies to review all programs and activities they administer and identify those which may be susceptible to significant erroneous payments. In FY 2012, the FEC performed a systematic review of its program and related activities to identify processes which may be susceptible to significant erroneous payments. Significant erroneous payments are defined as annual erroneous payments in the program exceeding both \$10 million and 2.5 percent or \$100 million of total annual program payments. The risk assessment included the consideration of risk factors that are likely to contribute to significant improper payments. The risk assessment was performed for the FEC's only program area which is to administer and enforce the *Federal Election Campaign Act*.

Risk Assessment

In FY 2012 the FEC considered risk factors as outlined in OMB Memorandum M-11-16, *Issuance of Revised Parts I and II to Appendix C of OMB Circular A-123* which may significantly increase the risk of improper payments and determined that none are applicable to FEC's operations. Based on the systematic review performed, the FEC concluded that none of its program activities are susceptible to significant improper payments at or above the threshold levels set by OMB.

Recapture of Improper Payments Reporting

The FEC has determined that the risk of improper payments is low; therefore, implementing a payment recapture audit program is not applicable to the agency.

IPIA (as amended by IPERA) Reporting Details)

Agency Response

Risk Assessment	Reviewed as noted above.
Statistical Sampling	Not Applicable.*
Corrective Actions	Not Applicable.*
Improper Payment Reporting	Not Applicable.*
Recapture of Improper Payments Reporting	Not Applicable.*
Accountability	Not Applicable.*
Agency information systems and other infrastructure	Not Applicable.*
Barriers	Not Applicable.*

*The FEC does not have programs or activities that are susceptible to significant improper payments.

APPENDIX

List of Acronyms



ADR	Alternative Dispute Resolution	FICA	Federal Insurance Contribution Act
AF	Administrative Fine	FISMA	Federal Information Security Management Act
AICPA	American Institute of Certified Public Accountants	FMFIA	Federal Managers' Financial Integrity Act
AO	Advisory Opinion	FOIA	Freedom of Information Act
ATDA	Accountability of Tax Dollars Act	FTE	Full-time Equivalent
CFO	Chief Financial Officer	FY	Fiscal Year
CIO	Chief Information Officer	GAAP	Generally Accepted Accounting Principles
CFR	Code of Federal Regulations	GAO	Government Accountability Office
CSRS	Civil Service Retirement System	GPRA	Government Performance and Results Act
DOL	Department of Labor	GSA	General Services Administration
E&J	Explanation and Justification	IG	Inspector General
FASAB	Federal Accounting Standards Advisory Board	IPIA	Improper Payments Information Act
FBWT	Fund Balance with Treasury	IRS	Internal Revenue Service
FEC	Federal Election Commission	IT	Information Technology
FECA	Federal Election Campaign Act	MD&A	Management's Discussion and Analysis
FECA	Federal Employees Compensation Act	MUR	Matters under Review
FERS	Federal Employees' Retirement System	NFC	U. S. Department of Agriculture National Finance Center

NIST	National Institute of Standards and Technology
NPRM	Notices of Proposed Rulemaking
OCFO	Office of the Chief Financial Officer
OCIO	Office of the Chief Information Officer
OAR	Office of Administrative Review
OGC	Office of General Counsel
OHR	Office of Human Resources
OIG	Office of the Inspector General
OMB	Office of Management and Budget
OPM	Office of Personnel Management
P&E	Property and Equipment
PAC	Political Action Committee
PAR	Performance and Accountability Report
PMA	President's Management Agenda
RAD	Reports and Analysis Division
RFAI	Request for Additional Information
SBR	Statement of Budgetary Resources
SFFAS	Statement of Federal Financial Accounting Standards
SNC	Statement of Net Cost
TSP	Thrift Savings Plan
USC	United States Code