U.S. Equal Employment Opportunity Commission

FY 2012

Performance and Accountability Report

United States Equal Employment Opportunity Commission

FISCAL YEAR 2012
PERFORMANCE AND ACCOUNTABILITY REPORT

OUR VISION

Justice and Equality in the Workplace

OUR MISSION

Stop and Remedy Unlawful Employment Discrimination

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A Message from the Chair

I am pleased to present the U.S. Equal Employment Opportunity Commission's (EEOC) Performance and Accountability Report (PAR) for Fiscal Year (FY) 2012. This report contains the agency's assessment of its FY 2012 program and financial performance. Reflecting the federal government's commitment to vigorous civil rights enforcement, open and responsive government, and good stewardship of tax payer dollars, the EEOC has refocused its efforts in recent years on the efficient and effective enforcement of the nation's equal employment laws in pursuit of its mission to *stop and remedy unlawful employment discrimination.*

Created by the *Civil Rights Act of 1964*, the EEOC enforces federal laws that prohibit employment discrimination on the basis of race, color, national origin, sex, religion, age, disability, and family medical history or genetic information. The EEOC's jurisdiction to enforce employment antidiscrimination laws and promote equal employment opportunity extends to private, state and local government, and federal sector employment.

Beyond administrative and legal enforcement, the EEOC is also charged with collecting data relevant to equal employment and promoting voluntary compliance with equal employment opportunity laws through training, technical assistance, outreach programs and publications concerning relevant civil rights laws. The EEOC conducts thousands of outreach events each year for the public, with a special emphasis on underserved communities, small businesses and workers with limited information about their rights under equal employment laws.

Through this combination of enforcement, education and outreach, the EEOC has become the nation's leading authority on, and enforcer of, federal laws prohibiting employment discrimination. While there is far more work to be done, the EEOC's efforts have significantly advanced equality in the workplace for nearly half a century.

In February 2012, the Commission took a significant step forward by approving a new Strategic Plan for Fiscal Years 2012–2016, which established three objectives:

1. Combating employment discrimination through strategic law enforcement;

2. Preventing employment discrimination through education and outreach; and

3. Delivering excellent and consistent service through a skilled and diverse workforce and effective systems.

As reflected in the following Performance and Accountability Report, although the EEOC is in the early stages of implementing the new Strategic Plan, we have already begun to make meaningful progress toward more strategic and focused use of the resources entrusted to us, with the goal of becoming more effective and efficient in our operations.

Budget increases during FY 2009 and FY 2010 enabled the EEOC to fill mission critical positions, train new and incumbent staff members and invest in technology. As a result, in FY 2011 the EEOC achieved a record total of 112,499 resolutions, and for the first time in nearly a decade, reduced the pending inventory by nine percent. Absent the staff and resources added in FYs 2009 and 2010, the inventory of unresolved charges could have grown dramatically during this period in which charges filed with the EEOC reached historic levels.

In FY 2012, the agency resolved a total of 111,139 private sector charges and the total number of unresolved charges was again reduced by nearly 10 percent. Notably, these results were achieved despite receiving nearly 100,000 private sector charges for three years in a row.

In FY 2012 the EEOC's federal sector programs also achieved similar success. The federal sector hearings program resolved a total of 7,538 complaints securing more than $61.9 million in relief for federal employees and applicants who requested hearings. Additionally, the agency resolved 4,265 appeals of decisions in the federal sector, including 52.9 percent of them within 180 days of their receipt. As a result of these efforts, the EEOC reduced the average processing time for all resolutions from 378 days in FY 2011, to 361 days in FY 2012—a 4.5 percent decrease.

Legal staff resolved 254 merits lawsuits for a total monetary recovery of $44.2 million and substantial equitable relief. In FY 2012, the Commission filed 10 systemic lawsuits. Systemic suits comprised 8 percent of all merits filings, and by the end of the year represented 20 percent of all active merit suits—the largest proportion since tracking started in FY 2006.

The agency's outreach programs reached 318,838 persons in FY 2012 through participation in 3,992 no-cost educational, training, and outreach events. Additionally, in FY 2012, the Training Institute trained 23,119 individuals at 473 events, including 417 field Customer Specific Training events with 16,932 attendees.

While we continue our efforts to advance our mission, improve agency performance and provide better service to the people who contact us for assistance, we are also mindful of our responsibility to be good stewards of taxpayer dollars. I am pleased to report that, for the ninth consecutive year, the EEOC has received an unqualified opinion from independent auditors. The agency also effectively managed its internal controls environment during FY 2012. As a result, I have concluded that the agency's management and financial controls environment under the Federal Managers' Financial Integrity Act (FMFIA) was sound in FY 2012. Moreover, while the agency identified three financial non-conformances in FY 2012, based on a review of agency-wide materials and the assurances of the agency's senior managers, corrective action plans have been implemented to resolve these findings in FY 2013, and I am reasonably assured that the financial information and data measuring EEOC's performance contained in this report are complete and accurate.

As evidenced in the following report, the EEOC has been, and will remain committed to enhancing our enforcement and outreach efforts, identifying areas for improvement and taking the steps necessary to ensure that we serve the public with excellence and work consistently toward fulfilling our mission of stopping and remedying unlawful employment discrimination. I am privileged to work with my colleagues on the Commission, the General Counsel, and more than 2,300 EEOC staff members across the country to serve the public and advance the mission of the EEOC. We have not yet completed our mission, but I am confident that working in conjunction with enforcement, outreach and education partners within and outside of government, the Administration, members of Congress, agency stakeholders and other concerned members of the public, we will make steady progress toward that end. To ensure we have the resources to achieve this, I will continue to make the case for the additional funding that supported our progress in recent years, and encourage the creativity, engagement and innovation necessary to improve agency operations and build upon past successes. I look forward to working with everyone who shares the EEOC's commitment to realizing the vision of justice and equality in the nation's workplaces.

Jacqueline A. Berrien
Chair
U.S. Equal Employment Opportunity Commission
November 15, 2012

Management's Discussion and Analysis

INTRODUCTION

This *FY 2012 Performance and Accountability Report* (PAR) was prepared in accordance with the Reports Consolidation Act of 2000 and the Office of Management and Budget's (OMB) Circular A-136, Financial Reporting Requirements. It presents the results of the U.S. Equal Employment Opportunity Commission's programs and financial performance, along with its management challenges. This section of the PAR summarizes agency efforts in each of these areas. A more detailed discussion can be found in the following sections of the report:

- **Performance Results:** Highlight the progress made in meeting the agency's performance measures, which are articulated in the new Strategic Plan for FYs 2012 through 2016.
- **The Inspector General's Statements:** Present key management challenges identified by the Inspector General, the agency's progress and plans to address them, and a statement of compliance with the Federal Managers' Financial Integrity Act (FMFIA).
- **The Consolidated Financial Statements:** Demonstrate efforts to be good stewards over the funds the agency receives to carry out its mission. Included in this section is an independent auditor's opinion on the agency's financial statements.

This report also satisfies the Commission's obligation to provide Congress with annual reports of the agency's significant accomplishments achieved during the fiscal year.

AGENCY OVERVIEW

The U.S. Equal Employment Opportunity Commission (EEOC or Commission) is the leading federal law enforcement agency dedicated to eradicating employment discrimination on the basis of race, color, national origin, sex, religion, pregnancy, age, disability, and family medical history or genetic information. The agency began its work nearly 50 years ago and while there have been significant changes in society and the workplace, the public continues to rely on the EEOC to carry out its responsibility to bring justice and equal opportunity to the workplace.

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

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

AGENCY RESULTS UNDER STRATEGIC PLAN PERFORMANCE MEASURES AND NEW STRATEGIC PLAN

The Government Performance and Results Modernization Act, enacted on January 4, 2011, requires Federal agencies to prepare a Strategic Plan every four fiscal years, beginning in 2012. (5 USC 306, as amended). As a result, the EEOC developed a new Strategic Plan for Fiscal Years 2012-2016 ("Strategic Plan" or "Plan"). The new Plan was approved by the Commission on February 22, 2012.

The FY 2012 PAR is based on the agency's new Fiscal Year 2012-2016 Strategic Plan, which is located at: http://www.eeoc.gov/eeoc/plan/strategic_plan_12to16.cfm. The new Plan established a framework for achieving the EEOC's mission to *stop and remedy unlawful employment discrimination*, so that the Nation might soon realize the Commission's vision of *justice and equality in the workplace*.

To accomplish our mission and achieve this vision for the 21st century, the EEOC has committed to pursuing the following objectives and outcome goals:

1. **Strategic Objective I.** Combat employment discrimination through strategic law enforcement, with the outcome goals of: 1) having a broad impact on reducing employment discrimination at the national and local levels; and 2) remedying discriminatory practices and securing meaningful relief for victims of discrimination;

2. **Strategic Objective II.** Prevent employment discrimination through education and outreach, with the outcome goals of: 1) having members of the public understand and know how to exercise their right to employment free of discrimination; and 2) having employers, unions and employment agencies (covered entities) better address and resolve EEO issues, thereby creating more inclusive workplaces; and

3. **Strategic Objective III.** Deliver excellent and consistent service through a skilled and diverse workforce and effective systems, with an outcome goal where all interactions with the public are timely, of high quality, and informative.

The Plan also identified strategies for achieving each outcome goal and identified 14 performance measures for gauging the EEOC's progress as it approaches FY 2016. The Agency's progress in meeting these measures is displayed below and discussed in detail in the Performance Results section of this report.

EEOC FY 2012 Performance

Measures	Targets Met or Exceeded	Targets Partially Met[1]	Targets Not Met	Not Applicable in FY 2012
14	8	2	0	4

1 Targets Partially Met: A rating assigned to target results where (1) at least half of the activities targeted for completion were completed, or (2) we were unable to assess the results because full year data is not yet available.

RELATED PROGRAM RESULTS AND ACTIVITIES HIGHLIGHTS

Serving the Public More Efficiently

In FY 2012, the EEOC produced historic levels in its year-end results. Most notably, the pending inventory of private sector charges was reduced by 7,824 charges over the FY 2011 level, bringing the level to 70,312, which reflects the second consecutive year of significant reduction in inventory since FY 2002. These results were achieved despite having received 99,412 charges. A total of 111,139 charges were resolved in FY 2012.

In FY 2012, the EEOC secured more than $61.9 million in relief for parties who requested hearings in the federal sector. There were a total of 7,728 requests for hearings received in FY 2012. Additionally, the Commission's hearings program resolved a total of 7,538 complaints.

During the last fiscal year, the EEOC received 4,350 appeals of final agency actions in the federal sector, a 16.0 percent decrease from the 5,176 such appeals received in FY 2011. This offsets the 13.8 percent increase that occurred between FY 2010 and FY 2011. FY 2012 was the first full year the EEOC applied a more balanced approach to the resolution of the newest and oldest appeals. The agency resolved 4,265 appeals, including 52.9 percent of them within 180 days of their receipt.

Enforcing the Law More Effectively

The EEOC's private sector administrative enforcement activities secured more than $365.4 million in monetary benefits in FY 2012, the highest level of monetary relief ever obtained by the Commission through the administrative process and $700,000 more than was recovered in FY 2011. Overall, the agency secured both monetary and non-monetary benefits for more than 23,446 people through administrative enforcement activities including mediation, settlements, conciliations, and withdrawals with benefits.

Field legal units of the agency filed 122 merits lawsuits during FY 2012. These included 86 individual suits, 26 multiple-victim suits (with fewer than 20 victims) and 10 systemic suits. Legal staff resolved 254 merits lawsuits for a total monetary recovery of $44.2 million. At the end of FY 2012, the EEOC had 309 cases on its active docket, of which 75 (24 percent) involved multiple aggrieved parties (but fewer than 20) and 62 (20 percent) involved challenges to systemic discrimination.

In FY 2012, EEOC field offices completed work on 240 systemic investigations resulting in 46 settlements or conciliation agreements, recovering $36.2 million. In addition, 94 systemic investigations were resolved with reasonable cause determinations. In FY 2012, 12 new Commissioner charges were filed. Systemic suits comprised 8 percent of all merits filings, and by the end of the year represented 20 percent of all active merit suits—the largest proportion since tracking started in FY 2006.

Leadership in Federal Civil Rights Enforcement

The work of the Commission is made more efficient with interagency coordination and to this end, the EEOC has established active and ongoing relationships with other agencies as well as the White House. Coordinating with partners allows shared resources, information and ideas, resulting in a greater impact on many different communities and issues. In FY 2012, these efforts included the EEOC's participation in the White House Initiative on Asian American and Pacific Islanders (AAPI), the National HIV/AIDS Strategy, the Federal Interagency Reentry Council, President's Interagency Task Force to Monitor and Combat Human Trafficking and Senior Policy Operating Group, and the White House National Equal Pay Enforcement Task Force.

In FY 2012, the Commission published final regulations and guidance on two federal employment discrimination statutes. The EEOC issued its final rule on *Disparate Impact and Reasonable Factors Other Than Age (RFOA) Under the Age*

Discrimination in Employment Act (ADEA) on March 30, 2012. The *Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964* was issued by the Commission on April 25, 2012. The Commission also issued a final rule to improve efficiencies and encourage innovation in the federal sector EEO compliant process, *EEOC Final Rule on Federal Sector Equal Employment Opportunity*, on July 25, 2012.

Extending the EEOC's Reach

The agency's outreach programs reached 318,838 persons in FY 2012 through participation in 3,992 no-cost educational, training, and outreach events. Additionally, in FY 2012, the EEOC Training Institute, which is managed under a separate statutory authority that enables the Commission to offer in-depth and specialized programs on a fee basis, supplementing the free general informational and outreach activities, trained over 23,119 individuals at more than 473 events, including 417 field "Customer Specific Training" events with 16,932 attendees.

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

Improved Labor Management Relations

Pursuant to the President's Executive Order 13522 "Creating Labor-Management Forums to Improve Delivery of Government Services," the EEOC established a National Joint Labor Management Council (JLMC) in addition to Councils in each of its 15 Districts, the Washington Field Office, and Headquarters. The National JLMC established three metrics to measure goal-related activities associated with implementing the Executive Order "Improve Mission and Service Delivery," "Employee Satisfaction and Engagement" and "Improved Labor-Management Relations." In FY 2012, the JLMC reported to the President's National Council of Federal Labor Management Relations that the Agency experienced improvements in each of the metrics.

The Federal Employees' Viewpoint Survey shows that EEOC employees continue to like the kind of work they do, believe their work is important, are willing to give extra effort to get a job done and, are looking for ways to do their jobs better. In fact, employees rate the overall quality of work done in their work unit above 80 percent. Employees also say they are held accountable for achieving results and know how their work relates to agency goals. Supervisors/Team Leaders talk with their employees about their performance and treat them with respect.

FEDERAL MANAGERS' FINANCIAL INTEGRITY ACT

The EEOC's management controls and financial management systems were sound during FY 2012, with the exception of three findings of financial non-conformances. The financial non-conformances were identified in several audit reports prepared by the Office of Inspector General (OIG): OIG Report No. 2011-03-FIN, December 15, 2011, and OIG Report No. 2011-02-FIN, November 14, 2011. The agency has implemented corrective action plans to resolve all uncorrected financial, non-conformances in FY 2013.

Based on the actions taken, and considering the agency's controls environment as a whole, the agency concludes that during FY 2012, its financial and management controls systems were in compliance with the Federal Managers' Financial Integrity Act (FMFIA). The agency has plans in place to resolve the remaining financial non-conformances in FY 2013. The controls systems were effective; agency resources were used consistent with the agency's mission; the resources were used in compliance with laws and regulations; and, there was minimal potential for waste, fraud, and mismanagement of the resources.

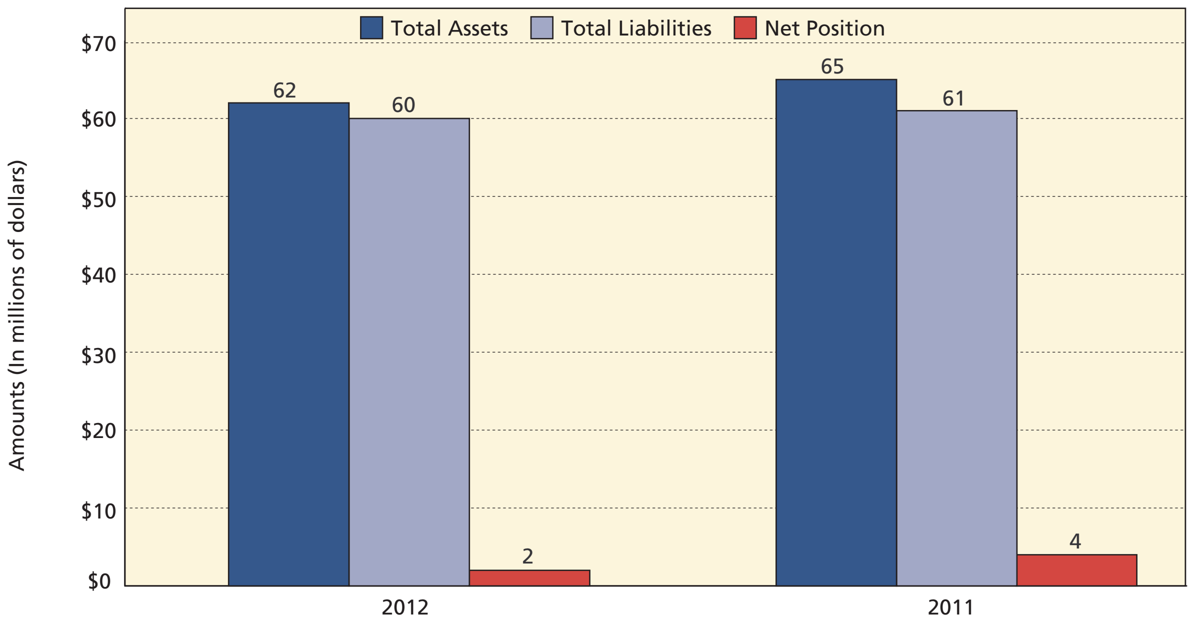
FINANCIAL HIGHLIGHTS

The Office of Management and Budget (OMB) Circular Number A-136 Revised dated August 3, 2012 was used as guidance for the preparation of the accompanying financial statements. EEOC prepares four financial statements: the Consolidated Balance Sheets, Consolidated Statements of Net Cost, Consolidated Statement of Changes in Net Position, and the Combined Statements of Budgetary Resources.

Consolidated Balance Sheets

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

Equal Employment Opportunity Commission Balance Sheet



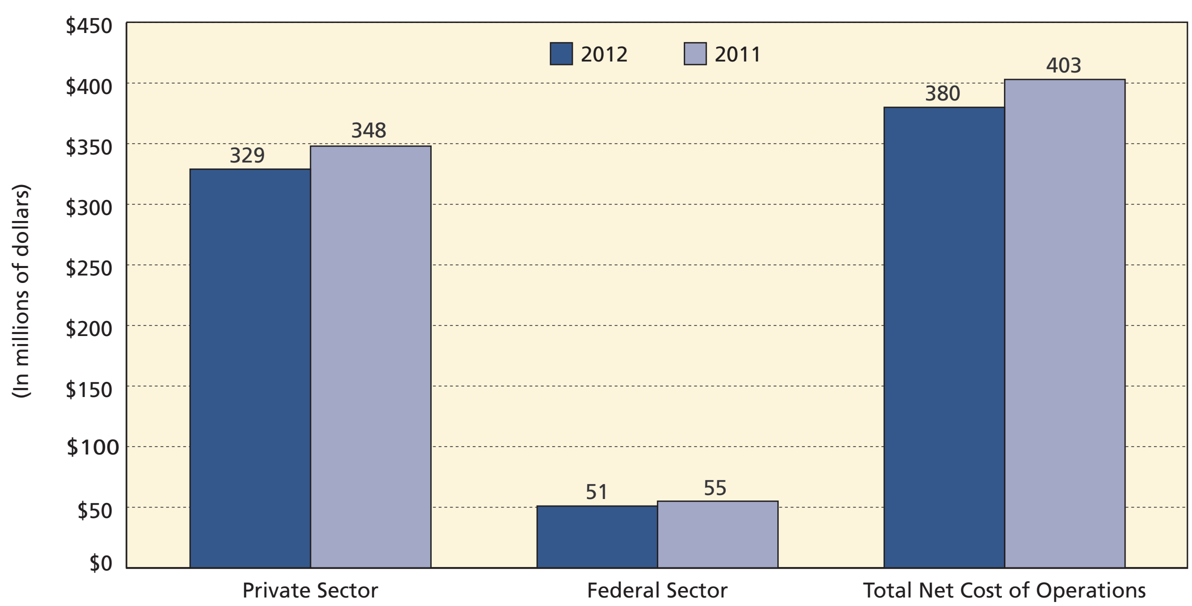
EEOC's balance sheets show total assets of $62 million at the end of FY 2012. This is a decrease of $3 million, or approximately a 5 percent change from EEOC's total assets of $65 million for FY 2011. This change is due primarily to a decrease in EEOC's Fund Balance with Treasury of $3 million.

The Net Position is the sum of Unexpended Appropriations and the Cumulative Results of Operations. At the end of FY 2012, EEOC's Net Position on its Balance Sheets and the Statement of Changes in Net Position is $2 million, a decrease of $2 million, or 50 percent changed from the FY 2011 ending Net Position of $4 million. This decrease is due primarily to a decrease in EEOC's Unexpended Appropriations for Fiscal Year 2012.

Consolidated Statements of Net Cost

The Consolidated Statements of Net Cost presents the gross cost incurred by major programs less any revenue earned. Overall, in FY 2012, EEOC's Consolidated Statements of Net Cost decreased by $23 million or 6 percent. The allocation of costs for FY 2012 shows that private sector resources used for enforcement and litigation decreased $19 million, or 5 percent, while the Federal Sector Programs decreased by $4 million or 7 percent.

Consolidated Statement of Net Cost of Operations by Major Programs



Consolidated Statement of Changes in Net Position

The Consolidated Statement of Changes in Net Position represent the change in the net position for FY 2012 and FY 2011 from the cost of operations, appropriations received and used, net of rescissions, and the financing of some costs by other government agencies. The Consolidated Statement of Changes in Net Position decreased over last year by $2 million, or 50 percent. EEOC's total assets exceeded total liabilities (funded and unfunded) by approximate $3 million, or 5 percent.

Combined Statements of Budgetary Resources

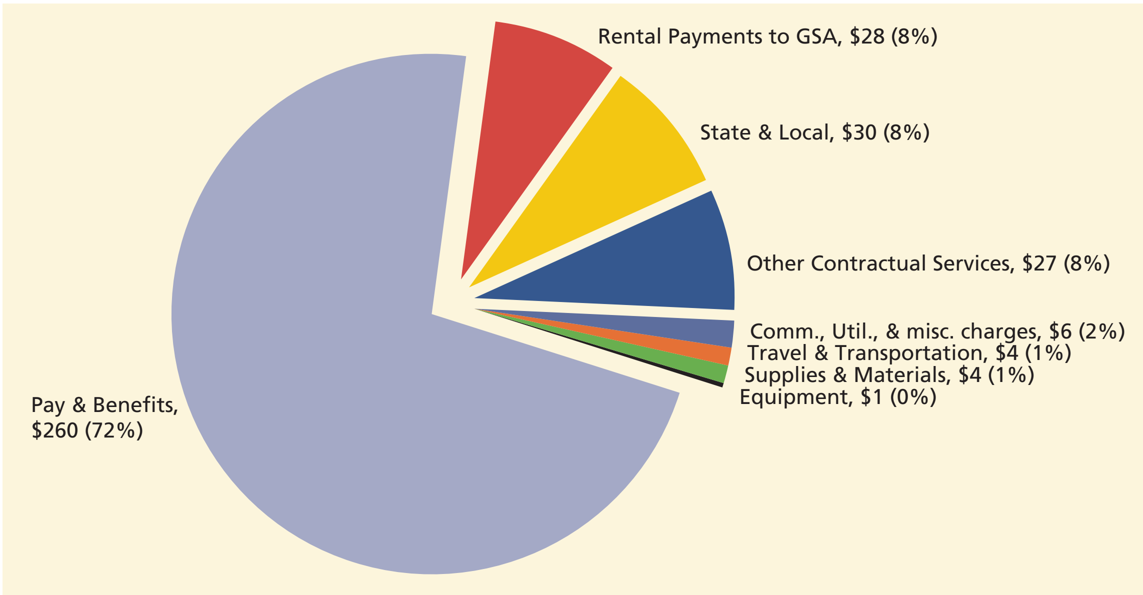
The Combined Statements of Budgetary Resources shows how budgetary resources were made available and the status of those resources at the end of the fiscal year. In FY 2012, EEOC received a $360 million appropriation.

EEOC ended FY 2012 with no increase in total budgetary resources. Resources not available for new obligations at the end of the year totaled $11 million and $12 million in FY 2012 and FY 2011, respectively. The unobligated balance not available represents expired budget authority from prior years that are no longer available for new obligations.

Use of Resources

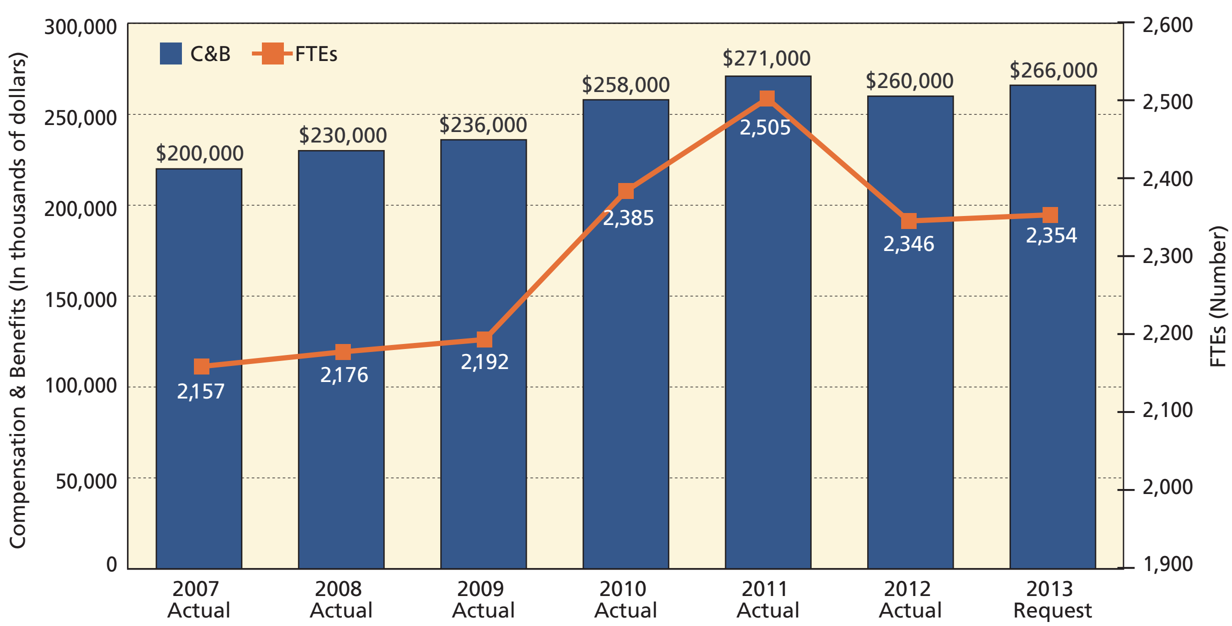
The pie chart displays EEOC's FY 2012 use of resources by major object class. The chart shows that Pay and Benefits, State & Local, Rent to GSA and Other Contractual Services consumed 96 percent of EEOC's resources, and other expenses (e.g., travel & transportation, equipment, supplies & materials, etc.) consumed less than 4 percent of EEOC's resources for FY 2012.

FY 2012 Obligations by Major Object Class (in millions)



The dual axis chart below depicts EEOC's compensation and benefits versus full-time equivalents (FTE) over the past six years. EEOC ended FY 2012 with 2,346 FTEs, a net decrease of 159, or 6 percent, below FY 2011.

Compensation & Benefits (C&B) and FTEs for FY 2007 through FY 2013



Performance Results

RESULTS ACHIEVED IN FY 2012 UNDER STRATEGIC PLAN PERFORMANCE MEASURES

Overview of the Strategic Plan and Performance Measures

This *Performance and Accountability Report* is based on the EEOC's new Strategic Plan for Fiscal Years 2012 through 2016 (the "Plan"), approved by the Commission on February 22, 2012. In the process of developing the Plan, the Commission engaged in a methodical and calculated assessment of the agency's programs and priorities. As a result, the EEOC believes it is positioned to embrace the agency's new mission *to stop and remedy unlawful employment discrimination*, and to realize our vision for the 21st century of *justice and equality in the workplace*, by focusing on the following three strategic objectives:

- **Strategic Objective I:** To combat employment discrimination through strategic law enforcement. This Objective reflects the agency's primary mission of preventing unlawful employment discrimination through the use of: 1) administrative (investigation, mediation and conciliation) and litigation enforcement mechanisms with regard to private employers, labor organizations, employment agencies, and state and local government employers; and 2) adjudicatory and oversight mechanisms with regard to Federal employers. Seven performance measures were developed for Strategic Objective I.

- **Strategic Objective II:** To prevent employment discrimination through education and outreach. This Objective acknowledges that to successfully prevent employment discrimination through education and outreach, the EEOC must also work to prevent employment discrimination before it occurs. Investigations, conciliations, and litigation are only some of the means by which the agency fulfills its mission and vision. The Commission is also authorized to engage in education and outreach activities, including providing training and technical assistance, for those with rights and responsibilities under employment antidiscrimination laws. Four performance measures were developed for Strategic Objective II.

- **Strategic Objective III:** To deliver excellent and consistent service through a skilled and diverse workforce and effective systems. This Objective ensures that the EEOC will deliver excellent and consistent service through our efforts to support a skilled workforce and the deployment of effective systems. Two performance measures were developed for Strategic Objective III.

The final budgetary resource measure, Performance Measure 14, and the agency's strategic objectives, outcome goals, and 13 other performance measures identified in the Plan are depicted in the Strategic Plan Diagram below. Each measure is analyzed in greater detail on the following pages.

EEOC FY 2012 Performance				
Measures	Targets Met or Exceeded	Targets Partially Met[1]	Targets Not Met	Not Applicable in FY 2012
14	8	2	0	4
1 ◆ Targets Partially Met: A rating assigned to target results where (1) at least half of the activities targeted for completion were completed, or (2) we were unable to assess the results because full year data is not yet available.				

Strategic Plan

MISSION	VISION
Stop and Remedy Unlawful Employment Discrimination	Justice and Equality in the Workplace

STRATEGIC OBJECTIVE I Combat employment discrimination through strategic law enforcement.	STRATEGIC OBJECTIVE II Prevent employment discrimination through education and outreach.	STRATEGIC OBJECTIVE III Deliver excellent and consistent service through a skilled and diverse workforce and effective systems.
Outcome Goal I.A Have a broad impact in reducing employment discrimination at the national and local levels. **Strategy I.A.1:** Develop and implement a Strategic Enforcement Plan that: (1) establishes EEOC priorities and (2) integrates the EEOC's investigation, conciliation and litigation responsibilities in the private and state and local government sectors; adjudicatory and oversight responsibilities in the federal sector; and research, policy development, and education and outreach activities. **Strategy I.A.2:** Rigorously and consistently implement charge and case management systems to focus resources and enforcement on the EEOC's priorities. **Strategy I.A.3:** Use administrative and litigation mechanisms to identify and attack discriminatory policies and other instances of systemic discrimination. **Strategy I.A.4:** Use EEOC decisions and oversight activities to target pervasive discriminatory practices and policies in federal agencies. **Outcome Goal I.B** Remedy discriminatory practices and secure meaningful relief for victims of discrimination. **Strategy I.B.1:** Ensure that remedies end discriminatory practices and deter future discrimination. **Strategy I.B.2:** Seek remedies that provide meaningful relief to individual victims of discrimination.	**Outcome Goal II.A** Members of the public understand and know how to exercise their right to employment free of discrimination. **Outcome Goal II.B** Employers, unions and employment agencies (covered entities) prevent discrimination and better resolve EEO issues, thereby creating more inclusive workplaces. **Strategy II.A.1:** Target outreach to vulnerable workers and underserved communities. **Strategy II.B.1:** Target outreach to small and new businesses. **Strategy II.A.2 and II.B.2:** Provide up-to-date and accessible guidance on the requirements of employment antidiscrimination laws.	**Outcome Goal III.A** All interactions with the public are timely, of high quality, and informative. **Strategy III.A.1:** Effectively engage in workforce development and planning, including identifying, cultivating, and sustaining a skilled and diverse workforce. **Strategy III.A.2:** Rigorously and consistently implement charge and case management systems to deliver excellent service. **Strategy III.A.3:** Use innovative technology to facilitate responsive interactions and streamline agency processes.

STRATEGIC OBJECTIVE I Performance Measures	STRATEGIC OBJECTIVE II Performance Measures	STRATEGIC OBJECTIVE III Performance Measures
Performance Measure 1 for Strategy I.A.1 By FY 2016, the EEOC develops, issues, implements, evaluates, and revises, as necessary, a Strategic Enforcement Plan. **Performance Measure 2 for Strategy I.A.2 and Strategy III.A.2** By FY 2016, TBD% of investigations and conciliations meet the criteria established in the new Quality Control Plan. **Performance Measure 3 for Strategy I.A.2 and Strategy III.A.2** By FY 2016, 100% of federal sector case inventory is categorized according to a new case management system and TBD% of hearings and appeals meet the criteria established in the new federal sector Quality Control Plan. **Performance Measure 4 for Strategy I.A.3** By FY 2016, TBD% of the cases in the agency's litigation docket are systemic cases. **Performance Measure 5 for Strategy I.A.4** By FY 2016, the EEOC uses an integrated data system to identify potentially discriminatory policies or practices in federal agencies and has issued and evaluated TBD number of compliance plans to address areas of concern. **Performance Measure 6 for Strategies I.B.1 and I.B.2** By FY 2016, a TBD% of the EEOC's administrative and legal resolutions contain targeted, equitable relief. **Performance Measure 7 for Strategies I.B.1 and I.B.2** By FY 2016, a TBD% of resolutions by FEPAs contain targeted, equitable relief.	**Performance Measure 8 for Strategy II.A.1** By FY 2016, the EEOC is maintaining TBD significant partnerships with organizations that represent vulnerable workers and/or underserved communities. **Performance Measure 9 for Strategy II.B.1** By FY 2016, the EEOC is maintaining TBD significant partnerships with organizations that represent small or new business (or with businesses directly). **Performance Measure 10 for Strategies II.A.1 and II.B.1** By FY 2013, the EEOC implements a social media plan. **Performance Measure 11 for Strategies II.A.2 and II.B.2** The EEOC reviews, updates, and/or augments with plain language materials its sub-regulatory guidance, as necessary.	**Performance Measure 12 for Strategy III.A.1** The EEOC strengthens the skills and improves the diversity of its workforce. **Performance Measure 2 for Strategy I.A.2 and Strategy III.A.2** By FY 2016, TBD% of investigations and conciliations meet the criteria established in the new Quality Control Plan. **Performance Measure 3 for Strategy I.A.2 and Strategy III.A.2** By FY 2016, 100% of federal sector case inventory are categorized according to a new case management system and TBD% of hearings and appeals meet the criteria established in the new federal sector Quality Control Plan. **Performance Measure 13 for Strategy III.A.3** The EEOC improves the private sector charge process to streamline services and increase responsiveness to customers throughout the process.

BUDGETARY RESOURCES MEASURE Performance Measure 14 The EEOC's budgetary resources for FY 2014–2017 align with the Strategic Plan.

RESULTS ACHIEVED UNDER SPECIFIC PERFORMANCE MEASURES

STRATEGIC OBJECTIVE I: Combat employment discrimination through strategic law enforcement.

The EEOC's ability to support a strategic law enforcement objective lies in achieving two critical goals: 1) have a broad impact in reducing employment discrimination at the national and local levels; and 2) remedy discriminatory practices and secure meaningful relief for victims of discrimination. In order to effect a reduction of employment discrimination in a far reaching and extensive manner, there are four key strategies identified under Strategic Objective I:

- Develop and implement a Strategic Enforcement Plan that: 1) establishes EEOC priorities; and 2) integrates EEOC's investigation, conciliation, and litigation responsibilities in the private and state and local government sectors; adjudicatory and oversight responsibilities in the federal sector; and research, policy development, and education and outreach activities;
- Rigorously and consistently implement charge and case management systems to focus resources and enforcement on agency priorities (beginning in FY 2013);
- Use administrative and litigation mechanisms to identify and attack discriminatory policies and other instances of systemic discrimination; and
- Use agency decisions and oversight activities to target discriminatory practices and policies in federal agencies (beginning in FY 2013).

Moreover, the strategies for remedying discriminatory practices and seeking equitable relief where discrimination has occurred will 1) ensure that the remedies end discriminatory practices and deter future discrimination; and 2) provide meaningful relief to individual victims of discrimination.

EEOC has developed Performance Measures 1 through 6 to track its progress in pursuing these strategies and Performance Measure 7 to track the progress of its state and local partners.

Strategic Enforcement Plan

Performance Measure 1: By FY 2016, the EEOC develops, issues, implements, evaluates, and revises, as necessary, a Strategic Enforcement Plan.	
	FY 2012
Target	The agency develops a draft Strategic Enforcement Plan. The Commission votes on a Strategic Enforcement Plan no later than September 30, 2012.
Result	The agency developed a draft Strategic Enforcement Plan and released a draft for comment, but the Commission postponed a vote on the plan until December 2012 to allow additional time to incorporate comments from our internal and external stakeholders.
◇	Target Partially Met

Following agency approval, the Strategic Enforcement Plan (SEP) is expected to replace EEOC's current National Enforcement Program. Its implementation will ensure a targeted, concentrated, and deliberate effort to identify and pursue priority issues and practices that significantly affect applicants, employees, and employers.

The SEP promotes an integrated, holistic approach to enforcement by: 1) lowering the conceptual barrier between the EEOC's work in the investigation and conciliation stage and its work in the litigation stage; 2) incorporating the EEOC's oversight and adjudicatory work in the federal sector; and 3) integrating the agency's education and outreach activities into its enforcement efforts. The desired outcome will be an EEOC where all of its operations work in tandem to achieve its mission of stopping and remedying unlawful employment discrimination.

For FY 2012, the target for this measure was to develop a draft SEP for agency approval by September 30, 2012. Even though the Commission did not approve an SEP by the targeted date, substantial progress has been made to finalize a draft SEP for Commission approval within the first quarter of FY 2013. For example, in March, the Chair designated the SEP Workgroup to develop a draft SEP for Commission consideration. The process was officially launched on April 5, 2012. From April through June, the Workgroup met regularly to develop a draft; program offices briefed the Workgroup and the Commission on issues related to the SEP's development. On June 5, 2012, the Workgroup solicited public input into the development of the SEP—receiving more than 100 comments.

In July 2012, the Commission held a closed meeting on selected investigations and litigation and a separate public meeting with over 30 witnesses to solicit public input into the development of the SEP. In September 2012, the Commission released a draft of the SEP to solicit public input and received more than 70 comments. The Commission has continued its work through September on a final draft of the plan for circulation and in preparation for a vote. However, the Chair, at the request of the Commissioners, postponed the vote to allow additional time to consider and incorporate the public comments received on the draft. A vote is expected in December 2012.

Quality Control Plan

Performance Measure 2: By FY 2016, TBD% of investigations and conciliations meet the criteria established in the new Quality Control Plan.	
	FY 2012
Target	N/A**
Result	N/A**

** Not applicable for FY 2012.

Performance Measure 2 will be effective starting in FY 2013. At that time, this measure will require the EEOC to develop appropriate criteria to ensure a quality investigation and conciliation, such as whether charges are appropriately reassessed on a timely basis or how efficient and timely are the investigations. In addition, this measure will require the agency to develop a peer review assessment system that will be used to judge the quality of EEOC's investigations and conciliations.

Case Management System

Performance Measure 3: By FY 2016, 100% of federal sector case inventory is categorized according to a new case management system and TBD% of hearings and appeals meet the criteria established in the new federal sector Quality Control Plan.	
	FY 2012
Target	N/A**
Result	N/A**

** Not applicable for FY 2012.

Performance Measure 3 will be effective starting in FY 2013. At that time, this measure will require the EEOC to develop categories for federal sector cases according to a new case management system.

Systemic Cases

Performance Measure 4: By FY 2016, TBD% of the cases on the agency's active litigation docket are systemic cases.	
	FY 2012
Target	Establish a baseline based upon the proportion of systemic cases on the active docket as of 9/30/12 and project future annual targets against baseline.
Result	Established a baseline of 20% and set future targets through FY 2016.
■	Target Met

Under the new Strategic Plan "systemic cases" are defined as pattern or practice, policy, or class cases where the alleged discrimination has a broad impact on an industry, occupation, business, or geographic area. Performance Measure 4 provides an incentive for the agency to conduct systemic investigations when it finds evidence of potential widespread discriminatory practices. It also requires the agency to carefully consider the systemic cases it chooses to litigate and to bring fewer individual and small class claims of discrimination, since systemic litigation requires significantly greater resources than other types of litigation.

The FY 2012 target for Performance Measure 4 was to establish a baseline and project corresponding future targets. The Office of General Counsel (OGC) established a baseline of 20 percent, which represents the proportion of systemic cases on the active litigation docket at the end of FY 2012. Utilizing this baseline, as well as a comprehensive review of historical suit filing and resolution trends, and systemic case development trends, the agency projected targets for performance through FY 2016. By FY 2016, the agency projects that 22-24 percent of cases on its active litigation docket will be systemic cases.

Federal Sector Workforce Analysis

Performance Measure 5: By FY 2016, the EEOC uses an integrated data system to identify potentially discriminatory policies or practices in federal agencies and has issued and evaluated TBD number of compliance plans to address areas of concern.	
	FY 2012
Target	N/A**
Result	N/A**

** Not applicable for FY 2012.

Performance Measure 5 will be effective starting in FY 2013. At that time, this measure will require the agency to create and implement a data system of complaint, hearing, and statistical employee data in order to establish priorities in the federal sector—an integrated data system that can identify potentially discriminatory policies or practices in those agencies and help set priorities for the prevention of discrimination in the Federal government.

Administrative and Legal Resolutions with Targeted Relief

Performance Measure 6: By FY 2016, a TBD% of the EEOC's administrative and legal resolutions contain targeted, equitable relief.	
	FY 2012
Target	N/A**
Result	N/A**

** Not applicable for FY 2012.

FEPA Resolutions with Targeted Relief

Performance Measure 7: By FY 2016, a TBD% of resolutions by FEPAs contain targeted, equitable relief.		
	FY 2012	
Target	In conjunction with FEPAs, identify, design, and implement reporting process(es) to determine what percentage of resolutions by FEPAs contain targeted, equitable relief.	
Result	Based on discussions with FEPAs, the reporting format and process for both the EEOC and the FEPAs was designed so that by FY 2013, sufficient and complete data will be collected to develop the baseline level, as well as the projected targets for Fiscal Years 2014–2016.	
☐		Target Met

Performance Measures 6 and 7 were designed to encourage EEOC and the state and local Fair Employment Practices Agencies (FEPAs) to seek targeted equitable relief in every cause case. Targeted, equitable relief means any non-monetary and non-generic relief (other than the posting of notices in the workplace about the case and its resolution), which explicitly addresses the discriminatory employment practices at issue in the case, and which provides remedies to the aggrieved individuals or prevents similar violations in the future. Such relief may include training for supervisors and employees, development of policies and practices to deter future discrimination, cessation of existing discriminatory policies or practices, and external monitoring of employer actions, as appropriate. OFP also worked with OGC and OIT to develop a strategy for the targeted equitable relief categories of monetary and non-monetary relief that would be captured in IMS, as well as the definitions for the calculations to reflect the measure's achievements in out-years.

Performance Measure 6 will be effective starting in FY 2013. At that time, this measure will require the agency to collect data on the percentage of administrative and legal resolutions currently containing targeted, equitable relief. In addition, we will need to establish a baseline of existing targeted, equitable relief in resolutions and project future targets for different types of targeted, equitable relief. The agency has developed a strategy for determining which types of relief will qualify as targeted equitable relief and for tracking that information in its charge database.

An important activity undertaken by both EEOC and the FEPAs is the negotiation and resolution of charges after an investigation has determined that reasonable cause exists to believe that unlawful employment discrimination has occurred. The FY 2012 target for Performance Measure 7 was to identify, design, and implement, in accord with the FEPAs, a new reporting process for determining what percentage of FEPA resolutions contain targeted, equitable relief. The EEOC's FEPA 2012 Annual Training Conference, held May 29 through June 1, 2012, in St. Louis, Missouri, provided the forum for the launch of a dialogue with the EEOC's FEPA partners about the reporting processes. Members of the EEOC/FEPA Joint Standing Committee held discussions to secure further feedback. Based on their input, the EEOC's Office of Field Programs (OFP) developed content for the Office of Information Technology (OIT) to use in the data collection plan for targeted equitable relief and related reporting for both FEPAs and EEOC. The design for the reporting process was developed with an eye toward consistency within IMS for recording targeted equitable relief data.

STRATEGIC OBJECTIVE II: Prevent employment discrimination through education and outreach.

In FY 2012, the EEOC continued a robust outreach program to meet the needs of diverse audiences across the nation. In so doing, the agency maintained and established new relationships with the employer community, colleges and universities, advocacy groups, the growing underserved that include immigrant and farm worker communities, governmental entities, and other stakeholders to foster strategies to recognize and prevent discrimination in the workplace. The anticipated result of these outreach efforts is that: 1) members of the public will understand and know how to exercise their right to employment free of discrimination; and 2) employers, unions, and employment agencies (covered entities) will be better able to address and resolve EEO issues, thereby creating more inclusive workplaces.

The three strategies EEOC adopted for achieving the goals of Strategic Objective II are:

- Target outreach to vulnerable workers and underserved communities;
- Target outreach to small and new businesses; and
- Provide up-to-date and accessible guidance on the requirements of employment antidiscrimination laws.

Performance Measures 8 through 11 were developed to track our progress in pursuing these strategies.

Vulnerable and Underserved Communities

Performance Measure 8: By FY 2016, the EEOC is maintaining TBD significant partnerships with organizations that represent vulnerable workers and/or underserved communities.		
	FY 2012	
Target	Provide a more detailed definition of significant partnerships, collect examples of existing significant partnerships with such organizations, and share best practices across EEOC offices. Create a baseline of existing significant partnerships and set national targets.	
Result	The agency defined the term "significant partnerships," created a baseline for future partnerships that represent "vulnerable workers and/or underserved communities," projected national targets through FY 2014, and shared best practices with District Directors and other key field managers.	
☐		Target Met

Small and New Businesses

Performance Measure 9: By FY 2016, the EEOC is maintaining TBD significant partnerships with organizations that represent small or new business (or with businesses directly).		
	FY 2012	
Target	Provide a more detailed definition of significant partnerships, provide instructions for identifying organizations that represent small or new businesses (or for identifying individual businesses); collect examples of existing significant partnerships with such organizations or businesses, and share best practices across EEOC offices. Create a baseline of existing significant partnerships and set national targets.	
Result	The agency defined the term "significant partnership," created a baseline for future partnerships that represent "small and/or new business communities," projected national targets through FY 2014, and shared best practices with District Directors and other key field managers.	
		Target Met

Performance Measures 8 and 9 focus on encouraging interactive and sustained partnerships with community organizations and businesses represent the targeted areas the EEOC is trying to reach. For FY 2012, the target for Performance Measure 8 was to define the terminology to be used in measuring these "significant partnerships" with vulnerable workers and underserved communities; as well as creating a baseline for building and maintaining future partnerships. The FY 2012 target for Performance Measure 9 similarly requires the agency to define terms related to measuring its significant partnerships with small and/or new businesses, while creating a baseline and projecting future targets.

For these two measures, the agency has defined "significant partnerships" as an interactive and sustained relationship with an organization, community group, advocacy group, or other entity that represents or serves vulnerable or underserved communities and enhances EEOC's ability to reach those communities. "Vulnerable workers" are those workers whose options may be severely limited due to economic or social barriers and whose ability to understand or exert their rights may be compromised. This includes, but is not limited to, low wage earners, farm workers, refugees, victims of human trafficking, youth, and older workers. Finally, "underserved communities" has been defined as those communities whose demographics, geographic location, or economic characteristics impede or limit their access to services provided by EEOC.

By the end of FY 2012, the Commission had identified approximately 90 significant partnerships within the vulnerable worker and underserved communities for Performance Measure 8. To create a baseline of existing significant partnerships, each district submitted brief descriptions of current partnerships that met the definition of a significant partnership as contemplated by Performance Measures 8. Based upon this data, the agency established goals for FY 2013 and FY 2014 to increase the number of significant partnerships under this measure by 10 percent in both FY 2013 and FY 2014 and to maintain the increased level of partnerships in FY 2015 and FY 2016. We also developed and shared best practices on significant partnership approaches with the District Directors and Program Analysts.

Approximately 71 significant partnerships exist with organizations that represent small and new businesses (or with businesses directly), which contributes to the Commission's objective of preventing employment discrimination through education and outreach to employers, had been identified for Performance Measure 9. To create a baseline of existing significant partnerships, each district submitted brief descriptions of current partnerships that meet the definition of a "significant partnership" as contemplated by Performance Measures 9. With this data, the agency established goals for FY 2013 and FY 2014 to increase the number of significant partnerships under this measure by 10 percent in both FY 2013 and FY 2014 and to maintain the increased level of partnerships in FY 2015 and FY 2016. Best Practices were also developed and shared with the District Directors and Program Analysts.

Social Media Plan

Performance Measure 10: By FY 2013, the EEOC implements a social media plan.		
	FY 2012	
Target	Establish a Social Media Work Group; set a baseline and determine the appropriate technology needed to implement social media and information distribution systems; and draft initial social media strategy.	
Result	In FY 2012, the agency established and convened a Social Media Work Group, which developed an initial social media plan.	
◻		Target Met

Performance Measure 10 ensures that the agency moves into the 21st century through the utilization of social media technologies to reach EEOC's customers.

The social media plan will build upon existing efforts to make the content on EEOC's Web site more accessible and user-friendly. It will foster better use of the internet and other technology in the private and state and local government sectors and the federal sector charge processes. It will use multiple forms of social media platforms and educational content appropriate for each platform, with the goal of informing users about their rights and responsibilities under the laws the agency enforces. Ideally, the plan will drive our customers to the agency's Web site for more information. It will also ensure that EEOC's social media strategies are consistent with the Strategic Enforcement Plan and other administrative priorities and appropriate directives.

The FY 2012 target for Performance Measure 10 was to create a Social Media Work Group, responsible for establishing a baseline and determining the technological requirements in support of the media strategy underlying the agency's Social Media Plan. During FY 2012, the agency began efforts toward establishing a baseline and determining the appropriate technology needs to implement a social media plan for the Commission. A work group was established to determine the legal and technological requirements and was slated to provide technical guidance and modifications to existing draft guidelines by the end of the fiscal year. By the end of FY 2012, the Work Group had completed its assessment of the legal, technological, and related requirements for the development of a social media plan for the Commission, and had finalized a draft social media plan for circulation.

Sub-Regulatory Guidance Review and Revision

Performance Measure 11: The EEOC reviews, updates, and/or augments with plain language materials its sub-regulatory guidance, as necessary.	
	FY 2012
Target	Consistent with Commission priorities, submit four plain language revisions of substantive policy developments to replace outdated guidance documents.
Result	Ten documents were submitted to the Office of the Chair for consideration in FY 2012.
■	Target Exceeded

Performance Measure 11 ensures that EEOC's sub-regulatory guidance and documents are reviewed and that, where necessary, they are updated and accompanied by plain language text. The agency's enforcement work in the private sector, its adjudicatory and oversight work in the federal sector, and its outreach and education work all depend on the availability of up-to-date and accessible materials explaining the laws it enforces and how to comply with those laws. While the regulations EEOC issues set the basic legal framework for the implementation of those laws, sub-regulatory materials, including the EEOC Compliance Manual, provide more tangible assistance to those with rights and responsibilities under such laws.

Performance of this measure in FY 2012 required agency staff to provide at least four plain language revisions of substantive policy documents to the Office of the Chair (OCH) for approval, as needed. The EEOC exceeded this performance measure for FY 2012. In February, revisions of two documents on the ADA employment rights of veterans—one for employers and one for veterans—were issued. Among other things, the revised documents discuss how the new definition of "disability" under the ADA Amendments Act applies to wounded veterans. In April, the Commission issued Enforcement Guidance on the Use of Arrest and Conviction Records in Employment decisions, along with a question-and-answer document describing the guidance. An additional seven documents were submitted for consideration.

STRATEGIC OBJECTIVE III: Deliver Excellent and Consistent Service through a Skilled and Diverse Workforce and Effective Systems.

The intent of this objective is to ensure that the EEOC delivers excellent and consistent service through its efforts to support a skilled workforce while deploying effective systems—many of which service the public directly. Effective customer service and operating systems can positively influence the general public's understanding of the Commission's ability to address their employment discrimination concerns in the workplace. As a result, this measure was designed to focus on issues regarding staff and infrastructure, which are mission critical components of any successful organization.

The ultimate benefit is that all interactions with the public are timely, of high quality, and informative. As noted in Strategic Objective I, it is a significant agency priority to enhance the timeliness and ensure the continued quality of enforcement activities in the private, state and local government, and federal sectors. However, the EEOC must also invest in the men and women who carry out the agency's mission on a daily basis. To meet the evolving needs of the modern workplace and any changes in EEO law interpretation, it is necessary to invest adequately in workforce development and planning. Because all employees benefit with a diverse workforce in federal government, the EEOC must serve not only as an example to other private, state and local government, and federal employers, but should reflect the populations it serves. Finally, to improve the agency's customer service, the EEOC must ensure the effectiveness of its systems by leveraging technology to streamline, standardize, and expedite its critical functions.

To these ends, the Commission developed three strategies for achieving Strategic Objective III:

- Effectively engage in workforce development and planning, including identifying, cultivating, and sustaining a skilled and diverse workforce;
- Rigorously and consistently implement charge and case management systems to deliver excellent and consistent service; and
- Use innovative technology to facilitate responsive interactions and streamline agency processes.

For this Objective, EEOC has adopted Performance Measures 12 and 13 to support and monitor the agency's progress toward our FY 2016 targets.

Workforce Quality, Diversity, and Skills

Performance Measure 12: The EEOC strengthens the skills and improves the diversity of its workforce.		
		FY 2012
Target (a)	Number of employees with disabilities.	384
Results		300
		Target Not Met

		FY 2012
Target (b)	Number of employees with targeted disabilities.	79
Results		60
		Target Not Met

		FY 2012
Target (c)	Percentage of hires made within 78 days.	25%
Results		45%
		Target Exceeded
	Overall Targets Partially Met	

The EEOC is currently in the process of developing and implementing plans that will strengthen the skills and improve the diversity of its workforce through:

The Strategic Human Capital Plan (SHCP) outlines the agency's structure, strategic goals, standards for success, and major human capital initiatives. Its alignment with the Strategic Plan will ensure that EEOC employees understand and support the agency's goals and approach, and have the skills, knowledge, and competencies necessary to perform the work required by the agency's mission.

The Human Capital Goals for FY 2012, as identified in the agency's Human Capital Management Report, were:

1. **Workforce Planning.** Enhancing the ability to plan further into the future and better integrate FTE's, budget, and workload metrics into the planning process.

2. **Performance Management.** Creating a culture where Specific Measurable Actionable Relevant Timely (SMART) goals/objectives are the norm and cascade from the strategic plan to all employees; performance is measured and properly rewarded with a fair and transparent award system; and communications between leaders, supervisors, and employees are clear and occur often.

3. **Onboarding/Orientation.** Enhancing the ability to attract, hire, and retain highly skilled and highly motivated staff.

In the third quarter of FY 2012, the Commission formed a Workforce Planning Workgroup to begin implementation of the agency's workforce planning goals based on the agency's Workforce Planning Guide. Their goal will be to develop a workforce plan for FY 2013, and the out years.

In the area of performance management, EEOC has engaged an independent contractor to provide expert guidance and assistance to the agency in developing an improved performance management program. The long-term goal is to create a performance culture that helps EEOC become a high performing agency. The near-term goals of identifying competencies, measuring degrees of proficiencies, and closing competency gaps that are considered significant components of the program are more than half-way completed. To complement workforce planning efforts, specifically recruitment and retention, the Commission has begun to examine "on-boarding" and orientation processes. One goal is to extend the orientation process over a period of several months to ensure new employees have the support they need to fully integrate into the agency.

EEOC's Diversity and Inclusion Plan, pursuant to Executive Order 13583 on Establishing a Coordinated Government-wide Initiative to Promote Diversity and Inclusion in the Federal Workforce is under development. Upon completion, it will be modeled after the plan prepared by the Office of Personnel Management (OPM), in partnership with EEOC, for all federal agencies. The Commission will continue to work with OPM and the Office of Management and Budget in implementing this government-wide initiative, including reviewing executive agency plans and working to reconcile the Presidential Administration's diversity and inclusion efforts with the EEOC's Management Directive 715 requirements. (See Management Directive 715, Equal Employment Opportunity Commission (Oct. 2003), http://www.eeoc.gov/federal/directives/md715.cfm).

EEOC's Operational Plan for Increasing Employment of Individuals with Disabilities was released in FY 2012, pursuant to Executive Order 13548 on Increasing Federal Employment of Individuals with Disabilities. The agency's operational plan has set a target of increasing the percentage of employees with targeted disabilities to 5 percent and increasing the percentage of employees with disabilities covered under the Section 501 of the Rehabilitation Act to 20 percent of EEOC's workforce within 5 years.

In FY 2012 the EEOC established annual targets for increasing the employment of individuals with disabilities. The FY 2012 target for Performance Measure 12, Subpart (a) was to increase the number of persons hired with disabilities to 20 percent of EEOC's workforce over 5 years, or at least 29 disabled employees each year over the FY 2011 baseline of 355 employees with disabilities. Successful performance under Subpart (b) was to increase the number of employees with targeted disabilities by 5 percent, or at least 11 individuals each year over the FY 2011 baseline of 68 employees with targeted disabilities. And finally, Subpart (c) required the agency to improve and streamline the hiring process to increase the percentage of hires made within 78 days to 25 percent of all hires made in FY 2012.

In FY 2012, the EEOC only partially met its targets for Performance Measure 12. Overall hiring in fiscal year 2012 was down, which affected the agency's ability to increase the number of employees hired either with disabilities or targeted disabilities under Subparts (a) and (b). The limited hiring factor and correlating numbers of retirements of employees with disabilities resulted in the numbers of employees with disabilities and targeted disabilities decreasing since the establishment of the fiscal year 2011 baselines for both employee groups. However, the agency has exceeded its target of 25 percent under subpart (c), by increasing the percentage of hires made within 78 days to 45 percent—far exceeding the targeted number of hires in fiscal year 2012.

Charge Process Responsiveness

Performance Measure 13: The EEOC improves the private sector charge process to streamline services and increase responsiveness to customers throughout the process.		
	FY 2012	
Target	Define technology requirements, automated workflow, customer self-service opportunities, and system design specifications and establish targets.	
Result	On-Line Intake and Milestone Workgroups defined the technology requirements, automated workflow, customer self-service opportunities and system design specifications.	
		Target Met

Performance Measure 13 requires the agency to leverage technology to improve the private and state and local government sectors charge process, including streamlining services and increasing responsiveness to customers throughout the process. Initiatives that are currently in the requirements phase include: 1) developing an on-line system that will allow potential charging parties to submit a pre-charge inquiry for review; 2) providing on-line scheduling of appointments for intake interviews (via on-site meetings, web cams, and/or teleconference); 3) providing charging parties on-line access to check the status of their charge; and 4) streamlining the intake process through automated workflow and data analysis. These technology developments are referred to as the Online Intake and the Milestones Status Projects. The fifth item will require the agency to establish a secure portal for electronic transmittal and the receipt of charge-related documents.

For FY 2012, the target for this measure was to define the requirements, automated workflow, customer self-service opportunities, and systems design specifications and to establish future targets. By fourth quarter fiscal year 2012, the Online Intake and Milestone Project workgroups had defined the technology requirements, the automated workflow, and the opportunities for customer self-service, utilizing the Agile methodology for project management as described below.

The Agile Method refers to a collection of software development methodologies that permits program managers and technology developers to work collaboratively on evolving requirements throughout the development process. Under the Agile Method, Agile designs are emergent and not fully defined up front, with the overall system design evolving over the project period, allowing for the identification of new requirements and new technologies. Thus, under Agile, it is the User Stories and Roadmap developed by the project team that becomes the requirements from which the IT partners base their initial design specifications but these specifications evolve during the course of the project development.

OFP provided the OIT with the necessary User Stories, Roadmap and Theme Framework that constituted the baseline for the initial systems design specifications. Since the Agile Method does not contemplate complete design specifications at the outset of the planning phase of the project, the target for this Measure has been met because the documents that have been developed constitute the basis for the overall architecture and systems design as they relate to the initial phase of these projects. Utilizing this information, OIT has developed the cost estimates for resources to develop and implement the new system features as part of the system design.

Budgetary Resource Alignment

Performance Measure 14: The EEOC's budgetary resources for FY 2014–2017 align with the Strategic Plan.	
	FY 2012
Target	Prepare EEOC's FY 2014 Performance (OMB) Budget that aligns resources with the Strategic Plan using the agency's approved FY 2012 Operating Plan as a baseline.
Result	A draft FY 2014 performance Budget that aligns resources with the agency's new Strategic Plan and current FY 2012 Operating Plan was prepared and submitted to OMB.
	Target Met

As a fundamental objective, budgets should adequately fund priority programs, grow such programs to reflect the agency's priorities, and protect against diminution when budgets are reduced. Under the Chair's direction, annual budget submissions from each program office will be used to validate how agency resources would implement the strategies and goals of the Commission.

During the FY 2014 budget formulation cycle, the Chair reviewed and discussed the program offices' proposed budget submissions with senior agency officials. In the process, Commission resources were reallocated to address agency priorities and to more clearly align resources with the new Strategic Plan. In September 2012, the agency prepared its FY 2014 Performance Budget, using the FY 2012 operating plan as a baseline, and timely submitted it to the Office of Management and Budget for review and consideration.

RELATED PROGRAM RESULTS AND ACTIVITIES

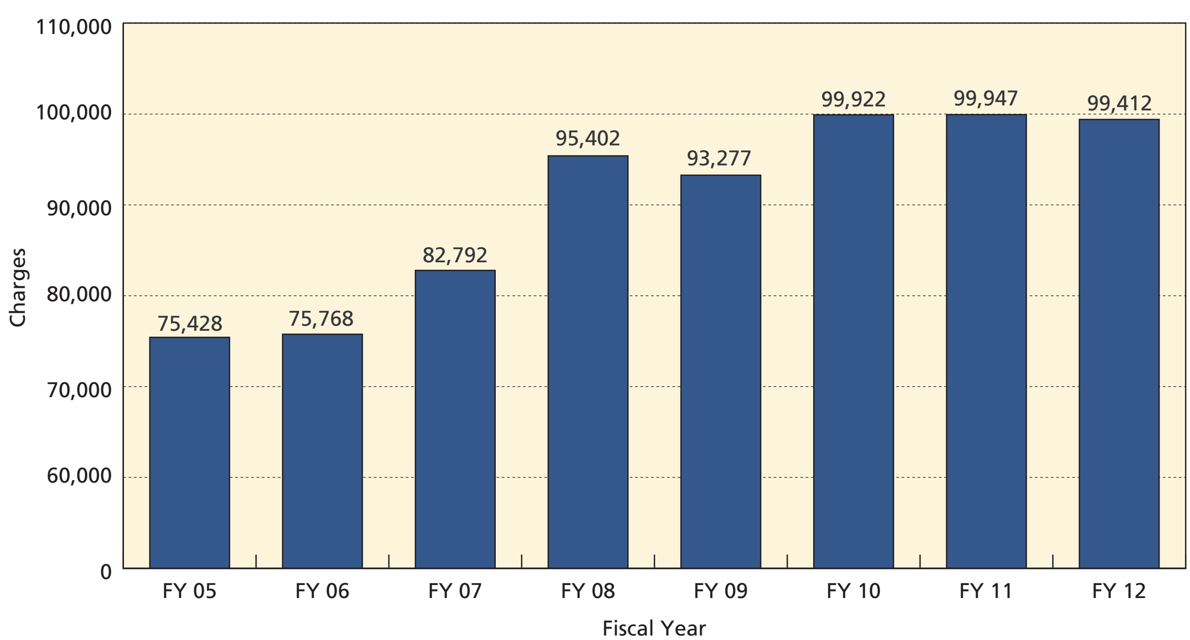
Serving the Public More Efficiently

Significant Progress in Managing Charge Inventory

In FY 2012, achieved a second consecutive year of significant inventory reductions not seen since FY 2002. Due to a concerted effort, the EEOC reduced the pending inventory of private sector charges by 7,824 charges over the FY 2011 level, bringing the level to 70,312. This reduction is notable because it occurred at a time of record charge receipts and resolutions. The EEOC received 99,412 charges in FY 2012, which is steady compared with the past two record setting years, but is remarkable when considering that the last three years of receipts top the prior 47 years of the agency's history. In addition, a total of 111,139 charges were resolved, the second most in EEOC's history.

Over the past decade, the EEOC's inventory had risen significantly, with annual increases ranging from 12–38 percent between FY 2004 and FY 2009. In FY 2010, Chair Jacqueline Berrien initiated a multi-year approach of sustained management attention to reverse the growth of the charge inventory. As a result, the inventory growth dropped to 1 percent in FY 2010. Increased productivity of the front-line staff resulting from hires in FY 2009 and FY 2010 contributed to the progress. Continuing this comprehensive approach to charge management in FY 2012 resulted in additional benefits in productivity and customer service and yielded other significant results including the average processing time to resolve charges dropped by 17 days to 288 days. These results better position the agency for FY 2013 by improving the timeliness of charge resolution and the EEOC's customer service efforts.

EEOC Charge Receipts FY 2005 to FY 2012



Improving the Private Sector Charge Process

During FY 2012, EEOC documented requirements and initiated design on two projects that leverage technology to streamline services and increase responsiveness to EEOC customers. As part of the President's Open Government initiative and the Strategic Plan for Fiscal Years 2012–2016, the agency is implementing a charge processing milestone project to provide parties with an on-line tool for determining the status of their charge, while reducing the number of calls and related administrative/investigative time spent on responding to these types of calls and emails. Additionally, the agency, through an intake technology streamlining plan, is working to create a comprehensive web interface that will aid both investigators and prospective charging parties, as well as improve the process from the first public contact with the agency through the formalization of a charge. This will include on-line scheduling of appointments for intake interviews via on-site meetings, web cams, and teleconference.

Mediation Program is a Win for both Employees and Employers

The EEOC's mediation program has continued to be a very successful part of our enforcement operations. In FY 2012, the EEOC's private sector national mediation program secured a total of 8,714 mediated resolutions out of a total of 11,380 conducted. The EEOC obtained more than $153.2 million in monetary benefits for complainants through mediation resolutions, which was the second highest level in the agency's mediation program's history.

Participants almost uniformly view the mediation program favorably, with 97.7 percent reporting confidence in the program this year. As a result, the agency continues to focus efforts on increasing the use of the program, where appropriate and consistent with the agency's mission. The agency encourages the employer community to enter into Universal Agreements to Mediate (UAMs). These agreements reflect employers' commitment to participate in mediation. At the conclusion of FY 2012, the agency had secured a cumulative multi-year total of 2,140 UAMs, which is a 7.1 percent increase from FY 2011.

Effectively Adjudicating Federal Sector Hearings and Appeals

In the federal sector, the Commission has authority to hold hearings on complaints of discrimination by federal employees and applicants, and to adjudicate appeals of decisions on such claims. In FY 2012, the EEOC secured more than $61.9 million in relief for federal employees and applicants who requested hearings. Additionally, the Commission's hearings program resolved a total of 7,538 complaints and the number of requests for hearings on federal sector complaints slightly decreased to 7,728 in FY 2012 compared to 8,113 in FY 2011.

The EEOC has launched its efforts to develop a new case management system for federal sector cases as required by Performance Measure 3 of the Strategic Plan. The Federal Sector Strategic Planning Group (FSSPG), comprised of field and headquarters staff from both the Hearings and Appeals functions, has been formed and began its project by surveying current administrative judges and appellate attorneys. These responses were used as the foundation for the development of an initial draft of a case management process. The activity on this project in FY 2012 has EEOC well-positioned to implement a case management plan in FY 2013 as called for by the Commission's Strategic Plan.

The Commission also adjudicates appeals of federal agency actions on discrimination complaints, and ensures agency compliance with decisions issued on those appeals. During FY 2012, the EEOC received 4,350 appeals of final agency actions in the federal sector, a 16.0 percent decrease from the 5,176 such appeals received in FY 2011, which offsets the 13.8 percent increase that occurred between FY 2010 and FY 2011. FY 2012 was the first full year in which the EEOC applied a more balanced approach to the resolution of the newest and oldest appeals. The agency resolved 4,265 appeals, including 52.9 percent of them within 180 days of their receipt. In addition, the Commission resolved 2,103 or 75.9 percent of 2,768 appeals that were already, or would become, 500 or more days old by the end of the fiscal year. As a result of these efforts, the EEOC reduced the average processing time for all resolutions from 378 days in FY 2011, to 361 days in FY 2012—a 4.5 percent decrease. The agency achieved these results by leveraging technology and successfully managing the appellate inventory.

The EEOC continued its focus on expanding the use of technology to make the federal hearings and appeals process faster and more effective. During FY 2012, the agency deployed the EEOC File Exchange (EFX) system to all remaining EEOC Hearings Units not already piloting EFX in FY 2011 and Appeals functions and made EFX access available to all federal agencies. The EFX is designed to allow federal agencies the ability to securely submit electronic reports of investigation, complaint files, and other documents to the EEOC in support of the federal hearings and appellate processes. This system is now available to all federal agencies for their use in transmitting documents electronically to the EEOC. Currently, there are 21 parent agencies and 47 sub-agencies utilizing EFX for electronic document submission and receipt. Additional parent agencies and sub-agencies are continually being added thereby expanding the number of users of EFX government-wide. The EEOC additionally documented requirements and is preparing to expand the system to allow federal complainants, and their representatives, to file a request for hearings/appeal and to also electronically transmit and receive documentation with EEOC.

Enforcing the Law More Effectively

Historic Monetary Recovery through Administrative Enforcement

In FY 2012, the EEOC secured more than $365.4 million in monetary benefits through its private sector administrative enforcement activities, the highest level of monetary relief ever obtained by the Commission. Overall, the agency secured both monetary and non-monetary benefits for more than 23,446 people through administrative enforcement activities—mediation, settlements, conciliations, and withdrawals with benefits. Of particular note was the increased number of charges resolved through successful conciliations, with 1,591 in FY 2012 compared with 1,351 in FY 2011, an 18 percent increase. The increase in conciliations reflects an emphasis on even closer consultation between the Commission's investigators and attorneys.

Challenging Discrimination in Federal Court

In FY 2012, the EEOC field legal units filed 122 merits lawsuits including 86 individual suits, 26 multiple-victim suits (with fewer than 20 victims) and 10 systemic suits. "Merits" lawsuits include direct suits and interventions alleging violations of the substantive provisions of the statutes enforced by the Commission and suits to enforce administrative settlements. Of these new filings, 66 contained Title VII claims, 45 contained Americans with Disability Act (ADA) claims, 12 contained Age Discrimination in Employment Act (ADEA) claims, and 2 contained Equal Pay Act (EPA) claims. It should be noted, however, that the total number of merits lawsuits is less than the sum of the suits based on each individual statute because some suits are filed under multiple statutes. The Commission also filed 33 subpoena enforcement and other actions.

While the number above represent suit filings in FY 2012, the EEOC's legal staff resolved 254 merits lawsuits for a total monetary recovery of $44.2 million. Of these resolutions, 162 contained Title VII claims, 72 contained ADA claims, 30 contained ADEA and two contained EPA claims. The Commission also resolved 29 subpoena enforcement and other actions during the fiscal year. In terms of dollars recovered in direct and intervention lawsuits by statute, the EEOC recovered $34.3 million in Title VII resolutions, $3.6 million in ADEA resolutions, $5.4 million in ADA resolutions, and $942,000 in resolutions involving more than one statute. At the end of FY 2012, the EEOC had 309 cases on its active docket, of which 75 (24 percent) involved multiple aggrieved parties (but fewer than 20) and 62 (20 percent) involved challenges to systemic discrimination.

Maximizing Impact through Systemic Enforcement

As the nation's leading law enforcer of federal laws prohibiting employment discrimination, the agency places a high priority on pursuing systemic enforcement, pattern or practice, policy, and/or class investigations, and litigation where the alleged discrimination has a broad impact on an industry, profession, company, or geographic area. While systemic cases are highly complex and resource-intensive, these cases typically impact a large number of employees or job seekers directly and can benefit untold numbers of workers and employers indirectly through public awareness and changes in company policies and industry standards. As a result, in its Strategic Plan for Fiscal Years 2012-2016, the Commission reiterated the importance of systemic enforcement program as a top agency priority.

Each year since embarking on the systemic program, the Commission has increased the resources devoted to strengthening it. This includes the continued leveraging of technology to facilitate cross-district communication and sharing of information and data, including the use of the Systemic Portal—an internal EEOC systemic website—and the development of a Systemic Watch List Tool which draws data from IMS to help network all EEOC offices in looking at systemic issues and cases. The development of this Watch List meets the Strategic Objective of combating discrimination through strategic law enforcement. During FY 2012, the EEOC completed requirements and initial design for this utility. The Watch List will provide EEOC investigators and attorneys with notification when a charge or inquiry implicating specified priority basis/issues or practices is received into the inventory or when existing charges meet specified systemic criteria. As a key component of IMS, it will provide automation and integration in support of EEOC's Strategic Enforcement Plan, once adopted.

Moreover in FY 2012, the agency conducted a newly developed advanced systemic training for more than 25 percent of its field attorneys. Within headquarters and throughout the field, the agency has deployed experts in the fields of statistics, industrial psychology and labor market economics. In addition, the EEOC expanded usage of the CaseWorks system, which provides a central shared source of litigation support tools that facilitate the collection and review of electronic discovery and enable collaboration in the development of cases for litigation. Additionally, a litigation advisory team has been tasked with providing legal advice, developing litigation strategies, and providing hands-on support in systemic lawsuits.

Systemic Investigations

In FY 2012, the EEOC resolved 240 systemic investigations, securing monetary benefits of $36.2 million for 3,813 individuals. These results were achieved through the successful conciliation of 46 investigations and pre-determination settlements in 19 investigations. There were cause findings in 94 investigations of systemic charges. Also in FY 2012, 12 new Commissioner charges were filed. Two figures stand out among these results: the monetary benefits recovered and the number of successful conciliations. The $36 million recovered in systemic resolutions this year is four times the amount recovered in FY 2011. The 46 systemic investigations resolved in conciliation in FY 2012 is nearly three times the number resolved during conciliation last year. These two figures signify a maturing of EEOC's systemic work over the past several years. Once faced with the challenge of ensuring that each District had at least one systemic investigation, now nearly every District maintains a robust systemic docket of investigations. There has been a 32 percent growth in completed systemic investigations over FY 2010 levels, which in turn have increased the pool of systemic cases that can be resolved during conciliation or litigated when those efforts are not successful.

During the year, there was a focus on promoting coordination of field activities to ensure that investigations across districts that involve common issues are handled collaboratively, bringing greater efficiencies and reinforcing the national enforcement agency model. Through a number of coordinated activities, we ensured that both field legal and enforcement staff participated in the collaborative activities, particularly cross-district partnerships for developing systemic investigations. Additionally, through strong collaboration between the enforcement and legal staff in all aspects of systemic work, there was a focused emphasis to develop a strong systemic docket throughout the year that would yield a robust pool of systemic cases for resolution in the conciliation process or litigation when conciliation efforts failed. Examples of resolutions achieved through the conciliation process include:

- A District Office achieved a voluntary resolution of an EEOC systemic investigation of 40 separate charges filed by women across a multi-state region claiming that the employer did not consider them for jobs because of their gender. The resolution covers a class of female applicants for jobs in several different states. Under the agreement the employer will provide monetary relief to a class of women who applied for the jobs at issue in the affected region. The settlement agreement includes provisions to ensure that the employer and its contractors maintain non-discriminatory hiring practices.

- The Minneapolis Area Office successfully conciliated a case against Pepsi Beverages (Pepsi), formerly known as Pepsi Bottling Group, in which the company agreed to pay $3.13 million and provide job offers and training to resolve a charge of race discrimination. The monetary settlement will primarily be divided among black applicants for positions at Pepsi, with a portion of the sum being allocated for the administration of the claims process. Based on the investigation, the EEOC found reasonable cause to believe that the criminal background check policy formerly used by Pepsi discriminated against African-Americans in violation of Title VII. The conciliation agreement included creative and detailed provisions, such as guaranteed remedial nationwide hiring for up to 305 qualified individuals who were denied employment at Pepsi because of background checks that showed arrests pending prosecution or convictions of minor offenses unrelated to the jobs they were seeking. The agreement requires Pepsi to provide regular reports to EEOC regarding implementation of its new background check policy. The agreement also includes a public notice provision which allowed the EEOC to issue a press release and speak to the press about the conciliation which resulted in a great deal of media coverage. Conciliation of this case was particularly significant because it was one of the first cases dealing with arrest and conviction record policies, and it received significant press throughout the country.

- In an ADA leave policy case, the Chicago District conciliated a charge for over $1.6 million. Approximately 2,000 individuals were affected by the employer's nationwide policy of denying additional leave as a reasonable accommodation for a disability. The conciliation agreement included provisions requiring the employer to revise its disability leave policy at all of its facilities nationwide, post a notice for all employees, conduct ADA training for all managers, supervisors and Human Resources personnel and EEOC monitoring of any revisions or modifications of its leave policy for the term of the agreement.

- In a case involving the failure to promote on the basis of race, a charge with a home improvement store was settled for $1.09 million. The charge alleged that African-Americans were rarely promoted into assistant general manager or general store manager positions. The charge was settled with 300 individuals receiving monetary relief. In addition, the company agreed to change its human resources and promotion policies to ensure equal employment opportunity in promotion for its black employees, which will affect almost 9,000 employees. Other terms of the agreement include the company providing reports to EEOC on the review and modification of its policies, diversity training for its managers, better communication of promotional opportunities to ensure equal opportunity, review of its internal complaint procedures, reporting on complaints of race discrimination in management positions, and reporting on promotion decisions.

- In a charge that alleged a lifting test had a disparate impact on female applicants, the company, a manufacturer of heavy equipment and a holder of several Department Of Defense contracts, agreed to terms in a conciliation agreement that provided $2.23 million. The charge alleged that the company had hired few women to work in its plant after the inauguration of the heavy lifting test. In additional to the significant monetary relief, the agreement included the provision of job offers for the charging party and a class of 36. This charge also represented a collaborative effort between the EEOC and the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) during the investigation.

- In a conciliation agreement involving a charge of discriminatory hiring under the ADEA, the case was resolved for $1.68 million. The agreement included creative and detailed hiring and recruiting policies and practices changes, including modifications to present policies and the EEOC's review of them; stopping the use of a study which advocated hiring criteria that adversely impacted those over the age of 40; reporting on the hiring of individuals over the age of 40 with specified avenues of recruitment geared towards increasing the pool of such individuals, and an agreement by the company not to rely on college recruiting.

- Based on a systemic directed charge and several individual charges, a conciliation agreement was secured involving the disparate impact of a company's layoff policy on persons 40 years of age or older. The agreement provides $1.54 million divided among 81 class members. In addition, the company agreed to adopt procedures to review selection decisions reached in future reductions-in-force and take reasonable steps to reduce as much as possible any disparate impact on workers in the protected age group. The company also agreed to provide training to salaried employees, and at the time of a group layoff or reduction-in-force, it will provide training on non-discrimination requirements and mitigation of disparate impact to all managers responsible for recommendations or decisions regarding lay-offs or reductions-in-force.
- A charge was settled for $450,000 to be paid to the charging party and a class of 81 African-Americans who, like the charging party, were denied employment due to the employer's blanket "no felony" conviction record policy. The settlement agreement also includes provisions in which any money not awarded to the charging party or the class will be donated to not-for-profit organizations that do job training and placement for individuals with conviction records.
- In an age discrimination case against a major technology company, a successful conciliation of $2.39 million involving 46 harmed parties was negotiated. Significant injunctive relief was also obtained to include a complete overhaul of the employer's reduction-in-force policies and practices. Furthermore, the conciliation agreement makes provisions for the establishment of a Regional Coordinator for any large scale employment action who would perform critical evaluations to ensure that actions taken were in compliance with the ADEA and the Older Workers Benefits Protection Act (OWBPA).

Systemic Litigation

When the agency makes a finding of systemic discrimination and efforts to secure voluntary compliance fail, the agency may choose to file suit to enforce the law. In FY 2012, the Commission filed 10 systemic lawsuits. These new suits challenge a variety of types of systemic discrimination, including large scale patterns of hiring and promotion discrimination against women and African-Americans, inflexible leave policies under the ADA, discriminatory benefits policies under the ADEA, a policy that facially discriminates against pregnant employees, and a restrictive language policy that discriminates based on national origin. Systemic suits comprised eight percent of all merits filings in FY 2012. Expressed differently, 62 cases on the active docket at the end of FY 2012 were systemic cases, accounting for 20 percent of all active merits suits. This is the largest proportion of systemic suits on the Commission's active docket since we began tracking in FY 2006. Moreover, the nature of the cases on the active systemic litigation docket has been changing—the EEOC is now litigating more large scale systemic cases, particularly involving widespread harassment against vulnerable workers and pattern-or-practice hiring cases spanning large geographic regions. Based on the large volume of systemic charges currently in investigation, the quantity of systemic lawsuits and their representation on the total docket is expected to continue to steadily increase. Under the new strategic plan, the agency projects an active systemic docket of 22-24 percent of all pending lawsuits by FY 2016.

This past year, the EEOC resolved 21 systemic cases, four of which included at least 50 victims of discrimination. Below is a sampling of significant outcomes of systemic discrimination lawsuits and appeals in FY 2012:

EEOC v. Yellow Freight—This case was the largest litigation monetary recovery of FY 2012—$11 million. The EEOC alleged that the trucking giant subjected black employees at a Chicago facility to a racially hostile working environment and discriminatory terms and conditions of employment. The EEOC had evidence of multiple hangmen's nooses, racist graffiti, and harsher discipline and scrutiny of black employees. In addition, the EEOC had evidence that blacks received more difficult and time-consuming assignments. Numerous employees complained to the company, but it continually failed to take effective action to correct these problems. The suit was resolved by consent decree providing $11 million to over 300 victims. In addition, the company will retain consultants to examine its discipline and work assignment procedures and recommend changes to prevent racial disparities.

EEOC v. Henry's Turkey—The EEOC alleged that a turkey processing plant in Iowa hired a group of intellectually disabled men and then paid them lower wages than non-disabled employees for the same work. The EEOC further alleged that the company subjected the men to horrific working conditions because of their disabilities. The EEOC filed a motion for partial summary judgment on the wage claims and won. The District Court Court awarded $1.3 million damages on the claim, plus interest. The remaining claims are set for trial in March 2013.

EEOC v. Dura Automotive—The EEOC alleged that a manufacturer of driver control systems in Tennessee conducted illegal medical examinations of its employees and then used the information it obtained to take adverse actions against them. The suit was resolved by consent decree providing $750,000 to 27 victims. In addition, the company will be precluded from conducting random screens for prescribed drugs and taking action against employees who take prescribed medications without an individualized assessment.

EEOC v. Delano—The EEOC alleged that a hospital in California's San Joaquin Valley subjected Filipino employees to harassment, scrutiny and discipline particularly for speaking Filipino languages like Tagalog or Ilocano. The EEOC had evidence that supervisors, staff, and even volunteers were encouraged to act as vigilantes, constantly berating and reprimanding Filipino employees for speaking their native tongues, making fun of their accents, and ordering them to speak English. Some endured threats of arrest and were told to go back to the Philippines. The suit was resolved by consent decree providing $975,000 to around 70 victims. In addition, the hospital is required to develop strong protocols for handling harassment and discrimination, to adopt a language policy that complies with Title VII, and to hire an EEO monitor.

EEOC v. United Airlines—The Seventh Circuit reversed the dismissal of the Commission's ADA suit challenging the airline's policy of requiring competitive transfers rather than reassignment as a reasonable accommodation for disabled employees. The appeals court acknowledged that the district court's dismissal had been compelled by existing 7th Circuit precedent. However, the appellate court stated, every active circuit judge agreed that the 7th Circuit precedent should be overruled in light of intervening Supreme Court precedent. The appeals court therefore reinstated EEOC's suit and remanded it to the district court to determine whether "fact-specific considerations particular to United's employment system" would render mandatory reassignment unreasonable.

More details about the Systemic Program can be found at http://www.eeoc.gov/eeoc/task_reports/systemic.cfm.

Leadership in Federal Civil Rights Enforcement

Leveraging Inter-Agency Relationships for Strategic Enforcement

The work of the Commission is made more efficient with interagency coordination and it has established an active and ongoing relationship with other agencies as well as the White House. The efforts allow a greater impact on many communities and issues. In FY 2012 this included the Asian American and Pacific Islander (AAPI) community (www.whitehouse.gov/aapi), the National HIV/AIDS Strategy (www.whitehouse.gov/administration/eop/onap/nhas), the Federal Interagency Reentry Council (www.eeoc.gov/eeoc/interagency/reentry_council.cfm), the President's Interagency Task Force to Monitor and Combat Human Trafficking and Senior Policy Operating Group, and the National Equal Pay Enforcement Task Force.

The EEOC has continued to play a pivotal role in the work of the National Equal Pay Enforcement Task Force. For example, building on a training plan initiated in FY 2011, in FY 2012 the EEOC trained 1,492 enforcement personnel from federal, state, and local civil rights enforcement agencies on techniques for investigating and analyzing violations of compensation discrimination laws. This brought the total number of employees trained through this program to over 2,000. By including the Department of Labor's OFCCP and Wage and Hour Division (WHD), and the Department of Justice in the design, delivery and audience of the training, the EEOC maximized the benefit of its investment by creating connections between enforcement personnel in the three agencies and the Fair Employment Practices Agencies. The training not only improved EEOC's capacity to identify and remedy pay discrimination, but also improved the capacity of each participating agency to recognize situations in which interagency collaboration could lead to greater efficiency and improve enforcement outcomes.

This focus on interagency collaboration continues to be a driving force in outreach as well. In FY 2012, EEOC conducted over 70 free joint outreach events with National Equal Pay Enforcement Task Force member agencies, including OFCCP, WHD, the Department of Labor's Women's Bureau, and the Department of Justice, reaching over 1,700 attendees. In accordance with the 2010 recommendations of the National Equal Pay Enforcement Task Force, in November of 2011, the EEOC and OFCCP signed a revised Memorandum of Understanding (MOU) aimed at streamlining information sharing and improving coordination. Since that time, EEOC personnel have worked diligently to implement the information sharing provision of the MOU, and to identify best practices for collaboration.

The EEOC has also continued to develop its partnership with the Department of Justice (DOJ) Civil Rights Division. This collaboration has entailed the involvement of the DOJ in the early phases of EEOC's investigations of charges of discrimination against state and local governmental employers where the DOJ has litigating authority under Title VII, the ADA and GINA, and has resulted in a number of DOJ and EEOC law suits challenging discrimination. For example, in June of 2012, the DOJ intervened in a case brought by 20 female sheriff's deputies in Akron, Ohio, upon EEOC's referral of the charges to it. EEOC and DOJ also joined forces to bring suit against the Texas Department of Rural Affairs, the Texas Department of Agriculture, and the Texas General Land Office to contest wage discrimination against female employees on the basis of sex, in a series of cases filed in FY 2011 and 2012.

Providing Clarity through Regulations, Enforcement Guidance and Technical Assistance

Issuing regulations and guidance is at the heart of the Commission's role of leading the enforcement of federal employment anti-discrimination laws. Regulations and guidance inform individuals and employers of their legal rights and responsibilities, aid EEOC employees in conducting their work, and serve as references for the courts when resolving novel legal issues. In FY 2012, the agency issued the following regulations or guidance on substantive issues:

> ***Final Rule on Disparate Impact and Reasonable Factors Other Than Age (RFOA) Under the Age Discrimination in Employment Act (ADEA).*** The Commission issued its final regulation about ADEA disparate impact liability and the RFOA defense on March 30, 2012, after considering two sets of public comments. The regulation incorporates principles from Supreme Court decisions concerning the RFOA—Smith v. City of Jackson and Meacham v. Knolls Atomic Power Laboratory—to make clear that the employer bears the burden of proving

the RFOA defense, and that it only applies to claims of disparate impact, i.e., to challenges alleging that facially neutral policies or practices have an adverse effect on older workers. It also clarifies the RFOA standard by providing a non-exhaustive list of considerations relevant to deciding whether the employer has satisfied the defense.

To help the public better understand this document, the Commission also issued a technical assistance document, *Questions and Answers on EEOC Final Rule on Disparate Impact and "Reasonable Factor Other Than Age" (RFOA) Under the Age Discrimination in Employment Act of 1967*. Both the final rule and technical assistance document can be found on our website at http://www.eeoc.gov/laws/regulations/index.cfm.

Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964. This Enforcement Guidance, which concerns the discriminatory use of criminal records in making employment decisions, was approved and issued by the Commission on April 25, 2012. It consolidates and updates several EEOC policy documents, or portions thereof. Prior to voting to approve this guidance, the Commission held two public hearings and reviewed approximately 300 written comments. The consolidated Enforcement Guidance reiterates the Commission's basic, longstanding positions, while providing greater detail on disparate impact analysis and the related employer defense of "job related and consistent with business necessity, as applied to criminal records screening." The Commission also gave significantly more emphasis to situations where employers treat individuals with the same qualifications and criminal records differently because of their race, national origin, sex, or another Title VII-protected basis. Finally, the Commission identified best practices for employers to follow in order to avoid discrimination when screening for certain criminal records.

To help the public better understand the Commission's updated Enforcement Guidance, the Commission issued a technical assistance document, *Questions and Answers About the EEOC's Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions.* Both documents are available on EEOC's website; the Enforcement Guidance may be found at http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm, and the Q&A is accessible from http://www.eeoc.gov/laws/guidance/qa_arrest_conviction.cfm.

EEOC Regulations also govern the procedures for how complaints are filed and processed within the EEOC, and how the EEOC otherwise conducts many of its activities. These regulations play the important role of notifying the public of how to pursue their rights with the EEOC, and of ensuring that the agency complies with the laws applicable to government operations generally. The Commission regularly reviews its procedures to improve their efficacy and to ensure compliance with other applicable laws. In fiscal year 2012, the Commission took the following regulatory actions on procedural issues:

Final Rule on Federal Sector Equal Employment Opportunity. In response to recommendations from the Commission's Federal Sector Workgroup, the Commission changed select parts of its procedures for processing equal employment opportunity (EEO) complaints from federal employees, former employees, and applicants. These revisions were finalized after federal agencies and the public were given an opportunity to comment on a notice of proposed rulemaking. The final rule reaffirmed agency obligations to follow EEOC regulations, Management Directives, and Bulletins; enhanced the overall efficiency and fairness of the administrative process for federal employee EEO complaints; and permitted agencies to develop pilot projects for processing their EEO complaints. The final rule represents the Commission's initial step in its ongoing review of the federal sector EEO complaint process in order to improve quality and efficiency.

The Commission issued technical assistance to help relevant stakeholders understand the changes to federal sector EEO complaint processing. The final rule, along with the technical assistance document—*Questions and Answers on EEOC's Final Rule Implementing Revisions on 29 CFR Part 1614*—is available on the EEOC's website at http://www.eeoc.gov/laws/regulations/index.cfm.

Notice of Proposed Rulemaking on Availability of Records. The EEOC must disclose information to the public consistent with the Freedom of Information Act (FOIA). The Commission proposes to update its FOIA regulation to improve EEOC efficiency, reduce delays for the public, conform the regulation to the 2007 FOIA amendments, and exercise an option under the Electronic FOIA Amendments of 1996 (multi-tracking). For example, the proposed FOIA regulation would replace the EEOC's first in/first out FOIA process with a more efficient system that categorizes requests at the outset as simple, complex, or expedited, and then moves the requests on different tracks. The updated regulation also would require FOIA requestors seeking disclosure of an EEOC charge files to submit the court complaint showing that a lawsuit was filed on the issues investigated in the EEOC charge. This establishes that disclosure of the charge file is permissible, subject to the pertinent FOIA exemptions. The EEOC published the proposed FOIA regulation on September 4, 2012, and the public comment period ended on November 4, 2012. A copy of the proposed rule is available on EEOC's website at http://www.eeoc.gov/laws/regulations/index.cfm.

Providing Strong Leadership and Oversight for Federal Agencies

The EEOC provides leadership and guidance to federal agencies on all aspects of the federal government's equal employment opportunity program. The Commission assures federal agency and department compliance with EEOC federal sector regulations, provides technical assistance to federal agencies concerning EEO complaint adjudication, monitors and evaluates federal agencies' affirmative employment programs, and develops and distributes federal sector educational materials and conducts training for stakeholders.

EEOC's Management Directive 715 (MD-715) identifies "Essential Elements" for structuring model EEO programs. Attaining a model EEO program provides an agency with the necessary foundation for achieving a discrimination-free work environment. The six essential elements for maintaining model Title VII and Rehabilitation Act programs are: (1) demonstrated commitment from agency leadership; (2) integration of EEO into the agency's strategic mission; (3) management and program accountability; (4) proactive prevention of unlawful discrimination; (5) efficiency; and (6) responsiveness and legal compliance.

A discrimination-free work environment, characterized by an atmosphere of inclusion and free and open competition for employment opportunities, is the ultimate goal of MD-715 and the federal government. MD-715 provides a roadmap for creating effective EEO programs for all federal employees as required by Title VII and Section 501 of the Rehabilitation Act of 1973, which prohibits disability discrimination in the federal sector.

To assist agencies in reporting under MD-715, the EEOC provides tools and assistance to agencies to help them analyze their work forces and uncover barriers to equal employment opportunities. Once barriers are identified by agencies, Commission staff collaborates with them to develop creative strategies to eliminate or reduce the impact of identified obstacles. Further, the EEOC works with agencies to promote workplace policies and practices that foster an inclusive work culture and prevent employment discrimination. This effort includes working with federal agencies to adopt and successfully implement the attributes of the EEOC's Model EEO Program.

In FY 2012, EEOC deployed the Federal Sector EEO Portal (FedSEP) to all federal agencies to provide electronic submission and collection of Federal Agency EEO Program Reporting (MD-715) data. FedSEP is a multi-year initiative for capturing and storing the data used by EEOC for analyzing the workforce composition of federal agencies and trends within the federal workforce. It will allow EEOC to better identify potential discriminatory policies or practices within federal agencies to establish priorities and issue/monitor compliance plans to address the areas of concern. During FY 2013, EEOC will expand FedSEP to include submission and integrated analysis for the Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints (EEOC Form 462) data. Using an integrated web-based data collection system will benefit EEOC by reducing costs, increasing data accuracy, and improving the analysis of data.

The Strategic Plan for Fiscal Years 2012-2016 calls for the integration and coordination of the federal sector adjudicatory and oversight functions, resulting in an integrated data system that will allow information gathered in the adjudicatory process to support and enhance the Federal Sector Programs's (FSP) oversight and evaluation activities. To that end, in FY 2012, EEOC began developing FedSEP to capture MD-715 data, Form 462 data, and complaint data. Once FedSEP is fully operational in December 2012, EEOC will utilize business intelligence software to analyze for trends in particular agencies and across the government.

EEOC staff analyzes and assesses federal agencies' annual submission of MD-715 reports to ascertain agencies' progress in creating model EEO programs. EEOC provides oversight to over 200 federal agencies and their subcomponents. To facilitate this oversight responsibility, EEOC conducts in-person and telephonic remote assistance meetings with the responsible agency employees, as well as provides multi-year trend analysis feedback letters to the agencies.

The EEOC's success in its oversight role comes not from the mere exercise of collecting data; it comes from what EEOC and the agencies do with that data. Agencies have the responsibility to identify those red flags that are discovered in the MD-715 data and conduct investigations of the anomalies generated by workplace policies, procedures, and practices with an eye toward eliminating barriers to equal employment. If an agency finds a barrier, it has a responsibility to eliminate it. Similarly, EEOC, as the oversight agency, has the ongoing responsibility to provide the technical assistance necessary to accomplish this enormously important task.

The EEOC has provided feedback to agencies on their MD-715 submissions via various means, including technical assistance visits, one-year feedback letters, and three-year trend analysis letters. In response to comments from federal agency stakeholders, the Commission continues to provide feedback letters to agencies on a rotating basis. This feedback is designed to provide comprehensive analysis that tracks the agency's progress toward establishing a model EEO program.

During FY 2012, Office of Federal Operations (OFO) conducted 79 detailed technical assistance meetings with agencies. Despite staff reductions, OFO met with the EEO staff for over 33 percent of all agencies. OFO issued 25 trend analysis letters to federal agencies in FY 2012. Based on lessons learned over the previous five years, in FY 2012 FSP undertook a program to bolster its technical assistance effort with a plan to increase technical assistance contacts with agency EEO offices and provide structured in-person visits.

Extending the Reach of the Agency

Agency Outreach Continues to Reach Diverse Audiences

In keeping with the Strategic Plan's prioritization of outreach and education, in FY 2012, the Commission's outreach, education and technical assistance efforts focused on increasing voluntary compliance with federal equal employment laws and on improving employee and employer awareness of rights and responsibilities under federal employment discrimination laws, especially amongst underserved groups and in underserved areas.

The agency's no-cost outreach programs reached 318,838 persons in FY 2012. EEOC offices participated in 3,992 no-cost educational, training, and outreach events. Additionally, in FY 2012, the Training Institute trained 23,119 individuals at 473 events, including 417 field Customer Specific Training events with 16,932 attendees.

Specific outreach events included 1,884 oral presentations, 268 training sessions and 292 stakeholder input meetings. These three major types of educational events reached 161,958 people. Offices represented the Commission at 687 public events that reached 72,319 people. These events included information meetings with community organizations and professional associations. Through participation in job fairs, ethnic and cultural festivals, expositions and conventions, Commission personnel distributed informational materials to 49,043 people. Commission employees also made 386 media presentations, including newspaper, radio and TV interviews, talk shows, and press conferences that provided substantive equal employment opportunity information to millions of stakeholders.

Small Business Outreach. The Commission worked collaboratively with the small business community to prevent employment discrimination and promote voluntary compliance. EEOC offices conducted 577 no-cost outreach events directed toward small businesses in FY 2012, reaching 62,738 small business representatives. The most popular topics for small business audiences were an overview of the laws enforced by EEOC, charge processing procedures, sexual harassment, Title VII and the ADA. In addition, some small businesses took advantage of training offered by the Training Institute with 98 events reaching 4,654 small business representatives.

Outreach to Vulnerable/Underserved Workers and Areas. In FY 2012, the Commission conducted events geared toward reaching vulnerable/underserved workers and underserved areas. The Commission reached 144,141 people by conducting a total of 2,108 events. Commission staff members traveled to states and communities where no EEOC office is located or where certain communities are reluctant to come forward to complain of employment discrimination, and partnered with local community organizations, consulates and other entities to reach these workers. For example, 254 events, reaching 17,709 individuals, were targeted to migrant farm worker communities and their advocates to provide education and information about discrimination. The were 193 events focused on human trafficking issues, working with community-based organizations devoted to trafficking issues, and reaching 10,622 people. In addition, 347 events, reaching 29,338 people, focused on the issue of the use of arrest and conviction records in employment, raising awareness about the impact on those who are trying to re-enter the workforce and become productive citizens. Finally, the Commission also provided over 150 off-site intake and counseling services in neighborhoods where persons with limited English proficiency may be less likely to come to Commission offices.

Equal Pay Outreach. In FY 2012, continuing efforts from the prior year, the Commission conducted 422 total events that included education on the issue of equal pay in the workplace, reaching 27,852 individuals in these efforts.

Outreach to Asian American and Pacific Islander Communities. As part of the White House Initiative, the Commission improved its communications and partnerships with the AAPI community. In FY 2012, the Commission conducted 197 events, reaching 24,414 people, to raise awareness about the EEOC and the laws we enforce. The EEOC partnered with several organizations across the country that represent the AAPI communities. The events included ethnic media interviews, presentations at community gatherings and cultural fairs and celebrations, staffing informational booths, stakeholder input meetings, training, information dissemination in several languages that educate the AAPI community about employment discrimination laws and expanded presence sessions where Commission personnel conducted off-site intake and counseling. Examples of these events and partnerships include:

- The Festival of Asian Cultures in Albuquerque, New Mexico; the QARI Chinese Celebration in Boston, Massachusetts; the Thai Festival in Los Angeles, California; the Philippine Cultural Foundation Festival in Tampa, Florida; the Vietnamese Tet Festival in Orange County, California and Asian Heritage Festivals in Cleveland, Ohio, Indianapolis, Indiana, New Orleans, Louisiana and Fairfax and Falls Church, Virginia.
- EEOC staff developed or strengthen significant partnerships with AAPI community organizations, through training (e.g., for the Sikh American Legal Defense and Education Fund in Los Angeles and San Francisco), new relationships (Mississippi Immigrants Rights Alliance and the Catholic Charities Migration Refugee Center); and stakeholder meetings (Asian American Association of New Mexico, Asian American Resource Center in Little Rock, the Asian American Group of Las Vegas, the Asian Pacific American Legal Center in Los Angeles, Asian Americans for Community Involvement and Silicon Valley Asian American Voices project in San Jose and the South Asian Americans Leading Together (SAALT) in Philadelphia.
- Given the ethnic, cultural and religious diversity of the AAPI communities, many outreach events that cover particular issues such as immigrant worker rights and human trafficking, also reach members of the AAPI community. For example, two managers from our Little Rock office presented at the Second Annual Immigrant Victims of Domestic Violence and Human Trafficking Conference.

In addition to outreach to individual members of the AAPI communities and organizations that represent them, the agency also conducted outreach to the AAPI business community. For example, staff met with, provided training for or developed partnerships with employer groups such as the Carolinas Asian American Chamber of Commerce, Las Vegas Asian Chamber of Commerce, a group of Thai small business owners in conjunction with the Thai Community Development Center in Los Angeles, the Asian Chamber of Commerce in Phoenix and a small Japanese owned technology company in Atlanta.

Providing Employers and Employees with Education and Technical Assistance

The EEOC Training Institute is managed under a separate statutory authority that enables the Commission to offer in-depth and specialized programs on a fee basis, supplementing the free general informational and outreach activities that are an on-going aspect of the agency's mission. The Training Institute offers diverse, high quality, reasonably priced EEO expertise and training products to private sector employers, state and local government personnel, and employees of federal agencies. In FY 2012, the Institute trained over 20,000 individuals at more than 430 events, generating about $3.4 million in revenue. This enabled the Institute to remain self-sustaining for another year, and allowed for the reimbursement of $2.3 million to the Commission for indirect costs associated with its operations, including 100 percent of Training Institute staff and portions of field and headquarters staff performing dedicated activities for the Institute. The Institute offered the following products/service lines:

Technical Assistance Program Seminars (TAPS). The one- and two-day TAP Seminars offered by the Training Institute are responsive to employers' information and training needs and allow EEOC to educate employers and employees about how to identify, prevent and eliminate workplace discrimination. In FY 2012, 38 TAPS were conducted throughout the country with nearly 5,400 participants. Throughout FY 2012, TAPs continued to receive excellent evaluations. Over 90 percent of the attendees at multi-issue TAPs rated the event as "above average" or "outstanding."

National Federal Sector Conference. An annual national federal sector conference, the Examining Conflicts in Employment Laws (EXCEL) Conference, has become a widely anticipated and highly acclaimed event for federal EEO managers, attorneys, union officials, and other EEO professionals. This year's conference marked the 15th anniversary of this event and attracted more than 400 attendees. The conference included three plenary sessions and more than fifty open workshops. In addition to the general plenary and workshops, there was a preconference session for new investigators and counselors attended by more than 80 individuals and three separate closed tracks covering Basic Mediation, Advanced Mediation and Hearings Preparation.

Customer Specific Training. The Customer Specific Training (CST) program trains employees, managers, supervisors and human resource professionals from large, mid-size and small employers on their EEO responsibilities and how to prevent and correct workplace discrimination. Standardized courses are available, or the Institute can design customized courses to be delivered at employers' worksites. In FY 2012, the Training Institute held 400 field CST events that reached approximately 14,000 attendees.

Webinars. In an effort to bridge the Institute's training offerings with technology developments, the Institute once again offered webinars as part of its product line. During FY 2011, the Institute presented six webinars covering harassment, GINA, ADAAA regulations and social networking. These sessions reached over 1,100 sites.

Federal Courses and CSTs. In addition to the EXCEL conference, 42 courses covering skills training for federal investigators, mediators and counselors were presented and funded through the Training Institute. There were more than 800 attendees this year for the federal courses offered around the country and in Washington, DC. There were also about 85 federal CSTs conducted during FY 2012.

Improved Labor Management Relations

Pursuant to the President's Executive Order (EO) 13522: "Creating Labor-Management Forums to Improve Delivery of Government Services," the EEOC established a National Joint Labor Management Council (JLMC) in addition to District Joint Labor Management Councils in each of its 15 Districts, one in the Washington Field Office, and one in Headquarters. In 2010, the National JLMC established metrics to measure goal-related activities associated with implementing the EO. Each metric included an established baseline by which to measure successes. These three principle metrics were "Improve Mission and Service Delivery," "Employee Satisfaction and Engagement" and "Improved Labor-Management Relations."

The JLMC's most recent report to the Office of Personnel Management indicates that the agency has experienced improvements in each of these areas. For example, the baseline for the metric "Improved Mission and Service and Delivery" was established to demonstrate the agency's efforts to reduce its backlog. The agency reduced its private sector backlog by 9.6 percent—well over the 2 percent that had been projected. In comparison, our backlog in the federal sector increased by 15 percent, rather than resulting in the projected 2 percent reduction.

Labor relations have continued to improve over previous years. Whereas,,the union would typically file at least twenty to thirty unfair labor practices (ULP's) yearly, in the past two years, there were seven ULP's filed in 2012 and four in 2011. The agency also was able to reach an agreement over a new Collective Bargaining Agreement in only a four week period. The parties' win-win approach to negotiations served the interests of both. Specifically, while the agency was interested in controlling official time, the union had an interest in trying maxiflex, a type of flexible work schedule that permits employees to vary the number of core hours worked on a given workday or the number of hours each week within an 80 hour biweekly pay period, on a trial basis. The parties agreed to procedures for both maxiflex and official time.

Improving Federal Employees' Viewpoint Survey Results

The 2012 results show that EEOC employees continue to like the kind of work they do, believe their work is important, are willing to give extra effort to get a job done and, are looking for ways to do their jobs better. In fact, employees rate the overall quality of work done in their work unit above 80 percent. Employees also say they are held accountable for achieving results and know how their work relates to agency goals. Supervisors/Team Leaders talk with their employees about their performance and treat them with respect.

In FY 2011, EEOC employees expressed several concerns about their workplace and the agency responded by launching the "BEST" Initiative. BEST, an acronym for *Building Employee Satisfaction Together* focuses on employee satisfaction and implements a strategy for improving satisfaction by creating opportunities for employee involvement to resolve workplace issues. BEST began its journey by starting with three areas of focus: reprisal, workplace health and safety, and skill development and workload management.

The FY 2012 results reveal there is more work to do in the three areas of focus The agency is making progress. For example, EEOC comparisons show an increase in positive percentage points for four out of these six items since last year. Since FY 2011, positive percentage points increased by a notable six percentage points for "prepared employees for potential security threats," three points each for "fear of reprisal and arbitrary action" and two points for "reasonable workload." Government-wide comparisons, or a comparison of fiscal years 2011 and 2012 ratings for EEOC items that trail government-wide averages, reveals that gaps are closing in these areas as well. Last year, EEOC's positive percentage points for "fear of reprisal" trailed government-wide averages by 14 points compared to 9 points this year. Similarly, percentage points for "arbitrary action" lagged government-wide averages by 9 points last year but only by 5 points this year. EEOC's positive percentage points for "prepared employees for potential security threats" lagged this year only by 4 points when last year it lagged by 10. Even these small differences are significant when analyzing results for improvement.

Implementing Hiring and Hiring Reform

The agency hoped to be able to fill positions left open by attrition in FY 2011. However, a hiring freeze was imposed effective January 3, 2011. The freeze meant that virtually no hires were made in FY 2012; indeed, only 11 employees were hired in FY 2012. By comparison, 93 employees were hired in FY 2011.

Pursuant to initiatives from the Office of Personnel Management and the Office of Management and Budget, EEOC's Office of Human Resources worked with agency hiring managers and senior officials to develop a new hiring reform action plan designed to improve the agency's hiring process. The goal continues to be hiring new employees within 78 calendar days. In FY 2012, the agency increased its baseline of 25 percent of hires completed in 78 day by 20 percent. Forty-five percent of hires were made in or less than 78 calendar days. The improved tracking system allowed EEOC to quickly identify barriers, such as delays in announcing positions due to inaccurate or incomplete crediting plans; delays in interviewing and selecting, extensions of time to select from a certificate, and allow for adjustments to ensure continued work towards the goal.

PROGRAM EVALUATIONS

Program evaluation is an important component of EEOC's effort to assure that its programs are operating as intended and achieving results. A program evaluation is a thorough examination of program design and/or operational effectiveness that uses rigorous methodologies and statistical and analytical tools. Evaluations also use expertise internal and external to the agency and the program under review to enhance the analytical perspectives and lend credence to the methodologies employed, the evaluation processes and findings, and any subsequent recommendations.

Independent program evaluations continue to play an important role in formulating the strategic objectives and performance goals detailed in EEOC's new FY 2012-2016 Strategic Plan and helped shape some of the program issues and key focus areas for improvement. They are an invaluable management tool to guide the agency's strategic efforts in attaining overall productivity and program efficiency, effectiveness, and accountability. To that end, EEOC has undertaken the following program evaluations to advance its performance-based management initiatives under the Government Performance and Results Modernization Act (GPRAMA) of 2010, and to improve the effectiveness of key agency programs.

Collecting Compensation Data from Employers; Panel on Measuring and Collecting Pay Information from U.S. Employers by Gender, Race, and National Origin, National Research Council of the National Academies, August 2012.

Evaluation of the Management of the EEOC's State and Local Programs, Equal Employment Opportunity Commission, Office of Inspector General, Williams, Adley & Company-DC, LLP, March 2011.

U.S. Equal Employment Opportunity Commission Evaluation of the Priority Charge Handling Procedures Report, Federal Consulting Group (FCG), December 2010.

Consistent with the Administration's focus on improving the effectiveness of Government through rigorous evaluation and evidence-based policy initiatives, we will continue to consider appropriate program areas for evaluation each year. This will ensure that the agency's efforts align with EEOC's budget and other programmatic priorities.

VERIFICATION AND VALIDATION OF DATA

Our private sector, federal sector, and litigation programs require accurate enforcement data, as well as reliable financial and human resources information, to assess EEOC operations and performance results and make good management decisions. The agency will continue efforts to ensure the accuracy of program information and any analysis of the information.

The Commission continually reviews the information collected in its databases for accuracy by using software editing programs and program reviews of a sample of records during field office technical assistance visits. In addition, headquarters offices regularly conduct analyses to review the information collected in order to identify any anomalies that indicate erroneous entries requiring correction to collection procedures. In July 2012, the agency expanded the formats that respondents can use when uploading their EEO-1 data so that more firms can use this option for filing. This should help increase the accuracy of the data provided as manual data entry in the online system will be eliminated.

The EEOC also monitors internal mechanisms for improving the validity and reliability of the EEO-1 data. For example, a 2012 security audit for the host facility was implemented to make certain that the data was secure and accessible. Greater use of the EEO-1 by field staff continues to assist in identifying non-filers, which has enabled the agency to collect information more rapidly and completely. In addition, EEOC has now implemented two secure, web-based systems that enable all federal agencies to electronically submit annual equal employment opportunity statistics (Form 462 and MD-715). These systems continue to improve the quality and timeliness of the information received. Finally, the collection and validation of information for the Integrated Mission System (IMS), is continually approved, which consolidates mission data on charge intake, investigation, mediation, litigation, and outreach functions into a single shared information system. IMS includes many automated edit checks and rules to enhance data integrity. Since several performance measures require use of data to assess achievements, it is significant that this data can now be obtained much more quickly and with greater data accuracy.

The EEOC's Office of Inspector General continues to review aspects of the status of the agency's data validity and verification procedures, information systems, and databases and offer recommendations for improvements in its reports. This information and recommendations are used to continually improve Commission systems and data.

Inspector General's Statement

SUMMARY OF SIGNIFICANT MANAGEMENT CHALLENGES

Three of the most significant management challenges facing the U.S. Equal Employment Opportunity Commission (EEOC) in FY 2013 are in strategic management, budget and financial management, and reduction of the private-sector charge inventory. How well EEOC responds to the multi-faceted challenges of implementing a new strategic plan; budget and financial management in the current environment of Federal budgetary uncertainty; and continuing its recent gains in reducing the private-sector charge inventory; may well hold the key to how close the agency comes to realizing its vision of "Justice and Equality in the Workplace."

STRATEGIC MANAGEMENT

In July 2011, the EEOC launched the planning process for its FY 2012-2016 Strategic Plan. The plan, which was approved in February 2012, reflects the leadership's commitment to exploring different and new approaches to improving organizational performance in pursuit of its mission to "Stop and Remedy Unlawful Employment Discrimination." However, achieving the plan's goals and desired outcomes will likely require skillful management of the EEOC's limited financial resources, with an increased reliance upon technological innovation to best leverage EEOC's most valuable and productive resource—its human capital.

The OIG recently initiated an evaluation of the plan's performance measures. The results of the evaluation may provide agency management with insight on whether there are opportunities to improve, during the early stages of the plan's implementation, the measures. Key areas of the evaluation include whether: there are performance measures for its key strategic goals and objectives; the measures are effective gauges of the agency's progress in achieving its strategic goals and objectives; and the performance measures are objective, understandable (to all stakeholders), and outcome-based. The OIG will continue to monitor the agency's progress towards implementation during FY 2013.

BUDGET AND FINANCIAL MANAGEMENT

EEOC Chair Jacqueline Berrien's FY 2013 Congressional Budget Justification requested $373,711,000, which included $29,500,000 for State and Local Programs. This figure represented an increase of $13,711 million from the FY 2012 appropriation $360,000,000. The Chair's priorities include: 1) enforcing anti-discrimination laws more effectively; 2) leadership in Civil Rights Enforcement; 3) extending and improving agency outreach efforts; 4) reinvigorating the regulatory and policy agenda of the EEOC; and 5) Labor Management Relations. Specific areas targeted for the funding increases include focusing on key areas such as acquiring updated technology to facilitate improvements in service and responsiveness to primary stakeholders, implementation of a multi-year plan for reduction of the private sector charge inventory, improving training and career development for agency employees at all levels, and hiring to fill critical staff positions.

In light of the fact that the agency may be operating under a continuing resolution for, at minimum, the first half of FY 2013, it is likely that some significant efforts to improve organizational performance and efficiency may be deferred because of limited financial resources. Agency leadership faces the daunting challenge of identifying and implementing new and meaningful approaches to continue its momentum to improve organizational performance in line with its mission, particularly as it relates to reducing the private-sector charge inventory and enhancing customer service.

In this era of budgetary austerity, the relevance of effective cost management to maximize the value of limited resources to achieve mission and annual performance goals and objectives, cannot be understated. In his book, *Winning the Cost War, Applying Battlefield Management Doctrine to the Management of Government,* Lt. Colonel (Retired) Dale R. Geiger, PhD, states that: "…productivity gains will be achieved when the creative power of the organization's workforce is unleashed by continuously challenging them to identify ways to improve performance, cut costs, and reapply resources to higher priority endeavors."

Tactically, the agency has sought to reduce its costs through such leading-edge proposals as the Bring Your Own Device (BYOD) initiative, which may cut agency telecommunications costs by reducing its investment in Blackberry devices and related service plans. However, to meet these budgetary challenges the EEOC should consider embracing a broader, more strategic, approach to cost management. Just as the agency used an all-inclusive approach in developing its new strategic plan, whereby it solicited and enlisted the participation of staff at-large, it should consider replicating that effort by tapping into its most valued resource—its human capital—for ideas to improve the agency's cost management model. For example, by launching a new campaign that robustly promotes a cost conscious organizational culture, the EEOC's management increases its potential for motivating staff to pursue proven methods of effective cost management. The campaign may also empower employees to seek new and creative approaches to better leveraging the EEOC's financial resources.

PRIVATE-SECTOR CHARGE INVENTORY

The EEOC continues to face a major challenge in addressing the backlog of the private-sector discrimination case inventory. The primary negative effect of the backlog is delayed case resolution for thousands of EEOC customers. The EEOC has made progress in reducing the inventory over the last two fiscal years with an aggregate reduction of 18.6%. At the end of FY 2012, the inventory stood at 70,312, or 7,824 less than the inventory at the end of fiscal year 2011 (78,136). At the end of FY 2010, the inventory was 86,338, or 16,026 higher than at the end of FY 2011.

Assuming EEOC management expects the trend in inventory reduction to continue in FY 2013—and beyond—agency leadership will face difficulties in realizing these expectations given its resource challenges. In this connection, under the current conditions of fiscal austerity faced by Federal agencies, and an EEOC hiring freeze, there will be fewer front line staff (e.g., investigators), to conduct essential enforcement activities—potentially hampering progress in inventory reduction.

In FY 2011, Chair Berrien directed the agency's Office of Field Programs to develop a multi-year plan, to be implemented in FY 2012, designed to reduce the private-sector charge inventory. The plan, which was completed in August 2011, is being used in headquarters and the field. Several other tactics, including improving investigator and mediator training, as well as providing new guidance on best practices in inventory management for senior managers and case management for investigators, have been deployed by EEOC. As noted in the FY 2012–2016 Strategic Plan, EEOC plans to expand its use of technology to manage charges, including: on-line submission of pre-charge inquiry for review; on-line scheduling of appointments for intake interviews; on-line access for charging parties to check the status of their charge; and establishing a secure system for electronic transmittal and receipt of charge-related documents.

The OIG will monitor the EEOC's efforts at reducing the private-sector charge inventory, and endeavor to periodically provide useful observations which identify potential threats to achieving improvements.

CONCERNING AGENCY COMPLIANCE WITH FMFIA

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Office of
Inspector General

November 5, 2012

MEMORANDUM

TO: Jacqueline A. Berrien
Chair

FROM: Milton A. Mayo, Jr.
Inspector General

SUBJECT: FY 2012Agency Compliance with the Federal Managers' Financial Integrity Act (OIG Report No. 2012-07-AIC)

The *Federal Managers' Financial Integrity Act* (FMFIA), *P.L. 97-255*, as well as the Office of Management and Budget's (OMB) Circular A-123, Management Accountability and Control, establish specific requirements for management controls. Each agency head must establish controls to reasonably ensure that: (1) obligations and costs are in compliance with applicable laws; (2) funds, property and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and (3) revenues and expenditures applicable to agency operations are properly recorded and accounted for in order to permit the preparation of reliable financial and statistical reports, as well as to maintain accountability over the assets. FMFIA further requires each executive agency head, on the basis of an evaluation conducted in accordance with applicable guidelines, to prepare and submit a signed statement to the President disclosing that agency's system of internal accounting and administrative control fully comply with requirements established in FMFIA.

EEOC Order 195.001, Internal Control Systems requires the Office of Inspector General (OIG) to annually provide a written advisory to the Chair on whether the management control evaluation process complied with OMB guidelines. On November 1, 2012, the Office of Research, Information and Planning (ORIP) submitted EEOC's Fiscal Year 2012 FMFIA Assurance Statement to the Chair and to the OIG for review. The OIG reviewed: (1) assurance statements submitted by headquarters and district directors attesting that their systems of management accountability and control were effective and that resources under their control were used consistent with the agency's mission and complied with FMFIA; (2) all functional area summary tables, and functional area reports; and (3) ORIP's Fiscal year 2012 Federal Managers' Financial Integrity Act Assurance Statement, and Assurance Statement Letter, and attachments. Based on our limited independent assessment of this year's process, OIG is pleased to advise you that the Agency's management control evaluation was conducted in accordance with OMB and FMFIA regulations.

Further, based on the results of audits, evaluations, and investigations conducted by OIG during Fiscal Year 2012, OIG concurs with ORIP's assertion that the Agency had no material weaknesses during this reporting cycle.

OIG concurs with ORIP's reporting of 3 instances of financial non-conformances. Of the 3 financial non-conformances, all are anticipated to be corrected in FY 2013.

Financial Statements

MESSAGE FROM THE CHIEF FINANCIAL OFFICER

I am pleased to report that Equal Employment Opportunity Commission (EEOC) received an unqualified audit opinion on the FY 2012 financial statements. Also, there were no violations for noncompliance with laws and regulations. This could not have been accomplished without the outstanding efforts of the EEOC employees who worked diligently throughout the year to achieve a favorable audit report.

The EEOC has received clean opinions from FY 2004 when audited statements were required in compliance with the Accountability of Tax Dollars Act of 2002. FY 2012 makes the ninth consecutive year. Other FY 2012 accomplishments include:

- October 2011: the agency implemented its first outsourced financial cloud system. The new system, Financial Cloud Solutions (FCS) was implemented on time and within budget. The FCS has an Oracle Federal Financial Core and is operated by a private sector vendor. The vendor processes payments and miscellaneous collections, operates the FCS and E2 travel helpdesks, and operates and maintains the software.
- November 2011: in support of the White House Policy to improve cash flow for small businesses—the EEOC began paying small vendors in 15 days or less of receipt of proper documentation. From November 2011–September 2012, the agency paid 772 small vendors a total of $7 million.

During February 2012, the Commission approved the fiscal years 2012 – 2016 strategic plan. The new plan contains budgetary resource Performance Measure 14—the EEOC's budgetary resources for FY 2014–2017 align with the strategic plan. This measure emphasizes the importance of long term planning and the allocation and re-allocation of actual resources if required to fund strategic objectives. The FY 2012 performance target for this measure was met.

These positive outcomes are proof of the commitment to improved budget planning and financial management. In FY 2013, the EEOC will continue improvements that will allow it to effectively meet its mission to "stop and remedy unlawful employment discrimination."

Germaine P. Roseboro

Germaine P. Roseboro, CPA, CGFM
Chief Financial Officer

INSPECTOR GENERAL'S AUDIT REPORT

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Office of
Inspector General

November 16, 2012

MEMORANDUM

TO: Jacqueline Berrien
Chair

FROM: Milton A. Mayo, Jr.
Acting Inspector General

SUBJECT: Audit of the Equal Employment Opportunity Commission's Fiscal Year 2012 Financial Statements (OIG Report No. 2012-01-FIN)

The Office of Inspector General (OIG) contracted with the independent certified public accounting firm of Harper, Rains, Knight and Company, P.A (HRK) to audit the financial statements of the U.S. Equal Employment Opportunity Commission (EEOC) for fiscal year 2012. The contract required that the audit be done in accordance with U.S. generally accepted government auditing standards contained in *Government Auditing Standards* issued by the Comptroller General of the United States and Office of Management and Budget's Bulletin 07-04, *Audit Requirements for Federal Financial Statements,* as amended.

HRK issued an unqualified opinion on EEOC's FY 2012 financial statements. In its Report on Internal Control, HRK noted two areas involving internal control and its operation that were considered to be significant deficiencies. These included the lack of sufficient controls over supporting documentation for personnel expenses and the lack of sufficient controls over financial reporting. In its Report on Compliance with Applicable Laws and Regulations, HRK noted no instances of non compliance with certain laws and regulations applicable to the agency.

In connection with the contract, OIG reviewed HRK's report and related documentation and inquired of its representatives. Our review, as differentiated from an audit in accordance with U.S. generally accepted government auditing standards, was not intended to enable us to express, and we do not express, opinions on EEOC's financial statements or conclusions about the effectiveness of internal controls or on whether EEOC's financial management systems substantially complied with FFMIA; or conclusions on compliance with laws and regulations. HRK is responsible for the attached auditor's report dated November 15, 2012 and the conclusions expressed in the report. However, OIG's review disclosed no instances where HRK did not comply, in all material respects, with generally accepted government auditing standards.

EEOC management was given the opportunity to review the draft report and to provide comments. Management comments are included in the report.

The Office of Management and Budget issued Circular Number A-50, Audit Follow Up, to ensure that corrective action on audit findings and recommendations proceed as rapidly as possible. EEOC Order 192.002, Audit Follow up Program, implements Circular Number A-50 and requires that for resolved recommendations, a corrective action work plan should be submitted within 30 days of the final evaluation report date describing specific tasks and completion dates necessary to implement audit recommendations. Circular Number A-50 requires prompt resolution and corrective action on audit recommendations. Resolutions should be made within six months of final report issuance.

cc: Claudia Withers
Germaine Roseboro
Raj Mohan
Nicholas Inzeo
John Schmelzer
Mary McIver
Lisa Williams
Kimberly Hancher
Peggy Mastroianni
Todd Cox

INDEPENDENT AUDITORS' REPORT

HARPER, RAINS, KNIGHT
& COMPANY
Certified Public Accountants
A Professional Association

Independent Auditors' Report

Inspector General
U.S. Equal Employment Opportunity Commission

We have audited the accompanying consolidated balance sheets of the U.S. Equal Employment Opportunity Commission (EEOC), as of September 30, 2012 and 2011, and the related consolidated statements of net cost and changes in net position, and combined statements of budgetary resources, for the years then ended. These financial statements are the responsibility of EEOC management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and OMB Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements,* as amended.

Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our audits of the EEOC for fiscal years 2012 and 2011, we found

- the financial statements are presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles,
- no material weaknesses in internal control over financial reporting (including safeguarding of assets) and compliance with laws and regulations, and
- no reportable noncompliance with laws and regulations we tested.

The following sections discuss in more detail (1) these conclusions, (2) our conclusions on Management's Discussion and Analysis and other supplementary information, and (3) our and management's responsibilities.

Opinion on the Financial Statements
In our opinion, the financial statements including the accompanying notes present fairly, in all material respects, the financial position of EEOC as of September 30, 2012 and 2011, and its net cost of operations, changes in net position, and budgetary resources for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

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Inspector General
U.S. Equal Employment Opportunity Commission - Continued

Consideration of Internal Control

In planning and performing our audits, we considered EEOC's internal control over financial reporting and compliance. We did this in order to determine our audit procedures for the purpose of expressing our opinion on the financial statements and not to provide an opinion on internal control. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 07-04, as amended. We did not test all internal controls relevant to the operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982. Providing an opinion on internal control was not the objective of our audit. Accordingly, we do not express an opinion on EEOC's internal control over financial reporting and compliance or on management's assertion on internal control included in Managements' Discussion and Analysis. However, for the controls we tested, we found no material weaknesses in internal control over financial reporting (including safeguarding of assets) and compliance.

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 deficiency in internal control, or a combination of 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 more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected. A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that the design or operation of one or more internal controls will not allow management or employees, in the normal course of performing their duties, to promptly detect or prevent errors, fraud, or noncompliance in amounts that would be material to the financial statements. We consider the deficiencies described in Exhibit I to be a significant deficiency.

Our internal control work would not necessarily disclose all deficiencies in internal control that might be material weaknesses or other significant deficiencies.

We noted certain additional matters that we will report to management of EEOC in a separate letter.

Compliance with Applicable Laws and Regulations

The management of EEOC is responsible for complying with laws and regulations applicable to EEOC. As part of obtaining reasonable assurance about whether EEOC's financial statements are free of material misstatement, we performed tests of its compliance with selected provisions of laws and regulations including laws governing the use of budgetary authority and government-wide policies identified in OMB Bulletin No. 07-04, as amended, non-compliance with which could have a direct and material effect on the determination of consolidated and combined financial statements. Our tests disclosed no instances of noncompliance with laws and regulations which would be reportable under auditing standards generally accepted in the United States of America or OMB audit guidance.

We limited our tests of compliance to the provisions of laws and regulations referred to in the preceding paragraph. Providing an opinion on compliance with those provisions was not an objective of our audit. Accordingly, we do not express such an opinion.

Inspector General
U.S. Equal Employment Opportunity Commission - Continued

Consistency of Other Information
Management's Discussion and Analysis (MD&A) is not a required part of the financial statements but is supplementary information required by the Federal Accounting Standards Advisory Board and OMB Circular A-136, *Financial Reporting Requirements*. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the MD&A. However, we did not audit the information and accordingly, we express no opinion on it.

Responsibilities
EEOC's management is responsible for (1) preparing the financial statements in conformity with accounting principles generally accepted in the United States of America, (2) establishing, maintaining, and assessing internal control to provide reasonable assurance that the broad control objectives of the Federal Managers' Financial Integrity Act are met, and (3) complying with applicable laws and regulations.

We are responsible for obtaining reasonable assurance about whether the financial statements are presented fairly, in all material respects, in conformity with accounting principles generally accepted in the United States of America. We are also responsible for (1) obtaining a sufficient understanding of internal control over financial reporting and compliance to plan the audit, (2) testing compliance with selected provisions of laws and regulations that have a direct and material effect on the financial statements and laws for which OMB audit guidance requires testing, and (3) performing limited procedures with respect to certain other information appearing in the Annual Financial Statement.

In order to fulfill these responsibilities, we

- examined, on a test basis, evidence supporting the amounts and disclosures in the financial statements;
- assessed the accounting principles used and significant estimates made by management;
- evaluated the overall presentation of the financial statements;
- obtained an understanding of the entity and its operations, including its internal control related to financial reporting (including safeguarding assets), and compliance with laws and regulations (including execution of transactions in accordance with budget authority);
- tested relevant internal controls over financial reporting, and compliance, and evaluated the design and operating effectiveness of internal control;
- considered the design of the process for evaluating and reporting on internal control and financial management systems under the Federal Managers' Financial Integrity Act; and
- tested compliance with selected provisions of laws and regulations that have a direct and material effect on the financial statements and those required by OMB Bulletin No. 07-04, as amended.

We did not evaluate all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act, such as those controls relevant to preparing statistical reports and ensuring efficient operations. We limited our internal control testing to controls over financial reporting and compliance. Because of inherent limitations in internal control, misstatements due to error or fraud, losses, or noncompliance may nevertheless occur and not be detected. We also caution that projecting our evaluation to future periods is subject to the risk that controls may become inadequate because of changes in conditions or that the degree of compliance with controls may deteriorate. In addition, we caution that our internal control testing may not be sufficient for other purposes.

Inspector General
U.S. Equal Employment Opportunity Commission - Continued

We did not test compliance with all laws and regulations applicable to EEOC. We limited our tests of compliance to selected provisions of laws and regulations that have a direct and material effect on the financial statements and those required by OMB audit guidance that we deemed applicable to the EEOC's financial statements for the fiscal year ended September 30, 2012. We caution that noncompliance may occur and not be detected by these tests and that such testing may not be sufficient for other purposes.

We performed our audits in accordance with auditing standards generally accepted in the United States of America and OMB audit guidance.

Our audits were conducted for the purpose of forming an opinion on the financial statements of EEOC taken as a whole. The other accompanying information included in this performance and accountability report is presented for purposes of additional analysis and is not a required part of the financial statements. Such information has not been subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on them.

This report is intended solely for the information and use of the management of the U.S. Equal Employment Opportunity Commission, the U.S. Office of Management and Budget, the U.S. Government Accountability Office, and the U.S. Congress and is not intended to be and should not be used by anyone other than these specified parties.

Harper, Rains, Knight & Company, P.A.

November 15, 2012

Significant Deficiencies
Exhibit I

1. Lack of Sufficient Controls over Supporting Documentation for Personnel Expenses

The U.S. Equal Employment Opportunity Commission (EEOC) does not properly maintain supporting documentation for personnel expenses recorded in the general ledger. EEOC maintains personnel files for all employees to ensure that wages and elections for withholdings and benefits are consistent with the employee's intent. These files have minimum standards for accuracy, relevancy, necessity, timeliness, and completeness.

In FY 2012, we tested a sample of 78 employees' personnel expenses and supporting documentation maintained by EEOC in the employees' personnel files (eOPF) for the period of October 1, 2011 through June 30, 2012. Based on our testing, we identified the following exceptions:

- Fifteen (15) employees' enrollment code per most recent FEHB enrollment form (SF-2809, SF-2810 or transcript) in eOPF does not agree to enrollment code on LES for pay period sampled.
- Five (5) employees do not have a FEHB enrollment form (SF-2809, SF-2810 or transcript) in eOPF.
- Two (2) employees' have no FEGLI election form (SF-2817, FE 2004 or RI 76-27) in eOPF; therefore, elected FEGLI coverage per most recent FEGLI election form (SF-2817, FE 2004 or RI 76-27) in eOPF does not agree to election code per SF-50 effective during pay period sampled.
- Eight (8) employees' elected coverage per most recent FEGLI election form (SF-2817, FE 2004 or RI 76-27) in eOPF does not agree to election code per SF-50 effective during pay period sampled.
- Five (5) employees' have no TSP election form (TSP-1 or transcript) in eOPF; therefore, contribution (percentage/dollar amount) per most recent TSP election form (TSP-1 or transcript) in eOPF does not agree to contribution on LES for pay period sampled.
- Twenty-eight (28) employees' elected contribution (percentage/dollar amount) per most recent TSP election form (TSP-1 or transcript) in eOPF does not agree to contribution on LES for pay period sampled.

These exceptions were caused by insufficient controls in place at EEOC to ensure proper and timely documentation is maintained in the eOPF. We identified similar exceptions in our audits from FY 2010 and FY 2011.

EEOC's failure to properly record and maintain official personnel records increases the risk for improper calculations of liabilities on the Balance Sheets and improper calculations of program costs on the Statements of Net Cost.

The Government Accountability Office's (GAO) GAO Standards for Internal Control in the Federal Government (Green Book) states: "*Internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination.*

Significant Deficiencies
Exhibit I

The documentation should appear in management directives, administrative policies, or operating manuals and may be in paper or electronic form. All documentation and records should be properly managed and maintained."

To address this issue, we recommend that EEOC update its controls over the maintenance of its official personnel files. Additionally, management should perform a thorough review of its employees' personnel files to ensure that documentation is current and complete.

Management's Response: Management concurs with the finding. As mentioned in last year's report, we partnered with the Interior Business Center (IBC) (DOI) to provide a means to have the actions taken in Employee Express by our employees which will allow them to flow automatically to their e-OPFs. This data feed went live June 2, 2011. The data feed contains all FEHB, FEHB Premium Conversion, TSP, and TSP Catch-up records since the first day of FEHB open season (11/8/10) through the live date. After this date, IBC would send the actions on a daily basis Monday through Friday. While this process is working efficiently, the lack of resources has been and still is an issue. The Benefits Assistant in charge of this function went out on maternity leave during last year (which was reported in our last audit response), returned and now has left the agency. In order to process daily actions from Employee Express (with some employees making changes on a daily basis) appropriate resources are required. However, we have found in the meantime, to ensure that our separating employees' e-OPFs are complete. We receive a report bi-weekly from IBC that contains Employee Express actions, which in turn we download and scan into their e-OPF prior to releasing them. In order to improve on the resource issue, OHR is committed to partner with the Veterans Administration's wounded veterans in order to secure a volunteer to work with us to begin to put a process in place and clear up the backlog.

Auditors' Response: FY 2013 audit procedures will determine whether the corrective actions have been implemented and are operating effectively.

2. Lack of Sufficient Controls over Financial Reporting

In FY 2012, EEOC implemented the new Financial Cloud Solutions (FCS) accounting and reporting system to replace its legacy system Momentum. EEOC encountered implementation issues related to the new FCS system, including weaknesses identified in the conversion, the development of new reconciliation processes, and implementation of new complimentary user controls. As a result, the ability of management to perform their day-to-day procedures was significantly impacted. Specifically we noted the following issues:

Reconciliation of Data: EEOC identified differences between user reports/subledgers and the FCS general ledger; however no support was provided evidencing the reconciliations and the subsequent resolution of identified issues. Prompt resolution of differences is an essential component of financial data integrity, and its absence compromises the integrity of the financial reporting.

Complimentary User Controls: EEOC did not fully implement the complementary user controls identified in the SSAE 16 Type II report provided by its service provider. Implementation of all user controls is an essential component of EEOC's financial management control structure, and the

Significant Deficiencies
Exhibit I

absence of implementing complimentary user controls can compromise the integrity of the internal controls at EEOC's and EEOC's ability to rely on the SSAE 16 report.

Manual Adjustments: EEOC does not have controls in place to identify, review, and maintain documentation of manual adjustments entered by its service provider. Management review and acceptance of all manual adjustments is essential to management determining the appropriateness of transactions posted to the general ledger.

Policy and Procedure: EEOC did not update its standard operating procedures for each transaction cycle after implementation of its new accounting and reporting system, FCS. GAO Standards for Internal Control state "*Internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination. The documentation should appear in management directives, administrative policies, or operating manuals and may be in paper or electronic form. All documentation and records should be properly managed and maintained.'* Documentation of standard operating procedures is an essential component of internal control, the lack of documentation compromises the internal controls of EEOC.

To address these issues, we recommend EEOC (a) identify and update all policies and procedures impacted by the implementation of FCS, (b) document and monitor the implementation of all complimentary user control considerations, (c) implement stringent reconciliations and resolution procedures over financial reporting reconciliations of management reports/subledgers to FCS general ledger data, and (d) implement procedures over manual adjustments made by its service provider that meet the same rigor and documentation standards as internally generated manual adjustments.

Managements Response: EEOC will implement a review of the trial balance at least weekly to determine that the proprietary and budgetary accounts are in balance. For instance:

- General ledger proprietary account 1010 (disbursements) agrees with budgetary account 4902.
- General ledger proprietary account 1310 (accounts receivable) agrees with the subsidiary ledger.
- General ledger proprietary account 2110 (accounts payable) agrees with subsidiary ledger and budgetary account 4901.
- General ledger account 4801 agrees with the unliquidated obligations subsidiary.
- Proprietary revenue agrees with budgetary revenue.
- Proprietary expenses agree with budgetary expenses.

We agree with recommendation and will update the standard operating procedure (SOP) guides that affect the accounting in FCS. The Financial Operations Division will update the relevant SOPs.

EEOC is revising the JV standard operating procedures to include all items in the recommendation.

Auditors Response: FY 2013 audit procedures will determine whether the corrective actions have been implemented and are operating effectively.

Equal Employment Opportunity Commission

CONSOLIDATED BALANCE SHEETS

As of September 30, 2012 and 2011

(in dollars)

	FY 2012	FY 2011
ASSETS		
Intragovernmental:		
Fund balance with treasury (Note 2)	$ 53,993,070	$ 56,239,598
Accounts receivable (Note 3)	129,952	52,841
Advances	24,454	24,454
Total intragovernmental	54,147,476	56,316,893
Accounts receivable, net (Note 3)	385,187	380,840
General property and equipment, net (Note 4)	6,954,068	8,128,795
Advances	38,634	29,352
TOTAL ASSETS	61,525,365	64,855,880
LIABILITIES		
Intragovernmental		
Accounts payable (Note 6)	871,217	1,089,755
Employer payroll taxes	1,070,691	1,092,771
Worker's compensation liability (Note 7)	2,794,487	3,205,664
Amounts due to Treasury for non-entity assets (Note 5)	8,384	43,556
Total intragovernmental liabilities	4,744,779	5,431,746
Accounts payable	18,088,604	17,905,815
Accrued payroll	4,106,517	4,302,190
Accrued annual leave (Note 7)	18,698,273	19,339,327
Future worker's compensation liability (Note 7)	13,459,331	13,656,749
Amounts Collected for Restitution	56,163	14,823
Deferred revenue	117,163	70,605
Other Liabilities	40,263	—
TOTAL LIABILITIES	59,311,093	60,721,255
NET POSITION		
Unexpended appropriations—other funds	27,513,783	28,793,935
Cumulative results of operations—earmarked funds	2,492,669	3,333,431
Cumulative results of operations—other funds	(27,792,180)	(27,992,741)
Total net position	2,214,272	4,134,625
TOTAL LIABILITIES AND NET POSITION	**$ 61,525,365**	**$ 64,855,880**

The accompanying notes are an integral part of these statements.

Equal Employment Opportunity Commission

CONSOLIDATED STATEMENTS OF NET COST

For the Years Ended September 30, 2012 and 2011

(in dollars)

	FY 2012	FY 2011
JUSTICE, OPPORTUNITY, AND INCLUSIVE WORKPLACES		
Private Sector:		
Enforcement	$ 181,595,308	$ 195,350,522
Mediation	26,327,014	28,538,765
Litigation	75,857,359	79,605,289
Outreach	7,834,644	9,544,830
Training	3,732,110	2,171,914
State and Local	35,051,856	34,577,545
Total program costs—Private Sector	330,398,291	349,788,865
Revenue	(2,042,998)	(2,123,421)
Net cost—Private Sector	328,355,293	347,665,444
Federal Sector:		
Hearings	29,440,922	30,927,760
Appeals	15,642,877	16,322,697
Mediation	747,297	997,832
Oversight	6,099,157	6,421,506
Training	793,726	2,506,918
Total Program costs—Federal Sector	52,723,979	57,176,713
Revenue	(1,551,947)	(2,313,541)
Net cost—Federal Sector	51,172,032	54,863,172
Totals all programs		
Program costs	383,122,270	406,965,578
Revenue (Note 11)	(3,594,945)	(4,436,962)
Net Cost of Operations	**$ 379,527,325**	**$ 402,528,616**

The accompanying notes are an integral part of these statements.

Equal Employment Opportunity Commission

CONSOLIDATED STATEMENT OF CHANGES IN NET POSITION

For the Years Ended September 30, 2012 and 2011

(in dollars)

	FY 2012			FY 2011		
	Earmarked Funds (Note 14)	All Other Funds	Consolidated	Earmarked Funds (Note 14)	All Other Funds	Consolidated
CUMULATIVE RESULTS OF OPERATIONS						
Beginning Balances:	$ 3,333,431	$ (27,992,741)	$ (24,659,310)	$ 3,225,285	$ (24,884,213)	$ (21,658,928)
Adjustments:						
Changes in accounting principles	—	—	—	—	—	—
Corrections of errors	—	—	—	—	—	—
Beginning balance, as adjusted	$ 3,333,431	$ (27,992,741)	$ (24,659,310)	$ 3,225,285	$ (24,884,213)	$ (21,658,928)
Budgetary Financing Sources:						
Appropriations—used	—	358,428,095	358,428,095	—	376,125,486	376,125,486
Non-exchange revenue	—	5,946	5,946	—	—	—
Other Financing Sources (Non-Exchange):						
Imputed financing sources (Note 15)	—	20,460,314	20,460,314	—	23,402,748	23,402,748
Other	—	(7,231)	(7,231)	—	—	—
Total Financing Sources	—	378,887,124	378,887,124	—	399,528,234	399,528,234
Net Cost of Operations	(840,762)	(378,686,563)	(379,527,325)	108,146	(402,636,762)	(402,528,616)
Net Change	(840,762)	200,561	(640,201)	108,146	(3,108,528)	(3,000,382)
Cumulative Results of Operations	2,492,669	(27,792,180)	(25,299,511)	3,333,431	(27,992,741)	(24,659,310)
UNEXPENDED APPROPRIATIONS						
Beginning Balances:	$ —	$ 28,793,935	$ 28,793,935	$ —	$ 40,758,839	$ 40,758,839
Adjustments:						
Beginning balance, as adjusted	$ —	$ 28,793,935	$ 28,793,935	$ —	$ 40,758,839	$ 40,758,839
Budgetary Financing Sources:						
Appropriations received (Note 12)	—	360,000,000	360,000,000	—-	367,303,000	367,303,000
Other adjustments	—	(2,852,057)	(2,852,057)	—-	(3,142,418)	(3,142,418)
Appropriations—used	—	(358,428,095)	(358,428,095)	—-	(376,125,486)	(376,125,486)
Total Budgetary Financing Sources	—	(1,280,152)	(1,280,152)	—	(11,964,904)	(11,964,904)
Total Unexpended Appropriations	—	27,513,783	27,513,783	—	28,793,935	28,793,935
Net Position	**$ 2,492,669**	**$ (278,397)**	**$ 2,214,272**	**$ 3,333,431**	**$ 801,194**	**$ 4,134,625**

The accompanying notes are an integral part of these statements.

Equal Employment Opportunity Commission

COMBINED STATEMENT OF BUDGETARY RESOURCES

For the Periods Ending September 30, 2012 and 2011

(in dollars)

	FY2012	FY2011
Budgetary Resources		
Unobligated balance, brought forward, October 1:	$ 14,391,006	$ 11,749,896
Recoveries of prior year unpaid obligations	3,803,692	5,139,461
Other changes in unobligated balance	(2,852,057)	(3,142,418)
Unobligated balance from Prior Year Budget Authority, Net	15,342,641	13,746,939
Appropriations (discretionary and mandatory) (Note 12)	360,000,000	367,303,000
Spending authority from offsetting collections	4,773,786	4,465,802
Total Budgetary Resources	$ 380,116,427	$ 385,515,741
Status of Budgetary Resources		
Obligations incurred (Note 13)	$ 368,647,926	$ 371,124,735
Unobligated balance, end of year:		
Apportioned	594,052	2,107,523
Unapportioned	10,874,449	12,283,483
Total unobligated balance, end of year	11,468,501	14,391,006
Total Budgetary Resources	$ 380,116,427	$ 385,515,741
Change in Obligated Balance:		
Unpaid obligations brought forward October 1 (gross)	$ 42,190,850	$ 64,494,402
Uncollected customer payments from Federal sources, brought forward, October 1:	(357,082)	(314,131)
Obligated balance, start of year (net) as adjusted	41,833,768	64,180,271
Obligations incurred	368,647,926	371,124,735
Outlays (gross) (-)	(364,283,739)	(388,288,826)
Change in uncollected customer payments from Federal sources (+ or -)	74,143	(42,951)
Recoveries of prior year unpaid obligations (-)	(3,803,692)	(5,139,461)
Obligated balance, end of period (net)	$ 42,468,406	$ 41,833,768
Obligated balance, end of year		
Unpaid obligations, end of year (gross)	$ 42,751,345	$ 42,190,850
Uncollected customer payments from Federal sources, end of year	(282,939)	(357,082)
Obligation balance, end of year (net)	$ 42,468,406	$ 41,833,768
Budget Authority and Outlays, Net:		
Budget authority, gross (discretionary and mandatory)	$ 364,773,786	$ 371,768,802
Actual offsetting collections (discretionary and mandatory)	(4,847,929)	(4,422,851)
Change in uncollected customer payments from Federal sources (discretionary and mandatory) (+ or -)	74,143	(42,951)
Budget authority, net (discretionary and mandatory)	$ 360,000,000	$ 367,303,000
Outlays, gross (discretionary and mandatory)	$ 364,283,739	388,288,826
Actual offsetting collections (discretionary and mandatory) (-)	(4,847,929)	(4,422,851)
Less: Distributed Offsetting receipts		
Outlays, net (discretionary and mandatory)	**$ 359,435,810**	**$ 383,865,975**

The accompanying notes are an integral part of these statements.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

September 30, 2012 and 2011

(In Dollars)

(1) Summary of Significant Accounting Policies

(a) Reporting Entity

The Equal Employment Opportunity Commission (EEOC) was created by Title VII of the Civil Rights Act of 1964 (78 Stat. 253:42 U.S.C. 2000e et seq) as amended by the Equal Employment Opportunity Act of 1972 (Public Law 92261), and became operational on July 2, 1965. Title VII requires that the Commission be composed of five members, not more than three of whom shall be of the same political party. The members are appointed by the President of the United States of America, by and with the consent of the Senate, for a term of 5 years. The President designates one member to serve as Chairman and one member to serve as Vice Chairman. The General Counsel is also appointed by the President, by and with the advice and consent of the Senate for a term of 4 years.

In addition, based on the EEOC Education Technical Assistance and Training Revolving Fund Act of 1992 (P.L. 102-411), the EEOC is authorized to charge and receive fees to offset the costs of education, technical assistance and training.

The Commission is concerned with discrimination by public and private employers of 15 or more employees (excluding elected or appointed officials of state and local governments), public and private employment agencies, labor organizations with 15 or more members or agencies which refer persons for employment or which represent employees of employers covered by the Act, and joint labor-management apprenticeship programs of covered employers and labor organizations. The Commission carries out its mission through investigation, conciliation, litigation, coordination, regulation in the federal sector, and through education, policy research, and provision of technical assistance.

(b) Basis of Presentation

These financial statements have been prepared to report the consolidated financial position of the EEOC, consistent with the Chief Financial Officers' Act of 1990 and the Government Management Reform Act of 1994. This means that any intra-agency transactions have been eliminated. These financial statements have been prepared from the books and records of the EEOC in accordance with generally accepted accounting principles (GAAP) using guidance issued by the Federal Accounting Standards Advisory Board (FASAB), the Office of Management and Budget (OMB) and the EEOC's accounting policies, which are summarized in this note. These consolidated financial statements present proprietary information while other financial reports also prepared by the EEOC pursuant to OMB directives are used to monitor and control the EEOC's use of federal budgetary resources.

(c) Basis of Accounting

The Commission's integrated Financial Cloud Solutions (FCS) uses Global Computer Enterprises, Inc (GCE) Oracle, which has funds control, management accounting, and a financial reporting system designed specifically for federal agencies. FCS complies with the Financial Systems Integration Office's core requirements for a federal financial systems.

Financial transactions are recorded in the financial system, using both an accrual and a budgetary basis of accounting. Under the accrual method, revenues are recognized when earned and expenses are recognized when a liability is incurred, without regard to the receipt or payment of cash. Budgetary accounting facilitates compliance with legal requirements and mandated controls over the use of federal funds. It generally differs from the accrual basis of accounting in that obligations are recognized when new orders are placed, contracts awarded, and services received that will require payments during the same or future periods. Any EEOC intra-entity transactions have been eliminated in the consolidated financial statements.

(d) Revenues, User Fees and Financing Sources

The EEOC receives the majority of the funding needed to support its programs through congressional appropriations. Financing sources are received in direct and indirect annual and no-year appropriations that may be used, within statutory limits for operating and capital expenditures. Appropriations used are recognized as an accrual-based financing source when expenses are incurred or assets are purchased.

The EEOC also has a permanent, indefinite appropriation. These additional funds are obtained through fees charged to offset costs for education, training and technical assistance provided through the revolving fund. The fund is used to pay the cost (including administrative and personnel expenses) of providing education, technical assistance, and training by the Commission. Revenue is recognized as earned when the services have been rendered.

An imputed financing source is recognized to offset costs incurred by the EEOC and funded by another federal source, in the period in which the cost was incurred. The types of costs offset by imputed financing are: (1) employees' pension benefits; (2) health insurance, life insurance and other post-retirement benefits for employees; and (3) losses in litigation proceedings. Funding from other federal agencies is recorded as an imputed financing source.

(e) Assets and Liabilities

Assets and liabilities presented on the EEOC's balance sheets include both entity and non-entity balances. Entity assets are assets that the EEOC has authority to use in its operations. Non-entity assets are held and managed by the EEOC, but are not available for use in operations. The EEOC's non-entity assets represent receivables that, when collected will be transferred to the United States Treasury.

Intra-governmental assets and liabilities arise from transactions between the Commission and other federal entities. All other assets and liabilities result from activity with non-federal entities.

Liabilities covered by budgetary or other resources are those liabilities of the EEOC for which Congress has appropriated funds, or funding is otherwise available to pay amounts due. Liabilities not covered by budgetary or other resources represent amounts owed in excess of available congressionally appropriated funds or other amounts. The liquidation of liabilities not covered by budgetary or other resources is dependent on future congressional appropriations or other funding.

(f) Fund Balance with the U.S. Treasury

Fund Balances with Treasury are cash balances remaining as of the fiscal year-end from which the EEOC is authorized to make expenditures and pay liabilities resulting from operational activity, except as restricted by law. The balance consists primarily of appropriations. The EEOC records and tracks appropriated funds in its general funds. Also included in Fund Balance with Treasury are fees collected for services which are recorded and accounted for in the EEOC's revolving fund.

(g) Accounts Receivable

Accounts receivable consists of amounts owed to the EEOC by other federal agencies and from the public.

Intra-governmental accounts receivable represents amounts due from other federal agencies. The receivables are stated net of an allowance for estimated uncollectible amounts. The method used for estimating the allowance is based on analysis of aging of receivables and historical data.

Accounts receivable from non-federal agencies are stated net of an allowance for estimated uncollectible amounts. The allowance is determined by considering the debtor's current ability to pay, their payment record, and willingness to pay and an analysis of aged receivable activity. The allowance for accounts receivable is computed as follows: Accounts receivable between 365 days and 720 days old are computed at 50% and those older than 720 days are calculated at 100%.

(h) Property, Plant and Equipment

Property, plant and equipment consist of equipment, leasehold improvements and capitalized software. There are no restrictions on the use or convertibility of property, plant and equipment.

For property, plant and equipment, the EEOC capitalizes equipment (including capital leases), with a useful life of more than 2 years and an acquisition cost of $100,000 or more. Leasehold improvements and capitalized software are capitalized with a useful life of 2 years or more and an acquisition cost of at least $200,000.

Expenditures for normal repairs and maintenance for capitalized equipment and capitalized leases are charged to expense as incurred unless the expenditure is equal to or greater than $100,000 and the improvement increases the asset's useful life by more than 2 years. For Leasehold improvements and capitalized software the amount must be greater than $200,000 or the improvements increases the asset life by more than 2 years.

Depreciation or amortization of equipment is computed using the straight-line method over the assets' useful lives ranging from 5 to15 years. Copiers are depreciated using a 5-year life. Computer hardware is depreciated over 10 to 12 years. Capitalized software is amortized over a useful life of 2 years. Amortization of capitalized software begins on the date it is put in service, if purchased, or when the module or component has been successfully tested if developed internally. Leasehold improvements are amortized over the remaining life of the lease.

The EEOC leases the majority of its office space from the General Services Administration. The lease costs approximate commercial lease rates for similar properties.

(i) Advances and Prepaid Expenses

Amounts advanced to EEOC employees for travel are recorded as an advance until the travel is completed and the employee accounts for travel expenses.

Expenses paid in advance of receiving services are recorded as a prepaid expense until the services are received.

(j) Accrued Annual, Sick and Other Leave and Compensatory Time

Annual leave, compensatory time and other leave time, along with related payroll costs, are accrued when earned, reduced when taken, and adjusted for changes in compensation rates. Sick leave is not accrued when earned, but rather expensed when taken.

(k) Retirement Benefits

EEOC employees participate in the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS). On January 1, 1987, FERS went into effect pursuant to Public Law 99-335. Most employees hired after December 31, 1983, are automatically covered by FERS and Social Security. Employees hired prior to January 1, 1984 could elect to either join FERS and Social Security or remain in CSRS.

For employees under FERS, the EEOC contributes an amount equal to 1% of the employee's basic pay to the tax deferred thrift savings plan and matches employee contributions up to an additional 4% of pay. FERS and CSRS employees can contribute $17,000 of their gross earnings to the plan, for the calendar years 2012 and $16,500 for 2011. However, CSRS employees receive no matching agency contribution. There is also an additional $5,500 that can be contributed as a "catch-up" contribution for those 50 years of age or older, for the calendar years 2012 and 2011.

The EEOC recognizes the full cost of providing future pension and Other Retirement Benefits (ORB) for current employees as required by SFFAS No. 5, *Accounting for Liabilities of the Federal Government*. Full costs include pension and ORB contributions paid out of EEOC appropriations and costs financed by the U.S. Office of Personnel Management (OPM). The amount financed by OPM is recognized as an imputed financing source. Reporting amounts such as plan assets, accumulated plan benefits, or unfunded liabilities, if any, is the responsibility of OPM.

Liabilities for future pension payments and other future payments for retired employees who participate in the Federal Employees Health Benefits Program (FEHBP) and the Federal Employees Group Life Insurance Program (FEGLI) are reported by OPM rather than EEOC.

(l) Workers' Compensation

A liability is recorded for estimated future payments to be made for workers' compensation pursuant to the Federal Employees' Compensation Act (FECA). The FECA program is administered by the U.S. Department of Labor, (DOL) which initially pays valid claims and subsequently seeks reimbursement from federal agencies employing the claimants. Reimbursements to the DOL on payments made occur approximately 2 years subsequent to the actual disbursement. Budgetary resources for this intra-governmental liability are made available to the EEOC as part of its annual appropriation from Congress in the year that reimbursement to the DOL takes place. A liability is recorded for actual un-reimbursed costs paid by DOL to recipients under FECA.

Additionally, an estimate of the expected future liability for death, disability, medical and miscellaneous costs for approved compensation cases is recorded. The EEOC employs an actuary to compute this estimate using a method that utilizes historical benefit payment patterns related to a specific period to predict the ultimate payments related to the current period. The estimated liability is not covered by budgetary resources and will require future funding. This estimate is recorded as a future liability.

(m) Contingent Liabilities

Contingencies are recorded when losses are probable, and the cost is measurable. When an estimate of contingent losses includes a range of possible costs, the most likely cost is reported, but where no cost is more likely than any other, the lowest possible cost in the range is reported.

(n) Amounts Collected for Restitution

The courts directed an individual to pay amounts to the EEOC as restitution to several claimants named in a court case. These monies will be paid to claimants as directed by the courts.

(o) Cost Allocations to Programs

Costs associated with the EEOC's various programs consist of direct costs consumed by the program, including personnel costs, and a reasonable allocation of indirect costs. The indirect cost allocations are based on actual hours devoted to each program from information provided by EEOC employees.

(p) Unexpended Appropriations

Unexpended appropriations represent the amount of EEOC's unexpended appropriated spending authority as of the fiscal year-end that is unliquidated or is unobligated and has not lapsed, been rescinded or withdrawn.

(q) Income Taxes

As an agency of the federal government, EEOC is exempt from all income taxes imposed by any governing body, whether it is a federal, state, commonwealth, local, or foreign government.

(r) Use of Estimates

Management has made certain estimates and assumptions in reporting assets and liabilities and in the footnote disclosures. Actual results could differ from these estimates. Significant estimates underlying the accompanying financial statements include the allowance for doubtful accounts receivable, contingent liabilities and future workers' compensation costs.

(2) Fund Balance with Treasury

Treasury performs cash management activities for all federal agencies. The net activity represents Fund Balance with Treasury. The Fund Balance with Treasury represents the right of the EEOC to draw down funds from Treasury for expenses and liabilities. Fund Balance with Treasury by fund type as of September 30, 2012 and 2011 consists of the following:

		FY 2012		FY 2011
Fund Type				
Revolving funds	$	2,352,769	$	3,206,507
Appropriated funds		51,584,138		53,018,267
Other fund types		56,163		14,824
Totals	**$**	**53,993,070**	**$**	**56,239,598**

The status of the fund balance is classified as unobligated available, unobligated unavailable, or obligated. Unobligated funds, depending on budget authority, are generally available for new obligations in the current year of operations. The unavailable amounts are those appropriated in prior fiscal years, which are not available to fund new obligations. The obligated, but not yet disbursed, balance represents amounts designated for payment of goods and services ordered but not yet received, or goods and services received, but for which payment has not yet been made.

The Fund Balance with Treasury includes items for which budgetary resources are not recorded, such as deposit funds and miscellaneous receipts. These funds are shown in the table below as a Non-budgetary Fund Balance with Treasury.

The undelivered orders at the end of the period consist of $18,677,191 and $17,854,128 for FY 2012 and FY 2011, respectively.

For fiscal years ended September 30, 2012 and 2011, funds in closed accounts of $2,852,057 and $2,407,813 were returned to Treasury.

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

		FY 2012		FY 2011
Status of Funds				
Unobligated balance:				
Available	$	594,052	$	2,107,523
Unavailable		10,874,449		12,283,483
Obligated balance not yet disbursed		42,468,406		41,833,768
Non-budgetary Fund Balance with Treasury		56,163		14,824
Totals	**$**	**53,993,070**	**$**	**56,239,598**

(3) Accounts Receivable, Net

Intra-governmental accounts receivable due from federal agencies arise from the sale of services to other federal agencies. This sale of services generally reduces the duplication of effort within the federal government resulting in a lower cost of federal programs and services. While all receivables from federal agencies are considered collectible, an allowance for doubtful accounts is sometimes used to recognize the occasional billing dispute. In FY 2012 and FY 2011, this was not deemed necessary.

Accounts receivable due to EEOC from the public arise from enforcement or prevention and training services provided to public and private entities or state and local agencies. An analysis of accounts receivable is performed to determine collectibility and an appropriate allowance for uncollectible receivables is recorded. The allowance for accounts receivable is computed as follows: Accounts receivable between 365 days and 720 days old are computed at 50% and those older than 720 days years are calculated at 100%. Accounts receivable as of September 30, 2012 and 2011 are as follows:

		FY 2012		FY 2011
Intra-governmental:				
Accounts receivable (see detail below)	$	129,952	$	52,841
Allowance for uncollectible receivables		—		—
Totals	**$**	**129,952**	**$**	**52,841**

		FY 2012		FY 2011
With the public:				
Accounts receivable	$	504,405	$	533,942
Allowance for uncollectible receivables		(119,218)		(153,102)
Totals	**$**	**385,187**	**$**	**380,840**

Amounts due from various federal agencies are for accounts receivable as of September 30, 2012 and 2011. These are related to registered participants' training fees due to the revolving fund and appropriated interagency agreements as shown in the table below:

Agency	FY 2012	FY 2011
Department of Agriculture	$ 4,135	$ 12,001
Department of Housing and Urban Development	1,095	9,960
Independent Agencies	—	8,093
Department of Labor	9,889	7,470
Department of Homeland Security	4,874	5,415
Environmental Protection Agency	1,700	2,845
Defense Agencies	6,810	2,345
Department of State	2,550	2,095
Department of Treasury	4,875	1,444
Department of Justice	2,792	698
Department of Energy	8,082	300
Social Security Administration	—	175
International Trade Commission	61,775	—
National Aeronautics and Space Administration	975	—
Architect of the Capitol	19,450	—
Office of Special Counsel	950	—
Totals	**$ 129,952**	**$ 52,841**

(4) Property, Plant and Equipment, Net

Property, plant and equipment consist of that property which is used in operations and consumed over time. The following tables summarize cost and accumulated depreciation of property, plant and equipment.

As of September 30, 2012		Cost		Accumulated Depreciation		Net Book Value
Equipment	$	908,432	$	(858,772)	$	49,660
Capital leases		193,910		(193,910)		—
Internal use software		4,134,204		(4,134,204)		—
Leasehold improvements		11,772,261		(4,867,853)		6,904,408
Totals	**$**	**17,008,807**	**$**	**(10,054,739)**	**$**	**6,954,068**

As of September 30, 2011		Cost		Accumulated Depreciation		Net Book Value
Equipment	$	908,432	$	(837,744)	$	70,688
Capital leases		193,910		(193,910)		—
Internal use software		4,134,204		(4,134,204)		—
Leasehold improvements		11,772,261		(3,714,154)		8,058,107
Totals	**$**	**17,008,807**	**$**	**(8,880,012)**	**$**	**8,128,795**

Depreciation expense for the periods ended September 30, 2012 and 2011 is:

	FY 2012		FY 2011
$	**1,174,726**	**$**	**1,269,588**

(5) Non-Entity Assets

The EEOC has $8,384 of net receivables to collect on behalf of the U.S. Treasury as of September 30, 2012 and $2,709 of net receivables to collect on behalf of the U.S. Treasury as of September 30, 2011. Cash collections of $96,950 were returned to Treasury as of September 30, 2012 and $101,481 were returned to Treasury as of September 30, 2011 as instructed by Treasury.

(6) Liabilities Owed to Other Federal Agencies

As of September 30, 2012 and 2011, the following amounts were owed to other federal agencies:

Agency:		FY 2012		FY 2011
General Services Administration	$	691,049	$	958,639
Department of Interior		112,847		112,554
National Archives and Records		10,000		12,405
Department of Homeland Security		6,745		6,000
Department of Labor		23,026		0
Government Printing Office		25,415		0
US Army Corps of Engineers		(213)		0
Department of Health and Human Services		2,348		157
Totals	**$**	**871,217**	**$**	**1,089,755**

(7) Liabilities Not Covered by Budgetary Resources

Liabilities not covered by budgetary resources represent amounts owed in excess of available congressionally appropriated funds or other amounts.

Liabilities not covered by budgetary resources as of September 30, 2012 and 2011 are shown in the following table:

		FY 2012		FY 2011
Intra-governmental:				
Accrued worker's compensation	$	2,794,487	$	3,205,664
Total intra-governmental		2,794,487		3,205,664
Accrued annual leave		18,698,273		19,339,327
Worker's compensation due in the future		13,459,331		13,656,749
Total liabilities not covered by budgetary resources		34,952,091		36,201,740
Total liabilities covered by budgetary resources		24,359,002		24,519,515
Total liabilities	**$**	**59,311,093**	**$**	**60,721,255**

(8) Liabilities Analysis

Current and non-current liabilities as of September 30, 2012 are shown in the following table:

	Current	Non-Current	Totals
Covered by budgetary resources:			
Intra-governmental:			
Accounts payable	$ 871,217	$ —	$ 871,217
Payroll taxes	1,070,691	—	1,070,691
Due to Treasury	—	—	—
Other	8,384	—	8,384
Total Intra-governmental	1,950,292	—	1,950,292
Accounts payable	18,088,604	—	18,088,604
Accrued payroll	4,106,517	—	4,106,517
Payroll Taxes	—	—	—
Amounts collected for restitution	56,163	—	56,163
Unearned revenue	117,163	—	117,163
Other Liabilities	40,263	—	40,263
Liabilities covered by budgetary resources	24,359,002	—	24,973,820
Liabilities not covered by budgetary resources:			
Intra-governmental:			
Worker's compensation	1,675,668	1,118,819	2,794,487
Total Intra-governmental	1,675,668	1,118,819	2,794,487
Accrued annual leave	18,698,273	—	18,698,273
Actuarial worker's compensation		13,459,331	13,459,331
Capital lease liability	—	—	—
Liabilities not covered by budgetary resources	20,373,941	14,578,150	34,952,091
Total liabilities	**$ 44,732,943**	**$ 14,578,150**	**$ 59,311,093**

Current and non-current liabilities as of September 30, 2011 are shown in the following table:

	Current	Non-Current	Totals
Covered by budgetary resources:			
Intra-governmental:			
Accounts payable	$ 1,089,755	$ —	$ 1,089,755
Payroll taxes	1,092,771	—	1,092,771
Due to Treasury	—	—	—
Other	43,556	—	43,556
Total Intra-governmental	2,226,082	—	2,226,083
Accounts payable	17,905,815	—	17,905,815
Accrued payroll	4,302,190	—	4,302,190
Amounts collected for restitution	14,823	—	14,823
Unearned revenue	70,605	—	70,605
Liabilities covered by budgetary resources	24,519,515	—	24,519,515
Liabilities not covered by budgetary resources:			
Intra-governmental:			
Worker's compensation	1,454,164	1,751,500	3,205,664
Total Intra-governmental	1,454,164	1,751,500	3,205,664
Accrued annual leave	19,339,327	—	19,339,327
Actuarial worker's compensation	—	13,656,749	13,656,749
Liabilities not covered by budgetary resources	20,793,491	15,408,249	36,201,740
Total liabilities	**$ 45,313,006**	**$ 15,408,249**	**$ 60,721,255**

(9) Contingent Liabilities

EEOC is a party to various administrative proceedings, legal actions and claims that may eventually result in the payment of substantial monetary claims to third parties, or in the reallocation of material budgetary resources. Any financially unfavorable administrative or court decision could be funded from either the various claims to judgment funds maintained by the Treasury or paid by the EEOC. In FY 2012 and FY 2011 $0 was recorded for contingent liabilities, which are the amounts considered probable and measurable by EEOC's management and legal counsel. In addition, for FY 2012, there is one claim for which it is reasonably possible that damages will be paid. This pending claim is for overtime to which employees claim they were entitled. The estimated amount of this claim is between three million ($3,000,000) and seven million ($7,000,000). The chance of this claim succeeding is less than probable, but more than remote. An arbitrator has determined that the EEOC has some liability in this matter but the amount has not yet been determined or unknown as of the date of the financial statements. In the opinion of EEOC's management, the ultimate resolution of this pending litigation will not have a material effect on the EEOC's financial statements.

(10) Leases

Operating leases

The EEOC has several cancelable operating leases with the General Services Administration (GSA), for office space which do not have a stated expiration. The GSA charges rent that is intended to approximate commercial rental rates. Rental expenses for operating leases during FYs 2012 and 2011 are $27,888,290 and $27,591,597, respectively. The EEOC has estimated its future minimum liability on GSA operating leases by adding inflationary adjustments to the FY 2012 lease rental expense. Future estimated minimum lease payments, for 5 fiscal years under GSA as of September 30, 2012 are:

Fiscal Year	Estimated Payments	
2013	$	31,169,000
2014		31,636,535
2015		32,305,993
2016		32,785,700
2017		33,375,843
Total	**$**	**161,273,071**

(11) Earned Revenue

The EEOC charges fees to offset costs for education, training and technical assistance. These services are provided to other federal agencies, the public, and to some State and Local agencies, as requested. In the chart below, the fees from services does not include intra-agency transactions. The Commission also has a small amount of reimbursable revenue from contracts with other federal agencies to provide on-site personnel. Revenue earned by the Commission as of September 30, 2012 and 2011 was as follows:

		FY 2012		FY 2011
Reimbursable revenue	$	169,645	$	72,000
Fees from services		3,425,300		4,364,962
Total Revenue	**$**	**3,594,945**	**$**	**4,436,962**

(12) Appropriations Received

Warrants received by the Commission as of September 30, 2012 and 2011 are:

	FY 2012	FY 2011
	$ 360,000,000	**$ 367,303,000**

Rescissions for the warrants received by the EEOC for fiscal years 2012 and 2011 are:

	FY 2012	FY 2013
	$ 0	**$ 734,606**

(13) Apportionment Categories of Obligations Incurred: Direct vs. Reimbursable Obligations

Direct and Reimbursable obligations as of September 30, 2012 and 2011 are:

Obligations	FY 2012	FY 2011
Direct A	$ 334,164,524	$ 337,544,454
Direct B	29,590,160	29,395,659
Subtotal Direct Obligations	363,754,684	366,940,113
Reimbursable - Direct A	4,893,242	4,184,622
Total Obligations	**$ 368,647,926**	**$ 371,124,735**

(14) Earmarked Funds (Permanent Indefinite Appropriations)

The Commission has permanent, indefinite appropriations from fees earned from services provided to the public and to other federal agencies. These fees are charged to offset costs for education, training and technical assistance provided through the revolving fund. This fund is an earmarked fund and is accounted for separately from the other funds of the Commission. The fund is used to pay the cost (including administrative and personnel expenses) of providing education, technical assistance and training by the Commission. Revenue is recognized as earned when the services have been rendered by the EEOC.

Balance Sheet as of September 30, 2012 and 2011		**2012**		**2011**
ASSETS				
Fund balance with Treasury	$	2,352,771	$	3,206,507
Accounts receivable (net of allowance)		247,364		309,920
Advances and prepaid expenses		47,944		46,569
TOTAL ASSETS	$	2,648,079	$	3,562,996
LIABILITIES				
Accounts payable		38,246		158,960
Deferred revenue		117,163		70,605
TOTAL LIABILITIES	$	155,409	$	229,565
NET POSITION				
Cumulative results of operations		2,492,669		3,333,431
TOTAL LIABILITIES AND NET POSITION	$	2,648,078	$	3,562,996

Statement of Net Cost for the Period Ended September 30, 2012 and 2011		**2012**		**2011**
Program Costs		4,266,062		4,256,816
Revenue		(3,425,300)		(4,364,962)
Net Cost (Revenue)	**$**	**840,762**	**$**	**(108,146)**

(15) Imputed Financing

OPM pays pension and other future retirement benefits on behalf of federal agencies for federal employees. OPM provides rates for recording the estimated cost of pension and other future retirement benefits paid by OPM on behalf of federal agencies. The costs of these benefits are reflected as imputed financing in the consolidated financial statements. The U.S. Treasury's Judgment Fund paid certain judgments on behalf of the EEOC. Expenses of the EEOC paid or to be paid by other federal agencies at **September 30, 2012 and 2011** consisted of:

	FY 2012	FY 2011
Judgment Fund		
Office of Personnel Management:	$ 77,333	$ 442,268
Pension expenses	8,712,626	10,280,115
Federal employees health benefits (FEHB)	11,635,919	12,644,646
Federal employees group life insurance (FEGLI)	34,436	35,719
Total Imputed Financing	**$ 20,460,314**	**$ 23,402,748**

(16) Intragovernmental Costs and Exchange Revenue:

	FY 2012	FY 2011
Costs		
Office of Personnel Management	$ 58,337,749	$ 61,817,560
General Services Administration	34,189,729	35,653,034
Treasury General Fund (SSA)	12,241,478	12,583,268
Federal Retirement Thrift Investment Board	28,145	6,810,147
Department of the Interior	439,962	4,184,564
Department of Homeland Security	2,787,814	2,872,525
Department of Labor	1,189,811	1,562,866
Department of Transportation	82,754	1,549,626
Department of Health and Human Services	590,316	303,849
Other agencies	—	152,798
Department of Commerce	63,250	142,750
Environmental Protection Agency	71,523	121,579
Department of Agriculture	4,971	—
National Archives and Records Administration	80,279	81,416
Department of Justice	(518)	—
National Science Foundation	256,719	—
National Labor Relations Board	4,174	—
Library of Congress	50,424	72,856
Department of Education	—	53,000
US Army Corps of Engineers	2,125	—
Government Printing Office	65,415	26,561
Department of the Treasury	58,681	—
Intragovernmental Costs	110,544,801	127,988,399
Public costs	272,577,469	278,977,179
Total Program costs	**$ 383,122,270**	**$ 406,965,578**

	FY 2012	FY 2011
Revenue		
Defense Agencies	$ 413,789	$ 530,911
Department of Homeland Security	132,636	379,527
Other Agencies	268,607	196,039
Department of Health and Human Services	53,563	110,084
Department of the Interior	74,172	85,624
Department of the Treasury	27,484	75,682
Department of Energy	90,210	70,027
Department of Veterans Affairs	47,837	69,914
Department of Agriculture	106,192	57,349
Department of Justice	65,700	57,310
Social Security Administration	31,047	55,850
Department of Labor	80,091	54,291
Environmental Protection Agency	5,817	47,802
Department of Transportation	39,171	39,426
Office of Personnel Management	25,112	36,184
Department of Commerce	13,465	30,470
Department of State	6,951	25,124
General Services Administration	2,786	20,949
United States Postal Service	17,107	17,474
Department of Education	6,336	10,367
Department of Housing and Urban Development	17,535	10,230
Pension Benefit Guaranty Corporation	—	—
Consumer Financial Protection Bureau	—	—
Judiciary	7,500	—
National Aeronautics and Space Administration	3,800	—
General Accounting Office	—	7,956
National Labor Relations Board	—	7,309
Government Printing Office	1,564	6,369
Tennessee Valley Authority	13,475	5,714
Intragovernmental earned revenue	1,551,947	2,007,982
Public earned revenue	2,042,998	2,428,980
Total Program earned revenue (Note 11)	**3,594,945**	**4,436,962**
Net Cost of Operations	**$ 379,527,325**	**$ 402,528,616**

(17) Explanation of Differences between the Statement of Budgetary Resources and the Budget of the United States Government

The EEOC's budget is allocated to Justice, Opportunity, and Inclusive Workplaces.

Information from the President's Budget and the Combined Statement of Budgetary Resources for the period ended September 30, 2011 is shown in the following tables. A reconciliation is not presented for the period ended September 30, 2012, since the President's Budget for this period has not been issued by Congress.

Dollars in millions	President's Budget FY 2011 actual as of 9/30/11	Statement of Budgetary Resources FY 2011 as of 9/30/11	Estimated FY 2012	Estimated FY 2013
Budgetary resources	$ 366	$ 385	$ 360	$ 374
Total new obligations	366	371	360	374
Total outlays	384	384	355	372

The differences between the President's 2011 budget and the Combined Statement of Budgetary Resources for 2011 are shown below:

Dollars in millions		Budgetary Resources	Obligations	Outlays (g)
As reported on the Combined Statement of Budgetary Resources for FY 2011		$ 385	$ 371	$ 384
Revolving fund collections not reported in the budget	(a)	(4)		4
Obligations in the revolving fund and no-year fund not included in the President's budget	(b)		(4)	(4)
Carry-forwards and recoveries in the revolving fund and no-year fund not included in the President's Budget	(c)	(3)		
Carry-forwards and recoveries in expired funds	(d)	(14)		
Obligations in expired funds	(e)			
Canceled appropriations	(f)	2		
Rounding differences	(g)		(1)	
As reported in the President's Budget for FY 2011		**$ 366**	**$ 366**	**$ 384**

(a) The EEOC's revolving fund provides training and charges fees to offset the cost. The collections are reported on the Combined Statement of Budgetary Resources as a part of total budgetary resources, but are not reported in the President's Budget.

(b) The obligations incurred by the revolving fund and no year fund are not a part of the President's Budget but are included in total obligations incurred in the Combined Statement of Budgetary Resources.

(c) Revolving funds and no-year funds have carry-overs of unobligated balances and recoveries of obligations that are included in total resources on the Combined Statement of Budgetary Resources, but are not included in the President's Budget.

(d) Expired funds have carry-overs of unobligated balances and recoveries of obligations that are included in total resources on the Combined Statement of Budgetary Resources until they are canceled, but are not included in the President's Budget.

(e) New obligations in expired funds are shown as a part of obligations incurred on the Combined Statement of Budgetary Resources, but are not included in the President's Budget.

(f) Canceled appropriations are not shown in the President's Budget, but are reported as a reduction to resources in the Combined Statement of Budgetary Resources.

(g) Difference due to rounding by millions.

(18) Reconciliation of Net Cost of Operations to Budget

Equal Employment Opportunity Commission
Reconciliation of Net Cost of Operations (Proprietary) to Budget
For the Month Ended September 30, 2012 and 2011

	FY 2012	FY 2011
Resources Used to Finance Activities		
Current Year Gross Obligations	**$ 368,647,926**	**$ 371,124,735**
Budgetary Resources from Offsetting Collections		
Spending Authority from Offsetting Collections		
Earned		
Collected	(4,847,929)	(4,518,631)
Change in Receivable from Federal Sources	74,143	(42,951)
Recoveries of Prior Year Unpaid Obligations	(3,803,692)	(5,139,461)
Other Financing Resources		
Imputed Financing Sources	20,460,314	23,402,748
Total Resources Used to Finance Activity	$ 380,530,762	$ 384,826,440
Resources Used to Finance Items Not Part of the Net Cost of Operations		
Budgetary Obligations and Resources not in the Net Cost of Operations		
Change in Unfilled Customer Orders	46,559	(95,780)
Change in Undelivered Orders	(823,064)	14,610,401
Current Year Capitalized Purchases	—	(53,229)
Deferred Revenue	(46,559)	(70,605)
Components of the Net Cost of Operations which do not Generate or Use Resources in the Reporting Period Revenues without Current Year Budgetary Effect		
Other Financing Sources Not in the Budget	(20,460,314)	(23,402,748)
Costs without Current Year Budgetary Effect		
Depreciation and Amortization	1,174,726	1,269,588
Disposition of Assets	—	—
Future Funded Expenses	(1,052,231)	347,851
Imputed costs	20,460,314	23,402,748
Bad Debt Expense	(29,972)	(63,427)
Other Expenses Not Requiring Budgetary Resources	(272,896)	1,757,377
Net Cost of Operations	**$ 379,527,325**	**$ 402,528,616**

(19) Improper Payments Elimination and Recovery Act

The Improper Payments Elimination and Recovery Act (IPERA) (Public Law No. 111-204) which amended the Improper Payments Information Act (Public Law No. 107-300), defines requirements to reduce improper and erroneous payments made by federal government. In addition, the Office of Management and Budget (OMB) issued guidance (Memorandum M-11-16) which defines "significant improper payments" and prescribes the reporting requirements for agencies with programs that are susceptible to significant improper payments. Significant improper payments as defined by OMB guidance are those that exceed both 2.5 percent of a program's annual payments and $10 million. The EEOC reviewed its programs and activities in accordance with the above guidance and determined that none of the agency's programs or activities is susceptible to making significant improper payments.

The IPERA and OMB Memorandum M-11-16 also provide guidance to agencies for implementing payment recapture audits, for programs and activities that expend $1 million or more annually, provided it is cost-effective to do so. The EEOC considered the criteria specified in the above guidance in determining whether it would be cost-effective to implement a payment recapture audit program at the EEOC and concluded that it would not be cost-effective to do so. In arriving at our determination, the EEOC reached our conclusion by considering the nature (type), volume and amounts of disbursements, the degree of risk for making improper payment, and the existence and effectiveness of controls that have been placed into operation to prevent such payments. We also noted the EEOC has not made significant improper payments in prior years.

Appendices

APPENDIX A: ORGANIZATION AND JURISDICTION

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

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

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

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

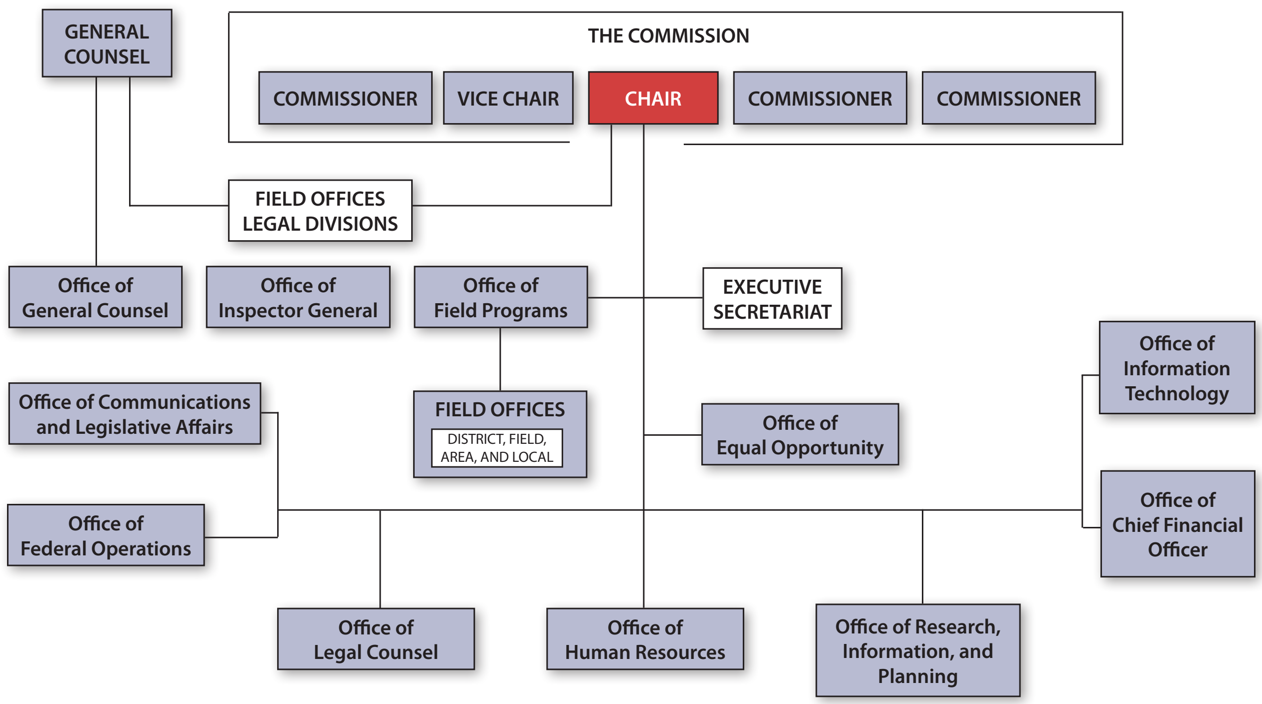
Additionally, through the **Office of Field Program's State and Local Program**, the EEOC maintains work sharing agreements and a contract services program with 94 state and local **Fair Employment Practices Agencies (FEPAs)** for the purpose of coordinating the investigation of charges dual-filed under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

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

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

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

APPENDIX A: EEOC ORGANIZATIONAL CHART



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

Jacqueline A. Berrien, Chair

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

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

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

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

Constance S. Barker, Commissioner

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

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

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

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

Chai R. Feldblum, Commissioner

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

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

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

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

Victoria A. Lipnic, Commissioner

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

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

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

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

Stuart J. Ishimaru, Commissioner (Note: Commissioner Ishimaru resigned from the EEOC in April 2012)

Stuart J. Ishimaru was a member of the U.S. Equal Employment Opportunity Commission beginning in 2003, nominated by President George W. Bush upon the recommendation of Senate Democratic Leader Tom Daschle. He left the Commission in April 2012. He was designated by President Obama as Acting Chairman of the Commission on January 20, 2009 and served in that capacity until April 7, 2010.

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

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

P. David Lopez, General Counsel

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

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

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

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

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

APPENDIX C: GLOSSARY OF ACRONYMS

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

APPENDIX D: INTERNET LINKS

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

Past EEOC Performace and Accountability Reports: http://www.eeoc.gov/eeoc/plan/archives/annualreports/index.cfm

EEOC Strategic Plan: http://www.eeoc.gov/eeoc/plan/strategic_plan_12to16.cfm

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

Past EEOC Performance Budgets: http://www.eeoc.gov/eeoc/plan/archives/budgets/index.cfm

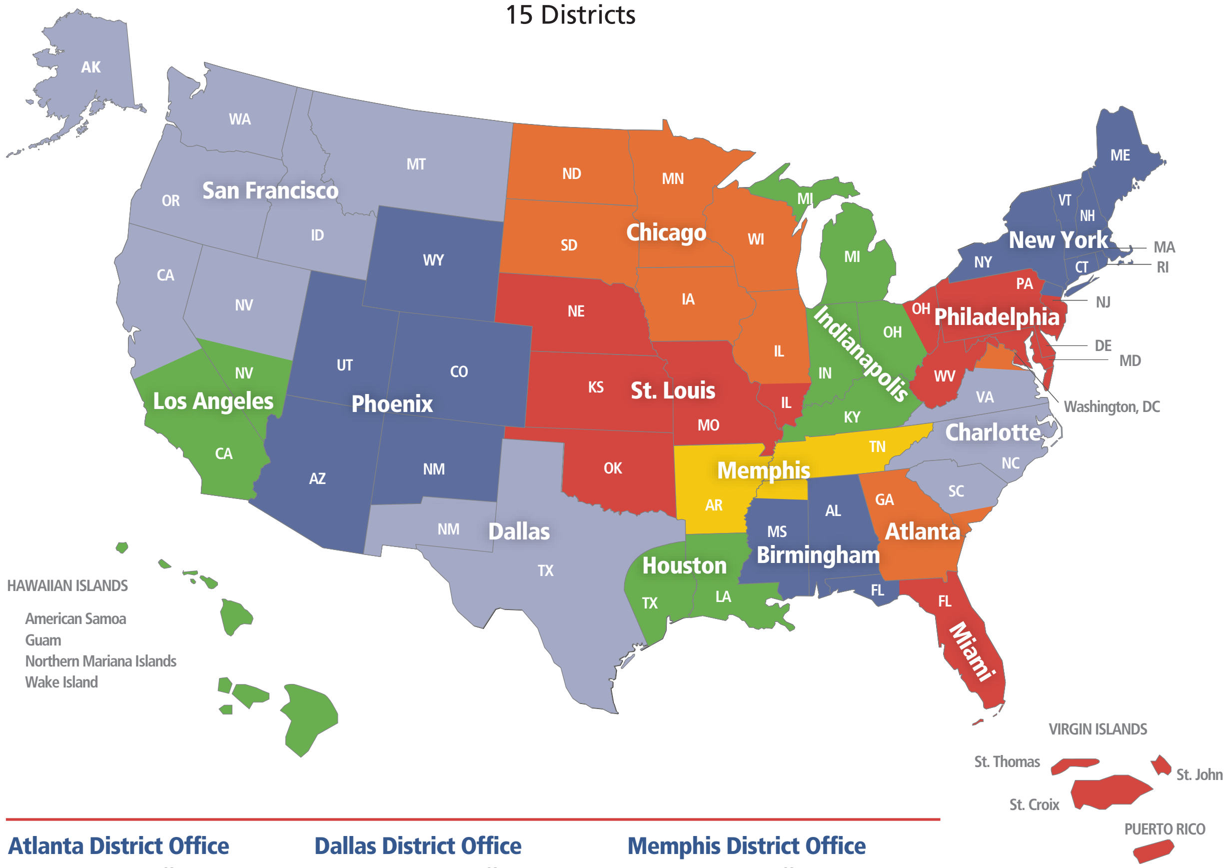
EEOC Annual Report on the Federal Workforce: http://www.eeoc.gov/federal/reports/fsp2008/index.html

EEOC Open Government Plan: http://www.eeoc.gov/open/index.cfm

EEOC Statistics: http://www.eeoc.gov/eeoc/statistics/index.cfm

APPENDIX E: EEOC FIELD OFFICES

Equal Employment Opportunity Commission
15 Districts



Atlanta District Office
Savannah Local Office

Birmingham District Office
Jackson Area Office
Mobile Local Office

Charlotte District Office
Raleigh Area Office
Greensboro Local Office
Greenville Local Office
Norfolk Local Office
Richmond Local Office

Chicago District Office
Milwaukee Area Office
Minneapolis Area Office

Dallas District Office
San Antonio Field Office
El Paso Area Office

Houston District Office
New Orleans Field Office

Indianapolis District Office
Detroit Field Office
Cincinnati Area Office
Louisville Area Office

Los Angeles District Office
Fresno Local Office
Honolulu Local Office
Las Vegas Local Office
San Diego Local Office

Memphis District Office
Little Rock Area Office
Nashville Area Office

Miami District Office
Tampa Field Office
San Juan Local Office

New York District Office
Boston Area Office
Newark Area Office
Buffalo Local Office

Philadelphia District Office
Baltimore Field Office
Cleveland Field Office
Pittsburgh Area Office

Phoenix District Office
Denver Field Office
Albuquerque Area Office

San Francisco District Office
Seattle Field Office
Oakland Local Office
San Jose Local Office

St. Louis District Office
Kansas City Area Office
Oklahoma City Area Office

Washington Field Office

Acknowledgments

The EEOC's FY 2012 Performance and Accountability Report is a collaborative endeavor on the part of many EEOC employees and contractors. We would like to acknowledge and thank them for their hard work and commitment in successfully preparing this report and in supporting the audit of the financial statements.

WE WELCOME YOUR COMMENTS

Thank you for your interest in the EEOC's FY 2012 Performance and Accountability Report. We welcome your comments on how we can make this report more informative for our readers. Please send your comments to:

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