U.S. Equal Employment Opportunity Commission

FY 2008 Performance and Accountability Report

United States Equal Employment Opportunity Commission

FISCAL YEAR 2008 PERFORMANCE AND ACCOUNTABILITY REPORT

Our Vision

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

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Our Mission

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

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A Message from the Chair

Naomi Churchill Earp assumed the role of Chair of the Equal Employment Opportunity Commission on August 31, 2006, after serving as Vice Chair of the Commission since April 28, 2003.

I am pleased to present the U.S. Equal Employment Opportunity Commission's (EEOC's) Performance and Accountability Report (PAR) for Fiscal Year 2008. This report contains the agency's assessment of its FY 2008 program and financial performance, as well as an updated Strategic Plan that was approved by the Commission and now covers the period through FY 2012.

In FY 2008, while trying to maintain sufficient staff levels, our private sector charge receipts rose to 15.2% above last year's level. Nevertheless, we continued to focus on improving our delivery of services to the public and strengthening our systemic enforcement efforts. In September, I appointed one of our key field office directors to serve as the national systemic investigation program manager. I also promoted two regional attorneys to senior litigation project managers for the program. Our strong and growing systemic program is crucial to the elimination of any and all instances of unlawful pattern or practices, policy and class discrimination which have a broad impact on an industry, profession, company, or geographic location.

In early December 2008, we will complete the move of our Washington Headquarters and Washington Field Office to 1 NoMa Station, located in a newly developing area northeast of the Capitol. We are confident that our new location, in the heart of an increasingly vibrant commercial and residential community, will address our infrastructure needs and enhance our efforts to serve the public.

In the context of service, the transitioning of our National Contact Center, which was responsible for receiving initial calls and inquiries from the public, from an outside contractor to an in-house operation, known as the Intake Information Group (IIG), is nearly complete. The steps taken during FY 2008 included hiring and training IIG staff and beginning the process of acquiring the technology needed to provide superior customer service. We expect that the transition, which began in December 2007, will be completed by February 2009.

While this has proven to be another year of significant challenge, I am gratified that we have received an unqualified opinion for the fifth consecutive year from independent auditors. I am confident that the financial information and the data measuring EEOC's performance contained in this report are complete and accurate.

We have also worked together to manage our internal controls environment. Based on a review of agency-wide materials and the assurances of the agency's senior managers, the agency's management and financial controls environment under the Federal Managers' Financial Integrity Act (FMFIA) was sound in FY 2008. The agency did identify 20 financial non-conformances, including 7 that were carried over from the previous fiscal year. Of the 20 identified, 16 financial non-conformances were fully corrected in FY 2008, including the 7 that had been carried over from FY 2007. Of the 4 remaining financial non-conformances, the agency has implemented corrective action plans to resolve all of the findings in FY 2009.

On the policy front, in fiscal year 2009, we will address the Genetic Information Non-Discrimination Act (GINA), which prohibits public and private employers from using genetic information in employment decisions. The EEOC will also be providing tailored training and technical advice and assistance to its full array of stakeholders regarding GINA and its implementing regulations that will be issued in fiscal year 2009. In addition, the agency will be issuing regulations implementing the Americans With Disabilities Act Amendments Act of 2008, which changes the way EEOC will be evaluating charges of discrimination received under Title I of the ADA and federal sector complaints brought under Section 501 of the Rehabilitation Act.

In looking ahead, we find that race and color discrimination are still very much alive in the American workplace and that significant work remains to be done. Beyond traditional outreach and education efforts, we will pursue charges for priority, novel or emerging legal issues in the context of race and color discrimination, through the agency's E-RACE Initiative.

We will also pursue several other key outreach programs, as part of our proactive prevention efforts, including continuing our work with small and medium-sized businesses and Commission Initiatives, such as the Youth@Work and LEAD Initiatives. We will continue our fee-based training and our outreach, education and technical assistance programs to meet the needs of diverse audiences and will partner with the employer community and other stakeholders to foster strategies to recognize and prevent discrimination in the workplace

All of our activities during the past fiscal year were in furtherance of our mission of promoting equality of opportunity in the workplace, while providing high-quality, professional customer service that the public expects. With the achievement of solid and meaningful results, we have made enormous progress towards ensuring equal employment opportunity for America's workforce, present and prospective.

Naomi C. Earp

Naomi C. Earp
Chair
U.S. Equal Employment Opportunity Commission

November 17, 2008

Management's Discussion and Analysis

INTRODUCTION

The Equal Employment Opportunity Commission (EEOC) is the federal agency responsible for enforcing the nation's laws prohibiting employment discrimination. As part of our mission, we receive, review and investigate charges of employment discrimination and file discrimination lawsuits involving private sector employers. We also conduct administrative hearings and issue appellate decisions in the federal sector. Our guidance and information help both employers and employees to better understand their rights and responsibilities under the laws we enforce. A more detailed explanation of our structure and the laws we enforce can be found in Appendix A.

We strive to ensure equal opportunity for all to compete on the basis of merit in the workplace and to eliminate the pernicious and invidious effects of unlawful discrimination. We also strive to be proactive by initiating education programs that promote a productive, harmonious and inclusive workplace for employees and applicants, as well as managers and business owners—from small businesses to Fortune 500 corporations.

This FY *2008 Performance and Accountability Report* (PAR), 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, presents the results of the agency's programs and financial performance, along with its management challenges. This section of the PAR summarizes our 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 Commission's performance measures, which are articulated in our modified Strategic Plan for FYs 2007 through 2012.
- **The Inspector General's Statements** present key management challenges identified by the Inspector General and the agency's progress and plans to address them, as well as a statement of compliance with the Federal Managers' Financial Integrity Act (FMFIA).
- **The Consolidated Financial Statements** demonstrate our 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 agency's obligation to provide Congress annual reports of our significant accomplishments achieved during the fiscal year. This report is available on our website at www.eeoc.gov/abouteeoc/plan/par/2008/index.html.

THE YEAR IN HIGHLIGHTS

Enhanced Customer Service and Deployment of Human Capital

All of our activities during the past fiscal year were in furtherance of our mission of promoting equality of opportunity in the workplace while providing high quality, professional customer service to the public. Additionally, the agency has nearly completed its transitioning of the National Contact Center (NCC)—a Center responsible for receiving initial calls and inquiries from the public—from an outside contractor to an in-house operation called the Intake Information Group (IIG). The steps taken during FY 2008 included the hiring and training of EEOC staff and beginning the process of acquiring the technology needed to provide excellent customer service. We expect that the transition, which began in December 2007, will be completed by February 2009.

The EEOC Headquarters office lease expired in July 2008. The existing building is no longer feasible for housing the current Headquarters staff, and it was necessary to find other space. In May 2007, the General Services Administration (GSA) announced the signing of a 10-year lease for office space at 131 M St. NE, which is known as One NoMa Station. The move began in November 2008. Throughout FY 2008, preparations for the move have been underway. A number of committees staffed by employees have been working with the Office of the Chief Financial Officer to make the transition as smooth as possible. Additionally, the Office of Communications and Legislative Affairs created an internal web log or "blog" that has been providing updated information on the move in order to ensure a free and transparent flow of information to staff.

The preparations for the move took place in tandem with other repositioning efforts that began several years ago. The physical move of Headquarters and the Washington Field Office staff, combined with the organizational restructuring that has already taken place in the field and under study for Headquarters, all emphasize ways to allow the EEOC to use its human capital where it is most needed. These efforts will permit the EEOC to retain its role as the preeminent civil rights agency well into the 21st century.

THE STRATEGIC PLAN

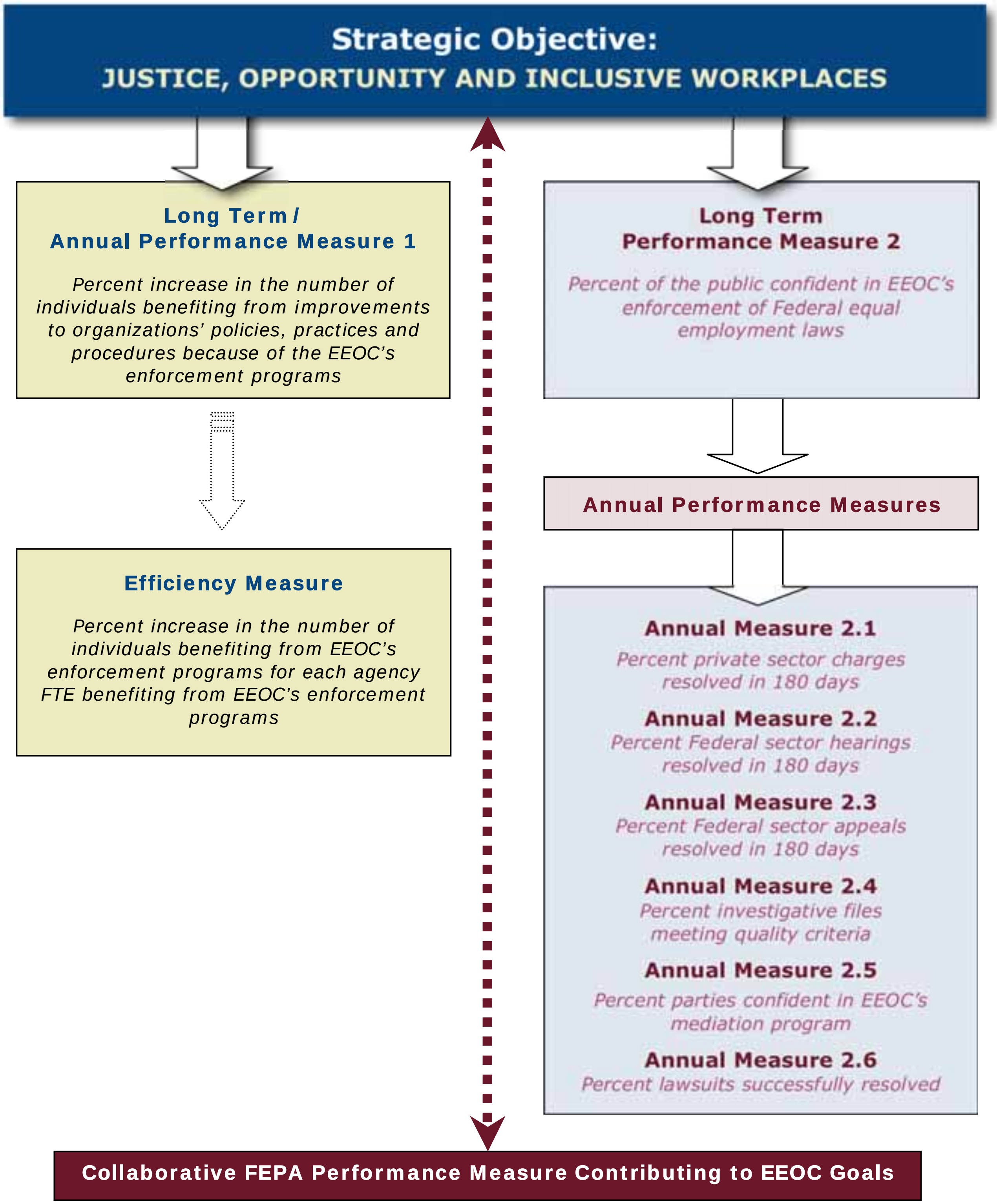
The *Performance and Accountability Report* is based on our modified Strategic Plan for fiscal years 2007 through 2012 and, correspondingly, aligns with the agency's Strategic Objective of *Justice, Opportunity and Inclusive Workplaces.* The modified Strategic Plan provides the roadmap for the agency to position itself for the future.

The modified Strategic Plan builds upon what the agency has accomplished to improve its operations. It seeks to maintain the agency's momentum by continuing measures to prevent discrimination; continuing to use Alternative Dispute Resolution (ADR); developing a more strategic focus in our enforcement, litigation and federal programs; continuing a strategy to focus on race and color discrimination through our E-RACE Initiative (Eradicating Racism And Colorism from Employment); and ensuring the effective and efficient functioning of the agency's internal operations.

At the beginning of fiscal year 2007, we issued a new Strategic Plan, which emerged from the agency's Program Assessment Rating Tool (PART) review conducted in 2006. During fiscal years 2007 and 2008, the agency reassessed the plan's structure in order to implement the improvement plan developed under the PART process. This effort resulted in modifications we made to the Strategic Plan, which were approved by a Commission vote on July 28, 2008.

In the Performance Results section of the PAR, we elaborate on the alignment of this modified strategic approach for our Strategic Plan; the PART review; the modifications to our performance measures; and the steps we have taken to implement the improvement plan. (See the *Addendum* on page 35 at the end of the Performance Section for a description of specific modifications made to the Strategic Plan.) We also describe our Strategic Objective and its relationship to the EEOC's expected long-term outcomes and annual performance measures (see chart on Strategic Plan Overview, below). Our integrated strategy demonstrates the EEOC's impact on creating fair and inclusive workplaces across the United States.

STRATEGIC PLAN OVERVIEW



STRATEGIC OBJECTIVE: JUSTICE, OPPORTUNITY AND INCLUSIVE WORKPLACES

The agency has nine performance measures under its Strategic Objective. These measures are used to drive results and accountability throughout the agency. EEOC achieved or exceeded the targets for eight of these measures. The target for one measure was not met this year. The Strategic Plan for Fiscal Years 2007-2012 was initially implemented on October 1, 2006 (FY 2007). Throughout fiscal years 2007 and 2008, the agency modified it to address new methodologies that were required to collect data that did not already exist and to make other necessary adjustments. The modified Strategic Plan was approved by the Commission on July 28, 2008.

Our progress in meeting our nine measures is summarized below and discussed in detail in the Performance Results section of this report.

EEOC FY 2007 Performance		
Measures	**Targets Met or Exceeded**	**Targets Not Met**
9	8	1

Our modified performance measurement structure identifies the results we achieved to benefit individuals in workplaces nationwide and to provide both timely and high quality service to our customers. Long Term/Annual Measure 1 was developed during OMB's PART review in FY 2006. During discussions with OMB during FY 2007, we modified and focused this measure on our private and federal sector enforcement programs. The measure is designed to demonstrate the results the agency achieves for all individuals affected by changes in workplaces resulting from our enforcement activities. During the past fiscal year, we collected the data for our enforcement programs and established a baseline value. In early FY 2008, we established annual targets and a final goal. Since our new Efficiency Measure is directly linked to the data collected for Long Term/Annual Measure 1, we also established a base line and identified the targets and a goal for this measure. We explain our efforts to develop both measures in more detail in the Performance Section.

ENFORCEMENT

Private Sector Enforcement Program: Providing quality services that are fair and prompt for both employees and employers in our administrative processing system is vital to our mission. In FY 2008, we received 95,402 private sector charges of discrimination, a 15.2% increase from FY 2007. We also received 2,666 charges through net transfers from state and local Fair Employment Practices Agencies (FEPAs). We achieved 81,081 resolutions, with a merit factor resolution rate of 21.4%. (Merit factor resolutions include mediation and other settlements and cause findings, which, if not successfully conciliated, are considered for litigation.) In comparison, the merit factor resolution rate for FY 2007 was 22.9%. Through our administrative enforcement activities, we also secured more than $274.4 million in monetary benefits, which is lower than the $290.6 million obtained in FY 2007. Overall, we secured both monetary and non-monetary benefits for more than 18,304 people through our charge processing. The increased receipts compared with FY 2007 left us with a pending inventory of 73,951 charges at the end of the fiscal year, compared with the FY 2007 figure of 54,970.

Timeliness is a key measure of our success in processing private sector charges. Measure 2.1 tracks our progress in resolving charges in 180 days or fewer. For several important reasons, explained in the Performance Section, the annual targets and final goal for this measure were modified. Based upon the modified target for FY 2008, we resolved 48.5% of the charges within the time frame; moderately exceeding the new target of 48%.

Our other key measure for success in processing private sector charges assesses the quality of our charge files. Under Measure 2.4, we exceeded our FY 2008 target of 90% of investigative charge files meeting the standard of quality, with 97.0% meeting the quality standard.

Federal Sector Enforcement Program: In our federal sector enforcement role, the EEOC is responsible for providing hearings and appeals after the initial processing of the complaints by each individual federal agency. Unlike our responsibilities in the private sector, we do not process complaints of discrimination for federal employees. In the federal sector, individuals file complaints with their own federal agencies and those agencies conduct a full and appropriate investigation of the claims raised in the complaints. Complainants can then request a hearing before an EEOC administrative judge. In FY 2008, we received a total of 8,036 requests for hearings, which is slightly more than the 7,869 received in FY 2007. Additionally, we resolved a total of 7,138 complaints and secured more than $104.7 million in relief for parties in these complaints. Our Strategic Plan for FY 2008 set a target for Measure 2.2 to resolve 50% of federal sector hearings in 180 days or fewer. We did not meet our goal, resolving 38.6% of hearings cases in 180 days or fewer; this is below the target for FY 2008. This is due in large part to the agency's focus on enhancing the quality of federal hearings and the loss of a significant number of administrative judges during the year.

The EEOC also adjudicates appeals of federal agency actions on discrimination complaints and ensures agency compliance with decisions issued on those appeals. During FY 2008, the EEOC received 5,082 requests for appeals of final agency actions in the federal sector. We made significant gains in processing our federal sector appellate inventory during FY 2008. Our goal for Measure 2.3 was to resolve 62% of appeals within 180 days or fewer. In FY 2008, we resolved 5,303 appeals, 63.3% of them within 180 days of their receipt. We were able to exceed our goal because of effective management of the appellate inventory and technological innovations. For FY 2009, we are increasing our target to 64% to continue to address our appeals workload in an ambitious manner.

MEDIATION

Private Sector Mediation Program: The EEOC's mediation program has been very successful and has contributed to our ability, over the past few years, to better manage our growing inventory and resolve charges in 180 days or fewer. In FY 2008, the EEOC's National Mediation Program secured 8,840 resolutions, which is 2% more than the 8,649 reported in FY 2007. We obtained more than $124.1 million in monetary benefits for complainants from mediation resolutions, which is equal to the $124 million in monetary benefits in FY 2007.

Performance Measure 2.5 highlights an important aspect of our private sector mediation program: the confidence that employers and charging parties have in the program. Participant confidence in our program remains high, with our FY 2008 figures reflecting that 96.5% of all participants would return to EEOC's Mediation Program in the future. This exceeds our target for Performance Measure 2.5 of maintaining a 90% rate. We believe this high confidence level helps with our continuing efforts to convince parties to charges, particularly employer representatives, of the value of the mediation approach. In addition, we are increasing our target for FY 2009 to 92% as we strive toward a higher final goal of 95% by FY 2012 for our current Strategic Plan.

Although participants almost uniformly view our mediation program favorably, the percentage of employers agreeing to mediate is considerably lower than the percentage of charging parties agreeing to mediate. As part of our effort to increase the participation of employers in the mediation program, we have encouraged employers to enter into Universal Agreements to Mediate (UAMs). These agreements reflect the employer's commitment to utilize the mediation process to resolve charges.

Many employers entered into these agreements in FY 2008, resulting in a cumulative multi-year total of 1,452 UAMs (177 National/Regional UAMS and 1,275 Local UAMs). This is a 14% increase from our FY 2007 level of 1,269 UAMs.

Federal Sector Mediation Program: Using Alternative Dispute Resolution (ADR) techniques to resolve workplace disputes throughout the federal government can have a powerful impact on agencies' EEO complaint inventories and, in turn, the Commission's hearings and appeals inventories. Resolving disputes as early as possible in the federal sector EEO process improves the work environment and reduces the number of formal complaints, allowing all agencies, including the EEOC, to redeploy resources that otherwise would be devoted to these activities. In addition, a growing number of agencies have incorporated dispute prevention techniques into their ADR programs, further increasing productivity and reducing the overall number of employment disputes.

Data submitted by federal agencies at the close of FY 2007, the most recent data available, indicate that there were 37,809 instances of pre-complaint EEO counseling across the federal government. Of that number, the parties participated in ADR in 18,262 cases, or 48.3% of the time.

The Commission's efforts in promoting and expanding mediation/ADR at all stages of the federal EEO complaint process also appear to be having a positive effect on federal agencies' EEO complaint inventories, as the number of formal complaints filed in FY 2007 declined by 2.2% over the previous year. As more agencies expand their efforts to offer ADR during the informal process, we expect to see continued decreases in the number of formal complaints filed, which will reduce costs for complainants and all federal agencies, and enable agencies to focus resources on their primary missions.

EEOC continues to actively pursue a variety of ways to assist federal agencies in improving alternative dispute resolution by identifying and sharing best practices, providing assistance in program development and improvements, providing training to federal employees and managers on the benefits of ADR, and maintaining a web page that serves as a clearinghouse for information related to federal sector ADR. We will continue to expand technical assistance efforts with agencies to encourage the development of effective ADR programs and promote ADR training among government managers and staff.

LITIGATION

The Commission's litigation program provides relief for victims of discrimination, many of whom have no other recourse, and also encourages employers to resolve cases in the EEOC's administrative process before litigation is contemplated. In FY 2008, EEOC field legal units filed 290 "merits" lawsuits and 36 subpoena enforcement and other actions. 179 of the new filings were individual suits and 111 were class suits. Six trials were held this fiscal year. Legal staff resolved 339 "merits" lawsuits for a total monetary recovery of $102,151,138 ("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 resolutions, 265 contained Title VII claims, 47 contained Americans with Disabilities Act of 1990 (ADA) claims, 41 contained Age Discrimination in Employment Act of 1967 (ADEA) claims, and 3 contained Equal Pay Act of 1964 (EPA) claims. The number of total merits lawsuits is less than the sum of suits based on each individual law as some suits are filed on multiple bases. We also resolved 27 subpoena enforcement and other actions during the fiscal year. In terms of dollars recovered in direct, indirect and intervention lawsuits by statute, EEOC recovered $65,611,235 in Title VII resolutions, $30,270,298 in ADEA resolutions, $3,549,033 in ADA resolutions, $971,961 in EPA resolutions and $1,748,610 in resolutions involving more than one statute. At the end of FY 2008, the number of cases on the EEOC's active docket that involve multiple aggrieved parties or challenges to discriminatory employment policies was 238 or 45% of our total year-end caseload.

Refer to our website at www.eeoc.gov for a fuller depiction of litigation statistics and year-by-year data comparisons.

The Office of General Counsel has made implementation of the agency's new systemic program a chief priority this year. The systemic initiative was launched in April 2006 with the Commission's adoption of the recommendations of an internal task force, which prescribed comprehensive measures to improve all aspects of the agency's systemic work. The Commission's objective was to strengthen and modernize its nationwide approach to identifying, investigating, and litigating systemic cases, which the task force report defines as "pattern or practice, policy and/or class cases where the alleged discrimination has a broad impact on an industry, profession, company, or geographic location." Since 2006, the Office of General Counsel has refocused its law enforcement activities to carry out the Commission's mandate that "combating systemic discrimination should be a top priority at EEOC and an intrinsic, ongoing part of the agency's daily work."[1]

This year, the Commission reviewed the progress of the systemic initiative at a public meeting and received a report from the Committee of Advisors for Systemic Enforcement ("CASE"), an advisory group of senior enforcement and litigation staff created by the task force to assess the agency's overall effectiveness in combating systemic discrimination and serve as a resource on systemic matters.[2] As reported by CASE, the agency has made substantial progress towards a revitalized and dynamic systemic program. The number of systemic investigations has increased substantially. At the end of the fiscal year, 38 Commissioners' charges were under investigation, compared to only 15 Commissioners' charges in investigation as of March 31, 2006. Systemic investigations based on charges filed by the public have also increased significantly. Systemic lawsuits have been filed across the country under every statute enforced by the agency, involving a broad set of bases and issues and a wide variety of industries, and included cases that advance the agency's E-RACE initiative.

Systemic cases are significantly more complex cases. They require greater resources, more highly trained investigators and attorneys, and sophisticated expert analysis by statisticians, industrial psychologists, and labor market economists. To address these needs, we are making more efficient use of our legal staff through partnerships among district offices and collaborative work on the larger cases. We are investing in the technology tools that are critical to a vigorous nationwide litigation practice. We are providing training to our staff and are working to better equip our lawyers and investigators to manage and analyze the very large amounts of case-related data in support of systemic investigations and litigation.

To accomplish the goals of the systemic initiative, the Office of General Counsel anticipates a shift in the composition of its litigation docket over time. We expect fewer small, individual cases and more cases on behalf of larger groups of individuals. While this is leading to a decline in the total number of lawsuits filed each year, compared to previous years, we expect that the overall impact of our litigation will be enhanced as larger cases are filed and resolved. Shifting the balance will enable us to use the agency's limited resources in the most efficient and effective manner. Nonetheless, individual cases, particularly those under the Americans with Disabilities Act, will remain an important component of the agency's docket and will continue to be strategically selected to have impact beyond their individual circumstances.

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[1] The full task force report is available at www.eeoc.gov/abouteeoc/task_reports/systemic.html.

[2] The transcript of the Commission meeting is available at http://www.eeoc.gov/abouteeoc/meetings/6-18-08/transcript.html#5.

We highlight four noteworthy resolutions of systemic discrimination cases this year.[3] The largest by far was a suit against Sidley Austin, a large international law firm based in Chicago. The suit alleged that the firm implemented and maintained an age-based retirement policy and downgraded or expelled from its partnership certain partners age 40 and older because of their age. The case raised the important question of the circumstances under which members of a professional partnership can be considered employees under the ADEA, with important consequences for many professional partnerships under the employment discrimination laws generally. The consent decree provides that for purposes of resolving the matter, the law firm agrees that each person for whom EEOC sought relief was an employee under the ADEA. The decree provides for $27.5 million to be distributed to 32 eligible claimants. The decree prohibits defendant from: (1) terminating, expelling, retiring, or reducing the compensation of a partner because of age; (2) maintaining any formal or informal mandatory partner retirement policy or practice based on age; (3) pressuring a partner to change partnership status or to retire because of age; (4) requiring partners to cease their service on any firm committee (except the Executive or Management Committees), or as a practice group head, because of age; or (5) taking retaliatory action against any person for conduct related to the case or the claims in the case. *EEOC v. Sidley Austin, LLP* (N.D. Ill.) (resolved Oct. 4, 2007).

A systemic suit against a New York photographic and electronic equipment retailer alleged national origin discrimination against Hispanic warehouse employees with respect to wages, fringe benefits, and promotion. The consent decree, filed simultaneously with the complaint, provides that the company will equalize the wages of Hispanic employees to their non-Hispanic coworkers and will provide $4.3 million in monetary relief to individuals who were paid less, not promoted, or denied benefits because they are Hispanic. *EEOC v. B & H Foto & Electronics, Inc.* (S.D.N.Y.) (resolved Nov. 29, 2007).

A suit against one of New York's most famous restaurants alleged that the restaurant engaged in severe and pervasive sexual, racial, and national origin harassment of female, black, and Hispanic employees, as well as retaliation. The consent decree provides for a claim fund of $2.2 million to be allocated to 75 victims of the harassment and/or retaliation. Additionally, the restaurant will establish a telephone hotline which employees may use to raise any discrimination complaints, distribute a revised policy against discrimination and retaliation, and provide training to all employees against discrimination and retaliation. *EEOC v. Tavern on the Green* (S.D.N.Y.) (resolved Jun. 3, 2008).

In a suit against an automobile manufacturer in the Midwest, the EEOC alleged that the company required apprenticeship applicants to pass a pen-and-paper test in order to be placed on an apprentice eligibility "wait list," and that this test had a disparate impact based on race. The EEOC simultaneously filed a court complaint and a consent decree to resolve claims on behalf of a class of African American apprenticeship applicants who were denied opportunities as a result of the discriminatory test. The case was consolidated with a private class action. Under the consent decree, the settlement will provide $1.6 million to 666 claimants and $625,000 in attorneys' fees, and will place 55 class members on the apprentice eligibility "wait list." Pursuant to an earlier settlement of a related case, an industrial organizational psychologist selected by the parties will design and validate an apprenticeship selection instrument(s) consistent with the Uniform Guidelines on Employee Selection Procedures and professional standards within the field of industrial organizational psychology. *EEOC v. Automotive Components Holdings, LLC, Visteon Corp., & Ford Motor Co.* (S.D. Ohio) (resolved Dec. 20, 2007).

[3] This fiscal year, the EEOC received the court's final approval of a claim of systemic race discrimination against Walgreen's, which was resolved for $20 million. This case was described in last year's report and therefore will not be included in this year's report.

OUTREACH, EDUCATION AND TECHNICAL ASSISTANCE

Our Strategic Objective also incorporates the concept that preventing discrimination is an important part of our mission. We briefly describe below some of the key outreach initiatives we conducted in FY 2008 and elaborate on them in the Performance Section of this report.

In FY 2008, we promoted voluntary compliance with the federal equal employment laws to prevent or reduce discriminatory barriers to employment opportunities, including the promotion of individual awareness and understanding of rights and responsibilities under those laws. We provide outreach and education to small businesses, especially those that lack the resources to maintain human resources staff, and to stakeholders in under served communities across the nation, including those with limited English proficiency, such as recently arrived immigrants.

In FY 2009, we will continue our outreach, education, and technical assistance programs to meet the needs of diverse audiences and will partner with the employer community and other stakeholders to foster strategies to recognize and prevent discrimination in the workplace. We remain prepared to respond to unanticipated issues that arise in the workplace due to current events, so that the EEOC stays on the forefront in informing both employees and employers alike of their rights and responsibilities in the ever-changing workplace environment.

Special Outreach Initiatives

The Commission is working cooperatively and collaboratively with the small business community to proactively prevent employment discrimination and to promote voluntary compliance through its Small Business Initiative. We recognize that many small businesses do not have separate human resource and legal staff to guide them through the regulatory process. Therefore, it is important to establish open lines of communication and provide the necessary training and tools to ensure that small employers comply with the law.

We educate students and young workers about their workplace rights and responsibilities, including specific discussions on harassment and how to seek assistance to address or report incidents of discrimination and harassment that occur in the workplace. Through our Youth@Work Initiative, we reach out to schools and educators to share training materials and, as resources allow, develop and present training to teenagers about their workplace rights and responsibilities and assist these young workers as they enter and navigate through the workplace. Furthermore, we provide training and information to businesses that employ young workers to encourage them to proactively address discrimination issues confronting young workers.

In an effort to identify and implement new strategies that will strengthen its enforcement of Title VII and advance the statutory right to a workplace free of race and color discrimination, EEOC developed the E-RACE (Eradicating Racism and Colorism in Employment) Initiative during FY 2007. In FY 2008, the EEOC continued to identify issues, criteria and barriers that contribute to race and color discrimination, explored strategies to improve the administrative processing and the litigation of race and color discrimination claims, and enhanced public awareness of race and color discrimination in employment.

In the federal sector, the EEOC developed the LEAD (Leadership for the Employment of Americans with Disabilities) Initiative to address the declining number of employees with targeted disabilities in the federal workforce. This national outreach and education campaign includes seminars, educational events and focus group sessions to explore the issue of declining employment for individuals with severe disabilities and identify concrete solutions to address the problem.

The agency educates employers and other members of the public about systemic discrimination, including trends and issues that the agency has identified and cases the agency has handled through its Systemic Program. We recognize the educational and deterrent value of publicizing our court victories, particularly the cases resolving systemic discrimination, because of the ripple effect such decisions can have on promoting changes both across the impacted industry and in related industries. In addition, we issued 675 press releases on our enforcement activities to further raise public awareness and encourage compliance.

FEDERAL MANAGERS' FINANCIAL INTEGRITY ACT (FMFIA)

The EEOC's management controls and financial management systems were sound during FY 2008, with the exception of 20 findings of financial non-conformances. Seven financial non-conformances were carried over from FY 2007. The financial non-conformances were identified in several audit reports prepared by the Office of Inspector General.

In FY 2008, the agency corrected 16 of the 20 identified financial non-conformances—the seven non-conformances carried over from FY 2007 and nine non-conformances identified in FY 2008. The agency has implemented corrective action plans to resolve the remaining four non-conformances in FY 2009.

Based on the actions taken and taking the agency's controls environment as a whole, the agency concludes that during FY 2008 its financial and management controls systems were in compliance with the Federal Managers' Financial Integrity Act (FMFIA). Eighty percent of the identified non-conformances were resolved during the fiscal year, and it has plans in place to resolve the remaining financial non-conformances in FY 2009. 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 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 Changes in Net Position, and the Combined Statements of Budgetary Resources. In FY 2007 the Consolidated Statements of Financing was moved to footnote 18 and renamed the Reconciliation of Net Cost of Operations to Budget as outline in OMB Circular A-136. Outlined in the following section are the purpose of each statement, an explanation of any significant amounts, and an explanation of significant fluctuations between FY 2008 and FY 2007.

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.

The FY 2008 cumulative result of operations shows a negative balance. This is due to amounts accumulated over the years by EEOC from financing sources less expenses and losses and an amount representing EEOC's liabilities for such things as accrued leave and actuarial liabilities not covered by available budgetary resources. EEOC's FY 2008 future funded annual leave balances and actuarial FECA liability totaled $27 million.

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 2008, EEOC's Consolidated Statements Net Cost increased by $14 million or 4%. The allocation of costs for FY 2008 shows that Private Sector resources used for

Enforcement and Litigation increased $13 million while the Federal Sector Programs only increased $1 million over the past fiscal year.

Consolidated Statement of Changes in Net Position

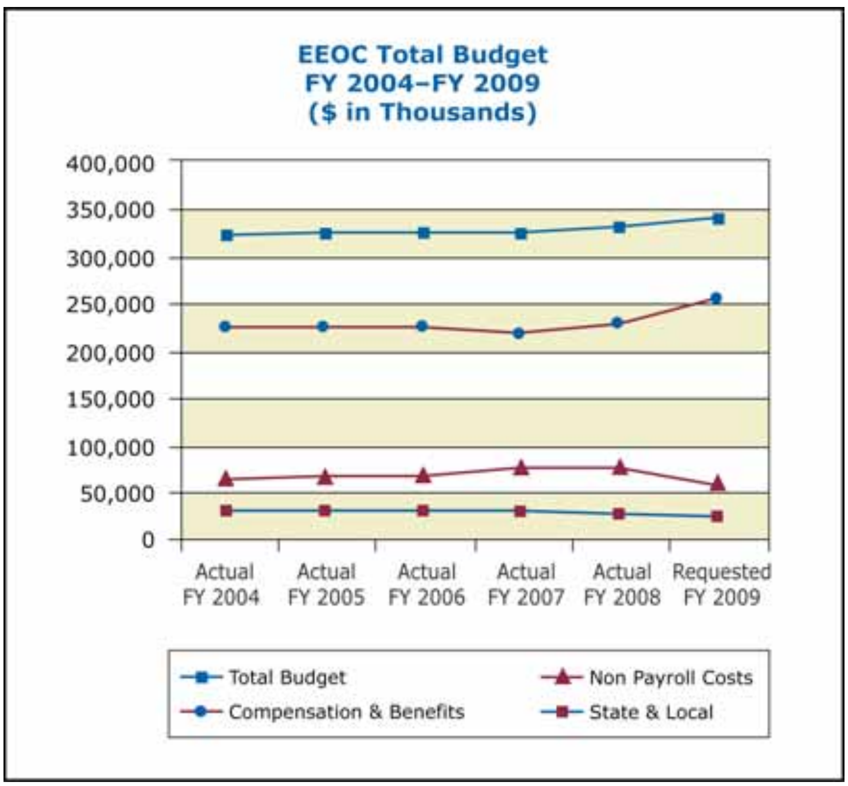
The Consolidated Statement of Changes in Net Position represent the change in the net position for FY 2008 and FY 2007 from the cost of operations, appropriations received and used, net of rescissions, and the financing of some costs by other government agencies. The Consolidated Statement of Changes in Net Position decreased over last year by $2 million. EEOC's total asset exceeded total liabilities (funded and unfunded) by $14 million.

Combined Statements of Budgetary Resources

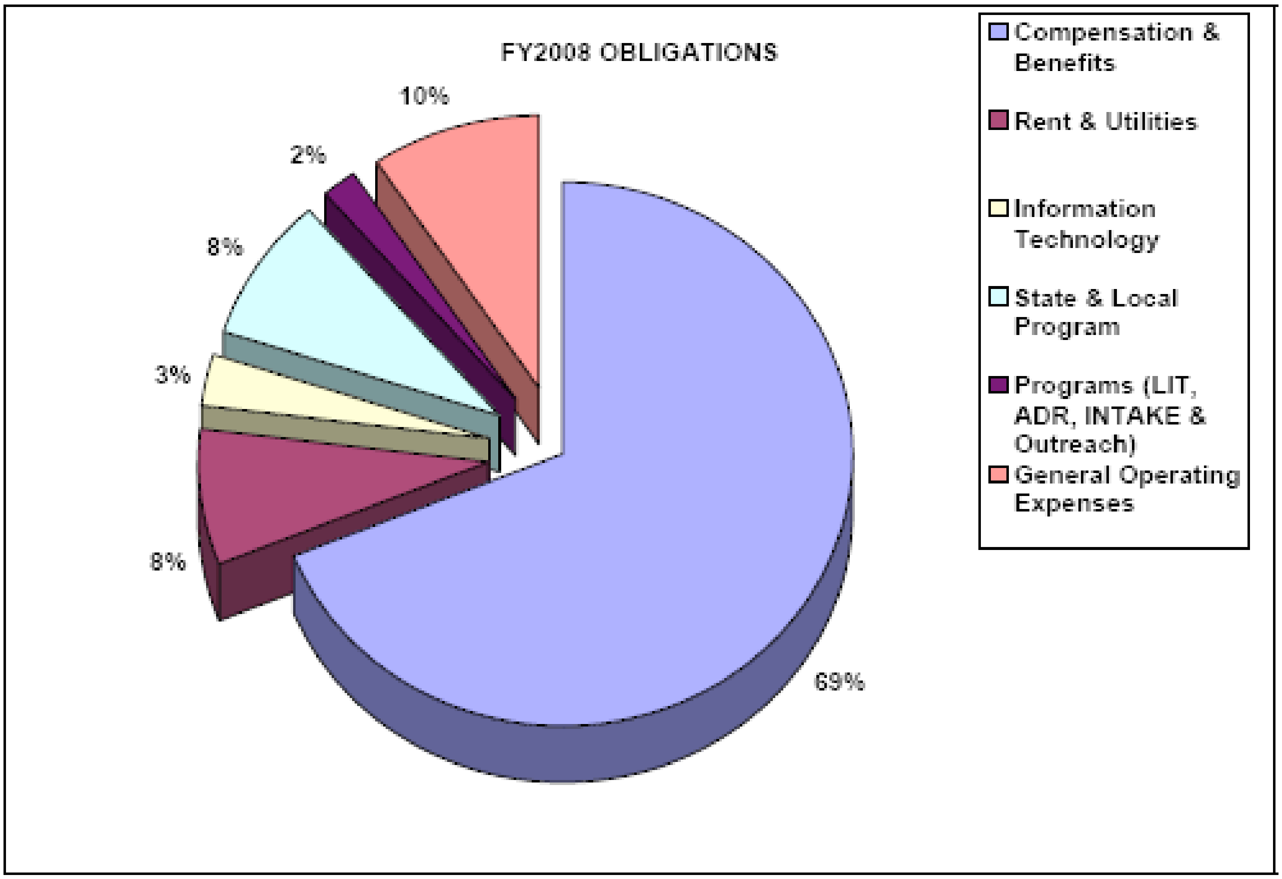
The Combined Statements of Budgetary Resources shows how budgetary resources were made available and the status of those resources at the end of the fiscal year. In FY2008, EEOC received a $329 million appropriation, with no rescission. EEOC ended FY2008 with an increase in total budgetary resources of $2 million over last year. Resources not available for new obligations at the end of the year totaled $9 million and $8 million in FY 2008 and FY 2007, respectively. The unobligated balance not available represents expired budget authority from prior years that are no longer available for new obligations.

Use of Resources

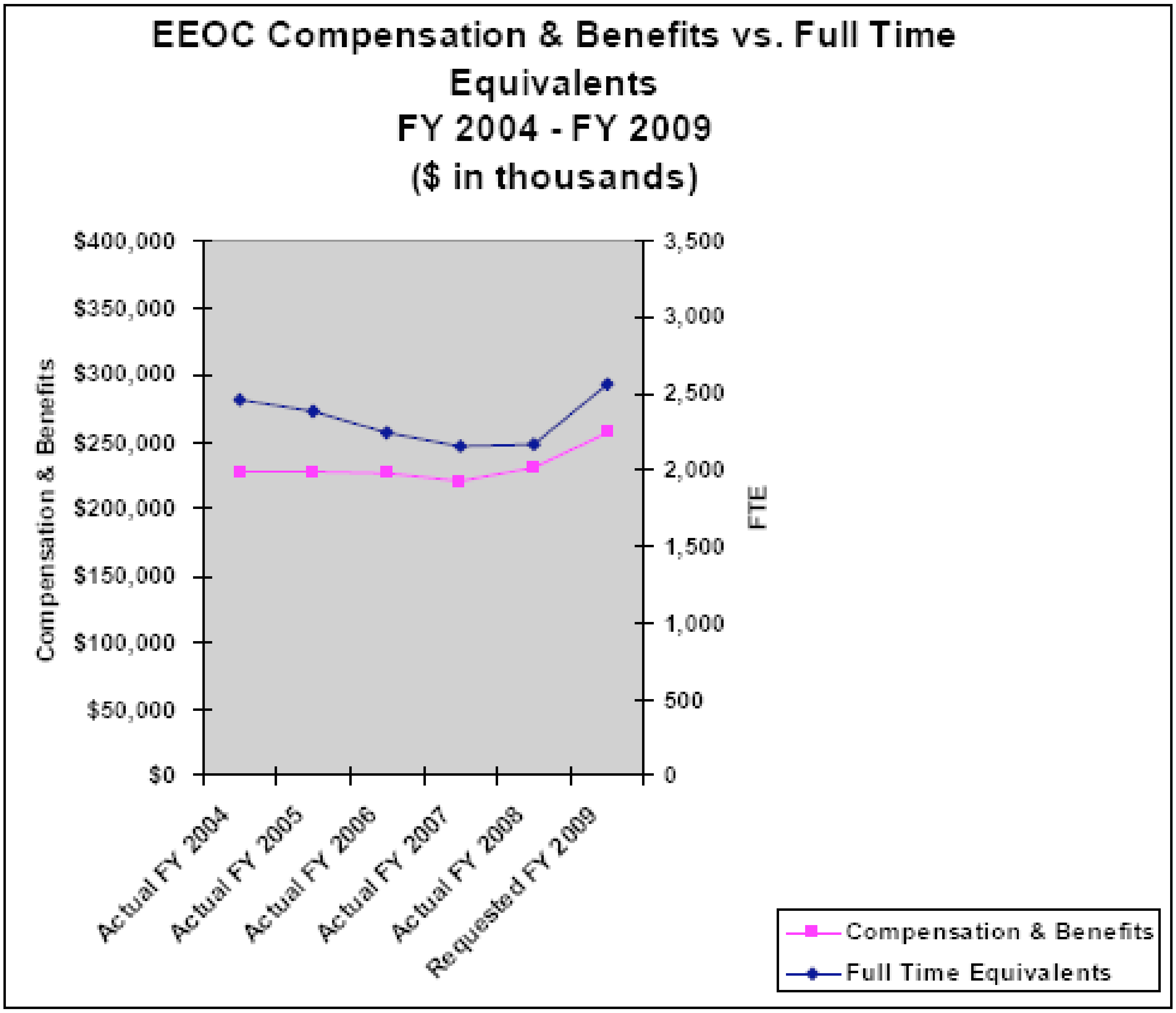
The **line chart** below displays a 6-years historical view of EEOC's use of resources. Compensation and benefits consumes the majority of the budget at 69%. The second and third items that have consumed a major portion, of which 8% of the budget were for payments to state and local FEPAs, and rent which also consumed 8% of the budget and are included in non-payroll costs.



The **pie chart** displays EEOC's FY 2008 use of resources by major object class. The major portions: Compensation & Benefits, State & Local, and Rent and Utilities. Resources used for Information Technology as well as general operating expenses were consumed at the rate of 13%. Other agency programs (Litigation, ADR contracts, INTAKE and Outreach) were consumed at the lowest rate of 2%. In comparison to last year, compensation and benefits increased 3% over last year's percentage of 66%.



The **dual axis** chart that depicts EEOC's compensation and benefits versus full-time equivalents (FTE) over the past six years shows an increase in both FY 2008 FTEs and compensation and benefits costs. EEOC's full-time equivalents in FY 2008 increased in part by new-hires hired to replace retiring employees, EEOC's Congressional Budget FTE ceiling increased to 2,556 in FY 2009. EEOC ended FY2008 with 2,166 employees on board. (The current average salary is approximately $106,252, an increase of $14,092 or 13% of the FY 2004 average salary).



Performance Results

INTEGRATION OF ELEMENTS IN THE STRATEGIC PLAN

EEOC implemented its Strategic Plan for FYs 2007 through 2012 at the beginning of FY 2007. The plan describes our overall strategic framework for six years. As noted in the previous section of this report, the agency has since modified the Strategic Plan by revising several areas of the performance structure (see the performance discussion below and the Addendum at the end of this section). These revisions were approved by the Commission on July 28, 2008. This section of the report summarizes the results achieved in FY 2008 for the nine performance measures described in our modified Strategic Plan.

The framework for the modified Strategic Plan in effect for FY 2008 represents an improvement in our overall strategic planning and measurement approach because it is designed to be more results oriented, customer centered, and performance driven. The plan melds our strategic objective, performance measures, and important program initiatives, all of which are integral to the accomplishment of our mission. The graphic presented on page 5 illustrates the integration of these elements, enabling us to achieve and evaluate our results for FY 2008.

STRATEGIC OBJECTIVE: JUSTICE, OPPORTUNITY AND INCLUSIVE WORKPLACES

The EEOC is the nation's primary enforcer of the civil rights employment laws, which prohibit discrimination on the basis of race, national origin, color, religion, sex, age, disability, and, as of November 21, 2009, genetic information. The agency was created in 1964 for the purposes of resolving charges of employment discrimination and securing relief for victims of discrimination. More than 40 years later, the public continues to rely on the Commission to carry out these fundamental responsibilities and bring justice and opportunity to the workplace. Our fight against discrimination goes beyond enforcing the law. The best way to combat workplace discrimination is to prevent it from happening in the first place. Educating employers and workers about their rights and responsibilities under the law is the first step toward promoting an inclusive workplace, where all workers are judged on their talents and abilities without regard to any protected characteristic.

EEOC's major programs and activities are investigating and resolving charges of discrimination; litigating complaints of discrimination; conducting hearings, resolving appeals of discrimination complaints and promoting equal employment opportunity in the federal workplace; and educating the public about its rights and responsibilities. All of these programs and activities are done in the service of four shared goals:

- remedying and deterring unlawful employment discrimination;
- increasing public confidence in the fair and prompt resolution of employment discrimination disputes;
- increasing voluntary compliance with the federal equal employment laws; and
- increasing individual awareness and understanding of rights and responsibilities.

The modified Strategic Plan addresses many of the areas raised in the Office of Management and Budget's (OMB) Program Assessment Rating Tool (PART) review of the agency in 2006. The PART review resulted in a rating for the agency of *Results Not Demonstrated*, primarily because OMB determined that the agency's approach, reflected in its former Strategic Plan, was insufficient to measure performance.

The new measurement structure and approach developed during our PART review is expected to enable us to enhance our program and the services we deliver to the public. The improvement plan developed with the PART focuses on three broad areas: 1) identifying and implementing challenging annual targets and final outcome goals for all agency performance measures; 2) developing in collaboration with its state and local partners methods for measuring performance that supports the agency's goals; and 3) continuing to implement structural changes and other recommendations to improve efficiency and effectiveness of the program.

During fiscal years 2007 and 2008, we began to address all three elements in our PART improvement plan. The Strategic Plan we issued at the beginning of fiscal year 2007 addressed the first element of the improvement plan. We subsequently engaged in extensive agency reviews of the performance structure and performance measures that were initially included in the agency's PART evaluation and our Strategic Plan. Our reviews resulted in several adjustments that modified the Strategic Plan. These modifications are included in the current performance measurement structure graphically displayed on page 5. (Also, see the Addendum at the end of this Performance Results section.) On July 28, 2008, the Commission approved the current configuration of the Plan, including adjustments to some performance measure baselines and annual targets, which are explained under the relevant measures in the following pages.

During this time, we also have been working extensively with the FEPAs to identify one or more forms of measurement that will reflect their contribution toward achieving EEOC's strategic goal and its mission. To ensure collaboration in developing a measure, during fiscal year 2007 we established and tasked a joint EEOC/FEPA Work Group with identifying potential functions to measure. The Work Group was comprised of both EEOC staff and representatives from several FEPAs around the country. The Work Group, in developing its final recommendation, took into consideration information received from many of the FEPAs in response to the Work Group's initial draft proposal as well as discussions and presentations during the annual FY 2008 EEOC/FEPA Conference. The Work Group's final recommendation is pending review and approval at this time.

Our performance structure will enable us to strive toward meeting the goals and measures we have adopted, which include our two long-term performance measures, six annual performance measures, and one efficiency measure in our modified Strategic Plan for FYs 2007 through 2012.

Performance Measure Highlights

Long-Term / Annual Measure 1

By FY 2012, the number of individuals benefiting from improvements to organizations' policies, practices and procedures because of EEOC's enforcement programs increases by 20.2%.		
	FY 2007	**FY 2008**
Target	Establish Baseline	2%
Result	1,626,000 individuals	222.9%
◘	Exceeded Target	

We believe it is important to measure our success by looking beyond the monetary and equitable relief we secure through our enforcement actions. Our Long-Term/Annual measure focuses on tracking the improvements that are made in the workplace as a direct result of our enforcement programs. We selected this measure because, when we secure changes in employment policies, practices and procedures through our enforcement programs, we have a positive impact not only on the immediate victims of discrimination, but also on all individuals in the affected workplace. Through organization-wide changes, individuals benefit from a more inclusive workplace and have greater opportunities to compete on a level playing field. With the agency's renewed emphasis on combating systemic discrimination, we expect to make significant increases over time in the number of individuals who benefit from our enforcement activities.

The Long-Term/Annual Measure was developed to focus on all enforcement services we provide to the public that result in workplace benefits. These results include benefits from administrative resolutions (including mediation), litigation resolutions, and federal sector hearings and appeals resolutions. Beginning in fiscal year 2005, we began collecting data on the number of individuals benefited through private sector administrative resolutions (including mediations) only. Based on that experience, we adapted the same data collection approach for all of our enforcement programs and established annual targets and our final goal for fiscal year 2012.

Enforcement resolutions from our administrative charge processing, litigation, and federal sector hearings and appeals programs benefited approximately 5.25 million individuals in FY 2008, or a 222.9% increase over our FY 2007 baseline number of 1.626 million individuals benefited. Our annual target for FY 2008 was a 2% increase over our baseline or approximately 1.658 million individuals. We greatly exceeded the target for several reasons.

This measure was developed during our OMB PART review and was included in the agency's new Strategic Plan issued at the beginning of FY 2007. We subsequently established annual targets and a final goal based on our limited experience with the data we had already been collecting for several years for our administrative charge processing program. It was important to include all of our enforcement programs in the measure, but it was difficult to estimate their effect on the final results. In addition, there was the strong possibility that one or two large enforcement actions against a nationwide entity could affect the results in a significant way in any one year. For example, in FY 2008 two large resolutions—one in our administrative charge program and another in our federal sector hearings program—contributed extensively to this year's results. Approximately 51% of the total number of individuals benefiting from our enforcement programs in FY 2008 was from these two resolutions. If the number of these individuals were removed from the total, we benefited approximately 2.547 million individuals, or about a 56.6% increase over our FY 2007 baseline. This is still a significant increase over the previous fiscal year and over our target for FY 2008.

Our FY 2009 annual target for this measure is to increase the number of individuals benefiting from improvements to organizations' policies, practices and procedures by 10% over the FY 2007 baseline. Although our FY 2008 results were substantially above that level, we will retain the current target levels for now, so that we can use the results for at least one more year before reevaluating them.

Efficiency Measure

By FY 2012, the number of individuals benefiting from improvements to organizations' policies, practices and procedures because of EEOC's enforcement programs for each agency FTE increases by 11.7%.		
	FY 2007	**FY 2008**
Target	Establish Baseline	1.8%
Result	753.5 individuals per FTE	220.2%
■	Exceeded Target	

Enhancing the number of working people who benefit for each agency Full-Time Equivalent (FTE) position demonstrates our efficiency, because over 70% of the agency's budget is dedicated to compensation and benefits. This entirely new area of measurement relies on the number of individuals benefited by our enforcement programs, which are collected for Long Term/Annual Measure 1. As noted in connection with that measure, during FYs 2007 and 2008, we also identified annual targets and established our final goal for fiscal year 2012.

The correlation to our FTE level is appropriate as it recognizes that our staff are the direct contributors to positive change in the workplace and because staff levels are susceptible to change. We believe that this measure will be a compelling indicator of the efficiency of our operations.

The agency had 2,176 Full-Time Equivalent positions at the end of FY 2008. Approximately 5.25 million individuals benefited through our enforcement programs (as reported for Long Term/Annual Measure 1), because of improvements to policies, practices or procedures. Therefore, approximately 2,412.7 individuals benefited for every FTE. This was an increase of 220.2% over the FY 2007 baseline, compared to our 1.8% target increase for FY 2008. Absent the two large case resolutions discussed in the previous measure, 1,170.5 individuals benefited for each FTE; or a 55.3% increase over the FY 2007 baseline. Our FY 2009 target is to achieve a 2.2% increase over the baseline. Although our increase for FY 2008 was substantially above this target, as we similarly noted under Long Term/Annual Measure 1, we will retain the current target levels and reevaluate them after another year of data.

Long-Term Measure 2

By FY 2012, the public rates its confidence in EEOC's enforcement of federal equal employment laws at 65% or higher.		
	FY 2007	**By the End of FY 2010**
Target	Establish Baseline	63%
Result	61%	Measure in FY 2010
■	Met Target (Baseline Established)	

If the public is aware of our enforcement activities and believes that we have handled discrimination complaints effectively, they will be more likely to rely on us to investigate, mediate, litigate, adjudicate a federal complaint, and otherwise resolve allegations of discrimination. Additionally, if the agency's reputation is one of a fair and responsible enforcer of the civil rights employment laws, then employers, attorneys and other members of the public will be more likely to defer to our assessment of discrimination complaints and commit to voluntary compliance through mediation, settlement or conciliation.

To measure the public's confidence in the agency's enforcement of the federal equal employment opportunity laws, the agency engaged a reputable private organization to conduct a survey in fiscal year 2007 of a representative sample of individuals nationwide. From that survey, we were able to establish a baseline value for fiscal year 2007, and a two-staged multi-year approach to reach a final goal by fiscal year 2012.

The agency previously identified a lower percentage value as its 2007 baseline from the survey results and initially established lower multi-year targets. During fiscal year 2008, the agency re-evaluated the responses from the survey participants and the methodology used to estimate the baseline value for this measure. As a result of this re-evaluation, the agency adjusted its baseline and its targets/final goal to indicate that more respondents to the survey reflected confidence in EEOC's enforcement of the laws it enforces. The Commission approved the modified approach with its July 28, 2008 vote on the Strategic Plan. (A further explanation is provided in the Addendum at the end of this section.) Improvements in confidence will be measured in multi-year intervals to provide enough time to be able to measure reasonable changes in the nationwide results. In addition to the efforts to achieve the six Annual Measures, below, which are linked to improvements in the public's confidence in EEOC's enforcement efforts, we anticipate engaging in other initiatives that will influence this measure. We will conduct a survey during fiscal year 2010 to measure any change in the nationwide results for this measure. Consequently, the agency currently has met its target for this measure with the establishment of the baseline value. We will obtain new results when we conduct a follow-up survey in FY 2010.

Annual Measure 2.1. At least 54% of private sector charges are resolved in 180 days or fewer by FY 2012.

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Target	65.0%	70.0%	70.0%	72.0%	48.0%
Result	67.1%	65.9%	60.7%	55.7%	48.5%
▣	Exceeded Target				

Annual Measure 2.2. At least 54% of federal sector hearings are resolved in 180 days or fewer by FY 2012.

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Target	35.0%	38.0%	50.0%	50.0%	50.0%
Result	32.8%	51.3%	43.6%	42.8%	38.6%
◉	Not Met Target				

Annual Measure 2.3. At least 70% of federal sector appeals are resolved in 180 days or fewer by FY 2012.					
	FY 2004	**FY 2005**	**FY 2006**	**FY 2007**	**FY 2008**
Target	45.0%	50.0%	55.0%	60.0%	62.0%
Result	51.8%	52.0%	59.7%	60.7%	63.3%
■	Exceeded Target				

Annual Measures 2.1, 2.2, and 2.3 focus on the resolution of private sector charges, federal sector hearings, and federal sector appeals. We have established final goals for fiscal year 2012 for all of these measures, as reflected in the modifications made to this Strategic Plan. In recognition of the maxim that justice delayed is justice denied, these measures ensure the timely resolution of complaints in each of our major complaint handling activities.

The goal of resolving private sector charges within 180 days is important to containing the overall average charge processing time. The Commission approved modifications to the agency's Strategic Plan, which resulted in revisions to the annual targets and final goal for Annual Measure 2.1 based upon several compelling reasons; such as, dramatically increasing workload, declining staff and increased statutory responsibilities (see the Addendum at the end of this Performance Results section for additional information). The agency moderately exceeded its modified FY 2008 target at 48.5%. Our annual target for FY 2009 and FY 2010 will remain at 48%, as we increase our efforts to maintain this level of timely service and the quality of our investigations with fewer staffing resources to handle the growing inventory of charges (see our results for Annual Measure 2.4, below).

Annual Measure 2.2 addresses the resolution of federal sector hearings within 180 days. Although the targets and final goal reflects the agency's commitment to continue the timely handling of federal sector hearings, our results compared to the annual targets have been difficult to maintain since FY 2006, when the target rose to 50%. The annual target remains 50% through FY 2009 and then rises from 52% for FY 2010 to 54% as a final goal for FY 2012. Our efforts to achieve this goal have become more difficult because of increasing workloads and decreasing staff, as well as greater attention being focused on enhancing the quality of hearings. For FY 2008 we resolved only 38.6% of the hearings within 180 days or fewer. We will renew efforts to achieve next year's 50% target and prepare for the future increases in the targets for this measure.

Annual Measure 2.3 addresses the resolution of federal sector appeals within 180 days or fewer. The annual targets for this measure have consistently increased and the agency has been able to achieve them every year. FY 2008 was another successful effort where the agency resolved 63.3% of its appeals within 180 days or fewer, exceeding our target of 62%. The target for FY 2009 increases by 2 percentage points to 64%. We will continue to increase the proportion of appeals resolved within the time frame, as we move toward our 70% final goal in FY 2012.

Annual Measure 2.4. At least 93% of investigative files meet established criteria for quality by FY 2012.					
	FY 2004	**FY 2005**	**FY 2006**	**FY 2007**	**FY 2008**
Target	Define quality criteria & develop information collection system.	Establish FY 2005 baseline & targets for FY 2006–2009.	87.0%	88%	90%
Result	Defined criteria & developed collection system.	Established Baseline (88.5%) & targets.	88.1%	93.5%	97..0%
■	Exceeded Target				

Annual Measure 2.4 ensures that investigative files meet quality standards. As reflected in the modifications, we also established a final goal for this measure. Quality is determined by a large proportion of sampled investigative files reviewed meeting two critical quality criteria: 1) the appropriate charge categorization and file documentation supports the actions taken; and, 2) the resolution of the charge is supported. This measure is intended to ensure that we do not complete our work quickly at the expense of performing our work well. The annual targets for this measure have increased since the baseline was established in FY 2005 and we have exceeded these targets each year. FY 2008 is another year we exceeded the target. Although we are retaining the 90% target for FY 2009, we have increased the annual targets by 1 percentage point each year from FY 2010 to FY 2012.

Annual Measure 2.5. At least 95% of respondents and charging parties report confidence in EEOC's private sector mediation/ADR program by FY 2012.					
	FY 2004	**FY 2005**	**FY 2006**	**FY 2007**	**FY 2008**
Target	90%	90%	90%	90%	91%
Result	95.6%	96.3%	96.8%	95.8%	96.5%
■	Exceeded Target				

Annual Measure 2.5 focuses on the EEOC's mediation/ADR program. We recognize that the public's confidence in our mediation program has a significant impact on its perception of the EEOC as a whole. We obtain results for this measure by surveying participants in EEOC's mediation program and tabulating responses about their confidence in using the program. This measure has been used by the agency since 2004, so we have significant trend data upon which to base our targets. The confidence level in this program is consistently high. With the recent approval of the Strategic Plan, which significantly increased the final goal, the Commission recognized the need to enhance the results for this measure because a high level of confidence helps to convince participants, particularly company representatives, of the value of alternative dispute resolution. The Commission year-end results of 96.5% of the respondents and charging parties reporting confidence in EEOC's ADR program exceeded the increased FY 2008 target of 91% for this measure.

Annual Measure 2.6. At least 90% of EEOC lawsuits are successfully resolved during the period ending in FY 2012.					
	FY 2004	**FY 2005**	**FY 2006**	**FY 2007**	**FY 2008**
Target	90% or higher 6-year rolling average	90% or higher 6-year rolling average	90% or higher 6-year rolling average	90% or higher 3-year rolling average	90% or higher 3-year rolling average
Result	92.2%	92.8%	92.7%	91.5%	91.2%
◘	Exceeded Target				

Annual Measure 2.6 places a premium on maintaining the high level of successful resolutions in our litigation program. Successful resolutions include cases decided by favorable court order and those concluded through a consent decree or a settlement agreement in litigation. Achieving success on this measure will ensure that we continue to exercise our prosecutorial discretion responsibly, while allowing us to take on challenging issues and litigate complex cases, including cases of systemic discrimination. As our systemic litigation program continues to develop, this measure remains significant and ambitious because the achievement of success in systemic cases is challenging and resource-intensive. This year, we exceeded our goal with a 91.2% litigation success rate based on the results of a three-year weighted average (FYs 2006 to 2008). The success rate for FY 2008 alone was 92.0%. We are continuing this ambitious target in FY 2009.

Review of Litigation Results

For several years, the EEOC has attained the goal set forth in its Strategic Plan of maintaining at least a 90% success rate in lawsuit resolutions. Because the majority of lawsuits are resolved through settlement, this performance measure does not describe EEOC's results in cases adjudicated by a judge or jury. As in this fiscal year, the Office of General Counsel conducted a review of the cases adjudicated to final decision by a judge or jury over the past five years, from FY 2003 through FY 2007. We also reviewed the results for private plaintiffs represented by counsel in employment discrimination cases adjudicated by a judge or jury in the federal courts, using data compiled by the Administrative Office of the United States Courts.

Our review focused on the results for two separate types of outcomes, both at the district court level: 1) non-trial adjudications (i.e., cases resolved by court orders such as summary judgment and dismissals); and 2) trial results.

Our review showed that:

- For private plaintiffs represented by counsel, 13.2% of all case resolutions were losses through non-trial adjudications; for EEOC, 5.9% of all case resolutions were losses through non-trial adjudications. (These figures treat voluntary dismissals with prejudice as settlements for private plaintiffs, because that is how most private settlements occur, but as non-trial adjudication losses for EEOC, because the agency never settles out of court.)

- In cases decided at trial, private plaintiffs who were represented by counsel won 38.3% of all trials; the EEOC won 50.8% of all trials.

The table below illustrates the results of our review in more detail.

Comparison of Success Rates in U.S. District Courts, Private Federal Employment Discrimination Cases to EEOC Enforcement Suits		
	Federal employment discrimination cases w/ represented plaintiffs excluding U.S. as plaintiff (2003-2007)	EEOC enforcement suits (FY 2003-2007)
Non-trial adjudications lost by plaintiff as a percentage of all case resolutions	13.2% (9.068/68,782)	5.9% (103/1,754)
Trial wins for plaintiff as a percentage of all trials	38.3% (809/2,110)	50.8% (31/61)

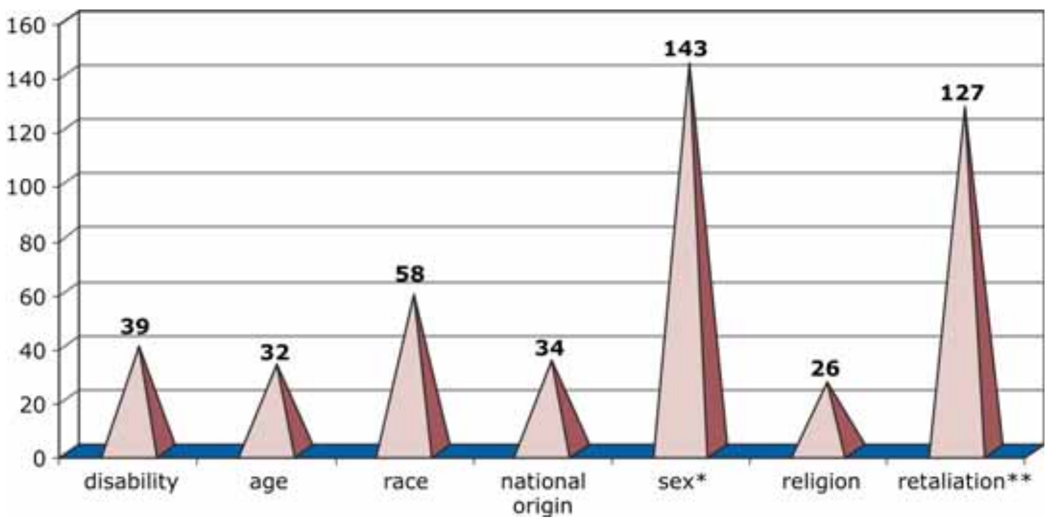
This review is intended to provide context for the data on EEOC litigation results. It is not intended to represent that the differences in results are statistically significant, and it attempts no judgment on the reasons for the different outcomes.

In the future, we plan to perform a similar comparative review of data at the appellate court level, focusing on the reversal rate for plaintiff wins and the reversal rate for defendant wins. Our internal data shows that in EEOC cases where there was a decisive outcome on appeal in the period from FY 2003 to FY 2007:

- An appellate court reversed or remanded EEOC wins in two out of 12 cases.
- An appellate court reversed defendant wins in 19 out of 35 appeals in cases brought by EEOC.

Review of Content of EEOC Litigation Docket

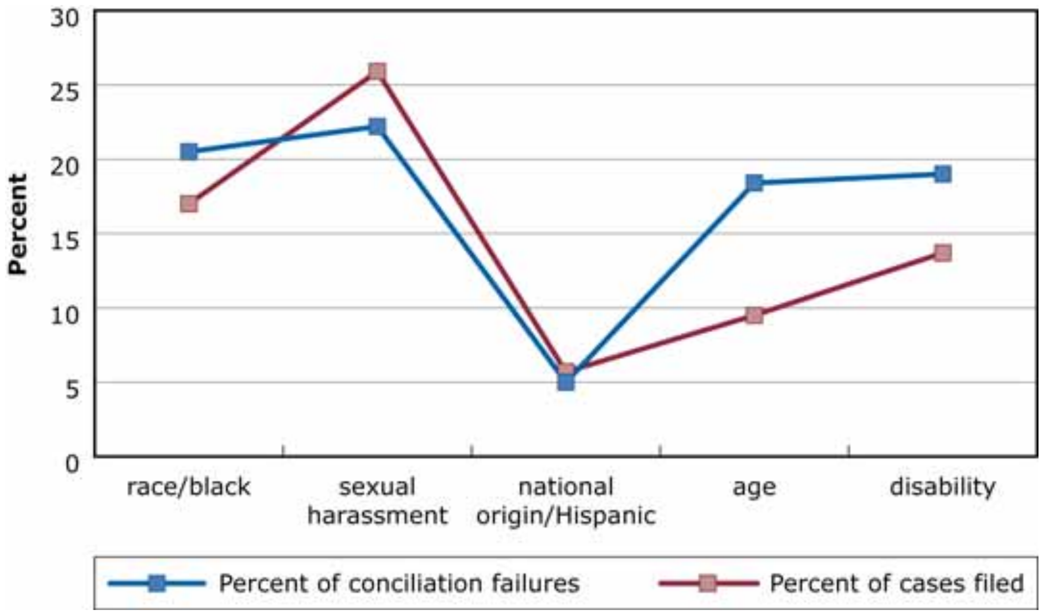
As in last fiscal year, we reviewed the content of our litigation docket to determine whether our case filings were representative of the categories of claims we are charged with enforcing. To maintain a balanced litigation program, we seek to enforce the law actively with respect to each of the categories protected by the statutes under our charge. The figure below illustrates the number of cases filed in fiscal year 2007 containing allegations with respect to each of the protected categories for which we have litigation authority. (Note that the total number of allegations represented in this chart exceeds the total number of cases filed because many cases contain multiple allegations. Refer to www.eeoc.gov for additional statistics on suit filings and resolutions.)



*Of these 143 sex discrimination suits, 87 suits contained claims of sexual harassment.

**Of these 127 retaliation suits, 100 suits contained claims under additional bases.

Because of statutory prerequisites for our litigation, a further analysis is necessary to evaluate our case-selection decisions. Under Title VII, the ADA, and the ADEA, the EEOC must make efforts to resolve violations through informal conciliation before filing suit. For those statutes, only cases in which conciliation efforts have failed comprise the pool of potential litigation vehicles for the Commission. We looked at the number of conciliation failures in some typical categories of our litigation to determine whether our suit filings were reflective of the pool of available cases. We focused on five representative types of cases subject to a conciliation requirement: race/black, sexual harassment, national origin/ Hispanic, age and disability. We calculated the percentage of each type of case filed compared to the total number of suits filed and also calculated the percentage of conciliation failures under each of these case-types compared to all conciliation failures (using FY 2007 data). The figure below illustrates these comparisons:



This review reveals that our selection of race/black, national origin/Hispanic, and sexual harassment cases for litigation was comparable to their respective share of the cases available to consider for litigation after conciliation efforts failed. We also note that, to the extent that our selection of sexual harassment cases for litigation exceeded the percentage of these charges available for litigation, most of our sexual harassment cases achieve a high impact by seeking relief for multiple victims of discrimination. Our selection of age and disability cases for litigation was lower than the availability of these cases for litigation. This finding provides us with a useful tool to explore ways in which we can increase the representation of these types of cases on our docket. Overall, these results demonstrate that we are maintaining a docket that is reasonably representative of the categories of claims we are charged with enforcing.

Collaborative FEPA Measure Contributing to EEOC Goals

The Commission's PART improvement plan includes an initiative for the agency to develop, in collaboration with its state and local partners, the Fair Employment Practices Agencies (FEPAs), methods for measuring FEPA performance that support the agency's mission and goals. Throughout fiscal years 2007 and 2008, we have engaged in efforts with the FEPAs and have recommended measures, currently under review, that will focus on the contributions made by the many FEPAs nationwide to the achievement of EEOC's goals. Once the recommended measurement approach is approved, data will be collected and analyzed in order to establish annual targets and a final goal. This cooperative effort with the FEPAs will enhance our relationships and our mutual interests in improving the enforcement of our respective employment discrimination laws.

Other Performance Initiatives

In the Management's Discussion and Analysis Section of this report, we briefly described many other performance initiatives we initiated or continued in FY 2008. Each is described in more detail below.

Outreach: The Commission's outreach programs reached 270,298 persons. EEOC offices participated in 5,360 educational, training, and outreach events. This is a decrease in the number of events over the same period in FY 2007, when there were 5,658 events.

Our offices distributed information materials on EEO laws and represented the Commission at 715 other public events that reached 49,202 people. These events included information booths at job fairs, conventions, cultural expositions, and conferences. Informational materials were distributed through participation in many community organization meetings to 49,783. We also made 617 media presentations, including newspaper, radio and TV interviews, talk shows, and press conferences that provided substantive EEO information to millions of stakeholders.

Our outreach, education and technical assistance efforts focus on increasing voluntary compliance with federal equal employment laws and on improving the individual awareness of a person's rights and responsibilities.

Mediation Outreach: In FY 2008, EEOC offices conducted 262 outreach events directed toward the private sector employer community to promote our mediation program. Events included workshops, mock mediations, and panel discussions with employer representatives, as well as representatives from the plaintiff and defense bar.

Small Business Outreach: The Commission is working cooperatively and collaboratively with the small business community to proactively prevent employment discrimination and promote voluntary compliance. We recognize that many small businesses do not have separate human resources and legal staff to guide them through the regulatory process. Therefore, it is important to establish open lines of communication and provide the necessary training and tools to ensure that small employers comply with the law. EEOC offices conducted 724 outreach events directed toward small businesses in FY 2008, reaching 35,515 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.

Federal Sector Outreach: In FY 2008, OFO rolled out a new program designed to give analytical assessment/feedback of MD-715 model EEO program elements. This endeavor, the EEO Program Compliance Assessment (EPCA) is a type of scorecard in which OFO provided workforce analyses based on race, national origin, gender and targeted disabilities. These analyses show how the particular agency's workforce is composed by major occupation and compare it to the civilian labor force, provide an odds ratio analysis on promotions in the senior grade levels, and show agencies how they compare to the federal government as a whole on various climate and other issues. Our intention is to provide new and useful ways for agencies to look at their data and to provide a benchmark upon which each agency can measure its progress toward becoming a model EEO workplace. In addition to EPCA, OFO intends to continue its practice of providing trend-analysis feedback on a rotating basis. In FY 2008, a key strategy in our efforts to be more responsive to our federal sector customers was the continued development of our relationship management pilot. This initiative was first piloted in FY 2004, and was modeled after the private sector's approach to customer service. The pilot has evolved and expanded to bring Commission personnel together with EEO staff in eleven agencies in a consultative partnership to improve customer service and relationships, and to successfully implement the essential elements of MD-715's model EEO program. In addition to these activities, OFO is conducting onsite reviews of five agencies with high under representation of racial minorities at the SES level and is conducting an onsite review of another agency to investigate a spike in retaliation complaints.

Education, Technical Assistance and Training:

- **EEOC Training Institute:** The EEOC Training Institute, formerly named "the Revolving Fund," is a separate statutory authority that enables the EEOC to offer in-depth and specialized programs to supplement those general informational and outreach activities that are an ongoing aspect of the EEOC'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 2008, the Training Institute trained over 29,000 individuals from the private sector, local, state, and federal government at more than 900 events. In FY 2008, the Training Institute offered five product/service lines, which we expect to continue to provide in the future.

- **Direct-Sale Training Products:** The Training Institute also develops low-cost direct-sale training products and resource materials to foster the agency's overall training and technical assistance statutory responsibilities. We will be expanding our product line during FY 2009 to include other training materials that address the changing needs of our customers, such as Webinars and hearings preparation training.

- **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 substantially more employers and employees about how to identify, prevent and eliminate workplace discrimination. In FY 2008, 44 TAPS were conducted throughout the country with 6,693 participants. This number is slightly higher than the 6,666 people who participated in TAPS in FY 2007, even though one TAPS seminar had to be cancelled due to an evacuation of the host city for catastrophic weather.

- **Training FEPAs:** Training FEPAs nationwide was a major project continued by the Training Institute in FY 2008. FEPAs nationwide were offered two different courses targeted specifically for their investigative staff. A total of 23 separate training sessions were delivered which were conducted at three different locations nationwide with the offering of two full days of Race, Color and Religious Discrimination Training. Additionally, three sessions of new investigator training were conducted. Over 550 staff representing 70 FEPAs attended sessions for this training. FEPA training is planned for FY 2009.

- **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, EEO professionals and EEO staff. The FY 2008 conference held in Chicago, Illinois, last August marked the 11th anniversary of the popular event—attracting more than 1,000 attendees. There were several "firsts" at this year's conference, including a Weblog (blog) that was updated from the conference floor; the first Hispanic Employment Managers' Summit, which was presented as a partnership with the National Council of Hispanic Employment Program Managers; and, presentations that were made by leaders of the recently formed Asian American Pacific Islander (AAPI) and Hispanic Work Groups.

- **Customer Specific Training:** The Customer Specific Training 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 we design customized courses that are delivered at employers' worksites.

E-RACE (Eradicating Racism and Colorism from Employment): EEOC unveiled the E-RACE Initiative in February 2007. Race discrimination is the most frequent type of charge filing with the EEOC, a historical trend dating back to the agency's opening in 1965. In FY 2008, 33,929 charges of race discrimination were filed with EEOC offices nationwide, accounting for 35.6% of the agency's private sector receipts. The E-RACE Initiative is designed to improve EEOC's efforts to ensure workplaces are free of race and color discrimination. Specifically, the EEOC will identify issues, criteria and barriers that contribute to race and color discrimination, explore strategies to improve the administrative processing and the litigation of race and color discrimination claims, and enhance public awareness of race and color discrimination in employment. As part of the E-RACE initiative, offices conducted 1,416 events reaching 58,183 individuals. More information about the E-RACE Initiative is located on EEOC's website at http://www.eeoc.gov/initiatives/e-race/index.html.

Freedom to Compete Initiative: Launched in 2002, the EEOC's Freedom to Compete Initiative is a national outreach, education and partnership campaign designed to recognize and reward specific practices that produce results and reflect a commitment to access and inclusion in the workplace.

Youth@Work: In FY 2008, the EEOC built on the success of its Youth@Work Initiative to educate young workers about their workplace rights and responsibilities. Over the past four years, EEOC offices nationwide have hosted or participated in more than 4,000 events to educate teenage employees and their employers about workplace discrimination and harassment. We have reached more than 250,000 high school students, parents, teachers, and employers—arming them with the information they need to create positive first work experiences for our young adults.

The Youth@Work website (www.youth.eeoc.gov) is dedicated to educating young workers about their equal employment opportunity rights and responsibilities. The website explains the different types of job discrimination that young workers may encounter and suggests strategies they can use to prevent and, if necessary, respond to such discrimination. The site includes an interactive tool called "Challenge Yourself!" that provides an opportunity for young workers to test their knowledge by analyzing sample job discrimination scenarios. The site, created with the assistance of EEOC student interns, also includes examples of recent cases involving workplace harassment of young workers. A Spanish-language version of the website debuted in June 2005 at www.youth.eeoc.gov/es.

In FY 2008, we conducted 1,248 events to educate teenage employees and their employers about workplace discrimination and harassment, reaching 62,797 high school students, parents, teachers, and employers. These events, which include information about the laws enforced by EEOC and the rights and responsibilities of employers and employees, are aimed at assisting young workers, as they enter and navigate the professional world, and encouraging employers to proactively address discrimination issues confronting young workers.

LEAD Initiative: The over-arching goal of the LEAD Initiative is to significantly increase the population of individuals with disabilities employed by the federal government—currently less than 1%. This national outreach and education campaign is designed to:

- Increase the awareness of federal hiring officials about the declining numbers of people with disabilities in federal employment;
- Reverse the trend of decreasing participation in federal employment;
- Educate federal hiring officials about how to use special hiring authorities to bring people with disabilities on board, particularly those with severe disabilities;

- Educate applicants with severe disabilities about how to apply using the special hiring authorities available; and
- Provide information and resources on reasonable accommodation.

In FY 2008, the LEAD web pages were further updated. Resources related to recruitment, hiring, and accommodations, as well as links to several federal programs designed to assist individuals with disabilities in finding employment have been added. The website, available at http://www.eeoc.gov/initiatives/lead/index.html, also includes program tips agencies can adopt to increase the participation of individuals with disabilities in the federal workforce.

New Freedom Initiative: On February 1, 2001, President George W. Bush announced his New Freedom Initiative (NFI), a comprehensive strategy for the full integration of individuals with disabilities into all aspects of America's social and economic life. EEOC has played a critical role in furthering one of the NFI's primary goals—increased access to the workplace for individuals with disabilities.

Since 2002, EEOC has issued a number of technical assistance documents for employers and people with disabilities. Among these documents have been six that have addressed the ADA's application to particular types of disabilities—diabetes, epilepsy, cancer, intellectual disabilities, blindness and vision impairments, and deafness and hearing impairments. The Commission has also released three documents that discuss how the ADA applies to specific industries. In prior years, we issued a guide for restaurants and other food service establishments, a document on reasonable accommodations for attorneys with disabilities, and a publication for the health care industry.

In February 2008, we issued two documents—one for employers and one for veterans—explaining how the ADA applies to veterans with service-connected disabilities who are seeking to return to work or who are applying for their first job. Among the topics discussed in the document are differences between the ADA and the Uniformed Services Employment and Re-Employment Rights Act (USERRA), how the ADA applies to employers who want to engage in affirmative hiring of veterans with disabilities, and types of reasonable accommodations that veterans with disabilities might need. In September 2008, we issued a question-and-answer document on how the ADA applies to performance and conduct standards, in response to inquiries we have received indicating that there is still confusion about how the law affects these fundamental personnel rules.

Regulations, Enforcement Guidance, and Technical Assistance: EEOC regulations and enforcement guidance represent the Commission's official positions on a range of issues that arise under the employment discrimination laws. They aid EEOC investigators and attorneys who enforce the laws through charge investigation and litigation, are looked to by many courts when resolving novel legal issues, and inform employers and individuals protected by the laws EEOC enforces of their legal rights and responsibilities. EEOC also publishes technical assistance documents, which promote awareness of and voluntary compliance with, the EEO laws. They provide the public with explanations of the laws that are easy to understand and that avoid excessively technical or legalistic language. Technical assistance documents do not establish new EEOC policy. They apply existing policy in specific contexts to promote better understanding of EEOC policy.

In December 2007, the Commission finalized a rule creating an exemption from the ADEA for employers to coordinate retiree health benefits with Medicare-eligibility. The rule allows employers to continue their long-standing practice of providing reduced or no benefits to retirees who are eligible for Medicare (i.e., 65 or older) without violating the ADEA. Although the Commission voted to approve the rule in April 2004, it could not be finalized until December 2007, due to a lawsuit seeking to block its implementation. This litigation ended when the Supreme Court refused to grant certiorari from a decision in EEOC 's favor by the Court of Appeals for the Third Circuit.

On July 22, 2008, the Commission issued a new Compliance Manual Section on Religious Discrimination. The new Section addresses: what constitutes “religion” within the meaning of Title VII; disparate treatment based on religion; the requirement to reasonably accommodate religious beliefs and practices; religion-based harassment; and retaliation. The Section also provides guidance on the sometimes complex workplace issues involved in balancing employees’ rights regarding religious expression with employers’ need to maintain efficient, productive workplaces. The number of religion charges filed with the Commission increased 100% from 1992 to 2007, including a 13% increase last year to 2,880 charges. As a result, we have seen a dramatic increase in inquiries from our investigators regarding religious discrimination issues, have increased our litigation of religious discrimination claims, and have expanded our outreach activities regarding the religious discrimination requirements of Title VII in response to a vast increase in the number of inquiries on religion and the workplace from the press and from employers.

AGENCY INFRASTRUCTURE AND THE PRESIDENT’S MANAGEMENT AGENDA

A. Introduction

We are constantly seeking ways to achieve organizational excellence by improving our organizational capacity and infrastructure through sound management of our resources—human, financial and technological. Maximizing effective use of our resources is essential to achieve our enforcement and outreach goals and to carry out our mission. Only through organizational excellence, can we rise to challenges and achieve the ambitious measures of success set out in our Strategic Objective.

B. Organizational Excellence and Results

Creating a better organization is an important step to becoming more effective. EEOC has undertaken three initiatives to reposition the agency to better serve the public.

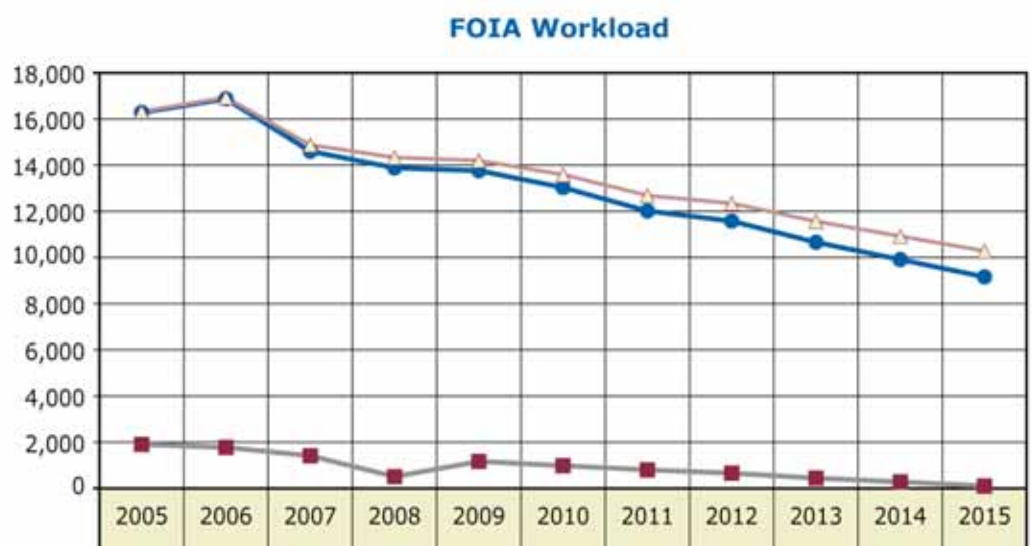
- In fiscal year 2008, the EEOC continued the activities initiated in FY 2007 to transfer the National Contact Center function to the newly created in-house operation—the Intake Information Group—located in 15 of our field offices.
- Secondly, in January 2006, EEOC repositioned its field structure. The repositioned structure allows for expanded presence, flattening of overall management structure, and a more logical alignment of our offices.
- The third phase, still under development, may encompass the restructuring of our Headquarters functions to better support our field operations.

Through all of our repositioning efforts, we aim to align strategically our workforce for greater effectiveness and efficiency by streamlining functional responsibilities, broadening the spans of control, reducing layers of management, dedicating greater resources to our front-line functions and addressing competency gaps.

File Disclosure Workload and Initiative

The agency processes about 16,000 Freedom of Information Act (FOIA) requests each year. In fiscal year 2008, the agency consolidated under its district directors the file disclosure function for responding to FOIA and other requests and implemented a new program pursuant to an A-76 study that will help ensure agency compliance with Executive Order 13392: Improving Agency Disclosure of Information (2005). These steps will also improve the utilization of litigation personnel who were previously performing some records disclosure activities. The graph below shows the number of FOIA requests received, processed and remaining at the end of the fiscal year for four years and estimates for seven years in the future.

FOIA Workload FY 2005–FY 2008 Actual and FY 2009–FY 2015 Projected



	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Received	16,282	16,875	14,602	13,881	13,762	13,031	12,016	11,579	10,661	9,913	9,163
Processed	16,232	16,936	14,879	14,334	14,203	13,591	12,687	12,346	11,567	10,924	10,287
Pending at end of year	1,907	1,779	1,416	512	1,171	987	805	663	447	283	108

C. Highlighted Areas

The agency continues to improve its strategic management of human capital by completing key components of its strategic human capital management plan by:

- Considering both workforce analysis and workforce planning as part of program management and the annual budget process;
- Refining the performance management system for executives, for managers and supervisors, and for non-supervisory employees, effectively linking performance with the agency's mission and goals;
- Presenting a Leadership Succession Management Plan Framework to the Executive Resources Board and submitting a proposal for a senior management development program. The proposal will be reviewed by the Senior Executive Service Advisory Council;
- Participating in the Office of Personnel Management's (OPM) Federal Competency Assessment Tool—Management (FCAT-M) project to assess leadership and performance management competencies in our managers and supervisors and inform our leadership succession management plans;
- Coordinating the FY 2008 OPM Federal Human Capital Survey to EEOC employees to identify employee satisfaction with human capital management and developing action plans based on an analysis of feedback;
- Improving the hiring process by exceeding Office of Personnel Managements (OPM) benchmark of 45 days from close date of vacancy announcement to date of offer; and
- Launching the "Can We Talk?" diversity dialogues to provide employees with the knowledge, skills and tools to be able to identify, constructively confront and modify divisive or inappropriate behavior related to EEO factors and other characteristics that often have an impact on employees' ability to work together.

Information Technology

The EEOC's Information Technology (IT) program in FY 2008 focused on implementing mandatory initiatives, such as the Federal Desktop Core Configuration, Homeland Security Presidential Directive Number 12 (HSPD-12), and Internet Protocol version 6 (IPv6) testing. In addition, EEOC enhanced existing information systems to support the E-RACE initiative, new Freedom of Information Act reporting requirements, systemic enforcement activities, and internal reporting needs. We increased on-demand training materials, implemented full function Google enterprise electronic search appliance and expanded the "Know IT" intranet knowledge-base to support EEOC enforcement and litigation activities.

Also during FY2008, the EEOC deployed online filing capacity for the Electronic Assessment System (EAS) which allows a member of the public, through the EEOC website, to submit a completed questionnaire electronically and have the information populate into EEOC's Integrated Mission System (IMS). The IMS consolidates our mission data on charge intake, investigation, mediation, litigation, and outreach functions into a single shared information system. The new electronic filing process has reduced the data entry burden of manually inputting most information from the intake questionnaires into the IMS.

As we approach FY 2009, the focus will be on preparing for the Headquarters relocation and subsequently, the life cycle replacement of end-user devices. Requested funding for FY 2010 will allow the agency to provide frontline employees with collaboration and case management tools required to improve timeliness, reduce the inventory and enable enforcement and litigation of systemic cases.

Office Relocations, Rightsizing, and Rehabilitations

The agency continues to implement its long term office space optimization program where office space is right-sized to future planned staffing levels. The office space optimization occurs when an office lease expires or an office is required to relocate by the General Services Administration. Based on the agency's excess capacity of space at each location over the past ten years, office space is generally downsized when new space requirements are prepared for planned relocations. This action usually results in overall reduced space and leveled rent cost over the life of the new leases. EEOC field offices planned for relocation or rehabilitation which will result in new leases are: Birmingham; Honolulu; Indianapolis; Jackson; Los Angeles; Miami; Nashville; San Antonio; and Seattle.

Department of Homeland Security Building Security

The agency continues to experience substantial year-to-year increases in the cost of Department of Homeland Security (DHS) contract guard services. EEOC is required to maintain security services at a Level IV rating at our new Headquarters location in Washington, DC based on an independent security assessment performed by DHS. For fiscal year 2010, EEOC's building security cost will increase by 8% from fiscal year 2009, for an estimated cost of $839 thousand. EEOC will continue to monitor, evaluate, review and look for variances in basic building requirements to ensure the necessary resources are requested for national compliance with applicable regulations and guidelines.

Department of the Interior Shared Services Provider

The Department of the Interior's National Business Center (NBC) is a designated shared service provider. EEOC has received financial systems services from NBC since fiscal year 2002. NBC advised EEOC of substantial increases in pass-through costs for security, privacy and software upgrades beginning in fiscal year 2008 and the costs are projected to increase for several years at a rate of up to 20% per year. Although the shared service provider concept promised savings after several years of operation, none have materialized.

Employee Recognition and Development

Individuals and groups are recognized for excellence in accomplishing the mission of the EEOC through the agency's Awards and Recognition Program. Eligible employees are rewarded through monetary and non-monetary awards, including time-off, on-the-spot, Cash in Your Account (CIYA), and ELA (Excellence in Leadership) awards.

Achievement of the agency's mandate through organizational excellence requires continued evaluation of and investment in its human resources to ensure that we hire, develop and retain highly skilled and motivated employees. Having the right employees in the right positions will ensure high quality results for the agency. The implementation and monitoring of human capital planning and leadership succession programs in Headquarters and field offices are high priorities.

Our training dollars will continue to support the development of current and future leaders at all levels through participation in programs, such as those administered by the Office of Personnel Management's Center for Leadership Capacity Services, the Federal Executive Institute and the EEOC's Management Development Institute.

Mission-critical skills will be continuously updated and gaps will be addressed as new investigators, mediators and attorneys are hired and redeployed. The agency's E-RACE initiative and systemic program are supported through planned training events which are directly linked to the development of mission-critical competencies and skill areas.

We continue to conduct retirement financial planning seminars to ensure that employees have the best information possible, as they plan for retirement. This effort complies with the requirements of the Financial Retirement Literacy Commission.

As we address our human resources and budget realities, we continue to rely on the use of technology to meet our learning objectives through online training via GoLearn.gov and Cyber Feds, use of video streaming, our internal Web site and other mechanisms.

ADDENDUM: INTERIM ADJUSTMENTS TO THE STRATEGIC PLAN

The agency has made interim modifications to its Strategic Plan for fiscal years 2007 through 2012, which was initially issued on October 1, 2006 (FY 2007). As the agency implemented the new performance structure and several new performance measures included in the Strategic Plan, it has made several modifications. As the modifications were adopted, they were included in the agency's Performance and Accountability Report (PAR) and its performance budget. On July 28, 2008, the Commission approved a Strategic Plan that contained previous modifications made to the initial plan, and included several additional modifications to the performance structure. All of the modifications made to the Strategic Plan are described below:

Revised Long-Term Measure 1

Initially, Long-Term Measure 1 included two Annual Measures. These integrated measures were designed to demonstrate the EEOC's results in providing benefits to individuals in the workplace because of its enforcement and outreach programs. During the agency's review and preliminary efforts to design an appropriate methodology for collecting data, the agency determined that the enforcement program was the substantial component of the Long-Term Measure, and that it was not currently feasible to develop a reliable method for collecting and analyzing outreach data. In consultation with OMB, the measure was modified to measure the agency's enforcement programs only. The Annual Measure regarding outreach results was removed. Since the remaining Annual Measure for enforcement results was now redundant with the Long-Term Measure, it was also removed. Long-Term Measure 1 was modified to Long-Term/Annual Measure 1 and minor language changes were made.

Removed the Management Objective—Incorporate Concepts into Means and Strategies

In reviewing the overall focus of the agency's Strategic Plan, it was determined that a separate Management Objective was not required, since the agency's efforts to improve its internal operations were designed to benefit its front-line enforcement and outreach programs. The agency incorporated the concepts of organizational improvement into the Means and Strategies section of the Strategic Plan, highlighting their important supportive role. Organizational changes and efforts to implement the President's Management Agenda are part of the agency's strategies for doing all of its work more effectively and efficiently.

Revised References to the Five-Point Plan

Also, the concepts described under the umbrella of the Five-Point Plan have always been critical aspects of its work. Although the Five-Point Plan itself provided an overall structure to express these important concepts, it added another organizational layer to the Strategic Plan that the agency now considers unnecessary. With the removal of a separate Management Objective and the incorporation of the essential elements into the Strategic Plan's Means and Strategies, the structure of the Five-Point Plan was less important and may add confusion for the reader of the EEOC's documents. Even though the structure of the Five-Point Plan was removed, the essential concepts remain in the Strategic Plan.

Revised the Schedule of Program Evaluations

The agency also revised a number of the program evaluations it intends to conduct during the life of the Strategic Plan. The revised program evaluation schedule is included in this plan.

In addition, a completed program evaluation on the Private Sector Charge Process, that informed one of our revisions of the program evaluation schedule, was described.

Revised Organizational Elements

The organization of the measures was revised to better explain their interrelationship. Since the Efficiency Measure was directly related to the results achieved with the revised Long-Term/Annual Measure 1, it was moved directly after Measure 1 to better describe that relationship.

Revised Performance Structure and Established Final Goals for all Performance Measures

The performance measures in the Strategic Plan published on October 1, 2006, did not include final goals, because of the new performance structure that had been developed during OMB's PART review of the agency a few months earlier. Since that time, the agency has developed annual targets and final goals for those performance measures retained in the modified Strategic Plan (not all of the original measures were retained—see the description of other modifications to the performance measurement structure, above). As targets/final goals were adopted for measures, they were incorporated into other agency reports; such as the agency's fiscal year 2007 PAR published in November 2007 and its fiscal year 2009 budget submission to Congress in February 2008.

Further modifications were included in the Strategic Plan approved by the Commission on July 28, 2008. For Long Term Measure 2—public confidence in the EEOC to enforce its laws—the agency increased the previously published baseline value for fiscal year 2007, the multi-year targets, and the final goal for fiscal year 2012. The increased values resulted from a re-assessment of the data collected from the survey taken of nationwide respondents who were asked a question about their confidence in the EEOC. The original values were established using scores in the 8-10 range on a 10-point scale, with "10" as the highest score. Based on the re-assessment, the range was expanded to the 7-10 range, which included additional respondents indicating their confidence in the EEOC. The Commission determined that the modification was warranted because the revised range of scores more appropriately measured the public's confidence in the EEOC's enforcement of its laws.

The Commission's vote on the Strategic Plan in July also modified the annual targets and final goal for Annual Measure 2.1—resolving private sector charges within 180-days or fewer. It reduced these values to adopt ambitious, but more realistic, goals for the Commission. In its evaluation, increasing workloads are expected to grow significantly worse, because charge receipts and the year-end inventory are significantly increasing while the number of investigative staff needed to process the work is continuing to decline.

Another modification was to remove Annual Measure 2.7—the number of individuals who demonstrate an awareness of their equal employment opportunity rights and responsibilities. Subsequent to the baseline and target information first reported for this measure, the agency has considered some alternative methodologies that could be used to measure the results for this performance measure, using data based upon responses to other questions from the nationwide survey. Since the agency is still considering the approach that should be used to measure results in this area, the Commission felt that it was appropriate to remove the measure from the agency's performance structure at this time, until we have had a full opportunity to carefully consider the best approach.

The agency also modified the program evaluation schedule to move the evaluation of the Systemic Enforcement Initiative to fiscal year 2012. The Commission determined that it would be more advantageous to evaluate this Initiative after the agency has had more time to implement it, so that it can measure results over a more appropriate time frame.

Other Revisions

A placeholder was added for the development of a measure of the contribution of our FEPA partners toward achievement of the agency's goals. This development effort is required by the PART and the Improvement Plan adopted to change the agency's rating.

In addition, the graphic presentation of the new performance structure was revised to accurately reflect the other revisions made to the plan.

PROGRAM EVALUATION

Program evaluation is an important component of an agency's effort to assure that a program is operating as intended and achieving results. A program evaluation is a thorough examination of program design or operational effectiveness that uses a rigorous methodology and statistical and analytical tools. It also uses expertise within and outside the program under review to enhance the analytical perspectives and add credence to the evaluation and recommendations.

Program Evaluation of the Private Sector Charge Process—Recommendations and Agency Initiatives

In November 2006, an independent contractor issued its report on the program evaluation of the private sector charge process, which contained three major findings and recommendations to strengthen the Private Sector Charge intake and closure processes. It found that: 1) nationwide inconsistencies existed in the information provided to, and required from, potential charging parties and recommended that the agency address this situation; 2) different intake procedures and requirements existed in field offices that may affect access by potential charging parties and recommended that the agency review and correct any apparent procedural inconsistencies; and, 3) field offices close a higher number of charges during months preceding the end of a fiscal quarter, especially the last fiscal quarter, which may indicate inconsistencies at different times of the year and recommended that the agency periodically assess the closure patterns to ensure equitable treatment regardless of the time period involved.

In FY 2008, EEOC continued to address the findings and recommendations relating to the agency's intake procedures. While those efforts continued, they were incorporated into a larger effort. During the fiscal year, the agency had to address other aspects of its intake process due to other developments brought about by two key actions. The first was the decision to transfer the agency's National Contact Center (NCC) contract to an in-house operation, effective December 2007. The second was the Supreme Court's decision in *Federal Express v. Holowecki*, which while affirming the agency's intake procedures, also contained a suggestion by the Court that the Commission should review its process. All parts of these efforts to address these related issues proceeded during the year, oftentimes in concert with each other, so that as the transition from NCC to the Intake Information Group occurred and staff were hired and trained, the changes to the intake questionnaire, brochures and checklist and to the intake process could also be implemented and shared with staff. The specific activities undertaken during the fiscal year are described below:

- Designed and published a new uniform intake brochure and handout to ensure that potential charging parties are consistently provided with basic information about their rights and the EEOC process. The brochure and the handout are written in a clear, concise manner. Also, prepared a Uniform Intake Checklist for field staff to use to ensure that the same basic information was conveyed verbally to Potential Charging Parties who seek to file charges in person. Issued guidance to our field offices implementing the use of these two documents.

- Upgraded the agency's Electronic Assessment System (EAS) and Integrated Mission System (IMS) database. The system was upgraded to give the public access to an online assessment tool through EEOC's public website. Members of the public are now able to complete an online intake questionnaire and have certain information populated into IMS and directed to the responsible field office for further contact with each individual and charge filing if appropriate. The project enhanced the value of the EAS to investigators and support staff by requiring less direct IMS data entry during the intake process, and allowing the public to submit completed intake questionnaires online.

- Issued clarifying guidance for agency field staff on the application of Holowecki to the Uniform Intake Questionnaires that are input into the IMS database through the automated Electronic Assessment System (EAS). Additionally, issued guidance detailing revised intake procedures and a new version of the uniform intake questionnaire to accompany those procedures. Included among the changes to the Questionnaire was the addition of two check boxes where an individual submitting a questionnaire can indicate whether he or she intends to file a charge.

- Migrated the NCC functions to an in-house Intake Information Group (IIG), which included the hiring of 63 intake information representatives (IIRs) and three managers to staff the IIG. Developed and delivered a comprehensive training program, including substantive training on the laws EEOC enforces and our processes as well as soft skills and technology. Contracted with the Department of the Treasury to conduct the customer service satisfaction survey as it relates to the IIG calls and e-mails. Based on preliminary results submitted by the CFI Group, who conducted the survey, the overall satisfaction index remained at the same level as in FY 2007—72. This is above the current federal government average of 68. Additionally, the intake questionnaire received high marks for clarity and helpfulness. The website scored the best in areas of usefulness of information and layout.

EEOC will continue to focus on its intake procedures to ensure that the high level of quality customer service is maintained, to seek consistency in processes where appropriate, and to identify ways to continue to work with and inform interested parties of their rights under the laws we enforce.

The third finding noted apparent "spikes" in the closure of charges at the end of fiscal quarters, and especially at the end of the fiscal year. The evaluation suggested that this may indicate inconsistencies in the processing of charges relative to the processing of charges during other months of the fiscal year. While there was no firm evidence of a statistical pattern or variation in quality, the agency reviewed the issue. It determined that more reasonable cause determinations were issued in the fourth quarter than in other quarters. It also determined that many field offices use fiscal year benchmarks in their workload management plans for issuing cause findings and conciliation agreements because these results necessarily require more time to complete. The "spikes" noted in the evaluation are not unusual and do not occur because charges are being inconsistently processed at different times during the fiscal year.

Finally, beginning in FY 2008, the agency undertook another program evaluation designed to review the agency's Priority Charge Handling Procedures—how well they were working and ways to improve their implementation. This evaluation is on-target to be completed in FY 2009.

Schedule of Future Program Evaluations

We have scheduled a number of program evaluations for completion during the next several years and will review opportunities to conduct additional evaluations. These evaluations will help guide adjustments or enhancements to these programs.

Program Evaluation	Statement of Parameters of the Program Evaluation	Expected Initiation and Completion
Priority Charge Handling Procedures	Evaluate how well the Priority Charge Handling Procedures are working and ways to improve their implementation.	Initiate FY 2007 Complete FY 2009
Outreach/Technical Assistance	Evaluate the effectiveness of fee and non-fee based outreach/technical assistance efforts; for example, agency Technical Assistance Program Seminars (TAPS), Youth@Work activities, speakers at meetings, forums, panels or other activities designated as outreach or technical assistance.	Initiate FY 2009 Complete FY 2010
EEOC External Communications	Evaluate the impact and effectiveness of the EEOC's external communications efforts, including publicity, the agency's activities with the media, the external web site, and other public communications efforts.	Initiate FY 2010 Complete FY 2011
Effect of EEOC's Federal Sector evaluations and assistance	Evaluate the results achieved from EEOC's evaluation and assistance activities with federal agencies that changed policies, practices or procedures.	Initiate FY 2011 Complete FY 2012
Systemic Enforcement	Evaluate the effectiveness of the EEOC's systemic enforcement initiative.	Initiate FY 2012 Complete FY 2013

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. We will continue efforts to ensure the accuracy of our program information and any analysis of the information.

We continually review the information we collect in our 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 conduct analyses regularly to review the information collected in order to identify any anomalies that indicate erroneous entries requiring correction to collection procedures.

We have implemented approaches that enable the agency to collect information more rapidly and accurately by eliminating the need to enter information multiple times before it can be reviewed and analyzed. For example, we previously deployed a secure, web-based application that enabled businesses to electronically submit their annual Employer Information Report (EEO-1) to EEOC. This system continues to reduce the need for the manual entry of report data. It also includes automated edits to validate data, calculate totals, and compare statistics against the employer's prior year submission. In another example, we implemented a secure, web-based system that enabled all federal agencies to electronically submit annual equal employment opportunity statistics (Form 462). This system continues to improve the quality and timeliness of the information we receive. Finally, we continue to improve the collection and validation of information for our Integrated Mission System (IMS), which consolidates our mission data on charge intake, investigation, mediation, litigation, and outreach functions into a single shared information system. The IMS includes many automated edit checks and rules to enhance data integrity. Since several of our new performance measures require us to use data to assess our achievements, it is significant that we can now obtain those data much more quickly and with greater data accuracy. The agency also initiated a key effort in fiscal year 2008 to ensure the validation and verification of our data by establishing a cross-organizational team to implement an ongoing methodology and work plan to address immediate data enhancements for specific data areas in the IMS and to design long-range, ongoing plans for continued improvements to the IMS data-base. The immediate, and long-range activities, will ensure the continuous improvement of this data for all of the enforcement programs.

We also implemented information quality guidelines and adopted internal procedures, which strengthen our ability to verify and validate the quality of our data before it is released to the public. In addition, the agency'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. We use the information and recommendations to continually improve our systems and data.

Inspector General's Statements

SUMMARY OF SIGNIFICANT MANAGEMENT CHALLENGES

The following is a summary of issues the Inspector General considers the most serious management challenges the Agency is confronting. These matters require not only the commitment of significant Agency resources, sound decision making by the Agency's leadership, and continued oversight by the OIG, but also a change in management culture. Specifically, EEOC management needs to break the cycle of continuing to use its standard methods and embark on innovative processes that are more efficient and productive. Without addressing each of the following issues, the ability of the Agency to continue to meet its mission and the challenges of the 21st Century may be compromised.

STRATEGIC MANAGEMENT OF HUMAN CAPITAL

The Agency's strategic management of human capital remains a major management challenge and progress appears slow. In its June 2008 Report to the Chairman, Subcommittee on Commerce, Justice, Science, and Related Agencies, Committee on Appropriations, U.S. Senate, the Government Accountability Office (GAO) notes that after 4 years, EEOC's efforts to develop, communicate and implement a strategic human capital plan are still incomplete. In the report, GAO recommended that the Chair finalize the strategic human capital plan, on the basis of skills and competencies assessments, and develop an implementation plan for the strategies identified in the plan with stakeholder input that identifies necessary resources, responsible parties, timelines for completion, and milestones to measure progress. The Office of Human Resources (OHR) last updated the draft plan in September 2007. A recent revised plan was sent to the Chair's office for review on September 30, 2008. We requested a copy of the document but were told by OHR managers that senior management requested that the report not be released until after their review was complete.

Another human capital concern is the vacancy left by the retirement of its Chief Human Capital Officer in June 2008. This is a key position within the agency and the individual selected for this position will serve as the agency's chief policy advisor on all human resources management issues. Several managers within the Office of Human Resources will be serving as Acting Chief Human Capital Officer, on a rotating basis, until the position is filled. The fact that the Agency has not advertised for a Chief Human Capital Officer, more than four months after the retirement, indicates that the strategic management of human capital is not considered a high priority in the Agency. Other OHR staffing issues, such as the absence of critical skill sets and continued vacancies, further support the lack of attention to this critical Agency function. Management needs to finalize its human capital plan and ensure that it is linked to the EEOC's Agency's strategic plan and annual performance goals.

Finally, the agency must take steps now to ensure that a leadership pipeline exists within the current workforce that is equipped with the skills, knowledge, and abilities necessary to ensure that leaders are available to lead the agency in meeting its mission and strategic goals in the future. In Chair Earp's testimony before Congress in April 2008, she explained that there is no fully fleshed out succession planning system in the Agency and that the strategic human capital plan will include provisions for succession planning. In a document prepared by OHR entitled, Leadership Succession Management Plan: Leading into the Future, September 2007, key and mission critical leadership positions were identified but the plan did not contain information addressing movement of current employees into leadership positions. Additionally, steps must be taken to link the agency's succession planning efforts with the agency's strategic plan and to integrate succession planning into the budgetary planning process. The OHR managers indicated that they recently met with senior management to discuss a revised draft leadership succession plan. Senior management requested that the plan be submitted to the Senior Executive Service Advisory Council, established in September 2008, to obtain its input and recommendations. OIG will be provided a copy of the plan after their review is completed.

PRIVATE SECTOR CHARGE INVENTORY

EEOC faces a major challenge in adequately addressing the growing backlog of private sector discrimination cases. This backlog, known as charge inventory, is growing rapidly and is expected to continue growing. The primary negative effect is the delay in case resolution for thousands of EEOC primary customers, the people who believe they have been discriminated against.

Preliminary Fiscal Year 2008 information indicates that EEOC received 95,000 new private sector charges. This represents 12,000 more than last year, resulting in a beginning Fiscal Year 2009 inventory of nearly 75,000 charges. This presents an enormous challenge, according to the Director of the Office of Field Programs. In order to slow growth in, and then eventually decrease inventory, EEOC needs either dramatic budget increases (which would enable hiring of many more staff to process cases) or major improvements in how efficiently it processes cases. Dramatic budget increases are extremely unlikely, therefore, EEOC needs to focus on major improvements in case processing.

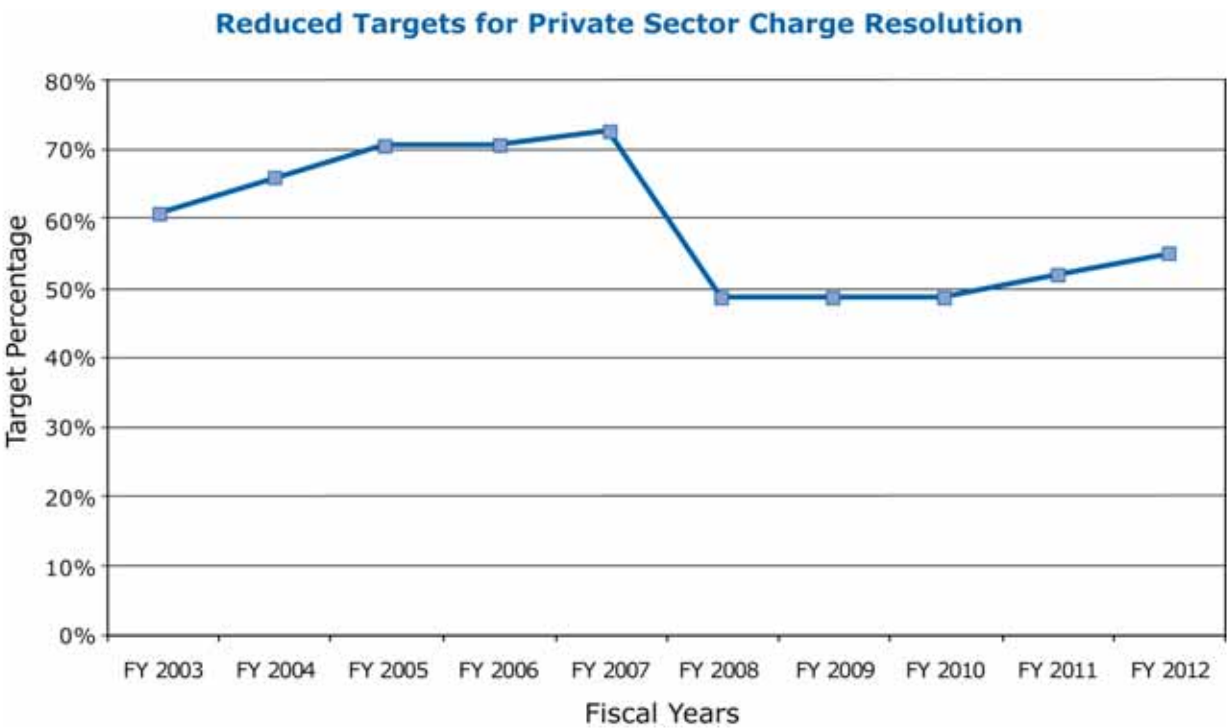
In its FY 2009 budget justification, the EEOC did not propose major improvements in charge processing. EEOC has not embarked on major initiatives to reduce the inventory, or to reduce the growth of the inventory, in over 10 years. The last major initiative was the Priority Charge Handling Process (PCHP), instituted in 1995. As was reported by Chair Naomi Earp, in her April 2008 testimony before the Congress, “the charges that we receive are increasingly nuanced and more complex. This requires refocusing and making a strategic alignment to enable the Commission to continue to be effective in this twenty-first century environment.”

Without focus on major improvements there will not be a fundamental change in how well EEOC succeeds in its most important and resource-intensive activity. One of the key findings of the GAO report relating to the private sector charge inventory was the Agency’s failure to share promising management practices with all field offices. We agree with the GAO that EEOC needs to develop criteria for identifying offices that ensure quality outcomes in a timely manner and share promising practices across the agency. These efforts will contribute to the efficiency and effectiveness of handling private charge case processing in a timely manner.

BUDGET AND PERFORMANCE INTEGRATION

The EEOC remains challenged in integrating budget and performance. Without better data in this area, it is difficult to know how well EEOC performs with the resources it is given. The Agency still has the lowest possible Program Assessment Rating Tool score (Results Not Demonstrated) from the Office of Management and Budget. This means that EEOC cannot yet measure performance adequately. To address this deficiency, the EEOC, in 2007, adopted an improvement plan. Significant progress has been made, including work in the reporting period that includes identification of specific performance targets and goals. EEOC is also continuing to work with the EEOC’s Fair Employment Practices Agencies to determine effective ways to measure their contributions.

In July 2008, the Agency adopted a strategic plan that greatly reduced the performance goal and targets for private sector case resolution processing time. For 2012, the target was reduced from 75 percent to 54 percent of cases that will be resolved within 180 days. OMB did not accept the new targets, leaving the authority of the Agency’s Strategic Plan in doubt. Without solid performance data to support the lowering of performance levels, as decided by the Commission, the EEOC will likely face renewed and major challenges in determining and justifying short and long term performance targets. Until EEOC senior managers, particularly those responsible for private sector case processing, accept the need to gather and use the performance data necessary to assess performance accurately, these long-standing challenges will continue.



Such performance data can be captured using a cost accounting system. While EEOC has made progress in improving EEOC's labor hour distribution system, the system is not robust. Without adopting and fully utilizing a more detailed cost accounting system, many resource and management requests and decisions are made without vital information. For example, EEOC staff was unable to provide adequate support to the Chair for Systemic Litigation resource request, making budget requests to Congress difficult and inferior to requests that include cost data. As a result the annual EEOC budget request contains much information on what and how much was done, rather than how well it was done.

CHANGE IN OIT BUSINESS PROCESSES

One of the major issues that OIT faces concerns change management as it relates to providing timely and appropriate information technology resources. As the Agency and its stakeholders face changes in its workforce due to technology innovation, the Office of Information Technology (OIT) has been placed in a position of needing to re-engineer itself and its business processes in order to meet the current and future needs of its stakeholders. According to the Chief Information Officer (CIO), a change in the Agency's information technology culture is required. OIT is in the process of implementing a number of recommendations that were previously provided by an independent consultant's report that focused on OIT customer service and its ability to provide for the needs of stakeholders.

Also, as part of this change, the CIO is challenged with developing business relationships with stakeholders in order to aid in the identification of critical needs in an effort to better assist Agency program offices in accomplishing the Agency's mission. The Chief Information Officer has made initial strides in developing business relationships through tactical planning and involving stakeholders in the information technology decision making processes. This is being accomplished through:

- Senior executive engagement;
- Sharing the CIO's philosophy with senior OIT staff concerning how to deal with business partners (stakeholders); and
- Modeling the behavior that is to be exhibit by OIT staff.

Information gathered through the development of business partner relationships, the implementation of independent consultant's recommendations, as well as other sources, will aid OIT in developing a new IT Strategic Plan, which replaces an earlier plan that according to the Agency's Chief Information Officer, is out of date and does not reflect the changes that are occurring inside and outside of EEOC.

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

Office of
Inspector General

November 13, 2008

MEMORANDUM

TO : Naomi C. Earp
Chair

FROM : Aletha L. Brown
Inspector General

SUBJECT : Agency Compliance with the Federal Managers' Financial Integrity Act (OIG Report No. 2008-17-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 with regard to management controls. Accordingly, 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 their agency's system of internal accounting and administrative controls fully comply with requirements established in FMFIA.

EEOC Order 195.001, Internal Control Systems requires this office to annually provide a written advisory to the Chair on whether the management control evaluation process complied with OMB guidelines. On November 3, 2008, the Office of Research, Information and Planning (ORIP) submitted EEOC's Fiscal Year 2008 Federal Managers' Financial Integrity Act Assurance Statement to the President, to the Office of Inspector General (OIG) for review. To make this determination 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 in compliance with the laws and regulations set out in the FMFIA of 1982; (2) all functional area summary tables, and functional area reports; and (3) ORIP's Fiscal year 2008 Federal Managers' Financial Integrity Act Assurance Statement and Assurance Statement Letter, with attachments. Based on our 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's standards.

Further, based on the results of audits, evaluations, and investigations conducted by OIG during Fiscal Year 2008, OIG concurs with ORIP's assertion that the Agency had no material weaknesses during this reporting cycle.

OIG concurs with ORIP's reporting of twenty instances of financial non-conformances. Two of those financial non-conformances were identified in FY 2007. The Agency has or is in the process of implementing corrective action plans to resolve the remaining non-conformances in FY 2009.

Financial Statements

A MESSAGE FROM THE CHIEF FINANCIAL OFFICER

I am pleased to present the U.S. Equal Employment Opportunity Commission's financial statements for fiscal year 2008. Our financial statements are an integral component of our Performance and Accountability Report (PAR). The Accountability of Tax Dollars Act of 2002 extends to the agency a requirement to prepare and submit audited financial statements. The President's Management Agenda, Improved Financial Performance component among other standards, requires us to obtain and sustain clean audit opinions on our financial statements. The Office of Management and Budget (OMB) issued Circular A-136, Financial Reporting Requirements, on June 3, 2008, which further consolidated and refined reporting requirements for the PAR submission. In addition, the OMB Memorandum M-08-25, Guidance for Completing FY 2008 Financial and Performance Reports, on August 29, 2008, establishes the reporting structure and due dates for the required reports.

Our fiscal year 2008 financial statements received an unqualified opinion through the hard work of the dedicated financial and administrative staff in the agency. This is the fifth consecutive year that the EEOC has received an unqualified opinion and represents our continuing successful efforts to improve the financial management of the agency. Two years ago the Department of the Interior’s National Business Center won a competition to replace the existing financial software with CGI’s Momentum® software package. The conversion and implementation were completed on October 9, 2007 for fiscal year 2008 operations. The implementation was on-time and within budget.

In support of the Budget and Performance Integration component of the President's Management Agenda, we completed the Performance Accountability Rating Tool (PART) assessment process working with the Office of Management and Budget. The program was rated “Results Not Demonstrated.” The agency is working to improve those areas that need management attention. The agency undertook a review and made adjustments to the six year Strategic Plan covering fiscal years 2007 through 2012.

In support of the Competitive Sourcing component of the President’s Management Agenda, we completed an OMB Circular A-76 study for the file disclosure function including back room processing of Freedom of Information Act (FOIA) and Section 83 Compliance Manual requests. In October 2007, the Most Efficient Organization (MEO) was announced as the winning vendor in the competition. The MEO implementation plan covers fiscal years 2008 through 2010 because of the budget resources required for hiring new employees with different skill sets and infusing some new technology.

For fiscal year 2008, the agency received a $329.3 million budget. We completed the fiscal year within budget with improved financial management and some additional focus on cost controls and cost accounting. Compensation and benefit costs continue to consume a substantial portion of the budget. Some additional progress has been made to bring rising office space rent costs under control by leasing less office space consistent with the number of employees onboard and approved vacancies. However, rent costs decreased to 8% of our total budget. With 8% of the budget dedicated to the State and local program, only 15% of the budget is available for technology, programs, travel, and other general expenses.

As reported in the past, I have identified several critical issues for the agency to focus on to continue to improve its long-term financial health. An update on each item is provided on the following page.

- **Execute a disciplined analysis of future workforce and infrastructure requirements.** Unfortunately for several years, the Agency has been unable to slow the growth of the current and future cost of compensation and benefits for current employees, which are on a path to increase to over 74% of the EEOC's budget. These costs include salary, health and life insurance, agency contributions for retirement plans, social security, Medicare, worker's compensation, unemployment insurance, reasonable accommodations, and transit subsidies. The continuing inability of the agency to implement any form of position management means that it will be very difficult to substantially change the cost of the compensation and benefits in future years.

  Working with the General Services Administration, the agency has agreed to relocate the Headquarters office to 131 M Street, NE in Washington, D.C. in the first quarter of fiscal year 2009. A ten year office lease was signed May 23, 2007. The current lease is about 25% of the rent budget. The lease at the new location ensures the agency will not pay more than the current annual lease cost over the lease period.

  The agency contracted for an independent top-down study of the information technology infrastructure and staffing, with a report finalized in September 2006. The report called for substantial changes in the governance, organization, use of contracts, server and network operations, desktop management, and the skill mix of staff in order to more effectively spend the $21 million annual budget for the information technology function. The agency is pursuing competitive IT services for managed hosting, managed network and managed desktop in an effort to better focus current government IT employees on strategic, budget, and acquisition planning, system security and end user needs.

- **Recognize and manage competing budget priorities.** We have kept spending controls in place for discretionary travel, training and other miscellaneous line items. Non-payroll costs continue to increase for homeland security, rent, facility services, and Government-wide programs such as financial management services with a shared service provider whose costs are increasing up to 15% per year. The agency has undertaken discussions with the Office of Management and Budget, the General Services Administration and the Department of the Interior's National Business Center to determine the underlying causes of the significant cost increases. There is clearly a need for improved strategic sourcing for software licensing and warranties on commercial off-the-shelf software by leveraging the consolidated requirements and resources under the management control of the National Business Center as a Shared Services Provider.

- **Formulate a long-term performance budget strategy.** The agency continues to look into improved information approaches for annual budget justifications because of the workload by activity and the inventory of cases. More attention is needed on how we communicate our various workload metrics. An adjusted Strategic Plan is in effect and may help focus how the agency will support future requests for budget resources.

In fiscal year 2009, guided by our modified Strategic Plan, we will continue its focus on accountability, financial transparency, and results through improved budget planning, performance metrics and financial management.

Jeffrey A. Smith, CPA, CGFM
Chief Financial Officer
U.S. Equal Employment Opportunity Commission

November 17, 2008

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

Office of
Inspector General

November 14, 2008

MEMORANDUM

TO: Naomi C. Earp
Chair

FROM: Aletha L. Brown
Inspector General

SUBJECT: Audit of the Equal Employment Opportunity Commission's Fiscal Year 2008 and 2007 Financial Statements (OIG Report No. 2008-05-FIN)

The Office of Inspector General (OIG) contracted with the independent certified public accounting firm of Cotton and Company LLP to audit the financial statements of the U.S. Equal Employment Opportunity Commission (EEOC) for fiscal years 2008 and 2007. The contract required that the audit be done in accordance with U.S. generally accepted government auditing standards; Office of Management and Budget's Bulletin 07-04, *Audit Requirements for Federal Financial Statements,* and the Government Accounting Office/President's Council on Integrity and Efficiency's *Financial Audit Manual.*

Cotton and Company LLP issued an unqualified opinion on EEOC's FY 2008 and 2007 financial statements. In its Report on Internal Control, Cotton and Company LLP noted two areas involving internal control and its operation that were considered to be significant deficiencies. These included time and attendance controls and controls over revenue and receivables. In its Report on Compliance, Cotton and Co. LLP noted no instances of non compliance with certain laws and regulations applicable to the agency.

In connection with the contract, OIG reviewed Cotton and Company LLP'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. Cotton and Company LLP is responsible for the attached auditor's report dated November 7, 2008 and the conclusions expressed in the report. However, OIG's review disclosed no instances where Cotton and Company LLP 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. The Office of the Chief Financial Officer, the Office of Legal Counsel and the Office of Information Technology indicated that that had no comments. The Office of Human Resources and the Office of Field Programs provided comments and they are included with the report as an attachment (Appendix A).

cc: Anthony Kaminski
Jeffrey A. Smith
Raj Mohan
Nicholas Inzeo
John Schmelzer
Anna Middlebrook
Joann Riggs
Kimberly Hancher
Reed Russell

APPENDIX A

November 13, 2008

MEMORANDUM

TO	:	Aletha L. Brown Inspector General
FROM	:	Joann Riggs, Acting Chief Human Capital Officer
SUBJECT	:	Response to Draft Audit Reports

This is in response to the draft audit reports from Cotton & Company dated November 11, 2008. By way of this memorandum our response is as follows:

Original Entry in the DRAFT letter:

Time and Attendance Reporting - Recommendation
We recommend that the EEOC Office of Human Resources (OHR) review and refine controls in place over time-and-attendance reporting to ensure that all employees report accurate and complete information to timekeepers. Additionally, we recommend that OHR implement a policy requiring timesheets with incorrect or incomplete information to be returned to employees for correction before certification of time-and –attendance information in EEOC's online timekeeping system.

- -

Response to Recommendation:

In early October 2008, the update for the FY 09 Time and Attendance Guidance was produced and placed on EEOC's internal website for use. The manual dictates that "Timekeepers will review time and attendance documentation to determine that they are complete and accurate. If any documentation is missing or if the Bi-weekly Worksheet is coded inaccurately, the Timekeeper must return the form to the employee for correction." Also, OHR sent an email through our FPPS GroupWise Mailbox; a reminder that this has been an issue in past audit results and advises them to review those documents that may be requested of them. With the implementation of NBC's QuickTime or some other state-of-the-art time and attendance system in FY 09, there will be a significant decrease with the inaccurate reporting of information by both the employee and the timekeeper.

- -

Appendix A

Original Entry in the DRAFT letter:

Payment to a Separated Employee – Recommendation
We recommend that OHR review and refine controls in place over time-and-attendance reporting to ensure that information is submitted to OHR and processed in a timely manner. Additionally, we recommend that OHR implement training procedures to ensure that timekeepers and approving officials are aware of their responsibilities and that information entered into FPPS is accurate.

- -

Response to Recommendation:

In May 2008 an update to the EEOC Administrative Manual included actions the employee, supervisor and authorizing official are to take when an employee separates from the EEOC. We are continuing to review the procedures in place and refine the standard of operating procedures pertaining to the timeliness of processing personnel actions. During FY09 we will finalize our draft audit plan for payroll processing. In 2006 training was provided to all timekeepers, certifiers and releasers. Since then, there has been ongoing communication with regards to submitting time and attendance in the proper manner. There will be a continuing effort to provide additional training using current automation for field offices and onsite training for Headquarters' timekeepers and certifiers. OHR conducts on average 5 to 6 HR Management Reviews which we will include, contingent on funds, additional time and/or resources to include an audit of time and attendance.

If you have any questions, please feel free to contact Arlethia Monroe of my staff by calling (202) 663-4340.

APPENDIX A

> > > NICHOLAS INZEO 11/13/2008 8:55 PM > > >
I have only one short comment:

The Office of Field Programs, within which the Revolving Fund Division is located, is committed to working with the Office of the Chief Financial Officer to ensure that the revenue transactions are properly recorded and revenue reconciliations are appropriately conducted.

Cotton & Company

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Inspector General
Equal Employment Opportunity Commission

INDEPENDENT AUDITOR'S REPORT

We have audited the Balance Sheets of the U.S. Equal Employment Opportunity Commission (EEOC) as of September 30, 2008, and 2007, and the related Statements of Net Cost, Changes in Net Position, and Budgetary Resources for the years then ended. These financial statements are the responsibility of EEOC management. Our responsibility is to express an opinion on the financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America; standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin 07-04, *Audit Requirements for Federal Financial Statements*. These 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 amounts and disclosures in the financial statements. An audit also includes assessing accounting principles used and significant estimates made by management, as well as evaluating overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of EEOC as of September 30, 2008, and 2007, and its net costs, changes in net position, and budgetary resources for the years then ended in conformity with accounting principles generally accepted in the United States of America.

Management's Discussion and Analysis (MD&A) and other accompanying information are not required as part of EEOC's basic financial statements. For MD&A, which is required by OMB Circular A-136, *Financial Reporting Requirements*, and the Federal Accounting Standards Advisory Board's Statement of Federal Financial Accounting Standards No. 15, *Management's Discussion and Analysis*, we made certain inquiries of management and compared the information for consistency with EEOC's audited financial statements and against other knowledge we obtained during our audits. For other accompanying information, we compared the information with the financial statements. On the basis of this limited work, we found no material inconsistencies with the financial statements, U.S. generally accepted accounting principles, or OMB guidance. We did not audit the MD&A or other accompanying information and therefore express no opinion on them.

In accordance with *Government Auditing Standards*, we have also issued separate reports dated November 7, 2008, on our consideration of EEOC's internal control over financial reporting and on our tests of its compliance with certain provisions of laws and regulations. The purpose of those reports is to describe the scope of our testing of internal control over financial reporting and compliance and results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. Those reports are an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing results of our audits.

COTTON & COMPANY LLP

Colette Y. Wilson, CPA
Partner

November 7, 2008
Alexandria, Virginia

Cotton & Company

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Inspector General
U.S. Equal Employment Opportunity Commission

INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL

We have audited the Balance Sheets of the U.S. Equal Employment Opportunity Commission (EEOC) as of September 30, 2008, and 2007, and the related Statements of Net Cost, Changes in Net Position, and Budgetary Resources for the years then ended. We have issued our report thereon dated November 7, 2008. We conducted our audits in accordance with auditing standards generally accepted in the United States of America; standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin 07-04, *Audit Requirements for Federal Financial Statements.*

In planning and performing our audits, we considered EEOC's internal control over financial reporting as a basis for designing audit procedures for the purpose of expressing an opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of EEOC's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of EEOC's internal control over financial reporting.

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

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control.

Our consideration of internal control over financial reporting was for the limited purpose described above and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above. We did, however, note two matters involving internal control and its operation that we considered to be significant deficiencies.

1. Time-and-Attendance Controls

Inaccurate Timekeeping

EEOC continued to experience difficulties in correctly recording time-and-attendance information in FY 2008. In addition, timekeepers and certifiers did not perform thorough reviews of information entered into EEOC's timekeeping system to ensure that it accurately reflected work performed by employees.

Per EEOC policy, each employee is required to complete a Cost Accounting Bi-weekly Timesheet each pay period. The employee is required to record time worked and allocate time among activity codes representing EEOC program areas. In addition, certifiers are expected to review and approve the assignment of hours to activity codes.

Failure to properly record hours worked and activity codes on the Bi-weekly Timesheet along with entering incorrect data into EEOC's accounting system could lead to improper calculation of accrued annual leave liability as presented on the Balance Sheets as well as incorrect program cost allocation on the Statements of Net Cost.

Recommendation: We recommend that the EEOC Office of Human Resources (OHR) review and refine controls in place over time-and-attendance reporting to ensure that all employees report accurate and complete information to timekeepers. Additionally, we recommend that OHR implement a policy requiring timesheets with incorrect or incomplete information to be returned to employees for correction before certification of time-and-attendance information in EEOC's online timekeeping system.

Management Response: EEOC management concurred with our finding and recommendation and is taking steps to correct this deficiency.

Payment to a Separated Employee

EEOC paid an employee who no longer worked for the agency for one pay period after employment separation. EEOC personnel did not submit required separation documents to OHR in a timely manner, and the employee was not removed from the Federal Personnel and Payroll System (FPPS). In addition, the timekeeper and certifier at the former employee's office entered and certified the employee's time for the pay period although the employee had left the agency. The certified time-and-attendance record led to payroll disbursements to the former employee.

The General Accountability Office's (GAO) guide, *Maintaining Effective Control over Employee Time and Attendance Reporting* (GAO-03-352G), page 5, states:

> *The supervisor has primary responsibility for authorizing and approving T&A* [time and attendance] *transactions. Supervisors and timekeepers should be aware of the work time and absence of employees for whom they are responsible.*
>
> *Information in T&A records should be promptly and properly recorded to meet control objectives. It should be complete, accurate, valid, and comply with legal requirements.*

The failure to promptly report personnel actions and to ensure that time-and-attendance information entered into FPPS is accurate and supported led to an employee being paid subsequent to separation from the agency.

Recommendation: We recommend that OHR review and refine controls in place over time-and-attendance reporting to ensure that information is submitted to OHR and processed in a timely manner.

Additionally, we recommend that OHR implement training procedures to ensure that timekeepers and approving officials are aware of their responsibilities and that information entered into FPPS is accurate.

Management Response: EEOC management concurred with our finding and recommendation and is taking steps to correct this deficiency.

2. Controls Over Revenue and Receivables

Untimely Revenue Recognition

Revenue transactions for the Revolving Fund (RF) were recorded in the wrong period. Our testing of RF training-event transactions identified $126,591 of revenues recorded in FY 2007 for training events that occurred in FY 2008. This error was noted during the FY 2007 audit, but an adjustment was not processed in FY 2008 to properly record the revenue. We also noted $12,994 of revenue recorded in FY 2008 for training events scheduled to occur in FY 2009. This amount was not included in the yearend deferred revenue accrual processed by EEOC.

SFFAS No. 7, *Accounting for Revenue and Other Financing Sources*, Paragraph 36, states:

> *Revenue from exchange transactions should be recognized when the services are performed.*

SFFAS No. 7 also states:

> *When advance fees or payments are received, revenue should not be recognized until costs are incurred from providing the goods and services (regardless of whether the fee or payment is refundable). An increase in cash and an increase in liabilities, such as "unearned revenue," should be recorded when the cash is received.*

The Revolving Fund Division (RFD) recognizes exchange revenue at the time a customer registers for a training course. In FY 2008, an accrual was processed at yearend to recognize that income that had not yet been earned as deferred for reporting purposes. This accrual did not, however, capture all unearned revenue at yearend.

Recommendation: We recommend that the CFO, along with the Director of the RFD, review accrual procedures in place and refine these procedures to ensure that all revenue not earned at yearend is properly classified as deferred in the financial statements.

Management Response: EEOC management concurred with our finding and recommendation and is taking steps to correct this deficiency.

Incorrect Amounts and Ineffective Reconciliations over Revenue

Reconciliations are ineffective between Momentum and Certain Registration, the feeder system used to record event registrations and product orders for the RF. Momentum activity reconciled for FY 2008 did not tie to the yearend revenue balance reported on the financial statements. Additionally, differences in reconciliations were not resolved in a timely manner.

Results of testing also noted improper revenue amounts recorded in the general ledger. Substantive testing of revenue balances revealed instances in which the revenue amount recorded in the general ledger did not tie to the revenue amount per the supporting documents provided by EEOC. This resulted in a known $8,355 overstatement of revenue and a projected $306,523 overstatement.

GAO's *Standards for Internal Control in the Federal Government* states that control activities should be in place:

…to ensure that all transactions are completely and accurately recorded.

The failure to ensure that financial system data are complete and accurate could lead to inaccurate and incomplete information being reported in the financial statements.

Recommendation: We recommend that the CFO work with the Director of the RFD to ensure that information recorded in the general ledger is accurately recorded based upon supporting documentation. Additionally, we recommend that the CFO coordinate with the Director of RFD to ensure that timely, complete, and accurate reconciliations are performed between the general ledger and the subsidiary ledger and that differences identified are researched and resolved.

Management Response: EEOC management concurred with our finding and recommendation and is taking steps to correct this deficiency.

The status of recommendations included in the FY 2007 Report on Internal Control is detailed in the appendix.

We noted other matters involving internal control and its operation that we will report to EEOC management in a separate letter.

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

COTTON & COMPANY LLP

Colette Y. Wilson

Colette Y. Wilson, CPA
Partner

November 7, 2008
Alexandria, Virginia

Appendix

Status of Management's Actions on Prior-Year Recommendations Fiscal Year 2008 Financial Statement Audit U.S. Equal Employment Opportunity Commission

Recommendation	Status as of 11-7-2008
We recommend that the EEOC Office of Human Resources (OHR) review and refine controls in place over time-and-attendance reporting to ensure that all employees report accurate and complete information to timekeepers. Additionally, we recommend that OHR implement a policy requiring return of timesheets with incorrect or incomplete information to employees for correction before certification of time-and-attendance information in EEOC's online timekeeping system.	Unresolved: Repeat Condition
We recommend that the EEOC Chief Financial Officer review and update policies and procedures in place over the apportionment of funds to ensure that all funds are apportioned before obligations are incurred, as required by law.	Completed

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Inspector General
Equal Employment Opportunity Commission

INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH LAWS AND REGULATIONS

We have audited the Balance Sheets of the U.S. Equal Employment Opportunity Commission (EEOC) as of September 30, 2008, and 2007, and the related Statements of Net Cost, Changes in Net Position, and Budgetary Resources for the years then ended. We have issued our report thereon dated November 7, 2008. We conducted our audits in accordance with auditing standards generally accepted in the United States of America; standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin 07-04, *Audit Requirements for Federal Financial Statements.*

EEOC management is responsible for complying with laws and regulations applicable to the agency. As part of obtaining reasonable assurance about whether EEOC's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain other laws and regulations specified in OMB Bulletin 07-04.

Results of our tests of compliance disclosed no instances of noncompliance with certain provisions of laws and regulations described in the preceding paragraph that we are required to report under *Government Auditing Standards* or OMB Bulletin 07-04.

Providing an opinion on compliance with those provisions was not an objective of our audits, and accordingly, we do not express such an opinion.

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

COTTON & COMPANY LLP

Colette Y. Wilson

Colette Y. Wilson, CPA
Partner

November 7, 2008
Alexandria, Virginia

LIMITATIONS OF THE FINANCIAL STATEMENTS

EEOC has prepared its financial statements to report its financial position and results of operations, pursuant to the requirements of the Accountability of Tax Dollars Act of 2002, the Government Management Reform Act of 1994, and OMB Circular A-136, *Financial Reporting Requirements.*

While the EEOC statements have been prepared from its books and records in accordance with the formats prescribed by the Office of Management and Budget, the statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records.

These statements should be read with the understanding that they are for a component of the United States Government, a sovereign entity. Liabilities not covered by budgetary resources cannot be liquidated without the enactment of an appropriation by Congress and payment of all liabilities, other than for contracts, can be abrogated by the federal government.

Equal Employment Opportunity Commission
Consolidated Balance Sheets
As of September 30, 2008 and 2007

(in dollars)

	FY 2008	FY 2007
ASSETS		
Intragovernmental:		
Fund balance with treasury (Note 2)	$ 75,898,063	$ 66,569,764
Accounts receivable (Note 3)	175,135	75,102
Prepaid expenses	53,250	28,840
Total intragovernmental assets	76,126,448	66,673,706
Accounts receivable, net (Note 3)	218,111	218,725
General property and equipment, net (Note 4)	836,651	1,771,809
Advances and prepaid expenses	210,264	124,858
TOTAL ASSETS	77,391,474	68,789,098
LIABILITIES		
Intragovernmental		
Accounts payable (Note 6)	1,811,954	278,947
Employer payroll taxes	2,050,655	1,671,057
Worker's compensation liability (Note 7)	2,203,419	2,400,861
Amounts due to Treasury for non-entity assets (Note 5)	5,486	7,740
Total intragovernmental liabilities	6,071,514	4,358,605
Accounts payable	21,131,474	14,212,309
Accrued payroll	8,293,380	6,856,639
Accrued annual leave (Note 7)	17,353,028	16,838,783
Future worker's compensation liability (Note 7)	10,095,229	9,422,646
Contingent liabilities (Note 9)	-	-
Capital lease liability (Note 10)	244,527	434,122
Amounts Collected for Restitution	5,692	261,277
Deferred revenue	76,859	-
TOTAL LIABILITIES	63,271,703	52,384,381
NET POSITION		
Unexpended appropriations	38,806,307	40,455,171
Cumulative results of operations -- earmarked funds (Note 15)	4,248,975	3,113,811
Cumulative results of operations -- other funds	(28,935,511)	(27,164,265)
Total net position	14,119,771	16,404,717
TOTAL LIABILITIES AND NET POSITION	$ 77,391,474	$ 68,789,098

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, 2008 and 2007

(in dollars)

	FY2008	FY2007
JUSTICE, OPPORTUNITY, AND INCLUSIVE WORKPLACES		
Private Sector:		
Enforcement	$ 162,493,249	$ 153,126,393
Mediation	24,509,355	23,955,709
Litigation	61,962,714	59,273,198
Outreach	12,249,362	11,718,314
Training	3,457,428	3,265,619
State and Local	35,059,597	35,598,513
Total program costs - Private Sector	299,731,705	286,937,746
Revenue	(2,536,228)	(2,935,744)
Net cost - Private Sector	297,195,477	284,002,002
Federal Sector:		
Hearings	28,868,877	27,625,991
Appeals	13,869,829	13,966,501
Mediation	884,957	817,123
Oversight	5,224,927	4,427,656
Training	2,716,551	2,463,537
Total Program costs - Federal Sector	51,565,141	49,300,808
Revenue	(2,660,606)	(1,593,113)
Net cost - Federal Sector	48,904,535	47,707,695
Totals all programs		
Program costs	351,296,846	336,238,554
Revenue (Note 11)	(5,196,834)	(4,528,857)
Net Cost of Operations	$ 346,100,012	$ 331,709,697

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, 2008 and 2007
(in dollars)

	FY2008			FY2007		
	Earmarked Funds (Note 15)	All Other Funds	Consolidated	Earmarked Funds (Note 15)	All Other Funds	Consolidated
Cumulative Results of Operations						
Beginning Balances:	$ 3,113,811	$ (27,164,265)	$ (24,050,454)	$ 3,162,237	$ (26,251,262)	$ (23,089,025)
Adjustments:						
Correction of errors (Note 12)	-	(2,917)	(2,917)	-	-	-
Beginning balances, as adjusted	3,113,811	(27,167,182)	(24,053,371)	3,162,237	(26,251,262)	(23,089,025)
Budgetary Financing Sources:						
Unexpended appropriations - used	-	328,663,798	328,663,798	-	313,005,162	313,005,162
Other Financing Sources:						
Imputed financing sources (Note 16)	-	16,803,049	16,803,049	-	17,743,106	17,743,106
Transfers in/out without reimbursement	-	-	-			-
Total Financing Sources	-	345,466,847	345,466,847	-	330,748,268	330,748,268
Net Cost of Operations	1,135,164	(347,235,176)	(346,100,012)	(48,426)	(331,661,271)	(331,709,697)
Net Change	1,135,164	(1,768,329)	(633,165)	(48,426)	(913,003)	(961,429)
Cumulative Results of Operations	4,248,975	(28,935,511)	(24,686,536)	3,113,811	(27,164,265)	(24,050,454)
Unexpended Appropriations						
Beginning Balances:	$ -	$ 40,455,171	$ 40,455,171	$ -	$ 26,487,334	$ 26,487,334
Budgetary Financing Sources:						
Appropriations received (Note 13)	-	329,300,000	329,300,000	-	328,745,219	328,745,219
Recissions and canceled appropriations	-	(2,285,066)	(2,285,066)	-	(1,772,220)	(1,772,220)
Unexpended appropriations - used	-	(328,663,798)	(328,663,798)	-	(313,005,162)	(313,005,162)
Total Budgetary Financing Sources	-	(1,648,864)	(1,648,864)	-	13,967,837	13,967,837
Total Unexpended Appropriations	-	38,806,307	38,806,307	-	40,455,171	40,455,171
Net Position	$ 4,248,975	$ 9,870,796	$ 14,119,771	$ 3,113,811	$ 13,290,906	$ 16,404,717

The accompanying notes are an integral part of these statements.

Equal Employment Opportunity Commission
Combined Statement of Budgetary Resources
For the Years ending September 30, 2008 and 2007
(in dollars)

	FY2008	FY2007
Budgetary Resources		
Unobligated balance, brought forward, October 1:	$ 8,891,905	$ 7,675,269
Recoveries of prior year unpaid obligations	2,535,159	3,402,528
Budget authority:		
Appropriation (Note 13)	329,300,000	328,745,219
Spending authority from offsetting collections:		
Earned:		
Collected	6,275,341	5,118,385
Change in receivables from Federal sources	140,159	(3,141)
Subtotal	335,715,500	333,860,463
Permanently not available	(2,285,066)	(1,772,220)
Total Budgetary Resources	$ 344,857,498	$ 343,166,040
Status of Budgetary Resources		
Obligations incurred		
Direct obligations (Note 14)	329,845,399	329,810,224
Reimbursable obligations (Note 14)	4,975,151	4,463,911
Subtotal	334,820,550	334,274,135
Unobligated balance		
Apportioned	1,336,965	845,639
Unobligated balance not available	8,699,983	8,046,266
Total Status of Budgetary Resources	$ 344,857,498	$ 343,166,040
Change in Obligated Balance:		
Obligated balance, net		
Unpaid obligations brought forward October 1	57,560,861	54,635,082
Less: Uncollected customer payments from Federal sources, brought forward, October 1:	(144,279)	(147,420)
Total unpaid obligated balance	57,416,582	54,487,662
Obligations incurred, net	334,820,550	334,274,135
Less: Gross outlays	(323,706,391)	(327,945,828)
Less: Recoveries of prior year unpaid obligations, net	(2,535,159)	(3,402,528)
Change in uncollected customer payments from Federal sources	(140,159)	3,141
Obligated balance, net, end of period		
Unpaid obligations	66,139,861	57,560,861
Less: Uncollected customer payments from Federal sources	(284,438)	(144,279)
Total, unpaid obligation balance, net, end of period	65,855,423	57,416,582
Net Outlays:		
Net Outlays:		
Gross outlays	323,706,391	327,945,828
Less: Offsetting collections	(6,275,341)	(5,118,385)
Net Outlays	$ 317,431,050	$ 322,827,443

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

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS
September 30, 2008 and 2007
(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 August 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 four 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 Management System uses CGI's Momentum, which is a highly flexible financial accounting, funds control, management accounting, and financial reporting system designed specifically for federal agencies. Momentum complies with the Financial Systems Integration Office's core requirements for 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 years 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), and software purchases with a useful life of more than 2 years and an acquisition cost of $25,000 or more. Leasehold improvements are capitalized with a useful life of 2 years or more and an acquisition cost of at least $100,000.

Expenditures for normal repairs and maintenance are charged to expense as incurred unless the expenditure is equal to or greater than $25,000 and the improvement increases the asset's useful life by more than two years.

For fiscal year 2008, the capitalization threshold for equipment and software and repairs and maintenance meeting the criteria has been changed from $15,000 to $25,000. For fiscal year 2007 and prior years, the threshold is $15,000.

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. Lektriev power files are depreciated over 15 years and 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. For the calendar years of 2008 and 2007, FERS employees can contribute $15,500 of their gross earnings to the plan. For calendar years 2008 and 2007, CSRS employees' contribution is also $15,500 of their gross earnings. However, they receive no matching agency contribution. There is also an additional $5,000 that can be contributed as a "catch-up" contribution for those 50 years of age or older.

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, 2008, and 2007 consists of the following:

	FY 2008		FY 2007	
Fund Type				
Revolving funds	$	4,118,095	$	2,972,574
Appropriated funds		71,774,276		63,335,913
Other fund types		5,692		261,277
Totals	**$**	**75,898,063**	**$**	**66,569,764**

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 $33,115,913 and $34,695,607 for FY 2008 and 2007, respectively.

For fiscal years ended September 30, 2008 and 2007, funds in closed accounts of $2,285,066 and $1,772,220 were returned to Treasury.

Status of Fund Balance with Treasury as of September 30, 2008 and 2007 consists of the following:

	FY 2008		FY 2007	
Status of Funds				
Unobligated balance:				
Available	$	1,336,965	$	845,639
Unavailable		8,699,983		8,046,266
Obligated balance not yet disbursed		65,855,423		57,416,582
Non-budgetary Fund Balance with Treasury		5,692		261,277
Totals	**$**	**75,898,063**	**$**	**66,569,764**

(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 2008, 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, 2008, and 2007 are as follows:

		FY 2008		FY 2007
Intra-governmental:				
Accounts receivable (see detail below)	$	175,135	$	75,953
Allowance for uncollectible receivables		—		(851)
Totals	**$**	**175,135**	**$**	**75,102**

		FY 2008		FY 2007
With the public:				
Accounts receivable	$	331,980	$	269,993
Allowance for uncollectible receivables		(113,869)		(51,268)
Totals	**$**	**218,111**	**$**	**218,725**

Amounts due from various federal agencies are for accounts receivable as of September 30, 2008 and 2007. These are related to registered participants' training fees due to the revolving fund and appropriated interagency agreements as shown in the table below:

	FY 2008	FY 2007
Agency		
Environmental Protection Agency	$ 43,599	$ 8,599
Department of Transportation	29,655	520
Executive Office of the President	18,120	—
Defense Agencies	16,073	165
Department of the Army	13,520	22,394
Department of Treasury	12,365	1,030
Department of Homeland Security	10,632	1,805
Department of Agriculture	5,580	4,080
Department of the Interior	4,470	2,974
Department of Education	3,700	1,850
Department of the Navy	3,625	4,025
National Labor Relations Board	3,525	—
Department of Justice	3,350	855
Department of State	2,025	—
Department of Labor	1,235	1,990
Department of Health and Human Services	1,220	335
Department of Veterans Affairs	696	696
Department of Housing and Urban Development	670	1,340
Securities and Exchange Commission	35	1,860
General Services Administration	—	3,000
Independent Agencies	—	1,900
Department of the Air Force	—	995
Other agencies	1,040	678
Subtotal revolving fund	175,135	61,091
Appropriated Funds (interagency agreements)		
National Aeronautics and Space Administration	—	14,862
Subtotal appropriated funds	—	14,862
Totals	**$ 175,135**	**$ 75,953**

(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, 2008		Cost		Accumulated Depreciation		Net Book Value
Equipment	$	1,207,664	$	(784,396)	$	423,268
Capital leases		865,257		(656,968)		208,289
Internal use software		4,018,975		(4,018,975)		—
Leasehold improvements		2,924,120		(2,719,026)		205,094
Totals	**$**	**9,016,016**	**$**	**(8,179,365)**	**$**	**836,651**

As of September 30, 2007		Cost		Accumulated Depreciation		Net Book Value
Equipment	$	1,286,681	$	(854,077)	$	432,604
Capital leases		904,821		(513,893)		390,928
Internal use software		4,018,975		(3,643,952)		375,023
Leasehold improvements		2,924,120		(2,350,866)		573,254
Totals	**$**	**9,134,597**	**$**	**(7,362,788)**	**$**	**1,771,809**

Depreciation expense for the periods ended September 30, 2008 and 2007 is:

	FY 2008		FY 2007
$	**1,054,161**	**$**	**1,205,074**

(5) Non-Entity Assets

The EEOC has $5,486 of net receivables to collect on behalf of the U.S. Treasury as of September 30, 2008 and $7,740 of net receivables to collect on behalf of the U.S. Treasury as of September 30, 2007. Cash collections of $138,018 were returned to Treasury on September 30, 2008, and $109,915 was returned to Treasury as on September 30, 2007, as instructed by Treasury.

(6) Liabilities Owed to Other Federal Agencies

As of September 30, 2008 and 2007, the following amounts were owed to other federal agencies:

Agency:	FY 2008	FY 2007
General Services Administration	$ 1,391,137	$ 144,820
Department of Justice	114,105	114,105
Department of Homeland Security	86,461	—
Office of Personnel Management	74,787	—
Department of Interior	57,267	1,267
Department of the Treasury	43,325	—
Department of Health and Human Services	19,081	12,805
National Archives and Records	15,583	—
Department of Agriculture	10,200	5,950
Other agencies	8	—
Totals	**$ 1,811,954**	**$ 278,947**

(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 are shown in the following table:

	FY 2008	FY 2007
Intra-governmental:		
Accrued worker's compensation	$ 2,203,419	$ 2,400,861
Total intra-governmental	2,203,419	2,400,861
Accrued annual leave	17,353,028	16,838,783
Worker's compensation due in the future	10,095,229	9,422,646
Capital lease liability	244,527	434,122
Total liabilities not covered by budgetary resources	29,896,203	29,096,412
Total liabilities covered by budgetary resources	33,375,500	23,287,969
Total liabilities	**$ 63,271,703**	**$ 52,384,381**

The EEOC employs an actuary to determine the future workers' compensation liability.

(8) Liabilities Analysis

Current and non-current liabilities as of September 30, 2008 are shown in the following table:

	Current	Non-Current	Totals
Covered by budgetary resources:			
Intra-governmental:			
Accounts payable	$ 1,811,954	$ —	$ 1,811,954
Payroll taxes	2,050,655	—	2,050,655
Due to Treasury	5,486	—	5,486
Total Intra—governmental	3,868,095	—	3,868,095
Accounts payable	21,131,474	—	21,131,474
Accrued payroll	8,293,380	—	8,293,380
Amounts collected for restitution	5,692	—	5,692
Unearned revenue	76,859	—	76,859
Liabilities covered by budgetary resources	33,375,500	—	33,375,500
Liabilities not covered by budgetary resources:			
Intra-governmental:			
Worker's compensation	1,054,223	1,149,196	2,203,419
Total Intra-governmental	1,054,223	1,149,196	2,203,419
Accrued annual leave	17,353,028	—	17,353,028
Actuarial worker's compensation	—	10,095,229	10,095,229
Capital lease liability	146,560	97,967	244,527
Liabilities not covered by budgetary resources	18,553,811	11,342,392	29,896,203
Total liabilities	**$ 51,929,311**	**$ 11,342,392**	**$ 63,271,703**

Current and non-current liabilities as of September 30, 2007 are shown in the following table:

	Current	Non-Current	Totals
Covered by budgetary resources:			
Intra-governmental:			
Accounts payable	$ 278,947	$ —	$ 278,947
Payroll taxes	1,671,057	—	1,671,057
Due to Treasury	7,740	—	7,740
Total Intra-governmental	1,957,744	—	1,957,744
Accounts payable	14,212,309	—	14,212,309
Accrued payroll	6,856,639	—	6,856,639
Amounts collected for restitution	261,277	—	261,277
Liabilities covered by budgetary resources	23,287,969	—	23,287,969
Liabilities not covered by budgetary resources:			
Intra-governmental:			
Worker's compensation	1,054,223	1,346,638	2,400,861
Total Intra-governmental	1,054,223	1,346,638	2,400,861
Accrued annual leave	16,838,783	—	16,838,783
Actuarial worker's compensation	—	9,422,646	9,422,646
Capital lease liability	189,685	244,437	434,122
Liabilities not covered by budgetary resources	18,082,691	11,013,721	29,096,412
Total liabilities	**$ 41,370,660**	**$ 11,013,721**	**$ 52,384,381**

(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 Treasury or paid by EEOC. In FY 2008 and FY 2007 $0 and $0, respectively was recorded for contingent liabilities, which are the amounts considered probable and measurable by EEOC's management and legal counsel. In addition for FY 2008, there is one claim for which it is reasonably possible that damages will be paid. This pending litigation is for overtime for 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. The agency has and will continue to vigorously contest this claim. In the opinion of EEOC's management, the ultimate resolution of pending litigation will not have a material effect on the EEOC's financial statements.

(10) Leases

Capital Leases

The EEOC has several capital leases for copiers in the amount of $865,257 for FY 2008. These leases can be canceled without penalty. The future lease payments and net capital lease liability as of September 30, 2008 is as follows:

Fiscal Year		Future Payments
2009	$	171,043
2010		58,423
2011		58,423
2012		—
2013		—
Thereafter		—
Total future lease payments		287,889
Less: imputed interest		(43,362)
Net capital lease liability	$	244,527

None of the future lease payments are covered by budgetary resources.

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 2008 and 2007 are $26,563,033 and $26,021,773, respectively. The EEOC has estimated its future minimum liability on GSA operating leases by adding inflationary adjustments to the FY 2008 lease rental expense. Future estimated minimum lease payments, for five fiscal years under GSA as of September 30, 2008 are:

Fiscal Year		Estimated Payments
2009	$	29,300,000
2010		27,594,000
2011		28,284,000
2012		29,133,000
2013		29,861,000
Total	**$**	**144,172,000**

(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, 2008, and 2007 was as follows:

	FY 2008	FY 2007
Reimbursable revenue	$ 175,078	$ 121,019
Fees from services	5,021,756	4,407,838
Total Revenue	**$ 5,196,834**	**$ 4,528,857**

(12) Correction of Errors

It was discovered during the reconciliation between the Fixed Asset System and the general ledger that a copier that had been leased in 2004 was not recorded in the general ledger. The correction below is to record the remaining portion of the capital lease liability as of September 30, 2008.

Cumulative Results of Operations	FY 2008	FY 2007
Reclassify principle payments on capital lease obligation	**$ 2,917**	**—**
Totals	**$ 2,917**	**—**

(13) Appropriations Received

Warrants received by the Commission as of September 30, 2008 and 2007 are:

FY 2008	FY 2007
$ 329,300,00	**$ 328,745,219**

There was no rescission for the warrant received by the EEOC for fiscal year September 30, 2008, and fiscal year ended September 30, 2007 was net of rescissions.

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

Direct and Reimbursable obligations were restated for FY 2007 for comparative purposes to FY 2008. They were also restated on the Combined Statement of Budgetary Resources for FY 2007.

Obligations		FY 2008		FY 2007
Direct A	$	301,205,348	$	300,287,453
Direct B		28,640,051		29,522,771
Subtotal Direct Obligations		329,845,399		329,810,224
Reimbursable—Direct A		4,975,151		4,463,911
Total Obligations	$	334,820,550	$	334,274,135

(15) 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,		**2008**		**2007**
ASSETS				
Fund balance with Treasury	$	4,118,095	$	2,972,574
Accounts receivable (net of allowance)		263,718		110,888
Advances and prepaid expenses		111,591		62,840
TOTAL ASSETS	$	4,493,405	$	3,146,301
LIABILITIES				
Accounts payable		167,571		32,490
Deferred revenue		76,859		—
TOTAL LIABILITIES		244,430		32,490
NET POSITION				
Cumulative results of operations		4,248,975		3,113,811
TOTAL LIABILITIES AND NET POSITION	$	4,493,405	$	3,146,301

Statement of Net Cost for the Period Ended September 30,		**2008**		**2007**
Program Costs	$	4,934,523	$	5,042,652
Revenue		(6,069,687)		(4,994,226)
Net Cost (Revenue)	$	(1,135,164)	$	48,426

The Revenue includes $1,047,931 and $586,388 of intra-agency revenue for fiscal years ended September 30, 2008, and 2007, respectively, that is eliminated in the Principal Statements.

(16) 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, 2008 and 2007 consisted of:

	FY 2008	FY 2007
Office of Personnel Management:		
Pension expenses	$ 6,856,778	$ 7,205,337
Federal employees health benefits (FEHB)	9,783,585	10,453,072
Federal employees group life insurance (FEGLI)	30,722	29,911
Subtotal OPM	16,671,085	17,688,320
Treasury Judgment Fund	131,964	54,786
Total Imputed Financing	**$ 16,803,049**	**$ 17,743,106**

(17) Intragovernmental Costs and Exchange Revenue:

	FY 2008	FY 2007
Costs		
Office of Personnel Management	$ 46,341,576	$ 41,397,487
General Services Administration	33,786,061	31,470,289
Social Security Administration	9,844,705	9,517,231
Federal Retirement Thrift Investment Board	5,268,598	5,012,752
Department of the Interior	4,465,135	3,617,539
Department of Homeland Security	1,732,863	—
Department of Transportation	1,126,024	647,169
Department of Labor	897,485	1,236,202
Department of the Treasury	475,442	59,612
Government Printing Office	304,549	253,419
Department of Health and Human Services	238,531	191,298
Library of Congress	101,972	38,213
National Archives and Records Administration	84,577	61,109
Other agencies	17,204	81,618
Intragovernmental Costs	104,684,722	93,583,938
Public costs	246,612,124	242,654,616
Total Program costs	**$ 351,296,846**	**$ 336,238,554**

	FY 2008	FY 2007
Revenue		
Department of the Army	$ 438,375	$ 264,260
Department of the Navy	433,393	261,257
Department of Homeland Security	331,272	198,946
Department of Labor	315,251	175,619
Department of Transportation	216,697	130,628
Department of Interior	201,752	121,619
Environmental Protection Agency	201,752	121,619
Department of Commerce	122,047	73,572
Department of Justice	74,723	45,044
United States Postal Service	74,723	45,044
Department of Agriculture	67,251	40,540
Department of Veterans Affairs	67,251	40,540
Securities and Exchange Commission	37,361	22,522
Federal Maritime Commission	35,399	—
Department of the Treasury	22,417	13,513
Department of Education	9,125	—
National Aeronautics and Space Administration	—	29,724
Other Agencies	11,817	53
Intragovernmental earned revenue	2,660,606	1,584,500
Public earned revenue	2,536,228	2,944,357
Total Program earned revenue (Note 11)	**5,196,834**	**4,528,857**
Net Cost of Operations	**$ 346,100,012**	**$ 331,709,697**

(18) 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, 2007 is shown in the following tables. A reconciliation is not presented for the period ended September 30, 2008, since the President's Budget for this period has not been issued by Congress.

Dollars in millions	President's Budget FY 2007 actual as of 9/30/07	Statement of Budgetary Resources FY 2007 as of 9/30/07	Estimated FY 2008	Estimated FY 2009
Budgetary resources	$ 329	$ 344	$ 329	$ 342
Total new obligations	328	334	329	342
Total outlays	323	323	330	341

The differences between the President's 2007 budget and the Combined Statement of Budgetary Resources for 2007 are shown below:

Dollars in millions		Budgetary Resources	Obligations	Outlays (g)
As reported on the Combined Statement of Budgetary Resources for FY 2007		$ 344	$ 334	$ 323
Revolving fund collections not reported in the budget	(a)	(6)		
Obligations in the revolving fund and no-year fund not included in the President's budget	(b)		(3)	
Carry-forwards and recoveries in the revolving fund and no-year fund not included in the President's Budget	(c)	(2)		
Carry-forwards and recoveries in expired funds	(d)	(9)		
Obligations in expired funds	(e)		(3)	
Canceled appropriations	(f)	2		
As reported in the President's Budget for FY 2007		**$ 329**	**$ 328**	**$ 323**

(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) All outlays, whether from current year funds, expired funds, revolving funds or special funds are included in the President's Budget and on the Combined Statement of Budgetary Resources.

(19) Reconciliation of Net Cost of Operations to Budget as of September 30:

	FY 2008	FY 2007
Resources used to finance activities		
Budgetary Resources Obligated:		
Obligations incurred	$ 334,820,550	$ 334,274,135
Less: Spending authority from offsetting collections	(6,415,500)	(5,115,244)
Less: Spending authority from recoveries	(2,535,159)	(3,402,528)
Net obligations	325,869,891	325,756,363
Other Resources:		
Imputed financing from costs absorbed by others	16,803,049	17,743,106
Total resources used to finance activities	342,672,940	343,499,469
Resources used to finance items not part of the net cost of operations:		
Change in budgetary resources obligated for goods, services and benefits ordered but not yet provided.	(1,579,694)	12,711,617
Resources that fund expenses recognized in prior periods	197,442	622,351
Resources that finance the acquisition of assets	119,003	65,304
Principal payments on capital leases	192,512	198,027
Total resources used to finance items not part of the net cost of operations	(1,070,737)	13,597,299
Total resources used to finance the net cost of	343,743,677	329,902,170
Components of the net cost of operations that will not require or generate resources in the current period:		
Components requiring or generating resources in future		
Increase in annual leave liability	514,245	403,369
Increase in accounts receivable from the Public	(22,396)	—
Increase in worker's compensation	—	11,710
Increase in deferred revenue	76,859	—
Total components requiring or generating resources in future periods	568,708	415,079
Components not requiring or generating resources:		
Depreciation	1,054,161	1,205,074
Revaluation of assets or liabilities	—	10,872
Other components that do not require or generate	733,466	176,502
Total components of net cost of operations that will not require or generate resources.	1,787,627	1,392,448
Total components of net cost of operations that will not require or generate resources in the current period.	2,356,335	1,807,527
Net cost of operations	**$ 346,100,012**	**$ 331,709,697**

Appendices

APPENDIX A: ORGANIZATION AND JURISDICTION

The U.S. Equal Employment Opportunity Commission (EEOC) 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 for and the financial management and organizational development of the Commission. The Vice Chair and the Commissioners participate equally in the development and approval of Commission policies, issue charges of discrimination where appropriate, and authorize the filing of suits. 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 has jurisdiction over employment discrimination issues has since grown and now includes the following areas:

- **Title VII of the Civil Rights Act,** which prohibits employment discrimination on the basis of race, color, religion, sex, and national origin.
- **Pregnancy Discrimination Act,** which 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 Provisions of 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 (ADEA),** 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 (ADA),** which prohibits discrimination against qualified individuals on the basis of disability by entities covered by Title VII of the Civil Rights Act of 1964, except for the federal government.
- **Rehabilitation Act of 1973,** which prohibits discrimination on the basis of disability in the federal government; and
- **Title II of the Genetic Information Non-Discrimination Act** [as of November 21, 2009], 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.

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 our Administrative Judges who conduct hearings on EEO complaints, and adjudicates appeals from administrative decisions made by federal agencies on EEO complaints.

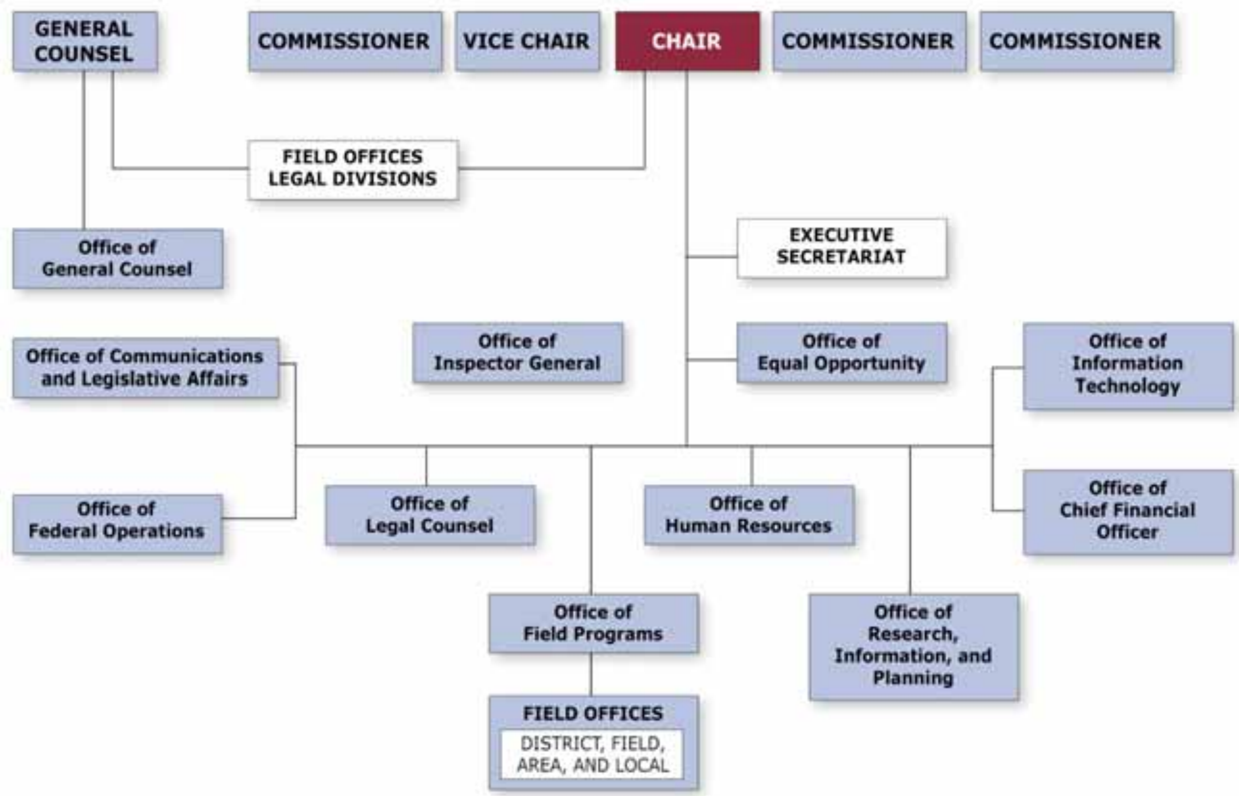
Through our Headquarters-based **Office of Field Programs**, the **Office of General Counsel**, and **53 field offices**, the EEOC effectively enforces the statutory, regulatory, policy, and program responsibilities of the Commission through a variety of resolution methods tailored to each charge. The field 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. The field staff also counsel individuals about their rights under the laws enforced by the EEOC and conduct outreach and technical assistance programs.

Additionally, through the **Office of Field Program's State and Local Program**, the EEOC maintains work sharing agreements and a contract services program with 96 state and local Fair Employment Practices Agencies (FEPAs) for the purpose of coordinating the investigation of charges dual-filed under State and local law and Federal law, as appropriate. Through our partnership with more than 60 **Tribal Employment Rights Offices (TEROs)**, we seek to promote equal employment opportunity on or near Indian reservations.

Through our **Office of Legal Counsel**, we develop policy guidance, provide technical assistance to employers and employees, and coordinate with other agencies and stakeholders regarding the statutes and regulations we enforce. The Office of Legal Counsel also includes an external litigation and advice division and a Freedom of Information Act unit.

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

EEOC Organization



APPENDIX B: BIOGRAPHIES OF THE COMMISSIONERS AND THE GENERAL COUNSEL

The EEOC has five commissioners and a General Counsel appointed by the President and confirmed by the Senate. Commissioners are appointed for five-year, staggered terms. The term of the General Counsel is four years. The President designates a Chair and a Vice Chair. The Chair is the chief executive officer of the Commission. The five-member Commission makes equal employment opportunity policy and approves litigation. The General Counsel is responsible for conducting EEOC enforcement litigation under Title VII of the Civil Rights Act of 1964 (Title VII), the Equal Pay Act, the Age Discrimination in Employment Act, and the Americans with Disabilities Act.

Naomi Churchill Earp, Chair

Naomi Churchill Earp assumed the role of Chair of the U.S. Equal Employment Opportunity Commission (EEOC) on August 31, 2006, after serving as Vice Chair of the Commission since April 28, 2003. On October 26, 2005, President Bush reappointed Ms. Earp for a second term. Her current term expires on July 1, 2010.

Ms. Earp serves as the chief executive officer of the Commission. In conjunction with fellow Commissioners, she also guides the development and establishment of EEO policy and approves high impact and novel litigation actions.

Ms. Earp brings to the EEOC hands-on leadership and management experience; a strong track record of promoting diversity; and expertise in the equal employment opportunity field. Her breadth of experience, spanning the private and public sectors, provides valuable insight into employment-related issues.

Ms. Earp's work experience in promoting diversity in EEO includes a series of progressively responsible leadership positions with various federal agencies, including the National Institute of Science and Technology, the National Institutes of Health (NIH), the Federal Deposit Insurance Corporation, and the U.S. Department of Agriculture. At the NIH, Ms. Earp spearheaded the development of a world-class diversity initiative and a nationally-recognized alternative dispute resolution program. At the Department of Agriculture, she headed the Equal Opportunity Program, which included minority small businesses and minority farmers. Ms. Earp also served as an Attorney Advisor at the EEOC during the mid-1980s. In addition, she has worked as an independent consultant providing services to private employers and public agencies on a variety of employment-related issues and programs.

Leslie E. Silverman, Vice Chair

Leslie E. Silverman became Vice Chair of the U.S. Equal Employment Opportunity Commission on September 8, 2006, after serving as a Commissioner since March 7, 2002. She was first nominated by President George W. Bush in February 2002 and unanimously confirmed by the U.S. Senate on March 1, 2002. Ms. Silverman was renominated to a full term in July 2003 and unanimously confirmed by the Senate in October 2003. Her term expired on July 1, 2008.

Vice Chair Silverman led the EEOC's Systemic Task Force which examined the EEOC's efforts at combating systemic discrimination. In April 2006, the Commission unanimously adopted the Task Force's major recommendations aimed at improving the EEOC's systemic program. Ms. Silverman also is a participant on the Center for Work-Life Policy's "Hidden Brain Drain" Task Force which focuses on the retention and advancement of women and minority employees.

Immediately prior to joining the Commission, Ms. Silverman served for five years as Labor Counsel to the Senate Health, Education, Labor and Pensions Committee. From 1990 to 1997, she was an associate specializing in employment law and litigation with Keller and Heckman, a Washington, D.C.-based law firm.

A native of Needham, Massachusetts, Ms. Silverman received a bachelor's degree from the University of Vermont; a Juris Doctor degree from the American University, Washington College of Law in Washington, D.C.; and a Masters degree With Distinction in labor and employment law from the Georgetown University Law Center in Washington, D.C. Ms. Silverman's bar memberships include the District of Columbia and the Commonwealth of Massachusetts. She also is licensed to practice before the United States Supreme Court and the United States Courts of Appeals for the Fourth and Sixth Circuits.

Stuart Ishimaru, Commissioner

Stuart J. Ishimaru has been a Commissioner of the EEOC since November 17, 2003. Mr. Ishimaru was re-nominated by President George W. Bush for a second term and confirmed by the U.S. Senate on December 19, 2007. His term expires July 1, 2012.

As a member of the Commission, he participates with the other Commissioners on all matters which come before it – including the development and approval of enforcement policies, authorization of litigation, and approval of agency regulations.

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 more than 100 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.

Prior to this, as Counsel to the Assistant Attorney General in the Civil Rights Division for five years, Mr. Ishimaru provided advice on a broad range of issues, including legislative affairs, politics and strategies. He maintained liaison between the office and Members of Congress, and supervised fair housing and fair lending, equal employment opportunity, education, and Voting Rights Act litigation. He also testified before Congressional Committees on fair housing issues.

In 1993, Mr. Ishimaru was appointed by President Clinton to be the Acting Staff Director of the U.S. Commission on Civil Rights, and from 1984-1993 served on the professional staffs of the House Judiciary Subcommittee on Civil and Constitutional Rights and two House Armed Services Subcommittees of the U.S. Congress.

Christine M. Griffin, Commissioner

Christine M. Griffin was sworn in on January 3, 2006, as a Commissioner of the U.S. Equal Employment Opportunity Commission. Ms. Griffin was nominated by President George W. Bush on July 28, 2005, and unanimously confirmed by the U.S. Senate on November 4 to serve the remainder of a five-year term expiring July 1, 2009.

Ms. Griffin's work experience in labor and employment law includes positions in both the public and private sectors. Most recently, she served as the Executive Director of the Disability Law Center in Boston from 1996 to 2005. The Law Center provides legal advocacy on disability issues that promote the fundamental rights of all people with disabilities to participate fully and equally in the social and economic life of Massachusetts. As Executive Director, she provided leadership for the Law Center's 25 employees and conducted its overall management, including programmatic and fiscal planning, priority setting and implementation, and fundraising.

Prior to that, Ms. Griffin served from 1995 to 1996 as an Attorney Advisor to the former Vice Chair of the EEOC, Paul M. Igasaki, advising him on legal matters and policy issues. Ms. Griffin's other federal work experience includes serving in the U.S. Attorney's Office in Boston, the U.S. Food and Drug Administration, and the U.S. Army.

A native of Boston, Ms. Griffin is a graduate of the Massachusetts Maritime Academy and served as its Interim President from 1993 to 1994. She is also a graduate of Boston College Law School and, upon graduation, was awarded a Skadden Arps Fellowship at the Disability Law Center. Ms. Griffin has served on many boards and task forces, including the national Social Security Administration Ticket to Work Advisory Panel, the Massachusetts Developmental Disabilities Council, and the Massachusetts Board of Higher Education. In December 2005, Ms. Griffin was selected as one of the nation's eleven "Lawyers of the Year" by *Lawyers Weekly USA* newspaper.

Constance S. Barker, Commissioner

Constance S. Barker was sworn in July 14, 2008, as a Commissioner of the U.S. Equal Employment Opportunity Commission. Ms. Barker was nominated by President George W. Bush on March 31, 2008, and unanimously confirmed by the Senate on June 27 to serve the remainder of a five-year term expiring on July 1, 2011.

Ms. Barker brings extensive experience in labor and employment law, including positions in both the private and public sectors. As a shareholder at Capell & Howard, P.C. in Montgomery, Ala., she provided advice regarding the prevention of discrimination complaints and defended clients in employment discrimination lawsuits. Her public-sector experience includes four years as an assistant district attorney for the 11th and 13th Judicial Circuits of Alabama, one year as a judge for two Alabama localities, and 11 years as the general counsel for the Mobile County Public School System.

A native of Florence, Ala., Ms. Barker received a bachelor's degree from the University of Notre Dame and a juris doctor from the University of Alabama.

Ronald S. Cooper, General Counsel

Ronald S. Cooper was sworn in Aug. 11, 2006, to a four-year term as General Counsel of the U.S. Equal Employment Opportunity Commission. He was nominated by President George W. Bush on March 27, 2006, and unanimously confirmed by the Senate on July 26.

Mr. Cooper most recently was employed as a partner in the Washington D.C. office of Steptoe & Johnson LLP, where he had specialized in employment litigation for over 34 years. He primarily represented employers at the trial and appellate level in litigation throughout the country including case brought under Title VII, The Age Discrimination in Employment Act, The Equal Pay Act, The Americans with Disabilities Act and The Fair Labor Standards Act. These cases included large class actions and government enforcement matters. In addition to actions brought under federal law, he represented employers with respect to claims brought under state and local laws. Mr. Cooper also represented both employees and employers in restrictive covenant and executive compensation cases.

Mr. Cooper has been a fellow of the College of Labor and Employment Lawyers since 1997. He is a member of the ABA's Section of Labor and Employment Law and has held a number of leadership positions in that group including service as Management Chair of its Continuing Legal Education Committee. He most recently served as Management Chair of its International Labor Law Committee.

For 13 years Mr. Cooper served on the Metropolitan Board of Directors of the Boys & Girls Clubs of Greater Washington. He has also served on that organization's Executive Committee, and most recently was its General Counsel.

Mr. Cooper was born and raised in Athens, Georgia. He received his AB degree in the honors program of the University of Georgia, where he was elected to Phi Beta Kappa. He earned his JD degree from the University of Georgia School of Law. He served as law clerk to Judge Walter P. Gewin, U.S. Court of Appeals for the Fifth Circuit, 1969-70, and as a Staff Attorney in the U.S. Department of Labor, Office of the Solicitor, Appeals Section, 1970-72.

APPENDIX C: GLOSSARY OF ACRONYMS

ADA	Americans with Disabilities Act of 1990
ADAA	Americans with Disabilities Amendments Act of 2008
ADEA	Age Discrimination in Employment Act of 1967
ADR	Alternative Dispute Resolution
AJ	Administrative Judge
CFO	Chief Financial Officer
DMS	Document Management System
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
EPA	Equal Pay Act of 1963
E-RACE	Eradicating Racism And Colorism from Employment
EXCEL	Examining Conflicts in Employment Laws
FEPA	Fair Employment Practice Agencies
FLSA	Fair Labor Standards Act
FOIA	Freedom of Information Act
FTE	Full-Time Equivalent
GINA	Genetic Information Non-Discrimination Act
GSA	General Services Administration
IFMS	Integrated Financial Management System
IMS	Integrated Mission System
LEAD	Leadership for the Employment of Americans with Disabilities
MDI	Management Development Institute
NFI	New Freedom Initiative
NIH	National Institutes of Health
NUAM	National Universal Agreements to Mediate
OFO	Office of Federal Operations
OIG	Office of Inspector General
PART	Program Assessment Rating Tool
PMA	President’s Management Agenda
TAP	Technical Assistance Program
TERO	Tribal Employment Rights Offices
UAM	Universal Agreements to Mediate

APPENDIX D: INTERNET LINKS

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

EEOC FY 2008 Performance and Accountability Report:
http://www.eeoc.gov/abouteeoc/plan/par/2008/index.html

EEOC FY 2007 Performance and Accountability Report:
http://www.eeoc.gov/abouteeoc/plan/par/2007/index.html

EEOC Strategic Plan: http://www.eeoc.gov/abouteeoc/plan/strategic07-12/index.html

EEOC FY 2008 Performance Budget: http://www.eeoc.gov/abouteeoc/plan/2008budget/index.html

EEOC FY 2007 Performance Budget: http://www.eeoc.gov/abouteeoc/plan/2007budget/index.html

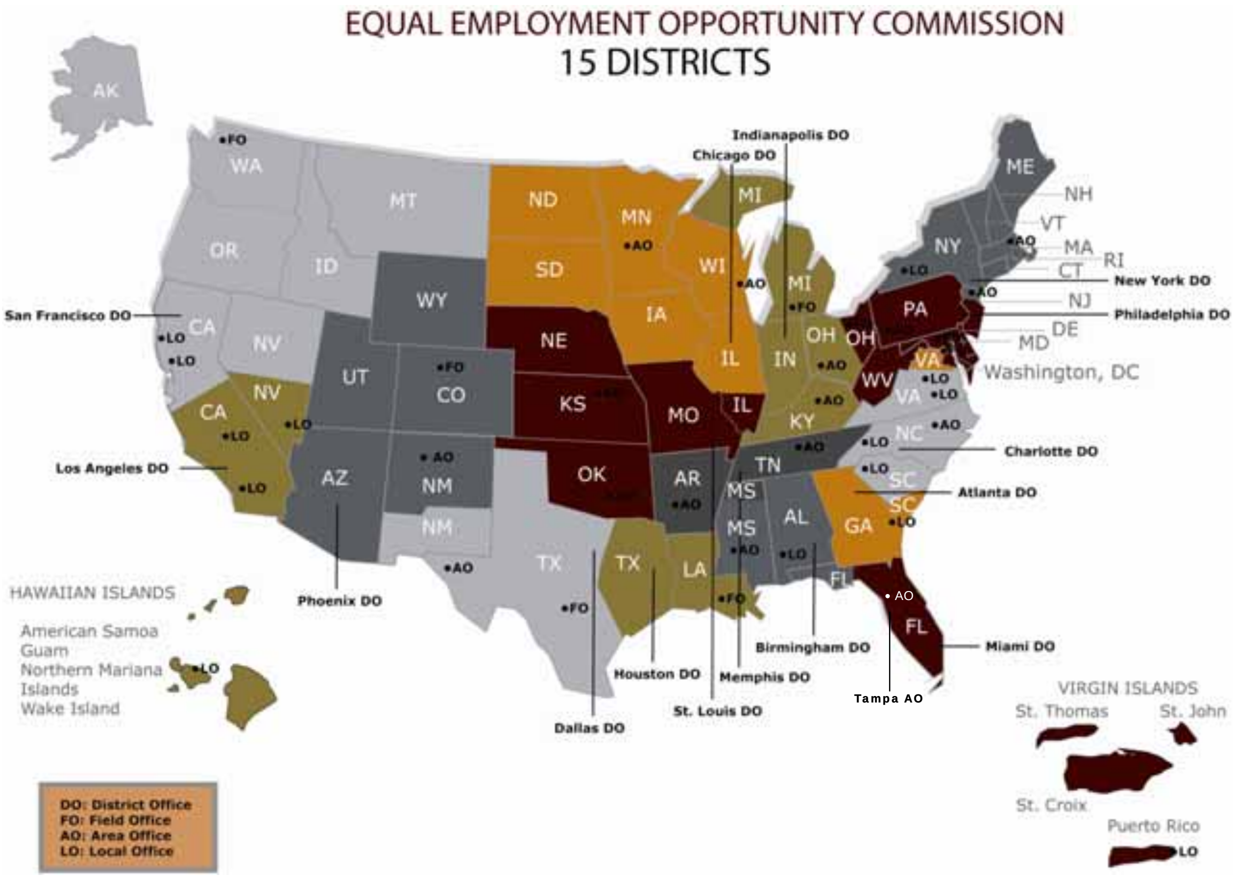
EEOC Annual Report on the Federal Workforce: http://www.eeoc.gov/federal/fsp2007/index.html

E-RACE Initiative: http://www.eeoc.gov/initiatives/e-race/index.html

Youth@Work Initiative: http://www.eeoc.gov/initiatives/youth/index.html

LEAD Initiative: http://www.eeoc.gov/initiatives/lead/index.html

APPENDIX E: EEOC FIELD OFFICES



Acknowledgments

The EEOC's FY 2008 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 2008 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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