

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

FY 2013

Congressional
Budget Justification

Submitted to the Congress of the United States
February 2012

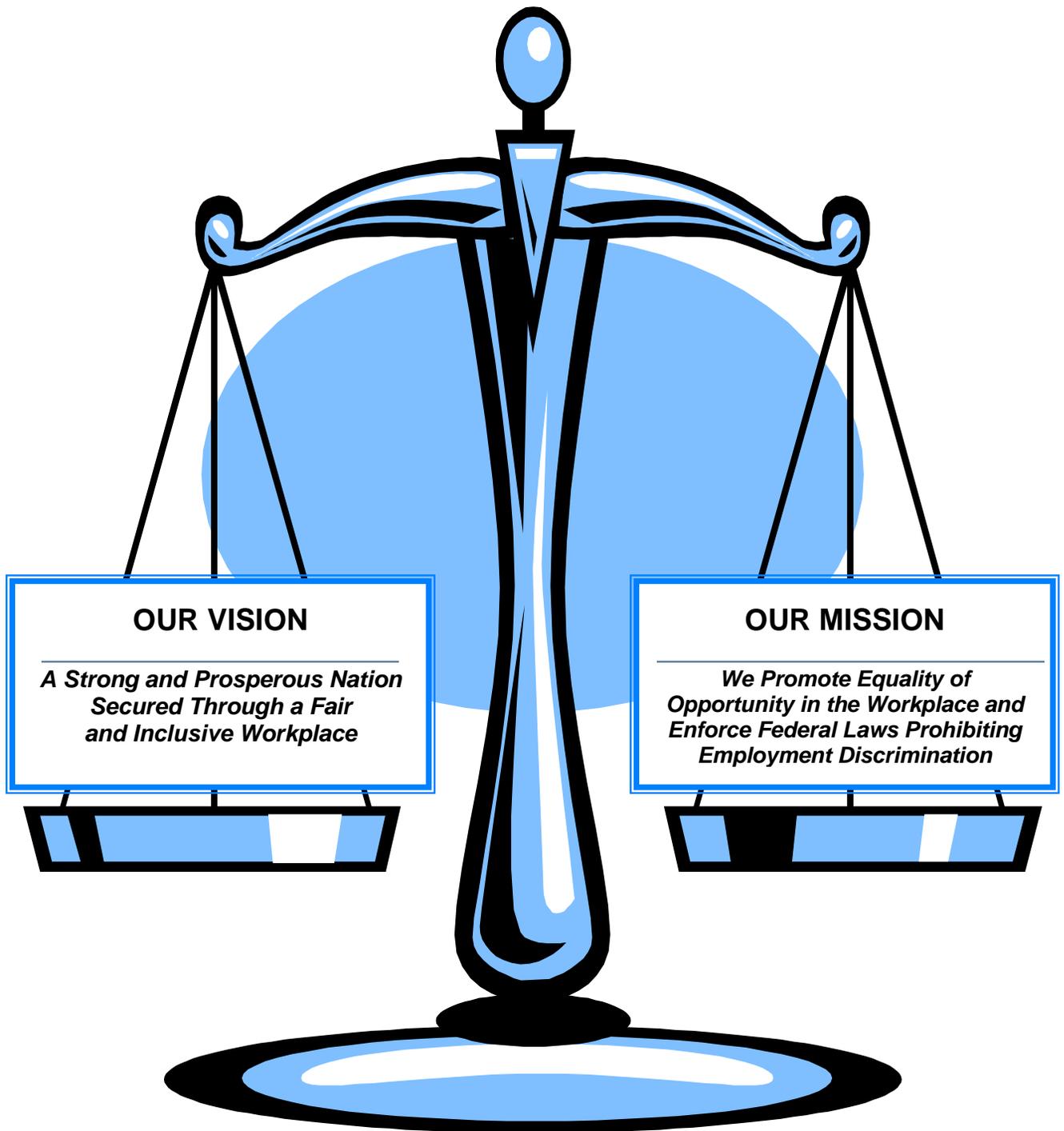


***Fiscal Year 2013
Congressional Budget Justification***

***U.S. Equal Employment
Opportunity Commission***

FEBRUARY 2012

***Submitted to the
Congress of the United States***



OUR VISION

*A Strong and Prosperous Nation
Secured Through a Fair
and Inclusive Workplace*

OUR MISSION

*We Promote Equality of
Opportunity in the Workplace and
Enforce Federal Laws Prohibiting
Employment Discrimination*

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U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

I. CHAIR'S REPORT

A. Fiscal Year 2013 Performance Budget Highlights

The U.S. Equal Employment Opportunity Commission (EEOC) is the leading federal law enforcement agency dedicated to eradicating employment discrimination on the basis of race, color, national origin, sex, religion, pregnancy, age, disability, and family medical history or genetic information. The EEOC is requesting a budget of \$373,711,000 which includes \$29,500,000 for State and Local programs for fiscal year 2013. This request represents a combined increase of \$13.711 million from the fiscal year 2012 appropriation.

The Commission made significant progress during fiscal years 2009 and 2010 toward rebuilding the capacity needed to effectively enforce Federal employment discrimination laws. For example, despite starting fiscal year 2010 with a mounting charge inventory and receiving a record-setting number of discrimination charges (99,922), the EEOC achieved 104,999 resolutions and dramatically slowed inventory growth to less than one percent (compared to a 15.9 percent increase in fiscal year 2008). Additional staffing has been critical to achieving this result, but so have improvements in training and technology. Recognizing that the pending inventory can only be reduced with sustained management and staff attention to the problem, in fiscal year 2011, I directed the Office of Field Programs to develop a multi-year plan to reduce the pending inventory of charges. Leadership and staff throughout the agency are currently reviewing and commenting on the draft plan, and implementation is expected in fiscal year 2012.

During fiscal year 2011, we achieved a record total of 112,499 resolutions, and for the first time in nearly a decade, reduced the inventory of pending charges by nearly ten percent. We believe this was possible, despite the imposition of a hiring freeze after the first quarter of fiscal year 2011, because staff hired in prior fiscal years had completed training and gained relevant experience during the year, and were therefore able to contribute more consistently and reliably to the overall productivity of the agency. Absent the staff and resources added in fiscal years 2009 and 2010, the inventory of unresolved charges could have grown dramatically during this period in which charges filed with the EEOC reached historic levels. Our 2013 Budget will allow us to make continued progress on the charge inventory and in carrying out the agency's critical work.

B. Chair's Message

I am pleased to present the U.S. Equal Employment Opportunity Commission's (EEOC's) fiscal year 2013 Budget Justification.

The EEOC was created as part of the historic Civil Rights Act of 1964. Title VII of the Civil Rights Act prohibited discrimination on the basis of race, color, national origin, sex, and religion in private sector employment throughout the United States. In the early years, the EEOC worked diligently to dismantle these barriers with the tools then available to it – principally, investigation and conciliation of discrimination charges, referral to the U.S. Department of Justice to conduct litigation where necessary to enforce the law, collection of data from employers, regulatory and sub-regulatory development to inform the public about the application of the law to various

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situations, and public education and outreach to prevent violations of the law and to promote voluntary compliance. Subsequently, new federal laws extended the EEOC's enforcement authority to include discrimination on the basis of age, disability, and family medical history or genetic status. In addition, Congress authorized the EEOC to conduct litigation to enforce the anti-discrimination laws against private employers and to enforce the Equal Pay Act. The EEOC also oversees enforcement of employment discrimination laws in federal government agencies and conducts hearings and appeals as a part of that process. The EEOC is the federal government's leading enforcer of laws prohibiting employment discrimination and a diverse group of stakeholders, including many public and private sector employers, seek the EEOC's guidance concerning compliance with these laws.

Over the past decade an increasing number of job seekers and workers have turned to the EEOC for assistance with discrimination complaints. However, resources available to the EEOC failed to keep pace with demand. Between fiscal years 2000 and 2008 our staffing level dropped by nearly 30 percent while our jurisdiction expanded and the number of discrimination charges filed with the EEOC reached historic levels. The convergence of these factors produced a growing inventory of unresolved discrimination charges. However, over the past two years, we began the process of rebuilding our enforcement capacity as well as strategically managing existing resources. These efforts have yielded significant improvements in agency performance. In fiscal year 2010, despite receiving a record number of new charges, 99,922, the EEOC dramatically slowed the growth of the private sector charge inventory to less than one percent. In fiscal year 2011 we continued this progress and ended fiscal year 2011 with a pending inventory of 78,136 discrimination charges, which was nearly 10 percent below the pending inventory at the end of fiscal year 2010.

Despite these accomplishments, our rebuilding efforts are incomplete and the progress is fragile. Given the agency's varied enforcement responsibilities we are constantly challenged to meet the growing public demand for the services we provide. EEOC staff has worked to improve operations, provide better service to the public, and more effectively and efficiently enforce the federal laws prohibiting employment discrimination, and we will continue to do so. We are also working diligently to identify new ways to cut costs and reduce spending that will not compromise or undermine our ability to fulfill our mission. This budget submission requests a level of funding for the EEOC that will allow us to preserve and build upon the increased agency capacity that President Obama and Congress supported in fiscal years 2009 and 2010 and effectively carry out the agency's mission.

C. Chair's Priorities

The EEOC opened its doors in 1965 with a mandate to end employment discrimination on the basis of race, color, national origin, sex and religion. In later years the EEOC's charge expanded to include eradicating employment discrimination on the basis of age, disability, and family medical history or genetic information. Some discriminatory practices that were commonplace when the agency opened its doors have disappeared or greatly diminished over the past 47 years, but unlawful discrimination continues to be a substantial problem for too many workers and job seekers in the United States. This proposed budget will enable the EEOC to focus on serving the public more efficiently, addressing both enduring and emerging discriminatory practices in the

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workplace, and enforcing the law more effectively with the full array of tools available to address workplace discrimination and advance equal employment opportunity in the 21st century.

Serving the Public More Efficiently

One of the agency's greatest challenges has been, and continues to be, resolving discrimination charges filed by private and federal sector employees and job seekers promptly, while at the same time ensuring that the rights of the charging parties and respondents receive appropriate attention and respect. This challenge to the effectiveness of the EEOC's private sector enforcement program inspired the Commission to adopt the Priority Charge Handling Procedures (PCHP) in 1995. Fortunately, we now have the benefit of experience in successfully reducing the inventory to inform our response to the challenge we face today. One of the most important lessons is that large charge inventories are not a transitory operational challenge addressed by short-term redirection of resources or temporary increases in staffing or funding; rather, they require continued management attention, commitment of resources and consistent implementation of systems developed to ensure that charges are investigated and resolved fairly and efficiently. As a recent evaluation of PCHP confirmed, there must be sustained management attention and consistent staff implementation of PCHP for the system to work as intended. In addition, the EEOC has not yet taken full advantage of technological advances since PCHP was first adopted. This proposed budget includes support for technological upgrades and development of systems that would facilitate communication with charging parties and respondents concerning the status of charges, thus addressing a major source of complaints concerning the services provided by the EEOC.

In fiscal year 2011, I directed the Office of Field Programs to develop a multi-year plan to reduce the private sector charge inventory. In fiscal year 2011, we also conducted a joint meeting of District Directors and Regional Attorneys – the first in many years – which enabled headquarters office directors and the leaders of staff stationed in more than 50 offices across the country to share insights and provide their perspectives concerning a wide range of issues, including the efficacy of the proposed inventory reduction plan. Implementation will begin in fiscal year 2012, and the proposed budget includes funding for continued implementation in fiscal year 2013.

Finally, to promote improved customer service and retention of high performing employees, the proposed budget also includes funding to expand training, professional development and career advancement opportunities for “journeyman” and mid-level staff. The paramount importance of orderly and thoughtful succession of agency leadership was apparent very early in my tenure as Chair; in my first year of service, there were leadership transitions in one-third of the agency's District offices. However, I believe that succession planning must expand beyond the management and executive levels of the agency. Additional funding would enable the EEOC to invest more heavily in training and career development opportunities for every part of our workforce. Some of the managers and executives who help to lead the EEOC today began their service with the agency in entry-level positions and have worked their way up the ladder to the positions they hold today. They take great pride in the fact that they have served the agency in various capacities, and their perspectives on management are informed and enriched by their experience of “coming through the ranks” of the agency. Ensuring that opportunities exist for

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talented employees to progress to positions of greater responsibility and that training and professional development opportunities are available to support them will not only help the EEOC to serve the public well today, but will also ensure that the agency is equipped to enforce the law effectively for many years to come.

Enforcing the Law More Effectively

As a law enforcement agency, the EEOC must marshal its limited resources to achieve the greatest impact, which includes developing and preserving a strong nationwide systemic enforcement program. There is a strong bipartisan foundation of Congressional and Commission support for, and prioritization of, systemic enforcement. The legislative history accompanying the transfer of responsibility for conducting pattern or practice litigation involving private sector employers from the U.S. Department of Justice to the EEOC also affirms the importance of systemic enforcement to the agency's work: "Unrelenting broad-scale action against patterns or practices of discrimination is . . . critical in combating employment discrimination. The Committee believes these powers should be exercised by the Commission as an integral and coordinated part of the overall enforcement effort" H.R. Rep. No. 92-238 (1971). The National Enforcement Plan adopted by the Commission under the leadership of Chair Gilbert Casellas in 1995 emphasized the Commission's commitment "to the strategic and proactive use of its limited enforcement resources through, among other things, systemic investigations and litigation." The recommendations of the EEOC's Systemic Task Force adopted by the Commission under the leadership of Chair Cari Dominquez in 2006 emphasized that "combating systemic discrimination should be a top priority at EEOC and an intrinsic, ongoing part of the agency's daily work."

The systemic enforcement program advances the agency's mission by prioritizing identification, investigation and litigation of pattern or practice, policy and/or class cases where the alleged discrimination has a broad impact on an industry, profession, company or geographic location. However, in this, as in every area of our work, we must consistently strive to make the best possible use of the resources entrusted to us, relentlessly search for ways in which we can improve performance, and be willing to make the changes necessary to increase the program's effectiveness. It was in that spirit that the Systemic Task Force, led by former Commissioner Leslie Silverman at the request of Chair Dominguez, engaged in its comprehensive assessment of the systemic enforcement program. As noted in the group's final report, "[t]he Task Force embarked on its work with the recognition that the Commission cannot effectively combat discrimination without a strong nationwide systemic program."

Building upon the first five years of implementation of the Systemic Task Force's recommendations, and drawing upon the lessons learned about effective systemic enforcement, the EEOC will be well positioned to improve upon and refine its systemic enforcement effort and ensure that the vision of the Systemic Task Force is finally achieved, that is for systemic enforcement to "be an intrinsic, ongoing part of the agency's daily work." We made significant progress towards achieving this standard with the addition of staff dedicated and specially trained to work on systemic investigations. These employees – including lead systemic investigators, social science researchers and paralegals – were hired and placed in EEOC offices across the country and in headquarters to concentrate on implementing the recommendations of

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the Systemic Task Force report. However, that progress has been eroded somewhat by the current hiring freeze, in place since January 2011, leaving a significant gap in staffing. The proposed budget will support restoration and addition of critical positions and continued improvements in the systemic enforcement program.

At the same time, we must maintain a presence in geographically isolated areas and other places where there are few or no other public or private resources dedicated to civil rights law enforcement. By continuing to investigate, conciliate and litigate smaller cases in these geographic areas, we ensure that no part of the country is outside the reach of the nation's civil rights laws. Additional resources will enable us to better serve the public and enforce the anti-discrimination laws more effectively in these remote locales.

Leadership in Civil Rights Enforcement

In the past year the EEOC has collaborated much more closely with enforcement partners in federal, state and local government. This will continue to be a hallmark of our work in the future. Collaboration is especially important now because it allows us to achieve savings by avoiding redundant enforcement efforts and leveraging the work of other federal agencies responsible for civil rights law enforcement.

Effective collaboration also minimizes burdens for the regulated community by preventing adoption of duplicative or conflicting compliance measures. Consistent with this priority, we will continue to collaborate with the Office of Federal Contract Compliance Programs of the Department of Labor (OFCCP) concerning collection of data from employers, and continue to work with OFCCP, the U.S. Department of Justice (DOJ), state and local Fair Employment Practice Agencies (FEPAs) and Tribal Employment Rights Organizations (TEROs) to develop and conduct joint outreach, public education, and staff training programs wherever possible.

The EEOC has also engaged with other federal government agencies and contributed to the work of intergovernmental efforts such as the National Equal Pay Enforcement Task Force, the Cabinet-level Reentry Council, the White House Initiative on Asian Americans and Pacific Islanders, the Presidential Inter-agency Taskforce on Human Trafficking, and the President's HIV/AIDS Strategy, among other collaborations. Finally, the EEOC's work in the federal sector includes advising and training a wide range of officials across the federal government in the fundamentals of EEO compliance as well as efforts they can undertake to advance diversity and promote inclusion in the federal workplace.

Extending the Reach of the Agency

Effective law enforcement begins with aggressive and creative efforts to inform the public about the requirements of the law, with the goal of raising awareness about prohibited conduct and promoting voluntary compliance to the greatest extent possible. Because outreach and public education are so critical to the success of our law enforcement efforts, I have asked two members of the Commission to help identify ways to improve our outreach and service to specific stakeholder communities. Commissioner Stuart Ishimaru is leading a nationwide effort to improve the EEOC's outreach and service to immigrant communities and enforcement of

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protections against national origin discrimination, and Commissioner Constance Barker has taken the lead in identifying ways to improve the EEOC's outreach to the small business community. They will undertake this work and make recommendations in fiscal year 2012, so I anticipate that implementation costs will be incurred in fiscal year 2013. The proposed budget will also allow the EEOC to expand its outreach to geographically remote communities and other stakeholders with limited access to the agency.

Finally, the proposed budget will continue to support funding for the Fair Employment Practice Agencies (FEPAs) and Tribal Employment Rights Organizations (TEROs) authorized to contract with us. Among other benefits, our relationships with FEPA and TERO offices expand our reach and help to improve service to people who live in parts of the country with limited access to EEOC offices. The proposed budget will allow us to raise the level of reimbursement for services rendered by FEPAs in fiscal year 2013, and thus provide for fair reimbursement within the framework of the total budget.

Reinvigorating the Regulatory and Policy Agenda

In fiscal year 2011 new regulations implementing the Genetic Information Nondiscrimination Act (GINA) and the Americans with Disabilities Act Amendments Act (ADAAA) took effect. In fiscal year 2011 and continuing in fiscal year 2012, funding for outreach and public education concerning these laws and implementing regulations has been prioritized. The Commission has also identified emerging employment issues (for example, leave as a reasonable accommodation for people with disabilities) and taken a fresh look at recurring discriminatory practices (for example, disparate treatment in hiring) to determine whether our outreach and enforcement strategies can be improved. In fiscal year 2013, I expect the Commission's policy agenda to continue to emphasize areas where new or updated guidance to employers and the stakeholder community will help to address and clarify emerging issues related to the application of the law or prevent future violations of the law. I also anticipate increased investment in production of materials designed to educate a broader cross-section of the public about the laws that the EEOC enforces.

In keeping with OMB directives, we have continued to conduct more extensive economic impact analyses concerning proposed regulations and completed a retrospective review of existing regulations to ensure that the agency is not enforcing outdated or unnecessary regulations. In addition, in fiscal year 2011 the Commission voted to expand opportunities for public comment on matters under consideration by the Commission by allowing members of the public to submit written comments for 15 days after public meetings. The proposed budget assumes continuation of these activities in fiscal year 2013.

Labor Management Relations

In fiscal year 2010, the EEOC reached an agreement with the National Council of EEOC Locals, No. 216 to implement Executive Order 13522 providing for Labor Management forums. In the past year, members of the National and District-level forums were appointed and have participated in training conducted by the Federal Mediation and Conciliation Service. The proposed budget includes support for continued operations of the forums in fiscal year 2013.

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Full implementation of Executive Order 13522 is an important part of our work to improve Labor-Management relations and facilitate collaboration between managers and employees concerning improved delivery of service to the public and agency performance. One of the sub-committees of the Labor-Management forum is developing proposals to reduce costs, and is currently working on a proposal to reduce office rent and associated overhead with increased use of telework and other space saving measures. The proposed budget includes funds for technological enhancements necessary to implement this proposal and promotes cost savings and increased employee satisfaction without compromising efficiency or the quality of service to the public.

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II. BUDGETING AND ACCOUNTING INFORMATION

A. Appropriation Language

U.S. Equal Employment Opportunity Commission

Salaries and Expenses

For necessary expenses of the Equal Employment Opportunity Commission as authorized by Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Equal Pay Act of 1963, the Americans with Disabilities Act of 1990, the Civil Rights Act of 1991, the Genetic Information Nondiscrimination Act (GINA) of 2008 (Public Law 110-233), the ADA Amendments Act of 2008 (Public Law 110-325), and the Lilly Ledbetter Fair Pay Act of 2009 (Public Law 111-2), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); non-monetary awards to private citizens; and [\$29,500,000] *up to \$29,500,000* for payments to State and local enforcement agencies for authorized services to the Commission, [\$360,000,000]*\$373,711,000*: Provided, That the Commission is authorized to make available for official reception and representation expenses not to exceed \$2,250 from available funds: *Provided further*, [That the Commission may take no action to implement any workforce repositioning, restructuring, or reorganization until such time as the Committees on Appropriations have been notified of such proposals, in accordance with the reprogramming requirements of section 505 of this Act: *Provided further*,] That the Chair is authorized to accept and use any gift or donation to carry out the work of the Commission. (*Commerce, Justice, Science, and Related Agencies Appropriations Act, 2012*).

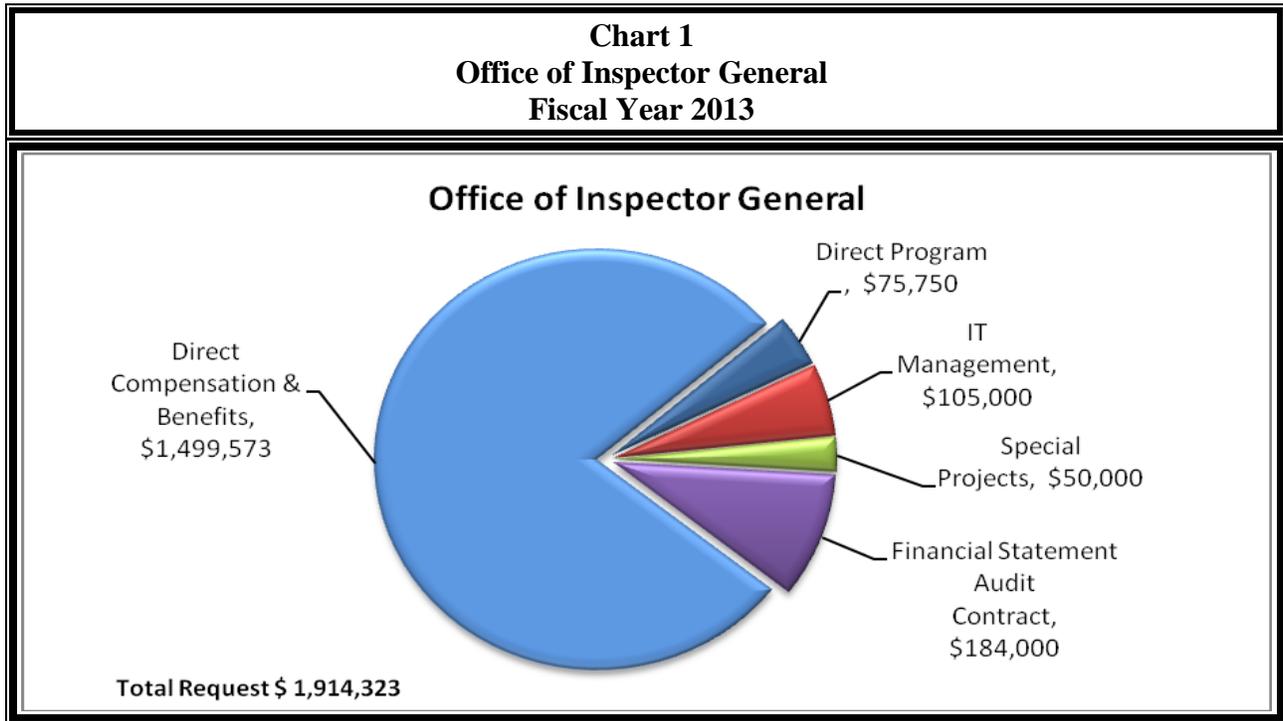
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B. Office of Inspector General Funding Information

The Equal Employment Opportunity Commission is covered by the Inspector General Act of 1978, as amended (U.S.C. App), and the table below provides the following information under the Inspector General Reform Act of 2008 (Pub. L. No. 110-409): an aggregate request for the Office of Inspector General; amounts required for OIG training; and amounts in support of the Council of the Inspectors General on Integrity and Efficiency (CIGIE).

Office of Inspector General Initial Request	\$1,914,323
Aggregate amount of funds	\$1,914,323 ¹
Portion of amount for training	\$24,000 ²
Amount needed to support CIGIE	\$4,594 ³

The purpose of Chart 1 below is to show the Inspector General’s Funding Request by Operating Plan line items.



¹ This is the total aggregate request for the Office of Inspector General.

² The Inspector General certifies that this amount would satisfy all OIG training requirements for fiscal year 2013.

³ .24% of \$1,914,323 or \$4,594 will support the Council of Inspectors General on Integrity and Efficiency (CIGIE).

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C. Analysis of Change

The Analysis of Change, Table 1, below indicates the material changes to the EEOC's appropriation request for fiscal year 2012 to fiscal year 2013. The significant changes reflect mandated increases in compensation, funding to maintain our fiscal year 2012 FTE level, increases for rent and security, office relocations and IT return to level funding.

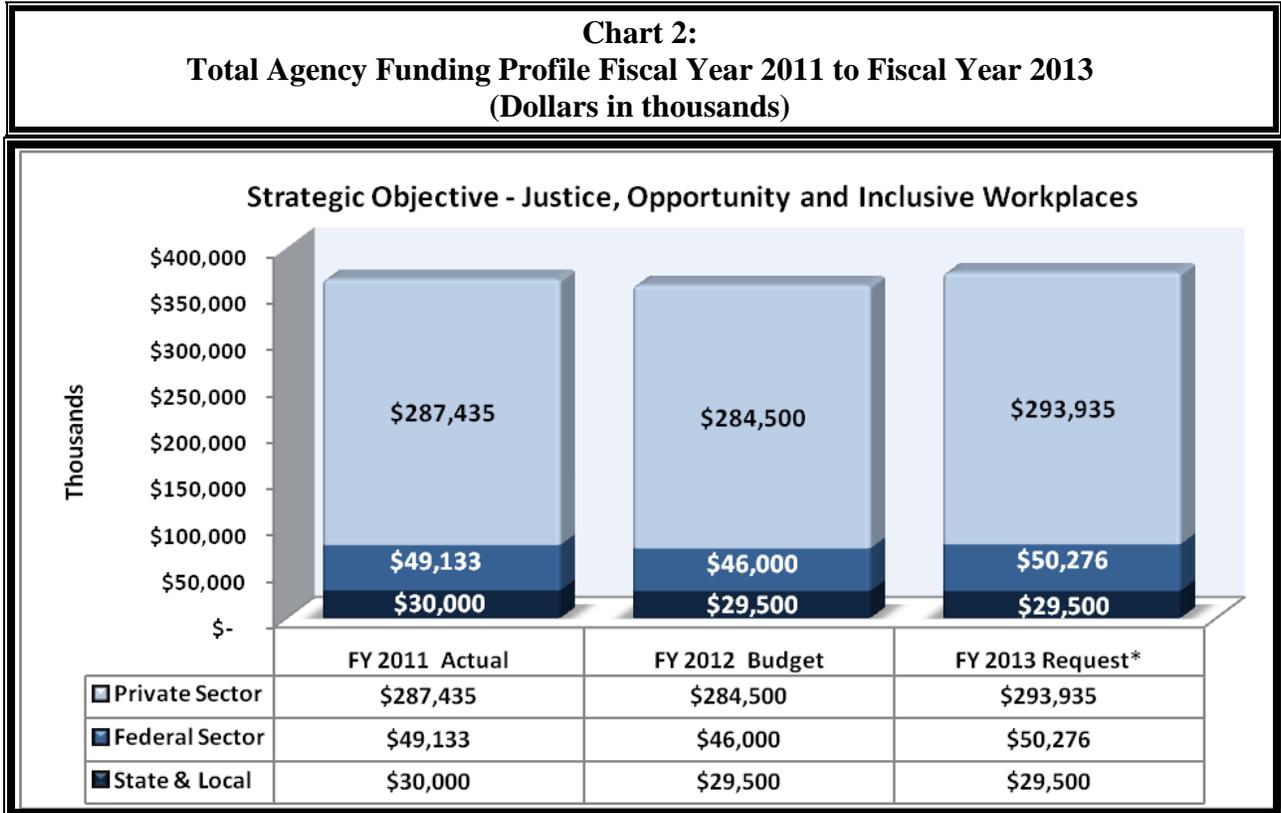
Table 1: Analysis of Change Fiscal Year 2013 (Dollars in thousands*)		
	FTE	Amount
Fiscal Year 2012 – Includes \$29.5 million for State and Local and Reimbursable 14 FTE from Revolving Fund	2,354	\$360,000
Compensation and Benefits		
1. FY 2013 Pay Raise – Provides 0.5% pay raise, effective January 2013		1,009
2. Hires – Funding provided to hire investigators (46 FTE), mediators (2 FTE), office automation assistants (OAA) (13 FTE), attorneys (4 FTE), and support staff (20 FTE) to reduce agency private sector charges inventory and promote enforcement of systemic discrimination cases.	85	5,062
3. Promotions and with-in-grade increases		8,000
4. Estimated Separation savings	(85)	(8,000)
Program Support Increases – Funding increase for non-pay program and operating expenses		
1. Rent and DHS Security		2,544
2. Office Relocations (Includes moves directed by GSA) - 13 offices targeted for relocation or expansion which totals about 250,000 square feet		2,331
3. IT –Return to Base IT Funding Level and use savings achieved in FY 2011 to initiate a Transformation in Customer Service Delivery.		2,000
4. EEOC other programs cost (Field Office Support, Systemic Litigation, OPM certification, Flexible Spending, Inventory Reduction, Publication, Contract AJs and Resolve.)		765
FY 2013 Request – Includes reimbursable FTE from Revolving Fund	2,354	\$373,711
Total Net Change FY 2012 – FY 2013	0	\$13,711

*May not add due to rounding.

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D. Staffing and Funding Profile

The purpose of Chart 2 below is to depict the EEOC’s total agency funding profile by Program for fiscal years 2011 through 2013. Nine percent of the Private Sector Program is for State and Local activities for authorized payment to Fair Employment Practices Agencies (FEPAs) and Tribal Employment Rights Organizations (TEROs) for services.



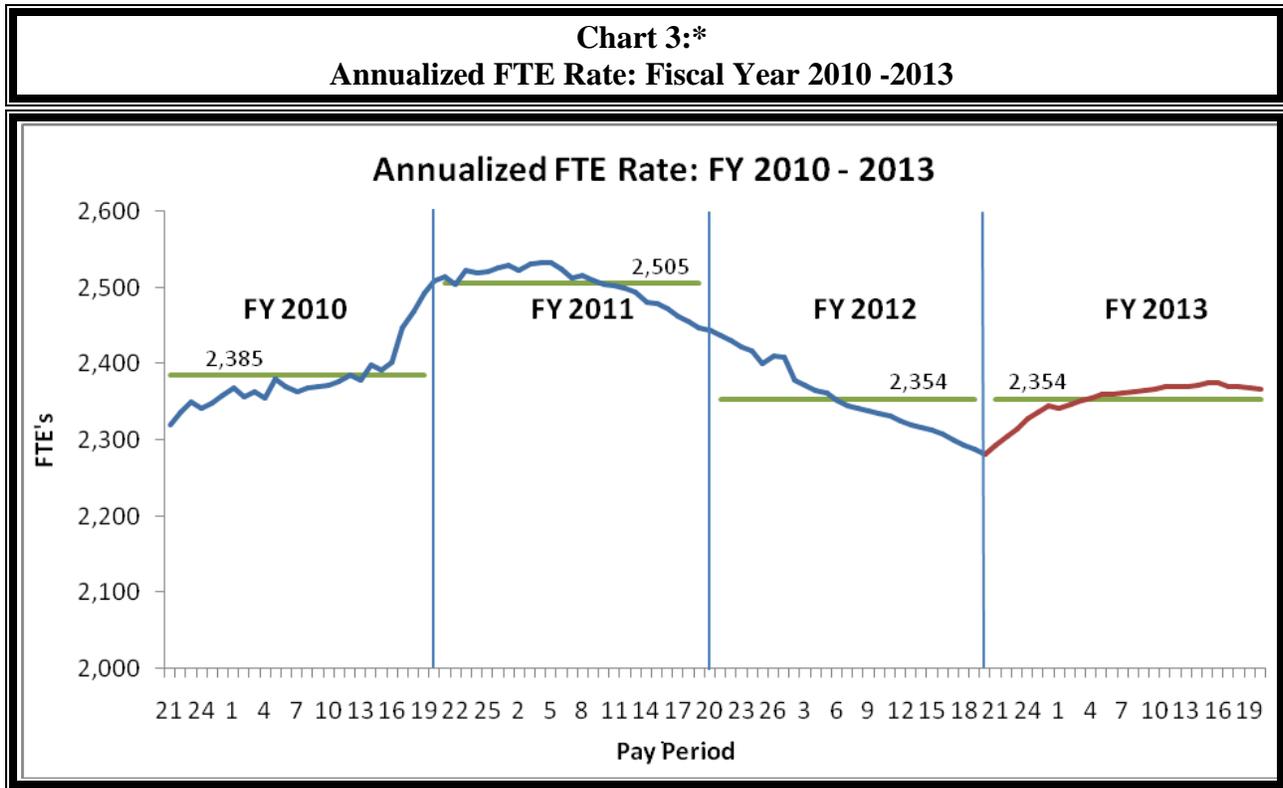
*May not add due to rounding

Agency Total	\$366,568 ⁴	\$360,000	\$373,711
FTE	2,505	2,354	2,354

⁴ Includes fiscal year 2011 rescission of \$734,606 (PL-112-10)

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The purpose of Chart 3 below is to show the historical changes in the EEOC's FTE since 2010. The requested fiscal year 2013 budget will keep the EEOC at an estimated 2,354 FTE.



*Note that the increased FTE in fiscal year 2011 reflects the full year of hires made during the last quarter of fiscal year 2010 and early in the first quarter of fiscal year 2011. In January 2011, the Commission implemented a hiring freeze, which remains in effect at the time of this submission resulting in the net loss in fiscal year 2012 reflected in the chart above.

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E. Program Element

The purpose of Table 2 below is to outline our budget activities under our Strategic Objective (*Justice, Opportunity and Inclusive Workplaces*) for the agency's enforcement and outreach programs for fiscal years 2011 through 2013. Our performance measures, the agency's activities, and the requested budget are described in more detail in subsequent sections.

Table 2: Fiscal Year 2013 Budget Request by Program Element Fiscal Year 2011 to Fiscal Year 2013 (Dollars in thousands*)			
	FY 2011 (Actual)	FY 2012 (Estimate)	FY 2013 (Request)
Private Sector Enforcement	\$309,435	\$306,000	\$315,435
Administrative Charge Resolution	182,179	180,265	186,417
Mediation	25,195	24,931	25,781
Litigation	72,061	71,304	73,737
State and Local	30,000	29,500	29,500
Federal Sector Enforcement	49,133	46,000	50,276
Hearings	27,803	26,030	28,450
Appeals	14,663	13,729	15,004
Mediation	885	828	905
Oversight	5,782	5,413	5,917
Outreach (Non-fee based)	8,000	8,000	8,000
Total	\$366,568⁵	\$360,000	\$373,711

*May not add due to rounding

⁵ Includes fiscal year 2011 rescission of \$734,606 (PL-112-10)

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F. Object Class

The purpose of Table 3 below is to show the changes in EEOC's object class funding over three fiscal years.

Table 3			
Object Class Schedule – Agency Summary Requirements by Object Class			
Fiscal Year 2011 to Fiscal Year 2013			
(Dollars in thousands*)			
OBLIGATIONS BY OBJECT CLASS	FY 2011 (Actual)	FY 2012 (Estimate)	FY 2013 (Request)
Personnel Compensation			
11.1 Full-time permanent (FTP)	\$205,840	\$196,371	\$201,299
11.3 Other than FTP	2,060	2,200	3,000
11.5 Other personnel compensation	3,130	2,100	2,100
Total Personnel Compensation	211,030	200,671	206,399
12.1 Civilian personnel benefits	59,646	59,477	59,800
13.1 Benefits to former personnel	168	180	200
Total Compensation and Benefits	270,844	260,328	266,399
21.1 Travel of persons	3,840	4,225	4,275
22.0 Transportation of things	22	25	25
23.1 Rental payment to GSA	27,747	28,860	31,169
23.2 Other rent/communications	6,207	6,200	6,300
24.0 Printing and reproduction	541	500	500
25.0 Other Services	17,168	19,726	24,573
25.0 Litigation Support	3,110	3,200	3,300
25.0 State and Local	29,500	29,500	29,500
25.0 Security Services (from DHS)	2,894	2,936	3,170
26.0 Supplies and materials	3,536	3,500	3,500
31.0 Equipment	1,159	1,000	1,000
Total Other Objects	95,724	99,672	107,312
Agency Total	\$366,568⁶	\$360,000	\$373,711

*May not add due to rounding

⁶ Includes fiscal year 2011 rescission of \$734,606 (PL-112-10)

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III. PRIVATE SECTOR PROGRAMS

A. Private Sector Enforcement Programs

Charge Receipt and Inventory

In fiscal year 2011, through our strong enforcement activity, we achieved 112,499 resolutions, our highest level ever, with a merit factor resolution rate of 18 percent. (Merit factor resolutions include mediation and other settlements and cause findings, which, if not successfully conciliated, are considered for litigation.) Our focus on achieving changes to workplace practices, procedures and policies through our private sector administrative enforcement activities yielded improved workplaces for more than 4.3 million individuals. The EEOC also secured more than \$364.6 million in monetary benefits through its private sector administrative enforcement activities—the highest level of monetary relief obtained through administrative enforcement in the Commission’s history. Overall, the EEOC secured both monetary and non-monetary benefits for more than 19,572 people through administrative charge resolution.

A Decrease in Frontline Staff and Increased Receipts Contributed to Growth in Inventory

While the agency has achieved some significant successes as outlined above, these successes are better understood in light of the challenges confronting the agency earlier over the past 10 years. The EEOC’s charge inventory has been growing since fiscal year 2002. Compared with the inventory in fiscal year 2002, when it was at its lowest point in the last 15 years, the inventory in fiscal year 2009 had almost tripled – adding 56,727 charges. Additionally, in the third quarter of fiscal year 2010, the pending inventory reached 92,561, the highest level since fiscal year 1995. The growth in inventory resulted from two primary causes: a nearly 30 percent frontline staff attrition between fiscal year 2000 and fiscal year 2008 and a substantial increase in charge receipts. Recent increases in the agency’s budget in fiscal years 2009 and 2010 have allowed us to make strides in managing the inventory which we continued to see through fiscal year 2011. We remain committed to improving our internal processes and enhancing our productivity to make significant progress in managing the inventory. The hires we have identified in our fiscal year 2013 budget along with the ability to replace some of the front-line staff as positions become available due to attrition will help shore up the staffing levels of our key front-line staff.

The most significant factor in successfully managing the inventory has been the ability to hire front-line staff to perform critical enforcement activities. After nearly 10 years of losing investigators and mediators, we were able to hire 164 investigators and mediators in fiscal year 2009 and fiscal year 2010. This hiring created a corresponding surge in charge resolutions, from 81,081 at the end of fiscal year 2008, to 104,999 in fiscal year 2010 and a record level of 112,499 in fiscal year 2011. Because of this success, we were able to reduce the inventory at the end of fiscal year 2011 by nearly 10 percent – with 78,136 charges pending. This is the first significant decline in our inventory level in 10 years.

We recognize that the EEOC must continue to maintain frontline capacity. That is why this fiscal year 2013 budget justification requests 46 FTE for investigator positions as well as replacing 38 FTE positions that vacated during the year to maintain our staffing levels and better match our workload. This hiring will allow EEOC to stay ahead of the inventory growth

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while also utilizing other ways to address the inventory and increase productivity to make the best of a difficult fiscal environment.

As an agency, we have seen charge receipts produce record levels in both fiscal year 2010 and fiscal year 2011, with more than 99,900 received each year. We believe that these increases have been due in large part to our efforts to become more accessible to the public, making charge filing easier and providing better, more responsive, customer service. The increases are also attributable to expanded statutory authorities enacted in fiscal year 2008 and fiscal year 2009, along with newly issued regulations in fiscal year 2011. We recognize that many other factors may influence charge receipts, which has an effect on the number of charges filed by the public.

Through our Intake Information Group, the EEOC expanded the agency's public accessibility by phone and e-mail. Additionally, in the last five years, the EEOC has concentrated on revamping its charge intake services, expanding walk-in hours, and issuing a plain language brochure to assist potential charging parties in understanding their rights and the EEOC's intake, investigation and resolution of charges. Individuals may now contact the agency by phone, by mail, by e-mail, by going to the EEOC website, or by visiting EEOC field offices. As outlined in our budget request, we are continuing to explore additional avenues to ensure that our access to the public utilizes evolving technologies and other streamlined approaches to enhance customer service.

We have also maintained a focus on providing our staff with on-going training and sharing of case management techniques that prepare them to investigate and resolve the charges that come through our doors. This has included the launch of a nationwide training program on Compensation Discrimination, which has been developed in partnership with the U.S. Department of Justice and U.S. Department of Labor (OFCCP and Wage and Hour Division) to promote more effective enforcement of the Equal Pay Act, the Lily Ledbetter Fair Pay Act and Title VII. Through December 2011, we trained more than 1,300 staff from EEOC, OFCCP, Wage and Hour Division and our FEPA partners at 65 training sessions held nationwide. It is our hope that with additional resources provided pursuant to the fiscal year 2013 request, we will be able to continue to provide staff with on-going training to ensure that they are prepared to effectively meet the public demand for our services.

Expanding upon the recommendations from the Evaluation of the Priority Charge Handling Procedures (PCHP) prepared by the Federal Consulting Group at the Department of Interior's National Business Center in 2010, we will continue to emphasize PCHP through intensified training, consultation with managers and staff throughout the agency to identify charge investigation and resolution best practices, and to ensure that charges are dealt with fairly and efficiently. This includes the need to leverage increased use of technology to improve the efficiency of private sector charge resolutions.

As demonstrated above, the EEOC has made significant progress toward rebuilding the capacity needed to effectively enforce Federal employment discrimination laws through the strategic management of existing resources. Yet further investments in staff, training and technology are necessary to process record levels of charge receipts.

Budget Request Details and Impact

The EEOC is requesting 46 FTE for investigator hires in order to maintain the current FTE level including the replacement of 38 FTE of our front-line positions that are vacated during the fiscal year. Although our ability to hire additional frontline staff began in fiscal year 2009 and continued in fiscal year 2010, our enacted appropriation resulted in the loss of investigator and mediator positions during the year. This decline, which has continued in fiscal year 2012 under our current appropriation, makes our fiscal year 2013 budget request even more critical to ensure that we remain able to continue our successes in inventory reduction and in rebuilding staff capacity.

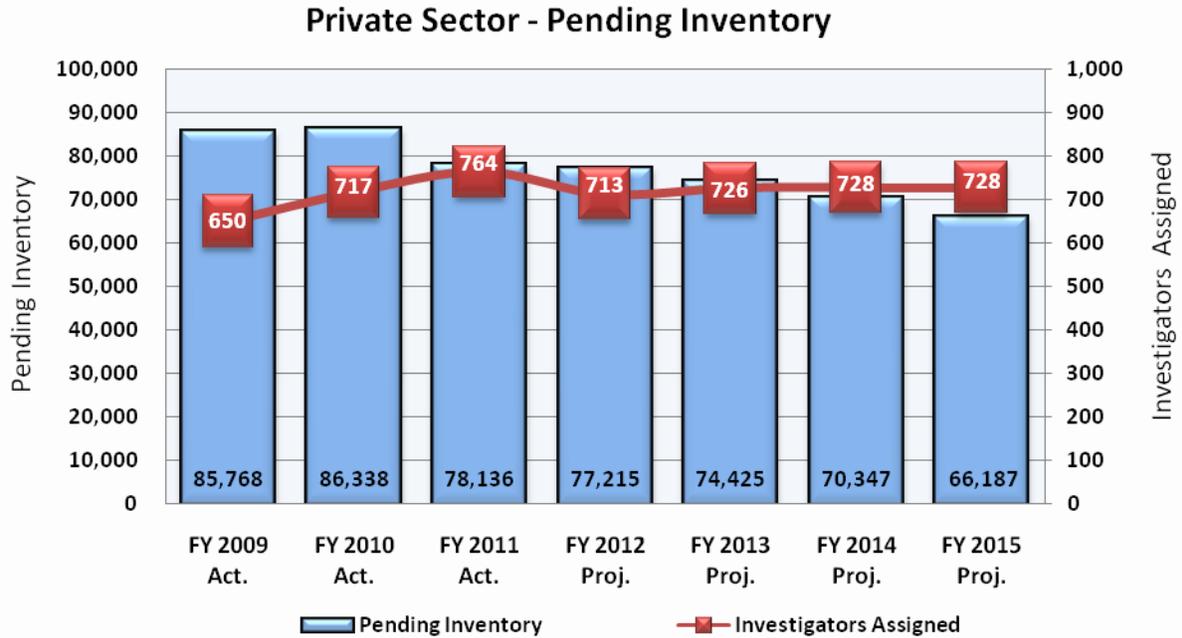
Our projections show that with the additional 46 FTE for investigators and the replacement of a large percentage of vacated investigator positions, we will be able to produce a steady decline in the pending inventory. Our charge data projections also show that in fiscal year 2012, our investigators will carry an average caseload of 119 and with the additional investigator resources; we will be able to reduce this to 114 cases per investigator in fiscal year 2013. This caseload is still at a level that will lead to an average resolution time exceeding the 180 day target– affecting all parties to the investigation. The EEOC will continue to examine process improvements which, in combination with the resources requested, will allow the agency to reduce its inventory and reduce the average time it takes to investigate and resolve charges.

Hiring Other Critical Staff

While hiring frontline investigators is crucial to bringing the inventory down to an acceptable level, there are other critical positions in the EEOC’s field offices that should be maintained along with investigators: mediators, investigative support assistants, and office automation assistants. These are also included in the staffing projections in this fiscal year 2013 budget request.

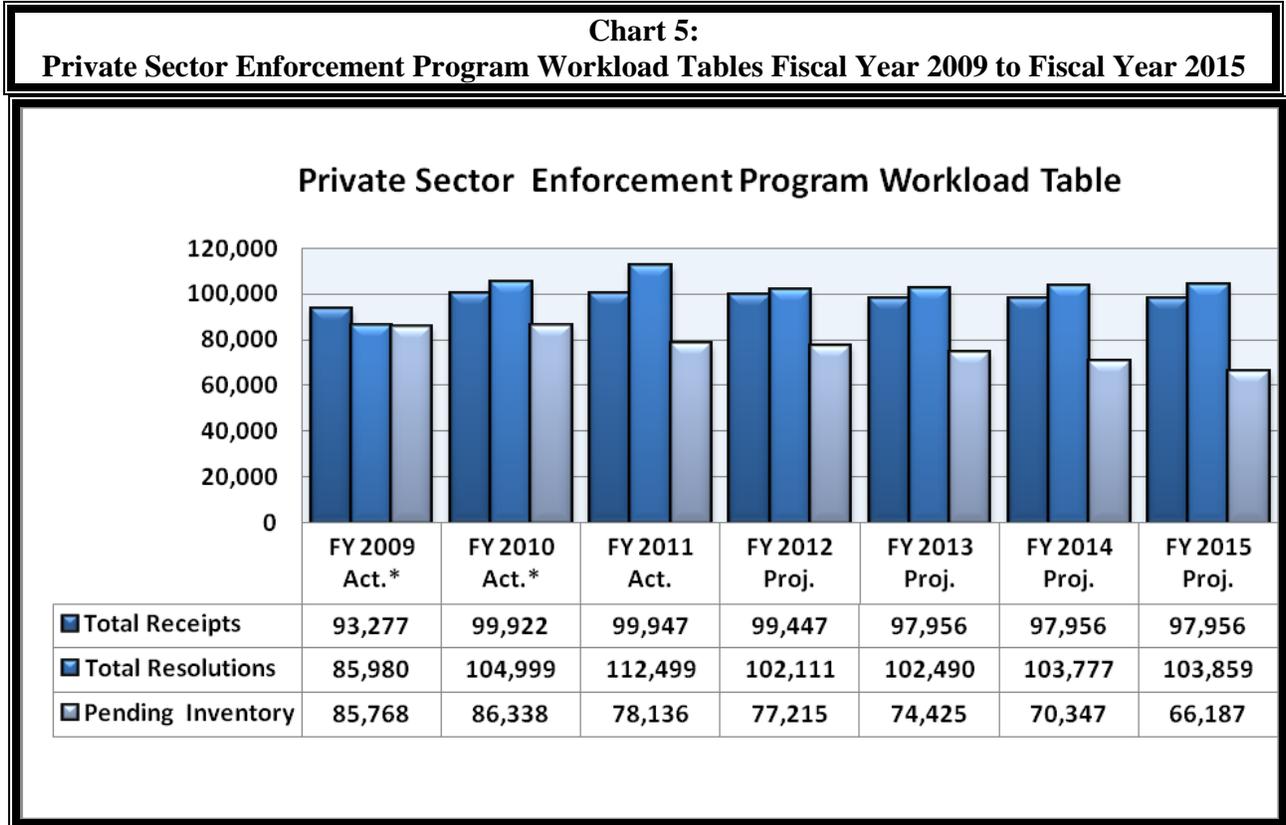
The purpose of Chart 4 below is to show the number of investigators assigned to charge investigation and resolution and how the number of investigators assigned impacts the pending inventory.

**Chart 4:
Private Sector Charges Pending
at Year End for Fiscal Year 2009 to Fiscal Year 2015**



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The purpose of Chart 5 below is to depict the Workload for Private Sector Enforcement actual fiscal years 2009 through 2011 and projected through fiscal year 2015. As Chart 5 demonstrates, the pending inventory declines only slightly in fiscal year 2012 due to the continuing hiring freeze and declines more substantially in fiscal years 2013 through 2015.



* Pending beginning inventory adjusted to reflect charge activity spanning fiscal years.

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The purpose of Table 4 is to show the private sector charges received by Statute for fiscal year 2009 – fiscal year 2011 (actual) and estimated through fiscal year 2015. As can be seen by Table 4 the largest portion of the charges is derived from those with allegations covered by Title VII.

**Table 4:
Charges Filed by Statute Fiscal Year 2009 to Fiscal Year 2015**

	FY 2009 (Act.)	FY 2010 (Act.)	FY 2011 (Act.)	FY 2012 (Proj.)	FY 2013 (Proj.)	FY 2014 (Proj.)	FY 2015 (Proj.)
Title VII Only							
Charges filed	52,797	55,814	56,220	55,939	55,939	55,100	55,100
Charges resolved	49,898	60,069	64,449	58,498	58,715	59,453	59,500
Title VII With Concurrents							
Charges filed	68,710	73,058	73,351	72,984	72,984	71,890	71,890
Charges resolved	64,304	77,644	82,378	74,771	75,049	75,991	76,051
Age Discrimination in Employment Act Only							
Charges filed	9,401	9,420	9,795	9,746	9,746	9,600	9,600
Charges resolved	8,593	10,353	13,310	12,081	12,126	12,278	12,288
Age Discrimination in Employment Act w/Concurrents							
Charges filed	22,778	23,264	23,907	23,788	23,788	23,431	23,431
Charges resolved	20,529	24,800	28,287	25,675	25,770	26,094	26,114
Equal Pay Act Only							
Charges filed	42	52	50	50	50	49	49
Charges resolved	48	47	53	48	48	49	49
Equal Pay Act with Concurrents							
Charges filed	942	1,044	1,029	1,024	1,024	1,009	1,009
Charges resolved	991	1,083	1,223	1,110	1,114	1,128	1,129
Americans with Disabilities Act Only							
Charges filed	12,384	14,691	13,873	13,803	13,803	13,596	13,596
Charges resolved	10,812	13,945	13,895	12,612	12,659	12,818	12,828
Americans with Disabilities Act w/Concurrents							
Charges filed	21,451	25,165	23,857	23,738	23,738	23,382	23,382
Charges resolved	18,776	24,401	23,873	21,668	21,749	22,022	22,039
Genetic Information Nondiscrimination Act Only							
Charges filed		13	18	25	25	25	25
Charges resolved		3	5	7	7	7	7
Genetic Information Nondiscrimination Act w/Concurrents							
Charges filed		201	250	350	350	350	350
Charges resolved		56	73	102	102	102	102
Total*							
Charges filed	93,277	99,922	99,947	99,447	97,956	97,956	97,956
Charges resolved	85,980	104,999	112,499	102,111	102,490	103,777	103,859

*Totals for all charges do not equal the sum of all statutes because many charge filings allege issues/bases under more than one statute.

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Mediation Program

A key component of the Commission's enforcement strategy is the continued emphasis on the use of Alternate Dispute Resolution (ADR) as an effective tool to resolve appropriate charges of discrimination. We continue to pursue efforts to secure greater participation by employers, through the use of our Universal Agreements to Mediate (UAM), informational materials and outreach events that highlight the benefits of mediation for employers.

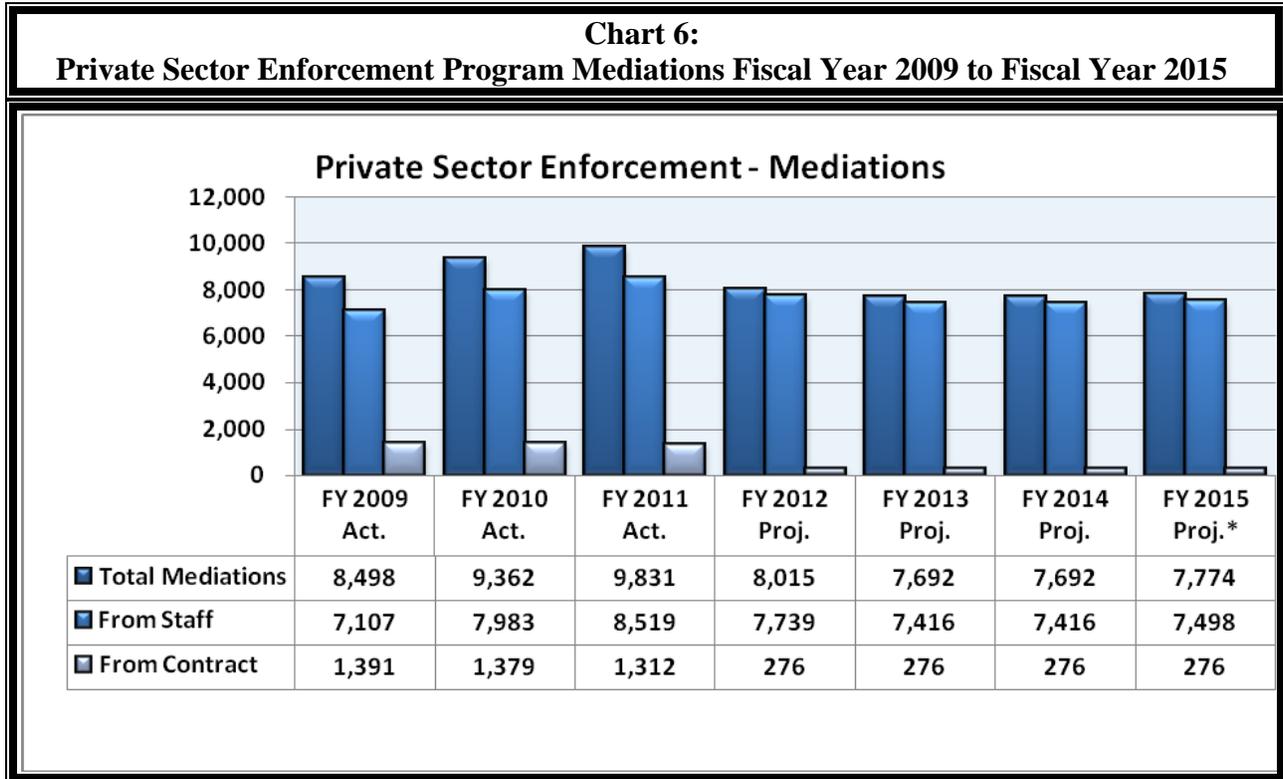
The mediation program continues to enhance the Commission's efforts in providing the timely resolution of discrimination charges. In fiscal year 2011, the program resolved a record 9,831 employment disputes in an average time of 100 days and obtained over \$170 million in benefits. The Commission projects a loss of staff mediators due to attrition during fiscal year 2012 and this pace slows into fiscal year 2013 with the hiring of seven new mediators as well as the replacing of some of the positions that become vacant during the year. The EEOC is requesting that contract mediation funds remain steady at \$350,000; level with the fiscal year 2012 amount. This mediation funding is below the level in fiscal year 2011, but will be used to offset some projected mediation productivity loss from reduced staffing and will assist EEOC in continuing its efforts in offering a fair, efficient and timely alternative to the traditional investigative process.

Additionally, the program continues to receive positive feedback from participants. Based on the responses to a survey of participants in our mediation program, Charging Parties (employees, job applicants, and retirees) and Respondents continue to express their confidence in the level of service provided under this process. In fiscal year 2011, 96.9 percent of all participants indicated that they would utilize the mediation process in a future charge filed with EEOC. This is a direct measure of the public's confidence in our mediation program. Furthermore, successes in our mediation program result in fewer charges that remain in our inventory for investigation, thus alleviating the growth of the overall charge inventory.

Through our outreach to employer representatives and other related stakeholders, we will continue to emphasize and highlight the value of alternative dispute resolution in appropriate charges of discrimination filed with the Commission. We believe the success of the mediation program helps build a persuasive case to convince employers to participate in our mediation program. By the conclusion of 2011, the agency secured 238 National UAMs and had more than 1,760 Regional and Local UAMs, totaling over 1,998 agreements to mediate.

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The purpose of Chart 6 below is to depict the division of mediations between staff and contractors. As can be seen in Chart 6 staff are responsible for a material portion of the mediations.



*May not add due to rounding

Customer Service

As discussed in the Private Sector Enforcement section above, we have dedicated significant attention to enhancing the services provided by the Information Intake Group (IIG). The IIG consists of in-house staff that serves as the first line of contact for many members of the public and is accessible via toll-free phone lines, e-mail and facsimiles. The IIG receives approximately 50,000 calls per month. An average of 40 percent of callers utilized the Interactive Voice Response system and needed no further assistance. Centralizing this first point of access to the public through the IIG has a significant impact on our field offices. By having calls directed to this single entity, our field offices are freed from handling these calls, many of which are seeking general information about their rights, office locations and phone numbers and other types of information more efficiently provided through this centralized service. Our 49 Information Intake Representatives (IIRs), co-located in 15 of our field office sites, handle more than 25,000 calls each month from individuals wanting more information or who wish to discuss their situation with an IIR. We continue to strive for greater efficiency in our handling of these calls and in fiscal year 2011 approximately 70 percent of calls answered by the IIRs were fully resolved by the IIR without being referred to other staff in EEOC field offices.

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B. State and Local

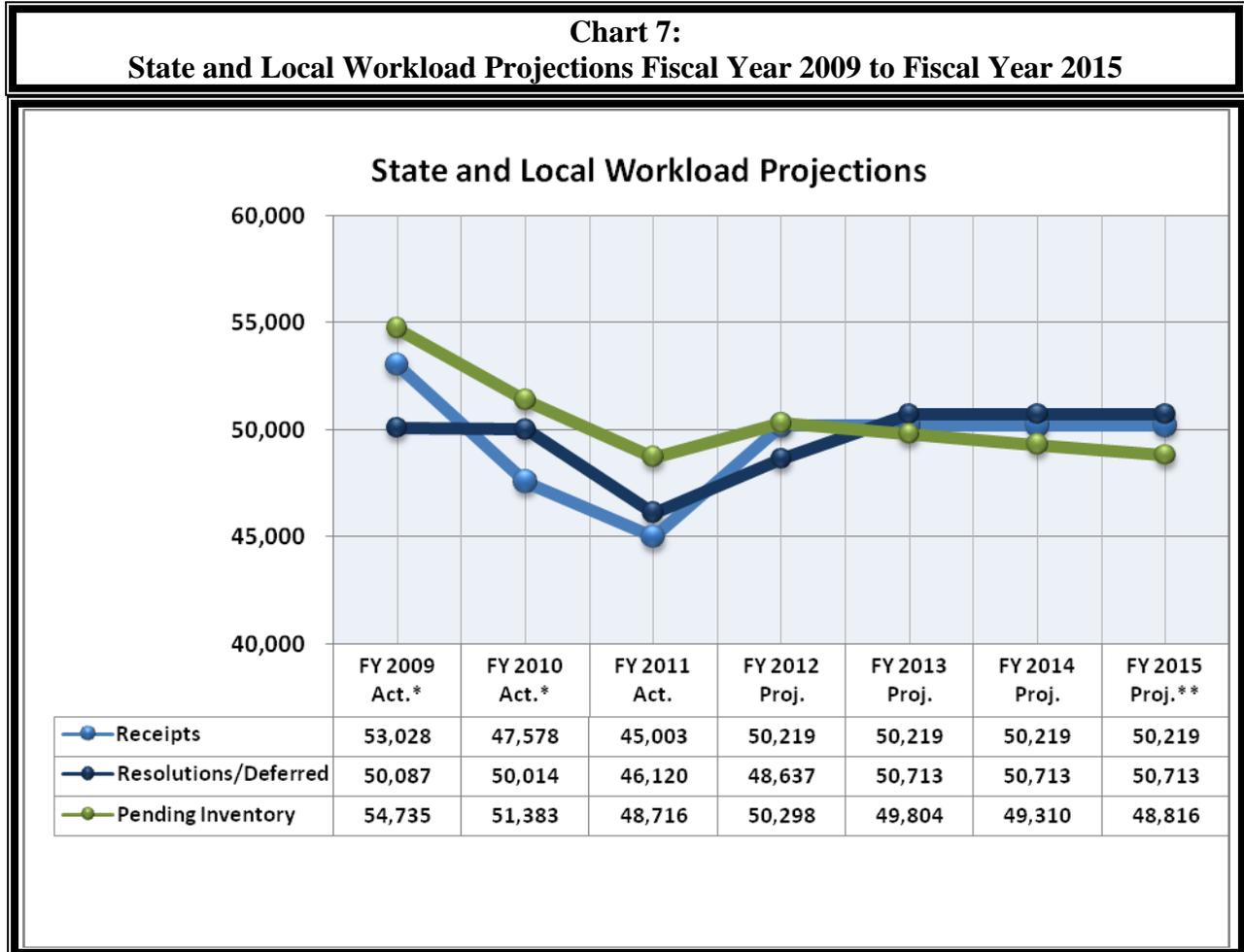
The President's request for fiscal year 2013 is based on level funding for State and Local activities totaling \$29,500,000. The fiscal year 2013 request will continue to fund our relationship with the Fair Employment Practices Agencies (FEPAs) and Tribal Employment Rights Organizations (TEROs). Both groups play a major role in the EEOC's goal of achieving justice, opportunity and inclusive workplaces. The FEPAs help the EEOC to resolve charges of employment discrimination and to prevent duplication of effort, resulting in a more efficient use of resources for both the EEOC and the FEPAs. They also participate in the development and presentation of outreach and education events, frequently joining with EEOC field staff, to explain the provisions of Federal, state and local laws regarding employment discrimination to various groups and other members of the public.

During fiscal year 2011, we continued efforts launched in fiscal year 2009, to reassess our relationship with the FEPAs and TEROs and to identify areas where we can achieve efficiencies for all parties involved in this relationship. Our primary focus continues to be on information sharing, training and enhanced communication between the EEOC and its FEPA and TERO partners. In fiscal year 2011, we increased the per charge reimbursement rate from \$550 to \$600, with the \$30 million provided for State and Local activities as part of the agency's overall appropriation. During fiscal year 2012, EEOC is working to improve the technology used to communicate and interact with the FEPAs and TEROs. We are also developing a strategic goal that links the FEPAs accomplishments to EEOC's new strategic plan covering fiscal year 2013 through 2016.

In fiscal year 2013, we will continue our effort to develop and implement a program to provide training for FEPA staff on a rotating basis. Every year, the goal is to train staff at approximately a third of the 95 FEPAs that currently work with the EEOC. We plan to structure the training in a manner that enables us to provide both basic and advanced training on an on-going basis. As staff members leave the FEPAs and replacements are hired, training becomes an important tool in ensuring that FEPAs have the skills necessary to address the enforcement demand of their workloads. In addition to this structured training, EEOC field offices also invite FEPAs in their jurisdiction to participate in training offered to the EEOC staff, such as the Compensation Discrimination Training launched in August 2011. During fiscal year 2011, the EEOC utilized an on-line government social networking mechanism in an attempt to facilitate communications between the FEPAs and EEOC, and throughout the year continued to explore alternative mechanisms that would even more effectively enhance communication. This will remain a focal point in fiscal years 2012 and 2013 as we continue to identify opportunities to link technology advances with improved interactions with our partners.

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The purpose of Chart 7 below is to depict the actual State and Local receipts, total resolutions and pending inventory for fiscal years 2009 - 2011, and projections for fiscal years 2012 - 2015.



* Pending beginning inventory adjusted to reflect charge activity spanning fiscal years.

**May not add due to rounding

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Systemic Program

The Commission places a high priority on cases involving systemic discrimination which impact large numbers of employees and job seekers. Systemic investigations address employer practices that affect hundreds and often thousands of individuals. Therefore, directing EEOC's resources toward systemic investigations maximizes EEOC's efficiency.

The purpose of Table 5 below is to show Systemic Resolutions, Systemic Cause Findings, Systemic Litigation Filed and Pending Systemic Inventory for fiscal years 2009 through 2011.

Table 5: Systemic Program Fiscal Year 2009 to Fiscal Year 2011			
	FY 2009	FY 2010	FY 2011
Systemic Resolutions	140 Investigations	165 Investigations	167 Investigations
Systemic Cause Findings	74 Investigations	71 Investigations	96 Investigations
Systemic Litigation Filed	19	20	23
Pending Systemic Inventory	431 Investigations	465 Investigations	580 Investigations

EEOC hired nine Lead Systemic Investigators and nine Social Science Research Analysts, all located in EEOC field offices, to support EEOC's systemic work. These individuals are tasked with working on systemic work exclusively and have formed a key foundation for EEOC's systemic work.

Because systemic discrimination often involves employment practices that occur across various regions or are national in scope, EEOC promotes multi-district collaboration when conducting systemic investigations to prevent multiple parallel investigations of the same employer, promoting efficiencies. The Lead Systemic Investigators and Social Science Research Analysts are assigned to systemic investigations in various EEOC field offices, notwithstanding their particular duty station. EEOC continues to develop technological tools to support systemic work that facilitates this national law enforcement model.

EEOC has also built partnerships with other federal agencies to strengthen our systemic efforts. For example, we launched a pilot project of four EEOC district offices and the Department of Justice (DOJ) to establish effective interagency procedures needed for enforcement of Title VII in the public sector, which by statute requires DOJ to conduct litigation following an EEOC investigation. EEOC has also forged a strong partnership with the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP). By sharing information about investigative efforts, the agencies have been able to more effectively coordinate their respective investigations of broad-based employment practices.

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C. Litigation

Litigation

The National Enforcement Plan, adopted in 1995 by a unanimous vote of the Commission, recognized “that an effective litigation program is critical to the furtherance of the Commission’s enforcement agenda by enjoining current violations, deterring future violations, and providing remedies to victims of employment discrimination.” Congress authorized the EEOC to conduct litigation challenging discriminatory conduct by private sector employers in the 1972 amendments to Title VII (the U.S. Department of Justice retains jurisdiction to litigate employment discrimination cases involving state or local government entities). Most charges of discrimination filed with the Commission are resolved through administrative enforcement processes, including mediation and conciliation. However, when conciliation of a meritorious discrimination charge fails, the Office of General Counsel elects to challenge the discriminatory practice(s) in federal court in a limited number of cases each year.

The National Enforcement Plan recognized that while outreach and education to prevent discrimination and the promotion of alternate dispute resolution are important components of the EEOC’s enforcement effort, in appropriate cases, litigation is the most effective means of challenging and remedying employment discrimination. Maintaining a visible and successful litigation program provides employers with an incentive to comply voluntarily with the law and to resolve charges of discrimination during the Commission’s administrative enforcement process, and serves as a deterrent to other employers who may otherwise act in disregard of the civil rights laws. The Commission’s litigation program must harness its limited resources to address issues of importance to individual parties, and which also serve the public interest more broadly. Finally, as a law enforcement agency of the federal government, the EEOC must use all of its resources judiciously, with awareness of the power entrusted to it and in accordance with the highest standards of ethics, professionalism and fairness.

The requested appropriation will enable the Commission to maintain a diverse and balanced litigation docket, covering all statutes we enforce and addressing the full spectrum of workplace issues. In particular, the Commission will continue to place a high priority on bringing suits challenging systemic discrimination. Recognizing its resource limitations, the Commission has long emphasized that the litigation program should focus on issues which have the potential to impact multiple workplaces or large groups of employees, address emerging or novel issues where the agency’s expertise may be especially critical to achieving a successful outcome, and encompass individual cases where broader law enforcement goals can be advanced with the successful resolution of the case. In addition, the EEOC strives to ensure that its litigation program reaches communities, population groups and geographic locations where private enforcement of anti-discrimination laws is rare; absent litigation by the EEOC, victims of discrimination in these areas would have minimal access to the legal system to protect their rights.

In all our litigation, the Commission seeks to secure substantial injunctive and equitable relief as well as appropriate monetary relief for all aggrieved individuals. In the past three fiscal years, the Commission has recovered \$256,780,068 in damages and backpay for 18,954 victims of discrimination. Over this period, the Commission has maintained a success rate of 90 percent or higher.

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The Commission also places a priority on enforcing new statutory responsibilities. Since the effective date of the ADAAA in early 2009, the Commission has closely monitored the progress of charges alleging violations of the ADA. The Commission filed 12 suits arising under the ADAAA in fiscal year 2010, and filed 59 such cases in fiscal year 2011. We anticipate that the Commission will play an important role in enforcing this statute in fiscal year 2013, just as it did in litigating some of the earliest ADA cases. The Commission also places a high priority on ensuring that Commission attorneys and investigators work together as a team, often before litigation is ever contemplated. Commission attorneys spend a significant portion of their time providing assistance with the development of investigation plans, interviewing witnesses, analyzing evidence and negotiating charge resolutions.

The Commission's appellate litigation program plays an important role in the overall enforcement scheme. We are highly successful in retaining favorable district court judgments appealed to the courts of appeal, as well as in obtaining reversals of unfavorable district court judgments. In addition, our amicus curiae program is a powerful tool in influencing courts to accept the Commission's interpretations of the law. This past term, the Supreme Court issued three decisions adopting the views expressed in amicus briefs filed by the Solicitor General, which were joined in by the Commission. In Thompson v. North Am. Stainless, L.P., 131 S. Ct. 863 (2011), the Court agreed with the Commission's view that Title VII provides a retaliation cause of action to anyone with an interest arguably sought to be protected by the statute, which includes an employee who was discharged as a means of retaliating against his fiancée. In Staub v. Proctor Hosp., 131 S. Ct. 1186 (2011), the Court agreed with our view that the discriminatory animus of a non-decision maker supervisor could be imputed to the employer where that supervisor intended that his discriminatory conduct result in an adverse action and the discriminatory conduct was a proximate cause of the challenged action. Finally, in Kasten v. Saint-Gobain Performance Plastics Corp., 131 S. Ct. 1325 (2011), the Court agreed with our view that the Fair Labor Standards Act, which includes the Equal Pay Act, prohibits retaliation against someone for filing an oral complaint. The Commission plans to continue using this low cost yet highly effective tool in fiscal year 2013.

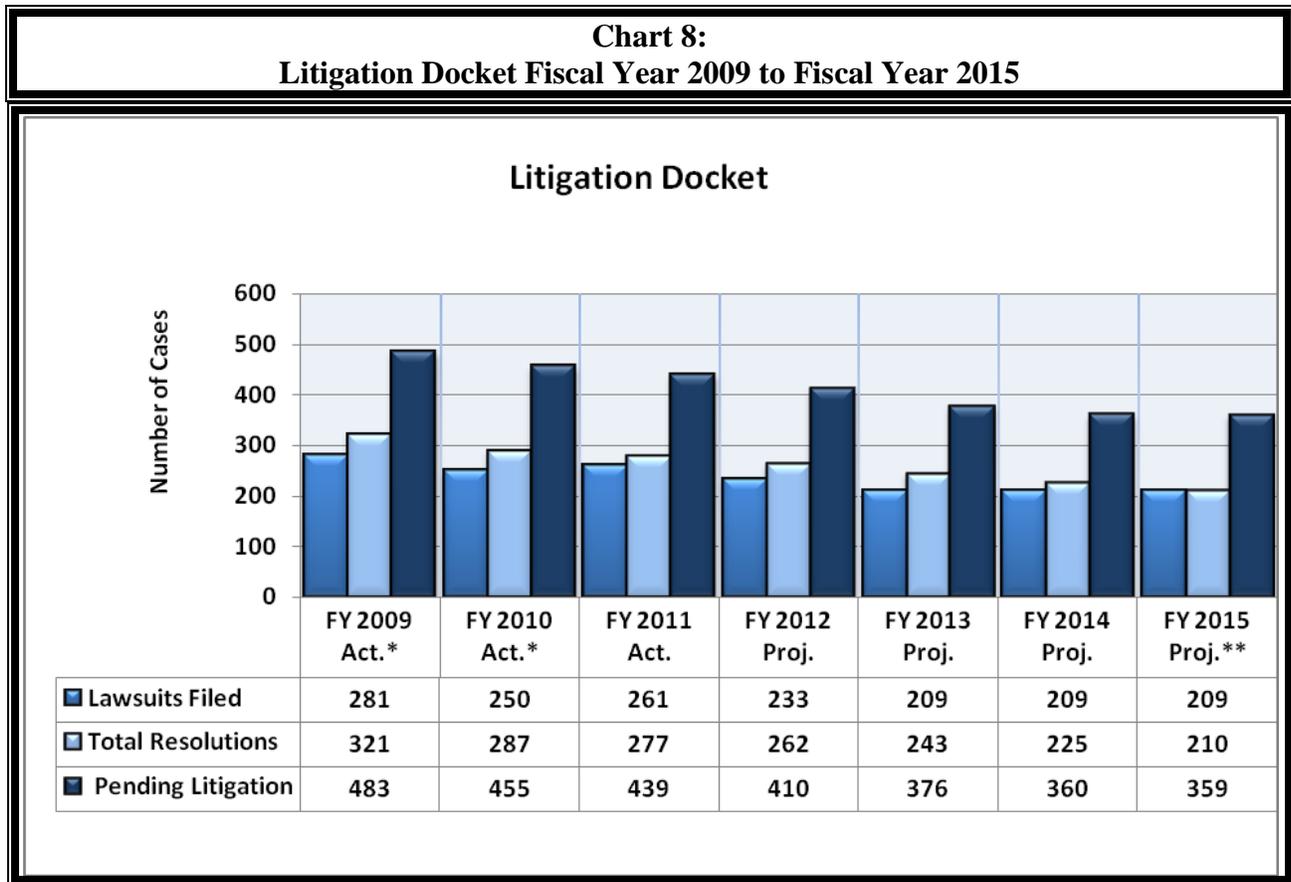
With the requested resources for fiscal year 2013, the EEOC will have a goal of filing 209 enforcement suits. This is a decrease from the previous year, and is based on the assumption of decreased attorney staffing levels, a high concentration of pending systemic litigation, and the filing of at least 20 new systemic discrimination suits in both fiscal year 2012 and 2013. Systemic litigation is highly resource intensive, both in terms of staff time and litigation support funds, and so our increasing focus on systemic litigation will necessarily yield a docket that includes fewer cases than in previous years, but will include more cases with potential to broadly impact employer practices and policies. We believe that devoting a significant portion of our litigation resources to systemic discrimination suits is a wise investment, since these cases maximize our ability to eradicate discriminatory policies and practices while obtaining relief for large numbers of individuals. Systemic cases can involve challenges to discriminatory policies or challenges to practices that affect anywhere from 20 to thousands of individuals. Systemic cases by their nature continue in active litigation over a multi-year period, and the funding and staff resources associated with them will also span multiple fiscal years. The requested funding for fiscal year 2013 thus includes expenses associated with cases filed in earlier years as well as new case filings. The EEOC's active

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litigation docket changes from day to day, but as of yearend fiscal year 2011, it included 63 cases involving at least 20 victims of discrimination, which was approximately 14 percent of the agency’s total active litigation. Based on the large volume of systemic charges currently in investigation, we expect to steadily increase the representation of systemic lawsuits on our docket in 2013 and beyond.

As a greater proportion of our litigation docket is focused on systemic cases, the amount of resources needed to perform the work will rise. While the cost of litigating all types of cases has been increasing, the increase in the number of systemic discrimination cases on the docket is largely responsible for the large increase in litigation costs. Systemic cases typically require substantial resources in terms of professional staff time and litigation expenses, including expert witnesses, the costs of extensive motion and discovery practice, and travel. Therefore, even a modest increase in systemic litigation activity has a major impact on the resources needed and will have an impact on the quantity of smaller cases the Commission is able to litigate.

The purpose of Chart 8 below is to depict the projected litigation docket including the number of lawsuits filed, and resolutions for actual fiscal years 2009 - 2011 and projections for fiscal years 2012 - 2015.



* Pending beginning inventory adjusted to reflect charge activity spanning fiscal years.

**May not add due to rounding

IV. FEDERAL SECTOR PROGRAMS

A. Federal Sector Enforcement Activities

In order to meet the increasingly complex needs of our nation, federal agencies must position themselves to attract, develop and retain a highly qualified workforce that can deliver results to the American people. Equal opportunity in the federal workplace is key to accomplishing this goal; agencies must fully utilize the talents of all, without regard to race, color, religion, national origin, sex, age, disability or genetic information.

To this end, Title VII of the Civil Rights Act of 1964 and Section 501 of the Rehabilitation Act of 1973 mandate that all federal personnel decisions be made free of discrimination, and require federal agencies to establish affirmative programs of equal employment opportunity (EEO) for all federal employees and job applicants (42 U.S.C. §2000e-16 and 29 U.S.C. §791). Under these laws, and through subsequent statutes and amendments, Congress gave EEOC oversight responsibility over EEO programs in the federal government to ensure that equality of opportunity is provided to the over two million men and women across the country and around the world who have dedicated their lives to public service.

Additionally, Congress mandated that the EEOC act as the enforcement authority for complaints of discrimination for applicants and employees in the federal sector. The Commission implements this authority through regulations that establish procedures for federal employees or job applicants to file complaints of employment discrimination. The agency charged with discrimination is responsible for informal counseling; and, if a complaint is filed and that complaint is accepted, for investigating the claims raised therein. At the conclusion of the investigation, or after 180 days following the filing of a complaint, the complainant may request a hearing before an EEOC Administrative Judge (AJ). Instead of requesting a hearing the complainant may request that the agency issue a final decision on the matter. The agency's final decision or final action after a hearing may be appealed to the Commission.

B. Federal Sector Improvements – Hearings

The overarching goal of the federal sector program is enforcement of the nation's laws outlawing employment discrimination in the federal workplace. One way the Commission fulfills this mandate is through its vigorous federal sector hearings program. With 24 hearing units located throughout the United States, the program provides federal sector complainants with a full, fair, and impartial adjudication of their EEO complaints.

In fiscal year 2011, the EEOC secured more than \$57.5 million in relief for parties who requested hearings. There were a total of 8,113 requests for hearings, more than the 7,707 received in fiscal year 2010. Additionally, the Commission's hearings program resolved a total of 7,672 complaints.

The Commission continued its focus on expanding the use of technology to make the Federal Hearings process faster and more effective. This focus on technology includes the on-going development of a web-based filing and electronic File Exchange portal (EFX) system for hearings units nationwide and the expanded use of HotDocs technology for AJs.

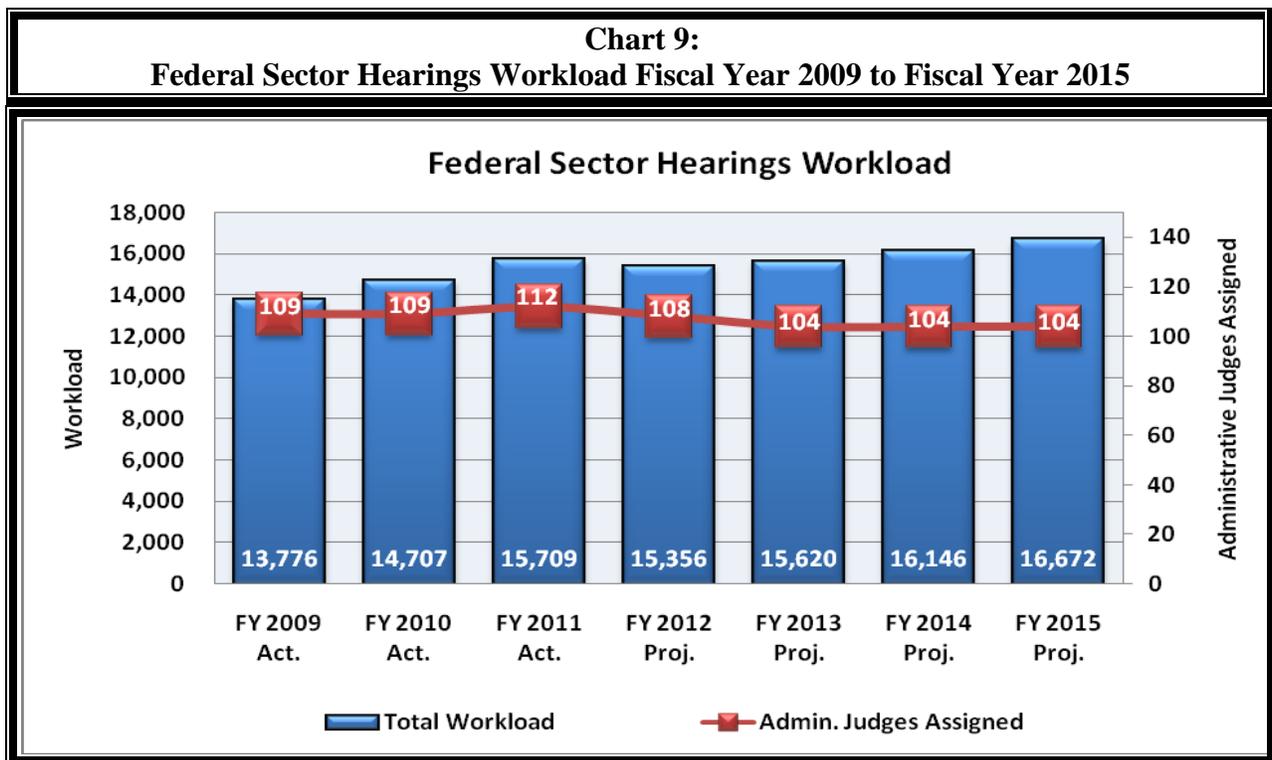
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The EFX system is designed to allow federal agencies and federal complainants the ability to securely submit electronic Reports of Investigation, Complaint Files, and other documents to the EEOC in support of the federal hearings and appellate processes. The system is currently being piloted in 11 EEOC field office hearings units, the Office of Federal Operations, and several agencies including the US Postal Service, Department of Veterans Affairs, Department of Homeland Security, Treasury Department, Department of the Navy, Department of Air Force, and the Defense Logistics Agency. Upon conclusion of the pilot period, the system is slated to expand to all EEOC hearings units and become available to all federal agencies, complainants, and their representatives, providing the vehicle by which they can file motions and submit supporting documentation.

Moreover, Administrative Judges will be able to issue Orders and Decisions through EFX. This will allow the federal sector hearings process to become more streamlined, efficient and transparent, thereby improving customer service to all stakeholders.

The federal sector hearings program is also exploring other tools to leverage technology in order to increase both the quality and efficiency of decisions issued by its Administrative Judges, thereby helping to manage the growing hearings inventory. With initiatives such as Hot Docs, which involves the creation of standardized Orders and Decisions that Administrative Judges can utilize as templates; as well as expanding efforts to encourage informal resolution of claims at the hearings stage, such techniques will further improve customer service to those individuals having claims adjudicated through the federal sector hearings process.

The purpose of Chart 9 below is to demonstrate the workload and number of Administrative Judges assigned to handle hearing complaints, actual for fiscal years 2009 through 2011 and projections fiscal years 2012 through 2015.



C. Appeals and Oversight of Federal EEO Activities

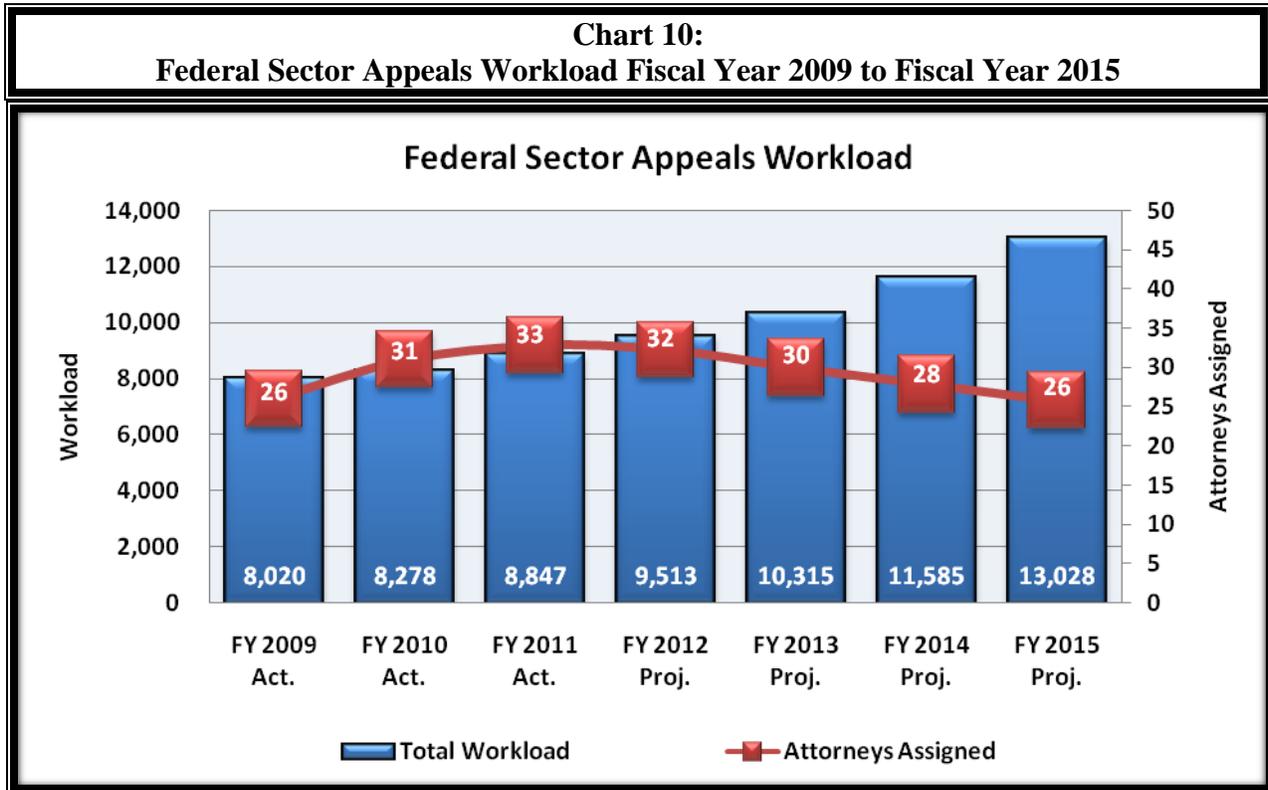
The EEOC's regulations at 29 C.F.R. Part 1614 provide the Commission with the responsibility for acting as the neutral arbiter in the federal sector for appeals from agency decisions on EEO complaints, collective bargaining agreement grievances alleging discrimination against federal agencies, and reviewing decisions by the Merit Systems Protection Board containing allegations of discrimination in appealable actions. In this capacity, the Commission has developed and implemented innovative ways to control an appellate inventory that had grown to unacceptable levels in the 1990's. Leveraging technology has been the cornerstone of this effort, and EEOC continues to implement technological advances to more effectively manage the appellate inventory.

The Commission initiated its digital infrastructure in fiscal year 2005 with the roll out of the federal sector component of EEOC's document management system. With this initiative, all federal sector appeals-related documentation is either received from agencies in digital form, or scanned and converted upon receipt. The EEOC recognized early on that the transition to a digital environment would result in significant savings, both internally, and with its federal sector stakeholders.

The Commission's EEOC EFX also provides enhancements for the federal sector appeals unit, providing a vehicle for the two-way exchange of complaint-related documents between agencies and the Commission, where agencies log in to EFX and upload digital files to the EEOC's document management system. The future enhancements include expansion of the EFX so that complainants can file appeals and submit supporting documentation through the system. Additionally, EFX will allow the exchange of appeal-related documents, to facilitate the availability of documents on appeal.

Concurrent with these efforts, the EEOC has employed targeted management techniques and adopted strategic measures designed to both increase the efficiency and fairness of the appellate decision-making process, and manage the appellate inventory. For example, the Commission measures its operational success by resolving aged appeals, increasing the percentage of appeals resolved within 180 days, and measuring the impact of the appellate decisions in the federal workplace.

The purpose of Chart 10 below is to demonstrate the workload inventory and number of attorneys assigned to adjudicate appeals of complaints decided by the EEOC actual for fiscal years 2009 through 2011 and projections for fiscal years 2012 through 2015.



One factor that contributed to the EEOC’s success in managing its appellate inventory was the trend since fiscal year 2000 of declining appellate receipts. Unfortunately, however, this favorable trend came to an abrupt end in fiscal year 2011, when appellate receipts increased by 13.8 percent from fiscal year 2010 levels. This increase in appeals is the largest in more than fifteen years, and mirrors recent increases in the number of federal sector EEO complaints in general, where formal complaints increased 3.8 percent from fiscal year 2009 to fiscal year 2010, and increased 5.1 percent since fiscal year 2006.

As a result of this year’s increase in appellate receipts, the Commission is no longer projecting an annual 1 percent decline in the number of new appeals filed in successive years. Until the EEOC has more data to determine whether this increase in receipts is a one-time aberration or the start of a new trend, we have adjusted projected receipts to stay level in the future years. If the increase in appellate receipts continues in the coming fiscal years, the Commission will face new challenges in maintaining the appellate inventory at acceptable levels.

Regardless of these trends, the EEOC will continue to provide technical assistance and guidance to agencies to help them remove barriers to equal employment opportunity and to develop and deploy effective early dispute resolution mechanisms. The goal of this integrated approach is a reduction of discrimination in the workplace, resulting in fewer EEO complaints.

While the above chart depicts projections in the appellate inventory and the Commission's success in resolving those appeals, the numbers do not convey the impact of the Commission's appellate decisions. EEOC's appellate decisions serve as a vehicle for the development and promulgation of the Commission's EEO policy in the federal sector. They address complex issues in areas of the law where EEO policy is less clear or evolving. Further, they serve to educate federal sector complainants and agencies about the law, guide agencies in their efforts to become model workplaces, and vindicate the public interest in eradicating discrimination in federal employment.

D. Federal Sector Strategies and Analysis of Workforces

Employment discrimination in the federal sector directly impacts agencies' abilities to perform their core missions. Victims of actual or perceived discrimination personally suffer extensive harm, and this, in turn, may impact the performance of their duties. Additionally, agencies must devote precious resources to investigate and defend against instances of alleged discrimination and to remedy those found to be meritorious.

To implement the federal government's policy prohibiting employment discrimination, agencies are required to maintain continuing affirmative programs to promote equal opportunity and to identify and eliminate any barriers to participation by all federal employees. The EEOC, serving in its oversight capacity for these efforts, implemented EEO Management Directive 715 (MD-715), which details strategies for identifying and removing barriers to free and open workplace competition and that requires agencies to incorporate EEO principles into their missions. Should an agency identify barriers to equal employment opportunity, the Commission works with the agency to eliminate those barriers. The EEOC works with agencies to promote model EEO program policies and practices that foster an inclusive work culture and prevent employment discrimination by reviewing their annual MD-715 submissions, providing in-person and telephonic technical assistance, and issuing written feedback.

As part of its ongoing efforts to assist agencies with analyzing their workforces, improve transparency, and analyze the diverse federal sector EEO data sets, the EEOC recently piloted an online database with numerous federal agencies. The purpose of the database is to collect, validate, analyze, collaborate, and report information relating to its government-wide oversight activities, and to develop EEO community web-based forums designed to allow federal sector stakeholders to exchange valuable EEO-related information, such as best practices, relevant articles, etc. This will supplement the Commission's delivery of relevant and helpful information, training, and EEO solutions to federal agencies, and it will enhance its dissemination of federal sector research materials through placement of Commission decisions and other helpful federal sector information on the EEOC's web site.

Additionally, the EEOC offers an extensive catalog of training courses to help agencies meet their training needs. The courses offered cover all the laws the Commission enforces and meet regulatory training requirements for certain federal EEO staff. The Commission offers both open enrollment and customized courses.

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professionals, employer groups, as well as State and Local human rights commissions or Fair Employment Practice Agencies (FEPAs).

The EEOC educates employers and other members of the public about systemic discrimination, including the identification of trends, industries and issues as seen in cases the agency has handled in its enforcement and litigation. Public relations through print and broadcast media have highlighted the value of publicizing our systemic discrimination court victories because of the ripple effect such decisions can have on promoting industry change.

In addition, the EEOC utilizes outreach in order to educate students and young workers about their workplace rights and responsibilities, including specific discussions on sexual harassment and how to seek assistance to address or report incidents of harassment that occur in the workplace. Diligent efforts are ongoing to reach out to schools and educators to share training materials. As resources allow, the Commission develops and presents training to teenagers and 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.

The EEOC will also maintain its outreach to small businesses, especially those lacking the resources to maintain full-time professional human resources staff, and to stakeholders in underserved communities across the nation, including those with limited English proficiency. Immigrant and farm worker communities are included as a priority for outreach.

Finally, we remain prepared to respond to unanticipated issues that arise in the workplace. The EEOC must be on the forefront in informing both employees and employers alike of their rights and responsibilities in the ever-changing workplace environment.

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VI. REVOLVING FUND – EDUCATION, TECHNICAL ASSISTANCE AND TRAINING

The EEOC Training Institute (the Institute) provides fee-based training and technical assistance to stakeholders from both the private and public sector. The operations of the Institute are funded through EEOC’s Revolving Fund, which is an instrument established by Congress in 1992 to enable EEOC to charge “reasonable fees” for specialized products and services developed and delivered as part of the Commission’s training and technical assistance efforts. The Revolving Fund serves as the mechanism through which EEOC is able to collect payments, thus offsetting some of the costs devoted to training and technical assistance and allowing the agency to offer more non-fee based outreach events to those populations less able to pay for training. In fiscal year 2010, the Training Institute trained over 26,800 individuals at more than 550 events, including 465 field Customer Specific Training events with 19,350 attendees.

In fiscal year 2011, a committee was established to update the Business Plan which provides the long range direction for the program. The goal of the committee is to complete the Plan during fiscal year 2012. The Plan will cover fiscal years 2013 through 2017, and will complement the agency’s new strategic plan as it relates to outreach, technical assistance and training.

The purpose of Table 6 below is to show the financial summary of the Revolving Fund.

<p align="center">Table 6: Summary of Financing for the Revolving Fund Fiscal Year 2009 to Fiscal Year 2015 (Dollars in thousands*)</p>							
	FY 2009 (Act.)	FY 2010 (Act.)	FY 2011 (Act.)	FY 2012 (Proj.)	FY 2013 (Proj.)	FY 2014 (Proj.)	FY 2015 (Proj.)
Total Obligations	\$4,537	\$4,334	\$4,269	\$4,550	\$4,886	\$4,984	\$5,084
Offsetting collections from:							
Federal Funds	2,146	1,833	1,992	2,043	2,123	2,166	2,209
Non Federal Sources	2,222	2,434	2,277	2,294	2,335	2,590	2,741
Unobligated balance, start of year	3,065	2,895	2,829	2,829	2,616	2,188	1,960
Unobligated balance, end of year	2,895	2,828	2,829	2,616	2,188	1,960	1,826
Net Budget Authority	\$7,432	\$7,162	\$7,098	\$7,166	\$7,074	\$6,944	\$6,910

*May not add due to rounding

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VII. AGENCY INFRASTRUCTURE

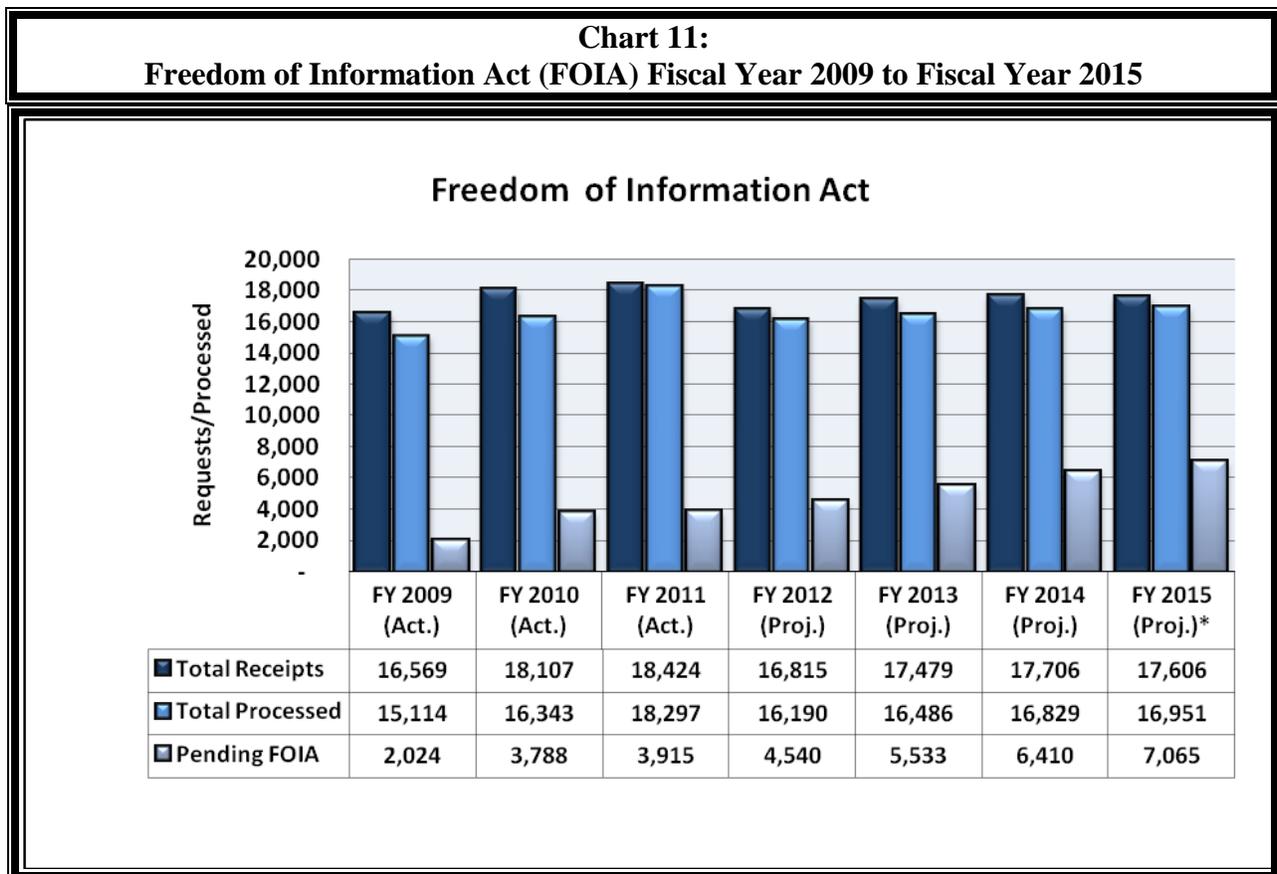
A. Introduction

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.

B. File Disclosure Workload

The data indicates that the number of requests received will continue to increase through fiscal year 2015.

The purpose of Chart 11 below is to depict the actual FOIA workload for fiscal years 2009 through 2011 and projections for fiscal years 2012 through 2015 including requests received, requests processed and pending.

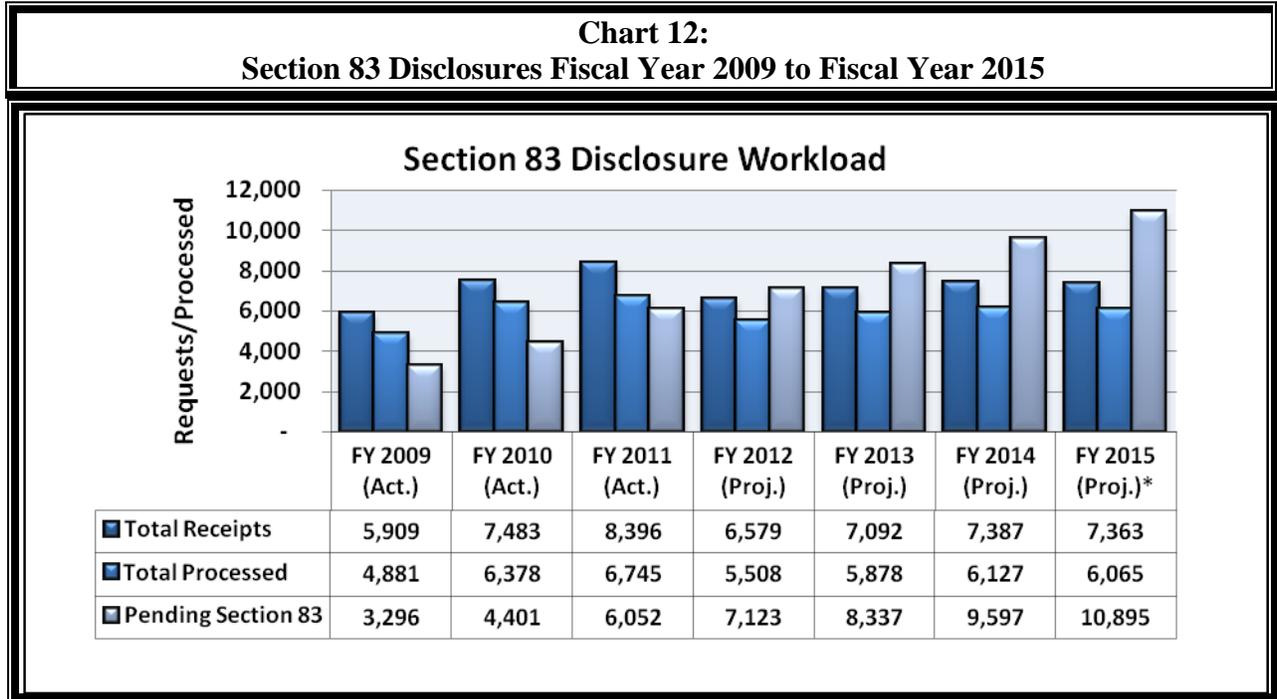


*May not add due to rounding

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The data indicates that the number of charge file disclosure requests processed under Section 83 of the EEOC Compliance Manual will also increase, reaching an approximate high of 6,000 requests processed annually by fiscal year 2015.

The purpose of Chart 12 below is to depict the Section 83 actual workload for fiscal years 2009 through 2011 and projections from fiscal years 2012 through 2015 including requests received, processed, and pending at the end of the fiscal year.



*May not add due to rounding

C. Information Technology Funding

The EEOC Information Technology (IT) strategic vision provides the agency with a roadmap for leveraging the power of technology to transform agency operations and improve the customer experience. This vision, created through working sessions with EEOC program staff, provides a strong, direct alignment to EEOC’s business needs, strategic goals, and customer service priorities. Achievement of this vision will require the use of innovative web technologies, technology infrastructure modernization, transformation and automation of our business processes, and standardization in applying best practices across our offices.

The \$2 million increase in fiscal year 2013 technology funding offsets the decrease in the fiscal year 2012 funding level. It returns the program to slightly less than our level base, which is \$17.6 million. In fiscal year 2012, EEOC initiated several cost cutting and cloud computing initiatives to reduce recurring IT operational costs. These recurring reductions, along with the return to near level funding, will allow the Agency to make some progress in implementing Strategic Initiatives, such as: (1) increasing the efficiency of charge and complaint processing through expanded use of technology; (2) providing avenues of on-line self-service to streamline delivery

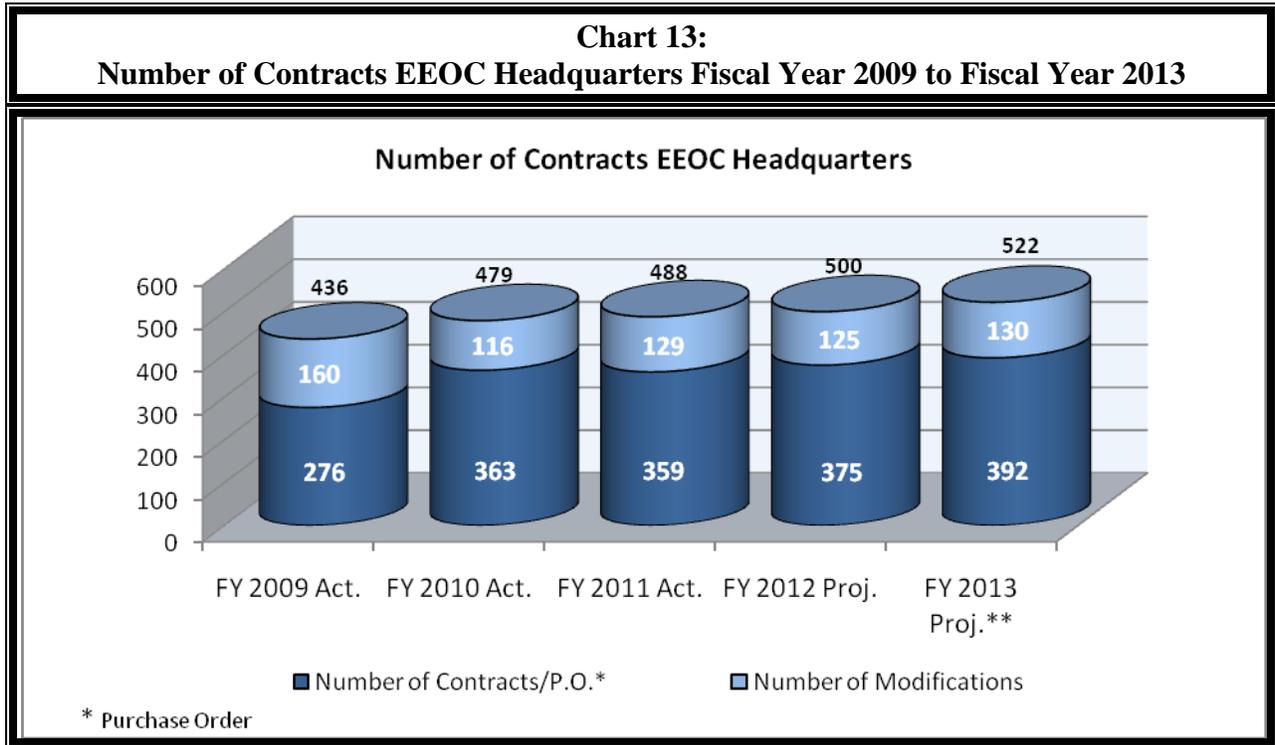
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and improve the customer experience; and (3) develop a social media action plan to support the agency outreach and training mission.

EEOC Cloud Computing Initiatives – During fiscal year 2011, EEOC instituted a Cloud-First Policy which has been integrated into the agency’s capital planning and investment control processes, our Project Management Life Cycle procedures, our cyber-security practices, and our budget formulation processes. Since then, we have made significant progress on our cloud computing implementation plan and related goals. In October 2011, EEOC implemented a new cloud-hosted financial management solution which will save the Agency approximately \$1.9 million a year in recurring costs. We also implemented cloud-hosted web conferencing, distance learning, and meeting services which decreased recurring costs by approximately 64 percent a year. During fiscal year 2012, EEOC will implement a new cloud-based IT Service Management (ITSM) tool, which will replace our out-dated in-house help-desk tracking system. Through this implementation, EEOC will make progress toward our IT Strategic Goal to “Excel in IT Service Management in a Customer Centric Enterprise” and will significantly increase customer self-service and knowledge base capabilities, without expending resources on the hardware, software, implementation and on-going maintenance that would have been necessary to upgrade the existing in-house solution.

D. Finance and Administration

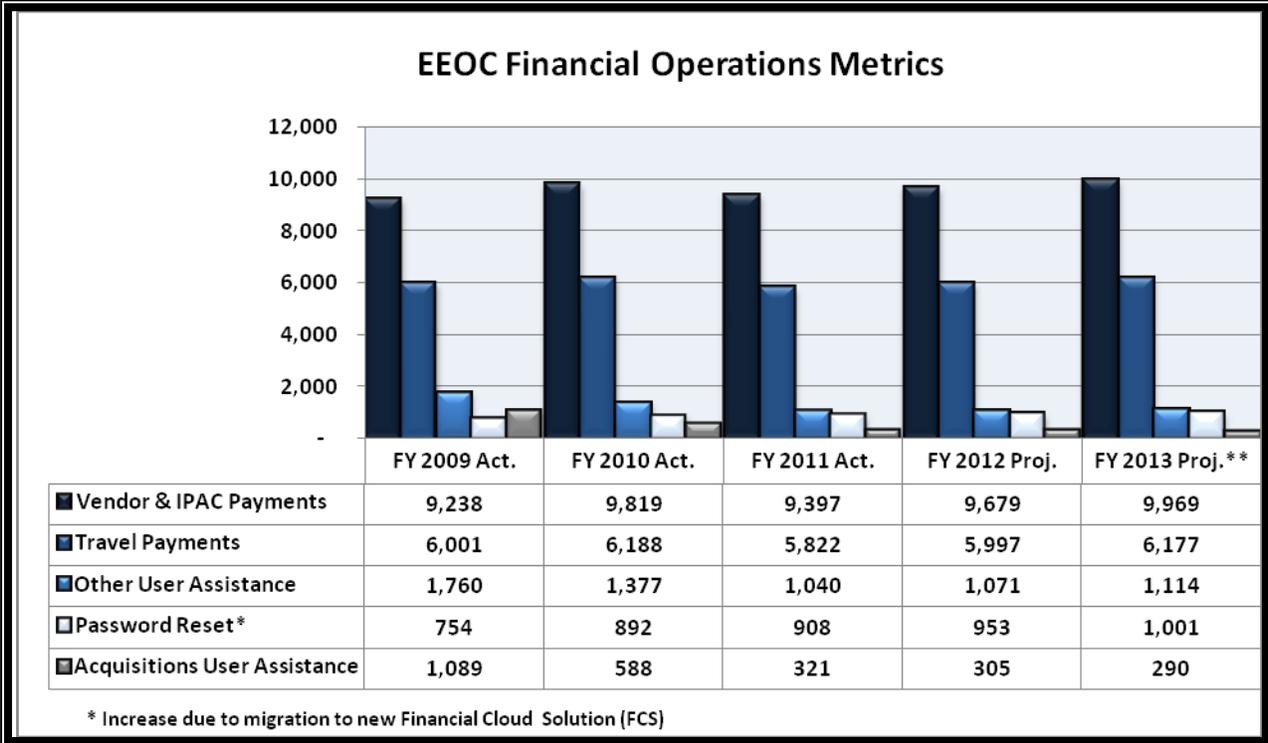
The purpose of Chart 13 below is to display the actual number of contracts/purchase orders awarded in fiscal years 2009 - 2011. As the chart shows we also are projecting an increase in the number of contracts/purchase orders awarded in subsequent fiscal years 2012 - 2013.



**May not add due to rounding

The purpose of Chart 14 on the following page is to show the fiscal years 2009 - 2011 actual vendors, Intra-governmental Payment and Collection (IPAC) and travel payments. Based on the actual figures, we estimate a consistent increase in payments through fiscal year 2013. From fiscal years 2009 through 2011, helpdesk statistics show an overall decreased need for technical assistance when agency user's access, update, and process data within the EEOC financial system. During fiscal year 2012, EEOC migrated to a new Financial System, and increased helpdesk requests associated with the introduction of a new system are reflected in the chart.

**Chart 14:
EEOC Financial Operations Metrics Fiscal Year 2009 to Fiscal Year 2013**



**May not add due to rounding

The Office of the Chief Financial Officer (OCFO) is responsible for numerous support functions including 300,000 pieces of regular and expedited mail. OCFO is working closely with offices in order to further reduce costs by requiring program offices to reduce mail usage through enhanced training for mail handlers, mail system automation, and alternative mail resources, such as scanning/e-mail, shared drive storage, fax, and existing contractor support for local courier services. In addition, we expect to fulfill 8,500 facility related requests, conduct nearly 4,000 records transactions, maintain a fleet of 91 vehicles, maintain a tangible property inventory of more than 8,000 items, conduct or assist with up to 2,500 excess property transactions, conduct up to 50 space related actions, to include tenant improvements, space reconfigurations, lease negotiations, expansions, relocations, construction, and overtime utilities.

Office Expansions, Rehabilitations, and Relocations

The agency continues to be challenged to meet the office space requirements for its 53 field office locations. In January 2011, we postponed or cancelled almost all planned office space expansions and rehabilitation activity due to a reduced budget and higher agency priorities. Through the National Labor-Management Partnership Agreement, the agency and the union have continued to explore cost-savings through telework and revising office-space requirements. The agency must expand certain locations and continue to carry excess capacity at a few office locations, while relocating offices with the most urgent space needs. The agency continues to plan space requirements for all offices for both the short and long terms. In fiscal year 2013,

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EEOC has 13 offices targeted for relocation or expansion which totals about 250,000 square feet. The total office space under lease remains about 1.0 million rentable square feet.

The offices currently scheduled for expansion include: Chicago, Detroit, Oklahoma City, St. Louis, and Tampa. Offices under lease that will relocate due to lease renewals, forced-moves by other agencies or inadequate expansion space to support our increased staffing requirements include: Cleveland, Denver, El Paso, Fresno, Indianapolis, Los Angeles, Milwaukee, and New Orleans. We will continue to right-size offices required by staffing levels as leases expire, and rehabilitate office spaces as dictated by safety issues, the age of furniture and the office environment.

E. Human Resources Function

Workforce Planning

EEOC has improved its ability to provide timely and in-depth analysis of workforce data. This includes timeliness in hiring, reducing turnover rates, and tighter integration with the budget process. These analyses will serve as a source of input for workforce planning.

In fiscal year 2012, the EEOC will continue to implement workforce planning that includes an annual review of positions to ensure the proper mix of positions is achieved; a renewed effort to hire throughout the year and avoid hiring/freeze cycles; and ensuring that decisions made in a given fiscal year are analyzed for their impact and consequences in future years. We have developed a Workforce Planning Guide for our managers to ensure a systematic approach to workforce planning. It defines fundamental steps to develop and implement workforce plans as well as identifies tools available to assist managers and leaders in the overall process. As part of our effort to change our recruitment and hiring culture, we have begun to include the overall fundamentals of workforce planning in our training for new managers and mid-level managers. As reports and projections regarding workforce planning become available, we will post them on the EEOC's intranet for the benefit of all our employees.

Competency management will be a key part of our preparations for workforce and succession planning. We made significant progress in this arena in fiscal year 2011, and will continue those efforts during fiscal year 2012. We identified competencies for four mission critical positions. The agency has identified proficiency levels and is developing a methodology to assess competency gaps for those positions. We will be identifying additional competencies so we can cascade this effort within the organization. The results of the competency assessment will be used by the agency to evaluate and modify training and development needs to ensure employees receive competency gap training and developmental opportunities. Moreover, this work will guide future human capital management initiatives that impact performance management, recruitment and retention at the EEOC.

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Training

We have made significant progress in creating a comprehensive training program for the EEOC. We developed guidance to establish a centralized Individual Development Plan (IDP) funding process; this guidance reinforced the importance of having a current IDP and tied funding requests to the goals identified in each plan. Each employee was asked to work with his or her supervisor to develop an IDP. Beginning in fiscal year 2011, these needs were addressed through a quarterly training funding process. We have seen increased participation levels and engagement in this process. Approved IDP funding in the first quarter increased from \$8,233 to \$136,258 in the fourth quarter. A total of \$294,054 in funding was approved under this process. A tangential benefit to the process is that it encouraged managers, supervisors and employees to focus on training and development needs throughout the year rather than only at year end. The agency also implemented large scale training projects during the first and second quarters of fiscal year 2011--well ahead of the prior year's program implementation timetable due to new evaluation procedures. A total of 16 projects were submitted for funding fiscal year 2011. This new process reflected an improvement in the training section of the Employee Viewpoint Survey for fiscal year 2011.

Telework Program

During fiscal year 2011 we issued revised guidance to supervisors on the management of telework and provided training to all employees, with emphasis on the use of technology while teleworking.

The Agency upgraded its computers to laptops with docking stations. The upgrade made it easier for employees to telework because each laptop is equipped with the necessary security features and the software that allows for secure remote access to the EEOC's network via Virtual Private Network (VPN). The EEOC also conducted a special session on "Managing Telework" for supervisors.

As a result of our efforts, we have exceeded the former goals established for telework by the Office of Personnel (OPM). Most recently, OPM's Employee Viewpoint Survey indicated that 52 percent of our employees telework compared to the 20 percent reported government wide. We expect that the use of telework will increase in fiscal year 2012 and fiscal year 2013.

Mentoring Pilot Program

Our mentoring pilot program partnered 40 EEOC employees (mentors) who understand the agency and its culture with 40 junior employees (mentees) to provide opportunities for mentees to learn more about the organization and strengthen core competencies and leadership skills to enhance their professional growth and development. The mentoring program is part of the agency's commitment to develop and sustain a high performance workforce that is continually learning and expanding its capacity to support the mission of the agency. Mentors and mentees were matched based on mutual interest, career goals and compatibility and included a cross section of employees from the field and headquarters. During the 12 month pilot program, the

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Agency provided formal training, opportunities for self and program assessment, and developmental activities. The EEOC will extend this program into fiscal years 2012 and 2013.

Labor Management Forums

In accordance with the requirements of Executive Order 13522, Creating Labor Management Forums to Improve the Delivery of Government Services, (the Order) the EEOC is committed to working with the National Council of EEOC Locals No. 216, AFGE, AFL-CIO, in expanding our labor-management relations. Under the Order, we have a sixteen member National Joint Labor Management Council (JLMC) composed of eight Local Presidents and eight Managers. In keeping with our commitment to the principles of this Executive Order, half of the managers involved in the National Council are members of our Senior Executive Service. We also have seventeen Local JLMC Councils composed of local presidents and senior managers.

Councils at every level are governed by a Joint Labor Management Agreement that embraces the tenets of the Order: to improve customer service, employee satisfaction, labor relations and operational efficiency. Workgroups formed by the councils are actively engaged with addressing these issues and our progress will be measured using a quantitative metric system.

The EEOC provided funds so that all Councils could receive joint training on the Order provided by the Federal Labor Relations Authority and the Federal Services Impasses Panel. Currently, 100 percent of the Councils have been trained. In the interest of cost savings, our councils at both the national and local levels have agreed to use technology as a means of saving money.

EEOC Wellness Program

The EEOC demonstrates its commitment to employee wellness by continually looking for ways to promote healthy practices and related workplace initiatives. We operate comprehensive health unit services in headquarters and most field offices through the Department of Health and Human Service's Federal Occupational Health Program. These units provide medical services while emphasizing preventive health measures in the belief that these programs are essential to an effective and productive organization. The agency's internal web site also is an important source of wellness and health benefits information. Yearly health fairs are held to assist employees in navigating among the myriad health options available to them. Our most recent health fair offered healthy living information through blood pressure screening, body mass index assessment and healthy cooking demonstrations, as part of a one stop health educational marketplace. Additionally, we offer "Lunch and Learn" sessions to provide ongoing opportunities for educational enrichment.

In fiscal year 2012 health coaching was offered to all agency employees. The health coaching program assisted EEOC employees in assessing health status, establishing goals and taking action for healthier behavior change in the areas of stress and weight management. Employees were afforded an opportunity to work with a dedicated health coach or trained health educator to tailor an individualized health and wellness program specific to their lifestyles and goals.

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Our headquarters location houses a fitness center with shower and locker rooms, secured bike room and outside bicycle rack, hand sanitizing stations and indoor/outdoor tobacco-free areas among its health conscious amenities. We promote the availability of employee paid services such as yoga and massage therapy on site as well as a lactation room in the health unit.

As we go forward, we expect to enhance our current efforts and direct our future resources effectively through an agency-wide wellness assessment analysis.

Communication

We plan to expand and improve the ways in which we provide information to employees on topics vital to the agency's mission and of concern to employees. For example, we have redesigned InSite, our intranet, to make it more user friendly. We have conducted an internal review of how we provide information to the public as well as the type and format of the information provided. That review is also expected to produce recommendations on how to improve internal communications within the agency.

F. Workplace Issues

RESOLVE, the EEOC's internal alternative dispute resolution program mediates disputes for Commission's staff in Headquarters and the 53 field offices. We have seen that addressing workplace issues fairly and effectively helps foster amicable working relationships, enhances employee morale and productivity, and reduces the financial and other resources associated with workplace conflict. This very active program will continue outreach to all of the Commission's staff, will serve as a resource for individual employees and groups of employees, and also will continue to conduct seminars to help employees develop conflict resolution skills.

To fulfill the Commission's vision for a fair and inclusive workplace, and as a key component of the EEOC's model workplace initiative, the Commission plans to expand its internal workplace dispute resolution program by creating an office of organizational (internal) Ombudsman. Through confidential employee engagement, the Ombudsman promotes better communication, fosters constructive dialogue, increases collaboration, identifies systemic issues, facilitates equitable outcomes, and improves transparency of the organization.

The EEOC recognizes that Collective Bargaining with the exclusive representative of its bargaining unit employees is in the Public Interest. The agency also embraces the concept that Federal employees and their union representatives are an essential source of front-line ideas and information about the realities of delivering Government services to the American people.

For these reasons, the agency realizes the importance of engaging in non-adversarial labor-management forums to improve the delivery of government services, employee satisfaction and labor relations.

Finally, the agency will improve the conditions of employment for employees and update certain policies and procedures by renegotiating the Collective Bargaining Agreement between the National Council of EEOC Locals, No. 216 American Federation of Government Employees.

G. Equal Opportunity

EEOC remains firmly committed to promoting and maintaining a work environment that ensures equality and inclusion for all of our employees and applicants for employment. The Office of Equal Opportunity (OEO) is charged with ensuring that the Commission accomplishes these goals, through its Complaint Processing Program and the Affirmative Employment Program. Working collaboratively with highly-dedicated employees, managers, and stakeholders of EEOC—OEO is seizing the challenges and opportunities to create and sustain a diverse and inclusive workforce that best serves the public.

Creating a Diverse Workforce and an Inclusive Workplace

In an effort to create a diverse workforce and an inclusive workplace, the EEOC continues to conduct rigorous barrier analysis of the workforce to identify barriers to full participation and to create innovative action plans to remove those barriers. We have removed several workplace barriers within the past year due, in part, to increased resources and a reinvigoration of the Affirmative Employment Program. In addition, OEO has revived the EEOC Speaker Series to encourage our employees to discuss matters of contemporary social justice by inviting commentary from a wide-range of speakers. We have further developed and strengthened our existing relationships with affinity groups/employee organizations. We have also identified additional affinity groups/employee organizations and community groups that we have formed partnerships with. The goals of these efforts are to share information, develop strategies to promote an inclusive workplace, and establish partnership agreements to support relevant initiatives. Finally, OEO started the Education and Enrichment Series, designed to deliver educational opportunities to the widest possible audience at the Agency in the most cost-neutral manner feasible. Thus far, the series have included: “Avoiding Stress and Burnout”, “Macro- and Micro-Inequities”, and the “Events Leading to the Passage of the Civil Rights Act of 1964”.

Enforcing EEO Laws, Regulations, and Policies within the EEOC

The Complaint Processing Program continues to ensure compliance with EEO laws, regulations, and policies. We have improved the adherences to regulatory timeframes and the quality of counselings, investigations, and decisions by conducting a comprehensive review of existing processes and procedures, and by identifying new strategies (e.g., case-status meetings, investigator updates, use of templates, standardized processes) to provide improved services to our employees and applicants for employment. We have also increased training for OEO staff and agency employees, developed informational materials to educate staff about the complaints process as well as our affirmative employment program.

VIII. STRATEGIC PLAN AND PERFORMANCE MEASURES

A. Introduction

The budget request for fiscal year 2013 is \$373,711,000. The agency's current Strategic Plan was initially published on October 1, 2006. After extensive reviews of the performance structure and measures in fiscal years 2007 and 2008, interim modifications resulted in this modified version of the agency's Strategic Plan located at www.eeoc.gov/eeoc/plan/strategic_plan_07to12_mod.cfm. In this Plan, the agency has adopted one Strategic Objective: *Justice, Opportunity and Inclusive Workplaces*. The performance measures under this Strategic Objective include two long-term, six annual, and one efficiency measure.

These nine performance measures are directly related to the agency's key front-line enforcement operations—processing private sector charges, litigating private sector cases, and conducting hearings and appeals of federal sector cases. All of these activities are done in the service of the following shared goals:

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

Our requested funding will support the EEOC's continuing efforts toward meeting the strategic goals and performance measures currently in place. In Section VIII D, is a more thorough explanation of each of the agency's performance measures.

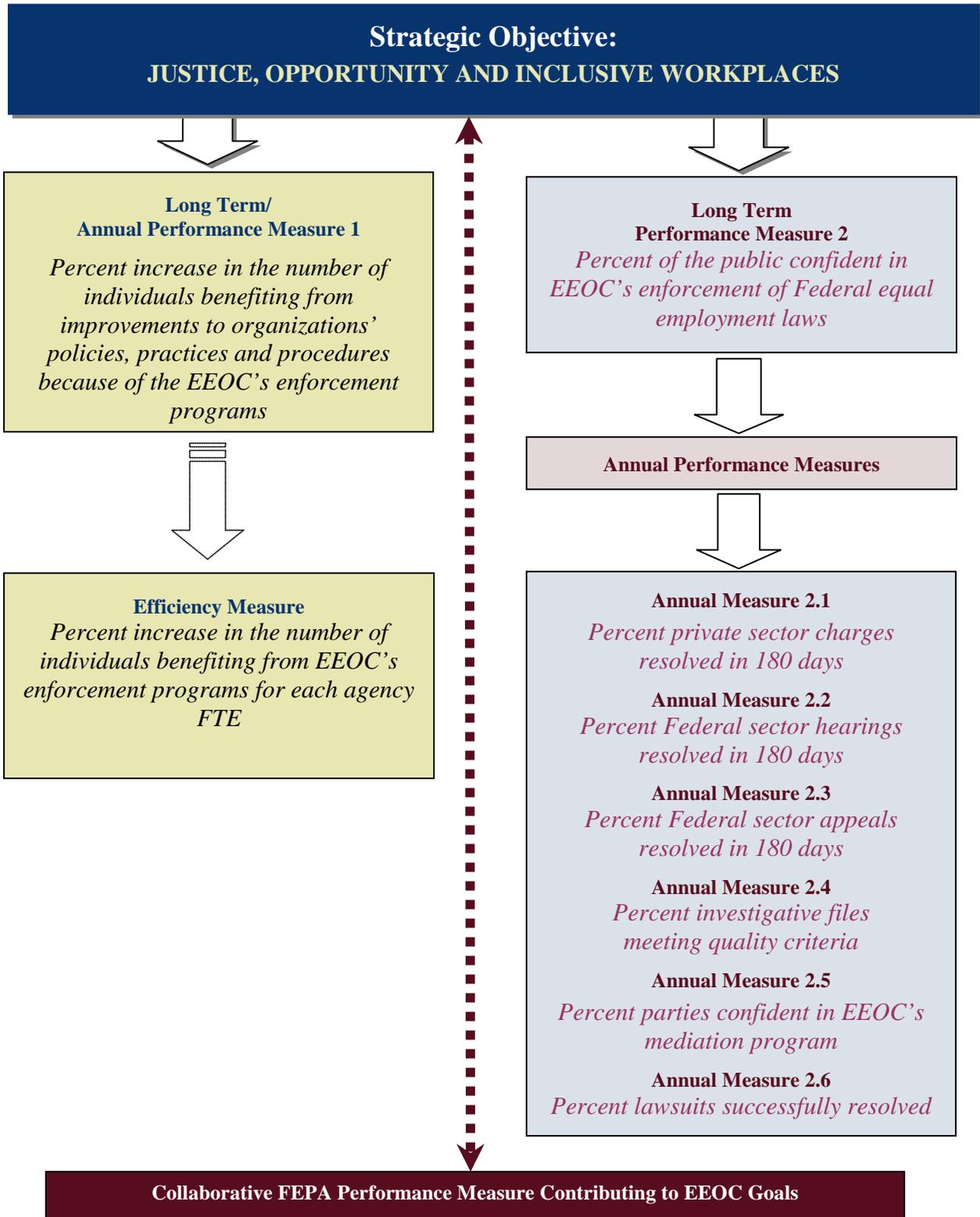
B. Modified Strategic Plan and Budget Structure

The structure of the fiscal year 2013 performance budget is based on our modified fiscal years 2007 - 2012 Strategic Plan, as implemented and approved by the Commission on July 28, 2008. Correspondingly, this performance budget aligns with the agency's Strategic Objective of *Justice, Opportunity and Inclusive Workplaces*.

C. Fiscal Years 2012 - 2016 Strategic Plan

The agency is currently developing a new Strategic Plan in compliance with the GPRA Modernization Act of 2010 (GPRAMA). It is scheduled for release in February 2012. As a result, the current performance measures are undergoing reevaluation as part of the new Strategic Plan development process.

STRATEGIC PLAN OVERVIEW



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D. Performance Measures and Results

The agency’s current fiscal years 2007-2012 Strategic Plan established a new strategic framework and corresponding performance measures. It was modified in fiscal year 2008 and these modifications, as reported below, were implemented and approved by the Commission on July 28, 2008. They are included in the current performance measurement structure graphically displayed on page 52. (Also, see Section VIII, G, *Interim Adjustments to the Strategic Plan*, on page 59 for a description of the specific modifications made to the Strategic Plan.)

The resources requested in this performance budget are focused on maintaining the reach of our enforcement and outreach programs, while promoting public confidence in our ability to resolve charges of discrimination in a timely, accurate, and consistent manner.

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	FY 2009	FY 2010	FY 2011	FY 2012
Target	Established Baseline	2.0%	10.0%	12.2%	15.6%	20.2%
Result	1,626,000 individuals	222.9%	234.3%	326.3%	230.3%	
Exceeded Target						Green

Long-Term/Annual Measure 1 focuses on tracking the improvements that are made in the workplace as a direct result of our enforcement programs. It was developed to focus on all enforcement services we provide to the public that result in workplace benefits, and is based on the number of employees in the employer’s workplace impacted by a benefit. Specifically, these results include benefits – changes in workplace policies, practices, and/or procedures – from administrative resolutions (i.e., mediation), litigation resolutions, and federal sector hearings and appeals resolutions. Fundamentally, we believe that 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. As a result of these targeted efforts, we anticipate making continuous increases over time in the number of individuals who benefit from our enforcement activities.

The fiscal year 2011 annual target for this measure was to increase the number of individuals benefiting from improvements to organizations’ policies, practices, and procedures by 15.6 percent over the fiscal year 2007 baseline. The results for fiscal years 2011 was 230.3 percent above the baseline value, or 5.4 million individuals benefiting from workplace improvements obtained through all of our enforcement programs – substantially above the annual target established for fiscal year 2011.

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Efficiency Measure

By 2012, the number of individuals benefitting 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	FY 2009	FY 2010	FY 2011	FY 2012
Target	Established Baseline	1.8%	2.2%	4.3%	7.4%	11.7%
Result	753.5 individuals per FTE	220.2%	229.1%	285.7%	184.5%	
Exceeded Target						Green

Increasing the number of working people who benefit for each agency Full-Time Equivalent (FTE) position improves the efficiency of our operations because approximately 74 percent of the agency's budget is dedicated to compensation and benefits. We believe that the correlation to agency FTE levels is appropriate in that it recognizes that our staff contributes directly to positive change in the workplace and that staff levels are susceptible to change.

In fiscal year 2011, the agency had 2,505 FTE positions. Over 5.4 million individuals benefited through our enforcement programs because of improvements to policies, practices, or procedures in their workplaces. Therefore, 2,144 individuals benefited for every FTE. This was a significant increase of 184.5 percent over the fiscal year 2007 baseline, compared to the 7.4 percent increase targeted for fiscal year 2011.

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	By the end of FY 2012
Target	Established Baseline	63%	65%
Result	61%	N/A**	
			TBD

**N/A - Not available: The agency is evaluating the data collection requirements associated with this measure as a part of its overall strategic planning assessment.

If the public is aware of the EEOC's enforcement activities and believes that the agency has handled discrimination complaints effectively, then they will be more likely to rely on EEOC to investigate, mediate, litigate, adjudicate, and/or otherwise resolve allegations of discrimination. By extension, if the agency has a reputation for fair and responsible enforcement of the federal employment discrimination laws, then employers, attorneys, and other members of the public will be more likely to defer to EEOC's assessment of discrimination complaints and commit to voluntary compliance through mediation, settlement, or conciliation.

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To measure the public’s confidence in the EEOC’s enforcement of federal equal employment opportunity laws, the agency engaged an independent organization to conduct a survey in fiscal year 2007 of a representative sample of individuals nationwide. From that survey, the EEOC was able to establish a baseline value for fiscal year 2007. A follow-up survey is pending the completion of the agency’s overall strategic planning assessment.

The agency has also identified the following six, annual measures, under Long-Term Measure 2, that contribute to the public’s confidence in EEOC. Annual Measures 2.1, 2.2, and 2.3 focus on the resolution of private sector charges, federal sector hearings, and federal sector appeals, respectively.

*Relationship Between Annual Program Performance Goals
and the Strategic Goal Framework*

Annual Measure 2.1: Timeliness of Private Sector Charges

Annual Measure 2.1					
At least 54% of private sector charges are resolved in 180 days or fewer by FY 2012.					
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Target	48.0%	48.0%	48.0%	51.0%	54.0%
Result	48.5%	39.7%	38.3%	40.7%	
Target Not Met					Red

In fiscal year 2011, we investigated and resolved 40.7 percent of private sector charges in 180 days or less, which was considerably short of the intended target. The agency’s inability to meet this target was due to the continued emphasis on reducing the large pending inventory, which includes many older cases, as well as a shortage of front-line staff to address the inventory situation. For the long-term, however, we believe that the agency’s multi-year approach – including technology and possible changes to internal procedures – to reducing the pending inventory will yield improved performance on resolving charges in 180 days or less. We will continue our efforts to achieve target levels for timely service and to improve the quality of investigations while handling our charge inventory.

Annual Measure 2.2: Timeliness of Federal Sector Hearings

Annual Measure 2.2					
At least 54% of federal sector hearings are resolved in 180 days or fewer by FY 2012.					
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Target	50.0%	50.0%	52.0%	53.0%	54.0%
Result	38.6%	40.6%	37.4%	34.3%	
Target Not Met					Red

Annual Measure 2.2 addresses the resolution of federal sector hearings within 180 days. In fiscal year 2011, the agency resolved 34.3 percent of federal sector hearings within 180 days. Although the targets and final goal reflect the agency’s commitment to continue the timely

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handling of federal sector hearings, our reported results remain significantly below the projected targets that were increased to 53 percent for fiscal year 2011. Over time, our efforts to achieve this goal have become more difficult because of increasing workloads and a greater emphasis on enhancing the quality of hearings. There are, however, a number of technological enhancements currently being designed and developed, and in some instances, piloted, to improve operational efficiency. It is anticipated that these enhancements will streamline certain phases of the hearings process and, for the long-term, will produce gains in the processing time for complaints. We will continue to reinforce our efforts to achieve the projected annual targets.

Annual Measure 2.3: Timeliness of Federal Sector Appeals

Annual Measure 2.3					
At least 70% of federal sector appeals are resolved in 180 days or fewer by FY 2012.					
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Target	62.0%	64.0%	66.0%	68.0%	70.0%
Result	63.3%	65.0%	66.2%	54.4%	
Target Not Met					Red

Annual Measure 2.3 addresses the resolution of federal sector appeals within 180 days or less. In fiscal year 2011, the agency fell considerably short of its 68 percent target by resolving only 54.4 percent of its federal sector appeals within 180 days or less. The agency has renewed its efforts to reduce its appeals inventory by focusing on the systematic resolution of aged appeals, as we move toward the final goal of 70 percent in fiscal year 2012.

Annual Measure 2.4: Quality of Private Sector Investigations

Annual Measure 2.4					
At least 93% of investigative files meet established criteria for quality by FY 2012.					
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Target	90.0%	90.0%	91.0%	92.0%	93.0%
Result	97.0%	95.1%	96.0%	95.6%	
Exceeded Target					Green

Annual Measure 2.4 ensures that investigative files meet quality standards. A large proportion of sampled investigative files are reviewed to determine whether they meet 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 too quickly at the expense of performing our work well. The annual targets for this measure have increased since the baseline was established in fiscal year 2005, and the agency has consistently exceeded these targets each year. In fiscal year 2011, 95.6 percent of investigative files met the requisite quality standards, exceeding the fiscal year 2011 target of 92 percent.

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Annual Measure 2.5: Confidence in Private Sector Mediation Program

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 2008	FY 2009	FY 2010	FY 2011	FY 2012
Target	91.0%	92.0%	93.0%	94.0%	95.0%
Result	96.5%	96.0%	96.7%	96.9%	
Exceeded Target					Green

Annual Measure 2.5 focuses on EEOC's mediation/Alternative Dispute Resolution (ADR) program. We recognize that the public's confidence in our mediation program has a significant impact on its perception of the agency as a whole. Results for this measure were obtained by surveying participants in the EEOC's mediation program and tabulating the responses related to the confidence level they reported in using the program. Based on this methodology, the confidence level in this program is rated consistently high. We believe that a high level of confidence helps to convince participants, particularly company representatives, of the value of ADR. In fiscal year 2011, 96.9 percent of all participants reported that they would return to EEOC's mediation program in the future.

Annual Measure 2.6: Success in Litigation

Annual Measure 2.6 At least 90% of EEOC lawsuits are successfully resolved during the period ending in FY 2012.					
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Target	90.0%	90.0%	90.0%	90.0%	90.0%
Result	91.2%	90.3%	90.2%	90.0%	
Met Target					Green

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 means that we have exercised our prosecutorial discretion, responsibly. Based on the results of a three-year weighted average (i.e., fiscal years 2009 through 2011), EEOC's litigation success rate was 90 percent at the end of fiscal year 2011.

E. 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.

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

We have implemented approaches to improve validity and reliability of the EEO-1. Recently, we expanded our mailing list based on the input from Dun and Bradstreet. The mailing list was carefully edited by EEOC staff to include only those people who were actually missed in the current list and met filing requirements. A security audit for the host facility was implemented to make certain that the data was secure and accessible. Greater use of the EEO-1 by field staff has resulted in an increased identification of non-filers that has enabled 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 implemented a secure, web-based system that enables 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. IMS includes many automated edit checks and rules to enhance data integrity. Since several of our performance measures require us to use data to assess our achievements, it is significant that we can now obtain this data much more quickly and with greater data accuracy.

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.

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F. Program Evaluations

Schedule of Future Program Evaluations

The following schedule of program evaluations was slated for review as part of the agency's Strategic Plan development process.

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.	Completed December 2010
Outreach/Technical Assistance	Evaluate the effectiveness of fee and non-fee based outreach/technical assistance efforts; for example, agency Technical Assistance Program Seminars (TAPS), speakers at meetings, forums, panels or other activities designated as outreach or technical assistance.	Pending agency's overall strategic planning assessment
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.	Pending agency's overall strategic planning assessment
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.	Pending agency's overall strategic planning assessment
Systemic Enforcement	Evaluate the effectiveness of the EEOC's systemic enforcement initiative.	Pending agency's overall strategic planning assessment

G. 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. 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 results of the EEOC's efforts to provide 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

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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. 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 new Administration's initiatives 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 and so it was removed. Even though the structure of the Five-Point Plan was removed, the essential concepts were merged into the current Strategic Plan's Means and Strategies section.

- 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 the current Plan.

In addition, a completed program evaluation on the Private Sector Charge Process, which contributed to one of the revisions in 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 the 2006 program assessment 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

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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 reassessment 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 reassessment, the range was expanded to the 7-10 range, which included additional respondents indicating their confidence in EEOC. The Commission determined that the modification was warranted because the revised range of scores more appropriately measured the public's confidence in the agency's enforcement of its laws.

The Commission's vote on the Strategic Plan in July 2008 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 agency, based on a series of factors—e.g., the existing number of charge receipts, the projected year-end inventory, and existing staff resources. Nevertheless, after the agency's earlier program assessment (which developed the new performance structure), it was determined that higher annual targets and a final goal would be established for this measure. Annual Measure 2.1 and its annual targets and final goal are under review as the agency prepares its new Strategic Plan strategy.

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.

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

In fiscal year 2011, the Program Evaluation schedule was suspended pending the agency's overall strategic planning assessment conducted during the year.

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APPENDIX A: GENERAL STATEMENT OF LAWS

The Equal Employment Opportunity Commission (EEOC) was established by Title VII of the Civil Rights Act of 1964 (78 Stat. 253, 42 U.S.C. 2000e et seq.) as amended, (Title VII) and became operational on July 2, 1965. The EEOC has five commissioners, no more than three of whom may belong to the same political party. The commissioners are appointed by the President, by and with the consent of the Senate for rotating five-year terms. The President designates one commissioner to serve as Chair and one member to serve as Vice Chair. The General Counsel is appointed by the President by and with the advice and consent of the Senate for a term of four years.

The EEOC is charged with *eliminating and preventing unlawful discrimination by investigation, conciliation, and mediation; education and technical assistance; and, litigation.* The EEOC fulfills its mission through the implementation of a vigorous law enforcement program, complemented by an outreach program that provides information, guidance, and technical assistance to help prevent discrimination from occurring.

Statutes Enforced

Title VII prohibits employment discrimination on the basis of race, color, religion, sex, or national origin by public and private employers with 15 or more employees, employment agencies, labor organizations with 15 or more members and joint labor-management committees controlling apprenticeship or other training or retraining, including on-the-job training programs. The EEOC's Title VII enforcement authority includes amendments from the Pregnancy Discrimination Act of 1978, which prohibits employment discrimination based on pregnancy, the capacity to become pregnant, or conditions related to pregnancy. It also incorporates the Lilly Ledbetter Fair Pay Act of 2009, which was signed by President Obama on January 29, 2009; this law supersedes the Supreme Court's decision in *Ledbetter v. Goodyear Tire & Rubber Co., Inc.*, 550 U.S. 618 (2007), and restores the longstanding position of the EEOC that each paycheck that delivers discriminatory compensation is a wrong actionable under the federal EEO statutes, regardless of when the discrimination began.

Over time and as Congress passed laws to prohibit more forms of employment discrimination, the EEOC's enforcement authority expanded. In addition to Title VII, the EEOC also now enforces the Age Discrimination in Employment Act of 1967 (ADEA), the Equal Pay Act of 1963 (EPA), sections 501 and 505 of the Rehabilitation Act of 1973 (Rehabilitation Act), Titles I and V of the Americans with Disabilities Act of 1990 (ADA), and Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA).

The EEOC obtained enforcement authority for the ADEA and the EPA in a 1978 government reorganization. The ADEA protects individuals age 40 and older from discrimination in employment based on age, including fringe benefits. The ADEA covers private employers having at least 20 or more employees, employment agencies, labor organizations with 25 or more members, and the federal government. The EPA prohibits gender-based discrimination in the

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payment of wages to men and women performing substantially equal work in the same establishment.

The ADA, which the EEOC has enforced since its 1992 effective date, prohibits employment discrimination against qualified individuals on the basis of disability by employers, both private sector and state or local government, with fifteen or more employees. Similarly, the Rehabilitation Act protects qualified individuals from employment discrimination on the basis of disability by the federal government. The ADA Amendments Act of 2008, which became effective on January 1, 2009, made several changes to the definition of the term “disability” in the ADA and the Rehabilitation Act, specifically overturning a number of Supreme Court decisions that Congress found to have construed the term “disability” too narrowly.

Most recently, GINA, which became effective on November 21, 2009, prohibits entities that meet Title VII’s definition of an employer, employment agency, or labor organization, from using genetic information (including information from an individual’s genetic tests and an individual’s family medical history) in making employment decisions or decisions related to union membership; strictly limits access to genetic information; and requires that covered entities maintain the confidentiality of any genetic information that they obtain.

Enforcement Methods

Members of the public may file charges alleging employment discrimination in violation of EEOC-enforced laws with an EEOC field office. Charges also may be initiated by EEOC Commissioners, field directors, or otherwise “on behalf of” another person. After charges are filed, EEOC staff members investigate them and issue determinations of “reasonable cause,” or summary determinations when a legal violation is not substantiated. If the agency finds cause, it attempts to resolve the charge through conciliation. The EEOC also attempts to settle charges through mediation. Under Title VII, the ADEA, ADA, and GINA, filing a charge generally is a prerequisite to filing a lawsuit.

EEOC-enforced laws authorize the agency to file suit in Federal District Court in order to achieve compliance if it is unable to achieve a remedy through conciliation. If, however, the case involves allegations under Title VII, the ADA, or GINA against a state or local government, the EEOC refers it to the Attorney General, who may file suit in federal court. The EEOC may bring its own suits alleging violations of the ADEA or EPA against state or local governments.

The EEOC also oversees a separate administrative process for employment discrimination claims against the federal government. The federal government, as an employer, is subject to these antidiscrimination requirements through Section 717 of Title VII, Section 15 of the Age Discrimination in Employment Act, Section 501 of the Rehabilitation Act of 1973, the Equal Pay Act, and Section 201 of GINA. These laws provide the EEOC with oversight responsibility, including the authority to maintain procedures used by federal departments and agencies in processing internal complaints of employment discrimination. In addition, the EEOC has jurisdiction to review final administrative decisions of departments or agencies on their discrimination complaints. The EEOC may award relief to remedy harm suffered by violations of these laws and monitor federal agencies’ compliance. It also is responsible for ensuring that

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federal departments and agencies maintain programs of equal employment opportunity, including by posting equal employment opportunity data pursuant to the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (the “No FEAR Act”) to help Congress, federal agencies, and the public assess whether and the extent to which agencies are meeting their EEO responsibilities.

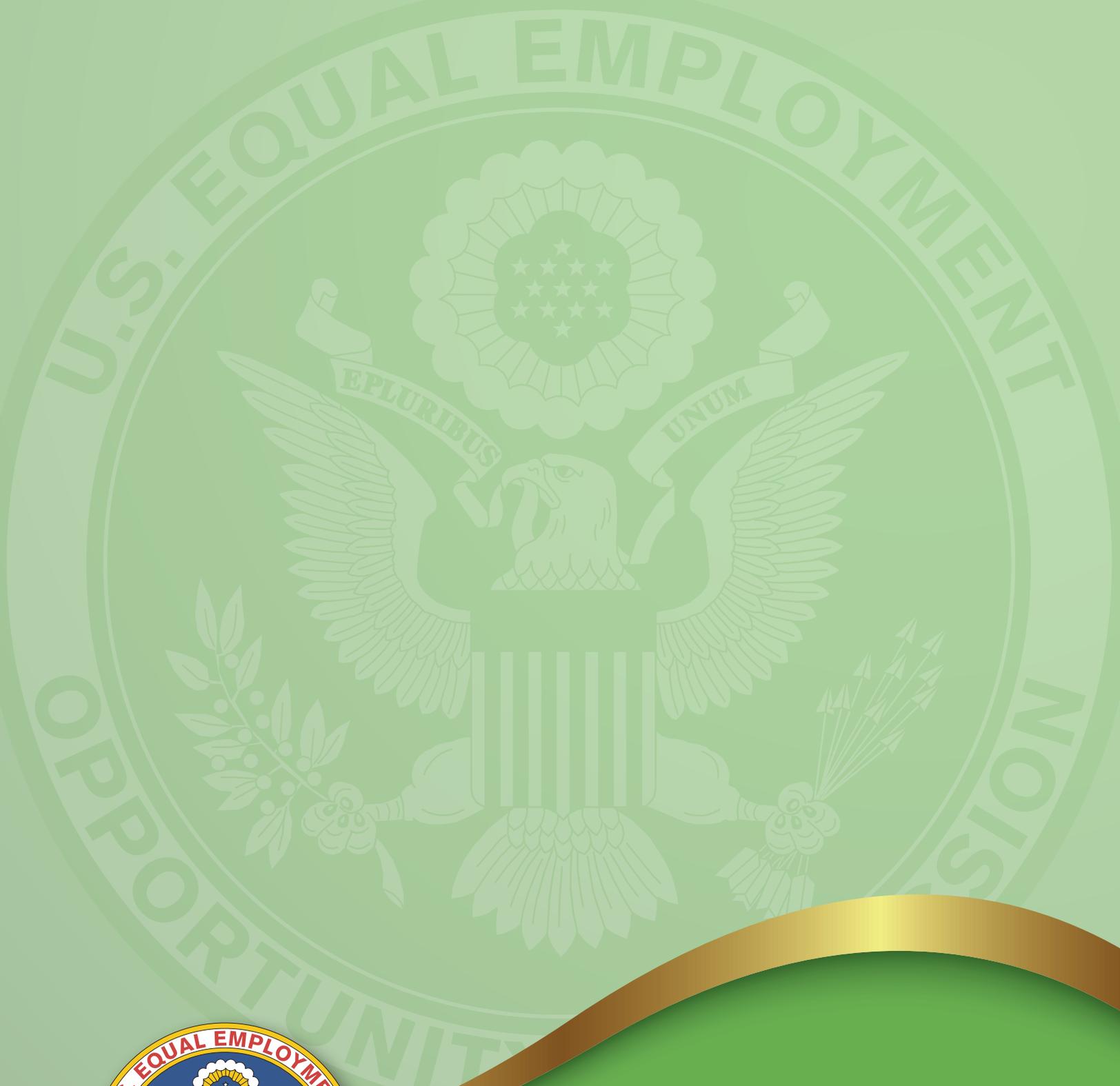
Data Reporting and Recordkeeping

Under section 709(c) of Title VII, the EEOC may require covered entities to keep records that are relevant to determining whether the law has been violated, and may require reporting from this information. Pursuant to this authority, the EEOC requires covered private employers, state or local governments, and labor organizations to file periodic reports providing data on the makeup of their workforces or membership by gender and racial/ethnic categories. The EEOC uses this data in charge investigation and other enforcement activities. It also uses this data to produce reports about the status of workers by ethnicity or gender in selected industries. Further, the data are shared with other federal, state, and local agencies charged with enforcement of equal employment opportunity laws, and in aggregate form with non-government organizations and researchers concerned with equal employment opportunity.

Leadership and Coordination of Federal EEO Efforts

Under Executive Order 12067, the EEOC provides leadership and coordination to all federal departments and agencies’ programs enforcing federal statutes, executive orders, regulations, and policies that require equal employment opportunity without regard to race, color, religion, sex, national origin, age, or disability. The Executive Order instructs the EEOC to eliminate conflict, competition, duplication, and inconsistency when coordinating these programs and to promote efficiency and effectiveness. All federal departments and agencies are required to cooperate with and assist the EEOC in performing these functions and are required to furnish the EEOC with such reports and information as it may require, including any proposed rules, regulations, policies, procedures or orders concerning equal employment opportunity during their development and in final at least 15 working days before issuance.

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