

FISCAL YEAR 2015  
**CONGRESSIONAL BUDGET JUSTIFICATION**

SUBMITTED  
TO THE CONGRESS OF  
THE UNITED STATES

MARCH 2014



U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION



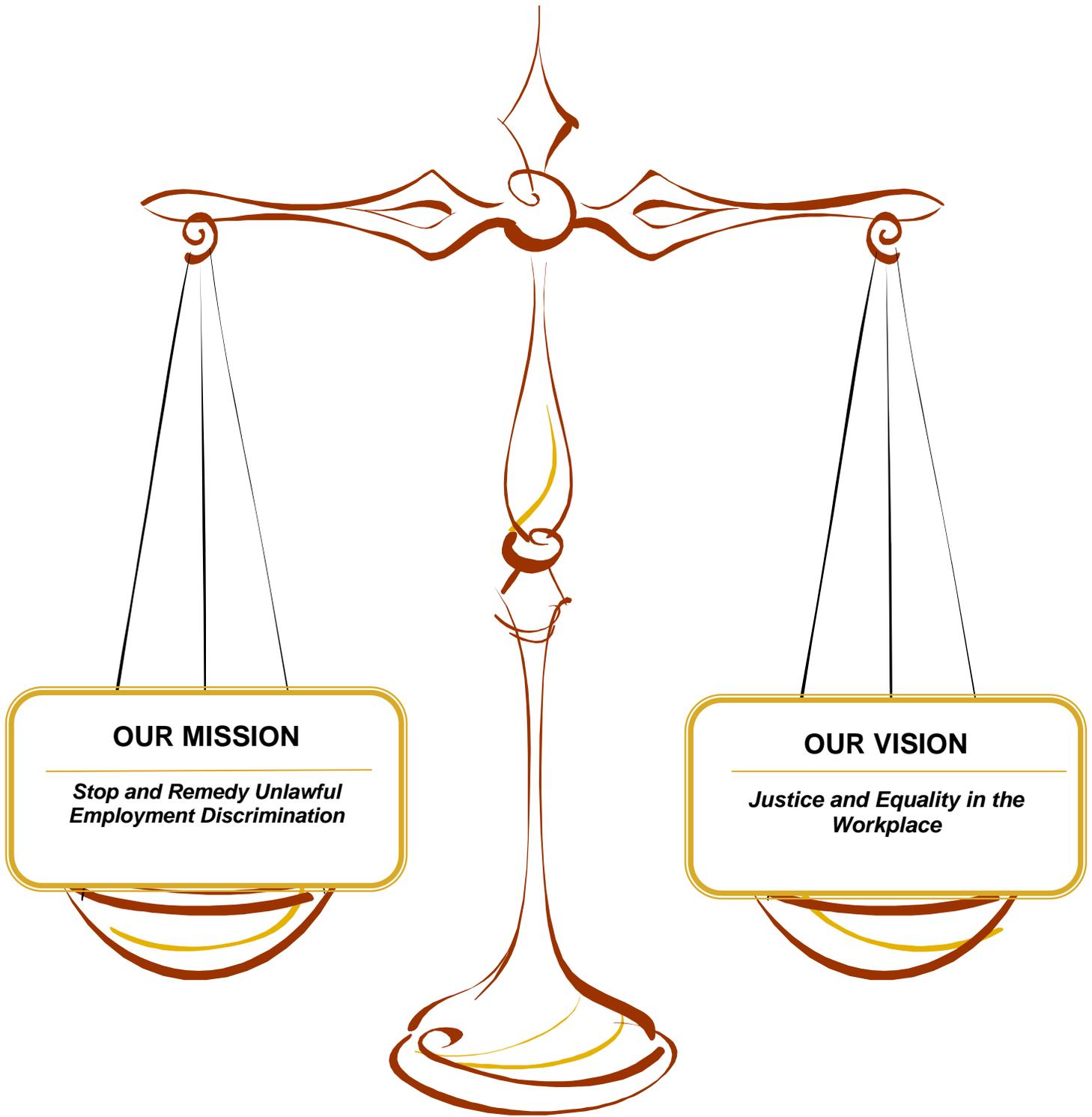
***Fiscal Year 2015  
Congressional Budget Justification***

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

***March 2014***

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





**OUR MISSION**

*Stop and Remedy Unlawful  
Employment Discrimination*

**OUR VISION**

*Justice and Equality in the  
Workplace*



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## I. CHAIR'S REPORT

### A. Fiscal Year 2015 Congressional Budget Highlights

The U.S. Equal Employment Opportunity Commission (EEOC) is the leading federal law enforcement agency dedicated to stopping and remedying employment discrimination on the basis of race, color, religion, sex, pregnancy, national origin age, disability, and genetic information or family medical history. The 2015 Budget requests \$365,531,000 for the EEOC, which includes \$29,500,000 for State and Local programs. This request is \$1.531 million above the fiscal year 2014 enacted level.

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, religion, sex, and national origin in private sector employment throughout the United States. During the past 49 years, our jurisdiction over employment discrimination issues has grown and now includes the following areas:

- **Equal Pay Act of 1963 (included in the Fair Labor Standards Act)**, as amended, which prohibits sex discrimination in the payment of wages to men and women performing substantially equal work in the same establishment.
- **Title VII of the Civil Rights Act of 1964**, as amended, which prohibits employment discrimination on the basis of race, color, religion, sex, and national origin.
- **Pregnancy Discrimination Act of 1978**, which amended Title VII to clarify that discrimination on the basis of pregnancy, childbirth, or related medical conditions constitutes sex discrimination and requires employers to treat pregnancy and pregnancy-related medical conditions as any other medical disability with respect to terms and conditions of employment, including health benefits.
- **Age Discrimination in Employment Act of 1967**, as amended, which protects workers 40 and older from age-based discrimination in hiring, discharge, pay, promotions, fringe benefits, and other aspects of employment. The ADEA also prohibits the termination of pension contributions and accruals on account of age and governs early retirement incentive plans and other aspects of benefits planning and integration for older workers.
- **Rehabilitation Act of 1973**, as amended, which prohibits discrimination and in some cases requires reasonable accommodation on the basis of disability in federal government programs.
- **Americans with Disabilities Act of 1990**, as amended, which prohibits employment discrimination on the basis of disability by private and state and local government employers; requires covered employers to provide reasonable accommodations for qualified individuals with disabilities unless it creates an undue hardship for the employer, limits the circumstances under which they may conduct medical examinations

or make inquiries about disabilities; and requires that any medical information about applicants and employees be kept confidential, subject to limited exceptions.

- **Genetic Information Nondiscrimination Act of 2008**, which prohibits employment discrimination on the basis of an applicant's or employee's genetic information, generally prohibits acquisition of genetic information from applicants and employees, and requires covered entities to keep such information confidential, subject to limited exceptions.
- **Lilly Ledbetter Fair Pay Act of 2009**, which codified the EEOC's long-held position that each paycheck that contains discriminatory compensation is a separate violation of federal law, regardless of when the discrimination began.

Together, these laws protect individuals from employment discrimination on the basis of race, color, religion, sex, national origin, age, disability, genetic information and family medical history. They also make it illegal to retaliate against a person for opposing employment discrimination, filing a charge of discrimination, or participating in an investigation or lawsuit regarding employment discrimination.

## **B. Chair's Message**

I am pleased to present the U.S. Equal Employment Opportunity Commission's (EEOC's) fiscal year 2015 Congressional Budget Justification. On February 22, 2012, the Commission adopted the Strategic Plan for Fiscal Years 2012 – 2016. The Plan outlined a new framework for achieving the EEOC's mission to "stop and remedy unlawful employment discrimination," so that the nation might realize the vision of "justice and equality in the workplace." The plan has three objectives: 1) Combating employment discrimination through strategic law enforcement; 2) Preventing employment discrimination through education and outreach; and 3) Delivering excellent and consistent service through a skilled and diverse workforce and effective systems. As discussed in greater detail throughout this Congressional Budget Justification, the EEOC's Strategic Plan shifts the agency's approach to fulfilling its mission and recognizes that with demand for agency services frequently outpacing available resources, it is more important than ever to ensure that resources are used in the most efficient and effective manner possible.

An increasing number of job seekers and workers have turned to the EEOC for assistance with discrimination complaints over the past 20 years. However, resources available to the EEOC have often failed to keep pace with this demand. Twenty years ago, the EEOC's authorized workforce was 3,071 FTE but, today the authorized workforce is 2,347 FTE. 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 and strained resources available to devote to other critical priorities. Hiring and training of staff were severely curtailed and investments in new technology were also limited during this period. However, during fiscal years 2009 and 2010, we began the process of rebuilding our enforcement capacity as well as strategically managing existing resources.

Investments in staffing, training and technology have been reflected in key aspects of agency performance. For example, 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. Fiscal Year 2012 reflected similar progress with the pending inventory declining by 11 percent for a second consecutive year to 70,312 charges. The Commission was not able to sustain the significant reductions in the pending private sector charge inventory in fiscal year 2013, due to decline in staffing and resources. In light of these limitations, however, it is notable that the EEOC was able to achieve other accomplishments in fiscal year 2013, including securing a record setting amount of monetary relief for victims of discrimination and reducing the average resolution time for private sector charges and the inventory of pending aged appeals in the federal sector.

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. We are mindful of the need for all federal government agencies to identify ways to reduce spending and have worked diligently to identify ways to cut costs that will not compromise or undermine our ability to fulfill our mission. EEOC employees have worked to improve operations, provide better service to the public and more effectively and efficiently enforce the federal laws prohibiting employment discrimination. Nevertheless, the fiscal constraints of recent years, particularly the need to freeze hiring, suspend training programs and delay necessary technological improvements have severely impacted the EEOC. In order to achieve the spending reductions required by sequestration in fiscal year 2013, the EEOC's entire workforce was furloughed for 40 hours. In addition, other programs and project line items, including litigation and information technology, contracts for services, training, temporary clerical support, contract mediators and other expenditures important to fulfilling our mission have been reduced or suspended, severely impacting our ability to serve the public. With the fiscal year 2014 budget allocation, the Commission will be able to begin an aggressive hiring push in order to rebuild our workforce, particularly those who provide direct services to the public in our field offices or who investigate, mediate, conciliate, and litigate pending discrimination claims. By the end of fiscal year 2014, we expect to reach our FTE authorization of 2,347. This budget submission requests a level of funding for the EEOC that will allow us to continue to rebuild capacity in mission critical areas, reverse the harmful effects of recent budget cuts, address staff attrition and continue to implement our Strategic Plan and better serve the public.

### **C. Fiscal Year 2015 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. The EEOC also assumed responsibility for enforcing the Equal Pay Act (which formerly resided with the U.S. Department of Labor) and federal government departments and agencies were added to the list of employers subject to Title VII. When the EEOC observes its 50<sup>th</sup> anniversary in fiscal year 2015, there will be many tangible

examples of the agency's progress in fulfilling its mission. Some discriminatory practices that were commonplace when the agency opened its doors have disappeared or greatly diminished over the years. For example, discriminatory job advertisements that prohibited certain races or women from applying for employment, and job assignments and restrictions based upon sex were successfully challenged in court by EEOC. However, unlawful discrimination continues to be a 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 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 21<sup>st</sup> 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. These challenges are addressed in the EEOC's Strategic Plan for fiscal years 2012 – 2016.

One of the overriding concerns among stakeholders has been improving the quality and efficiency of EEOC investigations. To this end, the Strategic Plan calls for the creation of a quality control system for investigations and conciliations and a framework for developing measures to ensure that established quality benchmarks are met. Work on the agency's Quality Control Plan (or "QCP") began in fiscal year 2013 and is ongoing. Commissioner Chai R. Feldblum, Chicago District Director John Rowe and Dallas District Director, Janet Elizondo ably led the workgroup charged with developing the draft QCP.

The Strategic Plan also sets forth a measure to ensure that our conciliations, consent decrees, and legal resolutions benefit not only the charging party or parties, but ultimately seeks to end and prevent recurrence of the discrimination at issue, for the benefit of every present and future employee and job applicant. This requirement, together with the Strategic Plan's emphasis on preventing employment discrimination through education and outreach, will lead to more efficient service to the public by reducing the number of matters that require enforcement action or other intervention by the EEOC.

Our Strategic Plan also emphasizes excellent service delivery, and we continue to strive for improvements in this area. As noted earlier, in recent years, with the benefit of renewed investment in the staffing, training and technological needs of the EEOC, we have made progress in this area. While recent investments and sustained management attention have helped to achieve a nearly 20 percent reduction in our inventory of unresolved charges since 2010, the adoption of a Strategic Enforcement Plan establishing new priorities will also assist agency leaders and staff in implementing the Priority Charge Handling Procedures (PCHP) and facilitate more efficient management and resolution of pending discrimination charges. Specifically, PCHP, first adopted by the EEOC in 1995, enables the agency to more efficiently target its limited resources. When fully implemented, PCHP has been effective in reducing delays and directing scarce resources to matters with the greatest law enforcement potential.

The agency-wide, 40 hour furlough in 2013, coupled with the continuation of the hiring freeze implemented in 2011, resulted in increased workloads per investigator. These developments have in turn slowed the investigatory process. The fiscal year 2015 Budget will allow the Commission to continue rebuilding its front-line workforce and fill mission critical vacancies, particularly investigator positions that will serve to reduce the pending inventory of unresolved charges.

Finally, with respect to improving customer service, the Strategic Plan promotes greater use of technology and modernization of systems, with the goal of facilitating and expediting communication with the agency. When these system updates are complete, members of the public will be able to submit and receive more information electronically, and check on the status of pending charges electronically as well. As we have heard from representatives of employees and employers, streamlining the private sector charge filing system and making information about the status of pending charges accessible electronically will ultimately serve the interests of charging parties, respondents and the EEOC. We have already begun to use technology to expedite handling of federal sector appeals and are in the design and early implementation phase of adopting new technology to improve private sector charge handling. The proposed budget will support further advances in this area.

### ***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 Strategic Plan for Fiscal Years 2012 – 2016 reaffirms this agency priority.

Even as the Commission accepts and investigates individual charges of discrimination -- in every fiscal year since 2010, more than 90,000 new discrimination charges were filed with the EEOC - - we also have a responsibility to identify and strategically address discriminatory practices that have persisted throughout the years. This includes pursuing systemic investigations and cases, which, as the EEOC Systemic Task Force recognized in fiscal year 2006, would help to prevent unlawful discrimination through deterrence and by directing scarce resources towards conduct, practices, and policies that affect many jobs seekers or employees and/or impact multiple workplaces.

Building upon this foundation, the first performance measure for the Strategic Plan objective of “Combating employment discrimination through strategic law enforcement” was the development and adoption of a Strategic Enforcement Plan (“SEP”) establishing substantive priorities for the agency and promoting more effective use of agency resources to address those priorities. In December 2012, the Commission adopted the SEP and implementation of the SEP began in fiscal year 2013 and will continue in fiscal year 2014. The SEP and the Strategic Plan work together to foster a culture of sharing strategies and coordinating efforts across EEOC offices, while making better use of the outreach and enforcement programs across the agency.

These efforts serve to make the EEOC more efficient and effective in enforcing the federal laws prohibiting employment discrimination.

### ***Leadership in Civil Rights Enforcement***

The EEOC is also working much more closely with enforcement partners in federal, state and local government. Government enforcement partners and a wide range of private sector stakeholders also assisted with the development of the Strategic Plan and Strategic Enforcement Plan. This will continue to be a hallmark of our work in the future and is a key strategy in our Strategic Plan that cuts across many of our Strategic Objectives and measures. Collaboration is especially important now because it allows us to achieve savings and operate more efficiently by leveraging the work of other federal, state and local agencies responsible for civil rights law enforcement and avoiding duplication of efforts or pursuit of conflicting enforcement strategies.

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 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 coordinate investigative and enforcement strategies and activities when doing so will promote efficiency or enhance law enforcement. We will also continue to work with those enforcement partners to develop and conduct joint outreach, public education, and staff training programs wherever possible. Particularly, in fiscal year 2014, consistent with the Strategic Plan, the EEOC will intensify its effort to more fully engage our state and local enforcement partners (FEPAs and TEROs) in the implementation of the priorities outlined in the SEP. In recent years we have entered into or renewed Memoranda of Understanding (MOUs) with the OFCCP and the Council for Tribal Enforcement Rights (CTER), which is connected to our relations with TEROs, and are working on refinements and updates to our MOUs with the U.S. Department of Justice and the Office of Special Counsel.

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 Task Force on Human Trafficking, and the President's HIV/AIDS Strategy Group, 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.

In July 2013, the Commission approved the Federal Sector Complement Plan to the SEP, which addresses issues of specific concern for federal government employers. In addition, the Office of Federal Operations and the Office of Field Programs are piloting a case management system for hearings and appeals. The primary goal of electronic case processing is to create a paperless case processing system that permits web-based electronic filing and case tracking capability. The system allows parties to submit documents, and AJs will be able to issue decisions through a

web-based portal. When the system is fully operational, all parties will be able to track the receipt of their submissions and obtain the status of their case via the web-based portal.

### ***Prevention through Education and Outreach***

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. Outreach and education are the focus of Strategic Objective II in the EEOC Strategic Plan for Fiscal Years 2012-2016.

As one of only three Strategic Objectives approved in the Strategic Plan, prevention of unlawful discrimination through education and outreach is now clearly identified as a top priority for the agency. In fiscal year 2013, the Commission's outreach, education and technical assistance efforts focused on increasing voluntary compliance with federal equal employment laws and on improving employee and employer awareness of rights and responsibilities under federal employment discrimination laws. The agency's outreach programs reached more than 280,000 persons in fiscal year 2013 through sponsorship and participation in more than 3,800 no-cost educational, training, and outreach events. These efforts targeted small businesses, vulnerable workers, underserved geographic areas and communities, and emphasized new statutory responsibilities, issues related to migrant workers, human trafficking and youth.

The Strategic Plan builds upon existing outreach efforts targeting small businesses and encourages both our program analysts in the field and headquarters staff involved with training, outreach and public education, to engage in significant partnerships with organizations that serve small businesses, and to target small and new businesses directly through their outreach efforts. Furthermore, members of the Commission, the General Counsel and agency staff across the country participates in numerous programs, meetings and events convened by agency stakeholders including representatives of the employer community.

Consistent with the Strategic Plan, the Commission has begun the implementation of a plan to review, update, and augment with plain language materials its sub-regulatory guidance so that every member of the public will have ready access to a current and accurate explanation of their rights and responsibilities under the law. We believe that this will ultimately help to prevent discriminatory conduct in the workplace, which benefits employers *and* employees. The new Strategic Plan also prioritizes outreach to vulnerable workers and underserved communities and encourages greater use of technology to communicate with all stakeholders.

The Commission, as part of the Strategic Enforcement Plan, also began work on a Communications and Outreach Plan, to ensure consistency and coordination in message content and management of the agency's communications, program outreach, technical assistance, and legislative outreach. The Communications and Outreach Plan will incorporate the agency's social media policy.

In fiscal year 2013 we extended our outreach to Spanish language media outlets, including institutionalizing a Spanish Language Twitter feed, and entered into MOUs with multiple Mexican Consulates across the United States. However, as the population we serve increasingly

reflects the demographic diversity of the nation's population, the need for bilingual staff and outreach programs and materials that meet the needs of linguistically diverse groups will be even greater in fiscal year 2015.

Finally, given EEOC's research, data collection and receipt of charges and complaints in the private, public and federal sectors, the agency is well-suited to identify emerging trends. Swift and responsive attention to recent events, newly enacted legislation, and developing judicial and administrative interpretations and theories helps to prevent the spread of discriminatory practices by promoting greater awareness of new legal requirements and facilitating voluntary compliance.

### ***Investing in Our Workforce and Systems to Improve Service to the Public***

Strategic Objective III of EEOC's Strategic Plan for Fiscal Years 2012 - 2016 is delivering "excellent and consistent service through a skilled and diverse workforce and effective systems." 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. In fiscal year 2010, the EEOC reached an agreement with the National Council of EEOC Locals, No. 216 to implement Executive Order 13522. Members of the National and District-level Labor-Management Forums created to implement Executive Order 13522 within the EEOC were appointed and have been trained by the Federal Mediation and Conciliation Service. The proposed Fiscal year 2015 budget includes support for continued operation of the forums.

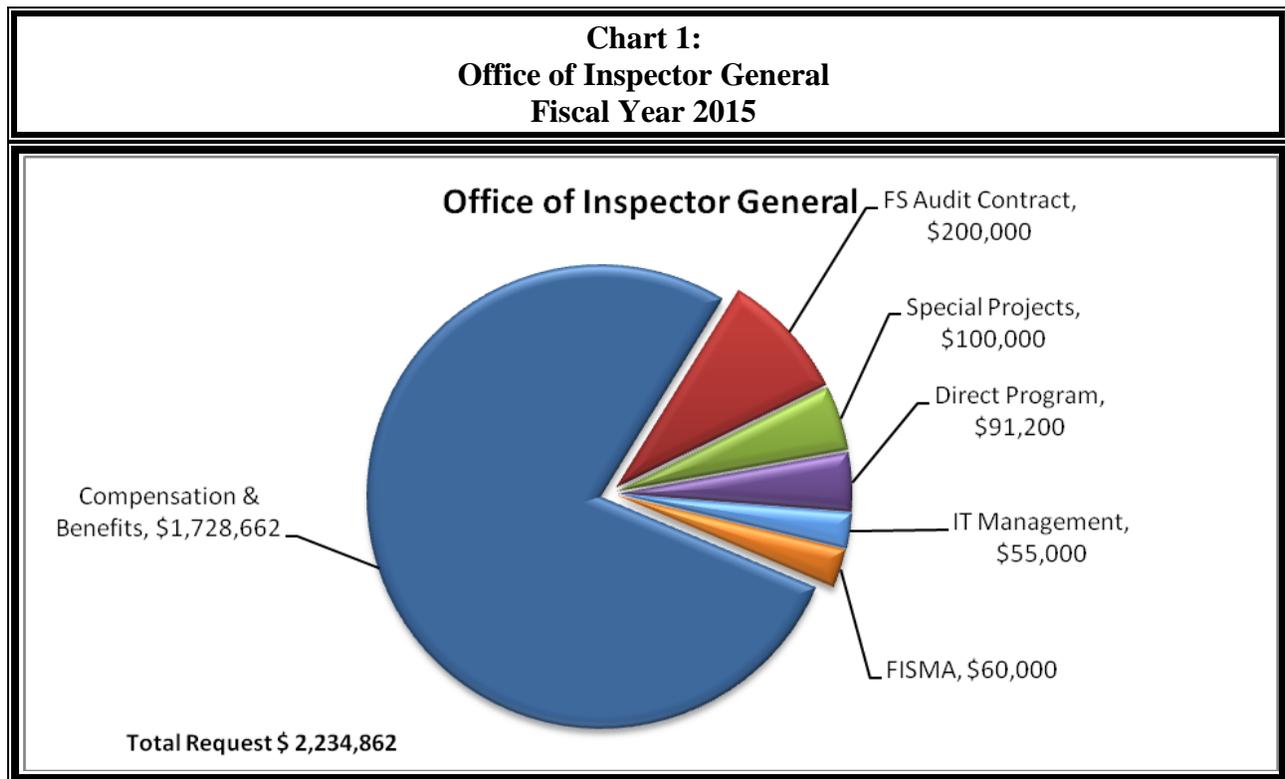
The EEOC entered into a new collective bargaining agreement (CBA) with the Union which was implemented in November 2013. Among other changes, the CBA provides for increased telework and reduced space needs (and costs) agency-wide. The Labor-Management Forum has also helped to identify ways to reduce costs and preserve limited resources. For example, proposed measures to reduce the amount of copy paper used (and related costs) by altering printer settings and defaulting to duplex copying, was suggested, and has now been implemented by the Office of Information Technology. Another Labor Management Forum Committee, reviewed employee's responses to certain questions on the Office of Personnel Management's (OPM) Employee Viewpoint survey such as those addressing job satisfaction, reasonable workloads, family friendly programs and adequate job related training. Using this information, the Workgroup will develop a survey in collaboration with the Merit Systems Protection Board to identify ways to improve morale. The Workgroup will collaborate with the Building Employee Satisfaction Together (BEST) Workgroup, a group of EEOC managers charged with follow up to the OPM Employee Viewpoint Survey.

## II. 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	\$2,234,862
Aggregate amount of funds	\$2,234,862 <sup>1</sup>
Portion of amount for training	\$24,000 <sup>2</sup>
Amount needed to support CIGIE	\$5,364 <sup>3</sup>

Chart 1 below shows the Inspector General’s Funding Request by Operating Plan line items.



<sup>1</sup> This is the total aggregate request for the Office of Inspector General.

<sup>2</sup> The Inspector General certifies that this amount would satisfy all OIG training requirements for fiscal year 2015.

<sup>3</sup> .24% of \$2,234,862 or \$5,364 will support the Council of Inspectors General on Integrity and Efficiency (CIGIE).

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### **III. 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 (42 U.S.C. § 2000e), the Age Discrimination in Employment Act of 1967 (29 U.S.C. § 621), the Equal Pay Act of 1963 (29 U.S.C. § 206), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101), Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. § 705), the Civil Rights Act of 1991 (Pub. L. 102-166), the Genetic Information Nondiscrimination Act (GINA) of 2008 (42 U.S.C. § 2000ff), 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 up to \$29,500,000 for payments to State and local enforcement agencies for authorized services to the Commission,[\$364,000,000] *\$365,531,000*: 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 Chair is authorized to accept and use any gift or donation to carry out the work of the Commission.

## B. Staffing and Funding Profile

Table 1 below depicts the EEOC's total agency staffing and funding profile by Strategic Objectives and Programs for fiscal years 2013 through 2015.

<b>Table 1: Total Agency Staffing and Funding Profile Fiscal Year 2013 to Fiscal Year 2015 (Dollars in thousands*)</b>				
	<b>FY 2013 (Actual)</b>	<b>FY 2014 (Estimate)</b>	<b>FY 2015 (Request)</b>	<b>Change From FY 2014</b>
<b>Strategic Objective I: Combat employment discrimination through strategic law enforcement</b>				
1. Private Sector Enforcement	\$271,826	\$286,945	\$288,283	\$1,337
State and Local	\$27,428	\$29,500	\$29,500	
2. Federal Sector Enforcement	\$39,365	\$41,555	\$41,748	\$194
<b>Total Strategic Objective I</b>	<b>\$338,619</b>	<b>\$358,000</b>	<b>\$359,531</b>	<b>\$1,531</b>
<b>Strategic Objective II: Prevent employment discrimination through education and outreach</b>				
Outreach (Non Fee based)	\$5,600	\$6,000	\$6,000	
<b>Total Strategic Objective II</b>	<b>\$5,600</b>	<b>\$6,000</b>	<b>\$6,000</b>	
<b>Agency Total (includes Strategic Objective III Resources)</b>	<b>\$344,219<sup>4</sup></b>	<b>\$364,000</b>	<b>\$365,531</b>	<b>\$1,531</b>
<b>Total Full Time Equivalents**</b>	<b>2,147</b>	<b>2,347</b>	<b>2,347</b>	
<b>Strategic Objective III: Deliver excellent and consistent service through a skilled and diverse workforce and effective systems</b>				
<b>Highlighted Resource Areas [Information Technology]</b>	<b>\$14,695</b>	<b>\$16,825</b>	<b>\$14,695</b>	<b>(\$2,130)</b>

\*May not add due to rounding

\*\* Includes 14 FTE Reimbursable From Revolving Fund

<sup>4</sup> The continuing resolution (CR) passed by Congress on March 21, 2013, provided an annualized level of \$370 million. However, that amount was subject to a mandatory 1.877 percent across the board rescission (equal to \$6.9 million) and a 0.2 percent across the board rescission (equal to \$726,000), in addition to the 5 percent reduction (equal to \$18.1 million) required under sequestration. EEOC's final funding is \$344.2 million.

**C. Analysis of Change**

The Analysis of Change, Table 2, below indicates the material changes to the EEOC's appropriation request for fiscal year 2014 to fiscal year 2015. The significant changes reflect mandated increases in compensation and minimal increases in programs.

<b>Table 2: Analysis of Change Fiscal Year 2015 (Dollars in thousands*)</b>			
	<b>FY 2014 (Estimate)</b>	<b>FY 2015 (Request)</b>	<b>Net Change (+/-)</b>
<b>Spending Authority – Includes \$29.5 million for State and Local</b>	<b>\$364,000</b>	<b>\$365,531</b>	<b>\$1,531</b>
<b>Explanation of Changes:</b>			<b>Amount</b>
<b>Total Compensation and Benefits</b>	<b>\$263,923</b>	<b>\$266,987</b>	3,064
1. Annualization of FY 2014 pay raise of 1%, effective January 2014**		474	
2. FY 2015 Pay Raise - Provides 1% pay increase, effective January 2015**		1,433	
<b>Subtotal, Base Changes</b>			<b>3,064</b>
<b>Program Support Increases/Decreases</b>			
1. Information Technology one time project decrease			(2,130)
2. Increase rent			500
3. Increase DHS Security			100
4. Other program decreases			(3)
<b>Subtotal, Program Support</b>			<b>(1,533)</b>
<b>Total Net Change FY 2014 – FY 2015</b>			<b>\$1,531</b>

\*May not add due to rounding

\*\* Included in FY 2015 total Compensation and Benefits

**D. Object Class – Agency Summary**

Table 3 - below shows the changes in EEOC’s object class funding over three fiscal years.

<b>Table 3: Object Class Schedule – Agency Summary Requirements by Object Class Fiscal Year 2013 to Fiscal Year 2015 (Dollars in thousands*)</b>			
<b>OBLIGATIONS BY OBJECT CLASS</b>	<b>FY 2013 (Actual)</b>	<b>FY 2014 (Estimate)</b>	<b>FY 2015 (Request)</b>
<b>Personnel Compensation</b>			
11.1 Full-time permanent (FTP)	\$190,834	\$200,057	\$202,450
11.3 Other than FTP	1,973	2,700	2,700
11.5 Other personnel compensation	88	2,400	2,400
<b>Total Personnel Compensation</b>	<b>192,895</b>	<b>205,157</b>	<b>207, 550</b>
12.1 Civilian personnel benefits	55,813	58,766	59,437
<b>Total Compensation and Benefits</b>	<b>248,708</b>	<b>263,923</b>	<b>266,987</b>
21.1 Travel of persons	1,977	3,000	3,000
22.0 Transportation of things	0	25	25
23.1 Rental payment to GSA	27,947	28,458	28,958
23.2 Other rent/communications	5,864	6,700	6,700
24.0 Printing and reproduction	174	250	250
25.1 State and Local contracts	27,428	29,500	29,500
25.2 Security services	2,798	2,894	2,994
25.2 Other services from non federal sources	16,305	15,120	13,187
25.2 Litigation support	3,727	3,350	3,350
25.3 Other goods & serv. from federal sources	3,751	5,200	5,200
26.0 Supplies and materials	4,074	4,300	4,100
31.0 Equipment	1,466	1,280	1,280
<b>Total Other Objects</b>	<b>95,511</b>	<b>100,077</b>	<b>98,544</b>
<b>Agency Total</b>	<b>\$344,219</b>	<b>\$364,000</b>	<b>\$365,531</b>

\*May not add due to rounding

## **IV. STRATEGIC PLAN AND PERFORMANCE MEASURES**

### **A. The Fiscal Years 2012-2016 Strategic Plan**

#### **1. Introduction**

On February 22, 2012, the U.S. Equal Employment Opportunity Commission (EEOC) approved a new Strategic Plan (“Strategic Plan” or “Plan”) for fiscal years 2012-2016. Developing a new mission and vision for the agency, as well as new strategic objectives, goals, and performance measures for the Plan, was prompted in part by enactment of the Government Performance and Results Modernization Act of 2010 (P.L. 111-352), commonly referred to as GPRAMA. In addition, we wanted to acknowledge lessons learned and successes realized from our previous Strategic Plan; while incorporating commentary received from a broad range of public and private participants from Congressional, State, and local arenas, as well as the EEOC workforce and Union in the development process – all representatives who share an interest in our mission. The Strategic Plan establishes a framework for achieving the EEOC’s mission to “stop and remedy unlawful employment,” so that the nation might soon realize the Commission’s vision of “justice and equality in the workplace”.

#### **2. Strategic Objectives, Goals, and Strategies Overview**

The Plan serves as a framework for the EEOC to achieve our new mission by focusing on the following three strategic objectives:

Strategic Objective I: To combat employment discrimination through strategic law enforcement. This Objective reflects our primary mission of preventing unlawful employment discrimination through the use of: 1) administrative (investigation, mediation and conciliation) and litigation enforcement mechanisms with regard to private employers, labor organizations, employment agencies, and state and local government employers; and 2) adjudicatory and oversight mechanisms with regard to Federal employers. In keeping with the agency’s statutory mandate, the majority of the EEOC’s financial and human resources will be devoted to Strategic Objective I. There are seven performance measures under Strategic Objective I. The performance measures and 2013 results for these measures are more fully described in Section V.B., starting on page 20.

Strategic Objective II: To prevent employment discrimination through education and outreach. This Objective acknowledges that to successfully prevent employment discrimination through education and outreach, we must also work to prevent employment discrimination before it occurs. Investigations, conciliations, and litigation are only some of the means by which the agency fulfills its mission and vision. Title VII also requires the agency to engage in education and outreach activities, including providing training and technical assistance, for those with rights and responsibilities under employment antidiscrimination laws. There are four performance measures under Strategic Objective II. The performance measures and 2013 results for these measures are more fully described in Section VI.B., starting on page 46.

Strategic Objective III: To deliver excellent and consistent service through a skilled and diverse workforce and effective systems. This Objective ensures that we deliver excellent and consistent service through our efforts to support a skilled workforce and the deployment of effective systems. There are two performance measures under Strategic Objective III. The performance measures and 2013 results for these measures are more fully described in Section VII.B., starting on page 54. Performance Measure 14, which ensures that the agency's budgetary resources align with the Strategic Plan, is more fully described in Section VII.B., on page 57.

The outcome goals related to these strategic objectives and the 14 performance measures identified in the Plan will help gauge our progress as we approach fiscal year 2016. The agency's strategic objectives, outcome goals, and related performance measures are depicted in the Strategic Plan Diagram on the following pages.

**STRATEGIC PLAN DIAGRAM**

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

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

<p><b>BUDGETARY RESOURCES MEASURE</b> <b>Performance Measure 14</b> The EEOC's budgetary resources for FY 2014 – 2017 align with the Strategic Plan.</p>
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## **V. STRATEGIC OBJECTIVE I - Combat employment discrimination through strategic law enforcement.**

### **A. Introduction**

To aid in our ability to support a strategic law enforcement objective, we have focused our efforts toward achieving the following outcome goals that are critical to the success of the agency's mission to: 1) have a broad impact in reducing employment discrimination at the national and local levels; and 2) remedy discriminatory practices and secure meaningful relief for victims of discrimination.

To effectively impact a reduction of employment discrimination in a far reaching and extensive manner, we have identified four key strategies that are currently being developed and/or implemented, as directed by the agency's fiscal years 2012-2016 Strategic Plan and the administrative priorities established by the Office of the Chair:

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

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

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

Table 4 outlines our budget information for the agency's enforcement programs under Strategic Objective I.

<b>Table 4: Budget Request Summary for Strategic Law Enforcement Fiscal Year 2013 to Fiscal Year 2015 (Dollars in thousands*)</b>			
	FY 2013 (Actual)	FY 2014 (Estimate)	FY 2015 (Request)
<b>Private Sector Enforcement</b>	<b>\$299,254</b>	<b>\$316,445</b>	<b>\$317,783</b>
Administrative Charge Resolution	183,119	193,303	194,205
Mediation	22,999	24,279	24,392
Litigation	65,708	69,363	69,686
State and Local	27,428	29,500	29,500
<b>Federal Sector Enforcement</b>	<b>39,365</b>	<b>41,555</b>	<b>41,748</b>
Hearings	21,821	23,034	23,141
Appeals	12,268	12,951	13,011
Mediation	721	761	765
Oversight	4,555	4,809	4,831
<b>Total</b>	<b>\$338,619</b>	<b>\$358,000</b>	<b>\$359,531</b>

\*May not add due to rounding.

## B. Performance Measures and Results

### Strategic Enforcement Plan

<b>Performance Measure 1: By FY 2016, the EEOC develops, issues, implements, evaluates, and revises, as necessary, a Strategic Enforcement Plan.</b>			
	FY 2013	FY 2014	FY 2015
Targets	<p>The agency distributes implementation guidance for the Strategic Enforcement Plan.</p> <p>The agency begins to implement the Strategic Enforcement Plan.</p> <p>If required in the Strategic Enforcement Plan, District Offices and the Office of Federal Operations develop local and federal sector enforcement plans by March 29, 2013.</p>	The agency fully implements the Strategic Enforcement Plan.	The Commission evaluates the Strategic Enforcement Plan.
Results	The SEP was implemented; implementation guidance was developed and reviewed. The Federal Sector Complement Plan was approved on July 30, 2013. District Complement plans were delayed until 1 <sup>st</sup> QTR 2014.		
			<b>Target Partially Met*</b>

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

Under its first objective, the Strategic Plan directed the Commission to develop a Strategic Enforcement Plan (SEP), which was approved on December 17, 2012. The plan establishes priorities and integrates all components of EEOC's private, public, and federal sector enforcement. The purpose of the SEP is to focus and coordinate the EEOC's programs to have a sustainable impact in reducing and deterring discriminatory practices in the workplace. The six SEP priorities are: 1) eliminating barriers in recruitment and hiring; 2) protecting immigrant, migrant and other vulnerable workers; 3) addressing emerging and developing issues; 4) enforcing equal pay laws; 5) preserving access to the legal system; and 6) preventing harassment through systemic enforcement and target outreach. Its implementation will ensure a targeted, concentrated, and deliberate effort to pursue priority issues and practices that significantly affect applicants, employees, and employers.

For fiscal year 2013, the target for this measure was to distribute implementation guidance and begin implementation of the SEP. After Commission approval in December 2012, the agency began implementing the SEP, including releasing and developing the Strategic Enforcement Team recommendations, directing staff to incorporate the SEP priorities into their enforcement work, and developing a multi-year plan for reviewing and updating sub-regulatory guidance, i.e., the Sub-regulatory Plan. The Commission approved the Federal Sector Complement Plan (FCP) on July 30, 2013. The Chair extended the May 31 deadline for completion of the 15 District Complement Plans (DCPs), plus the Washington Field Office plan to allow for more time to coordinate these plans among offices and ensure consistency. The Committee of Advisors on Systemic Enforcement (CASE) submitted their recommendations for improving systemic enforcement to the Chair in June 2013. The State and Local Fair Employment Practices Agencies (FEPAs) Engagement Plan (FEPA Engagement Plan) to ensure that FEPAs are working with the EEOC to further the pursuit of SEP and DCP priorities was approved by the Chair in September 2013.

The agency also began work on several other plans and recommendations for improved integration and priority implementation required by the SEP, including the Communications and Outreach Plan and the Research and Data Plan.

The Communications and Outreach Plan is currently under development and is scheduled for approval by the Chair in fiscal year 2014. The Research and Data Plan has been drafted and is targeted for Commission vote in fiscal year 2014. Also underway in the SEP is the Federal Sector Organization Plan, which was not completed in fiscal year 2013 to allow time for the Commission to contract with the Administrative Conference of the United States to conduct a study of the agency's organizational structure for the federal sector hearings program. Other key items, authorized by the SEP and completed in fiscal year 2013, include the transfer of the EEOC's public website function in support of the agency's overall communications strategy, the adoption of quarterly reporting requirements to support SEP enforcement, and small changes to the delegation of litigation authority within the EEOC.

## Quality Control Plan

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

	FY 2013	FY 2014	FY 2015
Targets	The agency develops a draft Quality Control Plan that establishes criteria to measure the quality of investigations and conciliations and develops a peer review assessment system.  The Commission votes on a Quality Control Plan no later than February 28, 2013.	Apply the criteria and the peer review assessment system to a statistically significant sample of investigations and conciliations. Based on that analysis, develop a baseline of existing quality and set targets for improved quality.	TBD% of investigations and conciliations meet targets for quality.
Results	A draft QCP and peer review assessment process were developed and are pending review and approval.  A Commission vote is anticipated in 2 <sup>nd</sup> QTR 2014.		
			<b>Target Partially Met*</b>

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

Performance Measure 2 requires the EEOC to develop a draft Quality Control Plan (QCP) with appropriate criteria for measuring the quality of investigations and conciliations to impact the effectiveness and efficiency of the EEOC's investigations and conciliations. It also requires the agency to develop a peer review assessment system for evaluating the quality of the EEOC's investigations and conciliations to ensure that criteria established in the QCP are met, and as directed by the EEOC's Strategic Plan for Fiscal Years 2012-2016.

To satisfy the Plan's requirements, the Chair convened a Quality Control Plan Working Group (QCPWG), headed by several senior agency officials and a panel of advisory group members, comprised of EEOC front-line staff and managers, in December 2012. The goal of the QCPWG was to develop a draft QCP that would establish the necessary criteria and the peer review assessment system required for this measure in fiscal year 2013. The Strategic Enforcement Plan (SEP) amended the deadline for voting on the QCP to April 30, 2013.

The work group began meeting in January 2013. In February, they requested written input for the development of the plan. See <http://www.eeoc.gov/eeoc/newsroom/release/2-12-13.cfm>. In March, the Commission held a public meeting featuring three roundtables of internal and external experts on the EEOC's investigatory process. See <http://www.eeoc.gov/eeoc/meetings/3-20-13/index.cfm>. In May, the work group requested public input on a set of principles for the QCP. See <http://www.eeoc.gov/eeoc/newsroom/release/5-10-13c.cfm>. The EEOC also welcomed a new Commissioner in May of 2013. To allow for additional Commission review and input by the full Commission, a vote by the Commission on the draft QCP was postponed until the second quarter of fiscal year 2014. Approval by the Commission will permit the EEOC to apply these criteria and the peer review assessment system to a statistically significant sample of investigations and conciliations in fiscal year 2014 – a necessary step prior to developing a baseline and projecting targets for improved quality standards that the agency will measure in fiscal years 2015 and 2016.

## Case Management System

<b>Performance Measure 3: By FY 2016, 100% of federal sector case inventory is categorized according to a new case management system and TBD% of hearings and appeals meet the criteria established in the new federal sector Quality Control Plan.</b>			
	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Targets	Develop categories for federal sector cases. Develop, pilot and implement new processes and technology, ensuring appropriate guidance, documentation, and staff training.	100% of all incoming hearings requests and appeals and 50% of old case inventory are categorized.  Develop a Federal Sector Quality Control Plan to establish criteria to measure the quality of federal sector hearings and appeals.	100% of incoming and old case inventory is categorized.  Apply the quality criteria to a statistically significant sample of federal sector decisions (hearings and appeals), develop a baseline of quality [standards], and set targets for improved quality,
Results	Prepared a draft case categorization system and management proposal. Pilot period reevaluated and extended for six months through mid FY 2014. Implementation delayed until FY 2014.		
			<b>Target Partially Met*</b>

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

For fiscal year 2013, Performance Measure 3 required the agency to develop a federal sector case management system and correspondingly to develop, pilot, and implement new processes and technology that ensures appropriate guidance, documentation, and staff training. In the third quarter of fiscal year 2012, a Federal Sector Case Management Subgroup (the “Subgroup”) was established to implement this measure. The Subgroup, in consultation with the Office of Information Technology (OIT) developed the requirements for implementing the case management system, and prepared a draft case categorization and management proposal, including the requirements for modifying the federal sector components of the agency’s Integrated Mission System (IMS). With these modifications to IMS, program staff can identify and track those appeals that implicate Strategic Enforcement Plan/Federal Sector Complement Plan priorities, and classify appeals in a manner designed to better utilize resources consistent with the EEOC’s Strategic Plan and the federal sector priorities. Staff tested the appellate categories module in September 2013. Staff also developed guidance and training materials on the case management system so that the agency would be prepared to categorize appeals beginning at the start of fiscal year 2014.

With regard to the federal hearings categories module in IMS, OIT completed the design and development of the hearings module based on the categorization requirements provided by the Subgroup in the third and fourth quarters of fiscal year 2013. During this period, the agency identified the four offices that would pilot the hearings case management system and discussed how to best tailor the categorization process for those offices. Beginning in fiscal year 2014, selected staff will test the module in advance of its release to the four hearings units targeted for piloting the new case management process for the hearings program and its general release to all hearings units.

The original estimate for the duration of the pilot period for the new case management system was scheduled for three months. The agency subsequently revised that time frame, extending the period to six months in order to effectively pilot and evaluate the new case management process. A six month pilot would allow the EEOC to assess the effectiveness of the categorization process and the initial conference requirement on both the overall movement of cases at the hearings and appellate levels and the proper allocation of resources to priority cases. The requirement for a longer pilot period, coupled with the need to modify and enhance the technological infrastructure necessary for an effective pilot and case management process meant that the goal for this measure would not be fully met in fiscal year 2013. However, since the new case management process will be piloted in a number of hearings units across the country, we will be well positioned to identify the resources needed to fully implement the case management process across the country, including the staff support, equipment, and technology required in the next fiscal year.

### Systemic Cases

<b>Performance Measure 4: By FY 2016, 22-24% of the cases on the agency's active litigation docket are systemic cases.</b>			
	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Targets	Increase targets (i.e., the percentage of systemic cases on the active docket) to 18-21%.	Increase targets (i.e., the percentage of systemic cases on the active docket) to 19-21%.	Increase targets (i.e., the percentage of systemic cases on the active docket) to 20-22%.
Results	23.4%		
			<b>Target Exceeded</b>

The fiscal year 2013 target for Performance Measure 4 was to increase the percentage of systemic cases on the agency's litigation docket to approximately 18-21 percent of all active cases. Under the EEOC's Strategic Plan, systemic cases are defined as pattern or practice, policy, or class cases where the alleged discrimination has a broad impact on the industry, occupation, or geographic area. A baseline of 20 percent was established by the agency in fiscal year 2012 because it represented the proportion of systemic cases on the active litigation docket at the end of the fiscal year. Utilizing the baseline, as well as a comprehensive review of historical suit filing, resolution, and systemic case development trends, the agency projected targets for performance through fiscal year 2016. By fiscal year 2016, the agency projects that 22 - 24 percent of cases on the EEOC's active litigation docket will be systemic cases. In fiscal year 2013, the agency reported that 54 out of 231, or 23.4 percent, of the cases on its litigation docket were systemic, exceeding the annual target.

## Federal Sector Workforce Analysis

<b>Performance Measure 5: By FY 2016, the EEOC uses an integrated data system to identify potentially discriminatory policies or practices in federal agencies and has issued and evaluated TBD number of compliance plans to address areas of concern.</b>			
	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Targets	Create and implement a data system of complaint, hearing, and statistical employee data in order to establish priorities in the federal sector.	Conduct TBD number of on-site program evaluations focused on identified priorities and issue compliance plans.	Conduct TBD number of on-site program evaluations focused on identified priorities and issue compliance plans.
Results	Designed and implemented several data capture/reporting sources to be used in the new online data system.  Time line for development of a fully operational, online registration platform extended through FY 2014.		
			<b>Target Partially Met*</b>

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

The Federal Government is the largest employer in the United States. Therefore, reducing unlawful employment discrimination in the federal sector is an integral part of achieving Strategic Objective I and fulfilling the mission of the agency. The fiscal year 2013 target for Performance Measure 5 required the agency to create and implement a data system of complaint, hearing, and statistical employee data in order to establish priorities in the federal sector; i.e., an integrated data system that can identify discriminatory policies or practices in those agencies and help set priorities for the prevention of discrimination in the Federal government.

In an effort to meet all the requirements of this measure, the agency began to develop the requisite data systems in 2012, including the technological requirements for developing an online database. Timely performance of this measure depended on the development of a fully operational, online registration platform in the Federal Sector EEO Portal (FedSEP), which is necessary to collect the required MD-715 and Form 462 data. (Note: EEOC's Management Directive 715 or MD-715 (Effective October 1, 2003), provides policy guidance and standards for establishing and maintaining effective affirmative programs of equal employment opportunity under Section 717 of Title VII (PART A) and effective affirmative action programs under Section 501 of the Rehabilitation Act (PART B). Form 462, allows Federal agency administrators to enter complaints processing data for the Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints on EEOC's Form 462 website.)

During fiscal year 2013, the agency successfully designed and implemented the Federal Sector EEO Portal (FedSEP) to capture MD-715 data. The EEOC also successfully modified FedSEP to collect the Form 462 data for implementation during the October reporting cycle. With additional resources, it is anticipated that the hearings and appeals data necessary for this online database will be captured in FedSEP in fiscal year 2014.

## Administrative and Legal Resolutions with Targeted Relief

<b>Performance Measure 6: By FY 2016, 65-70% of the EEOC's administrative and legal resolutions contain targeted, equitable relief.</b>			
	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Targets	Collect data on the percentage of administrative and legal resolutions currently containing targeted, equitable relief. Establish baseline of existing targeted, equitable relief in resolutions and project future targets for different types of targeted, equitable relief.	Increase targets by 63-67% or maintain targets.	Increase targets by 64-68% or maintain targets
Results	Designed and implemented enhancements to IMS to collect TER data. Established a baseline of 64% resolutions achieved with TER, and projected targets through 2016.		
			<b>Target Met</b>

The fiscal year 2013 target for Performance Measure 6 was to collect data on the percentage of administrative and legal resolutions currently containing targeted, equitable relief (TER). Targeted, equitable relief means any non-monetary and non-generic relief (other than the posting of notices in the workplace about the case and its resolution), which explicitly addresses the discriminatory employment practices at issue in the case, and which provides remedies to the aggrieved individuals or prevents similar violations in the future. In addition, the agency was required to establish a baseline of existing TER in resolutions in order to project future targets for different types of TER.

To meet the fiscal year 2013 goal, the EEOC enhanced its Integrated Mission System (IMS) database to collect data and generate reports on resolutions with different types of TER. In addition, the agency developed guidance for determining which types of relief qualified as TER and conducted comprehensive i-Seminars to train staff on this new TER feature. The IMS enhancement to the Private – EEOC component were implemented and available in January 2013. Based on TER data captured in IMS during the fiscal year, the agency formulated a baseline of 64 percent of TER resolutions containing TER in fiscal year 2013. However, to more fully capture the variance in the number of resolutions involving TER, the agency also developed a series of ranges for its future targets through fiscal year 2016 to include an increase in resolutions with TER within a range of 63-67 percent in fiscal year 2014; 64-68 percent in fiscal year 2015; and 65-70 percent in fiscal year 2016.

## FEPA Resolutions with Targeted Relief

<b>Performance Measure 7: By FY 2016, 15-17% of resolutions by FEPAs contain targeted, equitable relief.</b>			
	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Targets	Collects data from FEPAs, establishes baseline of existing targeted, equitable relief in resolutions and project future targets for different types of targeted equitable relief.	FEPAs increase targets by 13-15% or maintain targets.	FEPAs increase targets by 14-16% or maintain targets.
Results	Designed and implemented enhancements to IMS to collect TER data from FEPAs. Established a baseline of 14% FEPA resolutions with TER, and projected targets through 2016.		
			<b>Target Met</b>

The fiscal year 2013 target for Performance Measure 7 was to identify, design, and implement, in accord with the State and local Fair Employment Practices Agencies (FEPAs), a new reporting process for determining what percentage of FEPA resolutions contain targeted, equitable relief (TER). Based on input from our FEPA partners, the agency developed content to use in the data collection plan for TER and related reporting for both FEPAs and the EEOC. The design for the reporting process was developed with an eye toward consistency within the Integrated Mission System (IMS) for recording TER data. These IMS enhancements to the Private – FEPA component were implemented and made available in January 2013.

As with Performance Measure 6, the agency conducted i-Seminars to train 168 FEPA staff on the TER enhancements, and provided electronic links to the instructional tools to share with the staff of all of the agency’s FEPA partners. Based on TER data captured in IMS by the reporting FEPAs, the agency determined that the baseline percentage of merit factor resolutions containing TER for fiscal year 2013 was 14 percent. In order to better capture the variance in the number of FEPA resolutions achieved through TER, the agency developed a series of ranges for its future targets through fiscal year 2016 to include an increase in FEPA resolutions with TER within a range of 13-15 percent in fiscal year 2014; 14-16 percent in fiscal year 2015; and 15-17 percent in fiscal year 2016. (Baseline percentages established under Performance Measure 7 for FEPAs are different from Performance Measure 6 due to variations between charge processing systems at the FEPAs with whom the EEOC has work-sharing agreements).

## C. Program Areas

### 1. Private Sector Enforcement

#### Charge Receipt and Inventory

As discussed earlier in this request, the agency's new Strategic Plan places a strong emphasis on ensuring our enforcement efforts reduce employment discrimination and provide remedies that correct discriminatory practices in the workplace as well as meaningful relief for those affected by such practices. In fiscal year 2013, through our strong enforcement activity, we achieved 97,252 resolutions, with a merit factor resolution rate of 18.1 percent. (Merit factor resolutions include mediation and other settlements and cause findings, which, if not successfully conciliated, are considered for litigation). The EEOC also secured more than \$372.1 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 70,522 people through administrative charge resolution. We also launched data collection in fiscal year 2013 for Performance Measure 6, which is focused on tracking our efforts to secure targeted equitable relief in cause cases. With this data, we established our baseline data as well as future targets for fiscal year 2014 and fiscal year 2015 enforcement benefits to secure an increase in equitable remedies obtained for aggrieved individuals.

While the agency has achieved some significant successes as outlined above, these successes are better understood in light of the challenges confronting the agency over the past 13 years. The EEOC's charge inventory had been growing since fiscal year 2002. Increases in the agency's budget in fiscal years 2009 and 2010 allowed us to make strides in managing the inventory which we continued to see through fiscal year 2012, with a second consecutive year of inventory reduction resulting in a pending inventory level of 70,312. However, the impact of the hiring freeze imposed in fiscal year 2011 and in place through the end of fiscal year 2013 led to the agency's inventory increasing slightly, by 469 charges, to 70,781 at the end of fiscal year 2013. The 93,727 charges receipts in fiscal year 2013, while reflecting an approximately 6,000 charge decrease from the prior three fiscal years, is still one of the top five fiscal years in terms of receipts. These are still noteworthy achievements in light of the impact of sequestration and resource limitations during fiscal year 2013.

We remain committed to improving our internal processes and enhancing our productivity to make progress in managing the inventory. We had anticipated some limited hiring of investigators in our fiscal year 2013 budget that were intended to replace some of the front-line staff positions that became vacant due to attrition since the hiring freeze was imposed in the second quarter fiscal year 2011. However, due to a reduced budget level, the agency was unable to hire new staff. Fiscal year 2014's budget is allowing us to fill a significant number of investigator and mediator positions. We anticipate at least 116 investigators and 12 mediators during third and fourth quarters which will help restore some of the prior years' losses to the front-line staffing levels and rebuild our enforcement capacity in our field offices. This fiscal year 2015 request reflects 60 additional investigator hires and 6 mediator hires, which will allow us to maintain our staffing gains secured in fiscal year 2014. With this infusion of staff, we project that we will be able to make in-roads on our inventory of charges and see reductions beginning in fiscal year 2015 and beyond. In addition to these improved staffing levels, during

fiscal years 2014 and 2015, we will continue our focus on identifying creative approaches to addressing the inventory and utilizing PCHP in a manner that will produce further reductions in the inventory. We also recognize that we must balance our efforts to address the inventory while still maintaining a high level of quality in our investigations and conciliations. In fiscal year 2014, the implementation of the new QCP outlined in Performance Measure 2 will allow the agency to develop a baseline of current quality levels through the application of defined criteria and utilization of a peer review assessment system and set targets for improved levels for future years. This measure will provide the public with the confidence that our inventory reduction focus will be complemented by our emphasis on maintaining high quality in our enforcement activities.

The most significant factor in successfully managing the inventory was 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 two record levels of 112,499 in fiscal year 2011, and 111,139 in fiscal year 2012. Because of this success, we recorded two consecutive years of significant inventory reductions, ending fiscal year 2012 with a pending inventory level of 70,312 charges that reflected the first significant decline in our inventory level in 10 years. However, the resource constraints of fiscal year 2013 are reflected in our year-end data which shows that our resolutions were down 13 percent, to 97,252 compared with 111,139 resolutions in fiscal year 2012.

To reduce our inventory levels, we recognize that the EEOC must continue to increase frontline capacity. That is why this fiscal year 2015 budget justification provides the resources to support both sustaining the significant increase in staffing hires made in fiscal year 2014 as well as augmenting our staffing with additional investigator and mediators positions in fiscal year 2015. This will allow us the capacity to better match our workload levels with sufficient staff, producing a reduction in the inventory level to 75,143 pending charges in fiscal year 2015 followed by further long-term declines in subsequent fiscal years.

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 during periods that did not allow for hiring. With the further investments in staff, training and technology made in fiscal years 2014 and 2015 as outlined in this budget justification, we are confident that we will be able to reverse the upward trend in our inventory and show improvements not only in our inventory levels but also in our ability to better serve the public and resolve charges in a more timely manner.

Chart 2 below shows the minimal growth of the pending inventory in fiscal year 2013 as well as an increase in fiscal year 2014 as the front-line staff hires occur later in the fiscal year. With the fiscal year 2014 hires becoming fully productive in fiscal year 2015, in conjunction with continued hiring activity in fiscal year 2015, the inventory levels begin a downward trend that carries into the subsequent fiscal years.

**Chart 2:  
Private Sector Charges Pending  
at Year End for Fiscal Year 2011 to Fiscal Year 2017**

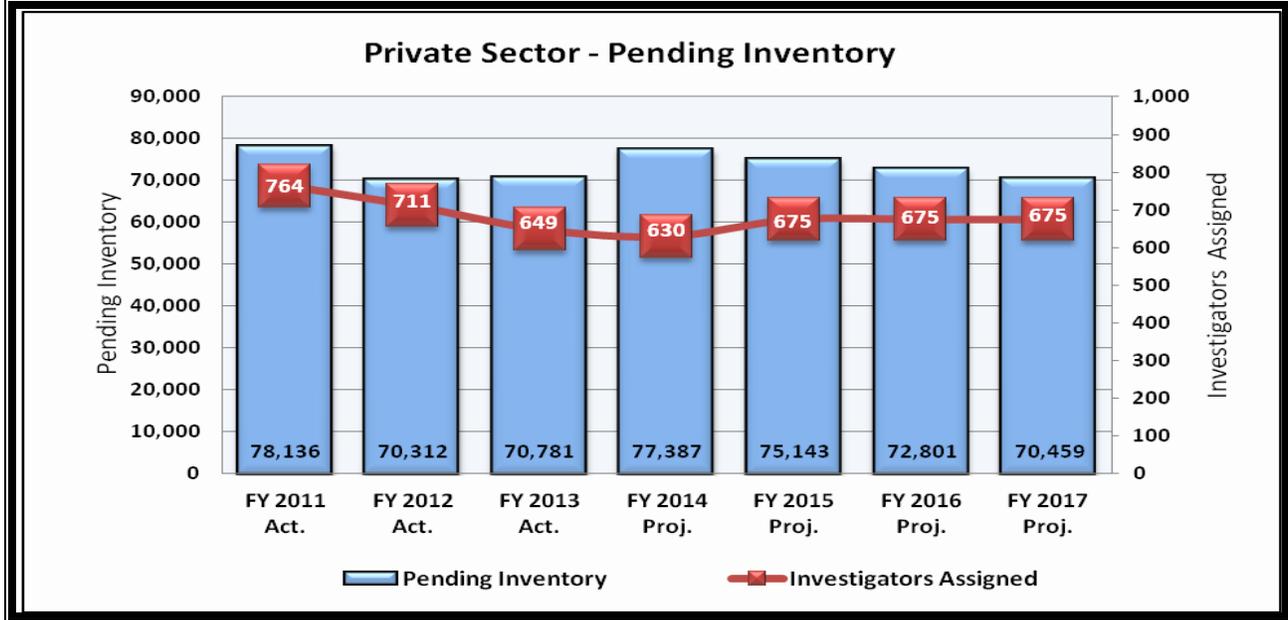
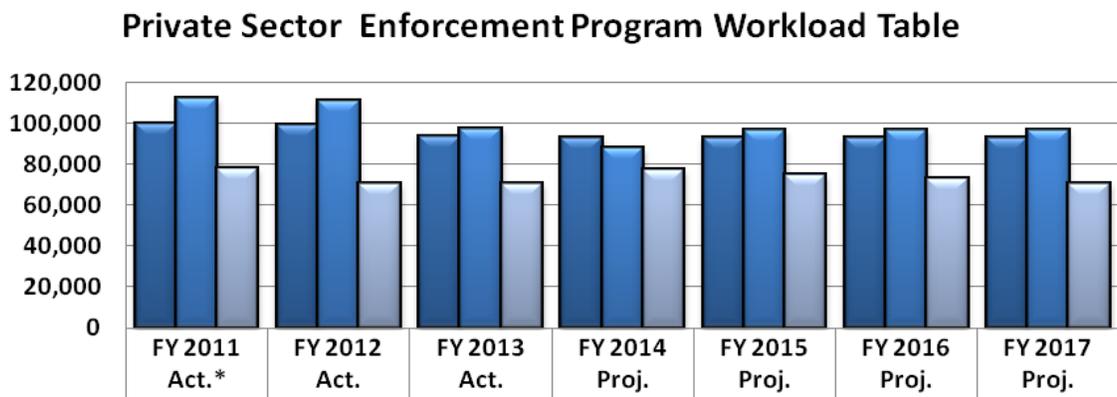


Chart 3 below depicts the actual Workload for Private Sector Enforcement for fiscal years 2011 through 2013 and projected Workload through fiscal year 2017. As Chart 3 demonstrates, we are projecting a steady level of receipts for fiscal years 2014 - 2017, and an increasing level of resolutions beginning with fiscal year 2015 as we realize the productivity of staffing hires made in the latter half of fiscal year 2014 and the projected hiring in fiscal year 2015.

**Chart 3:  
Private Sector Enforcement Program Workload Table  
Fiscal Year 2011 to Fiscal Year 2017**



<b>Total Receipts</b>	99,947	99,412	93,727	93,024	93,024	93,024	93,024
<b>Total Resolutions</b>	112,499	111,139	97,252	87,870	96,720	96,818	96,818
<b>Pending Inventory</b>	78,136	70,312	70,781	77,387	75,143	72,801	70,459

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

Table 5 shows the actual private sector charges received by Statute for fiscal year 2011 – fiscal year 2013 and the projected charges through fiscal year 2017. As can be seen by Table 5 the largest portion of the charges received by the agency involves those with allegations covered by Title VII.

**Table 5:  
Charges Filed by Statute Fiscal Year 2011 to Fiscal Year 2017**

	FY 2011 (Act.)	FY 2012 (Act.)	FY 2013 (Act.)	FY 2014 (Est.)	FY 2015 (Est.)	FY 2016 (Est.)	FY 2017 (Est.)
<b>Title VII Only</b>							
Charges filed	55,224	54,446	50,760	50,663	50,663	50,663	50,663
Charges resolved	63,279	59,885	52,797	47,525	52,312	52,365	52,365
<b>Title VII With Concurrents</b>							
Charges filed	71,914	71,578	67,558	67,015	67,015	67,015	67,015
Charges resolved	82,980	79,310	70,175	63,055	69,406	69,476	69,476
<b>Age Discrimination in Employment Act Only</b>							
Charges filed	10,116	9,257	8,269	8,435	8,435	8,435	8,435
Charges resolved	10,268	11,886	8,643	8,603	9,470	9,479	9,479
<b>Age Discrimination in Employment Act w/Concurrents</b>							
Charges filed	23,465	22,857	21,396	21,312	21,312	21,312	21,312
Charges resolved	26,080	27,335	22,371	20,912	23,019	23,042	23,042
<b>Equal Pay Act Only</b>							
Charges filed	48	61	90	73	73	73	73
Charges resolved	50	50	95	63	69	69	69
<b>Equal Pay Act with Concurrents</b>							
Charges filed	919	1,082	1,019	1,012	1,012	1,012	1,012
Charges resolved	1,101	1,139	1,063	930	1,024	1,025	1,025
<b>Americans with Disabilities Act Only</b>							
Charges filed	15,115	15,480	15,198	14,785	14,785	14,785	14,785
Charges resolved	15,904	16,427	15,309	13,410	14,761	14,775	14,775
<b>Americans with Disabilities Act w/Concurrents</b>							
Charges filed	25,742	26,379	25,957	25,223	25,223	25,223	25,223
Charges resolved	27,873	28,799	26,410	23,316	25,664	25,690	25,690
<b>Genetic Information Nondiscrimination Act Only</b>							
Charges filed	17	20	27	23	23	23	23
Charges resolved	16	25	24	21	23	23	23
<b>Genetic Information Nondiscrimination Act w/Concurrents</b>							
Charges filed	245	280	333	296	296	296	296
Charges resolved	211	319	294	259	285	285	285
<b>Total*</b>							
Charges filed	99,947	99,412	93,727	93,024	93,024	93,024	93,024
Charges resolved	112,499	111,139	97,252	87,870	96,720	96,818	96,818

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

### Mediation Program

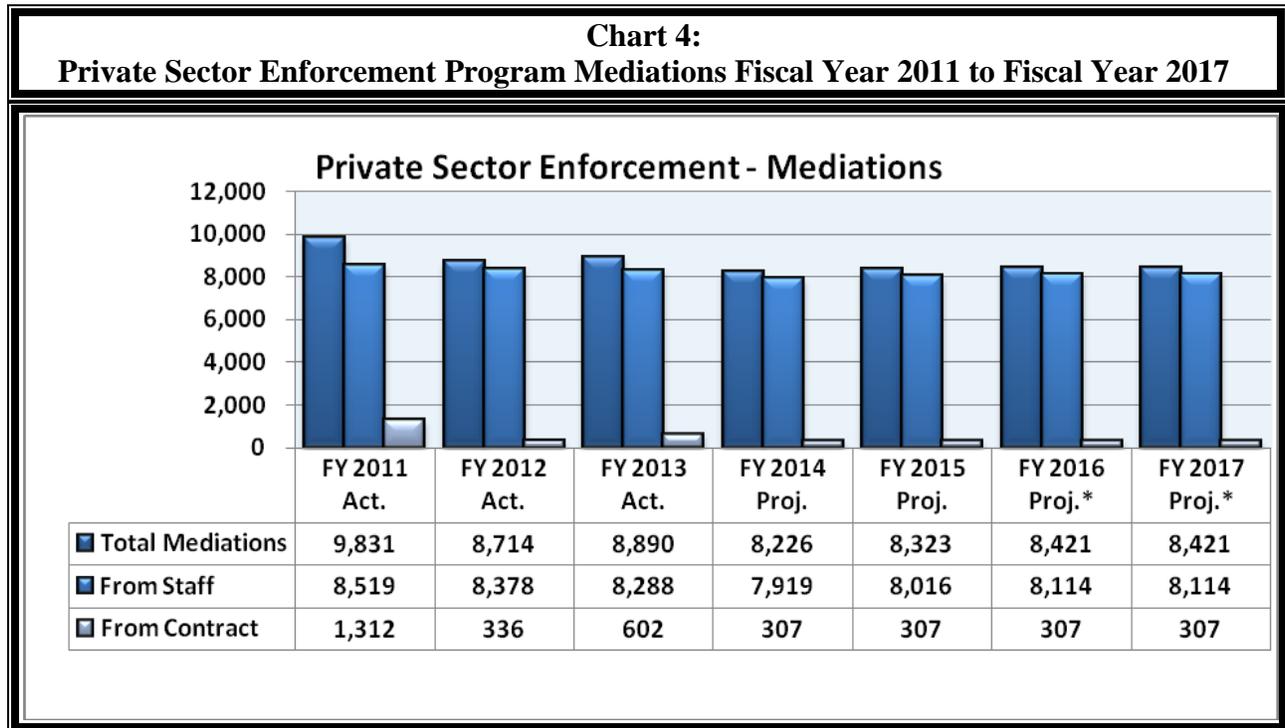
A key component of the Commission's enforcement strategy is the continued emphasis on the use of Alternate Dispute Resolution (ADR) as an effective tool to quickly resolve appropriate charges of discrimination. We continue to pursue efforts to secure greater participation by employers, through the use 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. At the conclusion of fiscal year 2013, the program resolution level was 8,890 successful resolutions out of 11,513 conducted and these were completed in an average time of 99 days and with a record level of over \$160.8 million in benefits secured. The Commission achieved these results with a loss of six staff mediators due to attrition during fiscal year 2013. We hope to restore our Mediation Program staffing with the projected hiring of 12 mediators in fiscal year 2014, and six mediators in fiscal year 2015. The EEOC is requesting that contract mediation funds in the amount of \$390,000 which is level with the fiscal year 2014 amount. This funding will assist EEOC in continuing its efforts in offering a fair, efficient and timely alternative to the traditional investigative process in areas not covered by on staff mediators.

Additionally, the program continues to receive positive feedback from participants. Based on the responses to an annual 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 2013, 96.6 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 2013, the agency secured a cumulative total of 2,203 agreements to mediate, a 3 percent increase over the prior year.

Chart 4 below depicts the division of mediations between staff and contractors. As can be seen in Chart 4 staff are responsible for most of the mediations conducted.



\*May not add due to rounding

**a. State and Local**

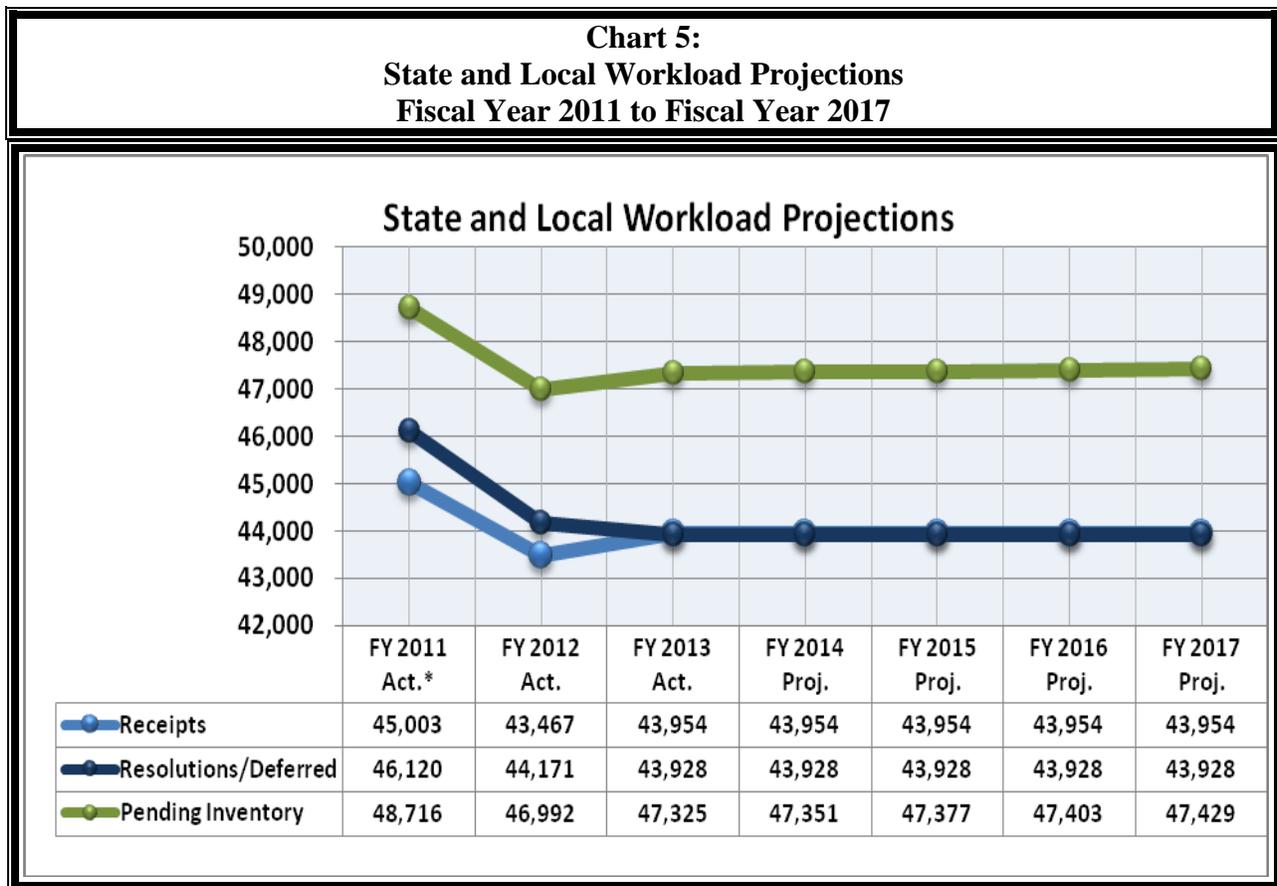
The President’s request for fiscal year 2015 is based on level funding for State and Local activities totaling \$29,500,000. The fiscal year 2015 request will continue to fund our relationship with the Fair Employment Practices Agencies (FEPAs) and Tribal Employment Rights Organizations (TEROs). Both 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 2013, we continued efforts launched earlier 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 2013, the per charge reimbursement rate was \$650, with the approximate \$27.4 million provided for State and Local activities as part of the agency’s overall appropriation. During fiscal year 2013, the Commission approved a proposed model Memorandum of Understanding (MOU) which can be used as a template by EEOC offices for agreements with individual Indian tribes. Under the MOU, each tribe wishing to enter into an MOU with EEOC would first have to

adopt a non-discrimination ordinance covering employment on the tribe’s reservation or land. We also engaged in an involved dialogue with our FEPA partners to implement the strategic goal that links the FEPAs accomplishments to EEOC’s new Strategic Plan covering fiscal years 2012 through 2016 including developing mechanisms such as model worksharing agreements to encourage FEPA support of SEP priorities. We have provided training and guidance to the staff of our FEPA partners on the new Performance Measure data collection for targeted equitable relief and will continue to utilize the data collected to monitor the targets developed for fiscal year 2014 and the remaining years of the Plan.

EEOC field offices will continue to invite FEPAs in their jurisdiction to participate in training offered to the EEOC staff. In addition, EEOC has continued to utilize an on-line government social networking mechanism in an attempt to facilitate communications between the FEPAs and EEOC, and continues to explore alternative mechanisms that would even more effectively enhance communication. This will remain a focal point in fiscal years 2014 and 2015, as we continue to identify opportunities to link technology advances with improved interactions with our partners.

Chart 5 below depicts the actual State and Local receipts, total resolutions and pending inventory for fiscal years 2011 - 2013, and projections for fiscal years 2014 - 2017.



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

Systemic Program

In 2006, following the issuance of its Systemic Task Force Report, the Commission resolved that investigating and litigating cases of systemic discrimination would be a top agency priority because systemic cases have the greatest impact on employers engaging in discrimination and people who are harmed by employment discrimination. In the six plus years since, the Commission has found its systemic work to have indeed been its most impactful and through this request, we plan to continue to strive to achieve the vision set forth in the 2006 report.

In fiscal year 2012, the EEOC adopted a new Strategic Plan that sets the course for the agency over the next five years. On December 17, 2012, the EEOC adopted a Strategic Enforcement Plan. The two plans establish the agency’s enforcement priorities, including priorities for systemic work, along with performance measures that are consistent with the newly established priorities. Our systemic efforts in fiscal year 2015 will be guided by the focus outlined in these Plans together with the District Complement Plans that supplement the SEP.

A key indicator of success in EEOC’s systemic work is reflected by the remedies secured in cases in which discrimination is found to have occurred. The voluntary compliance, or conciliation process, is one of the primary ways in which EEOC obtains remedies for persons subjected to systemic discrimination. The other is through litigation filed against employers who are found to have engaged in discrimination but who are unwilling to resolve the claims voluntarily.

In fiscal year 2013, EEOC field offices completed work on 300 systemic investigations and obtained over \$40 million in remedies in these systemic cases. These resolutions included voluntary conciliation agreements in 63 systemic investigations in which the Commission had found reasonable cause to believe that discrimination occurred. In addition, reasonable cause determinations finding discrimination were issued in 106 systemic investigations.

<b>Table 6: Systemic Program Fiscal Year 2011 to Fiscal Year 2013</b>			
	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
Systemic Resolutions	167 Investigations	240 Investigations	300 Investigations
Systemic Cause Findings	96 Investigations	94 Investigations	106 Investigations
Systemic Litigation Filed	23	10	21
Pending Systemic Inventory	580 Investigations	538 Investigations	526 Investigations

To promote its systemic work, the Commission has assigned nine Lead Systemic Investigators to work exclusively on systemic cases. Additionally, the Commission has hired nine social science research experts to support field systemic investigations. Thus, even with modest staffing investments in an environment where resources are stretched to the limit, the results of the Commission’s systemic efforts have been impressive. When the Commission has focused its resolution on systemic work, it has had a significant impact on the behavior of employers and workplaces across the country.

## **b. Litigation**

The Commission's litigation program is a vital tool to fulfill our mandate to enforce the federal civil rights employment laws. 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.

One of the Commission's top priorities, as evidenced by its adoption of the agency's Strategic Plan for Fiscal Years 2012-2016, is to continue its focus on cases of systemic discrimination, which typically involve broad-based employment practices affecting large numbers of individuals. As required by the Strategic Plan, the Commission expects to increase the representation of systemic litigation cases on its active docket over the next several budget cycles. Consistent with the Commission's Strategic Enforcement Plan, we expect many of our systemic cases to challenge discriminatory barriers to employment (chiefly recruitment and hiring practices), and we expect many of our cases generally (both large and small) to focus on emerging and developing legal issues, protecting the rights of immigrants and other vulnerable populations, and discriminatory pay practices.

Systemic cases, which are extremely resource-intensive, involve challenges to discriminatory policies or challenges to practices that affect anywhere from 20 to thousands of individuals. These types of cases often continue in active litigation over a multi-year period and last far longer than smaller-sized cases. The Commission's active docket of litigation changes from day to day but as of the beginning of fiscal year 2014 we were actively litigating 55 systemic cases which represent 24.0 percent of our total active litigation docket.

As a greater proportion of our docket is focused on systemic cases, the cost of funding the litigation program will rise. Systemic cases require significant resources in terms of professional staff time and litigation expenses, such as retaining expert witnesses, voluminous motion and discovery practice, extensive travel and high interpreter costs for litigating cases involving immigrant workers. The length and cost of these cases has increased in recent years. Therefore, even a modest increase in systemic litigation activity has a major impact on the resources needed and could impact the quantity of smaller sized cases the Commission is able to litigate. While the cost of litigating all types of cases has been increasing, the increase in the proportion of systemic discrimination cases on our docket has become a major driver of the large increase in litigation costs.

The Commission plans to hire 12 new trial attorneys in fiscal year 2014, plus needed litigation support personnel and on-staff social scientists. These additional resources will be directed to handling the increasing volume of systemic litigation, as well as litigating cases that present high priority issues as described in the agency's Strategic Enforcement Plan. In addition, Commission attorneys will continue to spend a significant portion of their time working closely with investigators to develop investigation plans, interview witnesses, analyze evidence and assist in charge resolutions.

With the requested appropriation, the Commission will increase the representation of systemic cases on the active docket over the next several years. The Commission will also continue to bring litigation cases that reach 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. The Commission projects filing 150 new merits lawsuits in fiscal year 2014 which is a small increase in filings from the previous year.

In all of our litigation, the Commission seeks to secure substantial injunctive and equitable relief as well as appropriate monetary relief for all aggrieved individuals. In fiscal years 2010-2013, the Commission recovered around \$269 million in damages and back pay for 24,808 victims of discrimination through its litigation program.

## **2. 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 nearly three million men and women across the country and around the world who have dedicated their lives to public service. EEOC Management Directive 715 (MD-715) is the key vehicle for agencies to identify and remove barriers to equal employment.

Additionally, Congress mandated that the EEOC act as the enforcement authority for complaints of discrimination brought by 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, the agency is also responsible 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 2013, the EEOC secured more than \$56.2 million dollars in relief for parties who requested hearings. There were a total of 7,077 requests for hearings, 8 percent less than the 7,728 received in fiscal year 2012. Additionally, the Commission's hearings program resolved a total of 6,789 complaints, which is approximately 10 percent below the level in the same period in fiscal year 2012, (7,538).

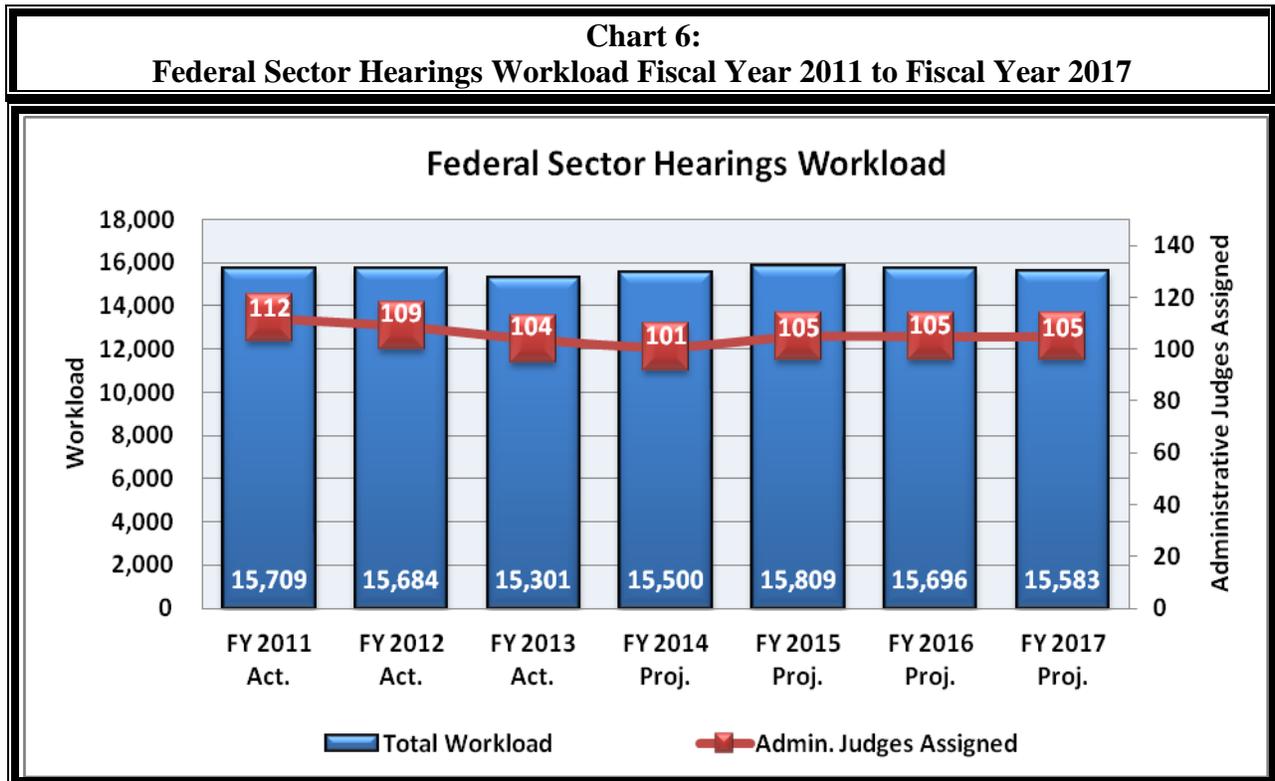
Consistent with the Strategic Plan, the Commission continued its focus on expanding the use of technology to make the Federal Hearings process faster and more effective. This focus on technology includes the on-going development of the EEOC File Exchange (EFX) web-based portal system for hearings units nationwide and the expanded use of Hot Docs technology for AJs.

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 has been implemented in all 24 EEOC field office hearings units, the Office of Federal Operations (OFO), and over 110 agencies or sub-components (44 agencies and 71 sub-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. With the conclusion of this phase of EFX, agencies can now transmit their documents electronically to EEOC. Future expansion of EFX will enable the system to be available to complainants, and their representatives, providing the vehicle by which they can file motions, submit supporting documentation and obtain information about the status of their case.

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.

Chart 6 below demonstrates the actual workload and number of Administrative Judges assigned to handle hearing complaints for fiscal years 2011 through 2013 and projections for fiscal years 2014 through 2017. Based on recent data, hearings receipts are projected to remain steady in fiscal years 2014 through 2017 and resolutions will increase with projected hiring that will occur in fiscal year 2014.



**c. Federal Sector Appeals Programs**

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 fiscal year 2013, as the result of the Commission’s federal sector enforcement efforts, the EEOC appellate program secured \$11.3 million in monetary benefits and issued 4,361 decisions.

The appellate decisions issued by the Commission serve as a vehicle for the development and promulgation of the Commission’s EEO policy in the federal sector. Moreover they provide invaluable insight into the Commission’s policy and legal interpretation of EEO law. 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, agencies, and the public sector about the law, guide agencies in their efforts to become model workplaces, and vindicate the public interest in eradicating discrimination in federal employment.

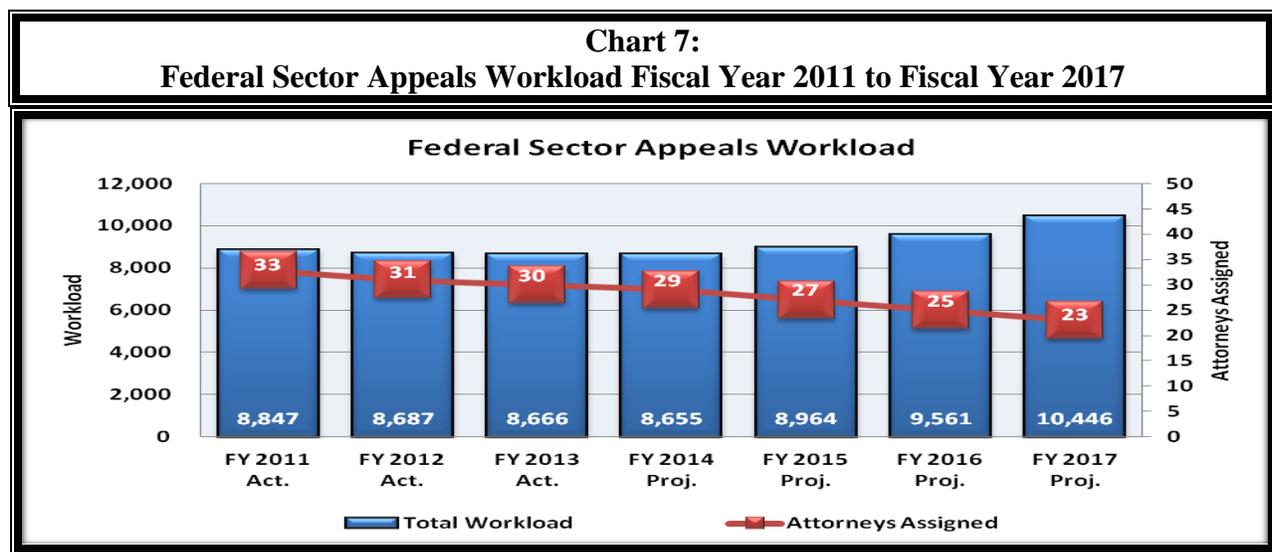
Keenly aware that “justice delayed is justice denied,” the Commission continues to manage its appellate inventory through the use of targeted management techniques and improvements in technology.

The Commission’s transition from a paper-centric to a digital environment, which began in fiscal year 2005, continues to progress. In fiscal year 2012, the Commission issued new regulations requiring agencies to submit appeal-related documentation in digital format. Further, these regulations encouraged complainants and their representatives to submit their appeals and briefs in digital format.

This continued development of the Commission’s digital infrastructure provides opportunities to improve efficiency in the Appellate function. For example, the Commission’s EFX portal provides agencies a seamless method of submitting all complaint-related documents, and relieves Commission appellate support staff from the time-consuming process of organizing and preparing hard copy versions. The Commission’s federal sector hearing and appellate programs are currently working closely with the Commission’s Office of Information Technology to develop a federal sector portal that permits agencies, complainants, and their representatives to not only upload digital files, but to review those that have been submitted. In addition to the gains in efficiency, this will make the appellate process more transparent for all parties involved.

The EEOC has also employed targeted management techniques and adopted performance measures designed to both increase the efficiency and fairness of the appellate decision-making process, while effectively managing the appellate inventory. As part of this effort the Commission employs a balanced approach by resolving a target percentage of appeals within 180 days, while simultaneously ensuring that the oldest appeals in the inventory are addressed.

Chart 7 below demonstrates the actual workload inventory and number of attorneys assigned to adjudicate appeals of complaints decided by the EEOC for fiscal years 2011 through 2013 and projections for fiscal years 2014 through 2017.



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. However, in recent years there have been wide fluctuations in appellate receipts, making future workload projections more challenging. For example, in fiscal year 2011, appellate receipts increased by 13.8 percent from fiscal year 2010 levels. By contrast, fiscal year 2012's receipts fell 15.9 percent from fiscal year 2011. In the coming fiscal years the Commission will continue to monitor this situation and make operational modifications as appropriate.

The effective management of the Commission's appellate inventory is just one critical component of an integrated strategy designed to combat employment discrimination through strategic law enforcement. To help in this effort and in furtherance of the Commission's Strategic Plan, the Commission's hearings and appellate units and the Office of Information Technology collaborated in the design and deployment of a new case management system, which was piloted during the 4<sup>th</sup> quarter of fiscal year 2013 and fully implemented in the appellate program during the 1<sup>st</sup> quarter of fiscal year 2014. This effort is discussed more fully on page 43.

#### **d. Oversight of Federal Agencies EEO Programs**

Performance Measure 5 of the Commission's Strategic Plan mandates the design and implementation of an integrated data system intended to identify pervasive discriminatory practices and policies in federal agencies. The Commission's federal sector oversight functions will be enhanced by this integrated approach. Information available to the hearings and appellate units will be combined with agency complaint data, workforce data, and barrier analyses to build a more complete picture of how agencies are progressing in the development of model EEO programs.

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 MD-715, which details strategies for identifying and removing barriers to free and open workplace competition and 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.

The Commission's development of an integrated data system pursuant to Performance Measure 5 will be the culmination of recent efforts to collect, analyze, and respond to information about agencies' efforts to create model EEO programs. As part of these efforts, the EEOC is building upon its recent pilot program whereby numerous federal agencies submitted EEO program-related data to an online data warehouse. This initiative, called the Federal Sector EEO Portal (FedSEP) is now available to capture statistical data contained in agencies' MD-715 reports, and allow for the upload and analysis of EEO complaint data (EEOC Form 462), as well as supporting narrative documentation. In addition to this data collection initiative, the

Commission is exploring methods 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. These efforts will supplement the Commission's delivery of relevant and helpful information, training, and EEO solutions to federal agencies, and 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.

**e. Federal Sector New Case Management System and Quality Control Plan**

EEOC's Strategic Plan addresses case management for both private and federal sector. With respect to the federal sector, the Strategic Plan at Performance Measure 3 requires that the federal sector case inventory be categorized according to a new case management system in order to enable the Commission to bring consistency and greater efficiencies to the processing of federal sector complaints and track cases that raise priority issues set out in its Strategic Enforcement Plan. The Strategic Plan anticipates that the new case management system will also enable appropriate tracking and accounting for significant policy cases, class action cases, or other cases requiring greater time and effort on the part of administrative judges and appellate attorneys.

A workgroup consisting of EEOC Administrative Judges, appellate attorneys, and other federal sector staff provided recommendations on implementing the case management aspects of the Strategic Plan. This workgroup developed case categories and partnered with the Office of Information and Technology to develop a case management system that was piloted for appeals in the 4<sup>th</sup> quarter of fiscal year 2013, and fully implemented at the start of fiscal year 2014.

The Commission's Strategic Enforcement Plan (SEP) required the Commission's federal sector to develop a federal complement plan. This plan, which was approved in July 2013, is designed to implement the SEP priorities and identify complementary federal sector priorities and the strategies for addressing them. Additionally, the federal complement plan identifies strategies to improve communication, oversight, and consistency across the federal sector. Finally, pursuant to the SEP, the Commission has contracted with an outside entity to examine the structure of the federal sector hearings program, and provide recommendations for improvements to the deployment of the federal sector resources.

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## **VI. STRATEGIC OBJECTIVE II - Prevent employment discrimination through education and outreach.**

### **A. Introduction**

In fiscal year 2013, we continued our robust outreach program to meet the needs of diverse audiences across the Nation. The agency partnered with the employer community, colleges and universities, advocacy groups, immigrant and farm worker communities, governmental entities, and other stakeholders to foster strategies to recognize and prevent discrimination in the workplace.

Under Strategic Objective II of the Plan, we established the following outcome goals: 1) members of the public understand and know how to exercise their right to employment free of discrimination; and 2) employers, unions, and employment agencies (covered entities) better address and resolve EEO issues, thereby creating more inclusive workplaces.

The three strategies for achieving the goals of Strategic Objective II can be summarized as follows:

- Target outreach to vulnerable workers and underserved communities;

“Vulnerable workers” are those workers whose options may be severely limited due to economic or social barriers and whose ability to understand or exert their rights may be compromised. This includes, but is not limited to, low wage earners, farm workers, refugees, victims of human trafficking, youth, and older workers.

“Underserved communities” have been defined as those communities whose demographics, geographic location, or economic characteristics impede or limit their access to services provided by EEOC.

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

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

## B. Performance Measures and Results

Performance Measures 8 and 9 focus on rewarding and encouraging interactive and sustained partnerships with community organizations and businesses that are in the communities we are trying to reach. For these two measures, we defined “significant partnerships” as an interactive and sustained relationship with an organization, community group, advocacy group, etc., that represents or serves vulnerable or underserved communities and enhances the EEOC’s ability to reach those communities.

### Vulnerable and Underserved Communities

<b>Performance Measure 8: By FY 2016, the EEOC is maintaining TBD significant partnerships with organizations that represent vulnerable workers and/or underserved communities.</b>			
	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Targets	The number of significant partnerships with organizations that represent vulnerable workers and/or underserved communities increases by 10%, nationally, or to 99.	The number of significant partnerships with organizations that represent vulnerable workers and/or underserved communities increases by 10%, nationally, or to 108.	The number of significant partnerships with organizations that represent vulnerable workers and/or underserved communities is maintained, nationally.
Results	Guidance was issued to District Offices including approaches to identifying partners and activities, and reporting on results.  The number of significant partnerships increased to 102.		
			<b>Target Exceeded</b>

The baseline established in fiscal year 2012 identified approximately 90 significant partnerships within the vulnerable worker and underserved communities for Performance Measure 8. The fiscal year 2013 target for this measure was to increase the number of significant partnerships with organizations that represent vulnerable workers and/or underserved communities by 10 percent, nationally over the 2012 baseline, or to 99 total partnerships. In January 2013, the agency scheduled individual discussions with each office planning to increase their partnership representation in 2013. Discussions held during January and February 2013 with District Directors and Program Analysts provided guidance on how to maximize outreach efforts and partnership development strategies within the vulnerable worker and/or underserved communities that the EEOC supports.

Throughout the fiscal year, the agency used monthly outreach submissions from each district, as well as district descriptions of their relationships with various organizations, to make two key assessments: 1) whether the partnerships that were used to create the baseline were still viable under the Plan – determining whether outreach events, training, planning sessions or other activities occurred during fiscal year 2013 to warrant maintaining baseline partnerships with identified partners or whether certain partnerships should be reevaluated if they were no longer interactive and/or sustainable; and 2) whether the submissions from the districts with newly

added organizations met the “significant” threshold in fiscal year 2013 for purposes of this measure. As a result, the number of partnerships increased by 12 (or 13 percent), making the current total number of significant partnerships 102 for fiscal year 2013 and exceeding our target.

### Small and New Businesses

<b>Performance Measure 9: By FY 2016, the EEOC is maintaining TBD significant partnerships with organizations that represent small or new business (or with businesses directly).</b>			
	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Targets	The number of significant partnerships with organizations that represent small or new businesses (or with businesses directly) increases by 10%, nationally, or to 78.	The number of significant partnerships with organizations that represent small or new businesses (or with businesses directly) increases by 10%, nationally, or to 86.	The number of significant partnerships with organizations that represent small or new businesses (or with businesses directly) is maintained, nationally.
Results	Guidance was issued to District Offices including approaches to identifying partners and activities, and reporting on results.  The number of significant partnerships increased to 81.		
			<b>Target Exceeded</b>

In fiscal year 2012, the agency established a baseline of approximately 71 significant partnerships with organizations that represent small and new businesses (or with businesses directly), which contributes to the agency’s objective of preventing employment discrimination through education and outreach to employers. The fiscal year 2013 target for this measure was to increase the number of significant partnerships with organizations that represent small or new business communities (or with businesses directly) by 10 percent nationally over the 2012 baseline, or to 78 total partnerships. Concurrent with the January 2013 notification issued by the agency for the previous measure, discussions were also held in January and February 2013 with District Directors and Program Analysts concerning how to maximize outreach efforts and partnership development strategies within the small and new business communities. Guidance was issued to District Offices that included approaches for identifying potential partners and outreach activities, as well as methods for reporting results for both Performance Measures 8 and 9.

Throughout the fiscal year, the agency employed the same methodology for assessing whether: 1) the baseline partnerships were still viable; and 2) the new partnerships were considered “significant” for purposes of this measure, as were applied to Performance Measure 8, above. As a result, the number of partnerships increased by 10 (or 14 percent), exceeding our target and raising the current total number of significant partnerships to 81 for fiscal year 2013.

## Social Media Plan

<b>Performance Measure 10: By FY 2013, the EEOC implements a social media plan.</b>			
	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Targets	Implement the social media plan.	Assess plan and update as necessary.	N/A
Results	Began implementing the social media plan.		
			<b>Target Partially Met*</b>

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

Performance Measure 10 ensures that the agency moves into the 21<sup>st</sup> century by utilizing social media technologies to reach the EEOC's customers.

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

The fiscal year 2013 target for Performance Measure 10 was to implement the agency's social media plan. Twitter accounts were institutionalized in both Spanish and English that have reached 2,760 Twitter followers of @EEOCNews and where the EEOC has transmitted 1,638 tweets. In January 2013, the agency started a new Spanish-language Twitter feed @EEOCespanol, which now has 164 followers, and the EEOC transmitted approximately 1,605 tweets. In addition, the agency began implementing the social media guidelines, first by piloting them internally to determine how they would operate and what rules would need to be adjusted/developed based on the EEOC's use.

The EEOC is currently developing the agency's Communications and Outreach Plan, as identified in the Strategic Enforcement Plan, which will incorporate the agency's social media policy and the mechanism for its implementation. Further research is being conducted to assess what social media accounts are currently used by the EEOC's program offices and how best to use social media to advance the agency's legislative work (i.e., how to expand our digital reach). To support this ongoing effort, the agency convened the Communications Content Committee (C3), a group of key program offices to help strategically manage and develop content for the EEOC's web site that can be subsequently used for any social media platform developed by the agency.

## Sub-regulatory Guidance Review and Revision

**Performance Measure 11: The EEOC reviews, updates, and/or augments with plain language materials its sub-regulatory guidance, as necessary.**

	FY 2013	FY 2014	FY 2015
Targets	Consistent with Commission priorities, submit at least two plain language revisions of substantive policy documents to replace at least two other outdated guidance documents.	Consistent with Commission priorities, submit at least two plain language revisions of substantive policy documents to replace at least two other outdated guidance documents.	Consistent with Commission priorities, submit at least two plain language revisions of substantive policy documents to replace at least two other outdated guidance documents.
Results	Twelve documents were submitted to the Office of the Chair for consideration.		
			<b>Target Exceeded</b>

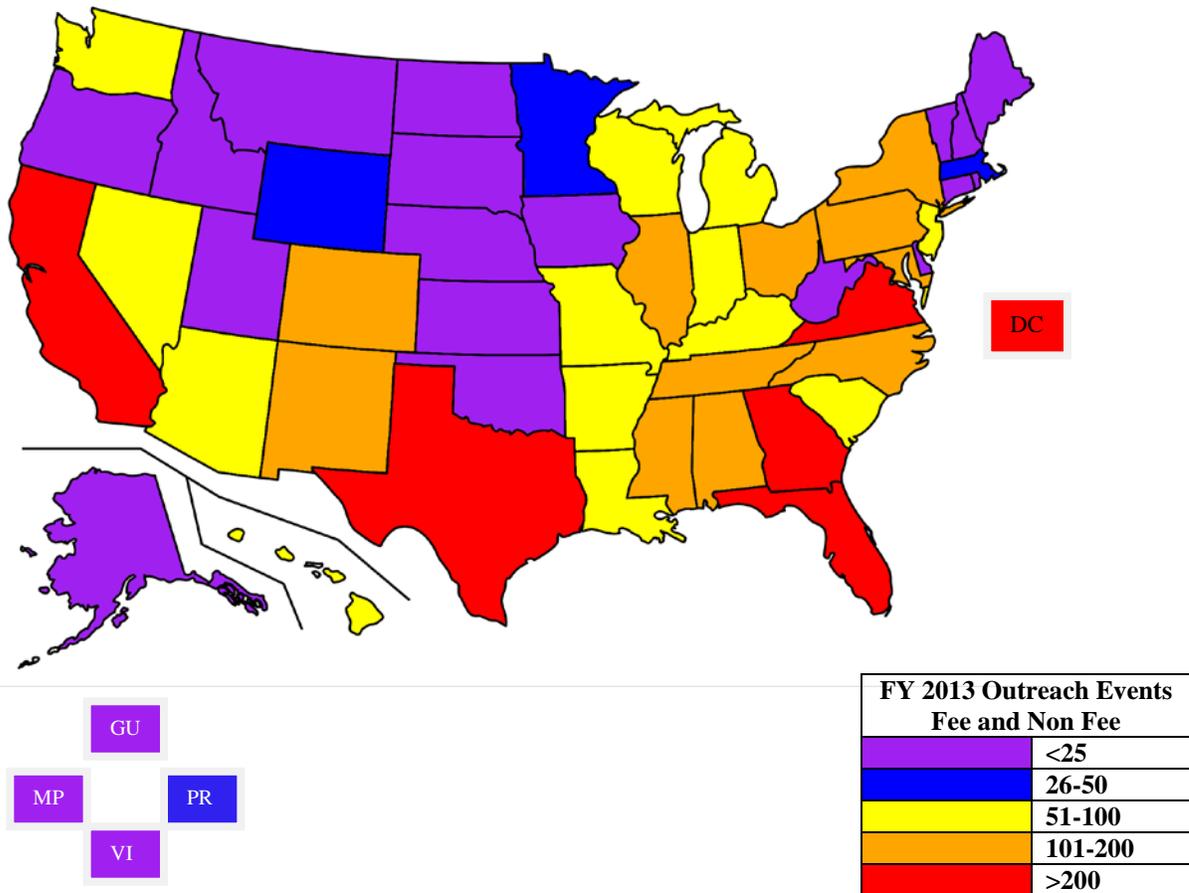
Performance Measure 11 ensures that the agency's sub-regulatory guidance and documents are reviewed and that, where necessary, they are updated and accompanied by plain language text. The agency's enforcement work in the private sector, its adjudicatory and oversight work in the federal sector, and its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

During the fiscal year, the agency exceeded the target for performance under this measure by submitting 12 documents to the Office of the Chair for review and consideration. Among those documents issued in 2013 were two final rules: “*Correcting Procedural Regulations*” was issued on September 6, 2013 and “*The Availability of [FOIA] Records*” was published on June 19, 2013. On May 15, 2013, the Commission issued five American with Disabilities Act (ADA) documents: four revisions to the ADA Questions and Answers Series (Cancer, Diabetes, Epilepsy, and Intellectual Disabilities); and a new document, “*The Mental Health Provider’s Role in Client’s Request for a Reasonable Accommodation at Work*” that was released on May 1, 2013. And in October 2012, the Commission published “*The Application of Title VII and the ADA to Applicants or Employees who Experience Domestic or Dating Violence, Sexual Assault, or Stalking,*” to address how Title VII and the ADA may apply to employees in these contexts.

### C. Outreach

Building upon efforts to prevent employment discrimination through education and outreach in the Nation’s workplaces, we will continue a vigorous and far-reaching outreach program to meet the needs of diverse audiences.

#### OUTREACH EVENTS FY 2013 FEE AND NON FEE



As the above map shows, we have provided and will continue to provide outreach and education to individuals in all 50 states as well as the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands and the U.S. Possessions of American Samoa, Guam, the Commonwealth of Northern Mariana Islands, and Wake Island. This is in line with our efforts in prior years. In fiscal year 2013, we conducted over 3,850 outreach events and reached 283,000 individuals. Additionally, the fee-based program trained 17,000 individuals at over 370 events. Additional funding will provide the EEOC with needed resources to expand its presence further to service vulnerable communities and underserved areas and to assist the small or new employer community as well as provide outreach and education on other important topics that arise throughout the year in an overall effort to fulfill the goals and objectives of the agency.

Through public relations, training and education, the EEOC enhances public awareness of emerging issues of employment discrimination in America’s workplaces. Our outreach is meant to provide knowledge and an understanding of workplace conditions that may give rise to violations of the statutes we enforce. Approximately 52 percent of our outreach is conducted through partnerships with employee advocates, human resource professionals, employer groups, human rights commissions and fair employment practice agencies. Employer knowledge of our laws contributes to their ability to independently identify, prevent and eliminate workplace discrimination. Employee’s and job applicant’s knowledge of our laws also contributes to their ability to understand their rights and responsibilities in the workplace.

The EEOC has significantly increased its outreach to small and new businesses, especially those lacking the resources to maintain full-time professional human resources staff. Approximately 15 percent of outreach conducted is to small employers. Under the leadership of an EEOC Commissioner, the Small Business Task Force is working diligently to not only continue to reach out to small employers but also to make online access to information from us easier, more comprehensible and more directly responsive to the real life issues that they face in the workplace.

In addition, the EEOC is strongly committed to providing outreach and technical assistance to stakeholders in underserved communities across the nation, including those with limited English proficiency. Approximately 50 percent of the outreach conducted is to these vulnerable communities. Immigrant and farm worker communities are included as a priority for outreach. The issue of human trafficking of those from vulnerable communities is a focus for the EEOC. We are working diligently and consistently with several organizations, governmental and non-governmental, to help stamp out the trafficking of vulnerable groups as well as pave the way for other groups to have access to employment such as those who are released from incarceration and are trying to re-enter the workforce.

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.

**1. Non-fee based Outreach**

Table 7 below shows funding for Outreach (non-fee based). Our budget request for fiscal year 2014 for Strategic Objective II is \$6.0 million. The proposed request for fiscal year 2014 reflects an increase of \$400K over the fiscal year 2013 level which will continue into fiscal year 2015. These additional resources will allow us to increase the staffing levels that are dedicated to our outreach and technical assistance programs and also provide funds to support the conduct of these activities across the country.

<b>Table 7: Budget Request Summary through Outreach Fiscal Year 2013 to Fiscal Year 2015 (Dollars in thousands)</b>			
	<b>FY 2013 (Actual)</b>	<b>FY 2014 (Estimate)</b>	<b>FY 2015 (Request)</b>
<b>Outreach (Non-fee based)</b>	\$5,600	\$6,000	\$6,000
<b>Total</b>	<b>\$5,600</b>	<b>\$6,000</b>	<b>\$6,000</b>

## 2. Fee based (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 to external entities and allowing the agency to offer more non-fee based outreach events to those populations less able to pay for training. In fiscal year 2013, the Institute trained over 17,000 individuals at more than 370 events, including approximately 121 field Customer Specific Training (CSTs), with over 5,600 attendees.

Table 8 below shows the financial summary of the Revolving Fund.

<b>Table 8: Summary of Financing for the Revolving Fund Fiscal Year 2011 to Fiscal Year 2017 (Dollars in thousands*)</b>							
	<b>FY 2011 Act.</b>	<b>FY 2012 Act.</b>	<b>FY 2013 Act.</b>	<b>FY 2014 Proj.</b>	<b>FY 2015 Proj.</b>	<b>FY 2016 Proj.</b>	<b>FY 2017 Proj.</b>
<b>Total Obligations</b>	<b>\$4,269</b>	<b>\$4,724</b>	<b>\$3,094</b>	<b>\$3,973</b>	<b>\$3,500</b>	<b>\$3,600</b>	<b>\$4,055</b>
<b>Offsetting collections from:</b>							
Federal Funds	1,992	1,293	828	1,262	1,154	1,263	1,301
Non Federal Sources	2,277	2,179	2,282	2,283	2,393	2,393	2,393
Unobligated balance, start of year	2,829	3,025	1,970	1,986	1,558	1,605	1,661
Unobligated balance, end of year	2,829	1,773	1,986	1,558	1,605	1,661	1,300
Net Budget Authority	\$7,098	\$6,497	\$5,080	\$5,531	\$5,105	\$5,261	\$5,355

\*May not add due to rounding

## **VII. STRATEGIC OBJECTIVE III - Deliver Excellent and Consistent Service through a Skilled and Diverse Workforce and Effective Systems.**

### **A. Introduction**

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

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

To these ends, we developed the three strategies for achieving Strategic Objective III as follows:

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

For this objective, we adopted Performance Measures 12 and 13 to support and monitor the agency’s progress toward our fiscal year 2016 targets (along with two previously identified measures, Performance Measures 2 and 3 starting on page 22 and cross-referenced under Strategic Objective I).

## B. Performance Measures and Results

### Workforce Quality, Diversity, and Skills

<b>Performance Measure 12: The EEOC strengthens the skills and improves the diversity of its workforce.</b>			
<b>Target (a)</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Number of employees with disabilities	413	442	471
<b>Results</b>	332		
			<b>Target Not Met</b>

<b>Target (b)</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Number of employees with targeted disabilities	90	101	113
<b>Results</b>	56		
			<b>Target Not Met</b>

<b>Target (c)</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Percentage of hires made within 78 days	50%	75%	80%
<b>Results</b>	52%		
			<b>Target Exceeded</b>
			<b>Overall Targets Partially Met*</b>

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

The fiscal year 2013 target for Performance Measure 12, Subpart (a) was to increase the number of persons hired with disabilities by 20 percent of the EEOC's workforce over 5 years, or at least 29 disabled employees each year over the fiscal year 2012 target of 384 employees with disabilities to 413 total. Successful performance under Subpart (b) was to increase the number of employees with targeted disabilities by 5 percent, or at least 11 individuals each year over the fiscal year 2012 target of 79 employees with targeted disabilities to 90 total. And finally, Subpart (c) required the agency to improve and streamline the hiring process to increase the percentage of hires made within 78 days to 50 percent of all hires made in fiscal year 2013.

In fiscal year 2013, the agency only partially met its targets for Performance Measure 12. Overall hiring and recruitment in fiscal year 2013 was impacted by a continuing hiring freeze, which affected the agency's ability to increase the number of employees hired with disabilities or targeted disabilities under Subparts (a) and (b). The limited hiring factor and correlating

numbers of retirements of employees with disabilities in fiscal year 2013 resulted in a decrease in the number of employees with disabilities and targeted disabilities hired since the establishment of the fiscal year 2011 baselines for both employee groups. However, the agency has exceeded its fiscal year 2013 target of 50 percent of employees hired under Subpart (c), by increasing the percentage of hires made within 78 days to 52 percent of timely hires made in fiscal year 2013.

Due to the limited number of external hires that were authorized in fiscal year 2013, meeting the target outcomes continues to be a challenge. Nevertheless, the Disability Program Manager will continue to work to encourage hiring officials to select employees with disabilities as the agency begins the hiring process in the new fiscal year, and to manage the Schedule A applicants who are referred to the agency through the Office of Personnel Management's (OPM) Selective Placement Coordinators website advertisements.

The Human Capital Goals for fiscal year 2013, as identified in the agency's Human Capital Management Report submitted to OPM in February 2013 were:

1. Workforce planning – enhance our ability to plan further into the future and better integrate FTE's, budget, and workload metrics into the planning process.
2. Performance management – redesign the current non-SES performance management program to foster a high performance culture, encourage clear expectations and continuous feedback; differentiate high, satisfactory and poor performers in a clear and meaningful way and align employee performance with the agency's Strategic Plan, including the Quality Control Plan.
3. Diverse and Inclusive Workforce – enhance our ability to attract, hire, and retain highly skilled and highly motivated staff.

In fiscal year 2013, the Workforce Planning Workgroup implemented the agency's workforce plan goals by utilizing workforce data to assist leadership in human resources decision making, closing competency gaps, and projecting the future human capital needs of the agency. In fiscal year 2014, our human capital goals will extend beyond the agency's formalized Mentoring Program to include implementation of a Situational Mentoring Program that will enhance our ability to develop and retain a highly skilled and motivated workforce.

In the area of performance management, the EEOC engaged an experienced consultant to facilitate the development of performance plans and standards in fiscal year 2014, and acquired a talent management tool for supervisors and their employees to use as a platform to implement and operate the performance management system. During fiscal year 2013, competencies for support positions in the agency's mission-critical occupations were identified. As the new system is developed, additional competencies will be established in fiscal year 2014 for the remaining positions within the agency. The new system will also serve as a tool for supervisors and employees to use in closing competency gaps. The long-term goal is to create a performance culture that helps the EEOC become a high performing agency.

By leveraging diversity and promoting inclusion, the EEOC moves closer to achieving its mission of "stopping and remedying unlawful employment discrimination" and the vision of

“justice and equality in the workplace.” In compliance with Executive Order 13583 on Establishing a Coordinated Government-wide Initiative to Promote Diversity and Inclusion in the Federal Workforce, the EEOC developed a Diversity and Inclusion Strategic Plan (the “D&I Strategic Plan”) and a policy statement, which were issued agency-wide in the second quarter of fiscal year 2013. To help implement the action items in the D&I Strategic Plan, the EEOC convened a Diversity and Inclusion Council. Several Headquarters’ offices worked jointly on the Diversity & Inclusion Work plan that, along with the Diversity Council Charter, will guide the work of the Council. These efforts are expected to continue through at least fiscal year 2014. In addition, the EEOC committed funds to provide training for the Council and the agency employees during the third and fourth quarters of fiscal year 2013.

We will continue to work with OPM and the Office of Management and Budget in implementing Executive Order 13583, including reviewing executive agency plans and working to reconcile the Presidential Administration's diversity and inclusion efforts with the EEOC's Management Directive 715 requirements. (See Management Directive 715, Equal Employment Opportunity Commission (Oct. 2003), <http://www.eeoc.gov/federal/directives/md715.cfm>).

### Charge Process Responsiveness

<b>Performance Measure 13: The EEOC improves the private sector charge process to streamline services and increase responsiveness to customers throughout the process.</b>			
	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
Targets	Develop, pilot and implement new processes and technology in a phased and iterative manner, ensuring appropriate guidance, documentation and staff training.	Meet targets determined in FY 2012.	Meet targets determined in FY 2012.
Results	The EEOC developed several new processes and previewed new technology for the Online Intake and Milestones Projects. Project pilots have been delayed until FY 2014.		
			<b>Target Partially Met*</b>

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

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

For fiscal year 2013, the target for this measure was to develop, pilot, and implement the new online intake and milestone systems, processes, and technology proposed for development in fiscal year 2012, including any provisions for guidance, documentation and staff training. Although the Online Intake and Milestones Workgroups spent significant time and effort to reach this target, budgetary constraints limited funds available to fully meet the 2013 targets for Performance Measure 13. Nonetheless, the Workgroups continued to the point where the acquisition of developers was necessary to move the project forward. The Workgroups were successful in achieving the following during the fiscal year.

The Online Intake Workgroup continued its discussion and identification of the Online Inquiry User Stories, the “epic user stories,” and developed acceptance criteria for the Informational Self-Screening User Stories; as well as classifying and categorizing the user stories based on anticipated customer satisfaction. They also focused on the “Scheduling an Intake Interview Online” and related components of the project to determine whether the specific functions needed for the system to operate as planned were on track for development.

The Milestones Workgroup completed the User Stories, Kano Analyses and Prioritization needed to launch the design phase through the Agile Sprints, along with key User Acceptance Criteria. Further developments by this Workgroup were contingent upon funding for Agile contract developers, which were requested and approved by the Commission in the fourth quarter of fiscal year 2013. The funding approval for technology support for Performance Measure 13 included the acquisition of a web-based online scheduling tool and associated professional services, as well as the acquisition of a web-based portal, application, and associated professional services.

### Budgetary Resource Alignment

<b>Performance Measure 14: The EEOC’s budgetary resources for FY 2014-2017 align with the Strategic Plan.</b>			
	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
<b>Targets</b>	Prepare EEOC’s FY 2015 Performance (OMB) Budget that aligns resources with the Strategic Plan.  Prepare EEOC’s FY 2014 Congressional Budget.	Prepare EEOC’s FY 2016 Performance (OMB) Budget that aligns resources with the Strategic Plan.  Prepare EEOC’s FY 2015 Congressional Budget.  Based on approved FY 2014 appropriations develop a final FY 2014 Operating Plan.	Prepare EEOC’s FY 2017 Performance (OMB) Budget that aligns resources with the Strategic Plan.  Prepare EEOC’s FY 2016 Congressional Budget.
<b>Results</b>	The FY 2014 CBJ was timely submitted to Congress on April 10, 2013.  The FY 2015 Performance Budget was aligned with the agency’s Strategic Plan and was submitted to OMB on September 6, 2013.		
			<b>Target Met</b>

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

The fiscal year target for Performance Measure 14 was to prepare the EEOC’s Fiscal Year 2014 Congressional Budget Justification (CBJ) and the EEOC’s Fiscal Year 2015 Performance (OMB) Budget that aligns with the agency’s Strategic Plan for fiscal years 2012-2016. As part of the annual budget formulation cycle, the EEOC’s Fiscal Year 2014 CBJ was timely submitted to Congress on April 10, 2013. The Fiscal Year 2015 Performance Budget was completed and timely submitted to OMB on September 6, 2013. The agency’s final fiscal year 2014 Operating Plan was approved and signed on January 28, 2014

**C. Program Areas**

**1. Highlighted Resource Area**

Table 9 shows our highlighted budgetary resources for Information Technology under Strategic Objective III. For this strategic objective, the agency’s resources are allocated between Strategic Objective I and Strategic Objective II to identify the full cost of conducting our front-line programs, including all of the elements of our operations supporting those programs.

<b>Table 9: Highlighted Resource Area Excellent &amp; Consistent Services Through a Skilled and Diverse Workforce and Effective Systems</b>				
	<b>FY 2013 (Actual)</b>	<b>FY 2014 (Estimate)</b>	<b>FY 2015 (Request)</b>	<b>Change From FY 2014</b>
<b>Information Technology</b>	\$14,695	\$16,825	\$14,695	(\$2,130)
<b>Total</b>	\$14,695	\$16,825	\$14,695	(\$2,130)

**2. Human Resources Function**

**a. 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 are an important source of input for workforce planning.

In fiscal year 2015, the EEOC will continue to implement workforce planning that: includes an annual review of positions to ensure the proper mix of positions is achieved; involves a renewed effort to hire throughout the year and avoid hiring/freeze cycles; and ensures that decisions made in a given fiscal year are analyzed for their impact and consequences in future years. We are using our Workforce Planning Guide 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 continue 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 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 and will continue those efforts during fiscal year 2015. In addition to the competencies established for mission critical positions, during fiscal year 2013 we identified competencies for seven positions which support our mission critical occupations. During fiscal year 2014 we expect to have identified competencies and proficiency levels for all positions and to have developed a methodology to assess competency gaps. The results of the competency assessment will be used in our new performance management system, and 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.

### **b. Training**

We have continued to make progress in creating a comprehensive and responsive training program for EEOC employees. Developmental needs are assessed, identified, and addressed through a three pronged approach: 1) the Individual Development Plan (IDP) funding process which provides training to reduce competency gaps identified for individual employees; 2) funding of training programs to comply with regulatory requirements and government initiatives; and 3) training which is designed and delivered to meet technical requirements by position. This approach allows the agency to respond to individual employee training needs, deliver mandatory training, and address position-related competency gaps.

The use of the IDP centralized funding process has encouraged employees to request training on a recurring basis to meet their ongoing developmental needs. A key element in this process is for each employee to collaborate with their supervisor to prepare an IDP addressing their competency gaps as well as identifying their short and long term career goals. This process will continue to be used during fiscal years 2014 and 2015 as a means of addressing individual training needs identified through the use of the competency gap tool currently being developed and expected to be available to agency supervisors in fiscal year 2014. Funding in support of the IDP process increased from \$294,054 in fiscal year 2011 (its inception) to \$446,068 in fiscal year 2012 – an increase of over 50 percent. Although this program was temporarily suspended during the second half of fiscal year 2013 due to sequestration funding reductions, we were still able to provide \$133,750 to meet individual training needs.

The EEOC provides training to its employees to not only address their individual development needs, but to also meet Federal training requirements and initiatives. Included in the fiscal year 2015 request are programs intended to: deliver mandatory training for supervisors, managers and executives to meet OPM requirements contained in 5 CFR Part 412 (Training for Supervisors, Managers, and Executives); support retirement planning education to comply with the Federal Financial Literacy initiative; offer online training courses addressing compliance with and protections guaranteed under statues such as the No FEAR Act; provide certification training for Contracting Officer Representatives (CORs); foster knowledge management through its mentoring program; as well as provide training in areas such as Cultural Competency and Diversity Awareness.

In addition to the IDP funding process which focuses on individual employee development needs and mandatory training for all employees and the agency's leadership cadre, funding is also required to address nationwide development needs for various occupational positions in response to specific initiatives or priorities. For example, following passage of the Lilly Ledbetter Fair Pay Act and in partnership with the Department of Labor, Department of Justice, and Fair Employment Practices Agencies (FEPAs), EEOC conducted nationwide Compensation Discrimination training. In addition, pursuant to the Asian American and Pacific Islander (AAPI) White House Initiative, the EEOC was able to pilot AAPI training in three districts for all staff and completed delivery of the training to all district offices during fiscal year 2013. During fiscal year 2015, field enforcement staff on our front lines will continue to receive technical training designed to enhance staff skills and enable us to serve the public effectively and efficiently. Developmental programs being planned include Intermediate Skills Training for Investigators, Systemic Enforcement Training for Investigators, Negotiation/Settlement Training for Investigators and Attorneys, Legal/Enforcement Interaction Training, Program Analyst Training, and District Resources Manager Training, among others. Major training initiatives planned for trial attorneys (one of our mission critical occupations) and other legal staff covers topics such as Advanced Systemic Litigation, Concordance Training, Negotiations Training, Legal Writing and Advocacy, and Advanced Paralegal Training. The agency will also continue to send its attorneys to Trial Skills training conducted by the National Institute for Trial Advocacy (NITA).

Implementation of our Training program will enable us to support EEOC's Strategic Plan for fiscal years 2012 to 2016 and its Strategic Objective III: "Deliver excellent and consistent service through a skilled and diverse workforce and effective systems". The various elements work together to assure that our employees and the agency's leaders are prepared to the greatest extent possible to meet today's challenges and tomorrow's opportunities.

### **c. Telework Program**

EEOC employees continue to embrace the President's initiatives for telework in fiscal year 2013. Employees are informed of their eligibility for telework and participate in the program in accordance with EEOC's policies. In fiscal year 2013, approximately 44 percent of EEOC employees regularly teleworked on either a routine or situational basis. Our focus in 2013 has included emphasis on telework training, promoting National Telework Week, responding to OPM's annual call for agency telework data, assessing our Telework Program and working with our managers and personnel and payroll system to improve the accuracy of reporting data. We have also established a formal mechanism for tracking individual employee telework agreements among EEOC Offices and are working with our Office of Information Technology to implement the plan. Moreover, under the auspices of our newly re-negotiated CBA, permissible telework participation will increase an additional day per bi-weekly period and increased emphasis is placed on telework as a space/cost savings alternative for renewed or newly leased office space.

### **d. Mentoring Program**

The Mentoring Program continues to provide a formal mentoring experience to facilitate knowledge transfer, increase retention of valuable employees, increase representation of women and underrepresented groups in management positions, and develop and broaden the core

competencies and leadership skills of participants. In fiscal year 2013 the agency 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, diverse 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 program, the agency provided formal training, opportunities for self and program assessment, and developmental activities. The EEOC has committed funds to extend this program through at least fiscal year 2014 with the goal of making this an ongoing opportunity for career development and an important element in succession planning. The program has grown in visibility and credibility amongst agency employees as a means of employee development and knowledge transference, resulting in demand that exceeds present capacity. Accordingly, we are exploring mechanisms to expand mentoring in the agency to reach a wider number of our employees through efforts such as situational mentoring; EEOC will launch such a program in the third quarter of fiscal year 2014 for the purpose of providing entry and mid level supervisory employees with resources and guidance to improve their managerial skills and enhance the level of support that they in turn provide to their staff.

#### **e. Labor Management Forums**

During fiscal year 2013, we continued to abide by the requirement of Executive Order 13522, Creating Labor Management Forums to Improve the Delivery of Government Services. The EEOC continues to work jointly with the National Council of EEOC Locals No. 216, AFGE-AFL-CIO forming the National Joint Labor Management Council. The Council's Cost Savings and Employee Morale workgroups are establishing agency-wide policies to be adopted in 2014 by our Local Labor – Management Forums. For example, employees are encouraged to copy materials using double sided printing to reduce costs. The agency has also provided guidance to employees to use non-contract carriers as a means to reduce travel costs in compliance with the Federal Travel Regulations.

#### **f. Implementing the Collective Bargaining Agreement**

During fiscal year 2013, the agency successfully completed negotiations on a new Collective Bargaining Agreement (CBA) which was ratified by the Union's membership during the same year. On July 26, 2013, the Chair approved the Agreement. In fiscal year 2014 both labor and management will coalesce to implement certain requirements of the agreement including: piloting a new Maxiflex Program, developing guidance on the new telework program that contemplates real-estate savings by reducing the square footage of future office sites, and reviewing all locally negotiated Memoranda of Understanding (many are out of compliance with the CBA as well as agency and government-wide regulations) to indicate those that should be renegotiated or abolished.

#### **g. Performance Management**

EEOC has developed a Human Capital strategy linked with the agency strategic plan. The Plan recognizes that human resource management is a key strategy for realizing organizational

success and understanding emerging strategies, trends, and changes that will drive EEOC as an organization. Inasmuch as the agency's initiatives rely heavily on the contributions of its human resources, all employees are held accountable for achieving results that support the agency's strategic plan goals and objectives. Accordingly, appropriate and consistent assessment of personnel are essential to maintaining a results-oriented, high-performing workforce, thereby ensuring excellent customer service and high quality performance in every aspect of the agency's work.

For these reasons, the agency, under the auspices of a performance management workgroup composed of both labor and management has begun the development of an improved performance management system. We are accomplishing this by surveying employees to receive their input, reviewing best practices from other agencies, and becoming familiar with the Agency's Organizational Goals. In addition, the agency has been laying ground work for the new system by identifying competencies required of its employees and testing an automated tool capable of measuring gaps between expectations and actual levels of performance in these competencies. An experienced consultant was hired to facilitate the development of performance plans/standards during fiscal year 2014 and the agency plans to continue testing a talent management tool for supervisors and their employees to use as a platform to implement and operate the performance management system. We expect to implement the system when testing is completed during the 3rd quarter of fiscal year 2014.

#### **h. Communication**

We are constantly looking for ideas to 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.

In addition, we implemented the agency's communications plan for the Office of Personnel Management's (OPM) annual employee satisfaction survey. In 2013 our efforts resulted in a 55 percent response rate, a rate that exceeded the Government wide average by 7 percentage points. To address concerns raised in the Federal Employee Viewpoint Survey we will continue to utilize the BEST initiative – Building Employee Satisfaction Together. In fiscal year 2013 we addressed employee issues through the BEST webpage and email address. These avenues of communication will continue to address employee issues and seek employee feedback in fiscal year 2014. OPM recently described BEST as a best practice in its feedback to our Diversity and Inclusion Plan.

Another way we provide information to field office personnel, in particular, is through on-site visits to conduct Human Capital Accountability reviews. While on site we determine to what extent staff understand and comply with OPM and EEOC regulations and Human Resources program requirements. We then provide technical assistance for improving the quality of human resources programs within the agency and communicate results to appropriate officials.

### **3. Addressing Internal Workplace Issues**

RESOLVE is EEOC's internal Alternative Dispute Resolution (ADR) program that provides a forum for the informal resolution of workplace disputes (including grievances and EEO

complaints) among Commission's staff in Headquarters and the 53 field offices. Mediation is the most commonly used ADR process within the program. Informal conciliation can also be used in lieu of, prior to, or after mediation. If several employees are involved in a conflict, group facilitation may be used to address office-wide concerns. 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 will continue to conduct seminars to help employees develop conflict resolution skills.

To fulfill the Commission's vision for "Justice and Equality in the Workplace," and as a key component of EEOC's model workplace initiative, the Commission plans to expand its internal workplace dispute resolution program by creating an office of Organizational ombudsman. Through confidential employee engagement, the Ombudsman will promote better communication, foster constructive dialogue, increase collaboration, identify systemic issues, facilitate equitable outcomes, and improve transparency of the organization.

#### **4. Customer Service**

As an agency, we have seen charge receipts at record levels in fiscal years 2010-2012, with more than 99,000 received each year and in fiscal year 2013, our more than 93,700 receipts still fell within the top five year levels of agency receipts. We recognize that many factors may influence charge receipts, which has an effect on the number of charges filed by the public. We believe that these increases may be due to our efforts to become more accessible to the public, making charge filing easier and providing better, more responsive, customer service. The increases may also be attributable to expanded statutory authorities enacted in fiscal year 2008 and fiscal year 2009, along with regulations implemented during fiscal year 2011.

Through our Intake Information Group (IIG), the EEOC expanded the agency's public accessibility by phone and e-mail. 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 received over 622,000 calls per year. An average of 43 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. Each month our 34 Information Intake Representatives (IIRs), co-located in 15 of our field office sites, answered more than 19,000 calls 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 2013 approximately 80 percent of calls answered by the IIRs were fully resolved by the IIR without being referred to other staff in EEOC field offices. To this end, we have dedicated significant attention to enhancing the services provided by the IIG.

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. 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. By fiscal year 2014, we are projecting the full implementation of an electronic intake project that is currently under development. This system will allow potential charging parties to submit a pre-charge inquiry for review and provide on-line scheduling of appointments for intake interviews.

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 a nationwide training program on Compensation Discrimination, which was 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 fiscal year 2012, we trained more than 2,000 staff from EEOC, OFCCP, Wage and Hour Division and our FEPA partners at 81 training sessions held nationwide. In fiscal year 2012, we launched a variety of other training projects, including one focused on AAPI and Limited English Proficiency issues. While the fiscal year 2013 sequestration impacted the availability of training funds, it is our hope that with additional resources provided fiscal year 2014 and our fiscal year 2015 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.

## **5. Information Technology**

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, has direct alignment to EEOC's strategic goals and Federal customer service priorities. Achievement of this vision will require the use of innovative web technologies, telecommunications modernization, agile methods to streamline and automate business processes, and standardization in applying best practices across our offices.

In fiscal year 2012 EEOC initiated several cost cutting and cloud computing initiatives to reduce recurring IT costs, including: optimization of mobile device rate plans and implementation of a "Bring Your Own Device" (BYOD) Pilot to reduce operating expenses of the legacy BlackBerry program by more than 60 percent; restructuring of the IT Help Desk to reduce costs by 40 percent; implementation of a cloud-based financial management system for a 60 percent recurring savings; implementation of enterprise-wide electronic faxing to bring savings to analog line and consumable costs; and in-sourcing of a few IT functions where cost savings would be achieved by hiring FTE versus paying contractor service rates. In fiscal year 2014, EEOC will achieve additional cost savings through utilization of shared-services to meet print/copy/scan and mobile device requirements.

The recurring cost savings, along with the \$2 million increase in technology funding in fiscal year 2014, will allow the agency to rebuild our aging technology infrastructure and deploy innovative IT solutions that will demonstrably improve customer services and administrative efficiencies. EEOC's primary focus in fiscal years 2014 and 2015 will be to continue IT initiatives that move EEOC away from inefficient manual paper-based processing and toward electronic workflow and integrated content management solutions in support of EEOC Strategic Plan Performance Measures. This includes: (1) enhancement of the Integrated Mission System

(IMS) to support the implementation of the Strategic Enforcement Plan, Quality Control Plan, and Federal Case Management System; (2) design and pilot an interface to associate hearings and appeals data to their related digital files, and allow a complainant to request a hearing or appeal, and submit related documents, online; (3) integration of hearings and appeals statistical data into the Federal Sector EEO Portal; (4) implementation of an online portal which will allow a potential charging party to self-screen alleged claims of employment discrimination, submit a pre-charge inquiry to EEOC, schedule an appointment on-line, and allow charging parties to check the status of their requests; and (5) design a secure document portal, to allow private-sector charge related documents to be submitted and received electronically between EEOC and the involved parties, to be accomplished through a phased implementation.

In addition to the above referenced Strategic Plan priorities, during fiscal year 2014, EEOC will complete the expansion of our telecommunications infrastructure to provide adequate network performance to all EEOC field offices. Although EEOC is a small agency, we support a large geographically dispersed infrastructure (Headquarters and 53 field offices), which require enhancing telecommunication services to access centralized and cloud-based information systems; support enterprise communications through video conferencing and streaming; and meet the new telecommunication demands associated with expanding customer-facing applications, open government, and social media expectations.

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## **VIII. 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 the EEOC's operations and performance results and make good management decisions. We will continue efforts to ensure the accuracy of our program information and any analysis of the information.

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

We monitor our internal mechanisms for improving the validity and reliability of the EEO-1 data. As a larger number of employers are filing their reports by "uploading" data, steps were taken to subject those files to more stringent review for possible errors. Also, more training of contract support staff that provides technical assistance to filers will be implemented during this reporting period. Greater use of the EEO-1 by field staff continues to assist in identifying non-filers, which has enabled the agency to collect information more rapidly and completely. In addition, we have implemented the Federal Sector EEO Portal that enables all Federal agencies to electronically submit annual equal employment opportunity statistics (EEOC Form 462 and MD-715). These systems continue 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.

The EEOC's Office of Inspector General (OIG) 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 OIG's information and recommendations to continually improve our systems and data.

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## **IX. PROGRAM EVALUATIONS**

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

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

*Review of Evaluations*, U.S. Equal Employment Opportunity Commission, Office of Inspector General, April 2013.

*Evaluation of EEOC's Performance Measures*, The Urban Institute, March 2013.

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

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

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**X. ADMINISTRATION AND SUPPORT**

**A. Introduction**

We are constantly seeking ways to achieve organizational excellence by improving our organizational capacity through sound management of our resources. Maximizing effective use of our resources is essential to achieving our enforcement and outreach goals.

**B. File Disclosure Workload**

The data indicates that the number of requests received under the Freedom of Information Act (FOIA) and Section 83 of the EEOC Compliance Manual (Section 83) will stabilize in the low 25,000s through fiscal year 2017.

Table 10 below depicts the actual FOIA workload for fiscal years 2011 through 2013 and projections for fiscal years 2014 through 2017 including requests received, requests processed and pending. The data shows that the number of FOIA requests received will reach nearly 19,000 and the number of requests processed will exceed 19,000 by fiscal year 2017.

<b>Table 10: Freedom of Information Act (FOIA) Fiscal Year 2011 to Fiscal Year 2017</b>							
	<b>FY 2011 (Actual)</b>	<b>FY 2012 (Actual)</b>	<b>FY 2013 (Actual)</b>	<b>FY 2014 (Estimate)</b>	<b>FY 2015 (Estimate)</b>	<b>FY 2016 (Estimate)</b>	<b>FY 2017 (Estimate)</b>
Carryover Previous Year	1,286	1,214	1,212	1,103	994	885	776
Receipts	18,424	18,726	18,946	18,946	18,946	18,946	18,946
Total Workload	19,710	19,940	20,158	20,049	19,940	19,831	19,722
Processed	18,297	18,728	19,055	19,055	19,055	19,055	19,055
Pending FOIA	1,413	1,212	1,103	994	885	766	667

\*May not add due to rounding

The data indicates that the number of Section 83 charge file disclosure requests received will stabilize at less than 5,700 annually and the number of requests processed will be slightly less than 5,000 annually by fiscal year 2017.

Table 11 depicts the Section 83 actual workload for fiscal years 2011 through 2013 and projections from fiscal years 2014 through 2017 including requests received, processed, and pending at the end of the fiscal year.

<b>Table 11: Section 83 Disclosures Fiscal Year 2011 to Fiscal Year 2017</b>							
	<b>FY 2011 (Actual)</b>	<b>FY 2012 (Actual)</b>	<b>FY 2013 (Actual)</b>	<b>FY 2014 (Estimate)</b>	<b>FY 2015 (Estimate)</b>	<b>FY 2016 (Estimate)</b>	<b>FY 2017 (Estimate)</b>
Carryover Previous Year	4,401	6,060	7,285	8,134	8,983	9,832	10,681
Receipts	8,410	7,387	5,692	5,692	5,692	5,692	5,692
Total Workload	12,811	13,447	12,977	13,826	14,675	15,524	16,373
Processed	6,751	6,162	4,843	4,843	4,843	4,843	4,843
Pending Section 83	6,060	7,285	8,134	8,983	9,832	10,681	11,530

\*May not add due to rounding

### **C. Finance and Administration**

#### Office Expansions, Rehabilitations, and Relocations

Since 2005, we have collaborated with the General Services Administration to right-size and improve the utilization of EEOC-occupied space, with the goal of improving the efficiency of the agency’s rent costs. In January 2011, we postponed or cancelled almost all planned office expansions and rehabilitation activity to accommodate higher agency priorities while operating under a constrained budget environment. This also included extending leases at locations which were not a forced move. This trend continued for expansions and rehabilitation activity through fiscal years 2012 and 2013.

In April 2013, EEOC implemented measures in accordance with the Office of Management and Budget (OMB) memorandum “Promoting Efficient Spending to Support Agency Operations”, Executive Orders (EO) 13514 and EO 13589 to reduce operating costs and the EEOC “footprint” by acquiring the minimum space to support EEOC employees and serve our customers. Measures we are taking to comply with “Freeze the Footprint” include, but are not limited to the following:

- To the extent feasible, we will not increase our total square footage from the fiscal year 2012 “footprint,” and we will make efforts to dispose of unneeded or underutilized space (rightsizing).
- New lease actions will be based on optimum space usage, which includes preservation of existing Agency Space Allocation Guidelines for intake, caucus, joint session and other mission support areas. However, a 20 percent reduction will be applied to account for measures that EEOC offices must implement to satisfy “Freeze

the Footprint” and reduction requirements, such as telework or common use work areas. The agency’s ratified new collective bargaining agreement (CBA) continues to support telework and as a result endorses a 20 percent reduction to space for future office relocations and reconfigurations. The CBA promotes creative space designs including shared space, workstations and cubicles.

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. However, we will monitor the fiscal year 2012 aggregate baseline, to “offset” or counterbalance any increases to sustain or fall below the fiscal year 2012 “footprint.” We will continue to right-size offices as leases expire, and rehabilitate office spaces as dictated by safety issues, the age of furniture and the office environment. In addition, we will continue to plan space requirements for all offices for both the short and long terms.

Two offices (Richmond and Savannah) were relocated in fiscal year 2013 due to expiring leases. Nine offices are planned for relocation in fiscal year 2014 due to expiring leases, forced moves, or environmental issues: El Paso, TX; Fresno, CA; Houston, TX; Milwaukee, WI; Las Vegas, NV; New Orleans, LA; Newark, NJ; Philadelphia, PA and San Francisco, CA. Two offices (Indianapolis, IN and New York, NY) are planned for relocation in fiscal year 2015 due to expiring leases. The total office space under lease is just less than 1.0 million rentable square feet.

#### **D. GINA Study Commission**

Section 8 of Title II of the Genetic Information Nondiscrimination Act (GINA) of 2008 requires that a commission be established on May 21, 2014 to review the developing science of genetics and to make recommendations to Congress regarding whether to provide a disparate impact cause of action under GINA. This commission, to be known as the Genetic Nondiscrimination Study Commission, is to be located in a facility maintained by the EEOC. Although members will not receive compensation for the performance of services for the Commission, the statute requires that members receive travel expenses, including per diem, while away from their homes or regular places of business in the course of performing services for the Commission. The statute authorizes sums to be appropriated to the EEOC as shall be necessary to carry out the requirements of Section 8. In order to abide by our statutory responsibilities, we anticipate that we will need to cover the following costs for the 8 member Commission: shared rent and security; IT services; per diem, including air fare; postal services; and other miscellaneous expenses. We are requesting funding in the amount of \$209,000.

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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.), (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 advice and consent of the Senate for rotating five-year terms. The President designates one commissioner to serve as Chair and another commissioner 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.

### 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, by employment agencies, by labor organizations with 15 or more members, and by the federal government. The EEOC's Title VII enforcement authority includes an amendment from the Pregnancy Discrimination Act of 1978, which prohibits employment discrimination based on pregnancy, the capacity to become pregnant or medical conditions related to pregnancy.

The EEOC's enforcement authority has expanded over time. In addition to Title VII, the EEOC enforces the Age Discrimination in Employment Act of 1967 (ADEA), the Equal Pay Act of 1963 (EPA), section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), Title I of the Americans with Disabilities Act of 1990 (ADA), and Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA). Most recently, President Obama signed the Lilly Ledbetter Fair Pay Act of 2009, to supersede the Supreme Court's decision in *Ledbetter v. Goodyear Tire & Rubber Co., Inc.*, 550 U.S. 618 (2007) and restore the EEOC's longstanding position that each paycheck delivering discriminatory compensation is a wrong actionable under the federal EEO statutes, regardless of when the discrimination began. The Lilly Ledbetter Act amends Title VII, the ADEA, and the ADA.

The ADEA protects individuals 40 and older from age-based employment discrimination, including in fringe benefits. The ADEA covers private employers having at least 20 employees, state and local governments, employment agencies, labor organizations with 25 or more members, and the federal government. The EEOC obtained enforcement authority for the ADEA and the EPA in a 1978 government reorganization. The EPA prohibits gender-based discrimination in the payment of wages to men and women performing substantially equal work in the same establishment. The EPA applies to most employers.

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 15 or more employees, employment agencies, and labor organizations with 15 or more members. Similarly, Section 501 of the Rehabilitation Act protects qualified individuals from employment discrimination on the basis of disability by the federal government. Both laws require employers to make reasonable accommodations for individuals with disabilities absent undue hardship. They also regulate when employers may ask for certain medical information, require medical testing, and disclose employee medical records, regardless of whether the affected individual is a qualified individual with a disability. 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.

Title II of 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. GINA also strictly limits access to genetic information and requires that covered entities maintain the confidentiality of any genetic information that they obtain. The GINA requires that within six years of enactment, a Genetic Nondiscrimination Study Commission be established to review the developing science of genetics. The Study Commission will make recommendations to Congress regarding whether to provide a disparate impact cause of action under GINA.

### 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 or, alternatively, by an individual or organization, such as a union or civil rights group, “on behalf of” another person. After charges are filed, EEOC staff members investigate and the EEOC may issue a determination of “reasonable cause” or dismiss the charge for a variety of reasons. If the agency finds cause, it attempts to resolve the charge through conciliation. The EEOC also attempts to settle charges through mediation, in lieu of an investigation. Under Title VII, the ADEA, ADA, and GINA, filing a charge generally is a prerequisite to filing a lawsuit.

EEOC- enforced laws authorize the EEOC to file suit in Federal District Court in order to remedy employment discrimination if it is unable to achieve 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 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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