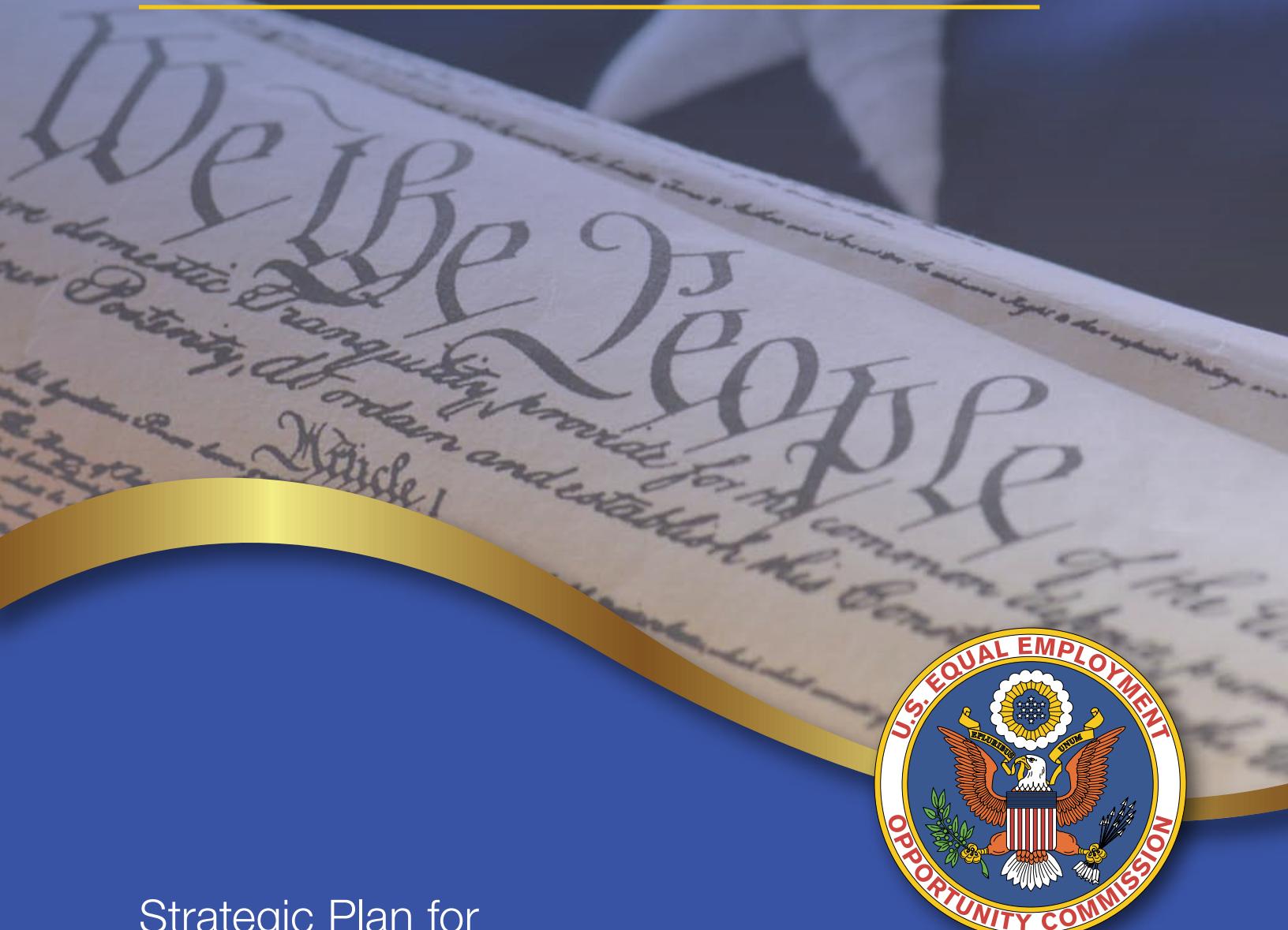


U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION



Strategic Plan for
Fiscal Years 2012–2016

Table of Contents

Message From The Commission	1
Introduction	3
The Strategic Planning Process	4
About the EEOC	6
Mission and Vision Statements.....	10
Strategic Plan Diagram.....	11
Strategic Objective I	13
Strategic Objective II	23
Strategic Objective III	28
Budgetary Resources Measure	31
External Factors Affecting Achievement of Strategic Plan.....	32
Program Evaluations	33
Acknowledgements	34
Appendix A—Strategic Planning Workgroups.....	35
Appendix B—Strategic Enforcement Plan & Quality Control Plan Timelines.....	37
Appendix C—EEOC Organizational Chart.....	38
Endnotes.....	39

Message From The Commission

The United States Equal Employment Opportunity Commission is pleased to release the agency's Strategic Plan for Fiscal Years 2012–2016. The Strategic Plan reflects a bold new strategy for implementing the power granted to the Commission by Congress in Title VII of the *Civil Rights Act of 1964*: "to prevent any person from engaging in any unlawful employment practice."

The work of the Commission depends on the daily efforts of approximately 2,500 dedicated personnel, located in 54 offices across the nation, to carry out the agency's charge. In creating the Strategic Plan we sought the input of all members of the EEOC workforce in addition to the agency's leadership. We also solicited and received comments from a wide range of stakeholders as well as our customers: the public. As a result, the plan is a true reflection of the agency and all those who share an interest in our mission.

Three values underlie the Strategic Plan, form the basis of our agency culture, and guide our daily work.

- Commitment to Justice
- Accountability
- Integrity

Commitment to Justice: Congress entrusted the Commission with the responsibility of enforcing the nation's employment non-discrimination laws. These laws reflect Congress' vision of justice in employment in our nation's workplaces. To honor the trust that has been given us, we must have an unwavering commitment to carrying out that vision of justice.

Accountability: Like all federal agencies, the EEOC is accountable to the public it serves. We must therefore continue to demand excellence in ourselves and have systems in place to hold us accountable for that excellence. To this end, the Commission must ensure that the resources entrusted to us are used in the intended manner, that the EEOC workforce has adequate training and that the agency's processes are consistent and periodically evaluated and updated.

Integrity: The Commission has an obligation to be objective as it investigates charges and adjudicates cases. If we conclude that unlawful discrimination has occurred, we have an obligation to advance the public interest and work to fully remedy the harm caused by discrimination. We also have an obligation to be an impartial adjudicator in federal sector cases. Moreover, every person we serve or interact with in the performance of our work and every member of the EEOC workforce is entitled to be treated with respect, courtesy and professionalism.

In keeping with these values, the Strategic Plan builds on the Commission's past successes, yet challenges us to do more. It requires us to take a critical look at what we have accomplished thus far and explore where there is room to improve.



The plan prioritizes a coordinated, holistic approach to law enforcement, recognizing that operational and substantive silos have sometimes hampered the agency's efforts to prevent and remedy unlawful discrimination.

Moreover, the plan emphasizes the importance of excellent customer service, but also focuses on our most valuable resource—the EEOC workforce—by prioritizing the importance of equipping and training them to provide that service.

The plan departs from our previous strategic plan in significant ways. It focuses less on measuring numbers and more on measuring what we need to do in order to achieve our long-term goals. This change is in recognition of the fact that some of the Commission's previous numbers-based performance measures may have had unintended adverse consequences for the agency. Thus, we have taken a step back in the plan, developing performance measures that require us to first establish baselines in various areas and then think critically about what we should measure in order to determine the agency's effectiveness.

The Strategic Plan also requires the Commission to be proactive, rather than simply reactive. The plan requires the Commission to embark on an ambitious year-long effort to create the larger conceptual framework that will inform, justify and support the quantitative and qualitative performance measures throughout the plan. In short, the plan lays the foundation for the future of the EEOC, but it is only the beginning.

The success of the plan will depend on its implementation, as led by the Chair. The Commission as a whole is committed to the timely and robust implementation of the plan's provisions. Together, with the EEOC workforce, we look forward to spending the next year building on the work we have done thus far in the Strategic Plan.

The best measure of our success will be how the workplace operates when this generation's children enter the workforce. Our hope and expectation is that the Strategic Plan sets us in the right direction for achieving a workplace in which unlawful employment discrimination becomes a relic of the past.

Introduction

Since 1965, the United States Equal Employment Opportunity Commission (“the EEOC” or “the agency”) has served as the nation’s lead enforcer of employment antidiscrimination laws and chief promoter of equal employment opportunity (EEO). The Strategic Plan for Fiscal Years 2012–2016 (“the Strategic Plan”) establishes a framework for achieving the EEOC’s mission to “stop and remedy unlawful employment discrimination,” so that the nation might soon realize the Commission’s vision of “justice and equality in the workplace.”

To accomplish this mission and achieve this vision in the 21st Century, the EEOC is committed to pursuing the following objectives and outcome goals:

- 1. Combat employment discrimination through strategic law enforcement**, with the outcome goals of: 1) have a broad impact on reducing employment discrimination at the national and local levels; and 2) remedy discriminatory practices and secure meaningful relief for victims of discrimination;
- 2. Prevent employment discrimination through education and outreach**, with the outcome goals of: 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; and
- 3. Deliver excellent and consistent service through a skilled and diverse workforce and effective systems**, with the outcome goal that all interactions with the public are timely, of high quality, and informative.

The plan also identifies strategies for achieving each outcome goal and identifies 14 performance measures for gauging the EEOC’s progress as it approaches FY 2016. The plan requires significant changes in the agency’s approach to fulfilling its mission. As a result, during the first 1-2 years of the plan, the agency will establish new baselines so that it can finalize the milestones and targets for its measures. The plan will be updated accordingly in the EEOC’s Annual Performance Plans.

While greater resources would likely result in expedited progress, these lean budgetary times require the EEOC to prioritize its objectives and goals and be realistic in identifying strategies and setting measures. Thus, while this plan is rigorous and forward-looking, it assumes that staffing and budgetary resources will remain constant over the next four years, with additional funding provided to account for salary and inflationary increases.

Mission: Stop and remedy **unlawful employment discrimination**

Vision: **Justice and equality in the workplace**



The Strategic Planning Process

The Congress of the United States requires Executive departments, Government corporations, and independent establishments to develop and post a strategic plan on their public website every four fiscal years.¹ The plan must include items such as:

- a mission statement covering the major functions and operations of the agency;
- general goals and objectives, including outcome-oriented goals, for the agency;
- a description of how these goals and objectives are to be achieved; and
- an identification of key factors external to the agency and beyond its control that could significantly affect the achievement of its general goals and objectives.

Congress also requires that the head of each agency issue an annual performance plan covering each program activity set forth in the agency's budget. This performance plan must establish performance goals that define the level of performance that will be achieved during the year in which the plan is submitted and the next fiscal year; express such goals in an objective, quantifiable, and measurable form; describe how the performance goals will contribute to the general goals and objectives established in the agency's strategic plan; and finally, describe how the performance goals will be achieved. In addition, the performance plan must establish a balanced set of performance indicators to be used in measuring or assessing progress toward each performance goal; provide a basis for comparing actual program results with the established performance goals; describe how the agency will ensure the accuracy and reliability of the data used to measure progress towards its performance goals; and describe major management challenges the agency faces and identify how the agency plans to address such challenges.²

The development of a four-year strategic plan, as well as the development of annual performance plans, require the leadership of an agency to reflect upon the statutory mission of the agency, reassess prior goals and objectives, and identify any new goals and objectives that will enable the agency to meet its statutory mission. The plans also alert Congress and stakeholders to key factors external to the agency that may affect the agency's ability to carry out its mandate.

In July 2011, Chair Jacqueline A. Berrien launched the FY 2012 Strategic Planning Process for the agency in a memorandum directed to all employees. The memorandum outlined the steps related to the strategic planning process and described how employees could become involved through an internal web site created expressly for employees to respond to requests for comments.

Chair Berrien also created two workgroups to lay the foundation for the Strategic Plan—the Strategic Planning Workgroup and the Performance Measurement Group. Both groups were comprised of staff from headquarters and field offices, with a broad range of expertise and understanding of the programs and activities conducted by the EEOC.

As the Performance Improvement Officer (PIO) and the Chief Operating Officer (COO), Claudia A. Withers was designated as Chair of the Strategic Plan Workgroup and the strategic planning process, generally. Commissioner Chai R. Feldblum was selected to lead the Performance Measurement Group. A full list of participants of both groups was posted on the agency's internal web site dedicated to FY 2012-2016 Strategic Planning and appears in Appendix A. In addition, each Commissioner had a staff person represented on one of the two workgroups.

From August 2011 through November 2011, the two groups worked first independently, and then collaboratively, to develop the agency's Vision, Mission, Strategic Objectives and Goals, and Performance Measures for the FY 2012–2016 Strategic Plan. All facets of the agency's operations were engaged in the development process of the Strategic Plan, including the Commissioners and their senior staff, Office Directors, District Directors, Regional Attorneys, and the Union, as well as individual employees via the agency's internal website.

In January 2012, a draft of the Strategic Plan was posted on the EEOC's external website at <http://www.eeoc.gov/> for public comment. The agency received 37 substantive comments: 15 from internal stakeholders; 7 from employer representatives; 9 from employee representatives; 4 from federal EEO offices; and 2 from state FEPAs.

In addition, the draft strategic plan was delivered to the Senate Committee on Health Education Labor and Pensions; Senate Committee on Homeland Security and Governmental Affairs; Senate Subcommittee on Commerce, Justice, and Science and Related Agencies, Committee on Appropriations; House Committee on Education and the Workforce; House Committee on Oversight and Government Reform; and the House Subcommittee on Commerce, Justice, and Science and Related Agencies, Committee on Appropriations.

The final plan was approved by the Commission on February 22, 2012 by a vote of 4-1. Implementation of the new Strategic Plan will begin in March 2012, including work on the Strategic Enforcement Plan.

As noted in Strategic Objective I and Appendix B, there will be future opportunities for public comment on the Strategic Enforcement and Quality Control Plan for investigations and conciliations. If, however, you have comments on the Strategic Plan, please send them to:

Executive Officer
Office of the Executive Secretariat
U.S. Equal Employment Opportunity Commission
131 M St. NE
Washington, DC 20507-0001
(202) 663-4070
TTY (202) 663-4494
<http://www.eeoc.gov/>

The **final plan was approved by the Commission by a vote of 4 to 1.**



About the EEOC

The United States Equal Employment Opportunity Commission was established by Title VII of the *Civil Rights Act of 1964* ("Title VII") and began operating on July 2, 1965. The mandate and authority of the EEOC was set forth in Title VII and cross-referenced in later laws enacted by Congress.³ The agency enforces federal laws prohibiting workplace discrimination on the basis of race, color, religion, sex, national origin, age, disability or genetic information.

Leadership

The Commission is composed of five members, not more than three of whom may be members of the same political party. Members of the bipartisan Commission are appointed by the President and confirmed by the Senate for a set term of five years. The President designates one member of the Commission to serve as Chair. The Chair is responsible, on behalf of the Commission, for the administrative operations of the agency.

The EEOC's General Counsel is also appointed by the President and confirmed by the Senate for a set term of four years. The General Counsel is responsible for the conduct of litigation pursuant to the agency's statutory authority.⁴

Laws Enforced

The EEOC enforces the following laws (listed in the order the EEOC obtained authority):

- Title VII of the *Civil Rights Act of 1964* (Title VII), as amended, which prohibits employment discrimination on the basis of race, color, religion, sex, or national origin;⁵
- The *Age Discrimination in Employment Act of 1967* (ADEA), as amended, which prohibits employment discrimination against individuals 40 years of age and older;⁶
- The *Equal Pay Act of 1963* (EPA), as amended, which prohibits discrimination on the basis of sex in compensation for substantially equal work performed under similar conditions;⁷
- Section 501 of the *Rehabilitation Act of 1973*, as amended, which prohibits employment discrimination against federal employees and applicants with disabilities;⁸
- Title I and Title V of the *Americans with Disabilities Act of 1990* (ADA), as amended, which prohibits employment discrimination on the basis of disability in the private sector and in state and local government;⁹ and
- The *Genetic Information Non-Discrimination Act of 2008* (GINA), which prohibits employment discrimination based on genetic information.¹⁰

These laws also make it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

The United States Equal Employment Opportunity Commission was established by **Title VII of the Civil Rights Act of 1964** ("Title VII") and began operating on July 2, 1965.

Most of these laws apply to private and state and local government employers with 15 or more employees, labor organizations, employment agencies, and the federal government (covered entities). (The ADEA applies to employers with 20 or more employees; there is no minimum employee requirement under the EPA.) Title VII and Executive Order 12067 also authorize the EEOC to coordinate and lead the federal government's efforts to combat workplace discrimination.¹¹

Enforcement

Private and State and Local Government Sectors. There are two major enforcement mechanisms available to the EEOC in the private and state and local government sectors. The first is the investigation and conciliation process (also called the "administrative process"): the investigation and resolution of charges brought by an individual or by a Commissioner alleging discrimination. The second is the litigation process in the private sector: the bringing of individual, class, and systemic, including pattern or practice, cases, in federal or state court against a covered entity accused of violating one or more of the laws the EEOC enforces.

Before an individual may file a private discrimination lawsuit against a covered entity under most of these laws, he or she must first file a charge of discrimination with the EEOC. Congress created this administrative exhaustion requirement to provide the EEOC with the opportunity to determine if there is reasonable cause to believe discrimination has occurred and to provide an opportunity for voluntary resolution where possible. A member of the Commission may also file a charge alleging discrimination by a covered entity, known as a Commissioner Charge.

In 1995, the EEOC created an alternative dispute resolution ("ADR") process. Under this system, some charges are dealt with prior to the initiation of any investigation. With regard to these charges, the respondent-covered entity and charging party are invited to mediate the dispute. During mediation, the focus of attention is not on whether the law has been violated, but rather, whether the issue can be resolved to the parties' mutual satisfaction.

If mediation is declined or is unsuccessful, or if the charge is not sent to the ADR program in the first place, the EEOC may investigate the charge to determine if there is reasonable cause to believe discrimination has occurred. If such cause is found, the agency provides the respondent-covered entity an opportunity to remedy the discriminatory practice(s) through conciliation.

If conciliation is unsuccessful, the agency is authorized to bring a civil action against the respondent-covered entity in federal or state court. If the entity is a state or local employer and the case is under Title VII, the ADA, or GINA, the U.S. Attorney General is authorized to bring suit. If neither the EEOC nor the Attorney General chooses to sue, a charging party can bring a private suit against the covered entity in court. A charging party may also intervene in cases under Title VII, the ADA or GINA where the government pursues litigation. The agency and the Attorney General are also authorized to issue Notices of Right to Sue to charging parties who wish to institute private litigation under Title VII, the ADA, or GINA. Notices of Right to Sue are not necessary for a charging party to file suit under the ADEA or EPA.¹²



The EEOC is also authorized to investigate and act on a charge alleging a pattern or practice of discrimination filed by a member of the Commission or by an individual.

The EEOC is also authorized to investigate and act on a charge alleging a pattern or practice of discrimination filed by a member of the Commission or by an individual. In addition, the EEOC may initiate directed investigations under the EPA and the ADEA.

Congress has also authorized the agency to cooperate with State and local Fair Employment Practices Agencies (FEPAs), which are responsible for administering state fair employment laws, and to enter into agreements with these agencies to undertake investigations and conciliations of charges that would otherwise be investigated and conciliated by the EEOC.¹³ The EEOC currently has work sharing agreements with 95 state and local FEPAs. These organizations resolved 44,377 charges in FY 2011.¹⁴

The agency also works with 64 Tribal Employment Rights Organizations (TEROs) and has entered into contracts with TEROs so that they can advocate for Native American employment and Native American preference with employers on or near their reservations or lands.

Federal Government Sector. Title VII and subsequent employment antidiscrimination laws guarantee that “[a]ll personnel actions” affecting employees or applicants for employment by the federal agencies “shall be made free from any discrimination” based on race, color, religion, sex, national origin, age, disability or genetic information. Federal employees are also protected against retaliation for complaining about discrimination, filing a charge of discrimination, or participating in an employment discrimination investigation or lawsuit. The EEOC is charged with both adjudicatory and oversight responsibilities with regard to this guarantee.

A federal employee or applicant (“the complainant”) who believes he or she has been subjected to unlawful employment discrimination must first contact his or her agency’s equal employment opportunity (“EEO”) counselor, who will provide the complainant with the choice of participating either in EEO counseling or in a federal alternative dispute resolution (“ADR”) program. If the matter is not settled during counseling or through ADR,¹⁵ the complainant may file a formal complaint with his or her agency’s EEO office and the agency must investigate the complaint if it determines the complaint meets jurisdictional and other requirements. While the investigatory processes of an agency are governed by procedural regulations issued by the EEOC, an agency has full control over the investigation itself.¹⁶

At the conclusion of the investigation, the complainant is given the option of requesting a hearing with an EEOC administrative judge (“AJ”), who will adjudicate and rule on the claim, or asking their agency to issue a final decision as to whether discrimination occurred. If the complainant chooses the latter course and asks for a final agency decision, he or she can appeal the final agency decision to the EEOC. The EEOC will review the decision by the agency, adjudicate the claim, and issue a final decision. A complainant may pursue his or her claim in court if a final decision is not issued within 180 days of the date the complaint or EEOC appeal was filed.¹⁷

If the complainant chooses to have an AJ hear his or her claim and is dissatisfied with the judge’s decision, the complainant may file an appeal with the EEOC. Their agency may also file an appeal from an AJ’s determination. The EEOC will review the ruling by the AJ, adjudicate the claim, and issue a final appellate decision.

The EEOC has authority to provide appropriate remedies to a federal complainant, including reinstatement, back pay, and damages. Relief ordered by the EEOC is binding on an agency, except in limited circumstances, and the agency may not appeal an adverse decision in federal court. As with a charging party in the private sector, the federal complainant may file a lawsuit in federal court to resolve the claims of discrimination once the EEOC's final decision has been issued.

The EEOC also has oversight responsibilities in the federal sector. The EEOC is authorized to review, approve, and evaluate federal agency equal employment opportunity plans and affirmative action programs and to review and evaluate the operation of all federal agency EEO programs. The EEOC conducts comprehensive reviews of federal agencies' EEO programs and their progress toward attaining model EEO status under Management Directive 715. Each review is tailored to the individual agency's needs and may include a written workforce analysis by race, sex, national origin and disability. A review also provides assistance in identifying barriers to equal opportunity at an agency and helps formulate plans to eliminate such barriers. The EEOC may also undertake on-site program evaluations that may result in remedial recommendations and a schedule of compliance reports.

Education & Outreach

In addition to administrative and litigation enforcement, the EEOC is also required to provide technical assistance and training regarding the laws and regulations it enforces. The EEOC fulfills this mandate in the private, state and local government, and federal sectors by conducting no-cost outreach and technical assistance education programs, as well as fee-based training and technical assistance education programs through the EEOC Training Institute.



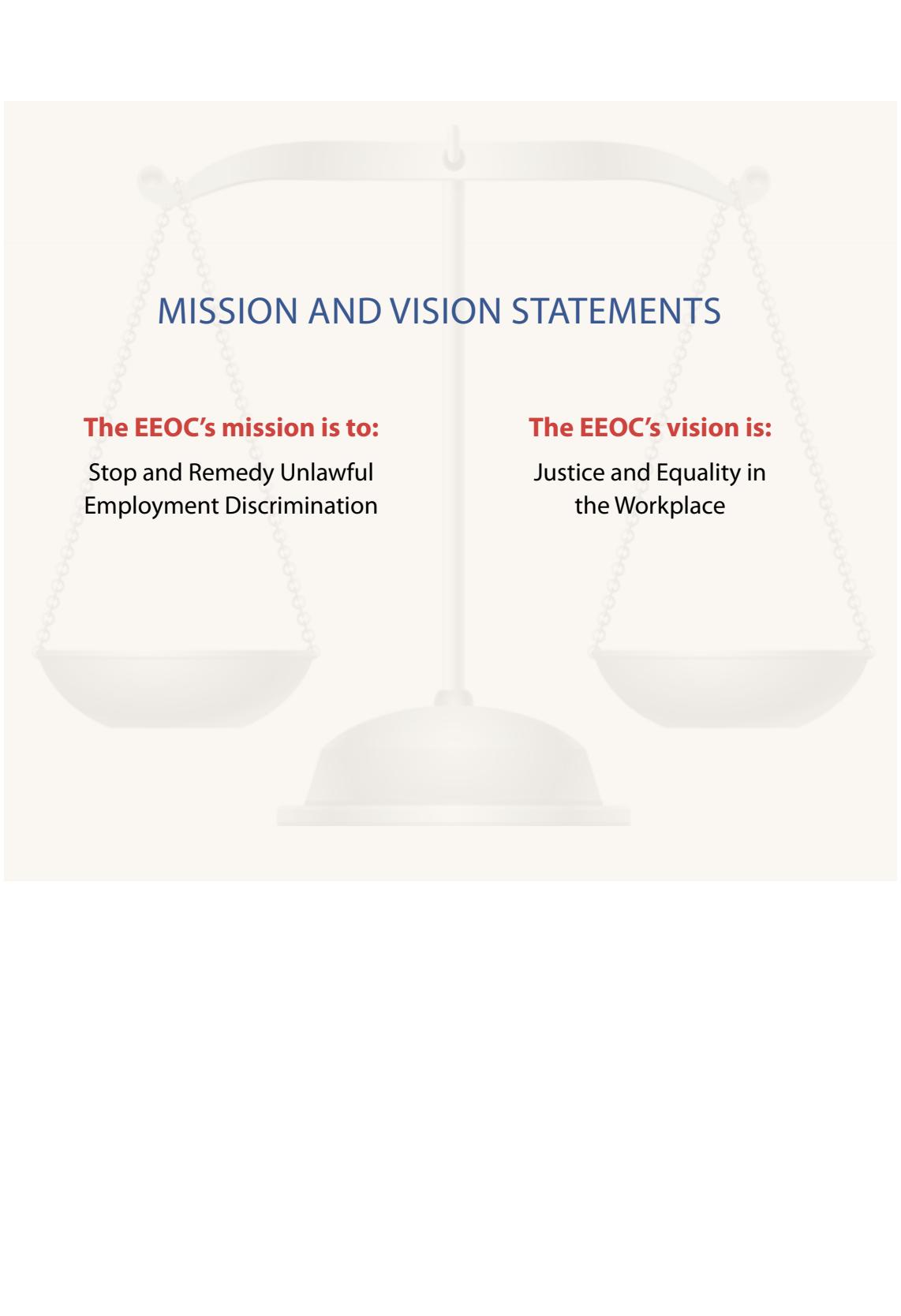
MISSION AND VISION STATEMENTS

The EEOC's mission is to:

Stop and Remedy Unlawful
Employment Discrimination

The EEOC's vision is:

Justice and Equality in
the Workplace



STRATEGIC PLAN DIAGRAM

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



PERFORMANCE MEASURES		
STRATEGIC OBJECTIVE I	STRATEGIC OBJECTIVE II	STRATEGIC OBJECTIVE III
<p>Performance Measure 1 for Strategy I.A.1</p> <p>By FY 2016, the EEOC develops, issues, implements, evaluates, and revises, as necessary, a Strategic Enforcement Plan.</p> <p>Performance Measure 2 for Strategy I.A.2 and Strategy III.A.2</p> <p>By FY 2016, TBD% of investigations and conciliations meet the criteria established in the new Quality Control Plan.</p> <p>Performance Measure 3 for Strategy I.A.2 and Strategy III.A.2</p> <p>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>Performance Measure 4 for Strategy I.A.3</p> <p>By FY 2016, TBD% of the cases in the agency's litigation docket are systemic cases.</p> <p>Performance Measure 5 for Strategy I.A.4</p> <p>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>Performance Measure 6 for Strategies I.B.1 and I.B.2</p> <p>By FY 2016, a TBD% of the EEOC's administrative and legal resolutions contain targeted, equitable relief.</p> <p>Performance Measure 7 for Strategies I.B.1 and I.B.2</p> <p>By FY 2016, a TBD% of resolutions by FEPAs contain targeted, equitable relief.</p>	<p>Performance Measure 8 for Strategy II.A.1</p> <p>By FY 2016, the EEOC is maintaining TBD significant partnerships with organizations that represent vulnerable workers and/or underserved communities.</p> <p>Performance Measure 9 for Strategy II.B.1</p> <p>By FY 2016, the EEOC is maintaining TBD significant partnerships with organizations that represent small or new business (or with businesses directly).</p> <p>Performance Measure 10 for Strategies II.A.1 and II.B.1</p> <p>By FY 2013, the EEOC implements a social media plan.</p> <p>Performance Measure 11 for Strategies II.A.2 and II.B.2</p> <p>The EEOC reviews, updates, and/or augments with plain language materials its sub-regulatory guidance, as necessary.</p>	<p>Performance Measure 12 for Strategy III.A.1</p> <p>The EEOC strengthens the skills and improves the diversity of its workforce.</p> <p>Performance Measure 2 for Strategy I.A.2 and Strategy III.A.2</p> <p>By FY 2016, TBD% of investigations and conciliations meet the criteria established in the new Quality Control Plan.</p> <p>Performance Measure 3 for Strategy I.A.2 and Strategy III.A.2</p> <p>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>Performance Measure 13 for Strategy III.A.3</p> <p>The EEOC improves the private sector charge process to streamline services and increase responsiveness to customers throughout the process.</p>
BUDGETARY RESOURCES MEASURE		
<p>Performance Measure 14</p> <p>The EEOC's budgetary resources for FY 2014–2017 align with the Strategic Plan.</p>		

STRATEGIC OBJECTIVE I

COMBAT EMPLOYMENT DISCRIMINATION THROUGH STRATEGIC LAW ENFORCEMENT

Strategic Objective I, to combat employment discrimination through strategic law enforcement, reflects the EEOC's primary mission of preventing unlawful employment discrimination through: 1) the administrative (investigation and conciliation) and litigation enforcement mechanisms Congress has given the agency with regard to private employers, labor organizations, employment agencies, and state and local government employers; and 2) the adjudicatory and oversight mechanisms Congress has given the agency 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.¹⁸

There are two outcome goals for Strategic Objective I:

Outcome Goal I.A: Have a broad impact on reducing employment discrimination at the national and local levels; and

Outcome Goal I.B: Remedy discriminatory practices and secure meaningful relief for victims of discrimination.

In the past two years, the EEOC has annually received nearly 100,000¹⁹ individual private sector charges of discrimination and 14,000 federal sector requests for hearings and appeals.²⁰ The large number of individual charges of discrimination, and federal sector requests for hearings and appeals that the EEOC receives has required the agency to think strategically about targeting its efforts to ensure the strongest impact possible in its efforts to stop unlawful employment discrimination.

In 1996, the Commission adopted a National Enforcement Plan and required District Offices to develop Local Enforcement Plans.²¹ These plans reviewed EEOC charge data, reassessed national and local enforcement needs, and set substantive priorities for equal employment law enforcement at both the national and local levels. In addition, the National Enforcement Plan delegated authority to the General Counsel to initiate litigation without the express vote of the Commission, except in limited circumstances.

In 1995, the Commission adopted a Priority Charge Handling Procedures (PCHP) system to categorize and expedite the handling of its charge inventory and to allow the agency to focus its resources on strategic enforcement.²² The PCHP system was designed to work in tandem with the National Enforcement Plan so that agency investigators and litigators could focus their resources strategically. Of key importance, the PCHP system revoked an approach of "full investigation" under which Commission staff fully investigated every charge without making a preliminary assessment of the potential merits of the charge.



In the past two years, the EEOC has annually received nearly 100,000 individual private sector charges of discrimination and 14,000 federal sector requests for hearings and appeals.

In 2000, the Commission developed an internal Comprehensive Enforcement Program that built on the National Enforcement Plan and created best practices for the internal workings of the agency.

In 2006, the Commission adopted its Systemic Initiative.²³ This Initiative makes the identification, investigation, and litigation of systemic discrimination cases—pattern or practice, policy, and/or class cases where the alleged discrimination has a broad impact on an industry, profession, company, or geographic area—a top priority. The Systemic Initiative also seeks to ensure that the EEOC has a coordinated, strategic, and effective approach to such cases. The Initiative requires the agency to effectively use its administrative and litigation tools—including Commissioner Charges, directed investigations, and the strategic use of empirical data—to identify and stop discriminatory policies and other instances of systemic discrimination.

The Commission has not updated the EEOC's National Enforcement Plan since its adoption in 1996 and many District Offices no longer prepare Local Enforcement Plans. Instead, the administrative and litigation enforcement priorities of the agency have been updated through other means, such as the Systemic Initiative and the priorities announced by each Chair. While these means of priority setting are critical, they should complement and augment, not replace, an overall enforcement strategy.

Moreover, while the PCHP system initially resulted in a significant reduction in the EEOC's pending charge inventory,²⁴ that inventory increased significantly between FY 2002 and 2008.²⁵ The agency's pending inventory continued to grow between FY 2008 and 2010, albeit more slowly.²⁶ An independent evaluation of the PCHP system, conducted by the Federal Consulting Group between 2007 and 2009 and submitted to the Commission in 2011, indicated that a more rigorous and uniform implementation of the PCHP system across field offices was needed to ensure the agency met the demands of incoming charges.²⁷ Rigorous and consistent implementation of PCHP is also required to ensure the agency targets its efforts on those charges that will have the broadest impact on stopping unlawful employment discrimination. To this end, the Chair has begun working on a Plan to Manage and Reduce the Charge Inventory, which identifies barriers to proper PCHP implementation and recommends solutions that will enable PCHP to be fully and properly implemented. The results have been positive, by FY 2010 the EEOC's field offices had slowed the growth of the pending charge inventory and by FY 2011 reduced the pending charge inventory by nearly 8,000 charges—the first reduction in nearly a decade, even as the Commission received nearly 100,000 new charges in FY 2010 and FY 2011.²⁸

As the EEOC works to rigorously enforce PCHP, a reduction in its charge inventory must not result in a reduction in the quality of investigations or premature closing of meritorious charges. One of the EEOC's greatest challenges has been to create a system that rewards effective investigations and conciliations and does not incentivize the closure of charges simply to achieve closures.

With this in mind, the EEOC's strategies for achieving Outcome Goal I.A are:

Strategy I.A.1: Develop and implement a Strategic Enforcement Plan that: (1) establishes EEOC priorities and (2) integrates the EEOC's investigation, conciliation and litigation responsibilities in

the private and state and local government sectors; adjudicatory and oversight responsibilities in the federal sector; and research, policy development, and education and outreach activities;

Strategy I.A.2: Rigorously and consistently implement charge and case management systems to focus resources and enforcement on EEOC priorities;

Strategy I.A.3: Use administrative and litigation mechanisms to identify and attack discriminatory policies and other instances of systemic discrimination; and

Strategy I.A.4: Use EEOC decisions and oversight activities to target discriminatory practices and policies in federal agencies.

The strategies for achieving Outcome Goal I.B are:

Strategy I.B.1: Ensure that remedies end discriminatory practices and deter future discrimination; and

Strategy I.B.2: Seek remedies that provide meaningful relief to individual victims of discrimination.

The Commission has developed six performance measures to track its progress in pursuing these strategies and one performance measure to track the progress of its state and local partners.

Performance Measure 1 for Strategy I.A.1: By FY 2016, the EEOC develops, issues, implements, evaluates, and revises, as necessary, a Strategic Enforcement Plan.

FY 2012	The agency develops a draft Strategic Enforcement Plan. The Commission votes on a Strategic Enforcement Plan no later than September 30, 2012. (See Appendix B for more details on the Plan's development.)
FY 2013	The agency distributes implementation guidance for the Strategic Enforcement Plan. The agency begins to implement the Strategic Enforcement Plan. 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.
FY 2014	The agency fully implements the Strategic Enforcement Plan.
FY 2015	The Commission evaluates the Strategic Enforcement Plan.
FY 2016	The Commission revises and votes on a new Strategic Enforcement Plan, as necessary.

A Strategic Enforcement Plan... will ensure a targeted, concentrated, and deliberate effort to identify and pursue priority issues and practices....



A Strategic Enforcement Plan (SEP), which would replace the current National Enforcement Program, will ensure a targeted, concentrated, and deliberate effort to identify and pursue priority issues and practices that significantly affect applicants, employees and employers. In addition to outlining substantive priorities, the plan may prioritize types of investigations and cases. The Commission will develop the SEP based on data derived from research, charges, and input from experts and stakeholders.

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

As part of the development of the plan, the Commission will decide whether District Offices should develop local strategic enforcement plans and whether the Commission's Office of Federal Operations should develop a federal sector enforcement plan. If so, these local and federal sector plans will complement and augment the national plan, but also reflect the needs of their respective offices.

Work on the Strategic Enforcement Plan will begin in March 2012 and will be approved by the Commission no later than September 2012. The Commission will draw on the expertise of its staff from both Headquarters and throughout the field to ensure that a diversity of views is heard. In addition, as noted in Appendix B, the Commission will solicit the views of a range of stakeholders, including Congress, FEPAs, members of the plaintiffs and defense bars, and members of the general public.

Performance Measure 2 for Strategy I.A.2 and Strategy III.A.2: By FY 2016, TBD% of investigations and conciliations meet the criteria established in a new Quality Control Plan.

FY 2013	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. (See Appendix B for more details on the Plan's development.)
FY 2014	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.
FY 2015	TBD% of investigations and conciliations meet targets for quality.
FY 2016	TBD% of investigations and conciliations meet targets for quality.

The EEOC is responsible for holding hearings and reviewing and ruling on final agency decisions of discrimination complaints in the federal sector.

Over the past several years, the EEOC has consistently met existing quality control goals for its investigations—usually achieving a performance rate of approximately 90%.²⁹ However, the existing criteria used to rate quality do not capture the full range of components that must be present to guarantee a quality investigation and conciliation. For example, the current criteria measure whether a charge has been correctly categorized within the PCHP system and whether the charge has been correctly filed and updated in the agency's data system. These criteria do not, however, measure whether charges are appropriately re-assessed on a timely basis, how efficient and timely the investigation has been, what the investigation actually consisted of, and whether the investigator correctly applied the law to the facts of the charge.

Performance Measure 2 requires the Commission to develop appropriate criteria, such as these, for measuring the quality of investigations and conciliations. In addition, this measure requires the Commission to develop a peer review assessment system that will be used to judge the quality of investigations and conciliations.

Appendix C of the Strategic Plan sets forth a timeline for the Commission's receipt of information from both internal and external stakeholders in order to develop an appropriate Quality Control Plan for investigations and conciliations.

Performance Measure 3 for Strategy I.A.2 and Strategy III.A.2: By FY 2016, 100% of federal sector case inventory is categorized according to a new case management system and TBD% of hearings and appeals meet the criteria established in the new Federal Sector Quality Control Plan.

FY 2013	Develop categories for federal sector cases. Develop, pilot and implement new processes and technology, ensuring appropriate guidance, documentation, and staff training.
FY 2014	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.
FY 2015	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, and set targets for improved quality.
FY 2016	100% of incoming and old case inventory are categorized. TBD% of hearings and appeals meet targets for quality.

The EEOC is responsible for holding hearings and reviewing and ruling on final agency decisions of discrimination complaints in the federal sector. As in the private sector, budgetary constraints have led to fewer available Administrative Judges and Office of Federal Operations Appellate



Attorneys at a time when requests for hearings and appeals are increasing.³⁰ These factors, coupled with a targeted focus under the agency's prior strategic plan of resolving an increasing percentage of appeals in less than 180 days, contributed to a steady rise in the number of older appeals, as well as the overall age of the appellate inventory.

Recent years have seen improvements. In FY 2011, the agency instituted a more balanced approach to the resolution of appeals, focusing on both new and old appeals, and employed innovative strategies to address the federal sector workload. The effect of this approach was dramatic.³¹ It is clear, however, that in the absence of greater budgetary resources, additional innovations will be needed to continue this trend.

As the agency has already done for private sector activities, this performance measure will create a new case management system for handling federal sector hearings and appeals. The measure will also create a new federal sector quality control plan.

New Federal Sector Case Management System

The Commission has never developed a formal categorization system for cases heard by its Administrative Judges (AJs) or for appeals to the EEOC. Rigorous implementation of a new case management system for federal sector hearings and appeals will enable the agency to bring consistency and greater efficiencies to the processing of federal sector complaints. In addition, such a system will allow the agency to track cases that raise priority issues set forth in its Strategic Enforcement Plan.

As a general matter, most AJs review their cases when they are assigned to determine if they can be settled or resolved quickly. But if an AJ receives a significant policy case, or a large class action case, the EEOC's system for tracking the work of AJs does not sufficiently take into account the greater time and effort required for such cases. The same is true with regard to cases heard on appeal, in which opinions are drafted by EEOC attorneys. The new case management system will enable appropriate tracking of such work.

New Federal Sector Quality Control Plan

Ongoing quality assessments are done in the course of ordinary supervision for both AJs and Office of Federal Operations personnel.³² However, to parallel the private sector effort, the EEOC will develop appropriate criteria for measuring the quality of hearing decisions and appeals, and will apply those quality criteria to a significant sample of federal sector decisions to determine a baseline of quality and to set targets for improved quality.

The Commission will consult with its AJs, its staff from the Office of Federal Operations, and outside stakeholders during these efforts.

Performance Measure 4 for Strategy I.A.3: By the end of FY 2016, TBD% of the cases in the agency's litigation docket are systemic cases.

FY 2012	Establish a baseline and project future targets.
FY 2013	Increase targets to TBD%.
FY 2014	Increase targets to TBD%.
FY 2015	Increase targets to TBD%.
FY 2016	Increase targets to TBD%.

Systemic cases are pattern or practice, policy, and/or class cases where the alleged discrimination has a broad impact on an industry, occupation, business, or geographic area. This performance measure will provide an incentive for the EEOC to conduct systemic investigations when it finds evidence of potential widespread discriminatory practices. This measure will also require the agency to prioritize the systemic cases it chooses to litigate and to bring fewer individual and small class claims of discrimination, since systemic litigation requires significantly greater resources than other types of litigation.

As the EEOC gradually increases the proportion of systemic cases in its litigation docket, the strategic selection of individual and small class cases will take on greater importance. In making these strategic selections, the Commission will be cognizant of its statutory mandate of preventing unlawful employment discrimination under all of the statutes it enforces, under all protected bases, and involving a wide range of employment actions. In addition, the Commission will be mindful that in some regions of the country, the federal government has an even greater role to play in ensuring individual victims of employment discrimination can seek legal redress.

Performance Measure 5 for Strategy I.A.4: By FY 2016, the EEOC uses an integrated data system to identify potentially discriminatory policies or practices in federal agencies and has issued and evaluated TBD number of compliance plans to address areas of concern.

FY 2013	Create and implement a data system of complaint, hearing, and statistical employee data in order to establish priorities in the federal sector.
FY 2014	Conduct TBD number of on-site program evaluations focused on identified priorities and issue compliance plans.
FY 2015	Conduct TBD number of on-site program evaluations focused on identified priorities and issue compliance plans.
FY 2016	Review compliance plans to determine if they have been implemented, and if not, determine what corrective action should be taken.



The federal government is the largest employer in the United States.

The federal government is the largest employer in the United States. Thus, reducing unlawful employment discrimination in the federal sector is an integral part of achieving Strategic Objective I and fulfilling the mission of the agency. Moreover, as the largest employer in the United States, the federal government has tremendous influence over the employment practices of private and public employers in the United States and around the world. Thus, the promotion of equal employment opportunity in the federal government can positively impact all employees and job-seekers.

In order to do that, the EEOC must understand fully what equal employment trends exist in the federal government. This performance measure requires the EEOC to use the various data it already collects from federal agencies to develop an integrated data system that can identify potentially discriminatory policies or practices in the federal agencies and help set priorities for the prevention of discrimination in the federal government.

The agency currently collects aggregate data regarding EEO complaints in federal agencies, agency diversity efforts, appeals, and compliance with appellate orders. An integrated data system, however, will allow the agency to collect, store, and link data that previously has been maintained in separate systems. The system will permit staff to perform more meaningful and comparative analyses of federal agencies' equal employment opportunity and affirmative action programs.

In keeping with its oversight authority, in FY 2014 and FY 2015, the EEOC will conduct a number of on-site program evaluations of federal agencies regarding priority areas that have been identified through the integrated data system and will issue compliance plans. These plans will include a series of steps for federal agencies to take to correct any discriminatory practices. The number of on-site evaluations will be determined based on the baseline set in FY 2013. In FY 2016, the EEOC will review the compliance plans issued in FY 2014 and FY 2015 to determine if they have been implemented successfully, and if not, what corrective action should be taken.

Performance Measure 6 for Strategies I.B.1 and I.B.2: By FY 2016, a TBD% of the EEOC's administrative and legal resolutions contain targeted, equitable relief.

FY 2013	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.
FY 2014	Increase targets by TBD% or maintain targets.
FY 2015	Increase targets by TBD% or maintain targets.
FY 2016	Increase targets by TBD% or maintain targets.

Performance Measure 7 for Strategy I.B.1 and I.B.2: By FY 2016, a TBD% of resolutions by FEPAs contain targeted, equitable relief.

FY 2012	In conjunction with FEPAs, identify, design, and implement reporting process(es) to determine what percentage of resolutions by FEPAs contain targeted, equitable relief.
FY 2013	Collects data from FEPAs, establishes baseline of existing targeted, equitable relief in resolutions and project future targets for different types of targeted, equitable relief.
FY 2014	FEPAs increase targets by TBD% or maintain targets.
FY 2015	FEPAs increase targets by TBD% or maintain targets.
FY 2016	FEPAs increase targets by TBD% or maintain targets.

An important activity undertaken by both the EEOC and state and local FEPAs is negotiating resolutions of charges after an investigation has determined that there is reasonable cause to believe that unlawful employment discrimination has occurred. It is neither appropriate nor feasible to set a target for the number of reasonable cause determinations the agency makes since every investigation is dependent on the particular facts of the case. However, it is appropriate to set a goal for the type of relief that should be sought in resolutions of cases once reasonable cause has been found.

Performance Measures 6 and 7 are designed to encourage the EEOC and the FEPAs to seek relief in these cases that goes beyond compensatory or punitive damages for individual victims of discrimination. While it is important that the EEOC and FEPAs seek meaningful relief for individuals, the ultimate interest of government agencies must be to protect not only the original charging parties, but all employees and job-seekers from unlawful discriminatory practices.

Targeted, equitable relief means any non-monetary and non-generic relief (other than the posting of notices in the workplace about the case and its resolution), which explicitly addresses the discriminatory employment practices at issue in the case, and which provides remedies to the aggrieved individuals or prevents similar violations in the future. Such relief may include training for supervisors and employees, development of policies and practices to deter future discrimination, and external monitoring of employer actions, as appropriate.

For example, injunctive provisions barring the specific kind of discrimination at issue in a case qualify as targeted, case-specific equitable relief; i.e., “enjoined from race discrimination against African Americans in hiring accountants at [facilities covered by the case].” However, provisions which merely bar discrimination in broad statutory terms would not qualify under the definition; e.g., “enjoined from engaging in race discrimination,” or “enjoined from violating



Title VII.” Likewise, requirements for EEO training of managers, supervisors, and HR employees that explicitly address the kind of discriminatory practices at issue in a case qualify under the definition; e.g., “training to address issues of, and remedies for, sexual harassment in the workplace” or “training to address the procedures for providing reasonable accommodations to a qualified individual with a disability.” However, training would not be included within the definition if it merely provided an overview of Title VII, ADA, ADEA, and EPA requirements.

The Strategic Enforcement Plan will also provide examples of using resolutions to discourage employers, other than the respondent, from engaging in similar discriminatory practices.

STRATEGIC OBJECTIVE II

PREVENT EMPLOYMENT DISCRIMINATION THROUGH EDUCATION AND OUTREACH

Strategic Objective II, to prevent employment discrimination through education and outreach, reflects the fact that the EEOC must also work to prevent employment discrimination before it occurs. Investigations, conciliations and litigation are only some of the means by which the EEOC fulfills its mission and vision. In Title VII, Congress expressly required 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.

Educational and outreach programs, projects, and events are also cost effective law enforcement tools because they promote understanding of the law and voluntary compliance with the law. All parties, including the American taxpayer, benefit when the workplace is free of discrimination and everyone has access to equal employment opportunity.

To this end, the two outcome goals for Strategic Objective II are:

Outcome Goal II.A: Members of the public understand and know how to exercise their right to employment free of discrimination; and

Outcome Goal II.B: Employers, unions and employment agencies (covered entities) better address and resolve EEO issues, thereby creating more inclusive workplaces.

The EEOC is required to target its education and outreach program to those persons "who historically have been victims of employment discrimination and have not been equitably served by the Commission" and to "individuals on whose behalf the Commission has authority to enforce" any law prohibiting employment discrimination.³³ Such programs are to include information on rights and obligations under the law. The Commission also believes it is important to target subsets of people within protected classes, such as persons of color under the age of 30 or low-skilled workers and new immigrants who may be unfamiliar with the nation's equal employment laws.

Moreover, it is also important for the agency to target underserved subsets of the employer community, including small and new businesses. Given their size and limited resources, such businesses are often less able to take advantage of the EEOC's training programs and are less likely to have in-house human resources professionals to assist them with compliance. In early FY 2012, the agency launched a Small Business Task Force to address issues faced by small businesses. It is clear, based on preliminary information collected by that Task Force, that additional efforts are needed to reach small businesses. In addition, the agency has found that new businesses, many of which are small businesses, also need greater targeted outreach.

In all of these activities, the EEOC is required, by statute, to "cooperate with other departments and agencies in the performance of such educational and promotional activities."³⁴ The state and local FEPAs are important collaborators in this regard, as are the regional offices of the Department of Labor's Office of Federal Contract Compliance Programs.



Part of the EEOC's efforts to **strengthen** and **target** its education and outreach activities will also include an **improved Internet** and **social media presence**.

Part of the EEOC's efforts to strengthen and target its education and outreach activities will also include an improved Internet and social media presence. The EEOC's current website provides critical educational materials, including information on the laws that the agency enforces, the private sector charge and federal sector complaint processes, and various publications. Moreover, the agency is engaged in an ongoing effort to make its website more user-friendly and accessible.

Despite these efforts to modernize, the EEOC is not fully leveraging the Internet to directly reach its customers—employees; job-seekers; private, state, local and federal employers; unions; employment agencies; attorneys; judges; issue advocates; and policymakers. In addition, the EEOC has not yet used social media to promote its education and outreach activities and to encourage greater use of its website.

Finally, many of the agency's sub-regulatory documents need to be reviewed and updated and/or augmented with plain language materials so that employers, employees and applicants understand their rights and responsibilities under the law.

To this end, there are three strategies for achieving the goals of Strategic Objective II:

Strategy II.A.1: Target outreach to vulnerable workers and underserved communities;

Strategy II.B.1: Target outreach to small and new businesses; and

Strategy II.A.2 and II.B.2: Provide up-to-date and accessible guidance on the requirements of employment antidiscrimination laws.

The Commission has developed four performance measures to track its progress in pursuing these strategies.

In FY 2011, the EEOC's outreach program organized more than 6,200 no-cost outreach and education activities across the nation for those in both the private sector and government sectors. The EEOC Training Institute conducted 480 fee-based training and technical assistance events for those in both the private sector and government sectors. In total, these activities were attended by nearly 540,000 individuals.³⁵ Included in that number are representatives of more than 63,000 employers or other covered entities. These events have been well attended and successful and the EEOC expects to continue to offer this training and technical assistance. However, the Commission does not believe that a focus solely on the number of events held or number of attendees is the best way to measure its public education impact, particularly in an era of constrained resources. Thus, Performance Measures 8 and 9 are focused on rewarding and encouraging interactive and sustained partnerships with community organizations and businesses that are in the communities we are trying to reach.

Performance Measure 8 for Strategy II.A.1: By FY 2016, the EEOC is maintaining TBD significant partnerships with organizations that represent vulnerable workers and/or underserved communities.

FY 2012	Provide a more detailed definition of significant partnerships; provide instructions for identifying organizations that represent vulnerable workers and/or underserved communities in a geographic area; collect examples of existing significant partnerships with such organizations; and share best practices across EEOC offices. Establish a baseline of existing significant partnerships and set national targets.
FY 2013	The number of significant partnerships with organizations that represent vulnerable workers and/or underserved communities increases by TBD, nationally.
FY 2014	The number of significant partnerships with organizations that represent vulnerable workers and/or underserved communities increases by TBD, nationally.
FY 2015	The number of significant partnerships with organizations that represent vulnerable workers and/or underserved communities is maintained, nationally.
FY 2016	The number of significant partnerships with organizations that represent vulnerable workers and/or underserved communities is maintained, nationally.



Performance Measure 9 for Strategy II.B.1: By FY 2016, the EEOC is maintaining TBD significant partnerships with organizations that represent small or new businesses (or with businesses directly).

FY 2012	Provide a more detailed definition of significant partnerships; provide instructions for identifying organizations that represent small or new businesses (or for identifying individual businesses); collect examples of existing significant partnerships with such organizations or businesses; and share best practices across EEOC offices. Create a baseline of existing significant partnerships and set national targets.
FY 2013	The number of significant partnerships with organizations that represent small or new businesses (or with businesses directly) increases by TBD, nationally.
FY 2014	The number of significant partnerships with organizations that represent small or new businesses (or with businesses directly) increases by TBD, nationally.
FY 2015	The number of significant partnerships with organizations that represent small or new businesses (or with businesses directly) is maintained, nationally.
FY 2016	The number of significant partnerships with organizations that represent small or new businesses (or with businesses directly) is maintained, nationally.

Due to the varied size, capacity, geographic area covered, and focus of each EEOC field office, the implementation of these measures will require that some offices increase their number of significant partnerships in FY 2013 while other offices will simply need to maintain their current number. Each office's needs and capabilities will be assessed in FY 2012 as part of setting overall targets for the agency.

While a more detailed definition for significant partnerships will be issued in FY 2012, examples of existing partnerships for Performance Measures 8 and 9 include:

- Partnering with the local Mexican Consulate and high school interns to record English and Spanish audio public service announcements targeting farm worker youth at risk of sexual abuse on the job.
- Partnering with a local Disability and Business Technical Assistance Center to conduct webinars, co-host community events on the *Americans with Disabilities Act Amendments Act* (ADAAA), and participate in its disability trainer network.
- Partnering with the local Chamber of Commerce's small business division to increase the EEOC's presence at monthly meetings so that owners can ask questions of the EEOC directly.

- Partnering with a local university's Human Resources Management program to co-host a free, educational event for small businesses.

Performance Measure 10 for Strategies II.A.1 and II.B.1: By FY 2013, the EEOC implements a social media plan.

FY 2012	Establish a Social Media Working Group; set a baseline and determine the appropriate technology needed to implement social media and information distribution systems; and draft initial social media strategy.
FY 2013	Implement the social media plan.
FY 2014	Assess plan and update, as necessary.

This performance measure will ensure that the EEOC moves into the 21st Century by utilizing social media technologies to reach EEOC's customers.

The social media plan will build upon existing efforts to make the content on EEOC's website more accessible and user-friendly and better use the Internet and other technology in the private and state and local government sectors and 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. The plan will drive EEOC's customers to the agency's website for more information. Moreover, the plan will ensure that the EEOC's social media strategies are consistent with the Strategic Enforcement Plan, the Chair's priorities, and other appropriate directives.

Performance Measure 11 for Strategies II.A.2 and II.B.2: The EEOC reviews, updates, and/or augments with plain language materials its sub-regulatory guidance, if necessary.

This performance measure will ensure that the EEOC's sub-regulatory guidance and documents are reviewed and that, where necessary, they are updated and accompanied by plain language text.

The agency's enforcement work in the private sector, its adjudicatory and oversight work in the federal sector, and its outreach and education work all depend on the availability of up-to-date and accessible materials explaining the laws it enforces and how to comply with those laws. While the regulations issued by the Commission set the basic legal framework for the implementation of those laws, sub-regulatory materials, including the EEOC's Compliance Manual, provide more tangible assistance to those with rights and responsibilities under such laws. These materials may or may not require a vote of the Commission and may include a range of guidances, best practices, Q & A's, and fact sheets.



The EEOC cannot accomplish **Strategic Objectives I and II** without addressing issues regarding its **staff** and **infrastructure**.

STRATEGIC OBJECTIVE III

DELIVER EXCELLENT AND CONSISTENT SERVICE THROUGH A SKILLED AND DIVERSE WORKFORCE AND EFFECTIVE SYSTEMS.

Strategic Objective III is intended to ensure that the EEOC delivers excellent and consistent service through supporting a skilled workforce and deploying effective systems.

Much of this objective is operational in nature and will be addressed in greater detail in plans external to the Strategic Plan. This does not, however, diminish the importance of this objective. The EEOC cannot accomplish Strategic Objectives I and II without addressing issues regarding its staff and infrastructure. In recognition of this, and to ensure the agency is held accountable for improving its operations where necessary, the Commission is including Strategic Objective III in its Strategic Plan.

For the purposes of the Strategic Plan, Strategic Objective III's primary goal is:

Outcome Goal III.A: All interactions with the public are timely, of high quality, and informative.

As noted in Strategic Objective I, it is a significant Commission priority to improve the timeliness and ensure the continued quality of its enforcement activities in the private, state and local government, and federal sectors. To this end, the agency is currently working to make its systems more effective by rigorously and consistently implementing PCHP and requiring a new Quality Control Plan in the private and state and local government sectors and a new categorization system and new Quality Control Plan in the federal sector.

In addition to these steps, the EEOC must also invest in the men and women who carry out its mission day-to-day. Ensuring that each staff member is highly skilled is a critical element in the effort to make all interactions with the public timely, of high quality, and informative. To keep up with the evolving needs of the modern workplace and any changes in EEO law interpretation, the EEOC must invest adequately in workforce development and planning.

Moreover, given the agency's mission and the nature of its work, it is also important that the EEOC's workforce be diverse. The agency must not only serve as an example to other private, state and local government, and federal employers, it should reflect the populations it serves.

Finally, to improve its customer service, the EEOC must ensure the effectiveness of its systems by leveraging technology to streamline, standardize, and expedite the charge process across its field offices—from the pre-charge intake to the start of the litigation process. Similarly, the EEOC must leverage technology for purposes of its federal sector hearings and appeals. In all sectors, technology should be used to keep parties informed about the progress of a charge or case throughout the process.

As a result, there are three strategies for achieving Strategic Objective III's outcome goal:

Strategy III.A.1: Effectively engage in workforce development and planning, including identifying, cultivating, and sustaining a skilled and diverse workforce.

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

Strategy III.A.2: Rigorously and consistently implement charge and case management systems to deliver excellent and consistent service; and

Strategy III.A.3: Use innovative technology to facilitate responsive interactions and streamline agency processes.

There are four performance measures for these strategies, including two that are included in Strategic Objective I:

Performance Measure 12 for Strategy III.A.1: The EEOC strengthens the skills and improves the diversity of its workforce.

The EEOC is currently in the process of developing and implementing plans that will strengthen the skills and improve the diversity of its workforce, but the inclusion of this measure in the Strategic Plan, sends a signal to the EEOC's internal and external stakeholders that the Commission takes seriously its commitment to have a skilled and diverse workforce.

The Strategic Human Capital Plan (SHCP) outlines the agency's structure, strategic goals, standards for success, and major human capital initiatives. Its alignment with the Strategic Plan will ensure that EEOC employees understand and support the agency's goals and approach, and have the skills, knowledge, and competencies necessary to perform their important work. The SHCP is developed, monitored, and modified pursuant to the principles and requirements set forth in the Human Capital Assessment and Accountability Framework (HCAAF). Beginning in FY 2012, and annually thereafter, the agency will establish human capital goals for the ensuing fiscal year that are aligned with the Strategic Plan and linked with the HCAAF measures. At the end of each target year, the agency will complete an assessment of its progress and publish its findings in the Performance Accountability Report.

The EEOC's Operational Plan for Increasing Employment of Individuals with Disabilities was released in FY 2012, pursuant to Executive Order 13548 on Increasing Federal Employment of Individuals with Disabilities. The EEOC's plan set a target of increasing the percentage of employees with targeted disabilities to 5% and increasing the percentage of employees with disabilities covered under the Americans with Disabilities Act to 20% of the EEOC workforce within five years. That plan is currently being implemented.

The EEOC's Diversity and Inclusion Plan is under development pursuant to Executive Order 13583 on Establishing a Coordinated Government-wide Initiative to Promote Diversity and Inclusion in the Federal Workforce. The plan will be released in FY 2012 and will be modeled after the plan developed by the Office of Personnel Management (OPM), in partnership with the EEOC, for all federal agencies. The EEOC will continue to work with OPM and the Office of Management and Budget in implementing this Government-wide initiative, including reviewing executive agency plans and working to reconcile the Presidential Administration's diversity and inclusion efforts with the EEOC's Management Directive 715 requirements.³⁶

Performance Measure 2 for Strategy I.A.2 and Strategy III.A.2: By FY 2016, TBD% of investigations and conciliations meet the criteria established in a new Quality Control Plan. (See above.)



Performance Measure 3 for Strategy I.A.2 and Strategy III.A.2: By FY 2016, 100% of federal sector case inventory are categorized according to a new case management system and TBD% of hearings and appeals meeting the criteria established in the new federal sector Quality Control Plan. (See above.)

Performance Measure 13 for Strategy III.A.3: The EEOC improves the private sector charge process to streamline services and increase responsiveness to customers throughout the process.

FY 2012	Define technology requirements, automated workflow, customer self-service opportunities, and system design specifications and establish targets.
FY 2013	Develop, pilot and implement new processes and technology in a phased and iterative manner, ensuring appropriate guidance, documentation and staff training.
FY 2014	Meet targets determined in FY 2012.
FY 2015	Meet targets determined in FY 2012.
FY 2016	Meet targets determined in FY 2012.

This performance measure will require the EEOC to leverage technology to improve the private and state and local government sectors charge process, including streamlining services and increasing responsiveness to customers throughout the process.

Initiatives that are currently in the requirements phase include: 1) developing an on-line system that will allow potential charging parties to submit a pre-charge inquiry for review; 2) providing on-line scheduling of appointments for intake interviews (via on-site meetings, web cams, and/or teleconference); 3) providing charging parties on-line access to check the status of their charge; 4) streamlining the intake process through automated workflow and data analysis; and 5) establishing a secure portal for electronic transmittal and receipt of charge-related documents.

While not addressed in this measure, the agency is near completion on efforts to leverage technology to improve the federal sector complaint process. Several initiatives will be completed in FY 2012 and FY 2013, including allowing complainants to electronically submit requests for hearings and appeals, check the status of their hearing/appeal on-line, and securely transmit and receive documents related to their hearing or appeal.

The EEOC is also reviewing requirements related to data collection, integration, and automated analysis that will increase efficiency and cross-office communication in two core areas: EEOC's Mediation Program and Systemic Charge Processing.

BUDGETARY RESOURCES MEASURE

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

At every level within the EEOC, a common understanding of how the strategic priorities direct the work of the Agency is necessary for success. Although the Chair is already required to match the agency's fiscal priorities with its strategic priorities as identified in its strategic plans and annual performance plans, this performance measure's inclusion in the Strategic Plan will ensure greater accountability for doing so in each programmatic office and for the Commission as a whole.³⁷

Budgets should adequately fund priority programs, grow such programs to reflect the priorities, and protect against diminution when budgets are reduced. Accordingly, with direction from the Chair, budget submissions from each program office will explain how resources implement the strategies and goals of the Strategic Plan, which includes the Strategic Enforcement Plan. The Chair will examine the current allocation of resources and re-allocate resources, as needed, to align the agency's budget with the Strategic Plan in each fiscal year.



...The EEOC will continually **assess** and **prioritize** its resources to successfully accomplish its mission over the **next five years**.

EXTERNAL FACTORS AFFECTING ACHIEVEMENT OF STRATEGIC PLAN

Many factors outside the EEOC's control will affect its ability to achieve the objectives set forth in the Strategic Plan. These factors include upcoming budgetary changes, demographic changes in the country, court decisions, passage of new laws, and technological advances. The Commission contemplated the following external factors in drafting this plan.

- **Budgetary Factors.** As noted above, the Strategic Plan assumes no significant funding increases for fiscal years 2013–2016. Therefore, while budgetary decreases would not change the overall structure of the plan, they would impact how quickly the agency could achieve some of the plan's objectives. Regardless of budgetary changes, the Commission will continue to review available resources and priorities to ensure the appropriate allocation of funds across program areas.
- **Demographic Factors.** Demographic changes in the country, including migration patterns, educational levels of the population, the aging of the population, and the size of the population, will necessarily impact the EEOC's work. For example, national origin discrimination is often centered in areas with large immigrant populations. An office located in those areas will develop an expertise in workplace discrimination issues facing immigrants and will tailor its education and outreach efforts accordingly. As those populations migrate around the country, other offices will have to do the same. Moreover, as populations shift, the agency may need to reassess the size and location of its offices.
- **Legal Factors.** All federal agencies are impacted by legal changes, but this is particularly true of law enforcement agencies, such as the EEOC. U.S. Supreme Court interpretation of the laws EEOC enforces may require the agency to issue updated guidance and regulations. Moreover, these rulings may impact the substantive priorities adopted by the Commission and/or may result in additional charges being filed with the agency. For example, the Court's decision in *Wal-Mart v. Dukes*³⁸ to deny class certification for nearly 1.5 million female employees may result in some of those claimants filing sex discrimination charges against the company with the EEOC. Moreover, if new laws are passed under the EEOC's jurisdiction, then the implementation of those laws will necessarily affect the substantive priorities of the agency.
- **Technological Factors.** Changes in technology will impact how the EEOC interacts with its customers. When the previous Strategic Plan was drafted, Facebook was not as pervasive as it is today; Twitter had only been in existence a few months; and hand-held tablets did not exist. Each of these technologies is now commonplace and much of the public expects the EEOC to utilize them in its enforcement and education and outreach activities. While the Strategic Plan requires the creation and implementation of a social media plan to use these technologies, future technologies are likely to emerge that will also require a response.

Given all of the above factors, the EEOC will continually assess and prioritize its resources to successfully accomplish its mission over the next four to five years.

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. A program evaluation is a thorough examination of program design and/or operational effectiveness that uses rigorous methodologies and statistical and analytical tools. Evaluations also use expertise internal and external to the agency and the program under review to enhance the analytical perspectives and lend credence to the methodologies employed, the evaluation processes and findings, and any subsequent recommendations.

Independent program evaluations have played an important role in formulating the strategic objectives and performance goals for the new FY 2012–2016 Strategic Plan. They have helped to shape some of the program issues and key focus areas for improvement, thereby increasing the plan's value as a management tool to guide the agency's strategic efforts in attaining overall productivity and program efficiency, effectiveness, and accountability. To that end, EEOC has undertaken the following program evaluations to advance its performance-based management initiatives under the *Government Performance and Results Management Act* (GPRAMA), and to improve the effectiveness of key agency programs. The findings and recommendations in these independent assessments of the agency's programs were used to guide development of its new strategic direction and objectives for the next four to five years.

Equal Employment Opportunity Commission: Organizing for the Future, National Academy of Public Administration (NAPA), February 2003.

Evaluation of Intake and End of Fiscal Year Closure of the Equal Employment Opportunity Commission Private Sector Charge Process, Development Services Group (DSG), Inc, November 2006.

Equal Employment Opportunity Commission Customer Satisfaction and Knowledge of Law Study Final Report, Federal Consulting Group (FCG), December 2008.

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

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

Consistent with the Administration's focus on improving the effectiveness of Government through rigorous evaluation and evidence-based policy initiatives, the EEOC will identify appropriate program areas for evaluation during the preparation of its GPRAMA Annual Performance Plans. This will ensure that its efforts align with its budget and other programmatic priorities. Each year, the agency will assess its progress and reaffirm its commitment to fulfilling its mission.



ACKNOWLEDGEMENTS

The EEOC's Fiscal Years 2012–2016 Strategic Plan was a collaborative endeavor, involving many EEOC employees and contractors. A special thank you is owed the leaders and members of the Strategic Planning Workgroup and Performance Measurement Group (Appendix A). The Commission would like to acknowledge and thank all contributors for their hard work and commitment to completing this plan, and more importantly, to fulfilling the mission and realizing the vision of the agency.

APPENDIX A—STRATEGIC PLANNING WORKGROUPS

STRATEGIC PLAN WORKGROUP AND PERFORMANCE MEASURE GROUP

Leadership

Claudia A. Withers, *Chief Operating Officer and Performance Improvement Officer*

Chai R. Feldblum, *Commissioner*

Deidre Flippen, *Director, Office of Research, Information and Planning and Deputy Performance Improvement Officer*

Executive Team

Dona Bland, *Senior Analyst, Office of Research Information and Planning*

Joi O. Chaney, *Special Assistant, Office of the Chair*

Sharon Masling, *Chief of Staff, Office of Commissioner Chai Feldblum*

Members

Brett Brenner, *Deputy Director, Office of Communications and Legislative Affairs*

Dexter Brooks, *Director of Federal Sector Programs, Office of Federal Operations*

Robert Canino, *Regional Attorney, Dallas District Office*

Ronald Crenshaw, *Human Resources Specialist, Office of Human Resources*

Reuben Daniels, *District Director, Charlotte District*

Marty Ebel, *Deputy Director, Houston District Office*

Lynn Gagyi, *Lead Investigator, Cleveland Field Office*

Elizabeth Grossman, *Regional Attorney, New York District Office*

Irene Hill, *Attorney Advisor to the Director of Office of Field Programs*

Keith Hill, *Director, New Orleans Field Office*

Patricia Jaramillo, *Enforcement Manager, Chicago District Office*

Paul Kehoe, *Attorney Advisor, Commissioner Victoria Lipnic*

Christopher Lage, *Assistant General Counsel, Office General Counsel*



Members (continued)

Kerry Leibig, *Senior Attorney Advisor, Office of Legal Counsel*

Spencer Lewis, *District Director, Philadelphia District Office*

Gabrielle Martin, *President, National Council of EEOC Locals No. 216*

Pierrette McIntire, *Deputy Chief Information Officer and Chief Security Officer, Office of Information Technology*

Melissa Miller, *Division Director, Appeals Division B, Office of Federal Operations*

Levi Morrow, *Chief Negotiator, National Council of EEOC Locals No. 216*

Susan Murphy, *Special Assistant, Office of Commissioner Constance Barker*

Sue Noh, *Trial Attorney, Los Angeles District Office*

Christine Park-Gonzalez, *Program Analyst, Los Angeles District Office*

Gerald Patterson, *Human Resources Specialist, Office of Human Resources*

Joy Pentz, *Enforcement Manager, Indianapolis District Office*

Francis Polito, *Supervisory Administrative Judge, Philadelphia District Office*

Rosemarie Rhodes, *ADR Coordinator, Atlanta District Office*

Germaine Roseboro, *Director, Planning and Systems Services Division, Office of the Chief Financial Officer*

Valerie Sandy, *IT Project Manager, Immediate Office of the Chief Information Officer, Office of Information Technology*

Jerome Scanlan, *Assistant General Counsel, Office of General Counsel*

Wilma Scott, *Director, Jackson Area Office*

Cathy Ventrell-Monsees, *Senior Attorney Advisor, Office of Commissioner Stuart Ishimaru*

Steven Zanowic, *Special Assistant, Office of Commissioner Chai Feldblum*

APPENDIX B—TIMELINE FOR STRATEGIC ENFORCEMENT PLAN AND PRIVATE SECTOR QUALITY CONTROL PLAN

STRATEGIC ENFORCEMENT PLAN TIMELINE

March 2012	The Chair designates the Strategic Enforcement Plan Workgroup to develop a draft Strategic Enforcement Plan for the Commission's consideration.
April–June 2012	Internal briefings conducted by relevant EEOC programmatic offices for the Commission on current trends in employment discrimination and on current activities of the offices. Public town hall for stakeholders to provide suggestions to the Commission on the enforcement priorities of the agency.
July–August 2012	Workgroup circulates a draft of the plan to the Commission. Workgroup releases a draft of the plan for public comment.
September 2012	The Commission votes on a plan no later than September 30, 2012.

QUALITY CONTROL PLAN (PRIVATE AND STATE AND LOCAL GOVERNMENT SECTORS) TIMELINE

August 2012	The Chair designates the Quality Control Plan Workgroup to develop a draft Quality Control Plan for the Commission's consideration.
September–November 2012	Internal briefings conducted by relevant EEOC programmatic offices for the Commission on current quality of investigations and conciliations. Public town hall for stakeholders to provide suggestions to the Commission on investigations and conciliations by the agency.
December 2012–January 2013	The Workgroup circulates a draft of the plan to the Commission. The Workgroup releases a draft of the plan for public comment.
February 2013	The Commission votes on a plan no later than February 28, 2013.



APPENDIX C—EEOC ORGANIZATIONAL CHART

Commission

Jacqueline A. Berrien,
Chair

Stuart J. Ishimaru,
Commissioner

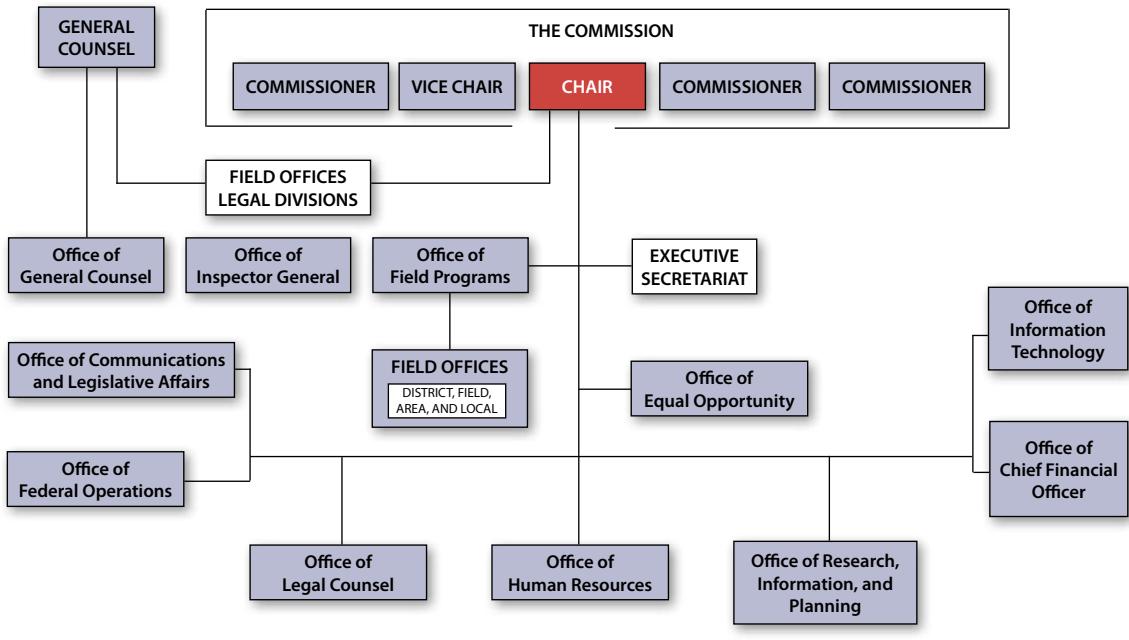
Constance S. Barker,
Commissioner

Chai R. Feldblum,
Commissioner

Victoria A. Lipnic,
Commissioner

General Counsel

P. David Lopez,
General Counsel



ENDNOTES

1 See 5 U.S.C. §306.

2 See 31 U.S.C. §115 (2006).

3 See 42 U.S.C. §2000e-4 (2006).

4 *Id.*

5 See 42 U.S.C. §2000e (2006).

6 See 29 U.S.C. §621 (2006).

7 See 29 U.S.C. §206(d) (2006).

8 See 29 U.S.C. §791 (2006).

9 See 42 U.S.C. §12101 (2006).

10 See 42 U.S.C. § 2000ff et seq.

11 See Exec. Order No. 12067, 3 C.F.R., 1978 Comp., p. 206.

12 See 42 U.S.C. §2000e-5(f)(1) (2006).

13 See 42 U.S.C. §2000e-8(b) (2006).

14 See FEPA Fourth Quarter FY 2011 Data Summary Report and Fact Sheet.

15 ADR is also available throughout federal complaint process.

16 See 29 C.F.R. § 1614.

17 Complainants who file charges under the ADEA or the EPA may bypass the administrative process after appropriate notice has been provided their agency and the EEOC.

18 The Strategic Plan is based on an assumption of stable staffing and budgetary resources over the next four years, with additional funding provided to account for salary and inflationary increases.

19 See *Charge Statistics FY 1997 Through 2010*, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, <http://www.eeoc.gov/eeoc/statistics/enforcement/charges.cfm>; *Fiscal Year 2011 Performance and Accountability Report*, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, <http://www.eeoc.gov/eeoc/plan/2011par.cfm>.

20 See *Fiscal Year 2011 Performance and Accountability Report*, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, <http://www.eeoc.gov/eeoc/plan/2011par.cfm>.

21 *National Enforcement Plan*, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (1996), <http://www.eeoc.gov/eeoc/plan/nep.cfm> (The Commission adopted a motion to develop plan in 1995.).



- 22 See Paul M. Igasaki & Paul Steven Miller, *Priority Charge Handling Task Force and Litigation Task Force Report*, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (Mar. 1998), http://www.eeoc.gov/eeoc/task_reports/charge_handling.cfm (reviews both the PCHP system and the National Enforcement Plan).
- 23 See Leslie E. Silverman et al., *Systemic Task Force Report*, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (Mar. 2006), http://www.eeoc.gov/eeoc/task_reports/systemic.cfm.
- 24 In fiscal years 1996 through 2000, the Commission received approximately 80,000 charges per year, similar to the number of charges it received each year in the four years prior to the implementation of PCHP. In addition, the number of investigators available to investigate charges—approximately 790—remained relatively constant. Nonetheless, despite similar resources, there was a significant decrease in the pending inventory of charges following implementation of PCHP—from 111,451 pending charges in June 1995 to 52,011 at the end of FY 1998 to 34,297 at the end of FY 2000. The hiring of additional staff in FY 2000—in that year, the Commission had 857 available investigators—allowed the Commission to reduce the pending charge inventory to 29,041 by FY 2002. In FY 2002, the average workload per available investigator was 159 charges (average caseload is 37 charges) and the average time before a charge was resolved was 171 days. *See generally Archives of EEOC Performance and Accountability Reports*, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, <http://www.eeoc.gov/eeoc/plan/archives/annualreports/index.cfm>.
- 25 Beginning in FY 2002, because of flat funding or increases that did not cover increases in its fixed costs, the EEOC's needs began to outpace its available resources. This fiscal reality led to a significant loss of personnel, including a reduction in the number of available investigators—from 857 in FY 2000 to 565 in FY 2007, a 34% decline in investigator staffing levels. At the same time the Commission was experiencing an increase in the number of charges filed—from 84,442 charges in FY 2002 to a then record 95,402 in FY 2008. By FY 2009 there were 85,768 pending charges in the inventory, up from 73,959 the previous year. Moreover, by FY 2009, the average workload of an investigator was 300 charges (average caseload is 148) and the average time before a charge was resolved was 294 days. *See generally Archives of EEOC Performance and Accountability Reports*, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, <http://www.eeoc.gov/eeoc/plan/archives/annualreports/index.cfm>.
- 26 In FY 2009, the Commission began to reverse the upward trend of pending inventory. Budgetary increases allowed the agency to hire additional front-line staff, including 131 investigators (with losses, the agency gained a net of 91 new investigators). In addition, there was a renewed focus on PCHP implementation. *See generally Archives of EEOC Performance and Accountability Reports*, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, <http://www.eeoc.gov/eeoc/plan/archives/annualreports/index.cfm>.
- 27 See U.S. Equal Employment Opportunity Commission Evaluation of the Priority Charge Handling Procedures Report, Federal Consulting Group (FCG), December 2010, available at <http://www.eeoc.gov/>.
- 28 See *Fiscal Year 2011 Performance and Accountability Report*, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, <http://www.eeoc.gov/eeoc/plan/2011par.cfm>.
- 29 See *Fiscal Year 2011 Performance and Accountability Report*, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, <http://www.eeoc.gov/eeoc/plan/2011par.cfm>; *Fiscal Year 2010 Performance and Accountability Report*, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, <http://www.eeoc.gov/eeoc/plan/2010par.cfm>.

30 For example, in FY 2011 there were 5,176 new appeals filed, an increase of 13.9% from the 4,545 appeals received in FY 2010. This represented the largest percentage increase in receipts in more than 12 years. At the same time, the number of available OFO Appellate Attorneys has decreased over the last decade, from a high of 49 in FY 2002 to 33 in FY 2011. *See generally Archives of EEOC Performance and Accountability Reports, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,* <http://www.eeoc.gov/eeoc/plan/archives/annualreports/index.cfm>.

31 By the end of FY 2011, the EEOC reduced the age of the open appellate inventory by 20.7%, resolved 76.3% of the oldest appeals, and reduced the number of 500+ day-old appeals by 30.1%. *See Fiscal Year 2011 Performance and Accountability Report, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,* <http://www.eeoc.gov/eeoc/plan/2011par.cfm>.

32 As an example, on a pilot basis, the EEOC has provided an opportunity through its Office of Federal Operations for a select number of those who receive an EEOC federal sector appellate decision to complete a Customer Satisfaction Survey.

33 42 U.S.C. §2000e-4(h)(2) (2006).

34 42 U.S.C. §2000e-4(h) (2006).

35 *See Fiscal Year 2011 Performance and Accountability Report, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,* <http://www.eeoc.gov/eeoc/plan/2011par.cfm>.

36 Management Directive 715 (MD-715) is EEOC's policy guidance to federal agencies for their use in establishing and maintaining effective equal employment opportunity and affirmative action programs. *See Management Directive 715, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION* (Oct. 2003), <http://www.eeoc.gov/federal/directives/md715.cfm>.

37 Budgets for each fiscal year are created well in advance of the year's commencement. For example, the EEOC is in FY 2012, but has just submitted a budget for FY 2013. Work for the FY 2014 budget begins in the spring of 2012.

38 *Wal-Mart Stores, Inc. v. Dukes*, 131 S.Ct. 2541 (2011).



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