



Federal Election Commission
Office of Inspector General

**Inspector General Statement on the
Federal Election Commission's
Management and Performance
Challenges - 2017**

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*Response to OIG's Statement on the FEC's Management and Performance Challenges were not included in this report. Access to this report can be viewed within the *Federal Election Commission Agency Financial Report Fiscal Year 2017* on the FEC website.

Inspector General's Statement on FEC Management and Performance Challenges




FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Office of Inspector General

MEMORANDUM

TO: The Commission

FROM: J. Cameron Thurber 
Deputy Inspector General

SUBJECT: Inspector General Statement on the Federal Election Commission's Management and Performance Challenges

DATE: October 20, 2017

Each year, the Inspector General (IG) is required to provide a summary and assessment of the most serious management and performance challenges facing the Federal Election Commission (FEC). The requirement is contained in the *Reports Consolidation Act of 2000* (Public Law 106-531), an amendment to the *Chief Financial Officers Act of 1990*. The attached document responds to the requirement and provides the annual statement on Commission challenges to be included in the *Federal Election Commission Agency Financial Report (AFR) Fiscal Year (FY) 2017*.

For FY 2017, the Office of Inspector General (OIG) has identified one overarching and continued management and performance challenge for inclusion in the FEC's AFR, the agency's Governance and Management Framework.

The OIG believes the agency's management and performance challenges within specific performance and program areas, such as those reported in our prior year report, *Low Employee Morale* and *Information Technology Project Planning and Management*, are a result of an overarching management challenge in the overall governing framework of the agency. The OIG believes that the ability to effectively achieve the mission of the agency is reliant on the need for Governance and Senior Leadership to address the deficiencies within the framework, which sets the tone and structure of the organization.

The OIG's annual assessment of management and performance challenges is based on information derived from a combination of several sources, including OIG audit and inspection work, Commission reports, government-wide risks factors, and a general knowledge of the Commission's programs and activities. The management and performance challenges are detailed in the attached

report. The *Reports Consolidation Act of 2000* permits agency comment on the IG's statements. Agency comments, if any, are due November 15, 2017.

Attachment

cc: Alec Palmer, Staff Director and Chief Information Officer
Gilbert Ford, Acting Chief Financial Officer
Lisa Stevenson, Acting General Counsel

Overall Challenge: Governance and Management Framework

The FEC's overall governance framework needs improvement to contribute to the success of the agency. The lack of accountability from Governance regarding critical management issues and the inadequate leadership structure of management has a negative impact on the agency achieving its mission efficiently and effectively.

Challenge 1: Governance Accountability

A. Low Employee Morale

Due to the consistent low ranking of the FEC in the results of the annual Federal Employee Viewpoint Survey, the OIG contracted with a consultant company in July 2016 to conduct a study to determine the root causes of the low employee morale at the agency. Through survey questions and comments, and staff interviews, the study determined that the following factors are the root causes of low employee morale:

- Commissioners;
- Accountability;
- Management;
- Communication; and
- Other (diversity, career development)

As low employee morale has a direct effect on accomplishing the agency's mission, we believe that an action plan from top level management to address the root causes of low employee morale is critical. We acknowledge efforts from the current Commission Chair to conduct open forms and one-on-one meetings to allow staff the opportunity to discuss agency concerns, as well as management's improved process in communicating with agency staff regarding critical agency-wide projects. The latest Federal Employee Viewpoint Survey results have begun to show incremental improvements. However, the most important part of a solid control environment is the "Tone at the Top,"¹ which permeates down to create the philosophy and operational style that sets the tone of the agency. The OIG believes that without a continued, sincere effort by Governance and senior leadership to address morale issues, the ability of the agency to achieve its mission will be negatively impacted.

B. Enforcing Required Management Roles and Responsibilities

It is imperative to the success of the agency that Governance holds management accountable for adequately fulfilling their roles and responsibilities in addressing identified risks of fraud, waste, abuse, and program deficiencies. The OIG and external entities have reported risks and deficiencies in agency programs that management has not addressed or made a low priority for several years. According to Office of Management and Budget Circular A-123 (OMB A-123), *Management's Responsibility for Internal Control*, deficiencies reported "...through internal

¹ The term "Tone at the Top" is used to define the commitment of top level management to honesty, integrity, openness, and ethical behavior in achieving an organization's mission and objectives.

review or by external audit, should be evaluated and corrected.” Further, FEC Commission Directive 50 states, “All management officials are responsible for receiving and analyzing audit reports, providing timely responses, and take corrective action, if needed.” However, the agency has 55 OIG reported outstanding recommendations, in which many have been reported for more than 5 years. These outstanding issues address risks to the agency’s mission, assets, government funding, and noncompliance with laws and regulations. As reported to the Commission in our most recent *Review of Outstanding Recommendation as of August 2017* report, these issues warrant Commission attention.

Challenge 2: Longstanding Vacancies in Senior Leadership Positions

The FEC lacks adequate structure and continued stability in key senior leadership positions that are accountable for the mission and objectives of the agency. Operating the agency with several unfilled permanent senior leader positions creates an unstable environment that runs the risk of noncompliance with applicable federal laws and regulations. This ultimately puts the agency at risk of not efficiently and effectively meeting its mission.

The following critical leadership positions do not have a permanent full time person executing the positions roles and responsibilities:

- Chief Financial Officer – vacant since October 2012
- General Counsel- vacant since July 2013
- Deputy Staff Director for Management and Administration - vacant since August 2014
- Inspector General - vacant since March 2017

Failure to fill these senior leadership positions in a timely manner with permanent full-time employees also creates resource gaps. When senior leader positions are vacant, voids are often created in management positions that are responsible for the adequate oversight of daily operations. In addition, some of those management positions are not filled with acting personnel to cover the daily supervisory duties.

The following management level positions are vacant:

- Accounting Director²
- Budget Director³
- Deputy General Counsel for Law⁴
- Deputy Chief Information Officer of Operations – filled in an acting capacity

² The permanent Accounting Director was the Acting Chief Financial Officer (CFO) from October 2012 until retirement in September 2016. No one is acting in this position.

³ The permanent Budget Director became the Acting CFO in September 2016. No one is acting in this position.

⁴ Although a Senior Level position, the position is currently vacant due to the permanent full time personnel acting as the agency’s General Counsel. No one is currently acting in this position.

Challenge 3: Organizational Structure

Per OMB A-123, management is responsible for complying with the Control Environment standard. Specifically, “Within the organizational structure, management must clearly: define areas of authority and responsibility, appropriately delegate the authority and responsibility throughout the agency; establish a suitable hierarchy for reporting.” Based on deficiencies noted within the agency’s programs and business processes via OIG reports and reviews by external entities, management is not in compliance with the required Control Environment standard.

A. Dual Senior Leader Positions

Currently, the senior leadership roles of the Staff Director and Chief Information Officer (CIO) are filled by the same individual. As both senior leader positions are critical to the agency, we strongly believe these two positions should have separate full time personnel solely dedicated to each position. The current structure goes against OMB’s control environment standard to “appropriately delegate the authority and responsibility throughout the agency,” and “establish a suitable hierarchy for reporting.” Specifically, FEC employees and supervisors have expressed concerns of inhibition with reporting significant personnel concerns or technology issues as the oversight of these issues are reported to the same individual. Further, this dual position presents at minimum an appearance of bias, as there is only one person with oversight over more than half of the agency’s programs, and a large portion of the agency’s operating budget.

From an agency mission perspective, the dual roles are impacting the overall effectiveness and efficiency of the Office of the CIO’s (OCIO) business operations. Reported risks (internal and external) to information technology (IT) business operations often go unaddressed for several years, along with critical IT projects. Examples of some critical deficiencies within the OCIO’s business operations are as follows:

- Since reported in FY 2004, the OCIO still does not have a formal entity-wide security program to sufficiently protect information and information systems;
- The OCIO does not have adequate inventory controls in place to safeguard OCIO assets from theft, or the ability to readily account for all procured assets;
- For 13 years, the agency has operated without an approved and tested contingency plan for the agency, and currently still does not have a finalized plan in place, and
- Management does not have the capability to verify that all FEC staff only have access to authorized agency information.

Information technology is ever-evolving, which affects the government as a whole. Without a fully dedicated CIO to focus on these issues to ensure resources are properly allocated, and adequate processes are in place for the protection and safety of the agency, the agency will remain at high risk for fraud, waste, and abuse.

B. Shared Role for Senior Agency Officials for Privacy

The agency's Privacy Program is currently a shared role between the Office of General Counsel (OGC) and the OCIO, with designated Senior Agency Official for Privacy (SAOP) roles assigned to the Deputy CIO of Operations⁵ and the Deputy General Counsel. As both of these offices have critical roles in the achievement of the agency's mission, it is ineffective for the agency not to have one person solely dedicated and knowledgeable of Privacy issues to oversee the agency's Privacy Program. Per OMB Memorandum 16-24, *Role and Designation of Senior Agency Officials for Privacy*, the designated SAOP should serve in a "central leadership position at the agency," and have "agency-wide responsibility and accountability for the agency's privacy program." As the Deputy CIO and Deputy GC only have leadership roles over their particular office staff, and there is no one that the Deputy CIO and Deputy GC are reporting to for accountability in meeting Privacy requirements consistently and sufficiently, the oversight structure of this shared role is ineffective.

Although there are designated SAOPs, the agency still lacks a formal Privacy Program that is compliant with all applicable Privacy requirements. For instance, the OIG conducted the *2010 Follow-up Audit of Privacy and Data Protection* (Privacy Audit) which was released in March of 2011. Currently the audit has 25 outstanding recommendations, which include privacy issues that haven't been resolved since 2009.⁶

To further illustrate the inadequacy of this structure, the OIG performs follow-ups on open recommendations biannually, and the SAOPs have not made any significant progress on the outstanding recommendations for the Privacy Audit since June of 2013. Further, for the OIG's most recent review, the SAOPs did not respond to any of the OIG's inquiries to discuss the current open recommendations.

⁵ The Deputy CIO for Operations has been assigned to the Acting Deputy Staff Director for Management and Administration since August 2014.

⁶ An inventory of FEC systems containing Personally Identifiable Information (PII) was conducted by Solution Technology Systems Inc. who provided recommendations to enhance the protection of PII. The report was dated May 20, 2009 and not further action has been taken by management.

Federal Election Commission Office of Inspector General



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Individuals including FEC and FEC contractor employees are encouraged to alert the OIG to fraud, waste, abuse, and mismanagement of agency programs and operations. Individuals who contact the OIG can remain anonymous. However, persons who report allegations are encouraged to provide their contact information in the event additional questions arise as the OIG evaluates the allegations. Allegations with limited details or merit may be held in abeyance until further specific details are reported or obtained. Pursuant to the Inspector General Act of 1978, as amended, the Inspector General will not disclose the identity of an individual who provides information without the consent of that individual, unless the Inspector General determines that such disclosure is unavoidable during the course of an investigation. To learn more about the OIG, visit our Website at: <http://www.fec.gov/fecig/fecig.shtml>

Together we can make a difference.