



Federal Election Commission
Office of the Inspector General

**Management and
Performance
Challenges Facing the
FEC for Fiscal
Year 2021**

November 13, 2020

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Introduction and Approach

Why do we publish this report?

In accordance with the Reports Consolidation Act of 2000, the Federal Election Commission (*i.e.*, the “FEC” or “Commission”) Office of Inspector General (OIG) identifies the most serious management and performance challenges facing the Commission and provides a brief assessment of the Commission’s progress in addressing those challenges. By statute this report is required to be included in the FEC’s Agency Financial Report.

What are management challenges?

The Government Performance and Results Modernization Act of 2010 identifies major management challenges as programs or management functions that are vulnerable to waste, fraud, abuse and mismanagement and where a failure to perform well could seriously affect the ability of the FEC to achieve its mission objectives. Each challenge area is related to the FEC’s mission and reflects continuing vulnerabilities and emerging issues. The FEC OIG identified the top management and performance challenges facing the Commission as the following:

- Growth of campaign spending
- Lack of quorum
- Coronavirus (COVID-19) pandemic
- Lack of full-time support to Chief Information Officer (CIO) and General Counsel Positions
- Cybersecurity

How did we identify these challenges?

We identified the Commission’s major management and performance challenges by recognizing and assessing key themes from OIG audits, special reviews, hotline complaints, investigations, and an internal risk assessment, as well as reports published by external oversight bodies, such as the Office of Personnel Management (OPM) and the Government Accountability Office (GAO). Additionally, we reviewed previous management challenge reports to determine if those challenges remain significant for this submission. Finally, we considered publicly available information and internal Commission records. As a result, we identified five key management and performance challenges, which are detailed herein.

Management and Performance Challenge: Growth of Campaign Spending

The FEC was established nearly fifty years ago to provide oversight of federal campaign finance. Since then, federal campaign fundraising and spending have increased dramatically, particularly after the U.S. Supreme Court's decision in *Citizens United v. FEC* in 2010. Indeed, total spending on federal election campaigns has increased from \$1.6 billion in 1998 to more than \$10 billion projected for 2020.

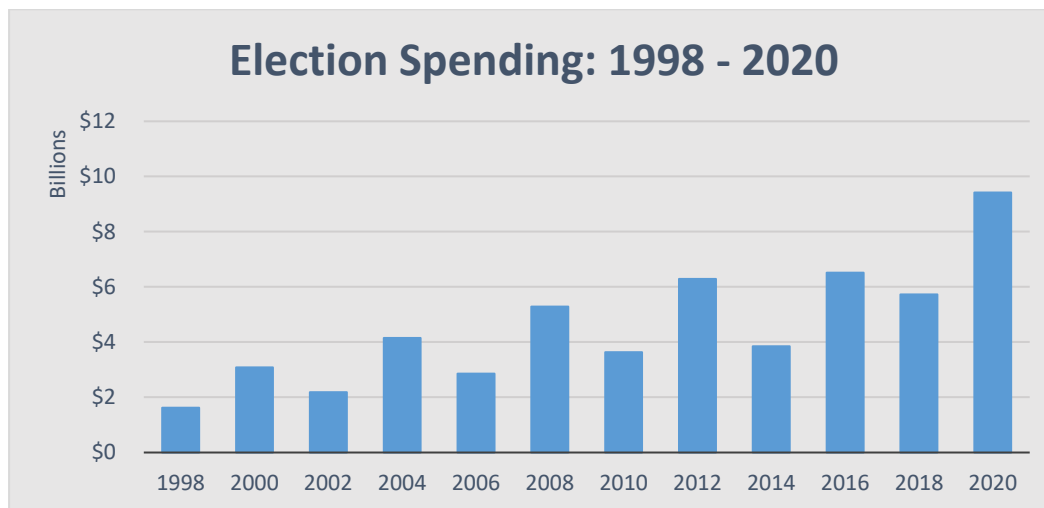


Figure: Total expenditures per election cycle reported to the FEC by all filers. 2020 data is as of June 30, 2020 and projected to exceed \$12 - \$14 billion. The totals in this figure represent aggregate expenditures by all filers, including campaigns, party committees, and political action committees (PACs), obtained from FEC filings.

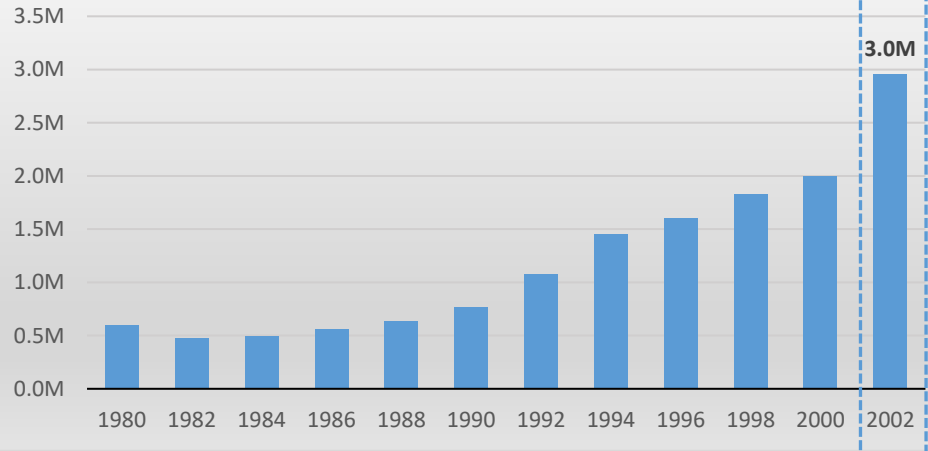
The total number of transactions subject to FEC regulation and oversight have also dramatically increased, especially in recent years. Transactions include mandatory filings and consist of financial reports filed with the FEC and include summary financial information and itemized details of receipts (including contributions), disbursements (including expenditures) and other financial activity.

Indeed, as detailed further in the figure below:

- Between 1980 and 2002, the total number of transactions subject to FEC regulation and oversight increased from approximately 602,000 to nearly three million.
- In 2018, the FEC handled nearly 270 million transactions.
- That number is projected to exceed 600 million in 2020.

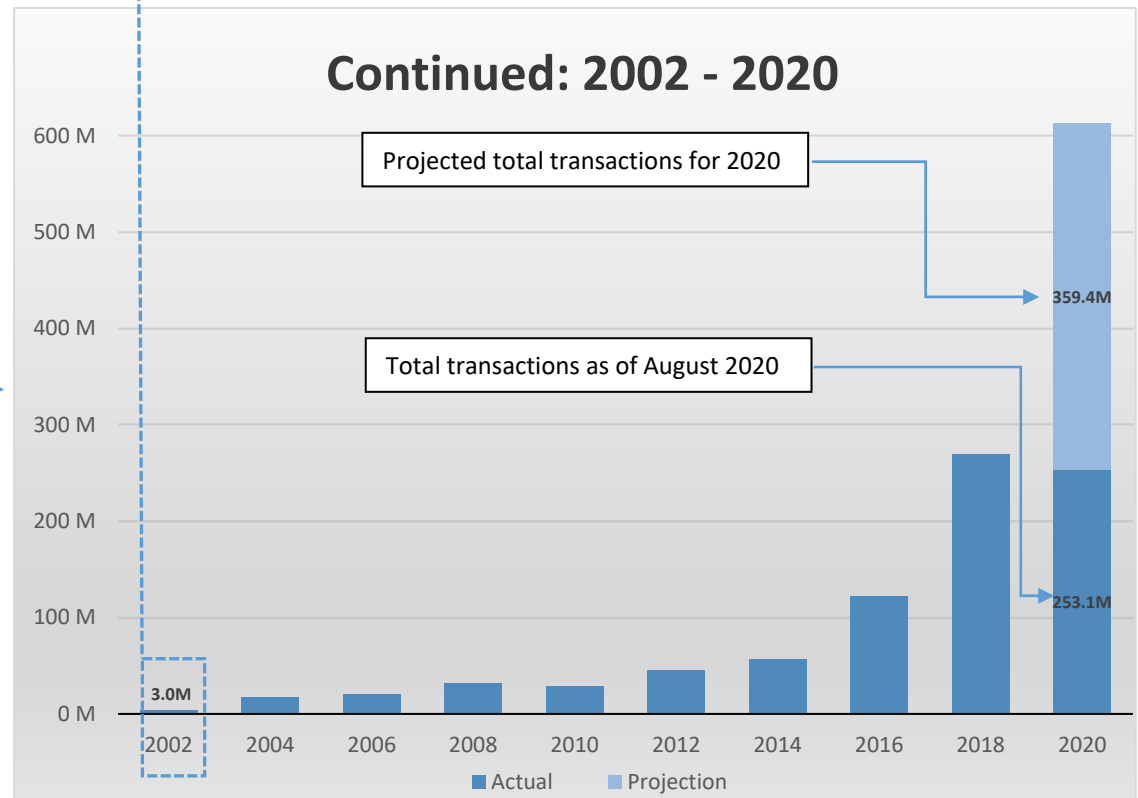
FEC Total Transactions (1980 – 2020)

1980 - 2002



Between 1980 and 2002, the total number of transactions subject to FEC regulation and oversight increased from approximately 602,000 to nearly three million.

Continued: 2002 - 2020



By 2018, the FEC handled nearly 270 million transactions. That number is projected to exceed 600 million in 2020.

Despite dramatic increases in campaign expenditures and the number of transactions subject to FEC regulation and oversight, the Commission’s budget has remained largely static. Since 2008, the FEC’s budget has increased by an average of only 0.66% per year. Those increases have not kept up with inflation, which has averaged approximately 1.6% per year since 2008.

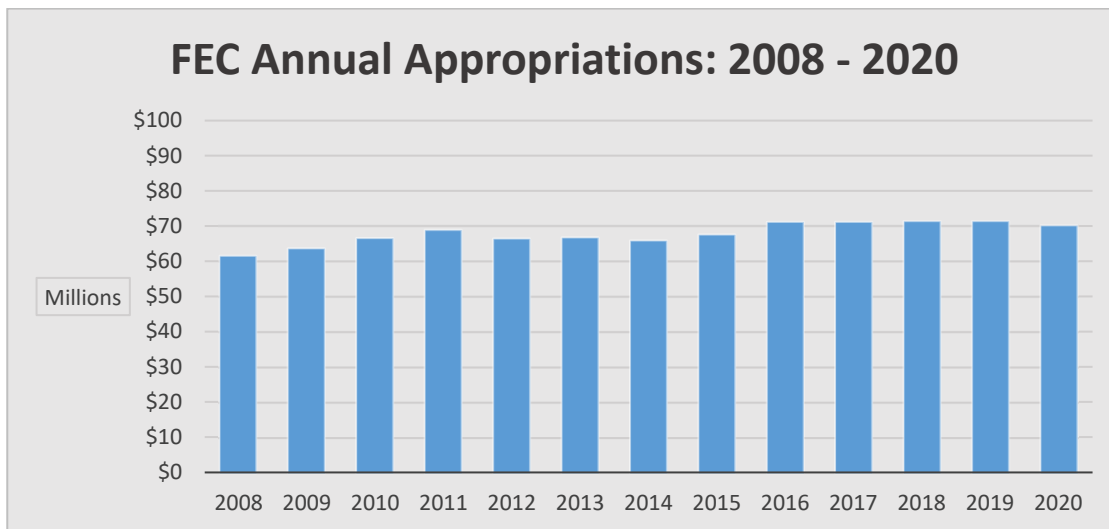


Figure: Annual congressional budget appropriations to the FEC, as reported in Congressional budget justifications.

In addition, the nature of federal campaigns has evolved in recent years. Online fundraising, the influence of dark money, and potential foreign electoral influence will continue to place further strain on the FEC’s ability to provide oversight of federal campaigns. As such, absent additional resources, the FEC faces challenges in successfully regulating campaign finance with its current funding, which has essentially remained the same over the past thirteen years or more.

Management and Performance Challenge: Lack of Quorum

A significant management and performance challenge for FY 2021 resides with the July 2020 announcement of the resignation of Commissioner Caroline Hunter, leaving the FEC without a four-member quorum. The Commission is required to be composed of six commissioners, appointed by the President, with no more than three members affiliated with the same political party.¹ Furthermore, 52 U.S.C. § 30106 requires the affirmative vote of four members to act on certain matters. The FEC has lacked a quorum for all but 29 days in FY 2020. Since its inception, the FEC has lacked a quorum on three occasions: a six-month period in 2008, from September 2019 to May 2020, and from July 4, 2020, to the present.

The lack of a quorum prevents the Commission from among other things, issuing decisions on pending enforcement actions, opening investigations, and issuing advisory opinions. This concern also prominently directly and indirectly impacts agency programs and procedures.

¹ See 52 U.S.C. § 30106.

Commission Directive 10, Section L sets forth the rules of procedure to be followed when the Commission has fewer than four sitting members and includes a list of matters on which the Commission may still act. These include notices of filing dates, non-filer notices, debt settlement plans, administrative terminations, and appeals under the Freedom of Information and Privacy Acts.

While the *Federal Election Campaign Act of 1971*, as amended (FECA), requires an affirmative vote by four Commissioners to make decisions in many areas, including regulations, advisory opinions, audit matters and enforcement, the Commission remains open for business. Staff continues to further the agency's vital mission of administering the nation's campaign finance laws.

The OIG understands that this management challenge is beyond the control of the Commission; but we would be remiss if we fail to acknowledge the lack of a quorum is an ongoing significant management challenge.

Management and Performance Challenge: COVID-19 Pandemic

The ongoing COVID-19 pandemic poses many management and performance challenges to the Commission. Most notably, it has forced the FEC, and many other agencies, to operate in a remote status since March 2020.

Fortunately, much of the Commission's business is being accomplished remotely. One critical mission area the pandemic has affected relates to the submission and acceptance of campaign finance complaints. By law, all complaints must be made in writing and must provide the full name and address of the person filing the complaint.² Complaints must be signed, sworn, and notarized, meaning that the notary's certificate must state that the complaint was "signed and sworn to before me" or must indicate that the complainant affirmed the complaint "under penalty of perjury." Currently, the FEC is processing mail on an intermittent basis until it resumes normal mail operations and as a result, the Commission has requested that anyone who wishes to file a complaint with Office of General Counsel (OGC) Enforcement, do so by mail and send an electronic copy of the complaint via email. In addition, the Commission has encouraged the use of electronic signatures and notarizations where permitted by state law.³

Additionally, due to the intermittent processing of mail, the FEC OIG has experienced delays in responding to hotline complaints delivered via mail. As such, we have posted announcements to our webpage, email, and hotline phone recording that strongly encourages complainants to file all inquiries and/or complaints through the newly-established [FEC OIG Hotline Portal](#).

Management was forced to react to the COVID-19 pandemic and as a result, established a COVID management team to address and act on pandemic-related concerns. A few of those actions include but are not limited to:

² See 52 U.S.C. § 30109(a)(1).

³ Electronically submitted copies of complaints that otherwise appear to be in order are deemed received on the date the copy was electronically received by staff. Complaints that are filed only by mail will be deemed received when actually received by OGC staff, subject to mail processing delays.

- Establishing flexible work schedules and waiving core working hour requirements
- Purchasing and implementing video communication tools
- Providing video conferencing trainings and telework security best practice tips
- Communicating a weekly compilation of guidance and information to assist FEC staff while the agency is under mandatory telework
- Establishing a Phase 1 re-opening quick reference guide
- Establishing Phase I re-opening training for FEC staff members which includes a self-check for COVID form, FEC contact tracing log, and protective personal equipment for staff members entering the office during Phase I
- Mandating face masks in common areas, limiting the number of people in the building, and establishing enhanced cleaning protocols
- Issuing an evacuation order on March 24, 2020 and renewing that order on September 18, 2020 to reduce concerns regarding potential COVID-19 exposure pursuant to OPM's regulations at 5 C.F.R. Part 550, Subpart D
- Tracking the operating status of approximately 25 public school districts in DC, Maryland, and Virginia

In addition, the Commission launched a re-opening survey to staff members in July 2020 in efforts to use employee feedback in conjunction with government regulations to formulate a plan for a phased re-opening approach. The survey received a 90% response rate in which a majority of respondents reported that they would like to continue to remain in a maximum telework state due to COVID-19 concerns and that they can successfully complete work tasks from home. Moreover, half of the respondents reported concerns regarding exposure to COVID-19 with the use of public transportation.

Out of short-term necessity, the Commission has implemented agency-wide procedures in reaction to the COVID-19 pandemic. We identify this as a continued challenge facing the Commission in FY 2021 due to the volatility of the situation and encourage the agency to be proactive in its response strategy in FY 2021 to mitigate potential impacts to mission requirements.

Management and Performance Challenge: Lack of Full-Time Chief Information Officer (CIO) and General Counsel Positions

Currently, the senior leadership roles of the Staff Director and CIO are occupied by the same individual and have been since August 2011. Information technology is ever-evolving, which affects all government agencies and without a fully dedicated CIO to focus on technological issues to ensure resources are properly allocated and adequate processes are in place for the protection and safeguards of the agency, the agency will remain at risk.

On April 1, 2019, the Committee on House Administration of the U.S. House of Representatives posed a number of questions to the FEC Commissioners about agency

operations, including if the Commission agreed with concerns that the CIO and Staff Director should have a full-time dedicated person for each position. The Commissioners agreed with this concern and added that the salary limit placed on the Staff Director by the FECA is capped at Level IV of the Executive Schedule. This statutory requirement provides that the Staff Director supervises personnel at the GS-15 and Senior Level pay scales, whom often have higher salaries than the Staff Director. Once the Commission promoted the CIO to the Staff Director, the Commission allowed him to continue to serve as the CIO and be compensated at that level rather than take a pay cut.

Similarly, the Deputy General Counsel for Law is concurrently serving as the Acting General Counsel and has been doing so since September 2016. This has potential to put the agency at risk and inhibit the agency to effectively and efficiently meet its mission requirements, as robust internal dialogue and diversity of opinion are essential to ensuring the agency considers competing legal theories and courses of action.

The Committee on House Administration of the U.S. House of Representatives similarly inquired as to why the position of General Counsel had not been permanently filled. In response, the Commission identified that the FECA requires the General Counsel to be paid at Level V of the Executive Schedule and that this limitation can make difficult to attract and retain good talent. Similar to the Staff Director position, the General Counsel supervises personnel at the GS-15 and Senior Level pay scales, which often provide higher salaries than level V of the Executive Schedule.

Management previously reported that the Commission adopted legislative recommendations in 2018, 2017, 2016, 2015, 2014, 2013 and 2011 that urged Congress to remove the statutory references to the Executive Schedule in FECA with respect to the FEC Staff Director and General Counsel Positions. The removal of that reference would ensure the two positions be compensated under the same schedule as the Commission's other senior managers.

Filling the CIO and General Counsel Positions with full-time incumbents would help ensure the FEC is effectively and efficiently supporting its overall mission objectives. Assigning acting personnel to two essential leadership positions on a long-term basis is not an efficient solution. Conversely, due to the lack of a quorum, the Commissioners have opted not to approve the selections of GS-15 and Senior Level positions. Based on the foregoing and upon renewal of a quorum, we encourage the agency to hire or appoint someone to carry out the agency CIO and General Counsel duties on a full-time basis.

Management and Performance Challenge: Cybersecurity

Protecting data, systems, and networks from threats remains a top challenge. The FEC was established to protect the integrity of federal campaign finance by providing transparency and enforcing and administering federal campaign finance laws. In doing so, the FEC discloses campaign finance data to the public and as a result, encounters large volumes of webpage traffic from stakeholders and members of the public. In efforts to streamline transparency initiatives and improve business processes, the Commission is more technology reliant today, as is society; as such, it is imperative that the Commission continue to prioritize cybersecurity.

Cybersecurity encompasses attempts from criminals and adversaries to obtain sensitive information linked to government networks, personal identifiable information, intellectual property and other sensitive data. Cyber threats may arise from phishing, ransomware or other malware attacks and can infiltrate any level within an organization.

Since August 2019, the Commission engaged in three joint efforts with the Department of Homeland Security (DHS) to improve its overall security posture:

1. The Commission encountered an issue where an employee was terminated for downloading prohibitive software on their FEC-issued laptop. This incident prompted FEC management to partner with the DHS Cybersecurity and Infrastructure Security Agency (CISA) Hunt and Incident Response Team (HIRT) in August 2019, to perform an assessment to determine if an intrusion occurred within the FEC's network environment.
2. In January 2020, at the request of the OIG, the CISA HIRT performed a Risk and Vulnerability Assessment (RVA) of the FEC network which included a penetration test and phishing assessment.
3. In May 2020, CISA performed a Security Assessment Review (SAR) to assist with identifying additional cyber risks.

As a result of the foregoing reviews, the DHS teams identified potential risks and provided recommendations to improve the FEC's overall security posture. Additionally, in efforts to help safeguard the Commission's network and instill a culture of cybersecurity, all staff, including contractors, are required to successfully complete recurring information security training.

It is essential that the Commission continue to maintain the integrity and availability of its information as it looks to modernize its systems, which include moving towards a cloud environment. In large part, the agency has been reactive to cybersecurity concerns and we encourage the Commission to be proactive in establishing a cybersecurity framework and strengthen internal controls to mitigate external threats from entering the FEC's network.

Conclusion

The OIG presents these challenges as previous and evolving issues facing the FEC in FY 2021. The challenges serve as impending barriers to promote efficiency and effectiveness in the management of FEC operations and procedures. The OIG remains dedicated to independent oversight to ensure accountability of the mission of the FEC.

FY 2020 Management Challenges not Included in FY 2021 Report

Management Challenge: Address outstanding OIG audit recommendations

The OIG and FEC have made tremendous progress in resolving 29 recommendations since August 2018. The OIG acknowledges that from November 2018 to August 2019, the FEC OIG lacked an Inspector General and Deputy Inspector General and, as a result, could not approve actions requested to close outstanding recommendations.

Currently, there are 21 outstanding audit recommendations that date back to 2010. The agency should continue to devote attention to address the outstanding recommendations in efforts to ensure adequate internal controls are identified, documented, and implemented. The OIG will continue to promote ongoing and recurring discussions with management to help focus attention to current processes and recommend specific actions to close out remaining recommendations.

Management Challenge: Address results from the annual FEVS and 2016 Root Causes of Low Employee Morale Study

In the OPM Human Capital Management Evaluation report of the FEC dated August 13, 2019, OPM identified that FEC lacks a formal process for using FEVS results to inform management decisions and focus improvement efforts. The OIG believes that implementing a formal process to address employee concerns would further benefit the agency and increase employee morale. The agency continues to make strides in improving agency morale through the improvements in management training, professional development, and increased communications. Management should continue to develop and implement action plans to address these concerns.

The Commission stated that it planned to launch an outreach program to learn from staff how best to build on the successes reported in the 2019 FEVS and how to address those employee issues that continue to require management's focused attention. The OIG acknowledges that this effort will take time and we plan to revisit this concern at a later date.



Federal Election Commission
Office *of the* Inspector General

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* Also accessible via:
<http://www.fec.gov/oig>

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202-694-1015



* Available from 9:00 a.m. to 5:00 p.m.
Eastern Standard Time, Monday through
Friday, excluding federal holidays.

Or you may call toll free at 1-800-424-9530 (press 0; then dial 1015). You may also file a complaint by completing the Hotline Complaint Form (<http://www.fec.gov/oig>) and mailing it to: 1050 First Street, N.E., Suite 1010, Washington DC 20463.

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/oig>.

Together we can make a difference!

Management's Response to the Office of Inspector General's Statement on the Federal Election Commission's Management and Performance Challenges¹

November 13, 2020

In its Statement on the FEC's Management and Performance Challenges ("Statement"), the Office of the Inspector General ("OIG") identified five overarching management and performance challenges for inclusion in the FEC's Agency Financial Report for Fiscal Year 2020. Management's response to the OIG statement is below.

Challenge 1: Growth of Campaign Spending

As illustrated in the OIG's description of this management challenge, increases in the amount of money raised and spent in federal elections, and changes in the way political committees raise and report contributions, have resulted in explosive growth in the number of campaign finance transactions reported to the FEC each election cycle. Each of these transactions represents a data element that must be received by the FEC, added to our database and disclosed and made searchable on the FEC website and via the FEC campaign finance API.

In large part in response to projected increases in campaign finance activity, in FY 2015 the FEC proactively launched a comprehensive, multi-year IT Modernization project. Since this project was launched, the Commission has requested and received as part of its annual budget funds to support this crucial effort. As part of the IT Modernization project, the FEC redesigned its website and migrated both the website and the campaign finance database that supports it to a cloud environment. In addition to providing faster and easier access to campaign finance data hosted in the cloud, this migration allowed the agency to shut down one of its physical data centers during FY 2018, realizing attendant costs associated with maintaining that data center. During FY 2020, the FEC made additional database enhancements to improve database performance and control costs of hosting and maintaining the database.

To continue to mitigate an anticipated steep rise in future cost from maintaining physical data centers, the FEC is pursuing a modernization plan which requires investment now and over the next several years to continue cloud migration and realize improvements in its IT processes. During FY 2020, the FEC conducted a study to determine how best to migrate other appropriate systems and databases to the cloud, allowing the agency to realize greater efficiency and performance in future years. The FEC will continue to implement the recommendations of this study during FY 2022 with the goal of reducing costs in future years while maintaining high levels of service to the public.

In addition, the FEC is currently working to upgrade the agency's eFiling platform. In order to reduce the financial burden of compliance for committees and other individuals and groups who must file with the FEC under the *Federal Election Campaign Act* (the Act), the FEC provides access to free filing software. In FY 2017, the Commission published a study of its current eFiling platform, including a survey of the existing functionality of the FEC's free filing software and an

¹ Management consists of the agency's senior managers, including the Staff Director, General Counsel and Chief Financial Officer.

in-depth investigation of needs expressed by filers.² The FEC will rely on the recommendations of this study to improve its eFiling platform to allow greater operating system flexibility for users when generating filings for submission to the Commission and increase the consistency and accuracy of reporting. The FEC's new eFiling platform is expected to improve the process for validating filings prior to acceptance and generate modern file outputs that will provide for more flexibility in accessing data. The FEC had expected to begin the implementation phase of this project during FY 2021. However, COVID-19 related delays in onboarding new staff and contractors subsequently contributed to delays in the FEC's efforts to complete the development phase of the eFiling platform during FY 2020. As a result, the FEC expects to begin partial implementation of the new eFiling system during FY 2021.

Campaign finance reports filed on paper remain the most costly filings for the FEC because they must be manually received and processed by FEC staff. The Commission has also taken steps to reduce this burden on the agency. Most notably, in 2000 the Commission began requesting through Legislative Recommendations that the Act be amended to make the FEC the point of entry for Senate filings. This amendment, which became law in September 2018, had the effect of subjecting Senate filers to the FEC's mandatory electronic filing rules, which require committees to file electronically if they receive contributions or make expenditures in excess of \$50,000 in a calendar year or expect to do so. In 2018, the Commission recommended legislative changes to require reports of electioneering communications to be filed electronically with the Commission, rather than on paper and to increase and index for inflation certain registration and reporting thresholds. If enacted, each of these recommendations would have an effect of further reducing the number of paper filings received by the FEC.³

Challenge 2: Lack of a quorum

The Commission was without a quorum of four Commissioners for approximately 11 months during FY 2020, and began FY 2021 without a quorum.⁴ However, the President has nominated Allen Dickerson, Shana M. Broussard and Sean J. Cooksey to become FEC Commissioners, and those nominations are currently pending before the Senate.

Management agrees that the present lack of a quorum presents challenges for agency staff and managers. In the agency's Enterprise Risk Profile, management has listed the potential lack of quorum as a very high risk since FY 2018.

While the Act requires an affirmative vote by four Commissioners to make decisions in many areas, including regulations, advisory opinions, audit matters and enforcement, the Commission remains open for business. Staff continues to further the agency's vital mission of administering the nation's campaign finance laws.

The requirements of the Act and Commission regulations remain in effect, and political committees and other filers must continue to disclose their campaign finance activity to the

² Available at <https://fec.gov/about/reports-about-fec/agency-operations/e-filing-study-2016/>.

³ The Commission lacked the necessary quorum of Commissioners to approve Legislative Recommendations in 2019.

⁴ The FEC began FY 2020 without a quorum. A quorum was restored on June 5, 2020, when Commissioner James E. "Trey" Trainor, III, was sworn in. The FEC again began working without a quorum on July 3, 2020, with the departure of Commissioner Caroline C. Hunter.

Commission on the regular [schedule](#). FEC staff remains ready to help committees and the public understand and comply with the law, process and review committee reports including issuing Requests for Additional Information, and provide public access to campaign finance data. While the Commission cannot take action on many legal matters, staff continues to litigate ongoing court cases, process new enforcement complaints and responses, conduct audits that were previously authorized by the Commission, and investigate matters previously authorized by the Commission.

Commission Directive 10, Section L sets forth the rules of procedure to be followed when the Commission has fewer than four sitting members and includes a list of matters on which the Commission may still act. These include notices of filing dates, non-filer notices, debt settlement plans, administrative terminations, and appeals under the Freedom of Information and Privacy Acts. The Commission intends to comply with the statutory requirement set forth at 52 USC §30106(d) that the Commission meet at least once each month.

During the brief period the Commission had a quorum in FY2020, the Commission closed 33 MURs, 39 ADR matters, and 206 Admin Fine matters, totaling \$842,413 in administrative fines and penalties assessed. Management continues to prioritize matters so that the Commission can quickly act on pending matters upon the resumption of quorum and is prepared for the restoration of a quorum at any time.

Challenge 3: COVID-19 Pandemic

As noted, Senior Management moved swiftly and efficiently to implement policies and workplace flexibilities to respond to the COVID-19 pandemic. Prior to the official declaration of a pandemic, Senior Management met and held informational sessions with staff to strongly encourage employees to telework. Immediately, a management team was assembled to stay up-to-date on changing circumstances and make recommendations to the Commission. With the strong backing of Chair Hunter, Vice Chair Walther, and Commissioner Weintraub, the COVID-19 management team quickly moved to implement workplace flexibilities, including enhanced telework, maxi-flex hours and administrative leave for employees with childcare and elder care responsibilities. The COVID-19 management team holds weekly briefings with the Commission to keep them abreast of the situation and ensure they are aware of any changes to the building operating status and impacts to our employees. Management's number one priority continues to be the safety of all FEC staff. The COVID-19 management team also began a weekly update email that is sent every Friday to alert staff to upcoming events, new guidance and general reminders. The weekly update has been well received by staff and managers.

Management continues to closely monitor the situation and is pleased to report that nearly all FEC functions have been seamlessly transitioned to the telework environment and that agency performance goals are continuing to be met. Senior Management and the Commission have been holding virtual meet and greet sessions for new FEC staff and also held an all employee town hall in September. Senior Leaders are regularly holding division meetings to check on staff and hear any concerns they may raise.

The Administrative Services Division has been procuring personal protective equipment (PPE) for staff going in to the building as part of Phase I operations. ASD has also installed signage

regarding social distancing and shared space guidelines throughout the building in preparation of the return of FEC staff in the future. ASD continues to communicate with building management about the status of FEC operations.

Members of the COVID-19 management team have been participating in government-wide groups including: OMB small agency group, OPM CHCO/HR Director group, General Counsel Exchange, and the CIO/CISO council.

Challenge 4: Lack of full-time Chief Information Officer (CIO) and General Counsel Positions

Management fully supports the Commission's ongoing efforts to fill vacant leadership positions and to ensure senior leadership roles are filled by separate individuals. The Commission specifically addressed this issue in response to questions posed by the Committee on House Administration. In its May 1, 2019, response, the Commission stated:

All of the Commissioners agree that the Commission should have separate individuals filling the senior leadership roles of Staff Director and CIO. As is true of the General Counsel position, the salary limit placed on the Staff Director by the FECA (Level IV of the Executive Schedule) means that the Staff Director supervises personnel whose positions, on the GS-15 and Senior Level pay scales, often provide higher salaries than the statutory salary for the Staff Director. The Commission has long recommended that Congress de-link the Staff Director's salary from the Executive Schedule.

When the Commission promoted our CIO to Staff Director, we allowed him to continue to serve as CIO and be compensated at that level rather than absorb a substantial pay cut in order to accept the promotion. This has allowed the Commission to maintain consistency in its most senior staff leadership.⁵

Because of the challenges in maintaining consistent senior leadership, the Commission unanimously adopted a Legislative Recommendation in 2018, 2017, 2016, 2015, 2014, 2013 and 2011 that urges Congress to address this situation. Specifically, the Commission recommends that Congress remove the statutory bar on the FEC's participation in the Senior Executive Service (SES) Program and remove the statutory references to the Executive Schedule in FECA with respect to the General Counsel and Staff Director, so that those two positions would be compensated under the same schedule as the Commission's other senior managers. This revision would remedy the current situation where the Commission's top managers are compensated at a lower rate than many of their direct reports, and would ensure that the Commission can retain highly qualified individuals to serve in those positions as well as enable it to remain competitive in the marketplace for Federal executives when filling the current vacancy or when further vacancies arise.

Due to a lack of quorum and in accordance with Commission Directive 10, the Commission is unable to approve the selections of GS-15 and Senior Level positions. During the brief

⁵ <https://www.fec.gov/about/committee-on-house-administration-april-2019-questions/>

restoration of a quorum in FY2020, the Commission approved the permanent selection of the Director of Human Resources. The Personnel Committee has approved the following positions to be filled on a permanent basis: Assistant General Counsel for Litigation and Assistant General Counsel for Enforcement. Upon resumption of quorum, management anticipates the hiring process for these and other SL and GS-15 positions to be quickly completed.

Management continues to work with the Personnel and Finance Committees for approval to post and hire qualified individuals for all of the identified positions. As the senior leadership vacancies are filled, the Personnel and Finance Committees will closely scrutinize any remaining vacancies. In light of the current federal budget conditions, prudent management requires that close examination is paid to the potential impact of each vacancy that is approved to hire. The Personnel and Finance Committees are committed to analyzing the current FEC workforce and looking ahead to fiscal years in order to avoid having to implement a reduction in force.

Challenge 5: Cybersecurity

The FEC secures the agency's infrastructure and prevents intrusions through a holistic cybersecurity program led by the Chief Information Security Officer (CISO). The FEC's overarching strategy to protect the security and privacy of its systems and network begins with the adoption of the National Institute of Standards and Technology (NIST) Risk Management Framework and NIST IT security control "best practices." NIST Special Publication 800-37 2 – Risk Management Framework for Information Systems and Organizations," identifies seven steps essential to the successful execution of the risk management framework (RMF):

- **Prepare** to execute the RMF from an organization- and a system-level perspective by establishing a context and priorities for managing security and privacy risk.
- **Categorize** the system and the information processed, stored, and transmitted by the system based on an analysis of the impact of loss.
- **Select** an initial set of controls for the system and tailor the controls as needed to reduce risk to an acceptable level based on an assessment of risk.
- **Implement** the controls and describe how the controls are employed within the system and its environment of operation.
- **Assess** the controls to determine if the controls are implemented correctly, operating as intended, and producing the desired outcomes with respect to satisfying the security and privacy requirements.
- **Authorize** the system or common controls based on a determination that the risk to organizational operations and assets, individuals, other organizations, and the Nation is acceptable.
- **Monitor** the system and the associated controls on an ongoing basis to include assessing control effectiveness, documenting changes to the system and environment of operation, conducting risk assessments and impact analyses, and reporting the security and privacy posture of the system.

The FEC currently employs this continuous monitoring and ongoing authorization approach to assess the risk to systems and networks and allow the authorizing official to determine whether that risk is acceptable. Three of the FEC's major systems follow the formal Authority to Operate (ATO) process: the General Support System, the FEC website and the FEC's eFiling system.

Robust Security Architecture

As a result of, and in support of, the RMF, the FEC's Office of the Chief Information Officer (OCIO) continues to take steps to implement a robust security architecture. For example, in partnership with the Department of Homeland Security (DHS), Massachusetts Institute of Technology and the Pacific Northwest National Laboratory, the OCIO has collaborated with FEC stakeholders and technical experts to identify, protect, detect, and respond to the impact of known and unknown threats, continuously assessing security controls and addressing the remaining residual risks.

As identified in OIG's description of this management challenge, the FEC has proactively pursued three significant joint efforts with DHS over the past two years to better identify and remediate emerging threats to the FEC's systems and networks. In addition, the FEC maintains ongoing information security efforts, including our security operation center and the applications for continuous diagnostics and mitigation, and implementing security controls to address identified cybersecurity gaps. These efforts help to ensure that identified risks are appropriately addressed and that its cybersecurity program and security architecture will continue to safeguard the agency's infrastructure, networks, and applications against cyber threats and malicious activities.

Continuous Monitoring and Mitigation

OCIO Security has worked with DHS to improve security capability by integrating with the Continuous Diagnostics and Mitigation (CDM) program. OCIO Security has also introduced the use of secure baselining standards, such as the use of DISA STIGS and Benchmarks. System hardening and secure baselining practices are being expanded in OCIO teams. The OCIO security team has developed a privileged user account agreement and a new password policy to add administrative controls to supplement the technical access controls. The addition of the new password policy and multi-factor authentication (MFA) has improved the security posture of authentication types within the FEC's information systems.

Cloud-First Initiative

The FEC has also adopted a cloud first initiative for security, accessibility and recoverability. Hosting systems and data in a cloud environment allows the FEC to utilize our cloud service providers' significant resources that are dedicated to maintaining the highest level of security. In addition, by utilizing the cloud service providers' robust disaster recovery solutions, the FEC eliminates the need to maintain physical disaster recovery sites, which are costly to maintain and secure. The FEC has already completed the migration of its largest database, the campaign finance database, and its website to a cloud environment. The FEC's new website, launched in May 2017, uses FedRAMP Authorized cloud services, which provides a standardized approach to security assessment, authorization, and continuous monitoring for cloud products and services.

Building a Cybersecurity Culture

At the same time, the FEC is working to build a cybersecurity culture among its employees. The first line of defense in maintaining the protection and integrity of the agency's network is the ongoing education of employees about their role in identifying and preventing malicious actors—internal or external—from compromising the FEC's systems and networks. Efforts to

build a cybersecurity culture include steps to educate staff about FEC IT security policies and to ensure staff awareness of potential cybersecurity threats, such as phishing scams. The FEC promotes this cybersecurity culture in part through annual, mandatory IT security trainings and through year-round communication and notices to staff from the CISO. This year, the FEC implemented additional trainings for all staff to help staff recognize and avoid social engineering attempts.

Building Capacity in the Information Security Office

The FEC has also taken steps to build capacity in its Information Security Office. In April 2019, the FEC entered into a partnership with the Partnership for Public Service to participate in the Cybersecurity Talent Initiative. This selective, cross-sector program, which provides loan forgiveness to top bachelors and masters graduates around the United States in exchange for at least two-years' service at a Federal agency, addresses the immediate cybersecurity talent deficiency faced by Federal government agencies by attracting service-minded individuals to government who might not otherwise have applied. During FY2020, the FEC completed the selection process and brought on board an individual for a two-year cybersecurity fellowship.

Management Challenge: Addressing outstanding OIG audit recommendations

Management looks forward to continuing to work with the Office of Inspector General to close out the remaining audit recommendations. During FY 2020, significant progress was made on addressing several recommendations, particularly related to the FEC's Disaster Recovery Plan and Continuity of Operations Plans, Audit of the FEC's Office of Human Resources, Audit of the Privacy Act and Audit of the FEC Telework Program. Management would like to note that some of the remaining items are dependent on creating or updating existing FEC policies which will require a Commission vote after a quorum has been restored.

Management looks forward to continued discussions with the OIG on the remaining recommendations. Management believes these discussions will help focus attention on current processes and allow OIG to identify recommendations that align with current high-risk areas.

Management Challenge: Address results from the annual FEVS and 2016 Root Causes of Low Employee Morale Study

The Commission understands that the success of its programs depends upon the skills and commitment of its staff. During FY 2020, management undertook several initiatives and programs to engage staff, especially during the COVID-19 pandemic.

FY 2020 saw the launch of the FEC Engagement Steering Committee. This group is led by Co-Coordinator Rhiannon Magruder and Greg Baker who have been participating in a small-agency Engagement Collective through the Partnership for Public Service. The Senior Leaders received briefings on employee engagement throughout FY 2020 and have instituted several suggestions, including division Zoom calls and the employee town hall.

In collaboration with the agency's EEO Office, the Diversity and Inclusion Council was launched with the support of all Senior Leaders and the Commission. As part of the Diversity

and Inclusion Council, employee resource groups will be established. Senior management has also worked to ensure that hiring panels are diverse throughout the agency.

During FY 2020 and the first quarter of FY 2021, management has continued to partner with OPM to bring in trainings for both managers and staff. The following courses were provided: Engaging & Encouraging Employees, Coaching & Mentoring for Excellence, Dealing with Poor Performance & Conduct, Supervisory Fundamentals and Leadership Skills for Non-Supervisors. Upcoming courses open to all FEC staff include Resilience in Leadership and Emotional Intelligence. Additionally, many staff members have taken part in free virtual webinars and courses through OPM and the Employee Assistance Program.