

# Federal Election Commission

## Office *of the* Inspector General

### Management and Performance Challenges Facing the FEC for FY 2022

October 26, 2021





**Federal Election Commission**  
*Office of the Inspector General*

**MEMORANDUM**

---

**TO:** The Commission

**FROM:** Christopher Skinner

**SUBJECT:** Inspector General (IG) Statement Summarizing the Management and Performance Challenges Facing the Federal Election Commission (FEC) for FY 2022

**DATE:** November 9, 2021

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.<sup>1</sup> By statute this report is required to be included in the FEC’s Agency Financial Report.

The Government Performance and Results Modernization Act of 2010 defines 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 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:

1. Growth of campaign spending
2. Identifying and regulating unlawful foreign contributions
3. Coronavirus (COVID-19) pandemic
4. Senior leadership salary structure
5. Cybersecurity

Further attention to the management challenges identified in this report will improve the Commission’s ability to execute its mission. The FEC OIG encourages the Commission to continue to focus on addressing the management challenges discussed herein. We hope that

---

<sup>1</sup> The Reports Consolidation Act of 2000 permits agency comment on the IG’s statements. Accordingly, we provided senior management a draft of our statement for comment on October 26, 2021.

this report, accompanied by the oversight work we perform throughout the year, assists the Commission in its efforts to improve the effectiveness and efficiency of its programs and operations.

We appreciate the Commission's collaboration throughout the year in addressing the management challenges process. Please contact me if you have any concerns regarding the identified challenges.

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



## ***Table of Contents***

Introduction and Approach.....	1
Management and Performance Challenge: Growth of campaign spending .....	2
Management and Performance Challenge: Identifying and regulating unlawful foreign contributions .....	4
Management and Performance Challenge: COVID-19 pandemic .....	5
Management and Performance Challenge: Senior leadership salary structure .....	6
Management and Performance Challenge: Cybersecurity .....	7
FY 2021 Management Challenges not Included in FY 2022 Report .....	8
Appendix: Hotline Poster .....	9
Appendix: Management Response.....	10

## 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
- Identifying and regulating unlawful foreign contributions
- Coronavirus (COVID-19) pandemic
- Senior leadership salary structure
- Cybersecurity

### **How did we identify these challenges?**

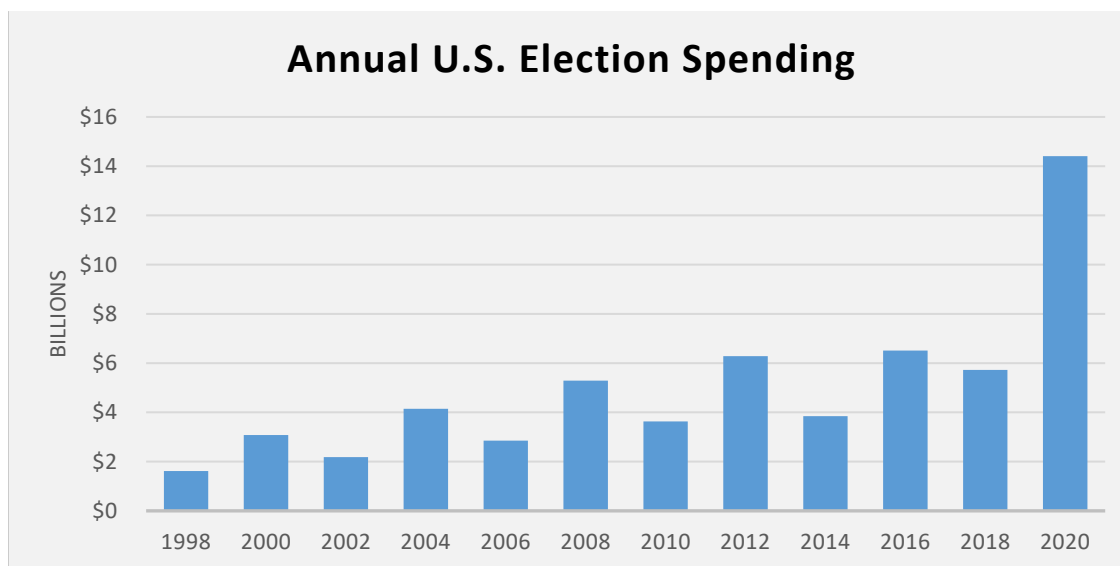
We identified the Commission’s major management and performance challenges by recognizing and assessing key themes from OIG audits, special reviews, hotline complaints, investigations, and an internal risk assessment, as well as reports published by external oversight bodies, such as the Office of Personnel 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 approximately \$14.5 billion in the 2020 election cycle.



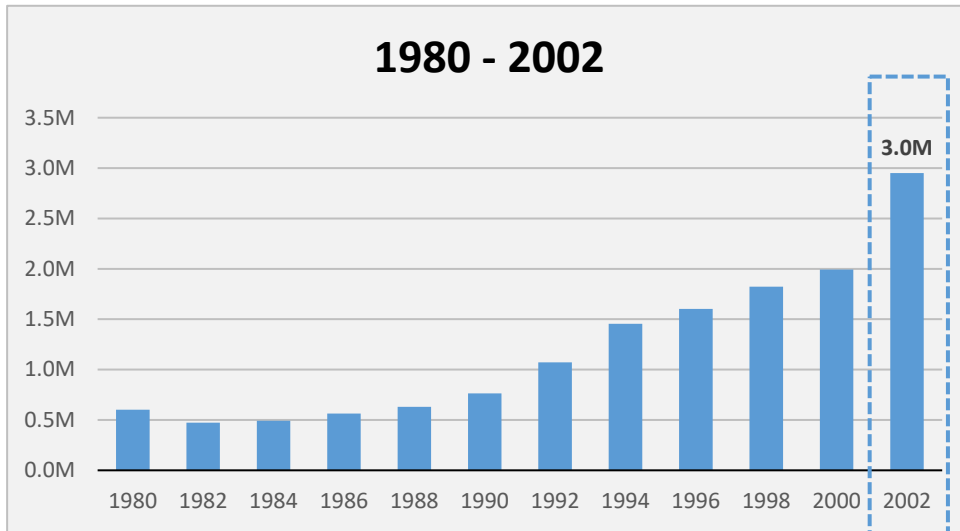
*Figure: Total expenditures per election cycle reported to the FEC by all filers. The totals in this figure represent aggregate expenditures by all filers, including campaigns, party committees, and political action committees (PACs), obtained from FEC filings.*

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:

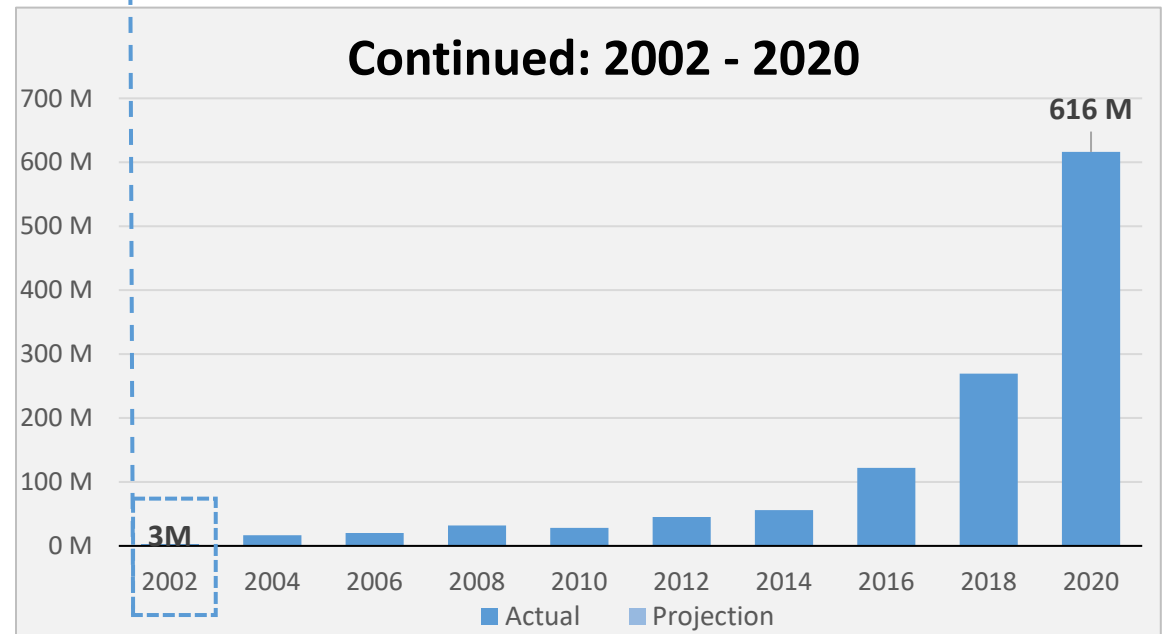
- Between 1980 and 2002, the total number of transactions subject to FEC regulation and oversight increased from approximately 602,000 to nearly three million per election cycle.
- In the 2018 election cycle, the FEC handled nearly 270 million transactions.
- That number exceeded 616 million transactions in the 2020 election cycle.

## FEC Total Transactions (1980 - 2002)

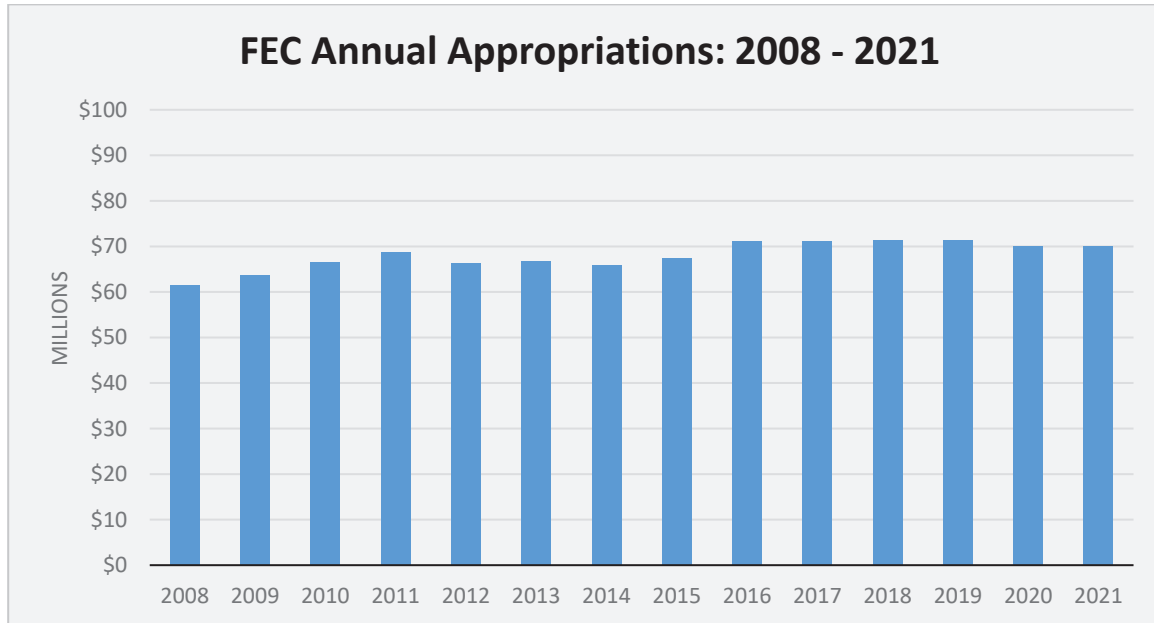


Between 1980 and 2002, the total number of transactions subject to FEC regulation and oversight increased from approximately 602,000 to nearly three million per election cycle.

By 2018, the FEC handled nearly 270 million transactions in that cycle and that number exceeded 616 million in the 2020 cycle.



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 and has even faced recent reductions. Indeed, since 2008, the FEC's budget has increased by an average of only 0.61% per year. Those increases have not kept up with inflation, which has averaged approximately 1.8% 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.

---

#### Management and Performance Challenge: Identifying and regulating unlawful foreign contributions

---

Identifying and regulating unlawful foreign campaign contributions pose a significant challenge to the FEC. As campaign expenditures and the number of transactions subject to FEC regulation and oversight increase, potential contributions by foreign nationals also increase, which demands greater scrutiny by agency regulators. However, a recent OIG report found that the FEC's practice of relying on filers' self-certifications concerning potential foreign contributions poses a national security risk and provides insufficient oversight of possible illegal foreign donations. Indeed, numerous recent cases highlight the risk of unlawful foreign influence in U.S. elections.



The Federal Election Campaign Act of 1971, related statutes and implementing regulations prohibit direct and indirect contributions to candidates, political committees, and inaugural committees by foreign nationals. As noted above, campaign expenditures and transactions subject to FEC regulation and oversight have dramatically increased in recent years. However, as previously noted, the FEC's budget has remained static, if not reduced, over the same period. Since 2008, the FEC's budget has increased by an average of only 0.61% per year. The increased demand on the agency without additional funding to provide resources to the FEC poses a challenge for the agency to identify and regulate unlawful foreign contributions.

Moreover, recent cases demonstrate that the risk of foreign electoral influence is real and not hypothetical. For example, a matter that came before the Commission in 2016 and was decided in October 2021 involved a consultant for a super PAC that supported a presidential candidate. The consultant allegedly solicited a \$2 million contribution from representatives of a foreign national. The Commission ultimately reached a settlement with the super PAC. Numerous other reported cases further illustrate the risk.

Notwithstanding these risks, a recent investigative report by the OIG found that the FEC's current practices provide limited oversight of potential foreign contributions. Specifically, the OIG investigation found that the FEC identifies many potential foreign national donations based on the reported addresses of donors, but generally defers to a committee's self-certification that it verified the U.S. citizenship of those donors. However, that practice does not appear to be memorialized in policy and relies heavily on the good faith and due diligence of filers.

Accordingly, the OIG recently recommended that the FEC update and memorialize its practice concerning donors with foreign addresses to identify unlawful foreign donations more effectively. However, we recognize that the FEC's resources are significantly constrained as detailed above. As such, identifying and regulating foreign contributions will likely continue to challenge the FEC.

---

### 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.

Recently, the President signed [Executive Order 14043](#) on September 9, 2021, requiring executive branch federal employees to become fully vaccinated by November 22, 2021, unless they are eligible for a legal exception due to a medical condition or because of a sincerely held religious belief. In addition, employees must provide documentation of their vaccination or in support of their requested legal exception.

Uncertainty remains regarding how the post-pandemic work environment will look for the FEC. Concerns include potential employee turnover once the FEC removes the evacuation order and returns to the office. Hybrid work and flexibility appear to be permanent expectations for the new workplace. However, as federal office returns accelerate, some employees may want to pursue different options. Employees may seek other remote employment options, resign, or

retire, if eligible. Accordingly, the transition back to the office may result in significant employee turnover which could directly impact the agency's human capital resources.

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 and resulting legislation. A few of those actions include but are not limited to:

- 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 Phased re-opening quick reference guide and 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
- Mandating face masks in common areas, limiting the number of people in the building, and establishing enhanced cleaning protocols
- Tracking the operating status of approximately 25 public school districts in DC, Maryland, and Virginia
- Requiring employees to complete a vaccination certification form and provide proof of vaccination by October 22, 2021
- Authorizing a short-term 60-day extension of the agency's evacuation order which was scheduled to expire on September 12, 2021

We identify this as a continued challenge facing the Commission in FY 2022 due to the volatility of the situation and encourage the agency to be proactive in its response strategy in FY 2022 to mitigate potential impacts to personnel and mission requirements.

---

#### Management and Performance Challenge: Senior leadership salary structure

---

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.

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.

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 Federal Election Campaign Act of 1971, as amended (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.

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 it 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.

As of September 30, 2021, the agency is actively recruiting for the General Counsel position. The FEC posted an announcement on USA Jobs with an opening application date of September 30, 2021 and a closing date of October 22, 2021.

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 is not a viable long-term solution. Based on the foregoing, 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 October 2020, the Commission engaged with the Department of Homeland Security (DHS) to improve its overall security posture: The Cybersecurity and Infrastructure Security Agency, an operational component under DHS, conducted a Remote Penetration Test on the FEC website.

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 ongoing issues facing the FEC in FY 2022. 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 2021 Management Challenges Not Included in FY 2022 Report

### **Management Challenge: Lack of quorum**

A significant management and performance challenge in FY 2021 resulted from the resignation of a commissioner, which left 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.<sup>1</sup> Furthermore, 52 U.S.C. § 30106 requires the affirmative vote of four members to act on certain matters.

The Commission regained its quorum on December 9, 2020, when the U.S. Senate confirmed three nominees to the FEC, restoring the agency's ability to conduct official business, and bringing the panel to its full slate of six commissioners for the first time since 2017. Accordingly, that resolved this management and performance challenge.

---

<sup>1</sup> See 52 U.S.C. § 30106.

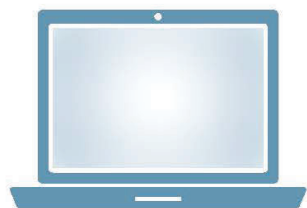


Federal Election Commission  
Office *of the* Inspector General

## REPORT FRAUD, WASTE, & ABUSE

### OIG Hotline Portal

<https://fecoig.ains.com>



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

### OIG Hotline Phone

**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 Challenges<sup>1</sup>**

**November 8, 2021**

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 2021. Management's response to the OIG's 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.

The FEC receives campaign finance reports, statements and other disclosure documents from more than 16,000 political committees and other filers. During the 2020 election cycle, these filers reported more than 600 million financial transactions, which were reviewed by FEC staff and disclosed to the public on the FEC's website. This is more than double the number of transactions reported in the previous election cycle, and a nearly 400% increase compared to 2016, the last presidential election cycle.

Aside from the substantial increase in the number of transactions reported to the FEC, the FEC website's Application Programming Interface (API), which permits users to customize data searches making vast quantities of campaign finance data readily available, received over 407 million hits during the 2020 election cycle. With the steep rise in transactions reported every election cycle comes a heavier burden on the FEC's API to quickly search across the FEC's campaign finance database and display the data requested by the public.

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 and 2021, the FEC made additional database enhancements to improve database performance and control costs of hosting and maintaining the database.

---

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

To continue to mitigate an anticipated steep rise in future costs from maintaining physical datacenters, the FEC is pursuing an IT modernization plan which requires investment now and over the next several years to continue cloud migration and realize improvements in its IT processes. During 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. As of November 2021, the FEC has migrated databases and several legacy applications to the cloud. The FEC will continue to strive to implement the recommendations of this study during FY 2023, with the goal of generating efficiencies in future years while maintaining high levels of service to the public. Migrating these legacy applications from physical datacenters to a cloud environment will slow the rising costs for hosting these applications and for maintaining legacy systems in the FEC's physical datacenters over time as the volume of our data holdings continues to climb. Although the escalation in the volume of transactions means and increase in the cost for cloud hosting, the cost of maintaining outdated legacy systems that are not built to handle the increasing volume of transactions makes continued investment in IT modernization a critical priority.

In addition, the FEC is currently working to upgrade the agency's eFiling platform. 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 in-depth investigation of needs expressed by filers. The FEC is relying 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 to 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 2020. However, COVID-19 related delays in onboarding new staff and contractors subsequently hampered the FEC's efforts to complete the development phase of the eFiling platform during FY 2020. In late FY 2021, we awarded a contract to a new vendor to provide an assessment of the previous eFiling platform modernization work and to continue development. We now expect to have a working prototype during FY 2022, and to begin to begin partial implementation of the new eFiling platform.

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 and 2021, 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.<sup>2</sup>

## Challenge 2: Identifying and regulating unlawful foreign contributions

---

<sup>2</sup> The Commission lacked the necessary quorum of Commissioners to approve Legislative Recommendations in 2019 and 2020.

Management has undertaken a number of actions over the last several years to prioritize enforcement of the foreign national prohibition. Along with cases that are statute-of-limitations imperiled when OGC receives them, foreign national prohibition cases are assigned to OGC staff attorneys before any other class of cases. OGC has also modified its Status of Enforcement reports to the Commission so that the Commission is provided with complete data on every foreign national prohibition case on a quarterly basis. Further, OGC has revised its procedures so that it may more efficiently track the progress of all foreign national prohibition matters through the enforcement process. OGC has also modified its case management software to make it easier to run reports for the Commission concerning all foreign national prohibition matters.

Moreover, requirements for committee actions to prevent the receipt of foreign national, or other illegal, contributions are extensive. All committee treasurers are required by regulation to examine all contributions received for evidence of illegality. 11 C.F.R. 103.3(b). Contributions that present genuine questions as to whether they were made by foreign nationals, such as by coming from a foreign address or being drawn on a non-U.S. bank, may be, within ten days of receipt, either deposited in the campaign depository or returned to the contributor. If deposited, the treasurer shall make his or her best efforts to determine the legality of the contribution, including at least one written or oral request for evidence of legality. If the contribution cannot be determined to be legal, the treasurer shall refund the contribution within 30 days of receipt. 11 C.F.R. 103.3(b)(1). If the treasurer determines that the contribution did not appear to be made by a foreign national, but later discovers that it is illegal based on new evidence not available at the time of deposit, the treasurer shall refund the contribution within 30 days of discovering the illegality. 11 C.F.R. 103.3(b)(2). Any contribution which appears to be illegal but is deposited in a campaign depository may not be used for any disbursements until the contribution has been determined to be legal, and the receiving committee must either establish a separate account for such contributions or maintain sufficient funds to make any required refunds. 11 C.F.R. 103.3(b)(4). The treasurer must keep a written record noting the basis for the appearance of illegality of any such contribution, and if a committee's disclosure report is due while resolution of a contribution's legality is still pending, a statement to that effect must be included in the disclosure report. 11 C.F.R. 103.3(b)(5).

In another document, OIG has suggested additional requirements for disclosure to the Commission about suspected foreign national contributions. However, legal and practical concerns block immediate implementation of additional requirements for disclosure. Disclosure of additional information would very likely require a legislative change, which of course is solely the purview of Congress. Specifics as to what must be reported to the Commission as part of disclosure reports are exhaustively described in 52 U.S.C. 30104. Moreover, given that all disclosure reports must be made available to the public, 52 U.S.C. 30111(a)(4), reporting of information such as contributors' U.S. passport numbers, as suggested elsewhere by OIG, would potentially raise serious privacy concerns.

In its Statement, OIG recounts its recent recommendation that the FEC update and memorialize its practice concerning donors with foreign addresses to identify unlawful foreign contributions more effectively. That practice is already memorialized and regularly updated. The practice is based on a regulation, duly promulgated by the Commission, 11 C.F.R. § 110.20(a)(7), which provides a regulatory safe harbor for these situations. The practice is memorialized in the Reports Analysis



Division's Policies and Procedures, which are updated for every election cycle and approved by the Commission, and which are publicly available on FEC.gov, with certain redactions unrelated to this practice. Management will consider updating this practice, including as part of its regularly scheduled review and approval of Policies and Procedures.

### Challenge 3: COVID-19 Pandemic

Management continues to prioritize the safety of all FEC staff. On January 20, 2021, the President issued Executive Order 13991, "Protecting the Federal Workforce and Requiring Mask-Wearing," instructing agencies to immediately require masks and physical distancing measures in all Federal buildings consistent with current U.S. Centers for Disease Control and Prevention (CDC) guidance. On January 24, 2021, the Office of Management and Budget (OMB) issued M-21-15, COVID-19 Safe Federal Workplace: Agency Model Safety Principles, to assist Federal agencies in developing tailored COVID-19 workplace safety plans. Consistent with the requirements of EO 13991 and OMB M-21-15, the FEC's COVID-19 management team developed a workplace safety plan to provide minimum mandatory safety guidance for the agency. The COVID-19 management team has also developed a phased re-opening quick reference guide and 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.

On September 9, 2021, the President issued Executive Order 14043, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees," instructing agencies to implement a program requiring COVID-19 vaccination for all Federal employees, with exceptions only as required by law. The same day, the President also issued Executive Order 14042, "Ensuring Adequate COVID Safety Protocols for Federal Contractors." Consistent with the requirements of EO 14043 and guidance from the Safer Federal Workforce Task Force, the FEC's COVID-19 management team has provided information and guidance regarding the COVID-19 vaccination requirement for Federal employees working with the FEC and begun implementing this requirement through collecting the requisite vaccination status information and documentation from employees. The COVID-19 management team has provided guidance and assistance to the Procurement Office to support implementation of the requirements of EO 14042.

Throughout the year, Management has maintained continuous communication with staff to promote staff safety and provide support. For example, the COVID-19 management team sends a weekly update email every Friday to alert staff to upcoming events, new guidance and general reminders, including information about how to become vaccinated and special leave provisions for employees when they are receiving the vaccine or recovering from vaccine side effects. The weekly update has been well received by staff and managers. Senior Management and the Commission have also been holding virtual meet and greet sessions for new FEC staff. Senior Leaders are regularly holding division meetings to check on staff and hear any concerns they may raise. The COVID-19 management team also continues to hold 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. Members of the COVID-19 management team also participate in government-wide groups, including OMB small agency group, OPM CHCO/HR Director group, General Counsel Exchange, and the CIO/CISO council.

The FEC's offices remain closed under an evacuation order. All employees continue to work remotely, except in limited circumstances where work must be completed in the FEC's offices,

and the agency has purchased video communication tools to facilitate meetings and collaboration during this time. 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. While the FEC's offices have been closed under an evacuation order, Management has waived core working hour requirements and provided for additional work hour flexibilities. As the agency continues to plan for a return to the office, Management has consistently engaged managers and staff, including through staff surveys regarding the future of work, to learn more about employee's scheduling and work/life balance needs. Management will continue to reach out to staff as it considers what scheduling flexibilities and telework programs will best meet the needs of employees and the agency as employees begin to return to the office.

#### Challenge 4: Senior leadership salary structure

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.<sup>3</sup>

Because of the challenges in maintaining consistent senior leadership, the Commission unanimously adopted a Legislative Recommendation in 2021, 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

---

<sup>3</sup> <https://www.fec.gov/about/committee-on-house-administration-april-2019-questions/>

in the marketplace for Federal executives when filing the current vacancy or when further vacancies arise.

#### Challenge 5: Cybersecurity

The FEC developed a comprehensive cybersecurity program led by the Chief Information Security Officer (CISO) to protect critical infrastructure from the cyber threats. 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 Rev. 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), 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 residual and new 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 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 user access review 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 website, revamped 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. In the past two years, FEC actively participated in the CTI program, attended the CTI's leadership panel discussions, and encouraged the cybersecurity analyst from the CTI program to actively participate in CTI training activities as well as training outside of CTI. The cybersecurity analyst we brought onboard has significantly improved their cybersecurity knowledge and has done an excellent job supporting FEC's security operation.