

U.S. Equal Employment Opportunity Commission



FY 2008 Performance and Accountability Report Highlights





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Accountability Report Highlights

United States Equal Employment Opportunity Commission

FISCAL YEAR 2008
PERFORMANCE AND ACCOUNTABILITY REPORT HIGHLIGHTS

Our Vision

A strong and prosperous nation secured through a fair and inclusive workplace.



Our Mission

We promote equality of opportunity in the workplace and enforce federal laws prohibiting employment discrimination.

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A Message from the Chair

I am pleased to present the U.S. Equal Employment Opportunity Commission's (EEOC's) Performance and Accountability Report (PAR) Highlights for Fiscal Year 2008. This report contains the agency's assessment of its FY 2008 program and financial performance, as well as an updated Strategic Plan that was approved by the Commission and now covers the period through FY 2012.

In FY 2008, while trying to maintain sufficient staff levels, our private sector charge receipts rose to 15.2% above last year's level. Nevertheless, we continued to focus on improving our delivery of services to the public and strengthening our systemic enforcement efforts. In September, I appointed one of our key field office directors to serve as the national systemic investigation program manager. I also promoted two regional attorneys to senior litigation project managers for the program. Our strong and growing systemic program is crucial to the elimination of any and all instances of unlawful pattern or practices, policy and class discrimination which have a broad impact on an industry, profession, company, or geographic location.

In early December 2008, we completed the move of our Washington Headquarters and Washington Field Office to One NoMa Station, located in a newly developing area northeast of the Capitol. We are confident that our new location, in the heart of an increasingly vibrant commercial and residential community, will address our infrastructure needs and enhance our efforts to serve the public.

In the context of service, the transitioning of our National Contact Center, which was responsible for receiving initial calls and inquiries from the public, from an outside contractor to an in-house operation, known as the Intake Information Group (IIG), is nearly complete. The steps taken during FY 2008 included hiring and training IIG staff and beginning the process of acquiring the technology needed to provide superior customer service. We expect that the transition, which began in December 2007, will be completed by February 2009.

While this has proven to be another year of significant challenge, I am gratified that we have received an unqualified opinion for the fifth consecutive year from independent auditors. I am confident that the financial information and the data measuring EEOC's performance contained in this report are complete and accurate.

We have also worked together to manage our internal controls environment. Based on a review of agency-wide materials and the assurances of the agency's senior managers, the agency's management and financial controls environment under the Federal Managers' Financial Integrity Act (FMFIA) was sound in FY 2008. The agency did identify 20 financial non-conformances, including seven that were carried over from the previous fiscal year. Of the 20 identified, 16 financial non-conformances were fully corrected in FY 2008, including the seven that had been carried over from FY 2007. Of the four remaining financial non-conformances, the agency has implemented corrective action plans to resolve all of the findings in FY 2009.



Naomi Churchill Earp assumed the role of Chair of the Equal Employment Opportunity Commission on August 31, 2006, after serving as Vice Chair of the Commission since April 28, 2003.

On the policy front, in fiscal year 2009, we will address the Genetic Information Non-Discrimination Act (GINA), which prohibits public and private employers from using genetic information in employment decisions. The EEOC will also be providing tailored training and technical advice and assistance to its full array of stakeholders regarding GINA and its implementing regulations that will be issued in fiscal year 2009. In addition, the agency will be issuing regulations implementing the Americans With Disabilities Act Amendments Act of 2008, which changes the way EEOC will be evaluating charges of discrimination received under Title I of the ADA and federal sector complaints brought under Section 501 of the Rehabilitation Act.

In looking ahead, we find that race and color discrimination are still very much alive in the American workplace and that significant work remains to be done. Beyond traditional outreach and education efforts, we will pursue charges for priority, novel or emerging legal issues in the context of race and color discrimination, through the agency's E-RACE Initiative.

We will also pursue several other key outreach programs, as part of our proactive prevention efforts, including continuing our work with small and medium-sized businesses and Commission Initiatives, such as the Youth@Work and LEAD Initiatives. We will continue our fee-based training and our outreach, education and technical assistance programs to meet the needs of diverse audiences and will partner with the employer community and other stakeholders to foster strategies to recognize and prevent discrimination in the workplace

All of our activities during the past fiscal year were in furtherance of our mission of promoting equality of opportunity in the workplace, while providing high-quality, professional customer service that the public expects. With the achievement of solid and meaningful results, we have made enormous progress towards ensuring equal employment opportunity for America's workforce, present and prospective.



Naomi C. Earp
Chair
U.S. Equal Employment Opportunity Commission

December 31, 2008

Management's Discussion and Analysis

INTRODUCTION

The Equal Employment Opportunity Commission (EEOC) is the federal agency responsible for enforcing the nation's laws prohibiting employment discrimination. As part of our mission, we receive, review and investigate charges of employment discrimination and file discrimination lawsuits involving private sector employers. We also conduct administrative hearings and issue appellate decisions in the federal sector. Our guidance and information help both employers and employees to better understand their rights and responsibilities under the laws we enforce.

We strive to ensure equal opportunity for all to compete on the basis of merit in the workplace and to eliminate the pernicious and invidious effects of unlawful discrimination. We also strive to be proactive by initiating education programs that promote a productive, harmonious and inclusive workplace for employees and applicants, as well as managers and business owners—from small businesses to Fortune 500 corporations.

This FY *2008 Performance and Accountability Highlights Report* (PAR Highlights), summarizes the results of the agency's programs and financial performance, along with its management challenges. A more detailed discussion can be found in the full PAR—our annual report of our significant accomplishments achieved during the fiscal year. This report is available on our website at www.eeoc.gov/abouteeoc/plan/par/2008/index.html.

THE YEAR IN HIGHLIGHTS

Enhanced Customer Service and Deployment of Human Capital

All of our activities during the past fiscal year were in furtherance of our mission of promoting equality of opportunity in the workplace while providing high quality, professional customer service to the public. Additionally, the agency has nearly completed its transitioning of the National Contact Center (NCC)—a Center responsible for receiving initial calls and inquiries from the public—from an outside contractor to an in-house operation called the Intake Information Group (IIG). The steps taken during FY 2008 included the hiring and training of EEOC staff and beginning the process of acquiring the technology needed to provide excellent customer service. We expect that the transition, which began in December 2007, will be completed by February 2009.

The EEOC Headquarters office lease expired in July 2008. The existing building was no longer feasible for housing the current Headquarters staff, and it was necessary to find other space. In May 2007, the General Services Administration (GSA) announced the signing of a 10-year lease for office space at 131 M St. NE, which is known as One NoMa Station. The move began in November 2008. Throughout FY 2008, preparations for the move were underway. A number of committees staffed by employees worked with the Office of the Chief Financial Officer to make the transition as smooth as possible. Additionally, the Office of Communications and Legislative Affairs created an internal web log or "blog" that has been providing updated information on the move in order to ensure a free and transparent flow of information to staff.

The preparations for the move took place in tandem with other repositioning efforts that began several years ago. The physical move of Headquarters and the Washington Field Office staff, combined with the organizational restructuring that has already taken place in the field and under study for Headquarters, all emphasize ways to allow the EEOC to use its human capital where it is most needed. These efforts will permit the EEOC to retain its role as the preeminent civil rights agency well into the 21st century.

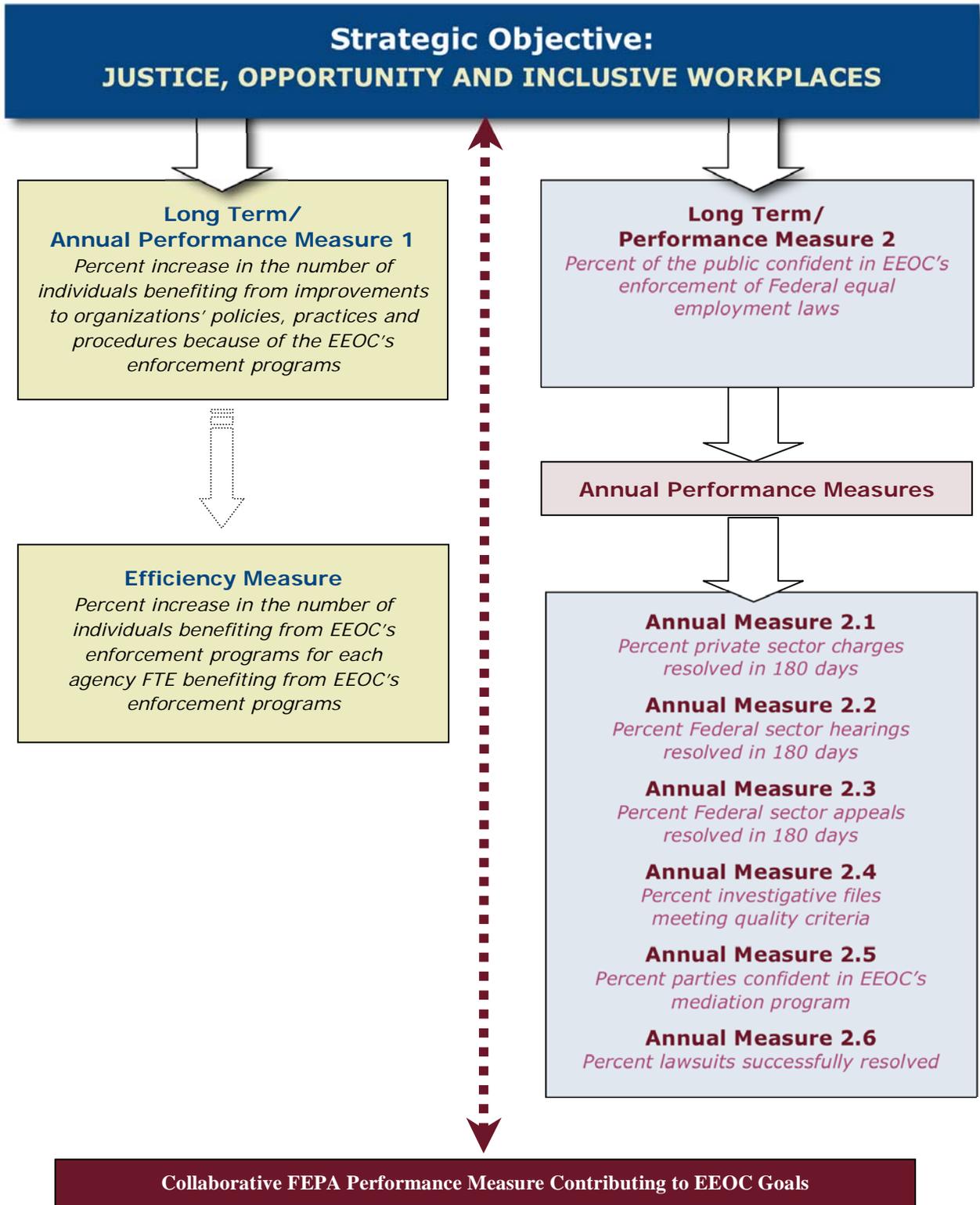
THE STRATEGIC PLAN

The *Performance and Accountability Report* is based on our modified Strategic Plan for fiscal years 2007 through 2012 and, correspondingly, aligns with the agency's Strategic Objective of *Justice, Opportunity and Inclusive Workplaces*. The modified Strategic Plan provides the roadmap for the agency to position itself for the future. (To read a more lengthy addendum on interim adjustments to the Strategic Plan, refer to the PAR at page 35).

The modified Strategic Plan builds upon what the agency has accomplished to improve its operations. It seeks to maintain the agency's momentum by continuing measures to prevent discrimination; continuing to use Alternative Dispute Resolution (ADR); developing a more strategic focus in our enforcement, litigation and federal programs; continuing a strategy to focus on race and color discrimination through our E-RACE Initiative (Eradicating Racism And Colorism from Employment); and ensuring the effective and efficient functioning of the agency's internal operations.

At the beginning of fiscal year 2007, we issued a new Strategic Plan, which emerged from the agency's Program Assessment Rating Tool (PART) review conducted in 2006. During fiscal years 2007 and 2008, the agency reassessed the plan's structure in order to implement the improvement plan developed under the PART process. This effort resulted in modifications we made to the Strategic Plan, which were approved by a Commission vote on July 28, 2008.

STRATEGIC PLAN OVERVIEW



STRATEGIC OBJECTIVE: JUSTICE, OPPORTUNITY AND INCLUSIVE WORKPLACES

The agency has nine performance measures under its Strategic Objective. These measures are used to drive results and accountability throughout the agency. EEOC achieved or exceeded the targets for eight of these measures. The target for one measure was not met this year.

Our progress in meeting our nine measures is summarized below. A more detailed analysis can be obtained in the full *Performance and Accountability Report* for fiscal year 2008.

EEOC FY 2007 Performance		
Measures	 Targets Met or Exceeded	 Targets Not Met
9	8	1

Our modified performance measurement structure identifies the results we achieved to benefit individuals in workplaces nationwide and to provide both timely and high quality service to our customers. Long Term/Annual Measure 1 was developed during OMB's PART review in FY 2006. During discussions with OMB during FY 2007, we modified and focused this measure on our private and federal sector enforcement programs. The measure is designed to demonstrate the results the agency achieves for all individuals affected by changes in workplaces resulting from our enforcement activities. During the past fiscal year, we collected the data for our enforcement programs and established a baseline value. In early FY 2008, we established annual targets and a final goal. Since our new Efficiency Measure is directly linked to the data collected for Long Term/Annual Measure 1, we also established a base line and identified the targets and a goal for this measure.

Our performance structure will enable us to strive toward meeting the goals and measures we have adopted, which include our two long-term performance measures, six annual performance measures, and one efficiency measure in our modified Strategic Plan for FYs 2007 through 2012.

ENFORCEMENT

Private Sector Enforcement Program: Providing quality services that are fair and prompt for both employees and employers in our administrative processing system is vital to our mission. In FY 2008, we received 95,402 private sector charges of discrimination, a 15.2% increase from FY 2007. We also received 2,666 charges through net transfers from state and local Fair Employment Practices Agencies (FEPAs). We achieved 81,081 resolutions, with a merit factor resolution rate of 21.4%. (Merit factor resolutions include mediation and other settlements and cause findings, which, if not successfully conciliated, are considered for litigation.) In comparison, the merit factor resolution rate for FY 2007 was 22.9%. Through our administrative enforcement activities, we also secured more than \$274.4 million in monetary benefits, which is lower than the \$290.6 million obtained in FY 2007. Overall, we secured both monetary and non-monetary benefits for more than 18,304 people through our charge processing. The increased receipts compared with FY 2007 left us with a pending inventory of 73,951 charges at the end of the fiscal year, compared with the FY 2007 figure of 54,970.

Timeliness is a key measure of our success in processing private sector charges. Measure 2.1 tracks our progress in resolving charges in 180 days or fewer. For several important reasons, explained in the Performance Section, the annual targets and final goal for this measure were modified. Based upon the modified target for FY 2008, we resolved 48.5% of the charges within the time frame; moderately exceeding the new target of 48%.

Our other key measure for success in processing private sector charges assesses the quality of our charge files. Under Measure 2.4, we exceeded our FY 2008 target of 90% of investigative charge files meeting the standard of quality, with 97.0% meeting the quality standard.

Federal Sector Enforcement Program: In our federal sector enforcement role, the EEOC is responsible for providing hearings and appeals after the initial processing of the complaints by each individual federal agency. Unlike our responsibilities in the private sector, we do not process complaints of discrimination for federal employees. In the federal sector, individuals file complaints with their own federal agencies and those agencies conduct a full and appropriate investigation of the claims raised in the complaints. Complainants can then request a hearing before an EEOC administrative judge. In FY 2008, we received a total of 8,036 requests for hearings, which is slightly more than the 7,869 received in FY 2007. Additionally, we resolved a total of 7,138 complaints and secured more than \$104.7 million in relief for parties in these complaints. Our Strategic Plan for FY 2008 set a target for Measure 2.2 to resolve 50% of federal sector hearings in 180 days or fewer. We did not meet our goal, resolving 38.6% of hearings cases in 180 days or fewer; this is below the target for FY 2008. This is due in large part to the agency's focus on enhancing the quality of federal hearings and the loss of a significant number of administrative judges during the year.

The EEOC also adjudicates appeals of federal agency actions on discrimination complaints and ensures agency compliance with decisions issued on those appeals. During FY 2008, the EEOC received 5,082 requests for appeals of final agency actions in the federal sector. We made significant gains in processing our federal sector appellate inventory during FY 2008. Our goal for Measure 2.3 was to resolve 62% of appeals within 180 days or fewer. In FY 2008, we resolved 5,303 appeals, 63.3% of them within 180 days of their receipt. We were able to exceed our goal because of effective management of the appellate inventory and technological innovations. For FY 2009, we are increasing our target to 64% to continue to address our appeals workload in an ambitious manner.

MEDIATION

Private Sector Mediation Program: The EEOC's mediation program has been very successful and has contributed to our ability, over the past few years, to better manage our growing inventory and resolve charges in 180 days or fewer. In FY 2008, the EEOC's National Mediation Program secured 8,840 resolutions, which is 2% more than the 8,649 reported in FY 2007. We obtained more than \$124.1 million in monetary benefits for complainants from mediation resolutions, which is equal to the \$124 million in monetary benefits in FY 2007.

Performance Measure 2.5 highlights an important aspect of our private sector mediation program: the confidence that employers and charging parties have in the program. Participant confidence in our program remains high, with our FY 2008 figures reflecting that 96.5% of all participants would return to EEOC's Mediation Program in the future. This exceeds our target for Performance Measure 2.5 of maintaining a 90% rate. We believe this high confidence level helps with our continuing efforts to convince parties to charges, particularly employer representatives, of the value of the mediation approach. In addition, we are increasing our target for FY 2009 to 92% as we strive toward a higher final goal of 95% by FY 2012 for our current Strategic Plan.

As part of our effort to increase the participation of employers in the mediation program, we have encouraged employers to enter into Universal Agreements to Mediate (UAMs). Many employers entered into these agreements in FY 2008, resulting in a cumulative multi-year total of 1,452 UAMs (177 National/Regional UAMS and 1,275 Local UAMs). This is a 14% increase from our FY 2007 level of 1,269 UAMs.

Federal Sector Mediation Program: Using Alternative Dispute Resolution (ADR) techniques to resolve workplace disputes throughout the federal government can have a powerful impact on agencies' EEO complaint inventories and, in turn, the Commission's hearings and appeals inventories. Resolving disputes as early as possible in the federal sector EEO process improves the work environment and reduces the number of formal complaints, allowing all agencies, including the EEOC, to redeploy resources that otherwise would be devoted to these activities.

Data submitted by federal agencies at the close of FY 2007, the most recent data available, indicate that there were 37,809 instances of pre-complaint EEO counseling across the federal government. Of that number, the parties participated in ADR in 18,262 cases, or 48.3% of the time.

The Commission's efforts in promoting and expanding mediation/ADR at all stages of the federal EEO complaint process also appear to be having a positive effect on federal agencies' EEO complaint inventories, as the number of formal complaints filed in FY 2007 declined by 2.2% over the previous year. As more agencies expand their efforts to offer ADR during the informal process, we expect to see continued decreases in the number of formal complaints filed, which will reduce costs for complainants and all federal agencies, and enable agencies to focus resources on their primary missions.

LITIGATION

The Commission's litigation program provides relief for victims of discrimination, many of whom have no other recourse, and also encourages employers to resolve cases in the EEOC's administrative process before litigation is contemplated. In FY 2008, EEOC field legal units filed 290 "merits" lawsuits and 36 subpoena enforcement and other actions. 179 of the new filings were individual suits and 111 were class suits. Six trials were held this fiscal year. Legal staff resolved 339 "merits" lawsuits for a total monetary recovery of \$102,151,138 ("merits" lawsuits include direct suits and interventions alleging violations of the substantive provisions of the statutes enforced by the Commission and suits to enforce administrative settlements). Of these resolutions, 265 contained Title VII claims, 47 contained Americans with Disabilities Act of 1990 (ADA) claims, 41 contained Age Discrimination in Employment Act of 1967 (ADEA) claims, and 3 contained Equal Pay Act of 1964 (EPA) claims. The number of total merits lawsuits is less than the sum of suits based on each individual law as some suits are filed on multiple bases. We also resolved 27 subpoena enforcement and other actions during the fiscal year. In terms of dollars recovered in direct, indirect and intervention lawsuits by statute, EEOC recovered \$65,611,235 in Title VII resolutions, \$30,270,298 in ADEA resolutions, \$3,549,033 in ADA resolutions, \$971,961 in EPA resolutions and \$1,748,610 in resolutions involving more than one statute. At the end of FY 2008, the number of cases on the EEOC's active docket that involve multiple aggrieved parties or challenges to discriminatory employment policies was 238 or 45% of our total year-end caseload.

Refer to our website at www.eeoc.gov for a fuller depiction of litigation statistics and year-by-year data comparisons.

The Office of General Counsel has made implementation of the agency's new systemic program a chief priority this year. This year, the Commission reviewed the progress of the systemic initiative at a public meeting and received a report from the Committee of Advisors for Systemic Enforcement ("CASE"), an advisory group of senior enforcement and litigation staff assigned to assess the agency's overall effectiveness in combating systemic discrimination and serve as a resource on systemic matters.

As reported by CASE, the agency has made substantial progress towards a revitalized and dynamic systemic program. The number of systemic investigations has increased substantially. Systemic lawsuits have been filed across the country under every statute enforced by the agency, involving a broad set of bases and issues and a wide variety of industries, and included cases that advance the agency's E-RACE initiative.

To accomplish the goals of the systemic initiative, the Office of General Counsel anticipates a shift in the composition of its litigation docket over time. We expect fewer small, individual cases and more cases on behalf of larger groups of individuals. While this is leading to a decline in the total number of lawsuits filed each year compared to previous years, we expect that the overall impact of our litigation will be enhanced as larger cases are filed and resolved. Shifting the balance will enable us to use the agency's limited resources in the most efficient and effective manner. Nonetheless, individual cases, particularly those under the Americans with Disabilities Act, will remain an important component of the agency's docket and will continue to be strategically selected to have impact beyond their individual circumstances.

OUTREACH, EDUCATION AND TECHNICAL ASSISTANCE

Our Strategic Objective also incorporates the concept that preventing discrimination is an important part of our mission. We briefly describe below some of the key outreach initiatives we conducted in FY 2008 and elaborate on them in the Performance Section of this report.

In FY 2008, we promoted voluntary compliance with the federal equal employment laws to prevent or reduce discriminatory barriers to employment opportunities, including the promotion of individual awareness and understanding of rights and responsibilities under those laws. We provide outreach and education to small businesses, especially those that lack the resources to maintain human resources staff, and to stakeholders in under served communities across the nation, including those with limited English proficiency, such as recently arrived immigrants.

In FY 2009, we will continue our outreach, education, and technical assistance programs to meet the needs of diverse audiences and will partner with the employer community and other stakeholders to foster strategies to recognize and prevent discrimination in the workplace. We remain prepared to respond to unanticipated issues that arise in the workplace due to current events, so that the EEOC stays on the forefront in informing both employees and employers alike of their rights and responsibilities in the ever-changing workplace environment.

Special Outreach Initiatives

The Commission is working cooperatively and collaboratively with the small business community to proactively prevent employment discrimination and to promote voluntary compliance through its Small Business Initiative. We recognize that many small businesses do not have separate human resource and legal staff to guide them through the regulatory process. Therefore, it is important to establish open lines of communication and provide the necessary training and tools to ensure that small employers comply with the law.



We educate students and young workers about their workplace rights and responsibilities, including specific discussions on harassment and how to seek assistance to address or report incidents of discrimination and harassment that occur in the workplace. Through our Youth@Work Initiative, we reach out to schools and educators to share training materials and, as resources allow, develop and present training to teenagers about their workplace rights and responsibilities and assist these young workers as they enter and navigate through the workplace. Furthermore, we provide training and information to businesses that employ young workers to encourage them to proactively address discrimination issues confronting young workers.

The Youth@Work website (www.youth.eeoc.gov) is dedicated to educating young workers about their equal employment opportunity rights and responsibilities. The website explains the different types of job discrimination that young workers may encounter and includes an interactive tool called "Challenge Yourself!" that provides an opportunity for young workers to test their knowledge by analyzing sample job discrimination scenarios. In FY 2008, we conducted 1,248 events to educate teenage employees and their employers about workplace discrimination and harassment, reaching 62,797 high school students, parents, teachers, and employers.



In an effort to identify and implement new strategies that will strengthen its enforcement of Title VII and advance the statutory right to a workplace free of race and color discrimination, EEOC developed the E-RACE

(Eradicating Racism and Colorism from Employment) Initiative during FY 2007. In FY 2008, the EEOC continued to identify issues, criteria and barriers that contribute to race and color discrimination, explored strategies to improve the administrative processing and the litigation of race and color discrimination claims, and enhanced public awareness of race and color discrimination in employment. As part of the E-RACE initiative, offices conducted 1,416 events reaching 58,183 individuals. More information about the E-RACE Initiative is located on EEOC's website at <http://www.eeoc.gov/initiatives/e-race/index.html>.



In the federal sector, the EEOC developed the LEAD (Leadership for the Employment of Americans with Disabilities) Initiative to address the declining number of employees with targeted disabilities in the federal workforce. This national outreach and education campaign includes seminars, educational events and focus group sessions to explore the issue of declining employment for individuals with severe disabilities and identify concrete solutions to address the problem.

In FY 2008, the LEAD web pages were further updated. Resources related to recruitment, hiring, and accommodations, as well as links to several federal programs designed to assist individuals with disabilities in finding employment have been added. The website, available at <http://www.eeoc.gov/initiatives/lead/index.html>, also includes program tips agencies can adopt to increase the participation of individuals with disabilities in the federal workforce.

New Freedom Initiative: On February 1, 2001, President George W. Bush announced his New Freedom Initiative (NFI), a comprehensive strategy for the full integration of individuals with disabilities into all aspects of America's social and economic life. EEOC has played a critical role in furthering one of the NFI's primary goals—increased access to the workplace for individuals with disabilities. In February 2008, we issued two documents—one for employers and one for veterans—explaining how the ADA applies to veterans with service-connected disabilities who are seeking to return to work or who are applying for their first job. In September 2008, we issued a question-and-answer document on how the ADA applies to performance and conduct standards, in response to inquiries we have received indicating that there is still confusion about how the law affects these fundamental personnel rules.

Regulations, Enforcement Guidance, and Technical Assistance: EEOC regulations and enforcement guidance represent the Commission's official positions on a range of issues that arise under the employment discrimination laws. In December 2007, the Commission finalized a rule creating an exemption from the ADEA for employers to coordinate retiree health benefits with Medicare-eligibility. The rule allows employers to continue their long-standing practice of providing reduced or no benefits to retirees who are eligible for Medicare (i.e., 65 or older) without violating the ADEA. Although the Commission voted to approve the rule in April 2004, it could not be finalized until December 2007, due to a lawsuit seeking to block its implementation. This litigation ended when the Supreme Court refused to grant certiorari from a decision in EEOC's favor by the Court of Appeals for the Third Circuit.

On July 22, 2008, the Commission issued a new Compliance Manual Section on Religious Discrimination. The new Section addresses: what constitutes "religion" within the meaning of Title VII; disparate treatment based on religion; the requirement to reasonably accommodate religious beliefs and practices; religion-based harassment; and retaliation. The Section also provides guidance on the sometimes complex workplace issues involved in balancing employees' rights regarding religious expression with employers' need to maintain efficient, productive workplaces. The number of religion charges filed with the Commission increased 100% from 1992 to 2007, including a 13% increase last year to 2,880 charges.

AGENCY INFRASTRUCTURE AND THE PRESIDENT'S MANAGEMENT AGENDA

We are constantly seeking ways to achieve organizational excellence by improving our organizational capacity and infrastructure through sound management of our resources—human, financial and technological. Maximizing effective use of our resources is essential to achieve our enforcement and outreach goals and to carry out our mission. Only through organizational excellence, can we rise to challenges and achieve the ambitious measures of success set out in our Strategic Objective.

File Disclosure Workload and Initiative

The agency processes about 16,000 Freedom of Information Act (FOIA) requests each year. In fiscal year 2008, the agency consolidated under its district directors the file disclosure function for responding to FOIA and other requests and implemented a new program pursuant to an A-76 study that will help ensure agency compliance with Executive Order 13392: Improving Agency Disclosure of Information (2005). These steps will also improve the utilization of litigation personnel who were previously performing some records disclosure activities.

Human Capital

The agency continues to improve its strategic management of human capital by completing key components of its strategic human capital management plan by, among other items:

- Considering both workforce analysis and workforce planning as part of program management and the annual budget process;
- Refining the performance management system for executives, for managers and supervisors, and for non-supervisory employees, effectively linking performance with the agency's mission and goals;
- Improving the hiring process by exceeding Office of Personnel Management's (OPM) benchmark of 45 days from close date of vacancy announcement to date of offer; and
- Launching the "Can We Talk?" diversity dialogues to provide employees with the knowledge, skills and tools to be able to identify, constructively confront and modify divisive or inappropriate behavior related to EEO factors and other characteristics that often have an impact on employees' ability to work together.

Information Technology

The EEOC's Information Technology (IT) program in FY 2008 focused on implementing mandatory initiatives, such as the Federal Desktop Core Configuration, Homeland Security Presidential Directive Number 12 (HSPD-12), and Internet Protocol version 6 (IPv6) testing. In addition, EEOC enhanced existing information systems to support the E-RACE initiative, new Freedom of Information Act reporting requirements, systemic enforcement activities, and internal reporting needs. We increased on-demand training materials, implemented full function Google enterprise electronic search appliance and expanded the "Know IT" intranet knowledge-base to support EEOC enforcement and litigation activities.

Also during FY2008, the EEOC deployed online filing capacity for the Electronic Assessment System (EAS) which allows a member of the public, through the EEOC website, to submit a completed questionnaire electronically and have the information populate into EEOC's Integrated Mission System (IMS). The IMS consolidates our mission data on charge intake, investigation, mediation, litigation, and outreach functions into a single shared information system. The new electronic filing process has reduced the data entry burden of manually inputting most information from the intake questionnaires into the IMS.

FEDERAL MANAGERS' FINANCIAL INTEGRITY ACT (FMFIA)

The EEOC's management controls and financial management systems were sound during FY 2008, with the exception of 20 findings of financial non-conformances. Seven financial non-conformances were carried over from FY 2007. The financial non-conformances were identified in several audit reports prepared by the Office of Inspector General.

In FY 2008, the agency corrected 16 of the 20 identified financial non-conformances—the seven non-conformances carried over from FY 2007 and nine non-conformances identified in FY 2008. The agency has implemented corrective action plans to resolve the remaining four non-conformances in FY 2009.

Based on the actions taken and taking the agency's controls environment as a whole, the agency concludes that during FY 2008 its financial and management controls systems were in compliance with the Federal Managers' Financial Integrity Act (FMFIA). Eighty percent of the identified non-conformances were resolved during the fiscal year, and it has plans in place to resolve the remaining financial non-conformances in FY 2009. The controls systems were effective; agency resources were used consistent with the agency's mission; the resources were used in compliance with laws and regulations; and, there was minimal potential for waste, fraud, and mismanagement of the resources.

Performance Results

STRATEGIC OBJECTIVE: JUSTICE, OPPORTUNITY AND INCLUSIVE WORKPLACES

The EEOC is the nation's primary enforcer of the civil rights employment laws, which prohibit discrimination on the basis of race, national origin, color, religion, sex, age, disability, and, as of November 21, 2009, genetic information. The agency was created in 1964 for the purposes of resolving charges of employment discrimination and securing relief for victims of discrimination. More than 40 years later, the public continues to rely on the Commission to carry out these fundamental responsibilities and bring justice and opportunity to the workplace. Our fight against discrimination goes beyond enforcing the law. The best way to combat workplace discrimination is to prevent it from happening in the first place. Educating employers and workers about their rights and responsibilities under the law is the first step toward promoting an inclusive workplace, where all workers are judged on their talents and abilities without regard to any protected characteristic.

EEOC's major programs and activities are investigating and resolving charges of discrimination; litigating complaints of discrimination; conducting hearings, resolving appeals of discrimination complaints and promoting equal employment opportunity in the federal workplace; and educating the public about its rights and responsibilities.

PERFORMANCE MEASURE HIGHLIGHTS

Long-Term/Annual Measure 1

By FY 2012, the number of individuals benefiting from improvements to organizations' policies, practices and procedures because of EEOC's enforcement programs increases by 20.2%.		
	FY 2007	FY 2008
Target	Establish Baseline	2.0%
Result	1,626,000 individuals	222.9%
	Exceeded Target	

We believe it is important to measure our success by looking beyond the monetary and equitable relief we secure through our enforcement actions. Our Long-Term/Annual measure focuses on tracking the improvements that are made in the workplace as a direct result of our enforcement programs. We selected this measure because, when we secure changes in employment policies, practices and procedures through our enforcement programs, we have a positive impact not only on the immediate victims of discrimination, but also on all individuals in the affected workplace.

The Long-Term/Annual Measure was developed to focus on all enforcement services we provide to the public that result in workplace benefits. These results include benefits from administrative resolutions (including mediation), litigation resolutions, and federal sector hearings and appeals resolutions. Beginning in fiscal year 2005, we began collecting data on the number of individuals benefited through private sector administrative resolutions (including mediations) only. Based on that experience, we adapted the same data collection approach for all of our enforcement programs and established annual targets and our final goal for fiscal year 2012.

Enforcement resolutions from our administrative charge processing, litigation, and federal sector hearings and appeals programs benefited approximately 5.25 million individuals in FY 2008, or a 222.9% increase over our FY 2007 baseline number of 1.626 million individuals benefited. Our annual target for FY 2008 was a 2% increase over our baseline or approximately 1.658 million individuals.

Efficiency Measure

By FY 2012, the number of individuals benefiting from improvements to organizations' policies, practices and procedures because of EEOC's enforcement programs for each agency FTE increases by 11.7%.		
	FY 2007	FY 2008
Target	Establish Baseline	1.8%
Result	753.5 individuals per FTE	220.2%
	Exceeded Target	

Enhancing the number of working people who benefit for each agency Full-Time Equivalent (FTE) position demonstrates our efficiency, because over 70% of the agency's budget is dedicated to compensation and benefits. This entirely new area of measurement relies on the number of individuals benefited by our enforcement programs, which are collected for Long Term/Annual Measure 1. As noted in connection with that measure, during FYs 2007 and 2008, we also identified annual targets and established our final goal for FY 2012.

The correlation to our FTE level is appropriate as it recognizes that our staff are the direct contributors to positive change in the workplace and because staff levels are susceptible to change. We believe that this measure will be a compelling indicator of the efficiency of our operation

Long-Term Measure 2

By FY 2012, the public rates its confidence in EEOC's enforcement of federal equal employment laws at 65% or higher.		
	FY 2007	By the End of FY 2010
Target	Establish Baseline	63%
Result	61%	Measure in FY 2010
	Met Target (Baseline Established)	

If the public is aware of our enforcement activities and believes that we have handled discrimination complaints effectively, they will be more likely to rely on us to investigate, mediate, litigate, adjudicate a federal complaint, and otherwise resolve allegations of discrimination. Additionally, if the agency's reputation is one of a fair and responsible enforcer of the civil rights employment laws, then employers, attorneys and other members of the public will be more likely to defer to our assessment of discrimination complaints and commit to voluntary compliance through mediation, settlement or conciliation.

To measure the public's confidence in the agency's enforcement of the federal equal employment opportunity laws, the agency engaged a reputable private organization to conduct a survey in fiscal year 2007 of a representative sample of individuals nationwide. From that survey, we were able to establish a baseline value for FY 2007, and a two-staged multi-year approach to reach a final goal by FY 2012.

FY 2008 Performance and Accountability Report Highlights

Annual Measure 2.1. At least 54% of private sector charges are resolved in 180 days or fewer by FY 2012.

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Target	65.0%	70.0%	70.0%	72.0%	48.0%
Result	67.1%	65.9%	60.7%	55.7%	48.5%
	Exceeded Target				

Annual Measure 2.2. At least 54% of federal sector hearings are resolved in 180 days or fewer by FY 2012.

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Target	35.0%	38.0%	50.0%	50.0%	50.0%
Result	32.8%	51.3%	43.6%	42.8%	38.6%
	Not Met Target				

Annual Measure 2.3. At least 70% of federal sector appeals are resolved in 180 days or fewer by FY 2012.

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Target	45.0%	50.0%	55.0%	60.0%	62.0%
Result	51.8%	52.0%	59.7%	60.7%	63.3%
	Exceeded Target				

Annual Measures 2.1, 2.2, and 2.3 focus on the resolution of private sector charges, federal sector hearings, and federal sector appeals. We have established final goals for fiscal year 2012 for all of these measures, as reflected in the modifications made to the Strategic Plan. In recognition of the maxim that justice delayed is justice denied, these measures ensure the timely resolution of complaints in each of our major complaint handling activities.

The goal of resolving private sector charges within 180 days is important to containing the overall average charge processing time. The Commission approved modifications to the agency's Strategic Plan, which resulted in revisions to the annual targets and final goal for Annual Measure 2.1 based upon several compelling reasons; such as, dramatically increasing workload, declining staff and increased statutory responsibilities. The agency moderately exceeded its modified FY 2008 target at 48.5%. Our annual target for FY 2009 and FY 2010 will remain at 48%, as we increase our efforts to maintain this level of timely service and the quality of our investigations with fewer staffing resources to handle the growing inventory of charges (see our results for Annual Measure 2.4, below).

Annual Measure 2.2 addresses the resolution of federal sector hearings within 180 days. Although the targets and final goal reflects the agency's commitment to continue the timely handling of federal sector hearings, our results compared to the annual targets have been difficult to maintain since FY 2006, when the target rose to 50%. The annual target remains 50% through FY 2009 and then rises from 52% for FY 2010 to 54% as a final goal for FY 2012. Our efforts to achieve this goal have become more difficult because of increasing workloads and decreasing staff, as well as greater attention being focused on enhancing the quality of hearings. For FY 2008 we resolved only 38.6% of the hearings within 180 days or fewer. We will renew efforts to achieve next year's 50% target and prepare for the future increases in the targets for this measure.

Annual Measure 2.3 addresses the resolution of federal sector appeals within 180 days or fewer. The annual targets for this measure have consistently increased and the agency has been able to achieve them every year. FY 2008 was another successful effort where the agency resolved 63.3% of its appeals within 180 days or fewer, exceeding our target of 62%. The target for FY 2009 increases by 2 percentage points to 64%. We will continue to increase the proportion of appeals resolved within the time frame, as we move toward our 70% final goal in FY 2012.

Annual Measure 2.4. At least 93% of investigative files meet established criteria for quality by FY 2012.					
	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Target	Define quality criteria & develop information collection system.	Establish FY 2005 baseline & targets for FY 2006–2009.	87.0%	88%	90%
Result	Defined criteria & developed collection system.	Established Baseline (88.5%) & targets.	88.1%	93.5%	97.0%
	Exceeded Target				

Annual Measure 2.4 ensures that investigative files meet quality standards. As reflected in the modifications, we also established a final goal for this measure. Quality is determined by a large proportion of sampled investigative files reviewed meeting two critical quality criteria: 1) the appropriate charge categorization and file documentation supports the actions taken; and, 2) the resolution of the charge is supported. This measure is intended to ensure that we do not complete our work quickly at the expense of performing our work well. The annual targets for this measure have increased since the baseline was established in FY 2005 and we have exceeded these targets each year. FY 2008 is another year we exceeded the target. Although we are retaining the 90% target for FY 2009, we have increased the annual targets by 1 percentage point each year from FY 2010 to FY 2012.

Annual Measure 2.5. At least 95% of respondents and charging parties report confidence in EEOC's private sector mediation/ADR program by FY 2012.					
	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Target	90%	90%	90%	90%	91%
Result	95.6%	96.3%	96.8%	95.8%	96.5%
	Exceeded Target				

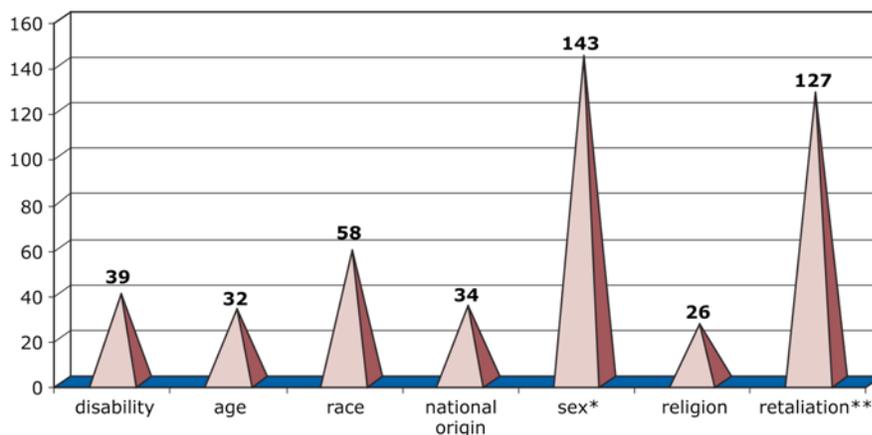
Annual Measure 2.5 focuses on the EEOC's mediation/ADR program. We recognize that the public's confidence in our mediation program has a significant impact on its perception of the EEOC as a whole. We obtain results for this measure by surveying participants in EEOC's mediation program and tabulating responses about their confidence in using the program. This measure has been used by the agency since 2004, so we have significant trend data upon which to base our targets. The confidence level in this program is consistently high. With the recent approval of the Strategic Plan, which significantly increased the final goal, the Commission recognized the need to enhance the results for this measure because a high level of confidence helps to convince participants, particularly company representatives, of the value of alternative dispute resolution. The Commission year-end results of 96.5% of the respondents and charging parties reporting confidence in EEOC's ADR program exceeded the increased FY 2008 target of 91% for this measure.

Annual Measure 2.6. At least 90% of EEOC lawsuits are successfully resolved during the period ending in FY 2012.					
	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Target	90% or higher 6-year rolling average	90% or higher 6-year rolling average	90% or higher 6-year rolling average	90% or higher 3-year rolling average	90% or higher 3-year rolling average
Result	92.2%	92.8%	92.7%	91.5%	91.2%
	Exceeded Target				

Annual Measure 2.6 places a premium on maintaining the high level of successful resolutions in our litigation program. Successful resolutions include cases decided by favorable court order and those concluded through a consent decree or a settlement agreement in litigation. Achieving success on this measure will ensure that we continue to exercise our prosecutorial discretion responsibly, while allowing us to take on challenging issues and litigate complex cases, including cases of systemic discrimination. As our systemic litigation program continues to develop, this measure remains significant and ambitious because the achievement of success in systemic cases is challenging and resource-intensive. This year, we exceeded our goal with a 91.2% litigation success rate based on the results of a three-year weighted average (FYs 2006 to 2008). The success rate for FY 2008 alone was 92.0%. We are continuing this ambitious target in FY 2009.

Review of Content of EEOC Litigation Docket

As in last fiscal year, we reviewed the content of our litigation docket to determine whether our case filings were representative of the categories of claims we are charged with enforcing. To maintain a balanced litigation program, we seek to enforce the law actively with respect to each of the categories protected by the statutes under our charge. The figure below illustrates the number of cases filed in fiscal year 2007 containing allegations with respect to each of the protected categories for which we have litigation authority. (Note that the total number of allegations represented in this chart exceeds the total number of cases filed because many cases contain multiple allegations. Refer to www.eeoc.gov for additional statistics on suit filings and resolutions.)



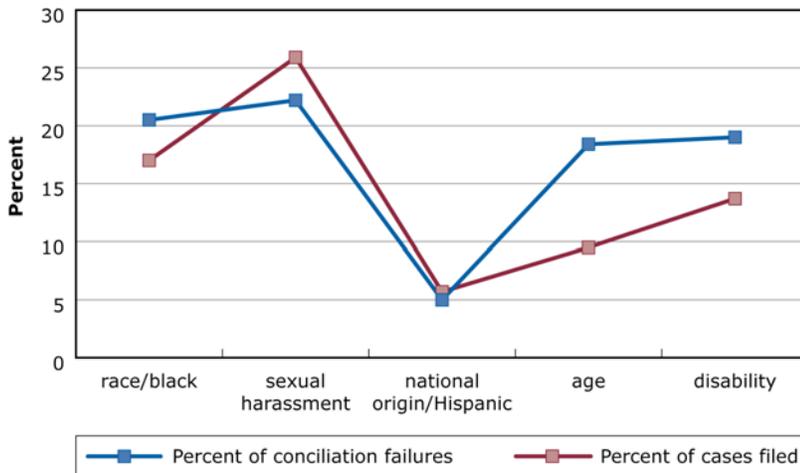
Because of statutory prerequisites for our litigation, a further analysis is necessary to evaluate our case-selection decisions. Under Title VII, the ADA, and the ADEA, the EEOC must make efforts to resolve violations through informal conciliation before filing suit. For those statutes, only cases in which conciliation efforts have failed comprise the pool of potential litigation vehicles for the Commission. We looked at the number of conciliation failures in some

*Of these 143 sex discrimination suits, 87 suits contained claims of sexual harassment.

**Of these 127 retaliation suits, 100 suits contained claims under additional bases.

typical categories of our litigation to determine whether our suit filings were reflective of the pool of available cases. We focused on five representative types of cases subject to a conciliation requirement: race/black, sexual harassment, national origin/Hispanic, age and disability. We calculated the percentage of each type of case filed compared to the total number of suits filed and also calculated the percentage

of conciliation failures under each of these case-types compared to all conciliation failures (using FY 2007 data). The figure below illustrates these comparisons:



This review reveals that our selection of race/black, national origin/Hispanic, and sexual harassment cases for litigation was comparable to their respective share of the cases available to consider for litigation after conciliation efforts failed. We also note that, to the extent that our selection of sexual harassment cases for litigation exceeded the percentage of these charges available for litigation, most of our sexual harassment cases achieve a high impact by seeking relief for

multiple victims of discrimination. Our selection of age and disability cases for litigation was lower than the availability of these cases for litigation. This finding provides us with a useful tool to explore ways in which we can increase the representation of these types of cases on our docket. Overall, these results demonstrate that we are maintaining a docket that is reasonably representative of the categories of claims we are charged with enforcing.

Collaborative FEPA Measure Contributing to EEOC Goals

The Commission's PART improvement plan includes an initiative for the agency to develop, in collaboration with its state and local partners, the Fair Employment Practices Agencies (FEPAs), methods for measuring FEPA performance that support the agency's mission and goals. Throughout fiscal years 2007 and 2008, we have engaged in efforts with the FEPAs and have recommended measures, currently under review, that will focus on the contributions made by the many FEPAs nationwide to the achievement of EEOC's goals. Once the recommended measurement approach is approved, data will be collected and analyzed in order to establish annual targets and a final goal. This cooperative effort with the FEPAs will enhance our relationships and our mutual interests in improving the enforcement of our respective employment discrimination laws.

Other Performance Initiatives

Outreach: The Commission's outreach programs reached 270,298 persons. EEOC offices participated in 5,360 educational, training, and outreach events. This is a decrease in the number of events over the same period in FY 2007, when there were 5,658 events.

We also made 617 media presentations, including newspaper, radio and TV interviews, talk shows, and press conferences that provided substantive EEO information to millions of stakeholders.

Our outreach, education and technical assistance efforts focus on increasing voluntary compliance with federal equal employment laws and on improving the individual awareness of a person's rights and responsibilities.

Mediation Outreach: In FY 2008, EEOC offices conducted 262 outreach events directed toward the private sector employer community to promote our mediation program. Events included workshops, mock mediations, and panel discussions with employer representatives, as well as representatives from the plaintiff and defense bar.

Small Business Outreach: The Commission is working cooperatively and collaboratively with the small business community to proactively prevent employment discrimination and promote voluntary compliance. EEOC offices conducted 724 outreach events directed toward small businesses in FY 2008, reaching 35,515 small business representatives. The most popular topics for small business audiences were an overview of the laws enforced by EEOC, charge processing procedures, sexual harassment, Title VII and the ADA.

Federal Sector Outreach: In FY 2008, OFO rolled out a new program designed to give analytical assessment/feedback of MD-715 model EEO program elements. This endeavor, the EEO Program Compliance Assessment (EPCA) is a type of scorecard in which OFO provided workforce analyses based on race, national origin, gender and targeted disabilities. These analyses show how the particular agency's workforce is composed by major occupation and compare it to the civilian labor force, provide an odds ratio analysis on promotions in the senior grade levels, and show agencies how they compare to the federal government as a whole. Our intention is to provide new and useful ways for agencies to look at their data and to provide a benchmark upon which each agency can measure its progress toward becoming a model EEO workplace.

EEOC Training Institute: The EEOC Training Institute, formerly named "the Revolving Fund," is a separate statutory authority that enables the EEOC to offer in-depth and specialized programs to private sector employers, state and local government personnel, and employees of federal agencies. In FY 2008, the Training Institute trained over 29,000 individuals from the private sector, local, state, and federal government at more than 900 events.

PROGRAM EVALUATION

Program evaluation is an important component of an agency's effort to assure that a program is operating as intended and achieving results. A program evaluation is a thorough examination of program design or operational effectiveness that uses a rigorous methodology and statistical and analytical tools. It also uses expertise within and outside the program under review to enhance the analytical perspectives and add credence to the evaluation and recommendations.

FINANCIAL HIGHLIGHTS

The Office of Management and Budget (OMB) Circular Number A-136 was used as guidance for the preparation of the accompanying financial statements. EEOC prepares four financial statements: the Consolidated Balance Sheets, Consolidated Statements of Net Cost, Consolidated Changes in Net Position, and the Combined Statements of Budgetary Resources. In FY 2007 the Consolidated Statements of Financing was moved to footnote 18 and renamed the Reconciliation of Net Cost of Operations to Budget as outline in OMB Circular A-136. Outlined in the following section are the purpose of each statement, an explanation of any significant amounts, and an explanation of significant fluctuations between FY 2008 and FY 2007. For details and the actual statements themselves, please consult the PAR.

Consolidated Balance Sheets

The Consolidated Balance Sheets present amounts that are owned or managed by EEOC (assets); amounts owed (liabilities); and the net position of the agency divided between the cumulative results of operations and unexpended appropriations.

The FY 2008 cumulative result of operations shows a negative balance. This is due to amounts accumulated over the years by EEOC from financing sources less expenses and losses and an amount representing EEOC's liabilities for such things as accrued leave and actuarial liabilities not covered by available budgetary resources. EEOC's FY 2008 future funded annual leave balances and actuarial FECA liability totaled \$27 million.

Consolidated Statements of Net Cost

The Consolidated Statements of Net Cost presents the gross cost incurred by major programs less any revenue earned. Overall, in FY 2008, EEOC’s Consolidated Statements Net Cost increased by \$14 million or 4%. The allocation of costs for FY 2008 shows that Private Sector resources used for Enforcement and Litigation increased \$13 million while the Federal Sector Programs only increased \$1 million over the past fiscal year.

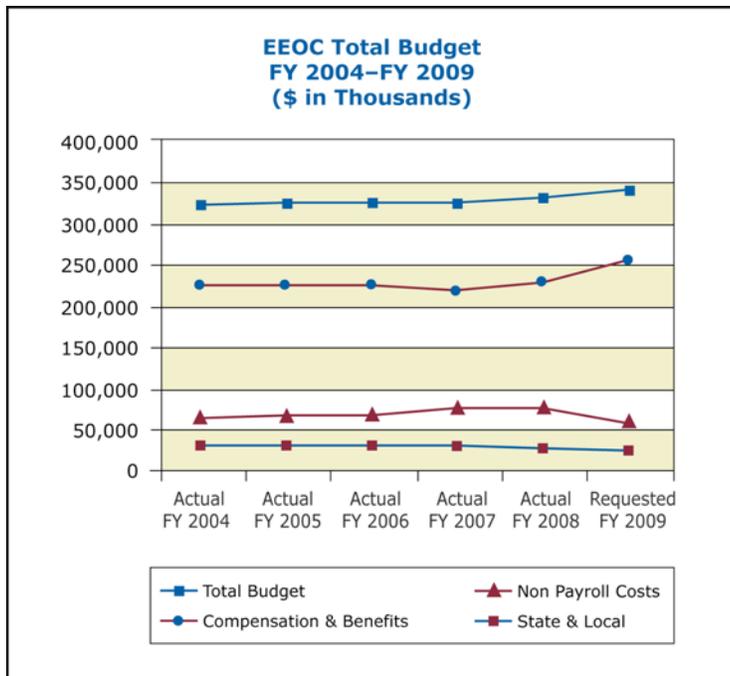
Consolidated Statement of Changes in Net Position

The Consolidated Statement of Changes in Net Position represent the change in the net position for FY 2008 and FY 2007 from the cost of operations, appropriations received and used, net of rescissions, and the financing of some costs by other government agencies. The Consolidated Statement of Changes in Net Position decreased over last year by \$2 million. EEOC’s total asset exceeded total liabilities (funded and unfunded) by \$14 million.

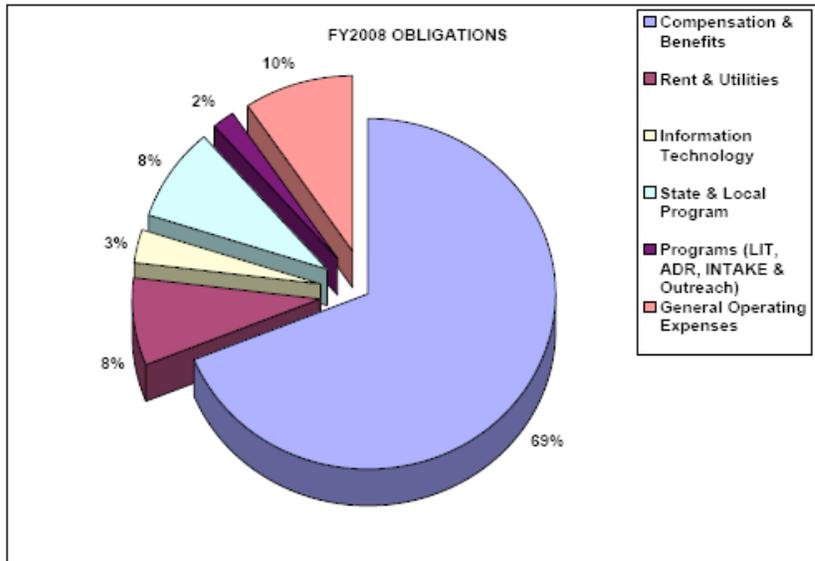
Combined Statements of Budgetary Resources

The Combined Statements of Budgetary Resources shows how budgetary resources were made available and the status of those resources at the end of the fiscal year. In FY2008, EEOC received a \$329 million appropriation, with no rescission. EEOC ended FY2008 with an increase in total budgetary resources of \$2 million over last year. Resources not available for new obligations at the end of the year totaled \$9 million and \$8 million in FY 2008 and FY 2007, respectively. The unobligated balance not available represents expired budget authority from prior years that are no longer available for new obligations.

Use of Resources

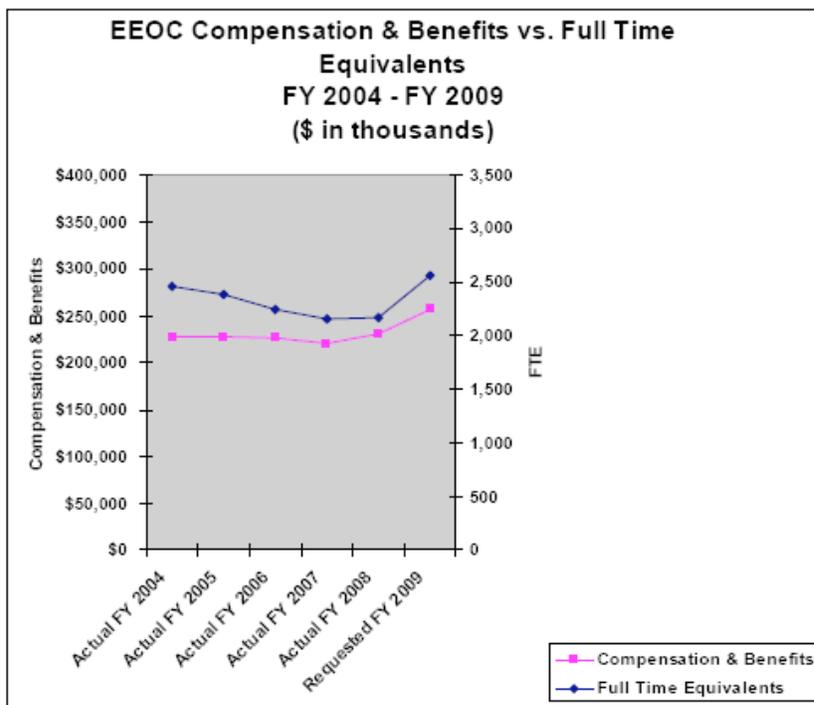


The **line chart** (at left) displays a 6-years historical view of EEOC’s use of resources. Compensation and benefits consumes the majority of the budget at 69%. The second and third items that have consumed a major portion, of which 8% of the budget were for payments to state and local FEPAs, and rent which also consumed 8% of the budget and are included in non-payroll costs.



The **pie chart** displays EEOC's FY 2008 use of resources by major object class. The major portions: Compensation & Benefits, State & Local, and Rent and Utilities. Resources used for Information Technology as well as general operating expenses were consumed at the rate of 13%. Other agency programs (Litigation, ADR contracts, Intake and Outreach) were consumed at the lowest rate of 2%. In comparison to last year, compensation and benefits increased 3% over last year's percentage of 66%.

The **dual axis** chart that depicts EEOC's compensation and benefits versus full-time equivalents (FTE) over the past six years shows an increase in both FY 2008 FTEs and compensation and benefits costs. EEOC's full-time equivalents in FY 2008 increased in part by new-hires hired to replace retiring employees, EEOC's Congressional Budget FTE ceiling increased to 2,556 in FY 2009. EEOC ended FY2008 with 2,166 employees on board. (The current average salary is approximately \$106,252, an increase of \$14,092 or 13% of the FY 2004 average salary).



A MESSAGE FROM THE CHIEF FINANCIAL OFFICER

Our financial statements are an integral component of our Performance and Accountability Report (PAR). The Accountability of Tax Dollars Act of 2002 extends to the agency a requirement to prepare and submit audited financial statements. The President's Management Agenda, Improved Financial Performance component among other standards, requires us to obtain and sustain clean audit opinions on our financial statements. The Office of Management and Budget (OMB) issued Circular A-136, Financial Reporting Requirements, on June 3, 2008, which further consolidated and refined reporting requirements for the PAR submission. In addition, the OMB Memorandum M-08-25, Guidance for Completing FY 2008 Financial and Performance Reports, on August 29, 2008, establishes the reporting structure and due dates for the required reports.

Our fiscal year 2008 financial statements received an unqualified opinion through the hard work of the dedicated financial and administrative staff in the agency. This is the fifth consecutive year that the EEOC has received an unqualified opinion and represents our continuing successful efforts to improve the financial management of the agency. Two years ago the Department of the Interior's National Business Center won a competition to replace the existing financial software with CGI's Momentum[®] software package. The conversion and implementation were completed on October 9, 2007, for fiscal year 2008 operations. The implementation was on-time and within budget.

In support of the Competitive Sourcing component of the President's Management Agenda, we completed an OMB Circular A-76 study for the file disclosure function including back room processing of Freedom of Information Act (FOIA) and Section 83 Compliance Manual requests. In October 2007, the Most Efficient Organization (MEO) was announced as the winning vendor in the competition. The MEO implementation plan covers fiscal years 2008 through 2010 because of the budget resources required for hiring new employees with different skill sets and infusing some new technology.

For fiscal year 2008, the agency received a \$329.3 million budget. We completed the fiscal year within budget with improved financial management and some additional focus on cost controls and cost accounting. Compensation and benefit costs continue to consume a substantial portion of the budget. Some additional progress has been made to bring rising office space rent costs under control by leasing less office space consistent with the number of employees onboard and approved vacancies. However, rent costs decreased to 8% of our total budget. With 8% of the budget dedicated to the State and local program, only 15% of the budget is available for technology, programs, travel, and other general expenses.

As reported in the past, I have identified several critical issues for the agency to focus on to continue to improve its long-term financial health. These include:

- Execute a disciplined analysis of future workforce and infrastructure requirements.
- Recognize and manage competing budget priorities.
- Formulate a long-term performance budget strategy.

In fiscal year 2009, guided by our modified Strategic Plan, we will continue its focus on accountability, financial transparency, and results through improved budget planning, performance metrics and financial management.



Jeffrey A. Smith, CPA, CGFM
Chief Financial Officer
U.S. Equal Employment Opportunity Commission

November 17, 2008

INDEPENDENT AUDITOR'S REPORT



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INDEPENDENT AUDITOR'S REPORT

We audited the financial statements of the Equal Employment Opportunity Commission (EEOC) as of and for the years ended September 30, 2008, and 2007 (not included in this document). We conducted our audits in accordance with auditing standards generally accepted in the United States of America; standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin 07-04, *Audit Requirements for Federal Financial Statements*. In our report dated November 7, 2008, we expressed an unqualified opinion on the complete financial statements.

In our opinion, the accompanying financial information, under the caption Financial Highlights, is fairly stated, in all material respects, in relation to the complete financial statements from which it has been derived.

COTTON & COMPANY LLP

A handwritten signature in blue ink, appearing to read "Colette Y. Wilson".

Colette Y. Wilson, CPA
Partner

November 7, 2008
Alexandria, Virginia

Inspector General's Statements

SUMMARY OF SIGNIFICANT MANAGEMENT CHALLENGES

The following is a summary of issues the Inspector General considers the most serious management challenges the Agency is confronting. For a more detailed discussion, refer to the PAR.

STRATEGIC MANAGEMENT OF HUMAN CAPITAL

The Agency's strategic management of human capital remains a major management challenge and progress appears slow. In its June 2008 Report to the Chairman, Subcommittee on Commerce, Justice, Science, and Related Agencies, Committee on Appropriations, U.S. Senate, the Government Accountability Office (GAO) notes that after four years, EEOC's efforts to develop, communicate and implement a strategic human capital plan are still incomplete. The Office of Human Resources (OHR) last updated the draft plan in September 2007. A recent revised plan was sent to the Chair's office for review on September 30, 2008.

PRIVATE SECTOR CHARGE INVENTORY

EEOC faces a major challenge in adequately addressing the growing backlog of private sector discrimination cases. This backlog, known as charge inventory, is growing rapidly and is expected to continue growing. The primary negative effect is the delay in case resolution for thousands of EEOC primary customers, the people who believe they have been discriminated against.

Preliminary Fiscal Year 2008 information indicates that EEOC received 95,000 new private sector charges. This represents 12,000 more than last year, resulting in a beginning Fiscal Year 2009 inventory of nearly 75,000 charges. This presents an enormous challenge, according to the Director of the Office of Field Programs. In order to slow growth in, and then eventually decrease inventory, EEOC needs either dramatic budget increases (which would enable hiring of many more staff to process cases) or major improvements in how efficiently it processes cases. Dramatic budget increases are extremely unlikely, therefore, EEOC needs to focus on major improvements in case processing.

BUDGET AND PERFORMANCE INTEGRATION

The EEOC remains challenged in integrating budget and performance. Without better data in this area, it is difficult to know how well EEOC performs with the resources it is given. The Agency still has the lowest possible Program Assessment Rating Tool score (Results Not Demonstrated) from the Office of Management and Budget. This means that EEOC cannot yet measure performance adequately. To address this deficiency, the EEOC, in 2007, adopted an improvement plan. Significant progress has been made, including work in the reporting period that includes identification of specific performance targets and goals. EEOC is also continuing to work with the EEOC's Fair Employment Practices Agencies to determine effective ways to measure their contributions.

In July 2008, the Agency adopted a strategic plan that greatly reduced the performance goal and targets for private sector case resolution processing time. For 2012, the target was reduced from 75 percent to 54 percent of cases that will be resolved within 180 days. OMB did not accept the new targets, leaving the authority of the Agency's Strategic Plan in doubt. Without solid performance data to support the lowering of performance levels, as decided by the Commission, the EEOC will likely face renewed and major challenges in determining and justifying short and long term performance targets. Until EEOC senior managers, particularly those responsible for private sector case processing, accept the need to gather and use the performance data necessary to assess performance accurately, these long-standing challenges will continue.

Appendices

APPENDIX A: BIOGRAPHIES OF THE COMMISSIONERS AND THE GENERAL COUNSEL

The EEOC has five commissioners and a General Counsel appointed by the President and confirmed by the Senate. Commissioners are appointed for five-year, staggered terms. The term of the General Counsel is four years. The President designates a Chair and a Vice Chair. The Chair is the chief executive officer of the Commission. The five-member Commission makes equal employment opportunity policy and approves litigation. The General Counsel is responsible for conducting EEOC enforcement litigation under Title VII of the Civil Rights Act of 1964 (Title VII), the Equal Pay Act, the Age Discrimination in Employment Act, and the Americans with Disabilities Act.

Naomi Churchill Earp, Chair



Naomi Churchill Earp assumed the role of Chair of the U.S. Equal Employment Opportunity Commission (EEOC) on August 31, 2006, after serving as Vice Chair of the Commission since April 28, 2003. On October 26, 2005, President Bush reappointed Ms. Earp for a second term. Her current term expires on July 1, 2010.

Ms. Earp serves as the chief executive officer of the Commission. In conjunction with fellow Commissioners, she also guides the development and establishment of EEO policy and approves high impact and novel litigation actions.

Ms. Earp brings to the EEOC hands-on leadership and management experience; a strong track record of promoting diversity; and expertise in the equal employment opportunity field. Her breadth of experience, spanning the private and public sectors, provides valuable insight into employment-related issues.

Ms. Earp's work experience in promoting diversity in EEO includes a series of progressively responsible leadership positions with various federal agencies, including the National Institute of Science and Technology, the National Institutes of Health (NIH), the Federal Deposit Insurance Corporation, and the U.S. Department of Agriculture. At the NIH, Ms. Earp spearheaded the development of a world-class diversity initiative and a nationally-recognized alternative dispute resolution program. At the Department of Agriculture, she headed the Equal Opportunity Program, which included minority small businesses and minority farmers. Ms. Earp also served as an Attorney Advisor at the EEOC during the mid-1980s. In addition, she has worked as an independent consultant providing services to private employers and public agencies on a variety of employment-related issues and programs.

Stuart Ishimaru, Commissioner



Stuart J. Ishimaru has been a Commissioner of the EEOC since November 17, 2003. Mr. Ishimaru was re-nominated by President George W. Bush for a second term and confirmed by the U.S. Senate on December 19, 2007. His term expires July 1, 2012.

As a member of the Commission, he participates with the other Commissioners on all matters which come before it—including the development and approval of enforcement policies, authorization of litigation, and approval of agency regulations.

Christine M. Griffin, Commissioner



Christine M. Griffin was sworn in on January 3, 2006, as a Commissioner of the U.S. Equal Employment Opportunity Commission. Ms. Griffin was nominated by President George W. Bush on July 28, 2005, and unanimously confirmed by the U.S. Senate on November 4 to serve the remainder of a five-year term expiring July 1, 2009.

Ms. Griffin's work experience in labor and employment law includes positions in both the public and private sectors. Most recently, she served as the Executive Director of the Disability Law Center in Boston from 1996 to 2005. The Law Center provides legal advocacy on disability issues that promote the fundamental rights of all people with disabilities to participate fully and equally in the social and economic life of Massachusetts. As

Executive Director, she provided leadership for the Law Center's 25 employees and conducted its overall management, including programmatic and fiscal planning, priority setting and implementation, and fundraising.

Constance S. Barker, Commissioner



Constance S. Barker was sworn in July 14, 2008, as a Commissioner of the U.S. Equal Employment Opportunity Commission. Ms. Barker was nominated by President George W. Bush on March 31, 2008, and unanimously confirmed by the Senate on June 27 to serve the remainder of a five-year term expiring on July 1, 2011.

Ms. Barker brings extensive experience in labor and employment law, including positions in both the private and public sectors. As a shareholder at Capell & Howard, P.C. in Montgomery, Ala., she provided advice regarding the prevention of discrimination complaints and defended clients in employment discrimination lawsuits. Her public-sector experience includes four years as an assistant district attorney for the 11th and 13th Judicial Circuits of Alabama, one year as a judge for two Alabama localities, and 11 years as the general counsel for the Mobile County Public School System.

Ronald S. Cooper, General Counsel



Ronald S. Cooper was sworn in August 11, 2006, to a four-year term as General Counsel of the U.S. Equal Employment Opportunity Commission. He was nominated by President George W. Bush on March 27, 2006, and unanimously confirmed by the Senate on July 26.

Mr. Cooper most recently was employed as a partner in the Washington D.C. office of Steptoe & Johnson LLP, where he had specialized in employment litigation for over 34 years. He primarily represented employers at the trial and appellate level in litigation throughout the country including case brought under Title VII, The Age Discrimination in Employment Act, The Equal Pay Act, The Americans with Disabilities Act and The Fair Labor Standards Act. These cases included large class actions and government enforcement matters. In addition to actions brought under federal law, he represented employers with

respect to claims brought under state and local laws. Mr. Cooper also represented both employees and employers in restrictive covenant and executive compensation cases.

Leslie E. Silverman, Former Vice Chair



Leslie E. Silverman became Vice Chair of the U.S. Equal Employment Opportunity Commission on September 8, 2006, after serving as a Commissioner since March 7, 2002. She was first nominated by President George W. Bush in February 2002 and unanimously confirmed by the U.S. Senate on March 1, 2002. Ms. Silverman was renominated to a full term in July 2003 and unanimously confirmed by the Senate in October 2003. Her term expired on July 1, 2008.

Vice Chair Silverman led the EEOC's Systemic Task Force which examined the EEOC's efforts at combating systemic discrimination. In April 2006, the Commission unanimously adopted the Task Force's major recommendations aimed at improving the EEOC's systemic program.

APPENDIX B: INTERNET LINKS

EEOC: <http://www.eeoc.gov/>

EEOC FY 2008 Performance and Accountability Report:
<http://www.eeoc.gov/abouteeoc/plan/par/2008/index.html>

EEOC FY 2007 Performance and Accountability Report:
<http://www.eeoc.gov/abouteeoc/plan/par/2007/index.html>

EEOC Strategic Plan: <http://www.eeoc.gov/abouteeoc/plan/strategic07-12/index.html>

EEOC FY 2008 Performance Budget: <http://www.eeoc.gov/abouteeoc/plan/2008budget/index.html>

EEOC FY 2007 Performance Budget: <http://www.eeoc.gov/abouteeoc/plan/2007budget/index.html>

EEOC Annual Report on the Federal Workforce: <http://www.eeoc.gov/federal/fsp2007/index.html>

E-RACE Initiative: <http://www.eeoc.gov/initiatives/e-race/index.html>

Youth@Work Initiative: <http://www.eeoc.gov/initiatives/youth/index.html>

LEAD Initiative: <http://www.eeoc.gov/initiatives/lead/index.html>

We Welcome Your Comments

Thank you for your interest in the EEOC's FY 2008 Performance and Accountability Report. We welcome your comments on how we can make this report more informative for our readers. Please send your comments to:

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