



Federal Election Commission
Office of Inspector General

**Inspector General Statement on the
Federal Election Commission's
Management and Performance
Challenges - 2018**

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Office of Inspector General

MEMORANDUM

TO: The Commission

FROM: J. Cameron Thurber
Deputy Inspector General 

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

DATE: October 24, 2018

Each year, the Inspector General (IG) is required to provide a summary and assessment of the most serious management and performance challenges facing the Federal Election Commission (FEC). The requirement is contained in the *Reports Consolidation Act of 2000* (Public Law 106-531), an amendment to the *Chief Financial Officers Act of 1990*. The attached document responds to the requirement and provides the annual statement on Commission challenges to be included in the *Federal Election Commission Agency Financial Report (AFR) Fiscal Year (FY) 2018*.

For FY 2018, the Office of Inspector General (OIG) still believes, as reported in FY 2017, that the overarching management and performance challenge at the FEC is the agency's Governance and Management Framework. This overall agency challenge creates critical management and performance issues within the agency's environment, programs, and negatively impacts the effectiveness and efficiency of achieving the agency's mission. The OIG believes that the ability to effectively achieve the mission of the agency is reliant on the need for Governance and the Senior Leadership to address the deficiencies within the governance framework, which sets the tone and structure of the organization.

The OIG's annual assessment of management and performance challenges is based on information derived from a combination of several sources, including OIG audit and inspection work, Commission reports, management meetings, government-wide risk factors, and a general knowledge of the Commission's programs and activities. The management and performance challenges are detailed in the attached report. The *Reports Consolidation Act of 2000* permits agency comment on the IG's statements. Agency comments, if any, are due November 15, 2018.

Attachment

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

Inspector General Statement on the Federal Election Commission's Management and Performance Challenges for Fiscal Year 2018

Overall Challenge: Governance and Management Framework

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

Challenge 1: Governance Accountability

A. Low Employee Morale

Due to the consistent low ranking of the FEC in the results of the annual Federal Employee Viewpoint Survey (FEVS), the OIG contracted with a consultant company to conduct a study to determine the root causes of the low employee morale at the agency. The study revealed that the following factors are the root causes of low employee morale:

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

The FY 2017 FEVS results places the FEC at 27 of 28 best places to work amongst small agencies. Additional survey data identified that less than half of the agency staff participated in the survey. The continued low agency ranking and minimal participation of FEC staff in the survey demonstrates the impact of the low employee morale at the FEC.

Since the employee morale study has been released, we acknowledge management's improvements in the area of communication regarding critical agency-wide projects, specifically, the recent relocation of the agency's headquarters. However, as low employee morale has a direct effect on accomplishing the agency's mission, we believe that an action plan from top level management to address all the root causes of low employee morale is still critical. The most important part of a solid control environment is the "Tone at the Top,"¹ which permeates down to create the philosophy and operational style that sets the culture of the agency. The OIG believes that without a continued, sincere effort by Governance to address morale issues, the objectives of the agency's offices and divisions will continue to be negatively impacted, increasing the risk of the agency not efficiently and effectively meeting its mission.

B. Enforcing Required Management Roles and Responsibilities

It is imperative to the success of the agency that Governance holds management accountable for adequately fulfilling their roles and responsibilities in addressing

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

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identified risks of fraud, waste, abuse, and program deficiencies. The OIG and external entities have reported risks and deficiencies in agency programs that management has not addressed or have made a low priority for several years. According to the Office of Management and Budget Circular A-123 (OMB A-123), *Management's Responsibility for Internal Control*, deficiencies reported "...through internal review or by external audit, should be evaluated and corrected." Further, FEC Commission Directive 50 states, "All management officials are responsible for receiving and analyzing audit reports, providing timely responses, and take corrective action, if needed." However, the agency has 61² outstanding recommendations that have been reported by the OIG, in which many have been reported since FY 2004.

Management's prior year response to this challenge stated they are following FEC Commission Directive 50, reporting semiannual progress of outstanding recommendations to the Commission. However, the updates provided show little to no progress, and in many cases the corrective action due dates are continuously extended with no management corrective action taken. In addition, the recently developed FEC Senior Management Council (SMC) to address OMB Circular A-123 requirements for oversight of internal controls and enterprise risk management, developed their initial risk profile and identified many control issues related to long outstanding recommendations such as *Privacy and Data Protection* and *Disaster Recovery Plan and Continuity of Operations Plans* as only a "medium" risk to the agency. However, the OIG has issued reports on these specific areas that contain critical weaknesses that expose a high risk to the agency, and these reports have recommendations that have been outstanding for five years or more.

Collectively, these long outstanding issues that have been reported to management address risks to the agency's mission, assets, government funding, and compliance with laws and regulations. The remediation of these issues is essential to reducing the high likelihood of the risk exposure to the agency, warranting Commission attention and for management to institute corrective action.

Challenge 2: Longstanding Vacancies in Senior Leadership Positions

The FEC lacks continued stability in key senior leadership positions that are accountable for the mission and objectives of the agency. The FEC's SMC initial risk profile for the agency rated multiple agency vacancies as a "very high" risk for the agency, and the OIG agrees with this management risk assessment.

Operating the agency with several vacant permanent senior leader positions, some staffed with personnel in acting roles, creates an unstable environment that runs the risk of noncompliance with applicable federal laws and regulations. This ultimately puts the agency at risk of not efficiently and effectively meeting the agency's mission. The following critical FEC senior leadership positions are currently vacant or filled only by staff in an acting capacity:

² The total recommendation count includes the 11 repeat recommendations from the *FEC's FY 2017 Financial Statement Audit* and the 50 recommendations included in the *OIG's Review of Outstanding Recommendations as of August 2018*.

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

Failure to fill these senior leadership positions in a timely manner with permanent full-time employees also creates resource gaps. When senior leader positions are vacant or filled with those in acting positions on a long-term basis, voids are often created in management positions that are responsible for the adequate oversight of daily operations. Thus, the following management level positions are currently vacant with only some having an acting personnel assigned:

- Chief Information Security Officer
- Director of Human Resources
- Accounting Director
- Budget Director
- Deputy General Counsel for Law
- Deputy Chief Information Officer of Operations

As many of these positions require specialized knowledge and skills to ensure office operations are effectively and efficiently supporting the overall mission of the agency, assigning acting personnel to many of these vacant positions on a long term basis is not an efficient solution. It is imperative that the Personnel Committee elevate the importance of filling these vacant senior leader and management positions as a priority to ensure consistency and clear direction in the leadership of the agency.

Challenge 3: Organizational Structure

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

A. Information Security Program

Since 2004, the OIG has reported the need for the FEC to make improvements to its information security controls. Through audits and assessments conducted by the OIG and external entities, remediating weaknesses within the agency’s information security program has been identified as a low priority. As examples, currently the FEC’s annual financial statement audit includes several long outstanding audit findings related to the security of FEC information, some initially reported in FY 2004. In addition, an OIG report, *Inspection of the FEC’s Disaster Recovery Plan and Continuity of Operations Plan*, released in January 2013 still has outstanding audit recommendations that identify areas of high risk to agency information and have yet to be addressed by management.

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This issue has also been identified by external entities who have worked with FEC management to conduct evaluations and assessments of the agency's security measures. For instance, in June 2017, the agency was provided an analysis from Cyber.gov Systems Analysis Team who stated that there is a "lack of prioritization of cyber security" within the FEC, and recommended that the agency "prioritize cyber security alongside IT operations in strategic and operational planning." Following in July 2017, the Department of Homeland Security (DHS) provided a report to the FEC stating that cyber security at the agency "competes with and is often secondary to IT operations."

In addition to the need for prioritization, the agency's Information Security Office requires restructuring to ensure the agency meets its mission requirements efficiently and effectively over the next several years, with a high level of accountability, per the requirements of the agency Reform Plan outlined in OMB Memoranda M-17-22. As noted above in Challenge 2, one of the critical management positions that is currently vacant is the FEC Chief Information Security Officer (CISO). As the position has only been vacant for a short amount of time, due to the increasing security requirements and the agency's current need for improvements to its information security program, it is critical that the agency not only fill this position with a qualified security professional, but also elevate this position to provide proper management authority. Through the OIG's management exit conference meetings held with the two prior FEC CISOs, it was noted that both persons separated from the agency due to the need of the position to be elevated³ to achieve proper authority and effective operations. In addition, both prior CISOs also noted a need for additional support staff within the Information Security Office to ensure progressive maturity of the agency's information security program.

Not only do the long outstanding information security control weaknesses reported by the OIG support the need for this restructuring, but the external assessments noted above also support the concerns of the prior CISOs. The Cyber.gov analysis specifically notes that the "CISO position at management level reduces effectiveness" and recommends that the FEC "elevate seniority level of [the] CISO". The analysis also recommends that the FEC "develop a cybersecurity team" as the office is currently staffed with only one full-time employee with the CISO vacancy. This point is further stressed in the subsequent report from DHS which states the need for FEC to "increase FEC cybersecurity staffing."

Further, the FEC is also in need of an applicable government-wide framework to support the agency's information security program. As the FEC's Office of General Counsel has determined that the agency is legally exempt from the *Federal Information Systems Management Act*, an applicable framework for information security has not been formally adopted or adequately implemented. The OIG has recommended that the FEC formally adopt the applicable standards of the National Institute of Standards and Technology (NIST) as its framework since FY 2009, but the agency has not sufficiently implemented this recommendation. The June 2017 DHS report states, "FEC elects to integrate the NIST SP 800-37r1 into their security architecture, but does not implement or follow the guidelines of NIST 800-53Ar1..."

³ CISO position is currently staffed at a GS 14, which is lower than those who the CISO must provide instruction and direction to, such as Deputy Chief Information Officers, to ensure proper security measures are carried out.

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We do note that the agency has made significant improvements by updating many policies and procedures to address identified control weaknesses, reducing the number of outstanding vulnerabilities, and most notably, assessing and authorizing the operations of major agency systems. In order to continue addressing outstanding security control issues, ensure the agency is compliant with applicable security requirements, develop a plan to fully implement an acceptable government-wide security framework, and ultimately work to develop a sufficiently mature FEC security program, the information security program and office at the FEC must be revamped to address these major challenges.

B. Proper Leadership Structure

Currently, the senior leadership roles of the Staff Director and Chief Information Officer (CIO) are filled by the same individual. As both senior leader positions are critical to the agency, we strongly believe these two positions should have separate full time personnel solely dedicated to each position. The current structure does not with OMB's control environment standard to "appropriately delegate the authority and responsibility throughout the agency," and "establish a suitable hierarchy for reporting." Specifically, FEC employees and supervisors have expressed concerns of inhibition with reporting significant personnel concerns or technology issues as the oversight of these issues are reported to the same individual. Further, this dual position presents at minimum an appearance of bias, as there is only one person with oversight over more than half of the agency's programs, and a large portion of the agency's operating budget.

The Office of the Chief Information Officer's (OCIO) processes and controls are also impacted by not having a fully devoted CIO. There are several reported control weaknesses within the FEC's information security program that have been reported in more than one OIG report, with some recommendations being outstanding as long as 14 years. In response to this challenge in the prior year's report, management provided examples of processes and policies that have been implemented to address these OIG reported control weaknesses. However, these management actions have been reviewed by the OIG and external auditors each year and found to be insufficient to fully address the reported issues, and they continue to be reported in the annual financial statement audit and the OIG's annual *Review of Outstanding Recommendations* report. Without a fully dedicated CIO to focus on these issues to ensure resources are properly allocated, and adequate processes are in place for the protection and safety of the agency, the agency will remain at high risk for fraud, waste, and abuse.

C. Senior Agency Officials for Privacy

Per OMB Memorandum 16-24, *Role and Designation of Senior Agency Officials for Privacy*, the designated SAOP [Senior Agency Official for Privacy] should serve in a "central leadership position at the agency," and have "agency-wide responsibility and accountability for the agency's privacy program." The agency's Privacy Program is currently a shared role between the Office of General Counsel (OGC) and the OCIO, with the designated SAOP being a shared role assigned to the Deputy CIO of Operations and the Deputy General Counsel. This current agency structure has not shown to be

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effective or efficient, supporting the OIG's recommendation to have one person solely dedicated and knowledgeable of privacy issues to oversee the agency's Privacy Program.

As of August 2018, the Deputy CIO of Operations retired from the agency, and this portion of the SAOP role has been assigned to an OGC attorney, serving as the Acting Deputy Staff Director. Management noted in their prior year response to this challenge, that "the official in each of those positions has significant oversight over a discrete portion of the agency's Privacy Program;" however, the current structure of having two attorneys with oversight of the agency's Privacy Program does not ensure coverage of the privacy regulations over information security which has been heavily enhanced through the recent revisions of OMB Circular A-123, and the applicable privacy requirements included in guidance such as OMB Memoranda M-17-2 *Preparing for and Responding to a Breach of Personally Identifiable Information* and M-18-02, *Guidance on Federal Information Security and Privacy Management Requirements*. The lack of proper oversight for the information technology and security portions of the Privacy Program places the agency at greater risk of being susceptible to privacy breach issues.

An example of the inefficiencies to the Privacy Program is demonstrated in the lack of progress made in implementing the recommendations in the *2010 Follow-up Audit of Privacy and Data* that was released in March of 2011. Management included in their prior year response to this management challenge a table noting several recommendations that have been completed by management, resulting in only nine remaining open recommendations, and stated that "the OIG sought to re-open multiple recommendations...management has not been able to discern the rationale for such re-openings nor convince OIG that these recommendations had been completed."

The OIG notes that this narrative from management is inaccurate. Currently, there are 23 outstanding recommendations related to privacy issues, including issues that haven't been resolved since 2009.⁴ In addition, the OIG contacts management twice a year for status updates regarding open recommendations. Specifically for the past eight follow-up reviews (2015 – present)⁵ the OIG has requested adequate documentation from management to support any corrective actions taken, and has provided feedback to management regarding our review and any deficiencies noted that impacted the closure of an open recommendation. Also during the noted review period above, management specifically stated on several occasions that they had made no corrective actions. These review details are captured and publicly posted in each of the OIG's Review of Outstanding Recommendations reports. Further, as noted in our February and August 2017 review reports, the OIG agreed to schedule a separate meeting to discuss each open recommendation; however, on the meeting day, management provided no feedback or documentation to support stated corrective actions. During subsequent follow-ups management did not provide feedback or respond to meeting requests.

⁴ An inventory of FEC systems containing Personally Identifiable Information (PII) was conducted by Solution Technology Systems Inc. who provided recommendations to enhance the protection of PII. The report was dated May 20, 2009, and no further action has been taken by management.

⁵ Review details are documented in the OIG's Review of Outstanding Recommendations reports posted on the OIG's external website.

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OGC recently hired an attorney with responsibilities specifically focused on administering the FEC's Privacy Act Program. The OIG has worked with the new privacy attorney regarding the outstanding privacy issues and was able to receive an updated management Corrective Action Plan report containing revised due dates, some updated corrective action plans, and closed two of the open recommendations. Although adding additional resources in support of the Privacy Program is a great asset to the agency, it should be noted that the new privacy attorney does not have expertise in privacy issues related to information technology. As the current FEC SAOP structure requires two management positions covering Privacy Law and IT security, the FEC's Chief Information Security Officer position is currently vacant,⁶ and the assigned acting SAOP for IT coverage also does not have IT security expertise to advise the privacy attorney in this specific area.

⁶ The Chief Information Security Officer was placed on the Privacy Program team in support of the SAOP IT role.

ATTACHMENT A
Management's Response
(2018 Management & Performance Challenges)

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

November 13, 2018

In its Statement on the FEC's Management and Performance Challenges ("Statement"), the Office of the Inspector General ("OIG") identified three overarching management and performance challenges for inclusion in the FEC's Agency Financial Report for Fiscal Year 2018. Management's response to the OIG statement is below.

Challenge 1: Governance Accountability

A. Low Employee Morale

Management is committed to investing time, resources, and effort to make a lasting impact and improvement to the morale of FEC employees. Management believes the efforts highlighted in the FY17 Response to the OIG Statement on Management and Performance Challenges have contributed to meaningful gains in employee morale.

The 2018 FEVS results were recently released and the FEC had an eight percentage point gain in employee satisfaction.² The FEC had the second largest gain of all small agencies with more than 100 employees. Additionally, the FEC went from having less than half of its employees responding in the survey in FY17 to 61% responding to the FEVS survey this fiscal year, fifteen percentage points above the government-wide average. Out of 71 items in the survey, 64 had positive gains when compared to FY17 results. Of particular note is that these gains came in the midst of significant changes at the FEC, primarily the move to a new location.

We recognize that there are multiple factors that contribute to morale at the agency, and there are no simple solutions. The Commission has an exceptional workforce filled with dedicated professionals whose hard work and commitment to excellence enables the agency to carry out its essential mission. For this reason, it is vital that we continue to foster a workplace that is positive and productive, where everyone feels valued. Some of the efforts that management has made since the release of the Morale Study and that have continued in FY18 are summarized below:

Management Performance Plans. The following items were included in all management performance plans for the 2017-18 review year, as well as the 2018-19 review year:

- Engage in efforts to improve morale and foster a culture of trust within the manager's area of responsibility, including implementing recommendations from the Morale Study.

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

² https://www.govexec.com/management/2018/10/agencies-biggest-gains-and-losses-employee-happiness/152417/?oref=govexec_today_pm_nl

- Engage in efforts to improve as a manager, including training, participation in a 360 Review, and development and implementation of a Leadership Development Plan.
- Provide training opportunities (both formal and informal) for all staff. Utilize in-house resources including Skillport and OCIO one-on-one trainings.
- Meet with each employee at least one time during the performance year in addition to the six-month and annual reviews to get the employee's input on how things are going and ideas for improvement.

Involving Staff in Preparation for the FEC's Office Space Move. Throughout the entire FEC move process, management was committed to engaging and informing staff. Bargaining Unit members served on the Lease Renewal Advisory Team and on each of its subcommittees. Management also regularly updated the internal portal, "FEC Move," on the agency's intranet page that provided LRAT meeting minutes, photos of construction progress, and news about the move.

Management Training. The agency has undertaken multiple training programs to target some of the areas where improved management performance is necessary to boost employee morale. Trainings have been held on areas including diversity and inclusion, conflict resolution, general management skills, and individual leadership training. Management is continuing this momentum by partnering with OPM to deliver on-site supervisory training to managers later this month. Management has also placed an emphasis on training, including it as a target in our annual performance and budget plans submitted to OMB and Congress. Since September 2016, over half of agency managers have undertaken 360 Reviews conducted by OPM and developed leadership plans to develop strengths and improve. Importantly, language has been added to all managers' performance plans requiring that the managers demonstrate a commitment to improving morale and documenting steps taken within his or her area of responsibility.

Staff Professional Development. Divisions throughout the agency continue to give staff opportunities for professional growth.

- OGC detail program with the US Attorney's Office in the District of Columbia, which provides staff attorneys the opportunity to prosecute general misdemeanor cases and develop their investigative and litigation skills;
- OGC staff opportunities to serve details within different divisions in the Office;
- OCIO staff partnering one-on-one with staff from the General Services Administration's 18F to learn new information technology skills;
- Information Division conducted training sessions for agency staff that participate in outreach efforts to learn how to maximize webinar participation;
- RAD conducted branch-wide professional development months focused on skills training and one-on-one coaching sessions available to all staff;
- Brown-bag lunches and informational sessions where staff can learn about what other divisions do and ask questions of senior staff and Commissioners; and
- Expanded opportunities for eligible FEC staff to compete for detail positions and temporary promotions within the agency.

Diversity in Hiring and Promotion. Agency managers have undertaken a substantial effort to expand the diversity of the pool of applicants that apply for FEC positions, including OGC reaching out to local law schools, and having ongoing dialogs with Black Law Students Associations and Hispanic Latino Law Student Associations. OGC also launched an ongoing externship opportunity with Howard Law School, as well as participated in a Latina/o Alumni Association of the Washington College of Law (American University) externship program offered for displaced law students from the University of Puerto Rico. Agency managers continue to ensure that hiring panels are diverse and inclusive, ensuring that multiple viewpoints are present.

Communication. Management has undertaken efforts to communicate more clearly and consistently across the agency as well as within divisions. Each division has been encouraged to hold regular division meetings, and senior leaders routinely attend those meetings to answer questions on any topic, as schedules have allowed. We have also attempted to be more proactive in getting information out. Some divisions are holding brown bag lunch and learn programs and are undertaking other, informal activities to give staff and managers a chance to interact. Most importantly, management continues to encourage an open door policy for employees to come with any questions or concerns at any time.

Management understands that improving morale is not a one-off, “check the box” project. Our efforts on this front will continue.

B. Enforcing Required Management Roles and Responsibilities

Management follows FEC Commission Directive 50, reporting semi-annually on the progress of all outstanding recommendations identified in OIG audits. As was highlighted in the May 2018 submission of Corrective Action Plans, progress was made to close some longstanding items in the COOP/Disaster Recovery Plan and Privacy and Data Protection CAPs. Management will be circulating Corrective Action Plans in November 2018, which will show significant progress to close remaining items in the Human Resources audit.

Pursuant to the Federal Managers Financial Integrity Act (FMFIA) and OMB Circular A-123, the FEC established guidance to describe a Senior Management Council (SMC) for oversight of internal control and enterprise risk management (ERM) activities throughout the agency. The SMC meets, at minimum, on a quarterly basis and includes senior agency officials from all divisions of the FEC. The SMC is chaired by the agency Chief Financial Officer (CFO), who – with the agency Staff Director and General Counsel – is responsible for discussing recommendations for action with the FEC Commissioners regarding internal control and ERM actions, required for the agency to remain compliant with the FMFIA and OMB Circular A-123.

The SMC helps ensure that the FEC implements and maintains a strong internal control framework including a positive internal control environment featuring top management commitment to the values of promoting the highest ethical standards and organizing all program and administrative processes to promote accuracy, efficiency, and compliance with

all applicable laws and regulations, and to minimize, prevent, or promptly detect and correct any instances of fraud, waste, abuse, and mismanagement. The control environment will include promoting internal control knowledge and awareness among all staff.

While the entrenchment of strong internal controls requires the active involvement of all agency personnel, this council recognizes that the most effective means of maintaining a robust internal controls environment requires a definitive and united “tone at the top.” This council involves the senior leaders and key managers who are all committed to this mission and the continual improvement of the internal controls environment of the FEC.

During FY18, the SMC formally met to review and assess the risk profile for the agency. The SMC adjusted the agency’s risk profile after the departure of a Commissioner and after the move to the new building location. Management is committed to regularly assessing the agency’s risk profile and ensuring that adequate measures are in place to mitigate any risks. The SMC also communicated regularly when reviewing the annual A-123 submissions from FEC divisions.

Challenge 2: Longstanding Vacancies in Senior Leadership Positions

Management acknowledges that there are vacancies throughout the agency. Management continues to work with the Personnel and Finance committees for approval to post and hire qualified individuals for all of the identified positions. As identified by the OIG, the positions of Chief Financial Officer, General Counsel, Deputy Staff Director for Management and Administration, and the Deputy Chief Information Officer for Operations are all currently filled by qualified full-time employees on an acting basis. By statute, only the Commission can select a permanent General Counsel and Inspector General; and by agency practice, the same is true of the Chief Financial Officer. The Commission has recently selected an Inspector General and is nearing the conclusion of the hiring process for a Chief Financial Officer. Additionally, the Personnel Committee has approved the following positions to be filled on a permanent basis: Deputy Staff Director for Management and Administration, Deputy Chief Information Officer for Operations, and Chief Information Security Officer. All of these positions are currently in the hiring process and we anticipate concluding the hiring process in the next couple of months. As the senior leadership vacancies are filled, the Personnel and Finance Committees will closely scrutinize any remaining vacancies. In light of recent budget guidance from the Office of Management and Budget, prudent management requires that close examination is paid to the potential impact of each vacancy that is approved to hire. The Personnel and Finance Committees are committed to analyzing the current FEC workforce and looking ahead to fiscal years in order to avoid having to implement a reduction in force.

Challenge 3: Organizational Structure

A. Information Security Program

OIG raises the concern that the FEC Information Security Program needs to be prioritized. Management shares this view and has committed considerable resources towards

strengthening the FEC's information security program. OIG also highlights the need to elevate the seniority level of the Chief Information Security Officer. Management recently requested assistance from OPM's HR Solutions to review and reclassify the CISO position as a GS-2210-14/15, elevating the position to the same level as the two Deputy Chief Information Officers. Management is currently in the hiring process to recruit a new individual to fill this elevated role.

Consistent with advice from the Office of General Counsel and in accordance with the Commission's decision, the OCIO continues to implement a NIST-based Risk Management Framework (RMF) for the three most critical information systems-- the General Support System, E-Filing System, and Agency website. On September 15, 2017, in response to a request from the Deputy Inspector General, the Acting General Counsel and Chief Information Officer submitted a memorandum explaining the impact of the Commission's decision and the steps OCIO has taken to implement the RMF. OCIO will continue to brief the Commission and Senior Management on necessary changes to the IT Security Program and continuously identify and mitigate risks in consultation with the Senior Management Council.

B. Proper Leadership Structure

OIG raises the concern that having the positions of Staff Director and Chief Information Officer filled by the same individual concentrates oversight of a significant portion of the agency's operating budget under a single individual. It should be noted that prior to the current incumbent becoming Staff Director, the Chief Information Officer reported to the Staff Director. When the current incumbent became Staff Director, the Commission made the CIO position one that reported directly to the Commission. Assuming the Commission would return to prior practice if separate individuals were appointed to fill each position, the CIO would again report to the Staff Director and the portions of the budget identified by OIG would still be under the ultimate control of a single individual – that is, the Staff Director. Moreover, all agency IT projects are required to be approved by the Finance Committee prior to OCIO initiating the project, and approval of the full Commission is required before undertaking long-term projects of high magnitude, such as the redesign of the Commission's website. This reporting structure does not put the FEC at any greater risk for fraud, waste, or abuse. In reality, it allows for expedited decisions through the proper change control processes of the Finance, Personnel, and IT committees.

C. Senior Agency Officials for Privacy

The OIG states the "agency's Privacy Program is currently a shared role between the Office of General Counsel (OGC) and the OCIO, with the designated SAOP being a shared role assigned to the Deputy CIO of Operations and the Deputy General Counsel." However, this is incorrect. The FEC's Privacy Program is a shared role between the Office of General Counsel and the Office of the Staff Director, who in turn can designate officials to act in their capacity. The SAOP is a shared role between the Deputy General Counsel for Administration and the Deputy Staff Director for Management & Administration. The Privacy Team

includes the Chief Information Security Officer, the Administrative Law Team, and other individuals as needed. The OIG highlights that the individual currently serving as Deputy Staff Director for Management and Administration in an acting capacity is an attorney. As a result, OIG questions whether having two attorneys overseeing the Privacy Program would not ensure coverage of information security. Management disagrees with this, since the individual serving as Deputy Staff Director is not serving as a practicing attorney in this role. The current arrangement ensures that privacy issues are adequately addressed throughout the agency and accounts for the collateral nature of the duties for the senior leaders performing the duties. Additionally, in FY18 the Administrative Law Team hired an attorney with significant experience in the Privacy Act to be able to assist management with resolving these longstanding issues. She will also be taking a rigorous information security training; upon completion she will be accredited as a Certified Information Systems Security Professional (CISSP), which will provide additional cross-pollination of knowledge between the legal and information security branches of the Privacy Team. Management is confident the current Privacy Team structure adequately addresses legal concerns and information security through having a dedicated administrative law attorney and the CISO.

As noted by OIG, a revised corrective action plan was put in place and two open recommendations were closed. There is currently an individual serving in an acting capacity for the CISO role who has the expertise regarding IT security to competently advise the privacy attorney of IT related issues.

Outstanding Recommendations

The OIG states that the current Privacy Audit has 25 outstanding recommendations and that the Co-SAOPs have not made any significant progress on the Privacy Audit's outstanding recommendations since June of 2013. Referring to these alleged outstanding recommendations, OIG claims that during the most recent review, "the SAOPs did not respond to any of the OIG's inquiries to discuss the current open recommendations." OIG helpfully shared with Management the 25 Privacy CAP recommendations considered to be outstanding earlier this year. Management respectfully disagrees with this assessment, concluding that there are only nine outstanding recommendations. Indeed OIG has re-opened multiple closed recommendations, including some recommendations closed more than six years ago. Moreover, OIG's claim that the Co-SAOPs have not made "any significant progress" since June 2013 ignores ten of these "outstanding recommendations" that have been completed since that date.³ However, as a result of conversations with OIG, OGC's new FOIA/Privacy Act attorney has begun addressing these outstanding recommendations so as to find ways to reach agreement with OIG on what is needed to close

³ Additionally, in a January 23, 2017 memorandum to the Inspector General, the Co-SAOPs accepted the identified risks of not implementing OIG's recommendations for two outstanding recommendations (1a and 7b). In that memorandum, Management also noted that although two other recommendations (6c and 6e) had been implemented and Management had provided documentation that the recommended tasks were completed in May and June of 2015, Management would accept the identified risks "[t]o the extent OIG believes the identified tasks are insufficient to meet the recommendations." It appears that recommendation 6e remains open for OIG's purposes.

specific recommendations. Most of the successes of this reinvigorated partnership with OIG will most likely be seen in the FY19 report, but it is our understanding that OIG has agreed that recommendation number 10b is now closed as of August 22, 2018.

The breakdown of OIG’s 24 “outstanding recommendations” (now that recommendation 10b has been closed) is displayed below (recommendations Management considers completed and closed are highlighted):

Outcomes of the 25 OIG “Outstanding Recommendations”

Recommendation Number	Management Response	Completion Date
2a	Completed	November 2011
2b	Completed	June 2011
2c	Completed	May 2015
3b	Completed	June 2011
4a	To be completed by Mgmt	N/A
4b	To Be Determined by Mgmt (Management is reconsidering strategy for meeting this recommendation)	N/A
4c	Completed	December 2012
4d	To Be Determined by Mgmt (Management is reconsidering strategy for meeting this recommendation)	N/A
5a	To Be Determined by Mgmt (Management is reconsidering strategy for meeting this recommendation)	N/A
5b	To Be Determined by Mgmt (Management is reconsidering strategy for meeting this recommendation)	N/A
6e	Completed	June 2015
7a	Completed	June 2015
7d	Completed	June 2015
7e	Completed	June 2015

7f	Completed	June 2015
8d	Completed	October 2012
10b	Completed	June 2015
11a	To Be Determined by Mgmt	N/A
11b	Completed	June 2015
11c	Completed	June 2015
12a	Completed	May 2012
12b	To be completed by Mgmt	N/A
12d	To be completed by Mgmt	N/A
12e	To be completed by Mgmt	N/A
13	Completed	June 2015

Management has signaled its continued willingness to work with OIG on closing many of the outstanding recommendations, and indeed, has mapped out a schedule that could represent closing most, if not all, of the outstanding recommendations by the close of calendar year 2019.

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