

# Technology and Performance Audit and Management Review of the Federal Election Commission

Volume I – Final Report

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## Executive Summary

For more than 200 years, a defining principle of American politics has been the use of an open, fair, and informed process to elect our Nation's leaders. While many governmental and public interest organizations share in the responsibility to maintain this principle, 27 years ago the Congress passed the Federal Election Campaign Act (FECA) and two years later created a central role for the Federal Election Commission (FEC). The FEC, especially in its early years, appeared as a strong force in overseeing the Federal election system. However, with an increasingly complex and controversial campaign finance system, FEC effectiveness in accomplishing its statutory responsibilities is being questioned.

As the agency charged with administering and enforcing the FECA, the FEC has four major statutory responsibilities:

- Provide disclosure of campaign finance information
- Ensure that candidates, political committees, and political parties comply with the limitations, prohibitions, and disclosure requirements of the FECA
- Administer the certification of public funding for Presidential elections and ensure that all related expenditures comply with the FECA
- Serve as a clearinghouse for information on election administration

**Project Scope.** The Treasury and General Government Appropriations Act of 1998 (Public Law 105–61) mandated that the General Accounting Office (GAO) contract for an independent technological and performance audit of the FEC on behalf of the Senate and House Appropriations and House Oversight Committees. In consultation with these committees, the GAO issued a statement of work on May 6, 1998, to conduct an evaluation of the FEC. The statement of work required an impartial assessment of the following areas:

1. The overall effectiveness of FEC in meeting its statutory responsibilities
2. The appropriateness and effectiveness of the FEC organizational structure, systems, and performance measures for accomplishing its mission
3. The adequacy of the FEC human resource programs for obtaining and maintaining adequate staff expertise and organizational capacity

4. The adequacy of the FEC strategic information resources management plan as a tool to increase FEC efficiency and effectiveness through the use of data-processing systems
5. The adequacy and completeness of internal management and financial control systems to efficiently and effectively serve FEC management needs, as well as the reliability of information provided by these systems
6. Regulated customer satisfaction with the products and services provided by the FEC

### **Overview of Findings**

Today, the FEC finds itself in an electioneering environment vastly different from the one 25 ago when it was created. Where once campaigns were characterized by “volunteers” and “contributions,” the current election process has evolved into a high-velocity system of complex transactions and litigious recourse, punctuated by the actions of a few participants engaging in behavior designed to push the limits of the traditional campaign finance system.

The FEC is basically a competently managed organization with a skilled and motivated staff, although it has shortcomings. The ability of the FEC to adapt to the changing election environment, however, has been hindered by the FECA statute itself, escalating campaign finance disclosure and compliance workloads, and an organizational culture that has attempted incremental change in a deadline-driven environment stretched by limited resources. As a result, notable strengths and weaknesses characterize the Commission. These are its general strengths:

- The FEC has a strong organizational focus on facilitating voluntary compliance within the filing community to create an accurate public record of campaign finances.
- The filing community is generally satisfied with the products and services provided by the FEC.
- Productivity has increased in the processing, review, and dissemination of campaign finance transactions in the face of increasing workloads.
- Confidentiality of potential and existing compliance matters is maintained throughout the report review, referral, audit, and enforcement processes.
- Disclosure and compliance activities are executed without partisan bias.

However, FEC operations have these shortcomings:

- Campaign finance report disclosure and review activities rely on an antiquated paper-based and manual transaction coding, entry, verification, and clarification processes.
- FEC organizational units operate in a compartmentalized and autonomous manner that leads to diminished communication, collaboration, and innovation.
- Because of limited staff resources and increasing case complexity, current volumes of enforcement cases appear to exceed FEC disposition capacity.
- Absence of a descriptive offense categorization approach to monitor and analyze compliance violations and closed enforcement matters limits Commissioner, policy maker, and public awareness of emerging FECA offense trends and how the FEC has allocated resources to respond to these changes. (Other Federal law enforcement agencies have developed these categorization profiles to track offender changes and readjust enforcement strategies.)

### **Assessment Findings for Six Specific Study Topics**

**1. With its current level of resources and escalating workloads, the FEC accomplishes its disclosure responsibilities, but struggles to meet its compliance mission.** The agency operates in a fair, impartial manner, maintaining strict confidentiality and a low tolerance for errors. It discloses campaign finance activity in a manner that effectively furthers the intent of the FECA. The FEC operates in an electoral environment where the vast majority of participants comply with the spirit and letter of the law. Against this background, however, the FEC applies its compliance and enforcement tools in a somewhat disjointed manner. Efficiency and productivity remain secondary considerations behind confidentiality, impartiality, and mistake avoidance.

The organization places a premium on facilitating voluntary compliance, and the regulated community values the products and services designed and employed by the FEC to enhance this voluntary compliance. The Commission's disclosure of the sources of campaign funds provides the electorate with opportunities to make informed choices. The process is highly customer focused and produces timely products; however, the FEC processes to review and disclose reported information involve many inefficient activities related to data coding, entry, and transaction clarification. More intelligible and useful information at less cost could be provided if the FEC made a number of enhancements to its filing, disclosure, and reports analysis processes.



The FEC compliance program seeks to ensure compliance with FECA prohibitions and limitations on the sources and amounts of funds and disclosure requirements. Unlike the disclosure program, the compliance program is not a unified process with predictable workflows. Because of limited staff resources and increasing case complexity, current volumes of enforcement cases appear to exceed FEC disposition capacity.

The Commission’s Enforcement Priority System (EPS) is a system for prioritizing enforcement matters in the face of limited staff resources. The EPS is a reasonable triage approach and operates without evident partisan bias. EPS allows the FEC to exercise prosecutorial judgment while providing sufficient structure to differentiate among cases for Commissioner disposition. Improvements to strengthen the accountability of the case-activation process and an increase in enforcement resources to expand the number of cases activated for disposition would enhance compliance effectiveness.

Exhibit ES–1 summarizes the FEC disclosure and compliance programs along the assessment criteria of mission achievement, results orientation, fairness, and efficiency.

Exhibit ES–1

**FEC Disclosure and Compliance Program Assessment Summary**

<b>Mission Achievement.</b> Do the core FEC programs further the letter and intent of the law? <i>Yes, with qualification.</i>	
<b>Disclosure</b>	<b>Compliance</b>
<ul style="list-style-type: none"> <li>• Disclosure deadlines routinely met</li> <li>• Disclosure enhances enforcement of FECA</li> <li>• Accurate public record of campaign finances ensured by reviewing and clarifying transactions</li> <li>• Disclosure database provides electorate with detailed campaign receipt, but not expenditure, information with which to make informed choices</li> </ul>	<ul style="list-style-type: none"> <li>• FEC seeks to enforce full FECA spectrum</li> <li>• FEC internal referrals yield more cases of “reporting” noncompliance, while external complaints yield more cases of “finance” noncompliance</li> <li>• 1,179 cases closed (1/1/94–9/30/98)               <ul style="list-style-type: none"> <li>➢ 2% Suit authorization (29)</li> <li>➢ 22% Conciliation (262)</li> <li>➢ 1% Probable Cause To Believe* (13)</li> <li>➢ 12% Reason To Believe* (140)</li> <li>➢ 3% No Reason To Believe (36)</li> <li>➢ 33% Low-priority dismissal (388)</li> <li>➢ 23% Staleness dismissal (273)</li> <li>➢ 3% Other dismissal (37)</li> </ul> </li> </ul>

\*With No Further Action taken.

Note: Percentages do not add to 100 percent because of rounding. In 1995, the FEC found one case with No Probable Cause To Believe with No Further Action taken. That case is not shown in the details above.

<b>Results Orientation.</b> Does the FEC produce strategic outcomes that add value to the Federal election system? <i>Yes, with qualification.</i>	
Disclosure	Compliance
<ul style="list-style-type: none"> <li>• High customer satisfaction with products and services</li> <li>• High value associated with public information</li> <li>• Reporting of campaign finance transactions are a significant part of the election process</li> </ul>	<ul style="list-style-type: none"> <li>• Focus on facilitating regulated community voluntary compliance to create an accurate public record of campaign finances</li> <li>• Uncertainty as to whether FEC selects the right cases to respond to emerging compliance offense trends</li> </ul>

<b>Fairness.</b> Are FEC programs conducted in an impartial, ethical, and independent manner? <i>Unqualified yes.</i>	
Disclosure	Compliance
<ul style="list-style-type: none"> <li>• No partisan bias apparent in document processing, coding, entry, or reports analysis</li> <li>• No partisan bias evident in release of public records or information</li> <li>• No partisan bias evident in reports analysis leading to internal audit or enforcement referrals</li> </ul>	<ul style="list-style-type: none"> <li>• High level of confidentiality maintained</li> <li>• No partisan bias apparent in the Enforcement Priority System</li> <li>• FEC staff generally perceived by filers and those who practice before the FEC as independent and nonpartisan</li> <li>• High ethical standards espoused throughout organization</li> </ul>

<b>Efficiency.</b> Does the FEC use its resources to achieve consistent performance in conducting its business? <i>Yes, with qualification.</i>	
Disclosure	Compliance
<ul style="list-style-type: none"> <li>• 33% of total FEC FY 1998 FTEs</li> <li>• Productivity varies with odd and even election cycle years</li> <li>• Productivity has increased for reports processing and Requests for Additional Information (RFAs)</li> <li>• Manual paper-based coding and data entry disclosure processes cause inefficiencies related to time, accuracy, cost, and compliance</li> <li>• Technology is improving productivity</li> </ul>	<ul style="list-style-type: none"> <li>• 31% of total FEC FY 1998 FTEs</li> <li>• 29% of Audit resources</li> <li>• 50% of Office of the General Counsel resources consumed by enforcement cases                         <ul style="list-style-type: none"> <li>➢ 50% of monthly pending cases activated for disposition</li> <li>➢ Decreasing case closure times</li> </ul> </li> <li>• 17% of Office of the General Counsel resources consumed by litigation</li> </ul>

**2. The FEC employs effective systems to establish performance objectives, measure results, and allocate resources to accomplish its key functions.**

**However, the current FEC organizational structure limits the degree of communication and the efficient achievement of some of its business objectives.** To measure its success in meeting its mission, the FEC develops annual performance plans with many specific measures for each of its four core programs. The agency maintains automated and manual systems to track actual results against planned accomplishments to adjust resources as necessary and to estimate budgetary needs. While the Office of the General Counsel currently tracks case status and enforcement resources manually, it is implementing a case management system to automate data collection and reporting.

Many FEC organizational units operate in a compartmentalized and autonomous manner. These “stovepipes” appear to have led to the following problems:

- An uneven understanding throughout the organization of how each unit performs its functions and the decision-making processes behind workflows
- Multiple handoffs between units that result in redundancies, rework, and extra concurrence processes
- Diminished sharing of “lessons learned” and “best practices” throughout the organization

The FEC needs to take steps to increase collaboration and communication among its work groups. Greater use of existing and new multidisciplinary teams to address reoccurring business problems will facilitate efforts to streamline work processes to better manage growing workloads. Until most campaign finance reports are filed electronically, however, limited opportunities exist to further streamline FEC disclosure and reports review operations. The Commission should continue efforts to streamline compliance functions by examining ways to reduce the number of handoffs among compliance offices and the levels of review within the Office of the General Counsel.

**3. FEC human resource practices support the maintenance of a strong institutional knowledge of the FECA. But in so doing, FEC staff have developed norms on the “ways things get done” that limit the ability to change.** FEC staff members are dedicated to the FECA and believe that they are making a difference. Overall, human resource recruitment, selection, and retention procedures are standardized and consistently used throughout the agency. Most senior managers feel that they are recruiting qualified candidates. However, there are a number of organizational culture issues that stem from long-tenured staff that discourage innovation and limit

needed organizational communication. Because many of the senior staff have been with the FEC for almost 20 years and may retire in the near future, the Commission needs to begin taking a more strategic and proactive approach to managing its workforce to maintain its organizational capacity.

**4. Since 1996, the FEC has made substantial progress in enhancing and upgrading its computing capabilities, but much remains to be done. A strong reliance on its information systems strategic plan helps the FEC maintain a disciplined approach on technology deployment. Deploying improved information systems remains critical to the future effectiveness and efficiency of the FEC.** The FEC pursues opportunities to employ technologies that increase disclosure and compliance program effectiveness. Program process efficiencies have been achieved by the following means:

- The migration to a client/server information technology environment with document-imaging and group-messaging capabilities
- The implementation of a limited electronic filing system to automate manual data entry and as the first step toward improving internal document receipt and review processes
- The transfer of the point-of-entry for House candidate committee filings to the FEC
- The ongoing implementation of an automated case management system in the Office of the General Counsel

Despite these accomplishments, important issues remain that must be addressed, such as the coordination and redesign of business processes based on new computer technologies, implementing methods to increase use of electronic filing techniques, and replacement of antiquated software used for the disclosure database system. Significant improvements in FEC effectiveness will require that these opportunities be addressed.

**5. The FEC maintains a comprehensive management information system that reliably captures detailed program performance and financial information used for formulating budget justifications.** This information is used by the FEC Finance Committee and senior staff to formulate budget justifications. The FEC effectively monitors its budget and allocation of FTEs and nonpersonnel resources, and its accounting and financial reporting systems appear to adhere to Federal financial reporting standards. FEC performance and financial information is comprehensive and has been in place for years, but it could be applied to a broader range of management planning and decision making throughout the organization.

**6. On balance, the surveyed filing community is quite satisfied with the products and services provided by the FEC.** While the level of usage of products and services varies, the degree of satisfaction is consistently positive. A telephone survey of 353 randomly selected filers was used to assess satisfaction, and those surveyed filers generally perceived the Commission to be fair and nonpartisan. On a scale from 1 to 10, where 1 means poor and 10 means excellent, surveyed filers gave the FEC an average rating of 8 on how well it was doing its job. Moreover, anecdotal interviews with other FEC stakeholders and practitioners agree that the FEC staff act in an impartial and independent manner and that the Commission's disclosure program adds value to the Federal election system. On the other hand, as some would expect, public interest advocates and legal practitioners engaged in adversarial actions with the FEC expressed dissatisfaction for a variety of reasons with the way the Commission selects, pursues, and disposes of compliance matters.

### **Growing Workload and Resource Issues**

Workload for the FEC has been escalating over the years. For example, during the 1996 election cycle with a Presidential election, candidate and committee disbursements exceeded \$2.7 billion, up dramatically from the \$1 billion election cycles in the late 1980's. During FY 1997 through FY 1998, the FEC coded and entered roughly 1.9 million transactions, compared with 800,000 transactions entered during the FY 1990–1991 period. Approximately 90,000 reports filed by more than 8,000 committees have been reviewed during the 1996 election cycle to date. To clarify reported transactions, more than 17,000 first and second Requests for Additional Information were sent to committees during this same period, an increase of five percent over the 1994 election cycle. The Reports Analysis Division referred 200 potential audits after the 1996 election cycle, compared with roughly 100 referrals each made after the 1994 and 1992 cycles. While the total number of enforcement cases pending at the end of FY 1998 declined to 195 from a level of 263 at the end of FY 1997, the complexity of those cases increased as measured by the monthly average number of respondents per pending case, which increased from 7 in FY 1997 to 11.5 at the end of FY 1998. As the number of respondents increases per case, each investigative step in the enforcement process consumes an increasing amount of resources to move the case forward.

Current and future workloads require increased productivity in the FEC disclosure and compliance programs. The Congress increased the FEC FY 1999 appropriation by \$4.85 million over its FY 1998 level of \$31.65 million (an increase of 15.3 percent). It also authorized a personnel ceiling

of 347 full-time equivalents (FTEs), an increase of 34 FTEs (10.8 percent) over the FY 1998 authorization of 313 FTEs. As shown in Exhibit ES-2, FEC FTE levels for FY 1999 have recovered from the effects of its FY 1995 appropriation recision, with an overall increase of 10 percent. The Commission will be assigning its new FTE resources to its Audit, Data Systems, and General Counsel activities.

Exhibit ES-2

**FEC FTEs for FY 1995-FY 1999**

FEC Division/Office	1995	1996	1997	1998	1999*	% Change '95-	
						1998	1999
Commissioners	19.1	16.3	15.6	15.2	20.0	-20%	5%
Staff Director	26.1	25.8	24.0	23.4	24.0	-10%	-8%
Administration	19.2	20.0	19.5	18.5	21.0	-4%	9%
Audit	31.3	37.3	33.6	31.8	42.0	2%	34%
Information	13.5	12.7	12.9	12.2	13.0	-10%	-4%
General Counsel	104.3	95.3	92.8	99.4	115.0	-5%	10%
Clearinghouse	6.0	5.2	4.8	4.8	5.0	-20%	-17%
Data Systems**	35.0	36.9	38.0	40.6	47.5	16%	36%
Public Disclosure	14.6	14.6	12.5	13.5	14.0	-8%	-4%
Reports Analysis	41.9	40.4	39.0	39.6	42.0	-5%	0%
Inspector General	3.8	4.0	4.0	3.7	4.0	-3%	5%
<b>TOTAL</b>	<b>314.8</b>	<b>308.5</b>	<b>296.7</b>	<b>302.7</b>	<b>347.5</b>	<b>-4%</b>	<b>10%</b>

Source: FEC FY 1999 and FY 2000 Budget Request Justification, FEC FY 1999 Management Plan.

\* FY 1999 shows authorized FTEs allocated according to FEC FY 1999 Management Plan. All other years are actual.

\*\*Includes Automated Data Processing and Electronic Filing System initiatives of 6.2 FTEs in 1996 and 1997, 10 FTEs in 1998, and 8.5 FTEs in 1999.

The FEC faces an increasing and volatile workload with the year 2000 election cycle, which features a nonincumbent Presidential election. Increased FTE and automated data processing initiative resources should facilitate improved FEC FY 1999 program performance. Depending on the number of Presidential candidate committees, the size of the enforcement caseload, and the Commission desire to increase case-activation rates, additional compliance resources in FY 2000 may be warranted above normal inflation-adjusted levels. FY 2000 appropriations should be conditioned on the agency's continued progress in implementing

opportunities to increase productivity in its disclosure and compliance programs.

To date, through incremental changes to management practices and beginning automation of business processes, the FEC has increased the productivity of its disclosure, audit, and enforcement activities in the face of escalating workloads. Future opportunities for improving efficiency need to focus on the FEC disclosure and compliance programs. The statutory construct of the Presidential public funding system and the minimal resources associated with the Office of Election Administration makes these programs a lower priority for improvement efforts.

As discussed in Section 3, FEC Organizational Assessment, and Section 4, Program Process Assessment, a number of short- and long-term changes could be made by the FEC to increase operational productivity to make it a high-performance organization.

### **Recommended Actions**

While the study identified 33 opportunities for improvement to increase overall FEC performance, Section 5, Summary of Recommendations, identifies the 21 changes that will yield the greatest benefit. These changes range from incremental short-term activities that could be conducted entirely by the FEC to significant and long-term changes that would require Congressional action. A summary of these improvement actions that would increase FEC efficiency and effectiveness follow.

The Congress and the FEC need to initiate actions that will eventually allow the FEC to shift some resources from its disclosure activities to its compliance programs by the following means:

- Develop a comprehensive, mandatory electronic data filing system for the major filers in conjunction with a significant business process reengineering throughout the FEC
- Redesign disclosure processes (using industry standard software) and realign organizational units to improve processing time, accuracy, and cost
- Monitor compliance with the FECA through a computer-based exception reporting system to verify transaction accuracy, content, and disclosure thresholds

Unless the paper-based, manual disclosure processes are changed to a mandatory and fully functional electronic filing system, the current well-regarded FEC disclosure function faces deterioration under the rapidly

increasing volume of campaign finance transactions expected in future election cycles.

Because of case complexity and the increasing number of respondents, important enforcement actions may not be activated in the future or may be dismissed for lack of resources. Increasing the number of enforcement personnel will increase case activation and closure rates. However, consideration of further increases in enforcement staff levels should be linked with implementation of steps to increase compliance and enforcement productivity in the following ways:

- Move nondeliberate and straightforward reporting violations such as failure to meet reporting deadlines away from the enforcement process and into an administrative fine system which will allow enforcement resources to focus on more significant violations
- Establish workload and performance standards for all compliance matters to better allocate and manage available resources
- Aggregate data about compliance matters by descriptive offense category to better coordinate screening criteria and prioritize compliance resources for the strategic outcomes desired by the Commissioners
- Reassess the roles and responsibilities of the Office of the General Counsel to reduce staff time consumed in repetitive legal reviews of enforcement matters and to harmonize the reports review and audit-screening referral criteria to expedite case activation

Finally, the FEC needs to renew itself by conducting a broad range of organizational development activities to strengthen leadership and accountability, to enhance human resource management, and to nurture increased communication and collaboration throughout the organization.

## **Conclusion**

While the FEC has accomplished much in its 25-year history, its future success will require that it aggressively pursue both incremental and significant changes in organization, work processes, technology, and management practice.

The threat of the increasing volume and volatility of workload for the FEC is real and near. Failure to change will lessen the FEC capacity to meet its basic FECA requirements, while at the same time it will require ever-increasing staff resources to meet those minimal requirements.



There is now a window of opportunity to renew the organization with the recent appointment of three new Commissioners, the need to appoint a permanent Staff Director and recruit a new Director of Personnel, and heightened attention to improving the Federal election process.

Change will not be easy, but it will be necessary if the FEC is to meet the difficult challenges it faces. Change will have to come from both inside and outside the FEC. This study has identified many steps that the FEC can take on its own to streamline operations, enhance management practices, and redesign business processes to leverage technology initiatives. However, several actions such as the authorization for mandatory electronic filing, the establishment of an administrative fine system, and the institution of a single point-of-entry for all registered committees will require Congressional action. Without these authorizations, it will be difficult for the FEC to capitalize on the many opportunities identified.

### **Agency Comments**

A draft of this report was provided the FEC on January 15, 1999, for review and comment. Their comments on the report are presented in full in Section 6, FEC Comments. As the Commission stated:

We take the recommendations seriously, and in the coming months, we will study them and try to find ways to implement those that will enable us to serve the public better and to more effectively carry out our mission of administering and enforcing the Federal election laws. While the recommendations are helpful, in some cases they are not sufficiently specific to be implemented without further definition and exploration. As a first step in responding to the report, therefore, we will seek, where appropriate, to undertake cost/benefit analyses and to define the specifics of the recommendations in the report.

In addition, their comments reiterated the FEC accomplishments identified in the report, endorsed the overarching themes of the recommendations, and recognized the influence of outside factors on FEC operations and the public's perception of the value that the FEC adds to the election process.

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[www.gao.gov/special.pubs/publist.htm](http://www.gao.gov/special.pubs/publist.htm)

1.0  
Introduction

## 1.0 Introduction

The Federal Election Campaign Act (FECA) regulates the financing of elections for Federal office. It limits the sources and amounts of funds used to support candidates for Federal office, requires disclosure of campaign finance transactions, and provides for the public funding of Presidential primary and general elections. As the agency charged with administering and enforcing the FECA, the Federal Election Commission has four core statutory responsibilities:

- Provide disclosure of campaign finance information
- Ensure that candidates, political committees, and political parties comply with the limitations, prohibitions, and disclosure requirements of the FECA
- Administer the certification of public funding for Presidential elections and ensure that all related expenditures comply with the FECA
- Serve as a clearinghouse for information on election administration

### 1.1 Project Overview

The Treasury and General Government Appropriations Act of 1998 (Public Law 105–61) mandated that the General Accounting Office (GAO) contract for an independent technological and performance audit of the FEC of behalf of the Senate and House Appropriations and House Oversight Committees. In consultation with those committees, the GAO issued a statement of work on May 6, 1998, to conduct an evaluation of the FEC. The statement of work required an impartial assessment of the following areas:

- The overall effectiveness of FEC in meeting its statutory responsibilities
- The appropriateness and effectiveness of the FEC organizational structure, systems, and performance measures for accomplishing its mission<sup>1</sup>
- The adequacy of the FEC human resource programs for obtaining and maintaining adequate staff expertise and organizational capacity

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<sup>1</sup> The FEC Office of the Inspector General was excluded from the assessment because the Inspector General Act provides that only the General Accounting Office or another Inspector General can conduct an evaluation of an Office of the Inspector General.

- The adequacy of the FEC strategic information resources management plan as a tool to increase FEC efficiency and effectiveness through the use of data-processing systems
- The adequacy and completeness of internal management and financial control systems to efficiently and effectively serve the FEC management needs and the reliability of information provided by these systems
- Regulated customer satisfaction with the products and services provided by the FEC

The GAO contracted with PricewaterhouseCoopers LLP (PwC) to perform this assessment. The assessment began on June 16, 1998, and the project closure conference was held with FEC management on January 13, 1999.

## **1.2 Project Scope**

The assessment identifies opportunities for enhancing FEC ability to achieve its statutory mission and program functions through improvements in its organizational structure, management systems, and business processes.

As instructed by the Congress, the statutory composition of the Commissioners was not subject to review, nor was there to be an attempt to address unsettled areas of the law that influence the degree to which the FEC regulates campaign finance activities.

Throughout the assessment process, four criteria provided the foundation for observations and recommendations:

- **Mission Achievement.** Do the FEC core programs further the letter and intent of the law?
- **Results Orientation.** Does the FEC produce strategic outcomes that add value to the Federal election system?
- **Fairness.** Are FEC programs conducted in an impartial, ethical, and independent manner?
- **Efficiency.** Does the FEC use its resources to achieve consistent performance in conducting its business?

The evaluation sought to identify institutional causes and relationships that impede optimum organizational performance. Primary attention was focused on opportunities for improvement that could be initiated by the Commission itself; nonetheless, impediments to performance arising from legislative and regulatory provisions have been noted. Recommendations requiring legislative action have been suggested in areas where changes to

the law would significantly enhance FEC ability to meet one of the assessment criteria.

### **1.3 Methodology**

The approach to this technology and performance audit and management review followed two parallel tracks. First, the FEC organizational orientation, strategy, and operations were examined to present a composite picture of the institution. This broad view provided a context in which to view the interdependencies among FEC objectives, organizational structure, leadership, and culture. Observations and recommendations have been drawn from in-depth interviews with FEC staff, process-mapping sessions, and the review of internal documentation. Second, the performance of the four FEC core programs was reviewed against the four assessment criteria. Potential opportunities for improvements were then defined. Key management systems related to finance, human resources, and information technology were evaluated to identify improved opportunities in those areas.

On July 7, 1998, GAO was presented with a detailed work plan and project milestones contained in a four-phase approach:

- Phase I: Assessment of the Current FEC Environment
- Phase II: Analysis of Issues and Opportunities
- Phase III: Prioritization of Opportunities for Improved Organizational Processes, Structure, and Strategy
- Phase IV: Development of Recommendations and Improvement Strategy

Overall organizational diagnostics and program performance issue identification were carried out through a PwC project team comprising the following five review groups:

- Organizational Planning and Management
- Financial and Cost Management
- Information Systems Management
- Human Resources Management
- Customer Satisfaction Survey Research

The project team gathered information in a variety of ways to make its findings and to support opportunities for improvement. Specifically, it

- Reviewed documentation regarding the FEC budget justification, strategic and performance plans, management plans, Congressional testimony, and appropriations for fiscal years 1994 through 2000.
- Reviewed historic articles and contemporary academic literature on the FEC and State election administrations.
- Reviewed and analyzed data from FEC internal management systems for capturing inputs, tracking outputs, and assigning personnel and nonpersonnel resources.
- Graphically mapped business processes to document and analyze process inputs, outputs, transformation activities, cycle times, quality control, and resource consumption.
- Convened FEC staff focus groups and interviewed staff across all administrative and programmatic functions to assess organizational characteristics, human resource policies, and program activities.
- Interviewed former and current FEC Commissioners and senior staff to assess organizational characteristics and program performance.
- Interviewed external stakeholders such as interest groups and legal practitioners.
- Conducted a Customer Satisfaction Survey to evaluate FEC effectiveness in providing information to the filing community, as well as its ability to facilitate the process of campaign finance disclosure.

Interviews and data collection took place during the late summer and fall of 1998. The team focused on then current FEC activities, processes, systems, policies, and staff. As in all dynamic organizations, the FEC has been conducting its business and making changes throughout the assessment period. Unless otherwise noted, all data is current as of the end of FY 1998 (September 30, 1998).

#### **1.4 Organization of the Report**

This report is provided in two volumes. Volume I provides the **Executive Summary** and the narrative discussion to support the findings and improvement opportunities that the study team concluded are possible for the FEC. Volume II contains details of the assessment that support Volume I. Volume II, with its detailed business process flow maps and tabulations of the regulated community satisfaction survey, is intended for use primarily by the FEC as reference material for guiding process and management system changes.

Volume I is divided into five sections. Section 1 is this **Introduction**, which serves to describe the charter of the study team and to detail the project scope and methodology by which it was conducted. Section 2, **Profile of the Federal Election Commission**, provides a brief historical context in which the FEC has operated, along with a description of its current organization, programs, and relationships to other Federal agencies.

In Section 3, **FEC Organizational Assessment**, the reader will find an analysis, from three different perspectives, of the capability and outcomes of FEC program activities. First, by means of a statistical sample, the report looks through the eyes of the filing community and describes, in general terms, how it relates to the FEC. Second, the section describes how those who practice before or influence FEC processes believe it is meeting their requirements. The basis for this analysis was a number of interviews conducted with legal practitioners and public interest groups. The third view is from the findings of the study team, using a comprehensive model of organization performance that looks externally to the environment in which the FEC operates and focuses internally on how the FEC plans its strategies, manages its resources, and conducts its operations. That analysis leads to a number of opportunities that the FEC could consider to improve its performance.

Section 4, **Program Process Assessment**, looks in depth at the four core processes conducted by the FEC from a business systems perspective and again, as in Section 3, provides a number of findings and improvement opportunities.

Section 5, **Summary of Recommendations**, provides additional analysis of all the improvement opportunities, taken as a whole, that the study team believes would increase FEC performance.

Section 6, **FEC Comments**, is the FEC response to the January 15, 1999, draft report.

### **1.5 Disclosure of Potential Conflict of Interest**

During the proposal process, Price Waterhouse LLP disclosed that it was a subcontractor to a software firm in the development of the Office of the General Counsel case management system and that the Price Waterhouse Partners had registered a Political Action Committee with the FEC. Subsequently, following the merger with Coopers and Lybrand LLP, PricewaterhouseCoopers LLP disclosed that Coopers and Lybrand LLP had been a party in a Matter Under Review with the FEC that had since been closed.

2.0

## Profile of the Federal Election Commission



## 2.0 Profile of the Federal Election Commission

In 1974, the Congress created the Federal Election Commission (FEC) to administer and enforce the Federal Election Campaign Act (FECA). FECA represented the statutory evolution of a series of early 20<sup>th</sup> century laws designed to govern the financing of elections for Federal offices. Many of these early attempts to specify permissible and impermissible sources of campaign funds were enacted in response to publicly perceived egregious behavior by contributors to Federal campaigns.

The Tillman Act of 1907, for example, prohibited corporations and national banks from contributing corporate treasury funds to Federal campaigns. In 1925, the Federal Corrupt Practices Act imposed new contributor disclosure requirements and placed a ceiling on candidate expenditures. Emergency legislation enacted during World War II prohibited union participation in Federal campaigns. In 1947, the Taft-Hartley Act prohibited labor unions and corporations from making contributions and expenditures in Federal elections. Between 1948 and 1972, the Supreme Court defined the constitutional parameters of these laws.<sup>2</sup> Likewise, during this period, the U.S. Department of Justice prosecuted instances of noncompliance with these acts.

The Federal Election Campaign Act of 1971 codified the intent of these early laws as defined by Supreme Court decisions. Generally, the 1971 FECA required full reporting of campaign contributions and expenditures, limited spending on advertisements, and capped spending from a candidate's personal funds. These latter two provisions were overturned by the Supreme Court in 1976. The 1971 law created separate segregated funds — the mechanism whereby corporation employees and labor union members could voluntarily contribute funds to an affiliated entity (commonly known as a Political Action Committee) that could in turn make contributions to Federal campaign committees. The Revenue Act of 1971 initiated the system whereby individual Federal income-tax filers could designate a portion of their taxes to finance Presidential campaigns in the general election.

However, the 1971 FECA did not establish a uniform institutional framework to administer and enforce the statutes. The original Act authorized the Comptroller General of the United States, the Clerk of the U.S. House of Representatives, and the Secretary of the Senate to monitor

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<sup>2</sup>*Pipefitters Local 562 v. United States*, 407 U.S. 385 (1972); *United States v. Auto Workers*, 352 U.S. 567 (1957); *United States v. C.I.O.*, 335 U.S. 106 (1948).

candidate compliance with the law. These three statutory officials were authorized to refer violations of the law to the Department of Justice for enforcement actions. For example, following the 1972 elections, 7,100 violations were referred to the Department of Justice, but few cases, in fact, were prosecuted.<sup>3</sup>

In response to public reaction against the abuses that occurred in the 1972 Presidential election, the Congress enacted comprehensive amendments to the 1971 FECA. In addition to enlarging the scope of permissible and impermissible thresholds for campaign contributions and expenditures,<sup>4</sup> the 1974 FECA created an institutional body to implement the provisions of the law. This independent body was the Federal Election Commission (FEC).

As contemplated under the 1974 FECA statute, the President, the Speaker of the House, and the President pro tempore of the Senate would each appoint two of the six voting members of the FEC. The statute allowed the Clerk of the House and the Secretary of the Senate, or their designees, to serve as nonvoting, ex officio Commissioners. Under the Supreme Court's 1976 decision in *Buckley v. Valeo*, this appointment scheme was held in violation of the Constitution's appointment provisions. As a result, beginning in March 1976, the Commission could no longer exercise its executive powers. The agency resumed full activity when, under the 1976 amendments to the FECA, the Commission was reconstituted and the President appointed six Commissioners who were confirmed by the Senate.

During the following 23 years, FEC history has been defined by the course of external events, amendments to the FECA, judicial decisions, and the issuance of numerous rules and advisory opinions. Exhibit 2-1 provides a representation of the key milestones that mark the history of the Federal Election Commission. Throughout its life, the Commission has generally worked with a low profile, but it has become an integral part of the American political process as the agency that has made the routine reporting of campaign finance transactions an essential part of all Federal elections.

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<sup>3</sup>Comptroller General of the United States, "Report of the Office of Federal Elections of the General Accounting Office in Administering the Federal Election Campaign Act of 1971" (February 1975).

<sup>4</sup> Key provisions limiting campaign and independent expenditures were subsequently overturned by the 1976 Supreme Court decision in *Buckley v. Valeo*.

## **2.1 Administering the FECA Through Four Programs**

The FEC administers and enforces the FECA through the four core programs of disclosure, compliance, Presidential public funding, and election administration.

### **2.1.1 Disclosure**

Disclosure involves receiving reports of campaign finance transactions by candidates and political committees involved in elections for Federal office and promulgating them as a part of the public record. As a “sunshine” statute, the FECA reflects the Congressional belief that the public has the right to know which persons and organizations make contributions to candidates and political committees. Given access to this information, the public can make more informed decisions when exercising the right to vote. In addition to informing the electorate, campaign finance disclosure supports the enforcement process. Using the self-reported information available on the public record, FEC coordinates a combination of internally generated reviews and externally filed complaints, along with investigatory and legal tools, to enforce the law.

The critical input that begins the disclosure process is the filing of a campaign finance report by a committee or individual. These reports disclose information on the transactions that filers make within specific reporting timeframes. During an election cycle, candidate, party, and other political committees file reports covering predetermined reporting periods ranging from six months to two days before an election. These reports are made available for public inspection within 48 hours of receipt by the FEC. Aggregating the information from each report into an understandable composite of the sources and amounts of campaign finance funds is an ongoing process that continues during, and after, an election.

Reports can be viewed either at the FEC or through the FEC Internet Web site, [www.fec.gov](http://www.fec.gov). In order to make information more accessible, the FEC constantly updates searchable disclosure databases with summary campaign finance data and itemized contributions that have been extracted from the reports. On-line computer access to a committee’s financial data is also available to residents of certain states through the State Access Program or to individual subscribers of the FEC Direct Access Programs. In addition to Direct and State Access Programs, these data are also available on the Internet. In addition, the FEC publishes, or makes available, a number of monitoring and compliance proceedings (such as the following) for public review to provide accountability and transparency in its deliberative processes:

Exhibit 2-1

## Federal Election Commission

Legend	1971- 1975	1976- 1980	1981- 1985
<b>Public Laws</b>	<p><b>1971</b> Federal Election Campaign Act (FECA) P.L. 92-225</p> <p><b>1971</b> Revenue Act, P.L. 92-178</p> <p><b>1974</b> FECA, P.L. 93-443</p> <ul style="list-style-type: none"> <li>-Created independent FEC</li> <li>-Presidential Public Funding</li> <li>-Candidate limits on contributions and expenditures</li> </ul>	<p><b>1976</b> FECA Amendments P.L. 94-283</p> <p><b>1979</b> FECA Amendments P.L. 96-187</p>	<p><b>1981</b> Last FEC Authorization (P.L. 93-253)</p>
<b>Court Decisions</b>		<p><b>1976</b> <i>Buckley v. Valeo</i></p>	<p><b>1981</b> <i>CA Medical Assoc. v. FEC</i></p> <p><b>1982</b> <i>FEC v. National Right to Work Committee</i></p> <p><b>1985</b> <i>NCPAC v. FEC</i></p>
<b>FEC Rule-making, Advisory Opinions</b>	<p><b>1975</b> SunPac</p>	<p><b>1976</b> Allocation of State political party expenditures for Federal and other elections</p> <p><b>1977</b> First FEC regulations promulgated covering disclosure, limits, and prohibitions</p> <p><b>1979</b> FECA amendments extended AO process to any person asking about their own future conduct</p> <p><b>1980</b> FEC recognizes Anderson third-party Federal funding</p>	
<b>FEC Programs</b>		<p><b>1976</b> First certification of Presidential matching funds</p> <p><b>1979</b> Title 2 random audits prohibited</p> <p><b>1979</b> Financial Control and Compliance Manuals for publicly funded Presidential primary and general election campaigns</p> <p><b>1979</b> Outside study reviews audit procedures</p> <p><b>1979</b> Sampling plan used for matching fund review and certification developed</p> <p><b>1980</b> Educational outreach program initiated</p> <p><b>1980</b> "Master Plan" for handling 1980 Presidential election</p> <p><b>1980</b> Extended Pass III itemized contributor coding</p>	
<b>FEC Organization</b>	<p><b>1975</b> Appointment of first Independent Commissioners</p> <p><b>1975</b> First Staff Director and General Counsel appointed</p>	<p><b>1976</b> Amendments reconstituted FEC to comply with <i>Buckley</i> decision</p> <p><b>1977</b> Memorandum of understanding with Department of Justice</p> <p><b>1977</b> Second General Counsel appointed</p> <p><b>1978</b> Organization of FEC union</p> <p><b>1979</b> Third General Counsel appointed</p> <p><b>1980</b> RIF in Audit Division</p> <p><b>1980</b> Second Staff Director appointed</p>	<p><b>1983</b> Third Staff Director appointed</p> <p><b>1984- 1992</b> Use of GAO staff for Presidential Matching Fund Program cycles</p> <p><b>1985- 1986</b> FEC moves to PEPCO building</p>

## Key Events

1986- 1990	1991- 1995	1996- 2000	Legend
<p><b>1989</b> Ethics Reform Act –Personal use of campaign funds</p>	<p><b>1991</b> Treasury Presidential Election Campaign set-aside regulations <b>1993</b> Presidential check off increased to \$3.00 <b>1994</b> National Voter Registration Act <b>1995</b> Appropriations rescision of \$3.5 million</p>	<p><b>1996- 1999</b> Appropriation earmarks to upgrade computer support <b>1996</b> House point-of-entry changed to FEC <b>1996</b> Term limits for Commissioners enacted into law</p>	Public Laws
<p><b>1986</b> <i>FEC v. MCFL</i> <b>1987</b> <i>FEC v. Furgatch</i> <b>1990</b> <i>Faucher v. FEC</i></p>	<p><b>1994</b> <i>FEC v. NRA Political Victory Fund</i> <b>1995</b> <i>FEC v. Survival Education Fund</i> <b>1995</b> <i>U.S. Chamber of Commerce v. FEC</i></p>	<p><b>1996</b> <i>FEC v. CAN</i> <b>1996</b> <i>FEC v. Williams</i> <b>1996</b> <i>Maine Right to Life v. FEC</i> <b>1996</b> <i>FEC v. GOPAC</i> <b>1997</b> <i>FEC v. Colorado Republicans</i> <b>1997</b> <i>Minnesota Citizens for Concerned Life v. FEC</i> <b>1997</b> <i>Clifton v. FEC</i> <b>1998</b> <i>Right to Life of Dutchess County v. FEC</i></p>	Court Decisions
<p><b>1986</b> Common Cause petitions for rule-making on soft money. FEC declined. Court ordered FEC to enact regulations. Result: Allocation regulations.</p>	<p><b>1991</b> Regulation changes easing state-by-state spending limits impacts on audit process <b>1993</b> NonFederal-to-Federal candidate transfers barred by FEC regulations <b>1994</b> Implementation of National Voter Registration Act of 1993 <b>1995</b> Personal use of campaign funds regs. <b>1995</b> MCFL rules (corporate/labor communications; independent expenditures by nonprofits)</p>		FEC Rule-making, Advisory Opinions
<p><b>1985- 1986</b> Creation of Direct Access and State Access Programs <b>1988</b> First use of on-site computing equipment by auditors</p>	<p><b>1992</b> Check off public service advertisements <b>1992</b> Audit procedures changed to streamline and strengthen audits of Presidential campaigns <b>1993</b> FEC Imaging System begun <b>1993</b> Enforcement Priority System initiated <b>1994</b> FEC FAXLINE initiated <b>1995</b> Voluntary Electronic Filing program launched</p>	<p><b>1996</b> FEC began receiving House reports directly <b>1996</b> Soft Money –Issue Advocacy Investigations <b>1996</b> Web site launched <b>1998</b> Imaged campaign reports extended to Web site</p>	FEC Programs
<p><b>1986</b> Gramm-Rudman impacted disclosure database <b>1987</b> Fourth General Counsel appointed <b>1989</b> Creation of the Office of Inspector General</p>	<p><b>1993</b> Ex officio Commissioners ruled unconstitutional <b>1995</b> (November) Lack of full complement of Commissioners –caused cases to be closed for lack of 4-vote majority <b>1995</b> House Appropriations Survey and Investigations Management Review</p>	<p><b>1996</b> Move to PC environment <b>1997</b> Audit Division fully equipped w/ portable computing capability <b>1998</b> Migration from legacy word processing to Lotus Notes <b>1998</b> Staff Director vacancy <b>1998</b> Full complement of Commissioners (First time since 1995)</p>	FEC Organization

- Requests for Additional Information (RFAs) sent to committees to seek clarification or amendment to submitted reports
- Advisory Opinions (AOs) that provide interpretation of legal issues around specific fact patterns
- Closed Matters Under Review (MURs) and litigation cases
- Audit reports of Presidential publicly funded committees and closed “for cause” audits
- Written transcripts of Commission hearings
- Agenda documents
- Minutes of meetings
- Comments on rule-makings
- Sunshine Act and Federal Register notices

### **2.1.2 Compliance**

Compliance involves the review and assessment of transactions to ensure that filers abide by the appropriate limitations, prohibitions, and disclosure requirements of the FECA. Compliance also involves oversight of individual contributors, corporations, labor unions, and “issue” groups that, although they may not fit within the universe of filers, can be involved in violations of the FECA. The FEC has exclusive jurisdiction over civil enforcement of the FECA and engages in civil enforcement proceedings to resolve instances of noncompliance. Enforcement cases are generated through complaints filed by the public, referrals from other Federal and State agencies, and the FEC’s own monitoring procedures. Each of these paths can lead to the opening of a Matter Under Review (MUR).

If transactions reported on a disclosure form appear to be inaccurate or inconsistent with FEC standards, the committee is sent a Request for Additional Information (RFAI). A committee has 15 days to respond to the request to clarify the public record and amend its report, as appropriate. Committees that systematically fail to file timely and accurate reports or engage in transactions that appear to violate FECA limitations and prohibitions may be subject to enforcement action or a “for cause” comprehensive audit review.

Externally generated cases based on formal, written complaints achieve MUR status only if they satisfy specific criteria for a proper complaint. The accused violator has certain rights, including the right to respond to the complaint. If the Commission finds that there is “reason to believe” that a respondent has committed a violation, a letter of notification is sent and

FEC initiates an investigation. During the course of an investigation, the Commission has the authority to subpoena any information necessary to determine “probable cause to believe” that a violation has occurred. Before and after a finding of “probable cause to believe,” the Commission engages in a conciliation process in which the respondent has an opportunity to admit to a violation and agree to a civil penalty. If conciliation efforts fail, the Commission may file suit in District Court. All enforcement matters remain confidential until the Commission closes the case and releases the information to the public. All compliance and enforcement actions must be approved by an affirmative vote of four Commissioners.

### **2.1.3 Presidential Public Funding**

Presidential Public Funding is the system for financing Presidential primaries, general elections, and national party conventions. Every Presidential election since 1976 has been financed with public funds. Congress designed the program to correct the campaign finance abuses perceived in the 1972 Presidential electoral process. Congress designed a program that combines public funding with limitations on contributions and expenditures. The program has three parts:

- Matching funds for primary candidates
- Grants to sponsor political parties’ Presidential nominating conventions
- Grants for the general election campaigns of major party nominees and partial funding for qualified minor and new party candidates

Based on statutory criteria, the Commission determines which candidates and committees are eligible for public funds, and in what amounts. The U.S. Treasury then makes the necessary payments. Later the FEC audits all the committees that received public funds to ensure that they used the funds in accordance with the FECA, public funding statutes, and FEC regulations. Based on the Commission’s audit findings, Presidential committees may have to make repayments to the U.S. Treasury.

The public funding program is exclusively funded by the dollars that taxpayers designate for the Presidential Election Campaign Fund on their Federal income tax forms. Because of declining taxpayer designations, inflation, and an impending shortfall in the Fund, the Congress increased the checkoff amount from \$1 to \$3 in August, 1993. This change, however, did not index the checkoff amount to inflation. Since payments to qualified Presidential candidates will continue to increase with inflation, based on a statutory formula, a shortfall at some future point remains probable. Should a shortfall occur, current law requires the Treasury Department to allocate

funds, giving first priority to the conventions, second priority to the general election, and third priority to the primaries.

#### **2.1.4 Election Administration**

The Office of Election Administration serves as a central exchange for the compilation and dissemination of information and research on issues related to the administration of Federal elections. This office issued voluntary performance and test standards that States and voting systems vendors can use to improve the accuracy, integrity, and reliability of computer-based systems. The Office also helped States implement the National Voter Registration Act (NVRA) of 1993, which Congress enacted to facilitate and increase voter registration by providing opportunities to register at a number of State agencies, using a number of registration methods.

### **2.2 Organizational Structure and Resource Allocation**

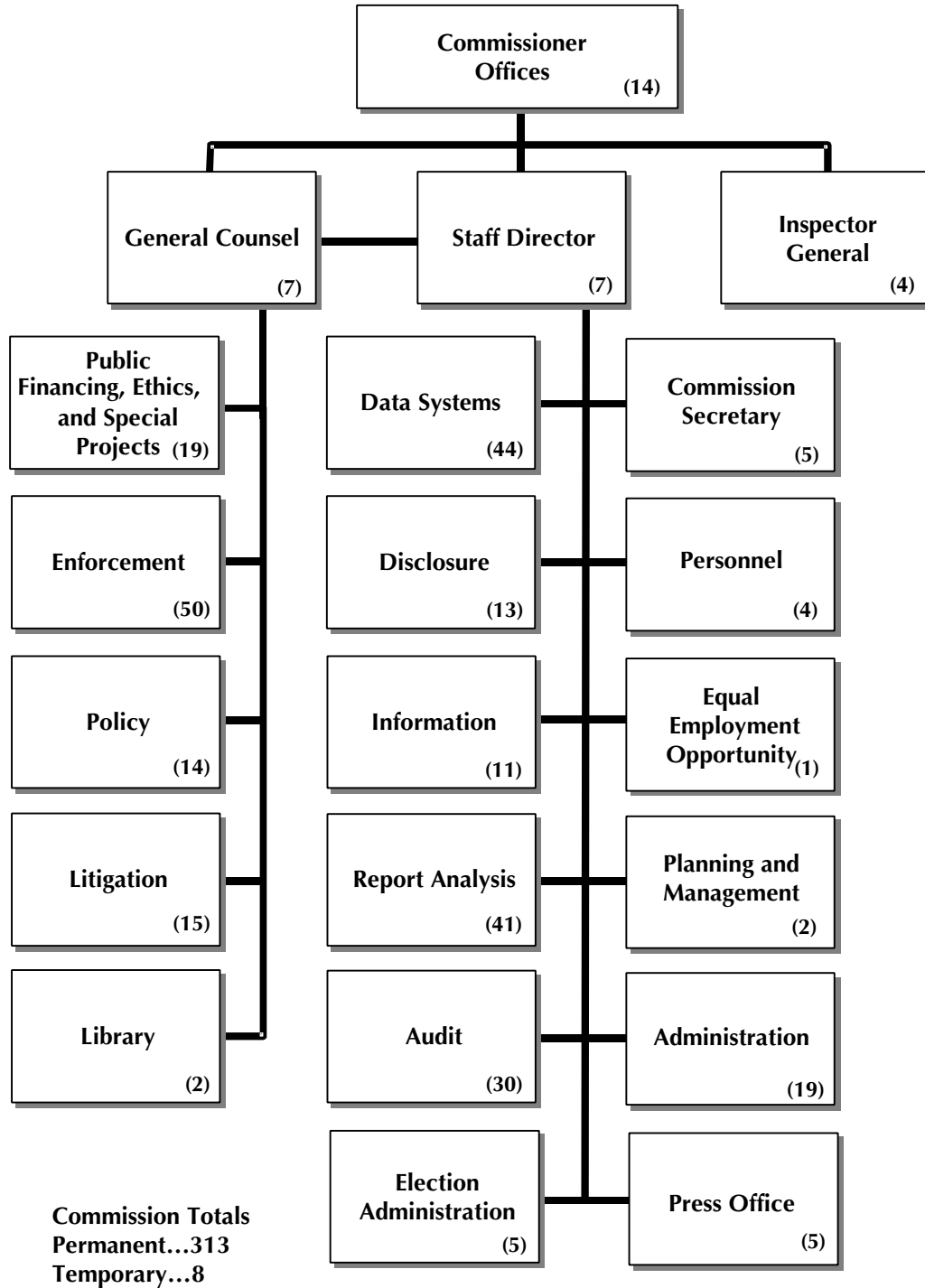
FEC is an independent Federal agency established by the Congress as a Commission. Six Commissioners, appointed by the President and confirmed by the Senate, are responsible for administering and enforcing the FECA. No more than three Commissioners may represent the same political party. The Commissioners serve full-time and usually meet twice a week. On Tuesdays, they meet in closed session to consider compliance and other matters that, by law, must remain confidential. On Thursdays, the Commissioners convene in open session to formulate policy through advisory opinions or regulations and to vote on administrative matters.

Exhibit 2-2 is a high-level organization chart depicting the basic structure of the FEC, along with full-time equivalent (FTE) staffing levels as of September 25, 1998. Volume II, Appendix A of this report provides a detailed organization chart with all suborganizations, staff titles, and grades.



Exhibit 2-2

**Federal Election Commission Organization Chart and Full-Time Equivalent (FTE) Staffing Authorization**



Source: FEC Staffing Report September 25, 1998.

Under the Commissioners, the organization is separated into two primary offices: the Office of the Staff Director (OSD) and the Office of the General Counsel (OGC), each headed by a statutory officer.<sup>5</sup> Subordinate offices to the General Counsel are titled Associate General Counsels, and each supports one or more of the four core FEC programs. Subordinate organizations to the Staff Director are, in most cases, called “offices” for staff support activities and “divisions” for line activities that are involved in one or more of the four core programs. Programmatic elements under the Office of the Staff Director include the Disclosure Division (Disclosure), Data Systems Division (DSD), Information Division, the Press Office, Reports Analysis Division (RAD), Audit Division (Audit), and the Office of Election Administration.

### **2.2.1 Disclosure Program**

The Disclosure Division, the Data Systems Division, and the Reports Analysis Division are primarily responsible for creating an accurate public record of campaign finance transactions. The Information Division provides technical assistance to candidates, committees, and others (through the use of the Internet, letters, and phone conversations) on the FECA, FEC regulations, Advisory Opinions, and court decisions. The Press Office issues notifications of Commission actions, releases statistics on campaign finance activity, and responds to all inquiries from representatives of the media.

The Disclosure Division is involved at the beginning and the end of the disclosure process. The Disclosure Division Processing Branch handles the processing of committee submissions when they first arrive at FEC. Processing scans all hardcopy reports to convert paper into images and microfilm. The Disclosure Division Public Records Office assists the public to locate and understand disclosure data and responds to information requests related to campaign finance.

The Data Systems Division includes support staff to assist with information technology and programming, as well as functional staff to code and enter data for the disclosure database. The Coding staff receive the hardcopy disclosure reports from the Processing Branch and extract certain information to update an election cycle disclosure database that maintains aggregated raw data. After coding is complete, Data Entry staff input the data that populate the disclosure database and generate 25 categorical indexes that make the data easier to analyze. Crucial to disclosure, the DSD

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<sup>5</sup>There is also a statutorily established Office of the Inspector General with four FTEs reporting to the Commissioners, but this Office was not subject to review by the study team.

coding and data entry process creates the indexes that are necessary to search for and retrieve imaged campaign finance reports.

The Reports Analysis Division plays a role in both of disclosure and compliance programs. RAD analysts review each disclosure report to determine compliance with the law and to assist committees as necessary to voluntarily submit accurate information for the public record. RAD analysts assess filed reports based on timeliness, accuracy, and disclosure content. If an analyst discovers problems with the reported information or finds that certain information is omitted or requires clarification, a Request for Additional Information (RFAI) is sent to the committee to request clarifying information as an amendment to the original report. These letters, as well as any committee responses, are then made part of the public record.

The Information Division promotes voluntary compliance with the election laws by providing technical assistance in understanding and interpreting FECA to candidates, committees, and others involved in elections through the FEC Web site, phone conversations, publications, and conferences. To encourage committees to seek guidance, requesters may remain anonymous when making inquiries of the Information Division.

The Press Office serves as a liaison to the media. Its mission is to disseminate, explain, and interpret-in-context often complex and legalistic information, typically statistical, to the media so that they can impart that information to the public.

### **2.2.2 Compliance Program**

The FEC compliance program encourages voluntary compliance through a combination of mandatory public disclosure activities coupled with the deterrent effect of audit and enforcement actions as a means to discourage nonwillful violations, as well as willful disregard, of FECA reporting requirements, limitations, and prohibitions relating to campaign finance activities. The Office of the General Counsel is responsible for carrying out compliance functions, with direct support from the Audit, RAD, and Data Systems Divisions.

Subordinate elements of the Office of the General Counsel include four Associate General Counsels (AGCs) plus a Library. The AGC for Enforcement manages and conducts the enforcement process for referrals from RAD, as well as from externally generated complaints.

The AGC for Public Financing, Ethics, and Special Projects (PFESP) manages and conducts the enforcement process for Title 26 Presidential publicly funded committees and audit-related matters referred from the Audit Division. PFESP is also responsible for the review of legal issues arising in the Presidential public funding certification process, Title 2 audits “for cause,” committee proposed debt settlements, FEC initiated administrative terminations, and administers the FEC Ethics in Government Act program and completes special projects assigned by the General Counsel. The AGC for Policy is responsible for administrative law reviews, the rule-making process, and the issuance of Advisory Opinions. The AGC for Litigation represents the FEC in litigating matters in Federal court.

### **2.2.3 Public Financing**

Under the public financing program, the FEC certifies the eligibility of Presidential candidates and committees for Federal payments and ensures that all public funds are accounted for and expended in compliance with the Presidential Election Campaign Funding Act and the Primary Matching Payment Act, as well as the FECA.

The Audit Division is involved with determining compliance with campaign finance limits and guidelines. Audit staff are primarily involved with two different types of audits: Title 2 audits “for cause” and Title 26 Presidential audits. Title 2 audits are initiated in response to referrals from RAD that have been approved by the Commission. Title 26 audits are required for all Presidential and campaign committees that receive public funding. These audits are a statutorily mandated priority for the Audit Division. The Audit Division is also responsible for the qualification of Presidential candidates and certification of matching funds and grants. In this capacity, the Audit Division is primarily responsible for administering the Presidential public funding program.

### **2.2.4 Election Administration**

The Office of Election Administration is a small unit under the Staff Director that is entirely responsible for all issues relating to election administration. Its activities are independent from campaign finance disclosure or compliance functions. Through the Office of Election Administration, the FEC carries out its statutory responsibilities under the National Voter Registration Act and provides information and technical assistance to assist State and local election officials. Election Administration programs fall into three broad categories:

- Conduct research, both contract and in-house
- Provide information by participating in meetings of State and local election officials, briefing foreign visitors, and maintaining a library of election information
- Monitor Federal legislation that affects the administration of elections

**2.2.5 Commission and Administration (Institutional Maintenance)**

In addition to the four core programs, the management and administration function supports the day-to-day operations of the FEC. For example, the Office of the Staff Director and its associated staff offices provide necessary, but indirect, support that is not included by the FEC in the resource allocation to its four core programs, but is nonetheless critical to the maintenance of the FEC as an ongoing institution.

Exhibit 2–3 depicts how the Commission employed its staff across the four core programs plus Commission policy administration and ADP projects during FY 1998.

Exhibit 2–3

**FY 1998 Program Full-Time Equivalent (FTE) Usage**

FEC Division/Office	Promote Disclosure	Obtain Compliance	Public Financing	Election Admin.	ADP/EF Projects*	FEC Policy and Admin.	TOTAL
Commissioners						15.2	15.2
Staff Director						18.7	18.7
Administration						18.5	18.5
Audit		9.3	23.0				32.3
Information	12.2						12.2
General Counsel	15.5	66.0	11.0			6.0	98.5
Data Systems	16.3	0.8	0.2		10.0	11.9	39.2
Public Disclosure	13.5						13.5
Reports Analysis	38.1	2.6					40.7
Inspector General						3.7	3.7
Press Office	4.7						4.7
Elections Administration				4.8			4.8
<b>TOTAL</b>	<b>100.3</b>	<b>78.7</b>	<b>34.2</b>	<b>4.8</b>	<b>10.0</b>	<b>74.0</b>	<b>302.0</b>

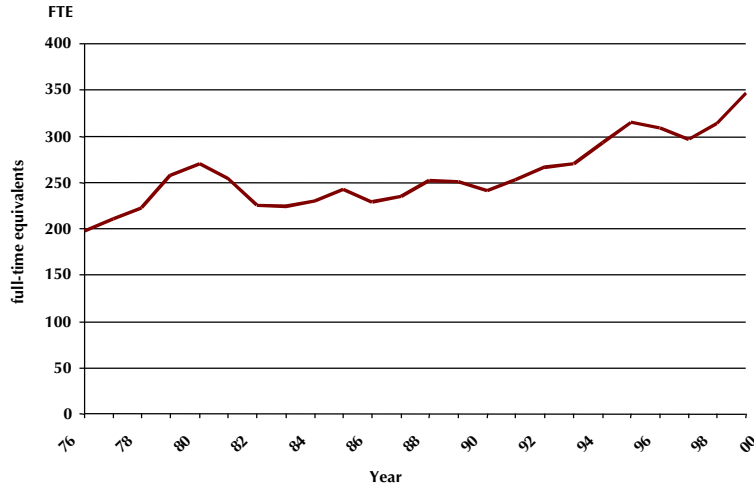
\* Since 1995, the FEC has been implementing the following information systems initiatives based on its five-year Computerization Strategies and Performance Plan: design, development, and implementation of an Electronic Filing System for automatically placing campaign finance report transactions into the disclosure database; migration to a client/server operating environment; development of a World Wide Web site; implementation of a document and case management system.

Source: FEC FY 2000 Budget Request Justification, November 16, 1998.

Exhibit 2-4 provides a summary overview of FEC staffing, and Exhibit 2-5 identifies the appropriations levels from 1976 through 1999. During this period, staffing levels have been driven by funding availability and statutorily mandated personnel ceilings.

Exhibit 2-4

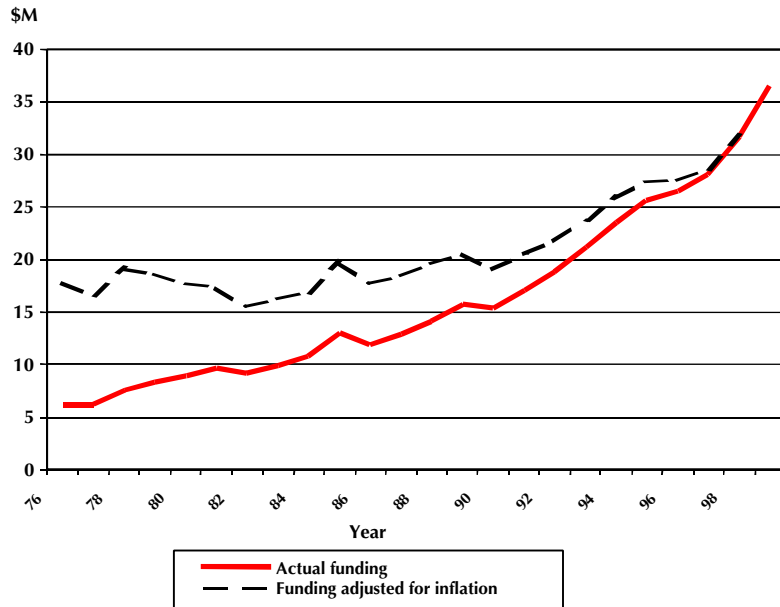
**FEC Staffing History, 1976- 1999**



Source: FEC budget submissions

Exhibit 2-5

**FEC Appropriations History, 1976- 1999**



Source: FEC budget submissions

### 2.3 Institutional Context

The FECA contains two types of provisions: (1) campaign-financing statutes that regulate the sources and amounts of funds permissible in Federal elections and (2) campaign-reporting statutes that require disclosure by Federal candidates and political committees of the sources and recipients of campaign funds.

Most reporting violations of the FECA and Presidential public financing provisions are handled as civil actions by the FEC. A violation is prosecuted criminally only if it is a “knowing and willful” violation of a core prohibition of the FECA, if it involves a substantial sum of money, and if it resulted in the reporting of false campaign information to the FEC.<sup>6</sup> Federal campaign-financing violations are subject to three types of penalties:

- Civil proceedings and penalties by the FEC (2 U.S.C. Section 437g(a))
- Criminal prosecution as FECA misdemeanors (2 U.S.C. Section 437g(d))
- Criminal prosecution as felonies under Title 18 or Title 26 (18 U.S.C. Sections 371 and 1001, or 26 U.S.C. Sections 9012 and 9042)

The FECA created the independent FEC as the exclusive agent to administer and enforce the disclosure and compliance provisions. However, three other Federal agencies share regulatory responsibilities with the FEC and play the following key roles in the administration of the Federal election system:

- The Department of Justice (DOJ) receives referrals from the FEC to prosecute criminal violation of the FECA. DOJ also refers matters to the FEC when appropriate.
- The Department of the Treasury disburses public funds to Presidential candidates certified by the FEC as meeting statutory eligibility requirements. In addition, the Internal Revenue Service reviews FEC regulations for consistency with U.S. tax codes, interprets which political activities result in taxable income, and determines whether an organization’s “political” activity is consistent with its claimed status under tax laws.

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<sup>6</sup> The 1976 FECA amendments transferred nine criminal statutes related to campaign financing from the criminal code to the FECA. The 1979 FECA amendments reaffirmed the principle that technical and unaggravated FECA violations should be handled civilly. DOJ prosecutes only those FECA violations that are committed with aggravated intent and that involve substantial sums of money.

- The Federal Communications Commission monitors broadcaster compliance in providing Federal candidates reasonable access to purchase broadcast time at the lowest unit rate charged.

### **2.3.1 Department of Justice**

The FEC enforces most FECA reporting violations by civil penalties or injunctive relief, but these remedies must either be agreed to by a respondent or be imposed by a court. The Department of Justice (DOJ) enforces only those reporting violations that accompany aggravated violations of FECA core campaign financing prohibitions. Six core provisions with underlying theories of election law enforcement frame the FECA:

- Limits on contributions from persons or groups
- No contributions from corporations and unions
- No contributions from Federal contractors
- No contributions from foreign nationals
- No disguised contributions
- No avoidance of FECA disclosure requirements

Under the FECA, the Commission can refer matters to the Department of Justice only when it has found “probable cause to believe” that a knowing and willful violation has taken place. Eighteen cases have been referred to the DOJ Public Integrity Section during the past six years.<sup>7</sup>

In 1977, the FEC and the DOJ entered into a Memorandum of Understanding (MOU) relating to their respective law enforcement jurisdictions and responsibilities. In general, the MOU acknowledges Congress’ intent to centralize civil enforcement of the FECA with the FEC for handling nonwillful or unaggravated violations, as well as knowing and willful violations that do not warrant DOJ prosecution. For knowing and willful violations that are significant and substantial, the MOU recognizes that such violations should be referred by the FEC for DOJ prosecutive review. Where the FEC establishes probable cause to believe that the violation was knowing and willful, the MOU requires the FEC to refer the matter to DOJ. The MOU also establishes that information obtained by the DOJ indicating a probable violation of the Title 2 FECA provisions will be

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<sup>7</sup>The Department of Justice initiates most of its actions based on information from sources other than the FEC.



shared with the FEC. If DOJ determines that evidence of a probable violation amounts to a significant and substantial knowing and willful violation, DOJ will continue its prosecutive review and continue to inform the FEC of the course of its investigation.

While the content of the MOU has not changed, in practice the DOJ Election Crimes Branch and the FEC Office of the General Counsel have established an effective working relationship to share investigative information to the extent provided by law. Recently, in settling criminal violations through plea agreements, DOJ has been proposing “global settlements” that allow the Commission to levy civil penalties on FECA violators.

### **2.3.2 Department of the Treasury**

Under the Presidential public funding system, the FEC determines whether candidates have met certain eligibility criteria for the primary election matching fund payments. Once the FEC determines that a Presidential candidate committee has met the matching fund threshold, it certifies to the Department of the Treasury the amount due to the candidate. During the primary election period, the FEC makes monthly certifications to Treasury. In addition, candidates nominated by their parties for the general election receive one-time general election block grants from Treasury.

### **2.3.3 Federal Communications Commission**

Under Section 315 of the Federal Communications Act, as amended, broadcasters are required to sell advertising time to political candidates at the “lowest unit charge” of the station for the period of 45 days preceding a primary election and of 60 days preceding a general or special election. Congress intended the lowest-unit-charge requirement to ensure that candidates are treated as favorably as the station’s most favored commercial advertisers during the preelection period. Broadcasters are also obligated to give Federal candidates “reasonable access” to the medium. All candidates must be given the same “equal opportunities” as their opponents to purchase broadcast time. The Federal Communications Commission (FCC) rules prescribe the business practices to implement these statutory requirements. During the course of an election cycle, the FCC is called on by broadcasters, candidates, and political parties to mediate disputes regarding the interpretation and application of these provisions.

3.0

## FEC Organizational Assessment

### 3.0 FEC Organizational Assessment

Assessment of the FEC organization was taken from three perspectives: (1) from those who are required by FECA to file reports, (2) from a small sample of individuals who work to influence FEC policy and direction, and (3) through the use of a comprehensive analytic model employed by PwC in evaluating complex organizations.

#### 3.1 Customer Satisfaction Survey

The Federal Election Commission Customer Satisfaction Survey was designed to evaluate, from the perspective of the filing community, FEC effectiveness in providing information and facilitating disclosure of campaign finance information. The questionnaire focused on specific FEC products, services, and processes. It was administered by telephone to 353 randomly selected Congressional candidate committees, political party committees, and PACs that filed reports with the FEC during the 1997–1998 Federal election cycle. These committees were selected from a list of all committees registered with the FEC. The PricewaterhouseCoopers Survey Research Center in Bethesda, Maryland, conducted the interviews during August and September 1998. Each committee was notified of the survey through a front-page article in the FEC August 1998 issue of *The Record*.

Volume II, Appendix B of this report contains the complete survey with discussion and tabulations of the responses to the 51 questions. The distribution of the sample by committee type and amount of spending is also identified.

**Survey Highlights.** The survey finds that, overall, the filing community is quite satisfied with the products and services provided by the FEC. While the level of usage of products and services varies, the degree of satisfaction is consistently positive. Moreover, filers generally perceive the Commission to be fair and nonpartisan. Specifically, on a scale from 1 to 10, where 1 means poor and 10 means excellent, the surveyed filers gave the FEC an average rating of 8. Sixty percent of filers rated the FEC as an 8 or higher.

Exhibit 3–1 provides the results of questions related to the surveyed filers' perceptions of the FEC.

Exhibit 3-1

**Percentage of Filers Who Agree or Disagree That...**  
(Questions 39 – 43, n=353)

	Agree Strongly	Agree Somewhat	Disagree Somewhat	Disagree Strongly	Don't Know
<b>FEC staff are courteous.</b>	71.7%	22.7%	2.0%	–	3.4%
<b>FEC staff demonstrate a sincere interest in solving my election law problems.</b>	61.5%	29.5%	4.2%	2.0%	2.8%
<b>FEC staff operate in an independent, nonpartisan manner.</b>	56.4%	25.8%	4.2%	2.3%	10.5%
<b>FEC conducts business during hours that are convenient to me.</b>	55.0%	30.6%	8.5%	3.7%	2.0%
<b>FEC as an institution fairly applies compliance laws.</b>	38.0%	31.2%	6.5%	5.7%	17.0%

Note: Percentages do not add to 100 percent because some responses were categorized as “neutral”.

In general, filers perceive the FEC to be fair and nonpartisan. However, large committees and political parties are more likely to disagree that the FEC fairly applies compliance laws (21 percent each) than committees as a whole (12 percent), but in either case, this is a small percentage.

**Importance of Various Services.** Exhibit 3-2 depicts the importance of FEC services in helping filers comply with Federal election law. Among the various services mentioned, the Reports Analysis Division (RAD) staff and Campaign Guides are deemed either “somewhat” or “very” important by 9 out of 10 filers (93 percent and 92 percent, respectively). Noteworthy is the fact that more than half of surveyed filers reported that they never used the automated Faxline (54 percent), the Public Records Office (52 percent), or FEC conferences and workshops (60 percent).

Exhibit 3–2

**How important are each of the following services in helping you comply with Federal election law?**

(Questions 31–38)

	Very Important	Somewhat Important	Not very Important	Not at all important	Sample Size*
<b>RAD Staff</b>	65%	28%	5%	1%	298
<b>Public Affairs Specialist</b>	54%	34%	5%	3%	217
<b>Campaign Guides</b>	53%	39%	6%	2%	302
<b>Conferences</b>	41%	35%	17%	6%	140
<b>Public Records Office</b>	37%	42%	11%	6%	170
<b>Web Site</b>	36%	46%	9%	8%	180
<b>Automated Faxline</b>	35%	39%	18%	8%	161
<b>The Record</b>	20%	57%	17%	6%	322

\*Based on the number of filers who report having used the service.

Note: Percentages may not add up to 100 percent because some responses were recorded as “neutral” or “do not know”.

**Reporting Forms and Instructions.** Eighty-three percent of surveyed filers believe that the instructions included with reporting forms were either “somewhat” or “very” clear. Only 7 percent said that they require a “great deal” of assistance in filing their FEC reporting forms, and a quarter (25 percent) said that they did not need any assistance at all.

**Reports Analysis Division (RAD) Staff.** Nearly three-quarters of all surveyed filers have contacted their assigned RAD staff member since January 1, 1997. Nine out of 10 committees spending over \$500,000 report that they contacted RAD staff, while only 60 percent of the committees spending less than or equal to \$50,000 reported that they contacted their RAD staff member. On average, filers contact RAD staff once per reporting period. Exhibit 3–3 depicts the surveyed filers’ assessment of the RAD staff.

Exhibit 3–3

**Percentage of Filers Who Say That RAD Staff Always...**

<b>Answer in a timely manner</b>	86%
<b>Answer questions accurately</b>	80%
<b>Are available to respond to requests</b>	67%

Two-thirds (66 percent) of all surveyed filers reported that they received a Request for Additional Information (RAI) since January 1, 1997; however, less than one-half (49 percent) of PACs report receiving one. Of those who received RAIs, four out of five (82 percent) believed that the content of the request was either “somewhat” or “very” clear.

**Enforcement Staff.** Only 14 percent of the sampled filers have ever had any interaction with the FEC enforcement staff. Of these filers, nearly three-quarters (73 percent) agreed that the FEC enforcement staff operated in an independent, nonpartisan manner. Four out of five (80 percent) said that the written communications from the enforcement staff were either “very” or “somewhat” clear.

**Phone Calls to the FEC.** Half (51 percent) of all surveyed filers have called the FEC for reasons other than to discuss their reports, and on average, filers make two calls to the FEC during a reporting period. Exhibit 3–4 identifies the reasons for calls to the FEC.

Exhibit 3–4

**Percentage of Filers Who Have Called To...**

Obtain information on laws and regulations	78%
Order forms or publications	53%
Obtain public records about candidates or committees	25%
Obtain information on voting laws and election statistics	11%
Obtain other information	17%

When asked the reason for their most recent call, more than one-half say to “obtain information on campaign finance laws and FEC regulations.” Of those surveyed filers who have called the FEC, nearly all (96 percent) agreed that the FEC staff person answered their question accurately. Nine out of 10 (92

percent) of the filers reported that their question was answered within 24 hours of the call.

### 3.2 External Stakeholder Perspectives

Structured interviews were conducted with 15 individuals that use FEC disclosure information, provide legal counsel or accounting advisory services to political committees, or have provided testimony to the Congress in the past on the conduct of the Federal election process or the FEC. Steps were taken to provide balance, recognizing that many of these individuals and groups had deeply held positions on FEC activities. Some of these individuals were formerly associated with the FEC. Others engage in public interest advocacy or represent parties in enforcement actions. It should be noted that legal practitioners who were interviewed, by the nature of their work, engage in adversarial relationships with the FEC and therefore may have expressed views that reflected vested interests. These observations are anecdotal in nature and do not represent a statistically

random sample. These 15 individuals were asked their assessment of the FEC performance in executing its four core programs and to provide a description of how those who practice before, or seek to influence, FEC programs believe it is meeting FECA requirements.

Regardless of the interviewee's political orientation or organizational affiliation, five common themes were expressed:

- All respondents felt that the FEC adds value to the Federal election system through its public disclosure role.
- Respondents believed that the FEC staff act in a nonpartisan and independent manner.
- Interviewees opined that the FEC takes too long in completing most compliance activities — from enforcement initiation and disposition to completing audits.
- Some external stakeholders perceive that the FEC treats the filing community as a monolithic entity and that it fails to understand or appreciate the disparate characteristics of election participants
- The organization is “tired” and needs renewal.

### **3.2.1 Disclosure**

When queried about what the agency does well, all interviewees responded that the FEC public records, disclosure, informational services, and campaign guides were valued products and services. Specifically, a significant number of the respondents were in agreement on the following points:

- While its limitations are recognized, the disclosure database was deemed useful and informative, but it contains gaps in information that, if filled, would enhance the intelligibility of campaign finance transactions.
- Users of the data commended the FEC for moving forward with electronic filing, but noted its limited functionality.
- FEC disclosure information, when compared to the totality of political spending that is not regulated or reported, has become less meaningful with the advent of emerging political communication activities.

Other comments offered by a small percentage of the interviewees:

- Reporting transactions on a calendar year basis makes it difficult to determine election cycle campaign finance activity.
- Aggregate data indexed in the disclosure database sometimes do not match with actual transactions as reported on filing forms because of data entry errors or the way specific contribution data are reported.
- Although the FEC Web site is a significant improvement, it does not incorporate all FEC forms and publications, and questions about the timeliness of posted information were raised.
- The lack of categorization and indexing of disbursement transactions makes it difficult to obtain a complete picture of how the flow of funds and purchases support campaign activities.

### **3.2.2 Compliance**

Eight legal practitioners who represent the spectrum of respondents before the FEC were interviewed. All expressed the opinion that compliance processes took long periods to reach resolution. Many practitioners noted the inherent delays in timeframes built into the FECA. These practitioners acknowledged as well that some respondents actively sought to drag cases out. Most respondents expressed exasperation with the enforcement complaint notification and Reason To Believe process. For example, once notified that a complaint had been received and a respondent had submitted a rebuttal to the complainant filing, many months can pass. This silence, they claimed, is then suddenly broken when a respondent receives a Reason to Believe finding with 15 days to respond.

Most felt that the current FEC compliance practices did not create a strong deterrent effect. They noted that the dismissal of a large number of cases for staleness has, on one hand, encouraged respondents to engage in delaying tactics and, on the other, left the FEC open to criticism for concentrating resources on high-profile cases that rested on unsettled areas of the law. As an enforcement philosophy, practitioners recognized that the FEC seeks to enforce the entire spectrum of FECA, and most felt this was appropriate. Some perceived a high level of compliance within the filing community.

For an agency that encourages voluntary compliance, several interviewees opined that settling a case with the FEC was difficult. They believed that conciliation negotiations failed to reach closure because the Commission insisted on respondents admitting wrongdoing under legal theories that counsel could not recommend to their clients to accept. All attorneys who had represented sua sponte cases (where a regulated entity voluntarily



admits to a violation) stated that they would never recommend this course of action again to a client. They noted that the FEC provides no incentive for voluntarily disclosing violations and treats instances of sua sponte filings no differently in shaping conciliation agreements or levying civil penalties than the disposition of referrals or external complaints. Several legal practitioners opined that the failure to enter into settlements earlier in cases and to enter into consent-like orders has made respondents act more litigious than they would otherwise act.

A consistent legal theme shared by most practitioners was the FEC use of the compliance process to set policy. Those attorneys who represent the filing community suggested that the FEC should focus on settled areas of the law. They suggested that enforcing and litigating unsettled areas of the FECA misused FEC limited compliance resources. On the other hand, several public interest advocates thought that the FEC was not aggressive enough in pursuing compliance actions to affect unsettled areas of the law. In general, legal practitioners felt that the FEC should first make policy through rule making or proactive issuance of advisory opinions that address emerging issues and trends in the filing community.

### **3.3 Internal Organizational Review**

Organizational problems seldom develop overnight. They typically result from an organization's inability to adapt effectively to a series of environmental changes over time. Such is the case with the Federal Election Commission. The FEC enabling statute, the Federal Election Campaign Act (FECA), circumscribes the organization's behavior. Written into law by the Congress more than 20 years ago (when the conduct of Federal elections was significantly different from that of today), the statute's early construction created an organization with limited ability to adapt to a changing environment.

Organizations are complex systems with many interdependencies; to ensure that an entire organization is explored, PwC conducts organizational assessments based on a Model of Organizational Performance. The model views a complex organization from the perspective of 11 interrelated components that together represent the whole of the enterprise. This approach yields a description of how the organization uses its internal capacity to respond to its external environment and deliver desired results.

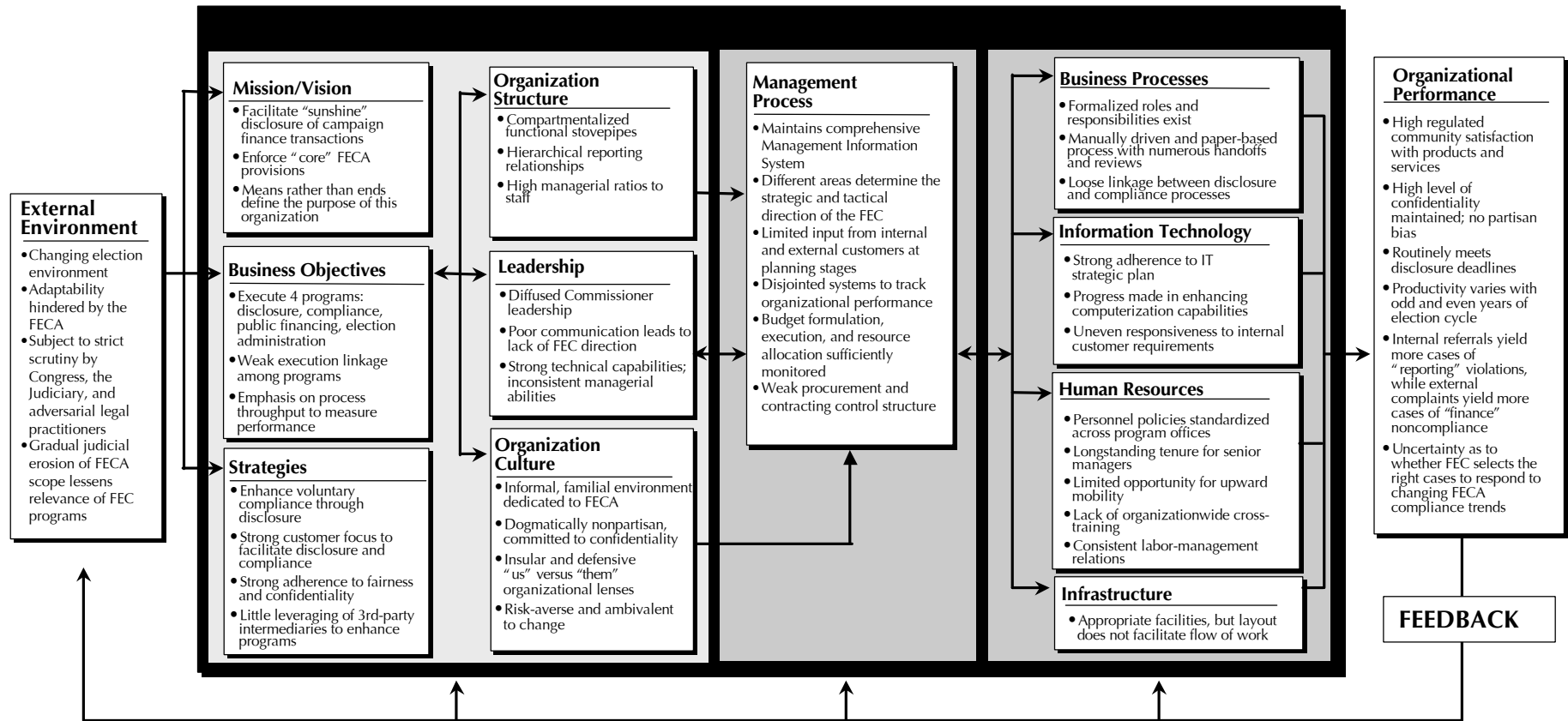
As shown in Exhibit 3–5, the model reflects characterizations of the FEC as a whole. It is not intended to provide an in-depth analysis of specific organizational units or discrete business processes. These subjects are presented in Section 4, Program Process Assessment.

The model identifies organizationwide issues that require attention if performance is to improve. Within each dimension of an organization, there are questions that assess the organization's state. In general, high-performing public-sector organizations exhibit common attributes:

- They operate with a strategic plan to address the question of how they can add value to their customers.
- They solve problems systematically to increase program effectiveness.
- They experiment with new approaches to increase process efficiencies.
- They learn from their own experiences to improve continuously.
- They learn from the experiences and best practices of others to leverage innovations.
- They transfer knowledge throughout the organization to create a learning environment.
- They focus on external customer results to measure program outcomes.

# Organization Assessment

Exhibit 3- 5  
Model of Organizational Performance\*



\*Copyright PricewaterhouseCoopers LLP

### 3.3.1 External Environment

Today's FEC finds itself in an electioneering environment vastly different from that of the early 1970's when FECA was enacted.<sup>8</sup> Where once campaigns were characterized by "volunteers" and "contributions," the current election process has evolved into a high-velocity system of complex transactions and litigious recourse, punctuated by the actions of a few participants engaging in behavior designed to push the limits of the traditional campaign finance system.

**Although established as an independent commission, the FEC environment is driven by legislative and judicial branch oversight.** Its mission is bounded by the FECA, and it shares statutory responsibilities with the Departments of Justice and the Treasury in enforcing and administering the Act. The Federal judiciary defines the scope of its reach through evolving interpretations of the constitutional boundaries of political communication and activities. The Commission's foremost filing community consists of both legislative and executive branch candidates and Federal officeholders, a situation that finds the FEC in the unique position of regulating those same officeholders that define the level and use of its organizational resources.

The FEC is an organization that has many unique features:

- The President nominates the agency's six Commissioners, no more than three of whom can come from any one party, subject to confirmation by the U.S. Senate to six-year staggered terms.
- The Commission submits an annual budget concurrently to the Office of Management and Budget and to the Congress.
- FEC disclosure forms and proposed rules are subject to Congressional review and approval or disapproval.
- The Commission can be sued in Federal court for failing to act on compliance cases, in addition to being sued when it dismisses compliance matters.

While the FECA sought to enhance public confidence and participation in the electoral process, the public appears to have become increasingly cynical and disengaged.<sup>9</sup> Voting participation, for example, has been steadily decreasing for several election cycles. The gradual judicial erosion

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<sup>8</sup>Since the original 1971 Act, FECA has been amended in 1974, 1976, and 1979.

<sup>9</sup>Some have suggested that the FEC disclosure processes have made information available for others to use to expose abuses, and it is the abuses that are feeding the public's cynicism.

of the FECA’s initial scope — the limits and prohibitions on contributions and comprehensiveness of campaign finance reporting — is moving an increasing amount of campaign finance activity outside the Commission’s purview. As illustrated in Exhibit 3–6, increasingly unsettled areas of the law pose future challenges for the Commission in determining the relevance of FECA-reported campaign contributions in election outcomes.

Exhibit 3–6

**FECA and Non-FECA Disbursements in Federal Elections**  
(1990-1998, as of November 28, 1998)

<b>Expenditures (Millions)</b>	<b>1989-90</b>	<b>1991-92</b>	<b>1993-94</b>	<b>1995-96</b>	<b>1997-98</b>
Total Subject to FECA*	1,115.4	1,886.3	1,493.3	2,279.6	1,589.9
Non-Federal Reported**	NA	165.0	214.4	458.5	360.8
Issue Advocacy***				142.5	295.0
<b>Totals</b>	<b>1,115.4</b>	<b>2,051.3</b>	<b>1,707.7</b>	<b>2,880.6</b>	<b>2,245.7</b>

Source: FEC Federal election statistics for FECA expenditures and Non-Federal reported contributions, as of November 28, 1998.

\* Includes House, Senate, Political Party, Non-party, Presidential Convention, Presidential Primary and General, Independent Expenditures and Communication Costs disbursements subject to FECA prohibitions, limitations and reporting requirements.

\*\* Includes Non-Federal expenditures reported by National, State and Local political party committees and Non-Party committees.

\*\*\* The University of Pennsylvania Annenberg Public Policy Center estimates that for the 1995-96 election cycle, \$135 million to \$150 million was expended for issue advocacy and that for the 1997-98 election cycle, \$260 to \$330 million was expended for issue advertising. Exhibit 3-6 figures represent mid-point estimates. Annenberg cost figures are drawn from press accounts and self-reporting by groups.

**3.3.2 Mission and Vision**

As envisioned in its enabling statute, the FEC operates as a “sunshine” body. Its mission is to facilitate the public disclosure of campaign finance transactions to establish citizen confidence in the transparency and accountability of the sources of Federal election funds. One of the compelling interests behind disclosure is that it is a tool to enhance the enforcement of the prohibitions and limitations found in the FECA.

As the Commission stated in its FY 1998–2003 Government Performance and Results Act (GRPA) Strategic Plan:

The ultimate mission of the FEC is to assure that the campaign finance process is fully disclosed and that the rules are effectively and fairly enforced, fostering the electorate’s faith in the ultimate integrity of the nation’s political process.

**FECA drives the Commission's mission.** The organization exhibits a strong commitment to adhering to the letter of the law. Viewed from this perspective, the FEC has translated its disclosure, compliance, Presidential public funding, and election administration into a mission of protecting the statute from further erosion. FEC success is measured in terms of processing campaign finance transaction inputs into public record outputs, not in terms of strategically oriented actions that enhance overall voluntary compliance with the law. For example, the FEC could aggregate pending compliance matters and enforcement case offense categories to understand emerging law enforcement trends and then communicate this analysis to policy makers and election participants to inform them about how the Commission strategically allocates its resources.

### **3.3.3 Business Objectives**

FEC business objectives are primarily process, not results, oriented. The FEC defines its objectives by linking process performance with outcome results. As stated in its FY 1999 Performance Plan:

If we are successful in meeting our performance targets for timely review and processing of reports, if we meet our targets for resolving enforcement actions in a timely manner, and if we are successful in informing and educating the public about campaign finance, we believe this will help ensure the outcomes desired: public confidence in the Commission's ability to fairly and effectively apply campaign finance rules and to promote disclosure, thereby enabling the electorate to make informed choices in the electoral process.<sup>10</sup>

As represented in the FY 1999 Performance Plan, four programmatic objectives set the goals for organization wide performance, as shown in Exhibit 3-7.

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<sup>10</sup> FEC FY 1999 Performance Plan Pursuant to GPRA and OMB A-11. Submitted to OMB/Congress November 21, 1997. Revised February 12, 1998, in accordance with OMB Agreement.

Exhibit 3-7

**FEC FY 1999 Program Performance Objectives**

<b>Program</b>	<b>Objective and Desired Outcome</b>
<b>Disclosure</b>	<p><b>Promote Disclosure and Provide Information</b></p> <p>“To meet the desired outcome so that the public can make informed choices in the electoral process dues to full disclosure of the sources of candidates funding for campaigns.”</p>
<b>Compliance</b>	<p><b>Obtain Compliance and Enforcement</b></p> <p>“ Outcomes desired are the perception by the filing community that disclosure reports must be accurately and timely filed; that there are real consequences for non-compliance with the FECA; and that the FEC will impartially and speedily enforce the FECA.”</p>
<b>Public Financing</b>	<p><b>Administer Public Financing</b></p> <p>“ Desired outcomes are that the public funding program is implemented so that the availability of Federal funds does not become an issue in the campaign; so that qualified Presidential candidates receive entitled funds expeditiously; so that monies are correctly spent on qualified campaign expenditures and are fully accounted for; and so that the public is assured that the FECA has been impartially enforced in a timely manner.”</p>
<b>Office of Election Administration</b>	<p><b>Administer Office of Election Administration</b></p> <p>“ Desired outcomes are that the state and local election officials charged with administering federal elections are able to hold fair elections efficiently with public confidence in the integrity of the results; to enable elections administrators to comply with the voting Accessibility and National Voter Registration Act statutes. The FEC is required by the NVRA to report to the Congress on the impact of the law after each election.”</p>

Source: FEC FY 1999 Performance Plan Pursuant to GPRA and OMB A-11.

Process output metrics measure the achievement of performance of each program. Typically, the performance measures reflect deadline-driven tasks, either required under the FECA or through internal directive. Although not reflected in the FY 1999 Performance Plan, each metric captures a discrete output generated by a separate organizational unit. The four FEC program objectives are tracked by 35 Performance Plan measures. Exhibit 3-8 shows the number of FY 1999 measures by program and provides examples.

Exhibit 3–8

**FEC FY 1999 Program Performance Measures**

<b>Program</b>	<b>Performance Measures</b>	<b>Illustrative Examples</b>
<b>Disclosure</b>	14 metrics	<ul style="list-style-type: none"> <li>• Meet 48-hour deadline for making reports available for public review of 99% of reports filed at FEC</li> <li>• Code and enter itemized data from disclosure reports filed, 95% complete within 45 days from date of receipt</li> <li>• Review 60% of all quarterly reports filed within 90 days of receipt (75% within 120 days)</li> <li>• Prepare RFAs for 100% of all Committees' reports reviewed that require them, 60% within 90 days of receipt</li> </ul>
<b>Compliance</b>	13 metrics	<ul style="list-style-type: none"> <li>• Refer a total of 60 Committees for potential enforcement actions in FY 1999</li> <li>• Complete review of 438(b) audit reports within 6-8 weeks on average</li> <li>• EPS performance targets: Process and close 225 cases in FY 1999, 35%-40% with substantive FEC action</li> <li>• Maintain average monthly case load of 275–290 cases during FY 1999</li> <li>• Maintain a minimum performance level of monthly average ratio of 30% active to 70% inactive cases</li> </ul>
<b>Public Financing</b>	6 metrics	<ul style="list-style-type: none"> <li>• With goal of completing title 26 audits within 2 years of the general election, complete remaining 1996 audits and initiate 2000 audits of 15–17 primary candidates, 4 major party convention audits, and 3 general election audits</li> <li>• Produce report to Congress on the 1996 matching fund process within 2½ years of 1996 general election</li> </ul>
<b>Election Administration</b>	2 metrics	<ul style="list-style-type: none"> <li>• Conduct research into election administration issues and respond to 100% of an estimated 7,500 requests for information with one week.</li> </ul>

Source: FEC FY 1999 Performance Plan Pursuant to GPRA and OMB A–11.

In the aggregate, the metrics reflect an emphasis on process throughput to reflect the enforcement and administration of the FECA. While the Government Performance Results Acts looks toward a more balanced representation of efficiency, effectiveness, and results, it is difficult to conceive of and implement a system to measure public confidence in the political process that would be perceived as value-neutral. As the FEC fairly observed in its FY 1999 Performance Plan, "It is difficult to define and measure public faith in the political and campaign finance system. It is also difficult to measure the impact of the FEC on the public's confidence in the political process." Cognizant of this difficulty in defining results, FEC staff



responsible for strategic planning have considered undertaking a public survey to establish a baseline measure of public awareness and attitudes about the Commission and the campaign finance system.

The performance targets established in the FEC FY 1999 Performance Plan form the basis of the FY 1999 Budget Request Justification. These are measures requested by the Congress to assess FEC performance. In general, historical process throughputs are associated with historical FTE requirements. Variations in either output volumes or levels of FTE are seen as affecting the attainment of process timeliness or volume measures.

***Improvement Opportunity 3- 1: The FEC should conduct surveys of the regulated community after an election cycle to measure changes in filer satisfaction with the products and services provided by the FEC against the baseline findings provided in this study.*** Conducting a consistent survey will enhance the FEC measurement of program performance from the perspective of the filing community and enable the organization to develop new services to meet the ever-changing demands of filers. The FEC should open up its performance planning process to design new factors of success as represented by the filing community and other election stakeholders. Implementation of a consistent customer feedback survey will also allow the FEC to discontinue services that have diminishing value to the public or filing community, thereby serving as another means to focus and deploy FEC resources to best advantage.

### **3.3.4 Strategies**

The Federal campaign finance system is predicated on a close relationship between disclosure and compliance. Unlike many other regulatory programs such as tax compliance, the public release and scrutiny of campaign finance information by name enhances overall compliance.

**Participants in the electoral process have a self-interest in making sure that other election participants are following the rules of the system. The FEC consciously leverages this intent.** Through the public issuance of images of campaign reports and the aggregation of finance transactions in publicly accessible databases, geographically dispersed political committees and the media provide a nationwide monitoring function for compliance.

The FEC attempts to maximize its information dissemination and disclosure activities through the following means:

- Increasing voluntary compliance with permissible sources and amounts of funds and reporting requirements

- Enhancing FECA enforcement by receiving third-party complaints for instances of apparent violation
- Using the reach of the media to create an incentive for candidates to voluntarily adhere to the law whenever instances of apparent noncompliance are alleged

**Overall, the FEC exhibits a strong customer focus as a way to encourage voluntary compliance by the filing community.** To place campaign finance transactions on the public record, the FEC accepts virtually any submission of disclosure filing, including nonstandard forms and handwritten transcriptions. This commendable effort to get any and all transaction data publicly disclosed causes significant inefficiencies in the disclosure and reports review process. To this point, the FEC has consciously chosen not to be heavyhanded with filers by insisting on standard report submissions as a strategy to obtain as much disclosure compliance as possible.

To enhance voluntary compliance, the Commission also emphasizes the dissemination of information to assist the filing community in filing reports accurately and timely. Examples include:

- Production of guides and brochures to assist committees in filing accurate and timely reports
- Provision of a toll-free phone number to provide the filing community an anonymous forum to answer questions, clarify transactions, and assist in completing reports
- Use of an Internet Web site and a fax line for obtaining report forms and transaction information
- Assignment of a reports analyst to each committee to provide guidance and answer questions regarding reporting and permissible activities

The FEC has successfully fostered many strategic initiatives in its disclosure and compliance programs to increase its productivity. In the disclosure program, the FEC has

- Developed both State Access and Direct Access programs to allow computer-based disclosure at State election agencies or by individual subscription,
- Deployed an imaging system for reviewing campaign finance reports,
- Created an Internet Web site containing campaign finance summary data,
- Implemented the first phases of an electronic filing system, and

- Expanded the research capability of imaged reports on its Web site.

In its compliance program, the FEC has implemented the following initiatives:

- Conducted more discovery through informal means to eliminate formal steps and speed cases
- Established the Enforcement Priority System to focus limited enforcement resources on serious cases and accelerate the disposition of Matters under Review
- Harmonized compliance and enforcement thresholds to reduce unnecessary referrals and to tailor its civil penalty policy to address specific compliance matters

For many years, the FEC has proposed numerous program strategies that have been incorporated into its annual submission of legislative changes to the Congress. For the most part, the agency has not received authorization to proceed with many of its strategic initiatives.

***Improvement Opportunity 3- 2: To increase the strategic allocation of compliance resources, the FEC should compile an annual descriptive offense profile of compliance matters to better inform Commissioners, policy makers, and the public of emerging law enforcement trends.***

Compliance matters are currently tracked through the reports analysis process, the audit process, and the enforcement process, based on internal screening and referral criteria. These compliance process units are fully aware of the types of compliance issues arising, yet they measure outcomes based on volumes and confidential screening criteria. The result is that while FEC staff understand the FECA compliance issue underlying each matter, no overall composite is created to provide a larger picture of offense characteristics.

The FEC represents that it seeks to enforce the full spectrum of the FECA. Creating an offense categorization profile would better inform Commissioners, policy makers, and the public of emerging or changing noncompliance patterns. For Commissioners, this information would help them strategically decide on the proportional allocation of compliance resources. For policy makers and the public, it would better communicate the law enforcement challenges faced by the FEC and where the FEC chose to commit its compliance resources.

As an example, the Bureau of Justice Statistics and the United States Sentencing Commission both compile, aggregate, and annually report descriptive profiles of Federal criminal cases. The FEC should consult with

these agencies to learn how they distill multi-issue and complex law enforcement matters into informative and understandable composites that help guide the allocation of Federal criminal law enforcement resources and outcomes.

What might an FEC profile look like? It could be a graphic representation comparing the offense characteristics of internal referrals and external complaints against closed enforcement cases. As a hypothetical example, the Reports Analysis Division made 15 referrals to the Office of the General Counsel (OGC) during 1998. The OGC also received another 17 internal referrals and 79 external complaints during 1998 (as of September 30, 1998). As a whole, the FEC compliance-related inventory during 1998 might have a hypothetical breakdown of 35 percent non-filer or late filer cases, 20 percent instances of excessive contributions, 5 percent contributions made in the name of another, 10 percent instances of independent expenditures that appear coordinated, and 30 percent contributions from corporations or unions.

To undertake this project, the FEC will require outside assistance in designing an appropriate offense categorization consistent with other Federal law enforcement agencies. Consideration should be given to the case profiles with pending and closed matters, beginning with the 1994 election cycle. Although this category exceeds 1,000 cases, it would provide the FEC with a robust baseline from which to assess the distribution of compliance matters by offense category.

### **3.3.5 Organizational Structure**

The FEC is organized along its two major functions of disclosure and compliance. The Presidential public financing and election administration programs are nestled below these two core functions. Generally speaking, processes that support the disclosure function (and to a lesser extent, those compliance activities engaged in by the Audit Division) fall under the purview of the Office of the Staff Director. Enforcement, litigation, and administrative law compliance processes are under the direction of the Office of the General Counsel. It is unusual for functional subunits to specialize according to types of regulated filers. One exception is the Reports Analysis Division, where two branches review reports segmented by Authorized Committees and Non-Party/Party Committees.

**The FEC organizational structure has remained static to such a degree that today the organizational units operate in a compartmentalized and autonomous manner.** As described in Section 4, Program Process Assessment, functional process requirements define the boundaries of each

organizational unit. Best characterized as functional “stovepipes,” compartmentalization has led to the following results:

- An uneven understanding throughout the organization of how each unit performs its functions and the decision-making processes behind workflows
- Multiple handoffs between units that result in redundancies, rework, and extra concurrences
- Diminished sharing of “lessons learned” and “best practices” throughout the organization

**The agency’s current structural orientation reduces the efficient and effective achievement of its business objectives.** As documented by many FEC process maps, multiple paper handoffs and levels of review exist within and between organizational units.<sup>11</sup> Disclosure and compliance functions are perceived as disparate business processes. Each unit undertakes its discrete process and then hands off the result to the next unit to begin its activity. Each unit then reviews the referring unit’s work product for accuracy or to confirm its findings. Limited interaction between units occurs on a staff level without supervisory approval. As a result, staff focus on their specific work processes and are not encouraged to take ownership of problem definition or resolution outside their limited areas of responsibility.

To better coordinate compliance workflows, the FEC has made two important changes to increase divisional communication and consultation. The Office of the General Counsel created the Public Financing, Ethics, and Special Projects section to manage, among other things, Title 26 Presidential public funding and Title 2 audit for cause matters referred from the Audit Division. The Reports Analysis Division formed a Compliance Branch to triage reporting compliance violations for potential referral to the Office of the General Counsel. The FEC notes that these structural changes have helped mesh compliance thresholds and have resulted in earlier consultation on legal issues. Interviews with staff and process-mapping sessions suggest that increased coordination, consultation and communication would improve these compliance process linkages.

**The Commission has attempted to break down structural barriers by using cross-divisional and multidisciplinary problem-solving teams.** The development of computerization initiatives has involved task forces and steering committees with representatives from Commissioner, program, and

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<sup>11</sup> See Volume II, Appendix C.

technology support offices and divisions. After each election cycle, compliance thresholds incorporated in the report analysis process are collaboratively reviewed by the Reports Analysis and Audit Divisions and by the Office of the General Counsel to assess trends and impacts on workload. After a Presidential election, Audit Division and General Counsel staff work together to revise Presidential public funding regulations to account for new problems.

**Hierarchical reporting relationships determine the information flows within the FEC.** Communication and decision making travel up a chain of command to either the Staff Director or General Counsel. Unit supervisors review staff work products. Decision-making requests are communicated through written memoranda with signatures at each step of concurrence.

**FEC units seldom view each other as internal customers.** The review uncovered numerous instances of one unit identifying a process improvement that another unit could implement to enhance coordination. But the issue remains unresolved because of a parochial attitude of “that’s their problem, not mine.”

**On average, there are four employees per position identified as “manager” within the FEC.** This contrasts with the proportion of supervisory positions relative to the total government workforce of 1 to 7.6. But given the small size of the agency and the incidence of many FEC offices containing only one or two employees with supervisory rank, the ratio must be viewed with caution when compared to the overall government workforce.

***Improvement Opportunity 3- 3: The FEC should continue to increase the collaboration and communication among existing work groups.*** Initial steps include creating more cross-functional task forces to address organizational issues by holding frequent management meetings among offices to share problems, suggest initiatives and best practices with their peers, and learn from one another. For example, communications between the Data Systems Division and the rest of the organization has been a recent concern at the agency. The FEC should consider forming a user group of representatives from the different divisions who are knowledgeable regarding their divisions’ technology needs. This group could meet with the Data Systems Division staff and managers to discuss and prioritize needs and to assist in implementing technology-based solutions.

The Staff Director should convene regularly scheduled meetings to increase cross-divisional communication and collaboration. Meeting agendas should incorporate reviews of MIS performance data and assess changing workloads and patterns to leverage group ideas to resolve bottlenecks.

### 3.3.6 Leadership

The FECA appears to have deliberately created diffused leadership roles among the Commissioners and statutory officers, making it difficult for the organization to speak with one voice or provide clear direction to the FEC.

By statute, the Commissioner chairmanship rotates every year, and the designated chairman has limited authority to set the agency's agenda. Commissioners typically act independently, instead of as a body, in managing the agency. Many times, no action is taken on a subject because no four members can reach agreement on an appropriate course of action. In interviews, many staff expressed a feeling that all their hard work and effort had gone for naught and that their work is not worth the effort when the Commissioners fail to reach closure.

**At a lower level of leadership, there are concerns within the organization about the use of inappropriate management techniques.** It was widely reported that many managers are still following "old school" methodologies, featuring a "policing" approach to management. Some of this was seen as being driven from the top, again at the Commission level, and trickling down. A story was relayed in which a report went before the Commission and feedback from one of the Commissioners focused on the grammatical correctness of the report, rather than the content.

Within divisions, some managers operate in a team environment, involving lower-level supervisors in the decision-making process, while others operate more independently. Similarly, some of the divisions, or sections within divisions, have staff meetings. **There appears to be a correlation between intradivisional communications and morale.** In divisions where staff said that their managers communicate well with them, such as the Data Systems Division Training Section, the OGC Policy Section, and the Audit Division, employees reported having high morale. In other divisions where management communication was rated poorly, there was low morale. In other branches of Data Systems Development, for example, there are no supervisory level meetings. As a result, little sharing of work happens between sections, and poor working relationships exist among some supervisors.

**Agencywide, there is a communications problem.** Though staff interviews suggested that communications have been improving — for example, Audit and OGC have much better relations and share more information with each other than they previously had — both intradivisional and interdivisional communications are lacking. The fact that there are few meetings at the

senior staff level has resulted in miscommunications and uneven execution of program and process innovations.

**Long-tenured senior staff maintain a strong institutional memory of the FEC.** With only two exceptions, the 14 most senior staff have been with agency for 15 years or more, and many have been in their same jobs for more than 10 years. Six of the 14 positions have been with the FEC for more than 20 years.

**Senior staff command a deep knowledge of the FECA.** In fact, most roots of why the FEC undertakes an activity or process are grounded in the senior staff's interpretation of FECA requirements. They have developed an understanding of the "ways things get done," which has been inculcated as a set of organizational values:

- A focus on voluntary compliance
- The impartial identification of information and resolution of instances of noncompliance
- The absolute confidentiality of information about Matters Under Review
- A low tolerance for errors to protect against harming political reputations because of inadvertent mistakes
- The need to clarify the law

**Staff interviews and focus groups suggest that the employees do not perceive effective leadership within the organization.** Leadership styles among senior managers vary considerably. Based on interviews, several managers were seen as lacking a vision for the FEC, their work, and the people they manage. Interviews suggested that the primary managerial dimension, when exhibited, is task oriented, i.e., a manager explains what each follower is to do, as well as when, where, and how tasks are to be accomplished. This does not promote individual growth and ownership of problem resolution.

***Improvement Opportunity 3- 4: The Commissioners should empower the Staff Director to be the change agent responsible for improving overall organizational performance.*** The Commission now has the opportunity to select a permanent Staff Director who can

- Motivate and foster teamwork,
- Nurture staff creativity and initiative,
- Reward ownership of problems and opportunities,
- Build trust with Commissioners and staff, and



- Maintain consistent and explicit decision making.

The Staff Director must share the Commissioners' vision and expectations for a changed FEC. Focusing on results, not procedures, should be the basis of the Staff Director's skill set. The Staff Director should be charged with creating a long-term vision for the FEC organization that integrates FEC-wide opportunities for the business process reengineering that will result from the continued execution of the information systems strategic plan. Moreover, the Staff Director should recommend an implementation strategy and an allocation of the resources necessary to act on the improvement opportunities identified in this study.

***Improvement Opportunity 3- 5: The Commissioners should establish annual performance objectives for the Staff Director and the General Counsel.*** To establish and maintain organizational accountability, the Commissioners should consider creating performance targets based on business process outputs and policy objectives for the programs and functions conducted under the Offices of the Staff Director and the General Counsel. Commissioners need to communicate desired organizational achievements to both statutory officers and delegate the authority to the Staff Director and General Counsel to execute tasks for the success of the entire organization.

The Commissioners can use the FY 1999 Performance Plan as a baseline for measuring the Staff Director and General Counsel performance. In addition, as the OGC case management system comes on-line, the Commissioners will be able to identify additional performance metrics to assess OGC managed workflows.

### **3.3.7 Organizational Culture**

FEC staff are dedicated to the FECA and believe that they are making a difference. Staff are committed and proud that they uphold the law in a dogmatically nonpartisan manner.

**A siege mentality best defines the organizational culture.** FEC staff behaviors reflect defensiveness from enduring external criticism, battle fatigue from constant adversarial conflict, and an instinctive mistrust that the filing community is opportunistically gaming the system. The organization views the world from an "us" versus "them" perception. This attitude has contributed to an inward focus on the part of the FEC. From another perspective, some staff thought that the increasing pressure from the outside was bringing more unity and cohesiveness to the agency.

**The agency overall demonstrates a climate of informality.** There are no standards or guidelines for communications within the FEC, although most follow the formal chain of command. Interdivision communications are not channeled through agencywide staff or management meetings. Because a large number of employees have been at the agency for a long time, many informal networks exist among staff from different offices.

The small size of the FEC also promotes the internal focus of the FEC. The agency was described as a “family” by many employees and seen as nurturing. Many employees said that the FEC is friendly and that people are cooperative. Almost everyone respects other staff members, likes working with most people in the organization, and said that the other employees were hard working and competent. Virtually all expressed commitment to the overall agency mission and believed that the FEC provided a valuable service to the American public.

As shown in Exhibit 3–9, an analysis of exit interviews with departing FEC staff confirms that most would recommend the FEC as a place to work.

Exhibit 3–9

**Exit Interview Analysis (1992-1998)  
Would you recommend the FEC as a place  
to work?**

Office	Yes	Yes, with reservations	No
OGC	7	11	4
Audit	6	6	0
RAD	6	16	2
Disclosure	4	2	2
Other	4	3	0
<b>OVERALL</b>	<b>27</b>	<b>38</b>	<b>8</b>

Source: FEC Director of Personnel. Interns have been counted in this analysis.

**The low turnover rate at the senior management level is seen as limiting the organization’s ability to adopt new ideas and innovations.** A number of employees expressed concern that initiatives to improve efficiencies or to experiment with new services were generally disregarded or ignored because they were outside the “accepted” ways of doing business at the FEC. This ambivalence to change was seen as a stumbling block by many staff members who felt that there were a number of improvements that could be made in their daily work patterns.

***Improvement Opportunity 3- 6: The FEC should develop a revised performance appraisal process for managers.***

To increase the degree of feedback given to managers on their leadership styles, the FEC should initiate a pilot project to use a multi-rater system of manager evaluations. Known as a 360-degree review or upward feedback, the process simply provides an opportunity for staff to respond anonymously on a survey instrument to a series of questions related to the management styles of those individuals who have managerial responsibility for their work. The purpose is to ensure that FEC senior staff have put into

practice those behaviors desired and expected by the Commissioners. The following statements are examples of types of constructive feedback:

- Collaboration, rather than competition, is strongly encouraged.
- Meetings and discussions are conducted in a way that built trust and respect.
- Constructive feedback is provided in a timely manner.
- Innovative approaches and ideas are sought and valued.

The Director of Personnel should be charged with developing and administering a pilot upward feedback survey by the end of FY 1999.

***Improvement Opportunity 3- 7: The FEC should create a more open and proactive problem-solving environment for doing business.*** To better prepare the FEC to meet ever-changing challenges, conscious and concerted effort by senior staff must be dedicated to inculcating a new way of doing business throughout the Commission. Change initiatives need to be perceived as part of the new fabric of the FEC, not as an institutional challenge to be resisted. The Commission has attempted a number of change projects, most notably the Total Quality Management (TQM) effort initiated by the Office of the General Counsel in 1992 and 1993. With involvement by staff, this effort designed and implemented the Enforcement Priority System that has effectively helped the OGC manage its caseload. Unfortunately, the TQM effort bogged down when confronted with issues pertaining to the cultural issues and norms related to the way things got done in OGC at that time. To overcome this difficulty, change must involve staff at all stages.

Becoming proactive means that the organization should anticipate future events to be able to solve problems and to take advantage of new opportunities at the earliest possible time. The FEC should also become an organization that is learning continually from both failures and from successes. The staff must take more risks in innovating to meet changing conditions, and the agency needs mechanisms to help employees learn as they work.

The benefits of becoming a proactive, continually improving organization are many. The FEC could reduce the sense of entitlement among staff and move toward being an agency where new ideas are encouraged and individual abilities are utilized to their fullest. An emphasis on proactive behavior would reward innovations by employees that are now discouraged. Morale would be strengthened as employees see that their ideas are welcomed and implemented within the organization.

### 3.3.8 Management Processes

#### 3.3.8.1 Organizational Planning, Budgeting, and Management

The current framework for planning and performance measurement has led to a diffusion of responsibility, accountability, and ownership across the organization. The current planning process solicits individual office and division input, but it does not effectively integrate needs across the whole of the organization. The process is organized and managed by the Office of Planning and Management (OPM), which reviews an office's previous year's performance and establishes a proposed budget based on staffing, workload volumes, and election cycles. This proposed consolidated management plan is then returned to the offices and divisions for comment. Once OPM receives comments or changes, a modified FEC plan and budget are developed and submitted to the Commissioner-level Finance Committee. This process has three shortcomings identified by participants:

- New projects and initiatives are often initiated without the phase-out or removal of ongoing projects
- Planning is considered in relation to each office without discussion and integration among other involved offices
- A lack of clarity exists among initiatives and organizationwide objectives

**The FEC operates a Management Information System (MIS) developed and maintained by the Office of Planning and Management.** Compared with other Federal agencies, the FEC MIS tracks more measures over longer time periods and represents a reliable system for capturing and reporting FEC data. Moreover, the system captures many more process inputs and outputs than reflected in the 35 FY program performance measures incorporated in its FY 1999 Performance Plan. MIS data also generate resource utilization ratio analysis reports to indicate efficiency information. Costs are tracked by detailed MIS reports. Personnel hours associated with unit functions are captured and translated into a running FTE count. The MIS monthly report data includes the following information:

- Year-to-date budget execution by object class
- Running Full-Time Equivalent (FTE) staffing report by pay period and month
- Summary MIS data that report disclosure and compliance statistics
- Cumulative graphic summaries of transactions entered, number of reports reviewed, and case dispositions

The MIS system is automated and integrated for organizational units under the Office of Staff Director. Performance and financial information from the OGC is manually entered into the automated system, but this process will change when the case management system, now under development, comes on-line. How data are assembled and processed is left up to each office and division. This has led in some instances to inconsistent reporting metrics throughout the organization that makes reconciliation between MIS information and divisional tracking systems difficult.

**The MIS provides comprehensive performance data, but it does not appear to be widely used by program managers.** Interviews suggest that some managers did not find the information reported from the MIS useful for their purposes. As a result, several units have designed their own internal tracking systems tailored to specific process flows.

### 3.3.8.2 Financial and Cost Management

**The FEC is a concurrent submission agency.** As mandated by the FECA, the Commission submits simultaneous budget requests to the President and to the Congress. OMB reviews the FEC submission for adherence to the Administration's overall proposed budget. Although the FEC budget is initially subject to OMB modification, the Commission has the right to disagree with the OMB review and present its own request to the Congress.

After FEC appropriations have been enacted, OPM prepares an annual management plan to guide the execution of the budget. **The FEC reliably monitors its budget and the allocation of FTE and nonpersonnel resources to each operating unit.** OPM tracks the number of the staff in each month to ensure adherence to statutory FTE ceilings. On a monthly basis, OPM generates and distributes a report with all obligations and expenditures to date. Based on input from managers, OPM periodically proposes changes to the management plan to reallocate funds among programs as needed, consistent with statutory requirements. The Finance Committee approves all proposed reallocations.

The FEC maintains an integrated financial system that appears to adhere to Standard General Ledger reporting requirements and conform to the provisions of the Federal Managers' Financial Management and Integrity Act and OMB Circulars A-123 and A-127.

**The FEC appears to have adhered to Congressional appropriations report language instructions and category B "earmarks."** During the March 5, 1998, Subcommittee on Government Management, Information, and Technology hearing on the oversight of the FEC, a concern was raised by

the Subcommittee that the FEC had ignored an FY 1995 Appropriations earmark regarding computer modernization. Language in the FY 1995 Appropriations Conference Report stated:

The conferees support the FEC's efforts to modernize its operations through computerization but are unable to earmark funds for the purpose at this time. The conferees have taken this step without prejudice and on the basis any such earmark might undermine the FEC's ability to carry out its statutory responsibilities in the upcoming fiscal year.

Within available funds, the conferees urge the FEC to move as expeditiously as possible with their plans to modernize operations through computerization. The conferees encourage the FEC to develop options that will provide for the electronic filing of reports.

Four months after the beginning of FY 1995, the Congress agreed to rescind \$1.4 million from the then current FEC FY 1995 budget. The conferees noted that they expected the FEC to fulfill its commitment to spend not less than \$972,000 on computerization. The conferees also directed the FEC to complete information system strategic plans, including both requirements and cost-benefit analyses on internal ADP modernization efforts and electronic filing. During FY 1995, FEC budget execution reports indicate that it obligated and expended more than \$1 million towards ADP modernization and electronic filing.

During the subsequent three fiscal years, the Congress has enacted appropriations earmarks directed toward computerization modernization and electronic filing. Exhibit 3-10 compares the appropriations earmark with FEC Data System Division budgeted and actual expenditures related to electronic filing, ADP modernization, point-of-entry and case management projects for the Fiscal Years 1996-1998.

Exhibit 3-10

**Earmarks for ADP Modernization**

Category	FY 1996	FY 1997	FY 1998
Appropriations Earmark	\$1,500*	\$2,500*	\$2,500*
DSD Budgeted Obligations	\$1,903	\$2,666	\$2,932
DSD Actual Expenditures	\$1,913	\$2,803	\$2,684
<b>Difference Earmark &amp; Actual</b>	<b>\$413</b>	<b>\$303</b>	<b>\$184</b>

Source: FEC FY 1996-1998 Management Plans, Data Systems Division responses to PwC data request.

\*Amounts are shown in \$000s.

An additional \$1.3 million earmark was included in FY 1998 for enforcement and litigation document management and control operations in the Office of the General Counsel. As of

September 30, 1998, the OGC had obligated \$601,000 of this amount toward compliance-related document management. The FEC intends to obligate the remaining portion of these funds in its FY 1999 Management Plan for enforcement document imaging and indexing.

**The FEC financial management processes related to procurement, accounts payable, and payroll are inefficient and pose internal control weaknesses.** The procurement process is paper-intensive and requires redundant data entry. The lack of procurement system integration results in increased workload and time to process procurements. The lack of written procurement and contracting policies and procedures and the decentralization of procurement duties throughout the organization represent potential internal control weaknesses related to the purchase of goods and services. The FEC is presently implementing the SACONS software procurement package that should automate most of the procurement process and reduce time spent with the procurement and accounts payable processes. The FEC anticipates outsourcing its payroll function to the National Finance Center during FY 2000.

### **3.3.9 Business Processes**

Section 4, Program Process Assessment, presents a comprehensive discussion of the FEC four core programs and associated business processes.

### **3.3.10 Information Technology**

**As a result of FY 1996 through FY 1998 appropriations earmarks, the FEC has made substantial progress in enhancing and upgrading its computing capabilities. A strong reliance on its information systems strategic plan helps the FEC maintain a disciplined approach on technology deployment.**

Deploying improved information systems remains critical to the future productivity of the FEC. The FEC pursues opportunities like the following to employ technologies that increase disclosure and compliance program effectiveness:

- The migration to a desktop-computing environment with document-imaging and group-messaging capabilities
- The implementation of a limited electronic filing system to automate manual data entry, the first step toward improving internal document receipt and review processes (recently, FEC awarded two contracts to vendors to integrate EFS compatibility into its existing campaign committee software through the 2000 election cycle)

- The transfer of point-of-entry for House candidate committee filings to the FEC
- The ongoing implementation of an automated case management system in the Office of the General Counsel

Despite these accomplishments, important issues remain that must be addressed, such as the coordination and redesign of business processes based on new computer technologies, implementing methods to increase use of electronic filing techniques, and replacement of antiquated software used for the disclosure database system. Significant improvements in FEC efficiency and effectiveness will require that these opportunities be addressed.

The Data Systems Division (DSD) has contracted with American Management Systems (AMS) twice in the last four years to assemble FEC-wide information technology requirements and to review the five-year ADP Strategic Plan. The AMS study

- Made specific recommendations for automating existing business processes; however, the reengineering of Commissionwide and divisional business processes was beyond the scope of the analysis.
- Examined the Commission's business processes from a functional perspective, not a division-specific perspective. For example, the analysis identified the requirement of electronic forms generation, but not the particular content of these forms for each FEC division.
- Provided a cost-benefit analysis identifying specific advantages and disadvantages of requirements and specifying a recommended technology.

DSD has essentially developed project implementation strategies responsive to Congressional earmarks to implement the plan as recommended by AMS. In fact, interviews with program offices suggested that DSD staff are currently so focused on, and completely occupied with, implementation of the Strategic Plan that there are few resources to respond to user needs that are not covered in the plan. Part of this perception appears attributable to poor communication between DSD and program and administrative users and the DSD requirements to implement automated data-processing initiatives as directed by the Congress without slippage.

The DSD Strategic Plan budget itemizes major program initiatives, such as point-of-entry filing, the Electronic Filing System (EFS), the Case Management System (CMS), and the ADP modernization. DSD also develops a base budget that reflects maintenance and ongoing support



costs. The base budget lists future ADP hardware and software upgrades and system enhancements for CMS and EFS as maintenance. DSD estimates project costs based on present product and labor costs and future variability in prices. DSD staff expect the future market prices of products to decrease and labor costs to increase. Since 70 percent of the DSD budget covers personnel costs, resource allocation among DSD activities becomes critical to its budget development. Exhibit 3–11 illustrates how DSD allocated its staffing resources in FY 1998.

In the past two years, DSD has rapidly upgraded FEC computing capabilities. It has completed the transition from dumb terminals to PCs and the migration from terminal emulation on the VAX computers to standardized Windows-based PC platforms and a client-server environment. These transition and migration strategies adhere to the overall Strategic Plan.

Exhibit 3–11

**Data Systems Division FY 1998  
Allocation of Resources**

<b>Program Activities</b>	<b>Hours</b>	<b>FTEs</b>
Disclosure	4,863	2.8
Coding and Entry	23,673	13.5
ADP and Electronic Filing Initiatives	17,630	10.0
Operations	20,150	11.4
Other Program Support	2,613	1.5
<b>DSD Total Personnel Allocation</b>	<b>68,929</b>	<b>39.2</b>

Source: FEC 1998 MIS data

The VAX computers currently employ DB1032 database software. DSD used DB1032 to develop the disclosure database and the Accounting, Payroll, and Personnel systems. To integrate these different functions, DB1032 uses single database schemas that can be linked with each other. The new PCs must run in terminal emulation mode every time users need to access the disclosure database or one of the other program DB1032 databases. DB1032 runs primarily in terminal emulation mode on the DEC 4100s, which no longer represents an industry standard. The current ADP Modernization Strategic Plan does not include replacement of the DB1032 software; however, DSD intends to evaluate database options within the next two years to replace the legacy systems over the next three to five years. DSD plans to migrate to a client-server environment, outsource Payroll and Personnel to the National Finance Center, and keep Accounting within FEC.

The disclosure database represents a group of linked databases, each of which spans a two-year election cycle. Various FEC divisions use numerous databases that link to information in the disclosure database. The

application processes define their data requirements from these databases and the disclosure database. As a result, DSD does not create redundant databases. DSD replicates the disclosure database shell every two years at the start of the election cycle, which facilitates rapid access to current data.

DSD outsources disclosure-related computer operations for data storage on the disclosure database. This outsourcing ensures availability of information through continuous server operations, allows DSD to contract for specific levels of system availability, and eliminates the need for additional staff during peak times. This contractor also provides sites located in Virginia and California and wide area network support to link all sites to the disclosure database.

**FEC has a number of legacy systems that run in terminal emulation mode, forcing new state-of-the-art software and hardware to operate in this mode.** FEC staff find these systems difficult to use and slow to access and process information. The database management system DB1032, which is mission-critical software for the FEC, is no longer commonly used. As a result, there is little depth, either in the FEC or in the marketplace, in this old technology. As business processes change, required technical changes may not be possible with these legacy systems.

***Improvement Opportunity 3- 8: FEC should accelerate the migration away from DB 1032.*** Developing a transition strategy to bring in state-of-the-art database technologies will help DSD reduce or eliminate its vulnerability to legacy system failures and improve its ability to support user requirements in the near future. This will also help increase user productivity and satisfaction.

**DSD has completed the review and implemented conversion of more than 98 percent of the FEC software applications to ensure year 2000 (Y2K) compliance.** DSD continues to evaluate all existing systems and expects to resolve the remaining Y2K issues by early 1999. Most disclosure-related systems rely on the DB1032 software that does not have an embedded year 2000 time code. DSD expects to replace the DB1032 software over a five-year period and does not intend to make any other major software changes before then. The Personnel and Payroll systems will not be Y2K-compliant until March 1999. DSD anticipates that FEC will outsource these two systems to the National Finance Center (NFC) in October 1999. DSD expects to make both systems Y2K-compliant by March 1999 to ensure against possible delays in the transition to the NFC. DSD is also replacing all existing office automation and electronic mail software with Windows 95 and Lotus Notes. In addition, DSD has ensured that all new

hardware and software purchased by FEC within the past two years are Y2K-compliant.

**Case Management System.** DSD is currently developing the Case Management System (CMS) based on a standard core component from commercial off-the-shelf (COTS) software that it will customize for each unique customer requirement. DSD identified the need for a case management system during discussions with OGC and included it in the AMS 1995 ADP Modernization Report. A steering committee, which includes executive assistants, the General Counsel, and the Staff Director, has taken an active role in defining the user requirements. The evaluation and source selection teams included representatives from each major OGC branch and an executive assistant to represent the Commissioners. DSD expects a high acceptance level for the case management software. End users have participated in the CMS project, and they feel satisfied with the approach. The CMS will replace a manual tracking system and most stand-alone applications now used by the various OGC offices.

DSD Training and Support Group staff and OGC representatives manage the case management initiative. DSD is currently testing the CMS and expects to have it deployed by yearend.

**Training and Development.** The Training and Support group consists of four full-time instructors, two help desk staff, and a manager. The help desk staff receive, categorize, and redirect to the appropriate organization all incoming technical support requests. The training staff develop course materials and delivers instruction on all products at FEC.

The four full-time instructors offer classes in Windows 95, Word, and Excel and some specialized classes. Even though users can take internal or external training, DSD promotes internal training because it is less expensive.

DSD works with contractors to customize its training programs and to coordinate training rollout with technology rollout (e.g., Computer Consultants Corporation for Lotus Notes, NT). DSD also offers classes and one-on-one training to DB1032 users. Participants describe the training staff as effective, responsive, and helpful.

DSD uses a call-tracking software that allows it to monitor user calls and to facilitate rapid response. While the call-tracking software tracks "mean time to respond," it does not monitor "mean time to repair." A database also generates reports that indicate the staff name, the machine number, and the

type of call. DSD also maintains a database to review past problems and solutions.

**Internal FEC users perceive that their business process requirements are not being met by DSD system developmental approaches.** Program personnel have expressed concerns that program process requirements are not being fully satisfied by the current ADP initiatives. An example often cited is the electronic filing impacts on the reports analysis process. In addition, DSD is perceived to be slow or nonresponsive to user requests. For example, the Audit Division sought to use Microsoft Access to assist its audit functions, but DSD capacity to support this effort was not forthcoming. FEC acquired the SACONS software package in April 1998, but did not install it until December 1998. Because of DSD inability to provide installation support, the Administrative Division had to wait six months to install the software.

***Improvement Opportunity 3- 9: DSD should routinely conduct an internal FEC staff survey to assess user satisfaction.*** Expressed user frustration with DSD appears to be attributable to poor communication and collaboration among DSD and program offices. To increase understanding of merging FEC staff needs and user satisfaction with DSD development and training activities, a simple Lotus Notes-based user survey could be designed and transmitted throughout the organization every six months. This practice is becoming common in organizations that increasingly rely on information technology to support their mission and activities. Many Federal agency information system offices would have a template from which DSD could tailor its questions.

**Future business process reengineering analysis will be required for the FEC to take full advantage of electronic filing and other ADP initiatives.**

Business process reengineering entails the fundamental rethinking of the way that current process activities are conducted to achieve business objectives. To date, consistent with the ADP strategic plan, the FEC is moving down the path to automate existing paper-based activities. Despite initial skepticism, the FEC has demonstrated that it can implement information system projects on time and on budget.

***Improvement Opportunity 3- 10: FY 2000 is the time for the FEC to begin to lay the framework for significant business process reengineering efforts. Future and ongoing ADP initiatives should incorporate a business process reengineering effort led by the program offices, not DSD.*** For example, as noted by AMS in its five-year Strategic Plan, the Reports Analysis Division requires a business process reengineering study to help document and improve these processes for increased functionality and flexibility.

This study provides the FEC with the critical first steps in undertaking a business process reengineering effort — the creation of organizationwide business process maps to document the “as-is” environment.<sup>12</sup> These graphic representations of process flows identify each discrete step that leads to a process output. The object of future reengineering efforts should be to identify where the use of technology or changes in program requirements would decrease cost and time while increasing quality at the source. Until electronic filing becomes significantly more used (or mandated by the Congress), limited opportunities exist to reengineer the disclosure and reports review processes. Significant time, energy, and resources will be required to successfully reengineer the FEC disclosure activities related to transaction entry, review, and verification.

### **3.3.11 Human Resources**

#### **3.3.11.1 Personnel Office Organization Structure and Role**

The FEC is an Excepted Service agency that comprises 311 permanent positions and eight temporary positions (as of September 25, 1998). As an Excepted Service agency, the FEC is exempt from some civil service regulations. Notably, Excepted Service organizations have more leeway in hiring individuals and in terminating their employment.

The Office of Personnel comprises five positions: the Director, a Labor Relations Officer, a Personnel Officer, a Personnel Assistant, and a Clerk. Its mission is to serve all of the FEC human resource needs, from recruiting and hiring applicants to processing employee retirements and conducting exit interviews. In addition, a one-person Equal Employment Opportunity Office handles EEO complaints and other special programs. Though separate offices that both report directly to the Staff Director, the EEO Director and Personnel Director work collaboratively to ensure that workforce needs are met.

**Overall, personnel policies and procedures are standardized across divisions and offices, and processes are executed primarily at the division level.** The policies are in general compliance with accepted practices, as the agency looks to the Office of Personnel Management guidance and has adopted most governmentwide personnel practices.

The Office of Personnel role within the agency can largely be described as human resource administration and support. Because of the manner in which many of the processes are executed, the Personnel Office role is

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<sup>12</sup> See Volume II, Appendix C.

normally that of processing the paperwork and performing a quality assurance role.

### **3.3.11.2 Recruitment and Selection**

Recruitment and selection activities are routinely conducted using the appropriate position description (PD) for the candidate under consideration. In general, however, most PDs were out-of-date and general in scope. While informative for laying the groundwork for a particular position, it may be beneficial to revise PDs to more accurately reflect the specific duties; responsibilities; and knowledge, skills, and abilities needed for success within a particular role within the FEC.

The Office of the General Counsel uses a formal law school recruiting program to target various schools for interested applicants. OGC sections send senior staff and managers to these law schools to collect resumes and conduct preliminary interviews with students. Follow-up interviews are then conducted back at the FEC with qualified candidates, after which a hire/no-hire decision is made.

**The selection process is standardized and consistently utilized throughout the agency.** It begins when a division manager informs the Office of Personnel of an opening. The Office of Personnel posts the vacancy announcement and does an initial screening of candidates for the basic standards for the position. The remaining applicants are then routed to the appropriate division for evaluation and interviews. Interviews are often conducted utilizing a panel of three interviewers (required by union contract for internal applicants, although most use this process for external candidates as well). The interviewers serving on the panel are usually supervisors and senior staff from that division.

The current interview process was born out of a collaborative effort between the FEC and the National Treasury Employees Union. It uses a Job Element Crediting Plan that allows interviewers to assign numerical points to applicants based upon four major categories: Job Elements; Performance Appraisal Ratings; Cash/Bonus Awards; and Experience, Education, and Training. Based upon their cumulative ratings from the four sections, a best-qualified list of candidates is sent to the selecting official (usually the line manager or Associate General Counsel), who then interviews the top three candidates and makes a final selection decision.

To complete the selection process, the hiring manager gets approval from the Staff Director or General Counsel to hire the applicant and then makes an offer. However, to hire a GS-14-or-above staff member, the Staff

Director must also gain approval by the Commissioners before an offer can be made.

**Most division managers feel that they are finding qualified candidates for open positions.** In OGC, for example, team leaders felt that the quality of experienced attorneys who were applying for positions was very high. To support this statement is anecdotal evidence that OGC typically receives more than 80 applications for every open position. The extreme end of this spectrum was evident in 1993, when for five attorney openings within all of OGC, it received approximately 2,200 applications.

In addition to experienced hires, OGC management felt that the law school recruiting program brought in a number of good, solidly performing law clerks. On the downside, as with all Federal agencies, the FEC often loses high-potential recruits to law firms or agencies with higher profiles and higher starting salaries.

**Managers in the Audit Division, on the other hand, feel that they are having problems getting good candidates.** The managers cite a poor showing in recent hiring efforts as evidence that they cannot find qualified people with the required skills. This is best shown by two recent vacancies that have remained open because of a lack of qualified candidates. They attributed this problem to the comparatively low grade levels for journeyman auditors at the FEC and the lack of advancement potential.

Though the Data System Division Director did not feel that he was having any problems recruiting at the current time, other subordinate staff are anticipating upcoming problems in recruiting staff for the high-technology sections within the division. One employee who had served on recruiting panels for the division said that the division had been lucky in getting its current staff, but saw the impending issue as a direct result of the FEC not offering the salaries or advancement potential needed to attract highly qualified recruits. The Development Section was seen as particularly vulnerable because staff have a high workload and require specialized skills that are in high demand across the information technology industry.

### **3.3.11.3 Retention**

The rate of overall separation at the FEC in calendar year 1997 was nearly 12 percent, which is consistent with its four-year average (1994–1997). The Reports Analysis Division (RAD) has historically had much higher turnover

than other divisions, with an average rate of separation for the past four years in the 30 percent range.<sup>13</sup>

FEC agencywide attrition rate appears to be in line with the average numbers for the Federal Government. By way of comparison, the average rate of separation governmentwide was 10.39 percent, while the rate averaged roughly 14 percent for independent Federal agencies.

For most of the highly specialized professions such as attorney or auditor, the agency has not had much trouble in retaining staff. Many cite the quality of life (i.e., work-life balance) and other government benefits (e.g., work hours, retirement, holidays) as major contributors to why they remain with the FEC.

### 3.3.11.4 Training and Development

Training and development are largely handled by each division, whose managers are responsible for allocating their training budgets and identifying training needs and appropriate opportunities for staff.

Exhibit 3–12 provides an analysis of exit interviews with departing FEC staff that suggests that staff felt that they received adequate training and development opportunities while with the FEC.

Exhibit 3–12  
**Exit Interview Analysis**  
**(1992- 1998)**

**Did you have adequate training and development opportunities?**

Office	Yes	No	% Yes
OGC	15	8	65%
Audit	7	4	64%
RAD	16	6	73%
Disclosure	8	0	100%
Other	4	2	67%
<b>OVERALL</b>	<b>50</b>	<b>20</b>	<b>71%</b>

Source: FEC Director of Personnel. Interns have been counted in this analysis

Training, other than computer-related courses, is largely provided by outside vendors. Some common suppliers include the U.S. Department of Agriculture (USDA) Graduate School and the National Institute for Trial Advocacy (NITA). Some staff members are required to take a certain amount of training as part of their professional standards. For example, auditors are required to attend 80 hours of training every two years, and attorneys are required to take a minimum amount of training as dictated by the State bar where they are licensed to practice.

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<sup>13</sup>The high turnover in RAD is due to many factors, one of which is the relatively low salary levels for well-educated people. Recent efforts to speed the career ladder of a GS-5/7/9 to a competitive GS-11 have helped. Promotion beyond GS-11 is extremely slow. Other notable factors include the nature of the work, which has been described as “repetitive” and “lacking challenge,” especially after a few years.



No formal training curriculum exists within the FEC. Few standard learning opportunities are offered within the agency, including computer training (provided by DSD) for every new hire and an FEC orientation session (provided by the Office of Personnel) that is held once a significant number of new employees come on board. Some divisions, such as OGC, RAD, and Information, have structured orientation programs to introduce their new employees to the workplace and to facilitate on-the-job training. These programs are run separately from one another and have no relation to any of the other programs offered.

RAD undertakes a mentoring approach that seems to be worth further study and possible adoption by the rest of the FEC. RAD uses a formal mentoring system in which senior analysts are identified and called upon to help guide and teach new staff. Several RAD employees mentioned that they found it difficult to learn the work when they first started and that having a mentor to ask questions and learn from helped them during their development.

As there is no formal training curriculum for staff members, so also no consistent program exists by which managers and supervisors can learn management skills. The most often cited method for learning these skills was on the job. The FEC, however, is in the process of sending managers to an Office of Personnel Management (OPM) management course at the rate of two per year. There used to be a management skills training course offered in-house through the Personnel Office, but it has not been conducted for several years now.

#### **3.3.11.5 Performance Management**

Performance appraisal forms are standardized and can be tailored for the different positions throughout the FEC, depending upon the critical elements of a position. Staff members are rated on a five-point scale (where 1 is low and 5 is high) on both the quantity and the quality of their work; these ratings are generally determined one year after the employee's start date and annually thereafter. There are a few exceptions, most notably in RAD, where analysts are given formal ratings six months and one year after their start date, then annually after that.

**The agency utilizes a top-down approach to conducting performance appraisals.** This approach consists of first-line supervisors completing the staff members' appraisals and discussing the ratings with the division manager or Associate General Counsel before presenting the ratings to the employee.

In most cases, supervisors try to resolve any potential problems in an informal manner before beginning the performance appraisal process. Upon receiving a low rating, employees are dealt with in different modes, depending upon the rating. An employee with a 1 rating, receives an official notice of his or her rating, is required to develop a plan to correct undesirable behavior, and is put on 60-day probation, after which time a determination on termination is made. An employee who receives a rating of 2 does not receive the standard annual within-grade pay increase. (These two adverse ratings are used infrequently.)

**The performance appraisal forms appear adequate for assessing employee performance.** While not overly sophisticated, they allow for tailoring to the position under review and cover the most important aspects of the position. As with most performance appraisal instruments, the quality of the review is dependent upon the honesty of the reviewer and the honest participation of the staff member being reviewed.

One way in which the performance appraisal instruments could be improved would be to tie the critical elements of these instruments to the performance strategies and goals of the organization. This approach would provide a direct link between individual performance and organizational goal attainment. Currently, this link either does not exist or is not obvious, and the end result is a performance appraisal instrument that rates less essential performance requirements and tasks.

**Managers and supervisors give staff high scores.** In 1997, the average performance appraisal score agencywide for bargaining unit employees was 4.51 (out of a perfect score of 5). The historical trend has been for the average agencywide score to increase, from 4.36 in 1992 to the current 4.51.

This high average score feeds into, and in turn becomes fed by, a sense of entitlement among the employees within the FEC. As one manager relayed, "... employees feel that if they just do their job, they should get a rating of 5." This puts pressure on management to over-rate employees to avoid grievances, and these continually high ratings lead the employees to feel that a score less than a perfect 5 is unacceptable.

### **3.3.11.6 Compensation**

The FEC is an Excepted Service agency, but follows the standard General Schedule and OPM guidelines for classification and compensation purposes. The Commissioners, Staff Director, and General Counsel are statutory officers and have their pay set by statute. The FEC does not have

Senior Executive Service (SES) authority so those at the highest nonstatutory rank are paid according to the Senior Level (SL) pay guidelines. More than 38 percent of the staff are at a GS level of 13 or above. Exhibit 3–13 groups GS levels by FEC office and division.

Exhibit 3–13

**FEC 1998 General Schedule Levels by Office and Division**

Office	GS 3- 7	GS 8- 12	GS- 13	GS- 14	GS- 15	Senior Level	Statutory	TOTAL
OGC	11	28	13	32	12	4	1	101
Audit*	2	11	14	3	1	0	0	31
RAD	21	14	3	1	1	0	0	40
Data	14	22	2	4	1	0	0	43
Disclosure	10	2	1	0	1	0	0	14
Information	1	9	0	1	1	0	0	12
Admin	7	8	1	2	0	0	0	18
OSD	5	8	5	4	4	1	1	28
Commission	0	2	3	0	5	0	5	15
OIG	0	1	2	0	1	0	0	4
<b>TOTAL</b>	<b>71</b>	<b>105</b>	<b>44</b>	<b>47</b>	<b>27</b>	<b>5</b>	<b>7</b>	<b>306</b>
<b>Percentages</b>	<b>23.2%</b>	<b>34.3%</b>	<b>14.4%</b>	<b>15.4%</b>	<b>8.8%</b>	<b>1.6%</b>	<b>2.3%</b>	<b>100.0%</b>

Source: FEC Staffing Report, May 22, 1998.

\* auditors are promoted to a GS–13 level only temporarily and returned to a GS–12 level after the completion of Title 26 Presidential audits. The Division currently has 6 permanent GS–13 positions with one vacancy.

Because of the small size of FEC, opportunities for promotion are limited. The degree to which promotion opportunities existed for individuals who have separated from the FEC is reflected in Exhibit 3–14.

***Improvement Opportunity 3- 11: FEC should explore alternatives to the Federal General Classification System to provide new classification and compensation flexibility.*** The Federal Office of Personnel Management has developed a series of analyses on alternative pay strategies that illustrate several “broadbanding”<sup>14</sup> approaches:

<sup>14</sup>Broadbanding is a pay-and-classification approach that combines two or more grades into broad pay bands. The term “banding” is also applied to the notion of grouping jobs horizontally — specific position classification series may be consolidated into broader job “families.”

Exhibit 3-14

**Exit Interview Analysis  
(1992- 1998)**

**Did you feel there were reasonable promotion opportunities within the FEC?**

Office	Yes	No	% Yes
OGC	11	11	50%
Audit	6	4	60%
RAD	8	14	36%
Disclosure	4	3	57%
Other	4	3	57%
<b>OVERALL</b>	<b>33</b>	<b>35</b>	<b>49%</b>

Source: FEC Director of Personnel. Interns have been counted in this analysis

- Broadbanding approaches that consolidate pay grades, simplify and streamline classification procedures, and facilitate job mobility
- Skill- or competency-based compensation schemes that recognize employees for the depth, breadth, and types of skills that they obtain and apply in their work (This requires organizations to shift from managing jobs to managing people and skill sets)
- Performance-based approaches that use the level of an employee’s performance to determine compensation increases (Performance-based systems work best in organizations that have strong and successful performance measurement systems)

**3.3.11.8 Labor-Management Relations**

The employees of the FEC are represented by the National Treasury Employees’ Union (NTEU). Seventy-nine staff members pay dues to the union out of the 201 bargaining unit employees covered under the contract (as of September 30, 1998). The union was organized in 1978, and in recent years, OGC attorneys have often held leadership posts.

Soon after the union was formed, management established a specialized labor relations function in the Personnel Office. The former Personnel Director had an extensive labor relations background, and there is now a full-time Labor Relations Officer as part of the Personnel staff. The Officer’s primary role is to work with the union on behalf of the Commissioners and the Staff Director and to handle employee relations (e.g., disciplinary actions) in coordination with line managers.

When the union first started at the FEC, relations were reported by both sides to be acrimonious. The union went into a period of decline, began to revive in 1991-1992, and then drew markedly increased interest during the attempted 1993 OGC implementation of the Total Quality Management (TQM) initiative. Management and the union blame each other for TQM program failure, and the conflict has left some bad feelings on both sides.

Overall, the state of labor-management relations has been described as “generally good” over the past few years by people on both the management and labor sides of the organization.

In December 1995, the NTEU and FEC settled on a agencywide position-classification grievance that brought an award to all bargaining unit employees within the FEC. Despite this agreement, union membership has remained stable, with some recent growth in membership.

Current union issues include providing measures to protect the health and safety of employees during building construction, flextime and flexiplace arrangements, and the size of annual bonuses. Office space allocation is also noted as a perennial issue. The number of grievances has fluctuated from a high of nine in 1989 to zero in 1997. While averaging about 3.5 per year for the past 11 years, there have only been four in the past three years.

#### **3.3.11.10 Equal Opportunity Program**

The Equal Employment Opportunity (EEO) Office is a one person office that reports directly to the Staff Director. The Director of EEO and Special Programs administers all EEO activities for the organization, as well as special programs such as workshops for employees on financial management, and identifies conferences sponsored by minority groups that may be of interest to FEC staff.

Until March 1994, the EEO Director was a part-time function held by an employee with other duties. The current EEO Director was hired to fill the position in 1994. The Director has instituted a voluntary Early Intervention Program (EIP) aimed at proactively defusing situations before they become formal grievances. The EIP process starts when an employee comes to either the EEO Director or the Personnel Director to express an interest in filing a complaint. The employee is given the option of utilizing a form of Alternative Dispute Resolution (ADR) process in which the EEO or Personnel Director tries to informally resolve the problem between the parties.

Since 1988, there have only been eight formal EEO complaints. Both the EEO Director and the former Personnel Director noted success in proactively solving problems (through the EIP) that would have otherwise found an outlet in a formal EEO or union grievance. In addition, they believe that this program has helped increase employee morale and job satisfaction.

4.0

## Program Process Assessment

## 4.0 Program Process Assessment

This section analyzes FEC performance across its four core programs of campaign finance disclosure, campaign finance compliance, Presidential public funding, and election administration. These programs provide credibility for the Federal election system by

- Educating and informing the electorate to make informed choices about candidates based on their financial backing,
- Creating transparency in the election process to ensure the public that fair and impartial elections are taking place,
- Establishing accountability among all election participants by requiring adherence to the collective rules for election financing, and
- Providing a deterrent against willful violations.

Understanding the current workload of the FEC helps to establish a context for the findings and improvement opportunities throughout the four programs. Exhibit 4–1, FEC 1996 Election Cycle Process Pipeline, depicts the fundamental processes that exist between the disclosure and compliance programs. The exhibit recognizes that, at the highest level, a singular, synchronous workflow represents the majority of work that occurs throughout the FEC and its core programs. This workflow can be categorized into the following five high-level business processes:

- Collect reports
- Disclose transactions
- Review and assess transactions (for adherence to FECA limitations and prohibitions)
- Identify noncompliant activity
- Resolve noncompliant activity

Within each process, the approximate volumes of work have been illustrated, using data from the 1996 Federal election cycle.<sup>15</sup>

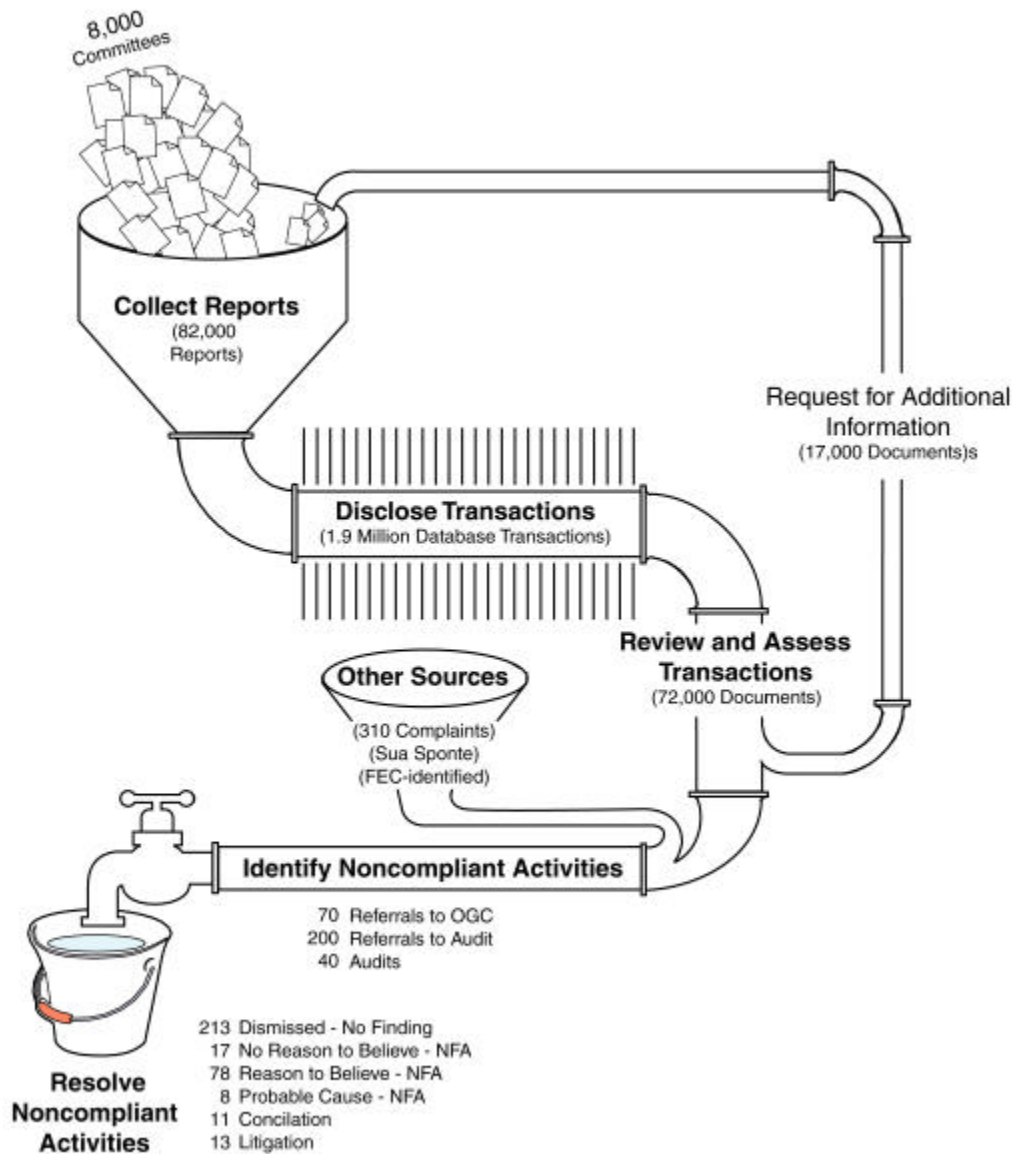
Beginning with the funnel that indicates Collect Reports, more than 8,000 committees filed in excess of 82,000 reports during the 1996 election cycle.

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<sup>15</sup> Source: FEC Management Information System. Complete data representing the 1998 election cycle will not be available until committees file their end-of-the-year reports on January 31, 1999.

Together, these reports contained more than 1.9 million campaign finance transactions. During the 24-month election period, the Reports Analysis Division reviewed 72,000 reports to assess mathematical, content, and disclosure accuracy (backlogged 1996 cycle reports were also reviewed during the 1998 election cycle). More than 17,000 first and second Requests for Additional Information (RFAs) were sent to clarify problems identified in the reports.

Exhibit 4-1  
**FEC 1996 Election Cycle Process Pipeline**



Source: MIS data



Based on internal thresholds, the Reports Analysis Division referred the activities of 200 committees to the Audit Division as potential audit “for cause” actions and the activities of 70 committees to the Office of the General Counsel for enforcement action. In addition, the Audit Division initiated a total of 18 audits of the publicly funded Presidential committees, growing out of the 1996 Presidential primary and general elections.

During the 1996 cycle, more than 300 external complaints were filed against individuals, organizations, and political committees alleging violations of the FECA. With these complaints added to pending cases at the beginning of the election cycle and the 70 referrals from the Reports Analysis Division, the enforcement docket grew to 566 cases. From this case inventory, 260 cases were “activated” or assigned to enforcement attorneys to recommend appropriate disposition to the Commissioners. Three hundred and six cases were held in “inactive” status, pending the availability of enforcement staff to work on them. From the inactive case pool, 206 cases were dismissed with no action taken. In sum, the Commissioners closed 440 enforcement matters through

- 213 dismissals,
- 17 findings of “no reason to believe,”
- 78 findings of “reason to believe” with no further action taken,
- 8 findings of “probable cause to believe” with no further action taken,
- 111 conciliation agreements, and
- 13 authorizations of legal suit.

The Commissioners authorized the Audit Division to initiate Title 2 audits for seven authorized committees and eight unauthorized committees,<sup>16</sup> based on activities related to the 1996 election cycle. While a total of 15 for-cause audits were conducted, the Reports Analysis Division produced 200 referrals for consideration of for-cause audits.

#### **4.1 Analytical Approach**

The study team’s approach to understanding and analyzing each of the core programs was through the combination of process mapping and interviews. Process mapping involves breaking down the flow of work throughout an

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<sup>16</sup>An authorized committee, or candidate committee, is a Federal candidate’s designated committee to manage his or her campaign and keep track of all campaign financing. An unauthorized committee, or noncandidate committee, is an organized political group (e.g., party committee) that is formed for a particular interest and often makes contributions to any Federal candidate who supports its interests.

organization and identifying the connections between specific activities and resources and is used to

- Explain how work flows throughout an organization;
- Determine problems/issues related to efficiency, productivity, performance, and communication;
- Identify key metrics on performance, timeliness, volumes, and quality, as well as the resources associated with particular processes; and
- Distinguish value-added from non-value-added work.<sup>17</sup>

This method of analysis was intentionally applied across FEC in order to create a comprehensive set of process maps. In most cases, the process maps represented the first time that FEC staff and managers had thoroughly examined and documented how they conduct their business. Moreover, these maps allowed the study team to look throughout the entire organization to identify where FEC could potentially improve quality, reduce cycle times, improve productivity, and effectively use technology.

The team adapted certain industry-accepted standards for sound business processes as the basis for analyzing FEC processes and determining potential improvement opportunities. Using these standards as general assessment criteria, the team scrutinized the four core programs to establish the extent to which FEC processes do the following:

- Eliminate unnecessary handoffs and non-value-added work
- Build in quality at the source, mistake-proof process activities, and standardize on best practices
- Apply automation and appropriate technologies to eliminate organizational barriers to effective process performance
- Organize around outcomes to produce what the customer wants
- Rely on multiskilled workers to reinforce complementary skills and mutual accountability
- Use systems to provide immediate feedback to management and staff about what is happening in a process

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<sup>17</sup>The terminology “value-added” and “non-value-added” is used to describe activities within a process. A value-added activity generally refers to work that enhances a product, service, or outcome for a customer and includes such things as original research or data analysis. A non-value-added activity often involves work that will have no impact on the customer and wastes time and resources. Non-value-added activities include redundant reviews, logging, sorting, and queues that increase cycle time, as well as rework.

- Reduce batching and preparation activities to identify quality problems faster and to lower potential rework costs, improve productivity and flexibility, and enhance workload balancing
- Maintain linkages between processes that have effective, well-established controls to prevent work slippage, bottlenecks, or poor decision making
- Nurture a continuous improvement capability and mindset

The maps help piece together pictures that depict how information, documents, and resources flow through currently independent and often isolated processes at the FEC. Of particular importance, many organizational strengths, weaknesses, opportunities, and barriers were identified and discussed during the course of the process mapping. A major challenge in improving performance is the use of this information to solve the critical FEC business issues.

Maps of all significant FEC processes are included as Appendix C in Volume II of this report. The remainder of this section includes findings and opportunities for improvement to the four core programs.

## 4.2 Disclosure Findings and Improvement Opportunities

**Objective:** “With regard to the Disclosure Program, the FEC seeks to

- Review and process the financial reports filed by political committees – and the data taken from those reports – accurately and timely
- Make the reports and data readily accessible to the public, the media and the filing community
- Educate the public, the media and the filing community about the legal requirements pertaining to disclosure, contribution limits and prohibitions, and the public financing of Presidential elections – the core elements of the Federal Election Campaign Finance Law.”

Source: FEC FY 2000 Budget Request Justification, November 16, 1998.

The Federal Election Campaign Act of 1971 requires detailed campaign finance reports on contributions and expenditures from candidates for Federal office and their supporting political committees, as well as from individuals and committees making expenditures on behalf of, or in opposition to, a candidate. The following campaign finance disclosure documents are required by the FECA:

- Statement of Candidacy and Designation of Principal Campaign Committee
- Statement of Organization of Political Committee

- Candidate Authorization of a Political Committee
- Reports of Receipts and Expenditures
- Statements of Independent Expenditures
- Communication Costs by Corporations, Labor Organizations, Membership Organizations, and Trade Associations
- Debt Settlement Statements
- Presidential Financial Disclosure Reports submitted by Presidential candidates as required by the Ethics in Government Act

Deadlines for filing vary, based on the particular document. Some reports are filed on a quarterly, others on a monthly, and a few on a pre/postelection basis with the FEC. The timeline depicted in Exhibit 4–2 provides an example of the reporting schedule for 1998. After the reports are filed, the law requires that the FEC make them available to the public within 48 hours.

Exhibit 4-2  
**1998 Reporting Schedule**

Date	Report
1/31/98	Yearend
2/20/98	Monthly
3/20/98	Monthly
4/15/98	Quarterly
4/20/98	Monthly
5/20/98	Monthly
6/20/98	Monthly
7/15/98	Quarterly
7/20/98	Monthly
8/20/98	Monthly
9/20/98	Monthly
10/15/98	Quarterly
10/20/98	Monthly
10/22/98	Pre-General
12/3/98	Post-General
12/31/98	Yearend (Close the Books)
1/31/99	Yearend

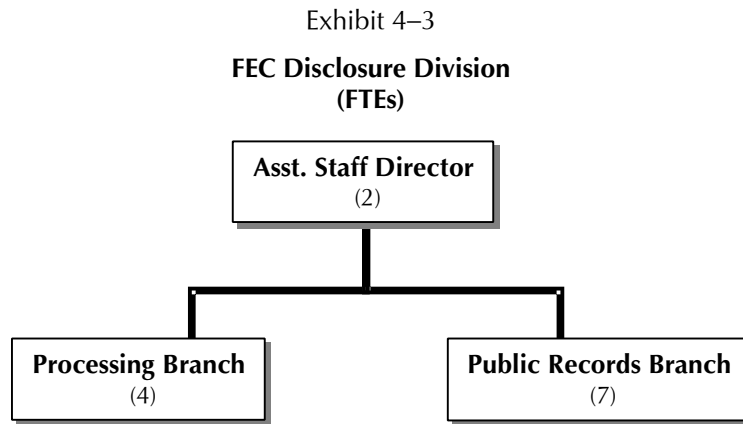
The disclosure program involves three FEC divisions: Disclosure, Data Systems, and Reports Analysis. The disclosure program focuses on facilitating voluntary compliance within the filing community to create an accurate public record of campaign finances. The FEC routinely meets disclosure deadlines, disseminates campaign finance information to the public within the 48-hour time period, and issues timely responses to public requests for information and data analysis. No partisan bias in document processing, coding, data entry, and reports analysis or in the creation and release of the public record is apparent.

The following subsections pertain to findings and improvement opportunities within the individual FEC units that serve disclosure functions.

#### 4.2.1 Disclosure Division

The primary objective of the Disclosure Division is to make public, within 48 hours, required campaign finance information and to assist the public with access to campaign finance information. The Disclosure Division is divided into the Public Records Branch and the Processing Branch and consists of a total of 13 FTEs. The Processing Branch handles the

back office activities involved with campaign finance report processing (such as imaging, filming, and copying large volumes of campaign finance reports, agency documents, and internal documents). The Public Records Branch is a storefront operation where FEC staff primarily assist the public with locating and understanding disclosure data. Exhibit 4–3 provides current FTE allocations.



*Source: FEC Staffing Report September 25, 1998*

#### 4.2.1.1 Public Records Branch

The Public Records Branch is responsible for placing documents on the public record, responding to information/research requests from the public (including other Federal agencies), developing publications,<sup>18</sup> participating in the State Relations Program,<sup>19</sup> and other various administrative processes.

The Public Records Branch resembles a library of documents that include receipts and expenditures filed by Federal committees and candidates. All campaign finance disclosure reports and statements filed since 1972 are available for public viewing and copying. In addition, various requirements of the law direct FEC to publish lists and to cross-index certain reports and statements. As a result, the Public Records Branch supplements the financial disclosure reports with a series of indexes. Designed to make mass

<sup>18</sup>The publications produced by the Disclosure Division are the Federal Election series, Combined Federal/State Disclosure and Election Directory, Campaign Finance Law: A Summary of State Campaign Finance Laws, PACronyms, and the brochure, “Your Guide to Researching Public Records.” These are publications developed for the public and filing community and, with the exception of Campaign Finance Law, are available to everyone free-of-charge.

<sup>19</sup>The Deputy Assistant Staff Director for Disclosure is responsible for administering the State Relations Program.

amounts of data in the reports more accessible and understandable for the public, the following indexes are made available:

- FEC Reports on Financial Activity and Disclosure Series (published indexes that consolidate and summarize data from the financial disclosure reports)<sup>20</sup>
- Daily updated computer printouts of various FEC indexes
- Index of multicandidate political committees
- Index of registered political committees
- Index of political committees and their sponsors
- Index of sponsors and their political committees

The Public Records Branch also maintains all Advisory Opinions (AOs), AO Requests, and associated comments and correspondence. Additional documents found in Public Records includes all closed compliance actions (Matters Under Review), audit reports, Commission memoranda, agenda items, agendas, certifications for closed meetings, and minutes of all Commission meetings.

Public Records staff members often directly assist the public in locating and understanding the campaign finance documents on file with the FEC. Segments of the public who are most interested in FEC records include broadcast journalists, reporters, academicians, research specialists, political operatives, and employees of other Federal agencies, as well as FEC staff. Daily work to support the various needs of a diverse public may include the following:

- Primary research for academicians, professors, and students (whose deadlines do not routinely fall out anywhere in particular along the election cycle)
- Complex inquiries from political operatives who tend to be highly sophisticated employees of incumbent Senators, Members of Congress, or campaign organizations (these requests can take many hours of work)
- Requests from the press for information such as audit reports, backup materials, or disclosure indexes

**The Public Records staff is very customer-focused.** This is extremely important because this small office operates as the front line for FEC. Public Records staff must interact on a daily basis with the public, including

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<sup>20</sup>The Reports on Financial Activity and Disclosure Series Indexes are created and maintained by DSD.

everyone from political players to interested third parties to academicians and interns. They also provide information to other agencies as requested. Several articles and editorials have been written acclaiming the Public Records Branch and recognizing the helpful demeanor of its knowledgeable staff.

Ensuring smooth access to FEC information is a relatively steady and consistent job within Public Records. Throughout a two-year election cycle, workloads peak as expected during an election year (particularly prior to the election). Public interest in campaign finance naturally increases during the election year; however, this does not imply a drop in public interest during nonelection years. Workload statistics indicate that the level-of-activity for the office regularly holds constant from month to month.

**Requests are tracked and logged manually.** Public Records currently responds to all requests within 72 hours. Depending on the requester, an informal priority may be assigned to certain requests if necessary, but the majority are short-term research projects assigned to staff as available. Since the office is small, staff are cross-trained and do not formally specialize in any particular areas of interest. The ability of Public Records staff to be so attentive to customer requests has helped to earn the FEC very positive marks regarding disclosure.

**Although Public Records is in daily touch with the needs of filers and the public, the knowledge gained is not widely used throughout the FEC.** For example, Public Disclosure staff could offer valuable suggestions for enhancements to the disclosure database that would directly benefit users. However, this information remains unsolicited.

**The analytical tools and databases available for Public Records staff to answer requests are adequate to address only the most common requests.** However, a significant number of requests that Public Records staff receive require a level of analysis that is not readily supported by the current disclosure database. Because the disclosure database is not easily queried and has limited search capabilities, Public Records staff members often have to use hand calculators and other more time-consuming methods of analysis. If a request requires more advanced analysis outside of the standard answers that have already been developed, then custom programming may be necessary to develop an adequate response. This would involve submitting a request to Data Systems to have one of their programmers, if available, write the new code.

**Despite its imaging system and disclosure database, FEC is still excessively paper oriented.** This reliance on paper is partially driven by a majority of

customers who want hardcopy reports rather than softcopy. However, the formal mechanism for disclosure at FEC is through imaging.<sup>21</sup> In other words, only after documents can be accessed on the imaging system are they officially considered part of the public record.

Paper copies of most House and all Senate reports, as well as microfilm records of all disclosure documents, are maintained as backups to the imaging system. (The imaging system has gone down in the past for an extended period of time and forced staff to rely on these backup disclosure resources.) In addition, campaign finance information can be accessed through the FEC Web site. Although the Web site could be used as a backup to the imaging system to access campaign finance reports, no connections to the Internet are presently available for the public to use in the Public Records Branch. In summary, the FEC provides access to disclosure information through an internal imaging system and disclosure database, paper records, microfilm, and the Internet.

The FEC uses a combination of imaging, microfilm, and paper records to maintain the public record and its own historical archives. The imaging system was designed to replace the microfilm process for financial disclosure reports. As a result, not all FEC information is as easy to access as it could be. Any information that is not in the imaging system or disclosure database cannot be accessed electronically and cannot be accessed via the Internet. Hardcopy and microfilm are only available in Public Records and must be located using a series of indexes and then manually searched. Despite these minor issues, the FEC does make a large amount of information available to the public. Public Records staff also play a key role in making certain that all disclosure information is accessible with or without technology. However, maintaining paper and microfilm documents in Public Records results in many hours dedicated to manual, labor-intensive activities such as filing and copying.

***Improvement Opportunity 4-1: FEC should redesign a disclosure database that supports internal staff needs, as well as the public's needs.*** The FEC should tap into the Public Records Branch unique, firsthand knowledge of stakeholders in order to enhance the organization's value to its customers. Specifically, FEC databases need to be both functional for, and easy to use by, all internal and external users. Current relational database and data-

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<sup>21</sup> Except for Senate documents. All original Senate reports are filed with the Secretary of the Senate and copied or microfilmed for the FEC. The resolution of the photocopies and microfilm is not good enough for imaging. As a result, Senate reports are not available through the FEC imaging system or Web page, but must be maintained in Public Records as paper and microfilm.



mining technologies represent more advanced and comprehensive analytical tools that are more in line with the needs of the public and the staff.<sup>22</sup>

***Improvement Opportunity 4- 2: The Public Records Office should be transitioned to a paperless resource center.*** Public Records staff could then spend more time working information requests and minimize administrative tasks such as filing and photocopying. Public Records has been proactively working toward this goal as fewer paper copies are made each election cycle. For example, PAC, party, and Presidential reports are no longer being stored as paper copy in file cabinets. To eliminate the remaining paper copy made of House and Senate reports, the FEC must have the following in place:

- A completely reliable image retrieval system with appropriate backup alternatives
- Point-of-entry for Senate filings to be imaged at the FEC
- A Public Records operation that encourages the use of softcopy rather than hardcopy reports

In addition, Public Records will likely want to eliminate (or at least minimize) the use of microfilm and entirely focus on disclosure through imaging and the electronic filing system.

***Improvement Opportunity 4- 3: FEC should set up Internet connections on several PCs in the Public Records Division so that the public can access the FEC Web page.*** The ability to use the Internet would enhance the resources available in Public Records. Since images of campaign finance reports can be accessed using the FEC Web page, this would also serve as a backup to the imaging system. In addition, the Internet could be used to access other campaign finance databases and Web sites of third-party information providers. Its use would also demonstrate to the public how they can access records from their homes or offices.

#### **4.2.1.2 Processing Branch**

The Processing Branch is a small-scale production shop for processing FEC paper documentation so that it can also be stored and accessed via images and microfilm. FEC scans more than 2 million pages of paper per election

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<sup>22</sup>This is not meant to imply that the FEC should engage in value-laden data analysis for public consumption. Rather, the FEC should continue to make the basic campaign finance data available while striving to make it more usable as well. This would allow for easier, more meaningful analysis of the data both internally for staff (e.g., reports review) and externally for stakeholders.

cycle, or on average a few thousand pages per day (FEC daily processing volumes can vary significantly, depending on the election cycle and pending deadlines).

Document processing is a back office function of the Disclosure Division and does not require any direct interaction with the public. Processing staff are primarily concerned with campaign finance reports and statements of organization, agency documents intended for the public record such as closed Matters Under Review, and internal agency documents that need to be archived but are not essential to the public record.

The Processing Branch has the following responsibilities:

- Imaging all documents intended for the public record
- Filming all documents intended for the public record
- Filming and indexing certain internal documents as a means of archiving FEC records
- Printing hardcopy of commonly requested House documents
- Making hardcopy from microfilm of Senate documents
- Processing all microfilm (i.e., cutting, splicing, indexing, and delivering rolls)
- Photocopying large reports (i.e., more than 100 pages) that are requested in Public Records

The primary function of the Processing Branch is to facilitate the process of disclosure through the imaging of disclosure documents. Processing staff spend the majority of their time working with campaign finance reports. Processing is the first component of the FEC imaging process. While this includes responsibility for document preparation, scanning, and quality control, Data Systems is responsible for the second component of FEC imaging—the indexing of imaged documents so that they can be electronically located and retrieved.

At a high level, processing includes two subprocesses, one for campaign finance report processing for Senate filers and one for FEC filers. The two processes exist because two points-of-entry for campaign finance documents exist. Senate committees file their original documents with the Secretary of the Senate, who in turn forwards copies and microfilm to the FEC for processing. The House, Presidential, PAC, and party committees file directly with the FEC. Because of the larger size and more frequent elections, the majority of campaign finance reports come from FEC filers other than Senate committees and candidates.

FEC document processing for Senate filers begins with a delivery from the Secretary of the Senate. The Senate sends either photocopies or microfilm to the FEC. Typically, the Senate sends photocopies of reports to the FEC until an entire reel of microfilm has been used. When enough Senate reports have filled a reel of microfilm, the Secretary will forward that microfilm without paper copy. As a result, Processing must reconcile the paper copies to the reports on microfilm so as not to miss anything. When the Secretary receives low volumes of reports, the FEC will tend to receive paper copies on a daily basis. However, during peak reporting times, the FEC will receive regular deliveries of microfilm.

When the Secretary delivers paper reports to the FEC, duplicate photocopies are sent to Processing where they are received and logged on a daily basis. One copy is forwarded to Public Records to make it available for public viewing, and the second copy is sent to the Data Systems Division for data entry into the disclosure database. The Processing Branch will make duplicate paper copies from microfilm reports (that have not already been received on paper) and forward a copy to Public Records and one to Data Systems.

Processing for all FEC filers includes the four sequential subprocesses of receiving campaign finance reports, preparing documents, scanning and filming reports, and postprocessing activities.

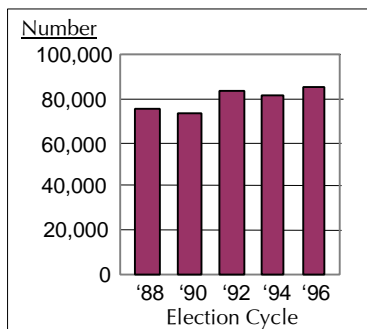
**Receipt of campaign finance reports.** Document processing for FEC filers begins with the receipt of campaign finance reports, which can be submitted in a variety of ways:

- Hardcopy paper reports — either an FEC form or some other custom form that includes all necessary disclosure information. This is the most common method of filing.
- Version 1 disk — an electronic format that can be uploaded into the electronic filing system and presented as either HTML or raw data files, but does not support direct integration with the disclosure database. As a result, Version 1 filings are printed at the FEC and processed for data extraction as if they were submitted as hardcopy reports.
- Version 2 disk — an update of Version 1, includes unique record identifiers that are necessary for automated processing of amendments in order to determine which transactions have changed. This format allows the FEC to upload campaign finance data directly into its electronic filing system to automatically populate the disclosure database and create the public record.

- Direct electronic submission — filers connecting directly to the FEC electronic filing system to instantly submit disclosure data using a modem connection or the Internet, rather than mailing Version 2 disks.
- Fax — a method of filing that is only intended for the submission of 48-hour notices related to receipt of contributions of \$1,000 received 20 days or less before an election.

The FEC tracks total volumes of paper reports that are submitted, as well as summary breakdowns by type of filer. Exhibit 4–4 indicates the number of paper reports that have been received and processed over the past five election cycles.

Exhibit 4-4  
**Paper Reports Received  
and Processed**



Source: MIS data

The FEC does not track volumes of documents according to whether they are handwritten or typed. Likewise, the FEC does not track volumes of documents that are prepared using “standard” forms as opposed to other custom schedules. Although presently unavailable, this information would be useful to analyze certain reporting trends (e.g., how reliance on handwritten material correlates to committee size), as well as to determine the cost and benefit impacts of certain disclosure policy decisions (e.g., mandatory electronic filing or more rigid filing guidelines).

The mailroom receives mailed or hand-delivered documents, opens the envelopes, time-stamps the document, paperclips the envelope to the document, and makes the delivery to Processing. In addition, filers can mail disks that will go to the mailroom for delivery to Data Systems. The Data Systems Division handles Version 2 disks and any reports filed electronically. Data Systems prints paper reports from Version 1 disks and forwards the printouts to Processing for imaging. The Processing Branch processes reports that come to the FEC as faxes, hardcopy, or Version 1 disk printouts. Faxes are received directly in Processing.

If the mailroom is closed (after hours), Public Records receives hand deliveries and forwards them to Processing. If another FEC office (usually RAD) receives a campaign finance report or an amendment to a campaign finance report, that office forwards the document to Processing. If filers send House reports to the prior point-of-entry at the Clerk of the House, then the Clerk of the House couriers the reports to the FEC. Processing staff log the receipt of all disclosure documents.

**Document preparation** begins with a Processing clerk who checks to make sure that Processing has received the appropriate documentation. The clerk sorts the reports and prepares the documents for scanning, removing staples and bursting pages as necessary. The clerk records the date and time postmarked on the envelope, using an Envelope Replacement Page. This form is placed in back of each document and serves as a divider page.

**Scanning and filming** involves setting the scanner and feeding documents in batches of approximately 100 pages. The operator logs each batch of documents into a scan log and then prints laser copies of House reports, which are then forwarded to Public Records for filing.

**Postprocessing** occurs after the documents are scanned. The operator conducts a quality check to ensure that each page has been scanned, reassembles the originals, and records the number of documents scanned in a log. All original documents are delivered to Data Systems for data extraction.

Postprocessing also includes processing of microfilm. As documents are scanned, they are also filmed. The film must be transported by messenger to an overnight service for developing. Nine copies of the film are returned to Processing the next day for splicing and delivery to various offices, including DSD, RAD, OGC, the Press Office, and Public Records.

**The Processing Branch makes several manual entries into handwritten logs to track the processing of disclosure documents.** In the event that an error occurs, these logs can be tedious and time consuming to analyze, but they are necessary to determine what has happened. Even with a manual logging process, Processing does successfully manage large volumes of documents to create the public record within the statutorily imposed 48-hour deadline.

**Processing staff members are not fully utilized throughout the election cycle.** Workloads vary from time to time, tending to steadily increase up through an election. In off years and slow months, Processing has some ancillary resource capacity that is partially applied to support other imaging/filming needs within the FEC. This includes the processing of internal documents for the public record and for archives.

***Improvement Opportunity 4- 4: The Processing Branch should support all imaging needs throughout the Commission.*** Processing resources could be better leveraged during off-election years when less disclosure documents are coming into FEC. In fact, Processing staff could work with the Office of the General Counsel to assist that Office with its imaging needs. FEC has already made a large investment in in-house imaging. With the addition of

a second Kodak 990 scanner (intended to be operable in January 1999), Processing is certainly in a position to take on additional imaging assignments. Moreover, imaging should remain a centralized operation in Processing, available for the rest of the organization as needed.

#### **4.2.2 Data Systems Division**

The Data Systems Division maintains both a substantive role within the disclosure program and the support role of providing technical services for the entire Commission. This section focuses on the substantive, programmatic role of Data Systems.

**Data Systems performs two major processes<sup>23</sup> coding and data entry<sup>24</sup> that are critical to the disclosure of hardcopy reports.** In this capacity, Data Systems essentially extracts data from disclosure reports that simultaneously populate the disclosure database and create indexes for the FEC imaging system.

In addition, Data Systems also supports the FEC electronic filing system. When Data Systems receives Version 2 disks or direct electronic submissions from filers, the information is uploaded to the electronic filing system. This automatically populates the disclosure database<sup>23</sup> after it passes through a streamlined exception process, conducted by a coding staff person, to resolve any ambiguities in the data, prevent erroneous reporting, and maintain an accurate public record.

**In comparison to electronic submissions, paper submissions require substantially more work and time for the FEC to make them part of the public record.** Original hardcopy disclosure documents are delivered from Processing and logged and sorted in Data Systems. Many of these documents go through two rounds of data coding and entry, referred to as “Pass I” and “Pass III.” Pass I captures summary campaign finance data and must be completed within 48 hours after a document enters the FEC. Exhibits 4–5 and 4–6 indicate the volumes of reports coded in Pass I and Pass III over the past 14 years.

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<sup>23</sup> Electronic filing automatically populates the disclosure database with Pass I and Pass III data.

Data Systems staff code the documents, identifying the necessary information that needs to be input into the disclosure database. The documents are then handed off to staff to enter the coded data into the disclosure database. The indexes for the FEC imaging system are an automated byproduct of the entry that creates the disclosure database. Up to this point, no images of any disclosure documents can be accessed. Data entry staff input the necessary identifiers. However, **neither coders nor data entry staff work off the imaged reports.** Rather, they rely on the hardcopy to do all data transaction coding and extraction. Overnight, the disclosure database matches the images from the imaging system to the Pass I data entered that day, thereby creating the public record. The FEC uses double data entry as a method of quality assurance. The next day, after the system has been updated, different data entry staff will reenter the same coded data (referred to as verification) and correct apparent errors.

If the document does not require further coding, the original document is forwarded to the RAD file room. If the document has itemized transactions, it requires Pass III coding and entry (more than 60 percent of all submissions require Pass III coding and entry). The coders who perform Pass I coding are also trained to perform Pass III coding. After Pass III coding, most reports are sent to a contractor that enters contributor itemization information. If data entry staff are available, they can also engage in Pass III entry. **FEC outsources most itemized data extraction to free up data entry resources for the more time-sensitive Pass I entry.** The Pass III coding and entry process can take up to 30 days to complete before reports can be forwarded to the RAD file room. However, a prioritization system established by RAD automatically indicates specific documents that

Exhibit 4-5

**Pass I Volumes**

Fiscal Year	Reports Coded
1985-86	113,252
1987-88	120,279
1989-90	120,386
1991-92	124,713
1993-94	135,856
1995-96	140,239
1997-98	139,582

Source: MIS data

Exhibit 4-6

**Pass III Volumes**

Fiscal Year	Reports Coded
1985-86	71,646
1987-88	71,395
1989-90	75,332
1991-92	78,814
1993-94	84,008
1995-96	85,131
1997-98	85,491

Source: MIS data

should be prioritized and sent to the contractor first for expedited Pass III coding.<sup>24</sup>

Current data extraction activities have successfully achieved timely and accurate disclosure with increasing productivity and essentially static staff resources. Over the past 15 years, the FEC has witnessed improvements in data coding and entry of disclosure information despite ever-growing workloads and reports that have grown in size and complexity.<sup>25</sup> For

example, Exhibit 4–7 indicates that the number of Pass III transactions per document have more than tripled since 1985.<sup>26</sup> Exhibit 4–8 indicates substantial productivity gains related to Pass III coding, averaging more than a 200% increase in the number of transactions coded per FTE since 1985.

Data Systems coders and entry staff worked more efficiently over the past several years in response to elevated workloads. In fact, although recent non-Presidential election years are beginning to look very similar in respect to workload to Presidential election years of the past, Data Systems has still been able to meet aggressive performance targets and deadlines and to minimize backlog (see Exhibit 4–9). Nevertheless, Data Systems coding and entry resources are currently stretched to their capacity. Their future success relies on the success of the FEC electronic filing system and its ability to ease paper-based workloads as more filers come on-line.

Exhibit 4-7

**Pass III Transactions**

Fiscal Year	PASS III Transactions	Transactions per Report
1985	275,057	6.4
1986	147,019	5.6
1987	176,651	5.0
1988	630,862	14.0
1989	371,449	9.1
1990	400,507	12.2
1991	403,165	10.0
1992	692,662	18.7
1993	716,436	16.2
1994	732,441	18.7
1995	799,131	17.5
1996	991,451	25.2
1997	978,411	20.2
1998	865,297	23.4

Source: MIS data

<sup>24</sup>This prioritization system applies predetermined criteria (e.g., report size, time-sensitivity, type of filer, complexity, etc.) and works with the disclosure database in order to automatically generate priority status for some reports. Data Systems staff explained that documents defined by Reports Analysis as priority are isolated in the Pass I process, stored separately, and coded for Pass III before nonpriority documents. Data Systems also indicated that Reports Analysis might receive some nonpriority documents before priority documents if no Pass III processing was required.

<sup>25</sup>More financial data is currently being disclosed in reports today than in the past. This is partially due to the allocation regulations for “soft money” reporting since the 1992 election cycle (related to Pass III itemized information) as well as more reporting requirements for Pass I summary information.

<sup>26</sup>The complexity of Pass III transactions has increased not only as a result of higher volumes of money and transactions in the Federal election system but also because of the allocation regulations for “soft money” reporting since the 1992 election cycle.



Exhibit 4–8

**Pass III Transaction Processing**

Fiscal Year	Minutes per Transaction	Transactions per FTE	Pass III Improvement
1985	2.99	35,264	–
1986	3.16	33,413	-5%
1987	3.89	27,177	-23%
1988	1.26	84,115	139%
1989	1.73	60,893	73%
1990	1.37	77,021	118%
1991	1.55	68,333	94%
1992	.98	108,228	207%
1993	1.03	102,348	190%
1994	1.07	98,979	181%
1995	1.07	98,658	180%
1996	.87	120,909	243%
1997	.89	119,318	238%
1998	.95	111,357	216%

Source: MIS data

Exhibit 4–9

**Coding and Entry Completion Statistics**

Election Cycle	% Coding Done*	% Entry Done*	Median Days To Complete
1988	94.64%	93.75%	9
1990	97.66%	96.94%	7
1992	85.32%	84.64%	13
1994	88.75%	87.41%	14
1996	94.80%	94.21%	10
1998	98.15%	97.29%	10

\* As of December of the election year  
Source: MIS data

**4.2.3 Reports Analysis Division**

The Reports Analysis Division (RAD) receives original campaign finance reports from Data Systems after transactional information has been coded and entered into the Disclosure Database. RAD analysts review campaign finance reports, amendments to reports, and responses to Requests for

Exhibit 4-10

**Percentage of Reports  
Requiring a RFAI**

Election Cycle	Percentage
1992	15.35%
1994	13.98%
1996	15.27%
1998	12.05%

Source: MIS data

Additional Information (RFAs) to ensure an accurate public record of campaign finance transactions. As depicted in Exhibit 4–10, approximately 12 to 15 percent of all reports have required RFAI action since the 1992 election cycle.<sup>27</sup> Exhibit 4–11 depicts the average time to process those documents during the past nine years. **The data indicate that, since 1990, increases and decreases in the time reviewing reports varies in relation to election and non-election years, while the time spent on RFAI processing has generally decreased.**

Exhibit 4-11

**Average RFAI Processing Times**

Fiscal Year	Reports Review Time*	RFAI Processing Time
1990**	.93 hrs.	1.06 hrs.
1991	.76 hrs.	.74 hrs.
1992**	.83 hrs.	.82 hrs.
1993	.69 hrs.	.61 hrs.
1994**	.75 hrs.	.58 hrs.
1995	.71 hrs.	.75 hrs.
1996**	.84 hrs.	.68 hrs.
1997	.63 hrs.	.46 hrs.
1998**	.84 hrs.	.58 hrs.

\*Form 1 and Form 3 reviews

\*\*Election year

Source: MIS data

RAD begins to review reports once DSD forwards the original document to the RAD file room. Reports analysts regularly query an internal workflow program to determine assignments and the appropriate files to pull. The analyst has the option to work with the image of the report or the paper copy, but **most analysts rely on paper copies for reports with more than 12 to 15 pages.**

A reports analyst begins to review and analyze the documents, using a series of indexes generated in Data Systems from the disclosure database.<sup>28</sup> The analyst then conducts detailed compliance reviews based on mathematical, content, and disclosure criteria and thresholds. **These reviews require a degree of manual processing and can be time- and labor- intensive.** The analyst notes any compliance problems (on a log sheet), such as an improper contribution or a mathematical error, that will trigger the RFAI process. At any time in the review process, an analyst who finds data entry discrepancies will note the issue and send the report back to Data Systems to reenter the correct data. Data Systems corrects the errors and returns the original report to the RAD file room.<sup>29</sup>

<sup>27</sup>Percentages for election cycles in which a Presidential election occurs tend to be slightly higher because of the increased financial activity.

<sup>28</sup>One example of an index commonly used by RAD analysts is referred to as the R Index. The R Index provides the history of the committee filings based on Pass I data entry and indicates whether a previous filing was new or amended, the type of report (monthly, quarterly or midyear), beginning cash on hand, coverage dates, total receipts, and ending cash on hand.

<sup>29</sup>The actual number of reports or data entry issues that are sent from RAD to Data Systems are not effectively tracked by either division. Although the basis for return includes coding

If no compliance problem is found, the analyst updates the RAD Report Status System (RSS) and returns the report to the file room. The RSS contains information about the committee files, such as when Pass I and Pass III were started and ended, the coder's name, and the date on which Data Systems sent the file to RAD.

The RFAI process is initiated when an analyst needs additional information from the filer. The analyst decides whether the RFAI is a "track" or "nontrack" notice. Non-track (or informational) notices inform the filer to take corrective actions on future campaign finance reporting and thus do not require a response or amendment to the report submitted. Track RFAIs require a committee to file an amendment to the submitted report in order to be in compliance with the law.

For RFAIs, the analyst completes a precoded transmittal form and forwards all report and transmittal sheets to a RAD secretary for completion. From the codes, the secretary composes the RFAI letter and returns the letter to the analyst. The analyst then reviews, signs, and forwards the letter with the corresponding file folder to either the Authorized or Non-Party/Party Branch Chief for approval. The Branch Chief forwards the letter to the RAD Compliance Branch that monitors RFAI status. If the RFAI contains a grammatical or content error, the Branch Chief returns the edits to the secretary for retyping. Once the letter is correct, the Branch Chief reviews and forwards it to the Compliance Branch for mailing. This process involves numerous administrative handoffs.

Once received, the filer has 15 days to respond, and if the filer does not respond in 15 days, the Compliance Branch sends the filer a second RFAI letter. Once again, the filer has 15 days to respond. If the filer still does not respond, the reports analyst identifies and evaluates the outstanding issues. These issues are weighed in terms of importance and factored into a decision on whether the file should be referred to Audit or the General Counsel. If RAD decides not to refer the file to Audit or OGC, the issues remain outstanding, and no further action is taken.

If the filer responds within the appropriate timeframe, the compliance analyst reviews the response to assess whether all outstanding issues were addressed. If the response is sufficient, the reports analyst reviews the response for accuracy and for compliance problems. If the analyst finds the

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and entry errors, along with reporting anomalies and ambiguity (where the judgment of the RAD analyst may differ from the coder), this process still represents rework that could be further assessed and potentially changed.

response is not accurate or that other compliance problems exist, the problems are noted as outstanding issues. A second RFAI may be sent to seek additional clarification of outstanding issues.

**FEC disclosure and compliance/enforcement activities begin to blend in the Reports Analysis Division (RAD).** This occurs because RAD is responsible not only for reviewing reports and providing filing guidance to committees but also for issuing referrals based on noncompliance or reporting problems.

***Improvement Opportunity 4- 5: Once the Commission has a certain date for mandatory electronic filing, RAD should begin to work with Data Systems to develop an automated, paperless review process to replace the existing manual, paper-intensive reviews.*** The vision for enhanced FEC electronic filing should include mathematical and logical compliance checks built into the front end of the system. In this respect, committees could immediately find and fix certain reporting problems before filing with the FEC. RAD analysts could then spend more time engaged in high-value-added analysis by applying new tools such as data mining to detect instances of noncompliance. This new approach to reports review could significantly reduce RAD cycle times and intensify compliance activities. In conjunction with envisioning enhanced electronic filing technology, RAD should conduct business process reengineering at some future point for its reports review processes.

The following is a “concept of operations” that provides a high-level conceptual model for one possible future reporting environment at FEC.

**Concept of Operations**

**A Model for Enhanced Reports Review and Analysis**

The primary disclosure responsibilities for reports analysts would focus on exception processing and a new streamlined RFAI process to facilitate voluntary compliance and referrals.

Exception processing builds on the concept of a modernized disclosure program in which RAD analysts work with electronic data/images rather than paper campaign finance reports. As soon as electronic filers submit their campaign finance reports and DSD reviews the submissions for quality control, RAD analysts begin their work. Data extraction would become, for the most part, a simple and automated computer activity. Mathematical and logical compliance checks currently performed by RAD analysts are built into the front end of the electronic filing system. As a result, when the analyst receives the report, he or she initiates an explicit, substantive analysis based on an exception report that indicates any problems. Exception thresholds and criteria are defined with input from RAD, OGC, and Audit and also take into account FECA organizational reporting and compliance thresholds.

The use of electronic filing enables data entry from the source provider and thus reduces errors that typically result from coding and data entry. This would significantly reduce the number of RFAs, and thus workloads, throughout the disclosure program.

Exception processing leads to these four possible outcomes of: no action, RFAI, referral to OGC, or referral to Audit. If the analyst identifies a potential audit or legal compliance problem, he or she initiates the referral process. If the analyst finds no problem with the report or the exception problems do not meet Audit or OGC thresholds, the analyst closes the file and saves it in the FEC electronic document management system. If the analyst needs more information to assess the exception-reported problem, he or she self-initiates an RFAI.

The RFAI process begins when a RAD analyst, after conducting an exception analysis, determines whether more information is needed from the filer to clarify the public record or to correct a noncompliant transaction. The RAD analyst accesses an electronic RFAI template and responds to the first prompt, which is for the filer's unique identifier. By entering this code, the system automatically populates the letter with the committee name, address, and type of report. The analyst then chooses the appropriate selections from drop-down menus to generate a standard letter request.

Because the disclosure program involves three divisions, many disclosure-related issues are broader in nature than the functional boundaries (i.e., unique roles and responsibilities) within which each division separately operates. Opportunities exist for the FEC to improve the current disclosure program and to enhance the efficiency and productivity of the offices and resources involved with disclosure.

Findings and improvement opportunities related to the following six basic areas of the disclosure program are discussed below: organizational structure, hardcopy disclosure processes and filing standards, electronic filing and disclosure forms, Senate point-of-entry, the disclosure database, and management planning.

#### 4.2.4 Organizational Structure

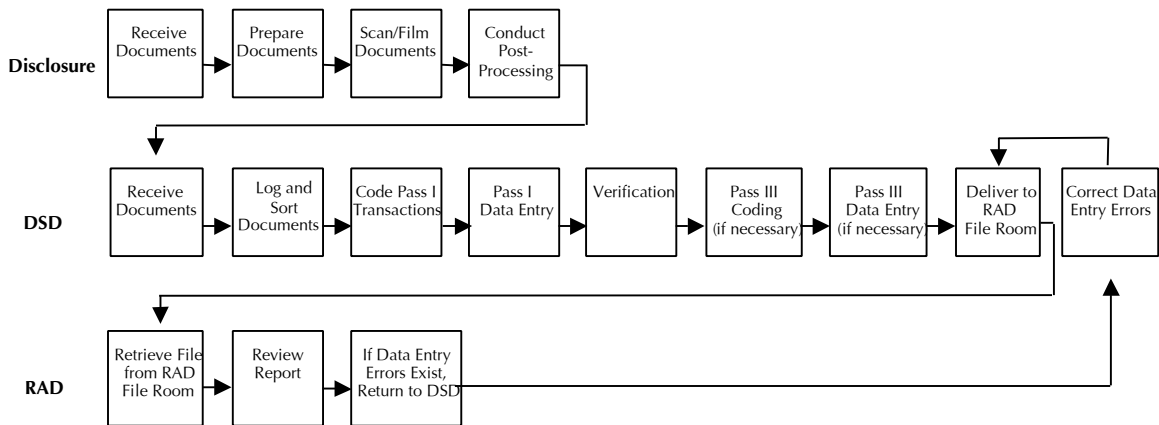
**Responsibilities for disclosure are shared across three separate divisions: Disclosure (Processing and Public Records), Data Systems, and Reports Analysis.** Each division handles its own part of the disclosure process. High-level or cross-cutting disclosure issues are difficult to resolve because the divisions work independently, without significant formal interaction. Although these divisions work well together to keep the disclosure process from breaking down, during interviews, several staff members from the various offices attributed fault to one another for bottlenecks and missed deadlines.

No manager in Disclosure, Data Systems, or RAD is completely responsible for making sure that the appropriate documents get on the public record within 48 hours of their receipt. Accountability for disclosure is fragmented among these several managers. Although managers seem to have informal relationships, formal meetings between different divisions rarely, if ever, occur to discuss common issues. Backlogs develop because of inefficient staffing and handoffs that have not been planned to create balanced processing of inputs and outputs.

Staff work in a compartmentalized environment that adds complexity and organizational barriers to the disclosure process and that reduces accountability. In spite of this organizational design, staff understand their roles in the disclosure process. Staff approach their jobs with a sense of urgency that stems from the continuously pressing deadlines. Exhibit 4-12 illustrates how each of the three offices are involved in the disclosure process.

Exhibit 4-12

#### FEC Division Involvement in the Disclosure Process



***Improvement Opportunity 4- 6: Realign resources in the Disclosure and Data Systems Divisions to enable a more unified approach to disclosure.***

Instead of having separate divisions perform isolated disclosure functions, FEC should establish a single office for disclosure. A Disclosure Manager would direct the office and be accountable for the process of creating the public record (from start to finish), as well as FEC compliance with the 48-hour rule. One comprehensive set of performance measures could then be applied across the entire process. The Disclosure Office would include processing, coding, and data entry staff, cross-trained to assist wherever necessary during heavy filing periods. Disclosure processes could be streamlined, and certain tasks could be reassigned to eliminate rework such as reviewing, sorting, and logging documents. The FEC should consider exploring the consolidation of coding and data extraction activities. In this scenario, coders would perform direct data entry into the disclosure database, perhaps working directly from the imaged report.

**4.2.5 Hardcopy Disclosure Process and Filing Standards**

**The current design of the disclosure program primarily involves paper-intensive processes for transporting hardcopy original documentation through three divisions in order to build the public record.** FEC processes and how work physically flows between the different divisions involved with disclosure, while likely once well designed, today do not seem appropriate for the technology available and the volumes handled. For example, campaign finance reports enter the FEC and go to the mailroom on the eighth floor, which then delivers them to Processing on the first floor. Processing logs the documents in and prepares them for the scanner. After Processing scans, films, relogs, copies, prints, reassembles, and sorts the documents, they go to Data Systems on the eighth floor. Data Systems staff log in and sort documents and begin a series of handoffs between data coding staff and data entry staff for Pass I. Reports that need Pass III coding go back to the coders for batching prior to sending them to a contractor who performs the Pass III data extraction. The reports are eventually returned to Data Systems for quality control. After all of this activity and movement, the reports finally end up in the RAD file room on the seventh floor, where RAD analysts pull them for review (which may result in RAD returning documents to data systems for recoding).

Applying a general rule of process management, excessive transportation of documents often leads to bottlenecks, delays, missing files, and mistakes. For example, FEC staff currently spend time logging paper documents to make sure that they are accounted for and do not get misplaced. When mistakes do occur, it is tedious work for managers to review the logs and

determine the error, but nevertheless a necessary discipline given existing paper processes. The FEC reliance on paper is time- and resource-intensive as well as complex and subject to error.

Because of numerous handoffs, process complexity, and a functionally compartmentalized disclosure process, **FEC has no single measure to determine compliance with the 48-hour rule.** In fact, to determine its compliance, FEC would have to manually calculate the time that disclosure reports spend in the mailroom, processing, coding, and data entry. Consequently, FEC measures recorded times from Data Systems logs because they are easy to monitor and relatively accurate for gauging compliance with the 48-hour rule. As a result, while technically meeting the 48-hour disclosure requirement, the start time is not measured from the time that the document first enters the FEC doors.

**The FEC spends considerable time and resources catering to filers who do not follow simple submission standards or file standard FEC forms.** The FEC does not require filing on standard forms and accepts any functional equivalent as long as it includes appropriate information. Absent report submission standards, the FEC spends additional time and resources to allow filers the flexibility to choose how they submit their information. This flexibility has created multiple inputs into the disclosure process that lead to a large variance in how filers submit disclosure information. Nonstandard report submissions complicate the already time-consuming and labor-intensive activities inherent in a paper-based disclosure program.

The Commission remains reluctant to seriously encourage or enforce standard filing procedures for the filing community. Although allowing filers to have many choices may be indicative of a progressive customer service orientation, FEC inaction regarding the enforcement of standard filing procedures fosters inefficiencies and errors that have become costly and time-consuming.

Campaign finance reports enter the FEC in a variety of ways and media. Allowing numerous intake points for submissions to enter the FEC adds time and complexity to the front end of the disclosure process. Each unique way that a document can come into the FEC requires a unique set of activities for processing. The end result can be longer cycle times and missing or lost documents in a very time-sensitive process.

Many filers do not follow FEC guidelines, but send documentation directly to RAD analysts, one of the Commissioners, or FEC offices other than Processing. Although mailroom staff open all FEC mail prior to delivery and are trained to look for campaign finance reports and to route them to



Processing (even if they have been incorrectly addressed by the filer), sometimes documents that should go to Processing are misrouted. In these cases, a report might not be posted within the 48-hour period. In fact, it might not reach Processing for days or weeks, until someone realizes that it should be part of the public record. FEC does not have the capability to track instances of these delays, but suggests that they occasionally do occur.

**The existing reporting process is confusing to filers because of complex reporting periods.** Requirements to track and report campaign finance data along different time periods (e.g., calendar year, fiscal year, election cycle) complicates the disclosure process for filers. In fact, this requirement makes data development, comparison, and analysis more difficult for the candidate committees, for the FEC, and for those relying on FEC data.

**Disclosure workloads and staff productivity vary directly with election cycles.** In general, leading up to an election, workloads increase with odd years tending to be slower than even years. FEC systems and resources are most strained during Presidential election years, because substantial amounts of additional work result from the political party and Presidential candidate committee filings. As campaign financing becomes more complex, as committees become more sophisticated, and as funding for Federal elections increase, FEC workloads will continue to grow.

***Improvement Opportunity 4- 7: FEC should enforce the use of standard filing guidelines and forms for the entire filing community.*** This would represent a major departure from the longstanding Commission orientation to afford filers the maximum amount of flexibility when submitting campaign finance information. However, the successful transition to electronic filing depends on the ability to alter current reporting processes, procedures, and forms to create internal efficiencies and external buy-in. FEC must soon take actions that both streamline disclosure and move the filing community away from paper reporting.<sup>30</sup>

The FEC could dramatically affect disclosure workloads and resources by enforcing a few standard guidelines for filing campaign finance reports. In particular, standardizing how forms are printed and how amendments to forms are submitted would yield the greatest impact. FEC should require that the submission of all disclosure information be in a typeface format. Handwritten submissions should not be accepted, but immediately returned to the filer. Likewise, FEC should develop clear and explicit instructions for

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<sup>30</sup>See Section 4.2.6 for a discussion on electronic filing.

amending forms that identify only changed transactions. Moreover, amendments should be completed on specific forms where filers must explicitly indicate which information has changed.

Standard forms could include anything from a generic hardcopy shell to smart form software with drop-down menus and self-editing mathematical reviews (similar to those found in popular PC-based tax preparation software). Also, rethinking how FEC collects disclosure data through certain types of forms presents an opportunity to work with filers to determine how to minimize errors and simplify reporting procedures. This is important because the new standard forms must be easy to explain, read, and complete. Standard forms should begin to capture the look and feel of electronic filing so that filers eventually become comfortable with this new environment.

Requiring the use of standard forms for campaign finance reports and amendments, in addition to enforcing standard filing procedures, would further streamline the disclosure process. The design and implementation of an improved disclosure program with standard forms should be directly tied to the paperless report transition strategy. The FEC must be careful not to develop an approach to proliferating standard forms that bolsters filers' existing reliance on paper.

The FEC will have to determine the appropriate level of enforcement regarding the use of standard forms to gain the benefit of new enabling technology. Because the FEC seems to be nearing its capacity to handle increasing volumes of disclosure reporting, the Commission should consider enforcing the use of standard forms, with civil penalties for noncompliance. More staff will be necessary if the FEC does not adjust its fundamental approach to disclosure.

***Improvement Opportunity 4- 8: In the event that mandatory electronic filing seems unlikely in the foreseeable future, the FEC should explore alternate plans to the EFS that would optimize its existing investment in imaging technology by integrating compatible technologies such as optical character recognition (OCR), bar codes and workflow software.*** These technologies would enable FEC to

- Automate some of its indexing (thus reducing the need for data coding and entry),
- Guarantee that filings become public record within 12 to 24 hours,
- More effectively track disclosure reports from the moment they enter the FEC and reduce the need for manual logging, and

- Route documents instantly throughout the organization.

The success of the FEC electronic filing program depends on its wide-scale use throughout the filing community. This future state seems likely only if Congress mandates the adoption of electronic filing. In the interim, the FEC should continue to focus its resources according to its Strategic Plan on developing its electronic filing program. However, in the event that a Congressional authorization for electronic filing seems many years away, the FEC will need to revise its information technology strategy and develop a contingency plan that will help streamline some processes.

#### Concept of Operations

##### A Model for a Modernized Paper-Based Disclosure Process

Filers would register with the FEC at the beginning of the disclosure process and receive a unique set of bar code stickers if they choose to file paper forms. These bar codes could be coded with identifying information to indicate the individual candidates and committees, as well as the specific type of forms being submitted. Candidates would affix a bar code to the top page of each report submitted to the FEC. The reports could then be mailed directly to the Disclosure Division, rather than going through the FEC mailroom.

Once they arrive in the Disclosure Division, they would be prepared for imaging and fed through the scanner. The scanner would read the bar code and automatically create an index for the report, making it a part of the public record. In this scenario, the report becomes part of the public record shortly after it enters the FEC. Since the filer submitted a standard typed form, OCR technology can be applied to read specific fields within the scanned image and instantly extract information into the disclosure database. Specific reports that required a more advanced data extraction process would be automatically routed to a disclosure analyst who pulls up the image and then codes and enters the appropriate data.

In this scenario, the FEC does not use the paper report after it has been imaged and automates the majority of coding and data extraction that currently takes place in Data Systems Division. Other scenarios can be developed in which filers submit electronic forms on disk or through e-mail, allowing data to be directly uploaded into the disclosure database without any scanning or OCR.

The FEC should try to capture disclosure data as close to their original source as possible. These processes and technologies allow the FEC to accomplish that goal. In fact, electronic data interchange (EDI) and imaging technology have reached a point of maturity where organizations are more limited by stretched resources and demanding workloads to implement the technology than by any existing technical constraints.

***Improvement Opportunity 4- 9: Report on an election cycle basis rather than by calendar or fiscal year.*** FEC currently collects and reports campaign finance contributor data based on calendar year reporting periods and election cycle contribution limits. FEC should standardize on one consistent reporting cycle for the entire organization. The period for reporting that makes the most sense for the FEC would be the election cycle because it provides the most accurate, meaningful, real-life picture of campaigns and FEC activities.

#### 4.2.6 Electronic Filing and Disclosure Forms

**The electronic filing system, as it currently exists, streamlines the disclosure process, but does not meet the internal needs of staff or the expectations of the filing community.** In comparison with the hardcopy disclosure process, electronic filing<sup>31</sup> is highly efficient and results in quick cycle times. Electronic filing offers the most cost-effective and efficient method to collect campaign finance information. Disclosure information submitted electronically is on the public record well within 24 hours, as opposed to upwards of 48 hours for paper processes. In addition, filing electronically reduces errors because the filer (who is the source of the data) actually provides the data that are used to populate the disclosure database. These data are also converted into a TIF image that the public can access through the imaging system, just like any other imaged report.

As of November 1998, 250 committees (3 percent of the filing population) filed electronically with the FEC. This is the first election cycle that committees have been able to file electronically. Until substantially more submissions are filed electronically, the FEC intends to rely on existing paper-based processes as the primary means of disclosure. Exhibit 4-13 shows a breakdown of the 250 committees and how they filed. (Note that the FEC only tracks the number of filers who use the EFS and not the actual number of documents that are electronically submitted.)

Exhibit 4-13

##### Methods of E-filing

Method of E-Filing	Number of Filers	Percent
Version 1	17	7%
Version 2	56	22%
Modem or Internet	177	71%

Source: Data Systems Division

Given the FEC capital investment in the EFS, filers who use electronic filing save the FEC significant time and resources routinely spent on processing, coding, and data entry from paper forms. Exhibit 4-14 lists the costs associated with the EFS since FY 1996 and projected through the end of FY 2002. The majority of costs to date have been

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<sup>31</sup>Electronic filing (e-filing) refers to submitting campaign finance disclosure information to the FEC either directly through a modem or Internet connection to the Electronic Filing System (EFS) or via Version 2 disks that can be uploaded into the EFS by DSD staff. Although Version 1 software can be uploaded into the EFS, it cannot be integrated with the Disclosure Database and consequently must be printed and processed in the same way as paper reports. Nevertheless, Version 1 software generates standard typed forms that are easy to read and make data extraction easier. However, because the data on Version 1 disks cannot be used to automatically populate the Disclosure Database, this method of filing does not represent the true intent and vision of e-filing.

for the design and development of the EFS, procurement of the necessary hardware and software, and implementation of the existing system.

Exhibit 4–14

**Electronic Filing System Cost Breakdown**

Cost Area	FY 1996 (actual)	FY 1997 (actual)	FY 1998 (actual)	FY 1999 (budget)	FY 2000 (planned)	FY 2001 (planned)	FY 2002 (planned)
Contracts/ Procurement	\$261,350	\$623,370	\$423,643	\$985,012	\$485,000	\$495,000	\$505,000
Maintenance	—	\$45,000	—	\$414,000	\$500,000	\$530,000	\$565,000
Personnel	\$37,000	\$42,500	\$60,000	\$142,500	\$147,000	\$151,500	\$156,000
<b>TOTALS</b>	<b>\$298,350</b>	<b>\$710,870</b>	<b>\$484,643</b>	<b>\$1,541,512</b>	<b>\$1,132,000</b>	<b>\$1,176,500</b>	<b>\$1,226,000</b>

Source: DSD Updated ADP Strategic Plan (November 10, 1998)

During FY 1999, the FEC plans to spend approximately \$690,000 for systems integration work and a new server to integrate the existing EFS and Disclosure Database. After this integration, the FEC believes it will only incur routine operational costs for the help desk, maintenance, and FEC personnel involved with technical support and programming, EFS program management, and data quality assurance. The majority of costs after FY 1999 are planned for maintenance and contracting for operations and help desk support.

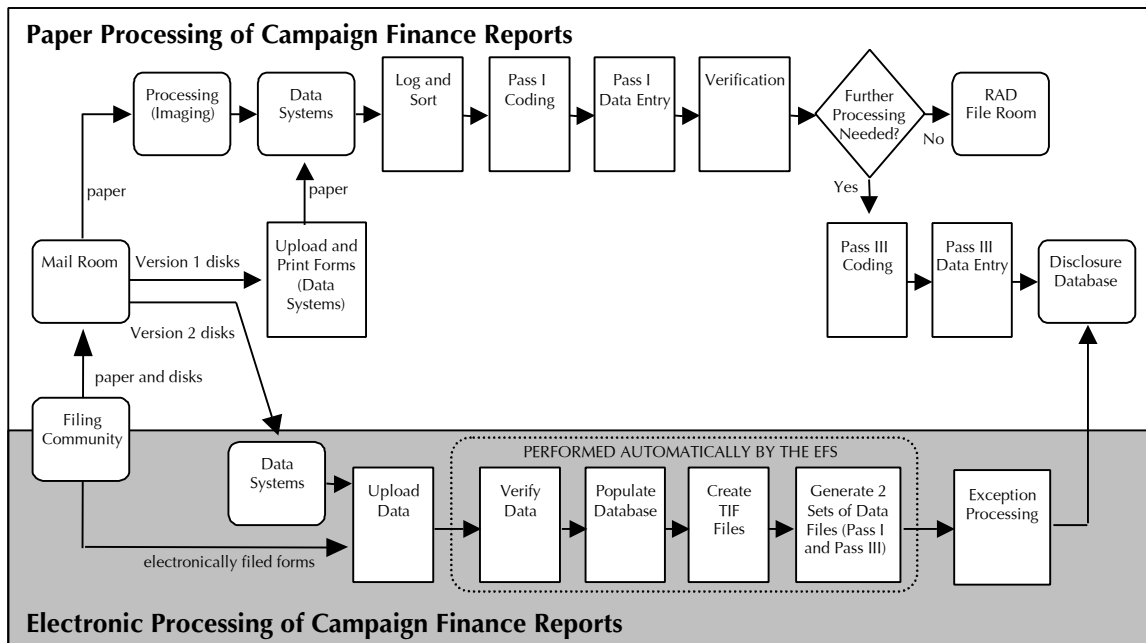
Creating the public record through electronic filing only requires a few internal DSD staff resources to perform quality assurance and program management because a contractor administers the EFS operations, help desk, and maintenance. Exhibit 4–15 shows a visual comparison of the two disclosure processes that indicates how electronic filing simplifies the normal paper-based process. One area where the FEC would see major cost savings is in contracting for Pass III data extraction, which is automatically performed with the EFS and could potentially result in at least \$150,000<sup>32</sup> in annual savings. Additionally, the EFS eliminates the need and cost for imaging and Pass I data extraction necessary for the paper processing of documents<sup>33</sup>.

<sup>32</sup>Approximately \$168,000 was spent in FY 1998 completing Pass III data entry under the ILM contract. In addition, the cost of this contract is anticipated to increase for FY 1999 and FY 2000.

<sup>33</sup> Sections 4.2.1 and 4.2.2 discuss in more detail the time and resources that the FEC expends on processing paper campaign finance submissions (i.e., imaging in Processing and Pass I/III data coding and entry in DSD).

Exhibit 4-15

**Comparison Between Paper and Electronic Disclosure**



The existing electronic filing system has been designed initially to automate the campaign finance data collection and extraction processes. Now that this capability exists, DSD has indicated that the next logical step is to begin planning to integrate enhanced functionality that will allow for more extensive report review and advanced data analysis. The EFS is not presently used by the FEC to conduct any more extensive review or analysis of campaign finance data than paper submissions. In fact, in order to be fair and assess all filers equally, additional contribution data that are available with electronic filing (but not when filing paper reports) are maintained in a separate database that the FEC does not access or review. In short, the existing EFS does not readily make reviewing campaign finance data easier for FEC analysts.

The current EFS also does not make complying with the FECA easier for the filer. No smart features were built into the front end of the system to help filers review and check their information before actually sending it. Nevertheless, the Audit Division has never had to audit any electronic filings. Although this may be a misleading statistic because the population of e-filers is small and tends to be highly sophisticated, this could be one indicator that the EFS helps to reduce erroneous reporting that results from careless mistakes.

Limitations of the current EFS are partially the result of strict deadlines imposed on the FEC by Congress, which called for the rapid development of electronic filing capabilities. Given its limited timeframe, the FEC could not adequately develop functional requirements for a comprehensive e-filing system and thus decided on an approach to phase in new functionality over time.<sup>34</sup> DSD solicited feedback from the filing community that was used to help develop functional system requirements. Since the initial electronic filing system was only intended to automate data collection and extraction, additional outreach was limited and, in fact, did not involve many FEC offices outside of DSD. DSD suggests that the next phase of development will include input from the appropriate FEC offices. Data Systems took the lead on the design and implementation of the EFS and is the only division seemingly accountable for the system at this time.

**The FEC maintains both paper-based and electronic disclosure processes without a clear strategy for how disclosure should be conducted and improved in the future.** Maintaining separate processes without clear direction or coordination results in a poor use of resources. The majority of disclosure activities presently occur with paper forms, and the FEC has not developed a discrete, comprehensive strategy to transition filers to an electronic filing environment. The Commission is taking steps to do this, but the following recent efforts do not seem to follow a coordinated plan or roadmap:

- On September 1, 1998, the FEC issued a news release about new regulations that specify that if Presidential candidates and their authorized committees have computerized their campaign finance records, they must agree to participate in the electronic filing program as a condition of accepting Federal funding.
- Attempting to adapt the commercial financial management and reporting software used by campaigns to work with the FEC electronic filing system, the Commission issued an open Request for Proposals to private software companies to encourage the conversion of their products to the FEC electronic filing format.
- In 1992, a Forms Committee was instituted as the central body to address issues associated with disclosure forms in a standard manner. Since 1996, the Forms Committee has been considering the application of self-coding forms in the disclosure process. Generally speaking, the Forms Committee characterizes self-coding forms as a concept that

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<sup>34</sup>In contrast, when designing its new case management system, the OGC was able to create comprehensive requirements and buy-in by involving many stakeholders over an extended period of time.

would facilitate the disclosure process by reducing FEC labor and increasing disclosure accuracy. The intent of self-coding forms would be to reduce the need for manual coding and data extraction while simplifying the reporting process for filers. Efforts to redesign forms may raise questions related to philosophies and strategies for disclosure. As a result, the FEC has currently suspended action on most of these forms issues.

***Improvement Opportunity 4- 10: The FEC needs legislative authorization to require committees that meet certain thresholds of financial activity to file reports electronically by a certain date.*** If Congress gives FEC the authority to require mandatory electronic filing for major filers, then the Commission must formulate a transition plan with actionable strategies to shift filers from paper reporting to electronic filing. The FEC should begin transitioning to a paperless disclosure process by mandating for the 2002 election cycle that filers who exceed certain disclosure thresholds can only make electronic submissions to the FEC. The larger, more experienced committees (many of which already have computerized financial systems) would be forced to start filing electronic reports. This would ease the transition for the entire filing community, allowing smaller, less sophisticated committees more time to prepare and adapt to this new filing environment. In fact, many filers actually have all of the necessary disclosure data on computers, but still submit paper forms. This practice not only creates more work for filers, but the FEC also spends its limited resources converting the paper submissions back to data that is often very similar to what filers originally had in their systems.

On January 2, 1998, the FEC released the results of a survey of reporting committees regarding electronic filing. The survey revealed that “most committees have access to computers in their committee or campaign operations.” Furthermore, “three-fourths of these computerized committees have access to modems, and two-thirds of those committees can reach the Internet.” Survey results suggested that “the filing community has the basic infrastructure to take advantage of a voluntary electronic filing program for campaign disclosure reports,” and filers are generally positive about doing so. Nevertheless, the survey revealed that “while some 20 percent of filers use computer software specifically purchased for bookkeeping and preparation of FEC reports, 66 percent of all filers continue to prepare their disclosure reports manually and 6 in 10 filers who have computers file manually.” This mixed feedback is important because it establishes a context that the FEC must understand in order to plan a successful transition: filers today basically have the computing infrastructure necessary to interact in an electronic reporting environment.



**Concept of Operations**

**Reporting in a Future Electronic Filing Environment**

One possible vision for the future is that disclosure reports are automatically generated by a committee's own financial management software. The reports would be derived from original record keeping, automatically validated for mathematical errors and logical consistency, and electronically transmitted to FEC. This eliminates redundant data entry, saves times, and minimizes reporting error.

The existing FEC electronic filing system (EFS) provides the basic functionality for a filer to submit data in an electronic disclosure format that automatically integrates with the disclosure database and imaging system. The EFS would make complying with the FECA easier for the filer if it included decision support features to help filers make accurate reporting selections. For example, drop-down menus that list the official names of registered PACs would ensure more accurate reporting and faster reviews. A minimum level of intelligence should be built into the EFS to provide for a series of logical checks and mathematical reviews as a report is being completed. In effect, some of the analysis that RAD analysts currently perform would be built into the front end of the system. Before filers could send reports to the FEC, the system would correct mathematical errors and prompt filers to correct logical problems or inconsistencies in their submissions.<sup>35</sup> Once filers submit their disclosure data to the FEC, the EFS would be integrated with a relational disclosure database that can support advanced analyses such as data mining and exception reporting.

Given the appropriate legislative authorization, the FEC should establish a fixed timeframe for completely converting to electronic filing. However, during the transition to an electronic filing environment, the FEC should expect to support several processes for disclosure, which must be planned and coordinated to help filers make the transition to electronic filing over time. Though a recurring theme at FEC is to go any distance to please the filer (i.e., customer), the FEC should not envision a long-term strategy that incorporates multiple points-of-entry for the disclosure process. Electronic filing should eventually be the only option available for regular filers to report campaign finance information and to comply with the FECA.<sup>36</sup>

In moving forward, the FEC should clarify accountability for meeting milestones and managing change associated with the FEC's electronic filing initiative. Essentially, a program office within the FEC should own the

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<sup>35</sup>Many of the recommendations in this paragraph have been implemented in Version 3 of the Commission's filing software, which is planned for distribution in January 1999.

<sup>36</sup>Special provisions should be made for "paper" filing by first-time or unsophisticated filers, with the objective of moving them to electronic filing as soon as possible.

electronic filing program and coordinate project management and system development with DSD.

***Improvement Opportunity 4- 11: The FEC should continue to solicit input from both filers and internal staff regarding necessary enhancements to the electronic filing system.*** Electronic filing should make it easy and cost-effective for filers to comply with the FECA. At the same time, the system should be functional and user-friendly so that staff can efficiently review disclosure data and determine compliance. As DSD moves forward to define requirements for enhancements to the existing electronic filing system, it will be important to communicate that DSD is applying a phased-approach to the system development and that involvement from all stakeholders is critical to the future success of the initiative.

#### **4.2.7 Senate Point-of-Entry**

**The FEC is not the point-of-entry for Senate campaign finance documents.** Senate candidate filings make up only 7 percent of all filings; however, Senate campaign finance reports tend to be longer and more complex, typically involving a higher number of financial transactions. As a result, the amount of work related to Senate filings is not directly related to volume of submissions or number of candidates.

Many extra processes and activities have been created as a result of the FEC reticence to standardize filing procedures. Exacerbating this situation and outside the control of the Commissioners is the fact that not all submissions come directly to the FEC. Senate filers first send their campaign finance documents to the Secretary of the Senate for photocopying, microfilming, and filing. Once they are received by the Secretary, couriers then deliver duplicate sets of photocopies to Processing at the FEC. Processing staff log the photocopied reports and deliver one copy to Public Records and the other copy to Data Systems for data extraction. Processing also regularly receives nine duplicate sets of microfilmed Senate filings. Processing staff refer to their manual logs to reconcile which reports on the film have already been received as hardcopies. Reports that were not delivered from the Secretary of the Senate as hardcopies need to be printed from the microfilm at the FEC. Processing staff create the computerized index used to search the microfilm and then splice and deliver copies of the microfilm to several other offices.

Since the resolution of microfilm and photocopies is not clear enough for imaging, the majority of Senate documents are only available on microfilm or paper. Consequently, Senate documents cannot be accessed in the same ways that all other campaign finance submissions are: through the FEC

imaging system and Internet Web site. Because the FEC is not the point-of-entry for Senate filings, the disclosure of Senate documents takes longer than necessary, fails to be easily accessible or user-friendly, and unnecessarily ties up FEC resources.

***Improvement Opportunity 4- 12: The Congress should transfer the point-of-entry for Senate candidate committee reports to the FEC.*** In 1996, the FEC became the point-of-entry for all House campaign finance disclosure filings. As a result, FEC has been able to streamline various internal processes for collecting and reporting this disclosure information. When the FEC receives original documents from House candidates, the agency uses imaging technology to facilitate timely and user-friendly disclosure. Customer satisfaction aside, this process improvement, combined with imaging technology, has resulted in time and cost savings. Savings include costs for archiving/retrieval and storage space. In addition, staff hours once spent searching for information and reports are now applied to more value-added activities. As long as the Secretary of the Senate remains the point-of-entry for Senate filings, the FEC cannot realize any of the process benefits that come from being the point-of-entry. In fact, the FEC has urged the Senate to switch to FEC point-of-entry filing for several years now.

#### **4.2.8 Disclosure Database**

**The FEC disclosure database cannot support the level of analysis that is being demanded by users who are familiar with modern database technology.** The FEC achieves high levels of customer satisfaction because disclosure information is current, readily available, and easy to access. Despite these attributes, the database could offer more value, given the time and resources that go into creating it. The design of the disclosure database limits the benefits of public disclosure and does not facilitate internal compliance reviews. The disclosure database dates back to computer architecture more than two decades old. In an effort to modernize interaction with the database, the FEC created a graphical user interface (GUI) that makes the legacy database easier to query. Still, the disclosure database only supports a limited set of routine queries. Data requests that deviate from this existing set have to be specially coded by a DSD programmer (time permitting). In today's computerized society, the current FEC disclosure database falls short of the demands of a more attentive and technologically savvy public.

***Improvement Opportunity 4- 13: The FEC should work with user groups to determine modernization requirements for the existing disclosure database.*** Users, including FEC staff (e.g., Audit staff and RAD analysts) and external third parties (e.g., value-added information retailers), should have

access to analytical tools with more advanced capabilities. The FEC should invest in a project to migrate existing disclosure data to a more modern relational database. In addition, the FEC should explore the use of data-mining technology as a means of detecting more subtle and complex patterns of noncompliance.

#### **4.2.9 Management Planning**

**The FEC has not thoroughly assessed its overall disclosure program in recent years.** The Commission has not communicated an overall picture of its disclosure program to its staff. As a result, uncoordinated activities and policies of separate units create disclosure process inefficiencies and processing bottlenecks. Staff across the FEC do not realize how their actions, processes, and policies affect other offices in the organization. For example, the RFAI process that RAD engages in dramatically increases workloads throughout the entire disclosure process. This statement does not imply that RAD does not account for how its activities affect other offices. Rather, at a strategic level, the FEC has not evaluated the value of the RFAI against the resulting amendments to disclosure reports that greatly affect the volume of submissions coming into the FEC. On a more positive note, some examples exist of offices that do take into account interoffice processes and workloads. After evaluating workload statistics for the last election cycle, RAD subsequently adjusted its review and referral thresholds in order to reduce the number of its referrals to OGC.

Despite an increasing workload, FEC management has seemingly not comprehensively questioned existing policies or ways of doing business from a big picture perspective. Similarly, the FEC has never comprehensively assessed the types and uses of disclosure information requested in light of current trends and today's campaign environment. Feedback during interviews with external stakeholders indicated that problems exist with how filers are expected to report information.<sup>37</sup>

***Improvement Opportunity 4- 14: The FEC should engage in intraprogram and interprogram management planning activities to improve resource utilization and enable process efficiencies.*** Decomposing and analyzing the disclosure process to identify key activities, linkages, inputs, outcomes, and deadlines would help determine how to maximize productivity. This

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<sup>37</sup> In particular, one consistent theme was discontent with the categorization, "Other political committees (such as PACs)," from the Detailed Summary (page 2) of FEC Form 3. The problem with this summary category is that it makes PAC money difficult to specifically identify and implies that a committee is receiving funding from PACs, which may not be accurate.

type of exercise would also demonstrate the importance for divisions and programs to work together, because outcomes or issues in one specific area could affect other parts of the FEC. For example, assessing key reporting timeframes throughout an election cycle in relation to FEC workloads and staff utilization is critical to understand trends and optimize use of internal resources. With this type of management information, the FEC could reorganize how and when work gets done and by whom to enhance its organizational productivity. Distilling this key management information should be done within the disclosure program, as well as organizationwide among all four core programs. This would result in a true big picture understanding of FEC performance and undeveloped potential.

### 4.3 Findings and Improvement Opportunities for the Compliance Program

**Objective:** “The FEC compliance program is premised on the belief that the Commission’s first responsibility is to try to foster a willingness, on the part of the filing community, to voluntarily comply with the law’s reporting requirements, fundraising restrictions and public funding statutes. The Commission encourages this willingness through education through its disclosure program. To buttress educational efforts, the Commission carries out a credible Compliance Program whose objectives are:

- Conducting desk audits of every report
- Auditing those Committees whose reports fail to meet threshold requirements for substantial compliance with the FECA
- Enforcing the law, in a timely and fair way, against persons who violate the law.”

Source: FEC FY 2000 Budget Request Justification, November 16, 1998.

The compliance program helps to ensure compliance with FECA’s disclosure provisions, limitations, and prohibitions relating to sources, amounts, and uses of campaign funds. Unlike the disclosure program, the compliance program is not a unified process with connected inputs and outputs that flow consecutively. Rather, the Reports Analysis Division, Audit Division, and Office of the General Counsel administer the following increasingly resource-intensive processes and tools to facilitate voluntary compliance, enforce compliance, and compel compliance (through court order):

- **Review of reports** to ensure that Federal candidates and committees have complied with FECA disclosure requirements and the limits and prohibitions on the sources, amounts, and uses of funds
- **Requests for Further Information (RFIs) and nonfiler notices** that seek to resolve reporting problems by asking filers to voluntarily correct or

clarify reported transactions or by requesting submission of reports when filing deadlines have passed

- **Internal referrals to the Audit Division or the Office of the General Counsel** when apparent FECA violations are considered for Commission action to determine the appropriate audit-for-cause or enforcement proceeding channels
- **Title 2 for-cause audits**, which involve conducting full-scope financial audits to clarify the public record in situations where review of disclosure reports initiated an internal referral that was approved by the Commission
- **External complaints** filed by anyone who believes that a violation of the FECA has occurred or is occurring
- **Title 26 Presidential audits**, which involve conducting full-scope financial audits of Presidential candidates who receive public funding in order to verify compliance with the FECA and to determine any necessary repayments
- **Offensive litigation** to compel compliance with the FECA and to seek judicial remedy
- **Regulations**, codified at Title 11 of the Code of Federal Regulations, to clarify and implement the FECA and the Title 26 Presidential public funding statutes
- **Advisory opinions** issued to those seeking specific guidance on the application of either the FECA or FEC regulations to campaign activities

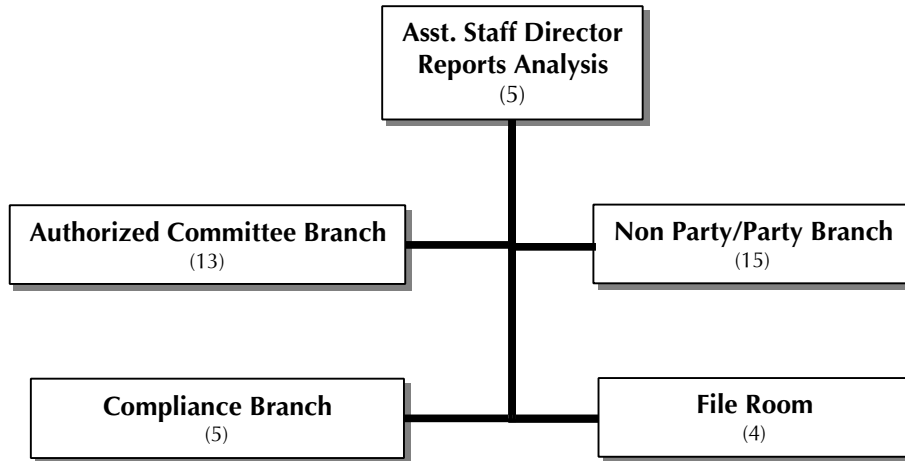
The following section describes these processes and identifies improvement opportunities associated with the offices involved with the compliance program.

#### **4.3.1 Reports Analysis Division, Compliance Activities**

As shown in Exhibit 4–16, the Reports Analysis Division (RAD) comprises three branches and a file room to maintain paper copies of all FEC reports. During the 1998 election cycle, the average number of committees assigned to a reports analyst in the Authorized Branch was 253 and in the Non-Party/Party Branch, 366.

Exhibit 4-16

**Federal Election Commission  
Reports Analysis Division  
(FTEs)**



*Source: FEC Staffing Report September 25, 1998.*

RAD seeks to create an accurate public record of campaign finance reports by reviewing report transactions for mathematical accuracy; the correct submission of forms and schedules; and adherence to FECA's disclosure requirements and limitations on the amounts, sources, and uses of funds. If a reports analyst identifies mathematical errors, a lack of supporting documentation, or apparent inconsistencies with FECA requirements, a Request for Additional Information (RFAI) is sent to the filer seeking information or the submission of an amended report to clarify the record. All RFAIs are placed on the public record. Concurrent with this disclosure process, RAD conducts the initial screening process for assessing threshold compliance with FECA.

FECA Section 438 (b) requires that "prior to conducting any audit under this subsection, the Commission shall perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meets the threshold requirements for substantial compliance with the Act. Such threshold for compliance shall be established by the Commission. The Commission may, upon an affirmative vote of four of its members, conduct an audit and field investigation of any committee which does not meet the threshold requirements established by the Commission."

The FEC implements this statutory directive through the reports analysis and RFAI processes. RAD maintains an Audit Point Assessment system applied

separately to authorized and nonauthorized committees. Depending on the committee status, the scoring system is based on roughly 20 standards. Detailed written criteria with dollar and percentage thresholds support the standards. The Commission considers these standards to be confidential to maintain the efficacy of its enforcement process, but generally the threshold standards look toward the following areas:

- General report preparation
- Omitted information and missing supporting schedules
- Timeliness of report submission
- Transactions inconsistent with FECA prohibitions and limitations

The Commissioners have affirmatively approved the Audit Point Assessment system and threshold levels for point assignment. The Commissioners have also specified the number of points at which a committee is considered not in substantial compliance and therefore warrants potential action through an audit for cause or enforcement referral. Each election cycle, the Commissioners review recommendations from the RAD Authorized and Non-Party/Party Branches for changes to their review and referral procedures based on the disposition of RAD referrals to Audit and OGC. The Commissioners approve all changes to the threshold standards.

Threshold standards trigger three courses of action:

- The issuance of an RFAI requesting additional information or a report amendment
- The referral to OGC for enforcement notification and action
- The assignment of an audit point that accumulates toward a potential referral to the Audit Division for an audit-for-cause action

Under FEC practice, committees receive two opportunities through the RFAI process to correct report submissions. Many RFAs identify several deficiencies with a filing that require subsequent requests for submission of additional information. During the 1996 election cycle, RAD sent first and second RFAs, nonfiler, and information notices to authorized and nonauthorized committees as indicated in Exhibit 4-17.



Whenever a registered committee fails to submit a report on its reporting due date, RAD sends a nonfiler notification to the committee alerting it of this deadline and requesting immediate submission of the report. Informational notices inform committees to take corrective steps on future report submissions, e.g., placing the committee FEC identification number on all schedules. These notices, like RFAs, are placed on the public record, but do not require a committee to amend its reports.

Exhibit 4-17

**1996 Election Cycle Requests for Additional Information**

Type of Notice	Authorized Committees	Nonauthorized Committees
First RFAI	5,289	6,596
Second RFAI	3,254	3,024
Nonfiler	1,905	2,322
Informational	3,254	2,322
<b>TOTAL Notices Sent</b>	<b>13,702</b>	<b>14,264</b>

Source: RAD summary of notices sent for the 1996 election cycle, submitted to PwC October 21, 1998.

**4.3.1.1 RFAs**

For the 5,289 first and 3,254 second RFAs sent to authorized committees during the 1996 election cycle, 17,606 deficiencies with threshold standards were identified by RAD for correction. Of this total number of RFAs:

- 40 percent related to mathematical errors on the reports
- 23 percent related to missing report schedules
- 17 percent related to missing or inadequate information

The remaining 20 percent applied to numerous FECA limitation and prohibition standards.

Similarly, for the 6,596 first and 3,024 second RFAs sent to nonauthorized committees during the 1996 election cycle, 16,607 deficiencies with threshold standards were identified by RAD for correction. Of this total number of RFAs:

- 40 percent related to mathematical errors on the reports
- 18 percent related to missing report schedules
- 7 percent related to missing or inadequate information

The remaining 35 percent applied to numerous FECA limitation and prohibition standards.

#### 4.3.1.2 Audit Point Assessment Review

RAD completes separate Audit Point Assessment reviews for authorized and nonauthorized committees. Because the FECA limits the time in which authorized committees may be approved for audits-for-cause to a period of six months after the date of the general election, RAD first reviews authorized committees for potential referrals. (The FECA does not include a similar statutory audit-for-cause time constraint for nonauthorized committees.)

For authorized committees, RAD begins its review of a set number of committees involved in election outcomes between winners and opponents that were close. The Commission first focuses on close elections because it considers that FECA violations would have the greatest impact on these elections. (The number of committees and the election result margin are considered confidential by the FEC to protect the efficacy of its compliance processes.)

After completion of this first grouping of authorized committees, all remaining authorized committee point assessments are reviewed. Generally, committees in this second group are ineligible for audit-for-cause referrals because RAD cannot complete this review within FECA's six-month for-cause approval timeframes. Potential violations identified during this review, however, can be referred to OGC, following the same threshold criteria applied to the first group.

During the 1996 election cycle, 99 authorized committees exceeded the Audit Point Assessment threshold standards and were referred to the Audit Division for consideration of for-cause audit actions. RAD consults with the Audit Division to ascertain the number of audits that the Division can initiate and complete, given time and staff resource constraints. Based on this estimate, RAD then submits a batched referral of twice the number of authorized committees that Audit indicated that it could handle. By doubling the number of referrals, RAD provides backup selections in case the Commissioners decide not to authorize for-cause actions on the top Audit Point Assessment recipients.

Based on the Audit Division's assessment of the time and resources that would be consumed to initiate for-cause audits of authorized committees, **only seven authorized committees were approved by the Commissioners for audits for cause resulting from activities in the 1996 election cycle. These seven for-cause actions represented the committees with the highest accumulation of points under the Point Assessment system.** In addition to receiving point scores, Commissioners also rely on a detailed Report

Analysis and Audit Referral memorandum that provides detailed discussion on how points were assigned. **Of the seven committees that the Commissioners approved for audits for cause, six represented newly registered authorized committees for the 1996 election. Only one authorized committee represented an incumbent candidate.**

After the referral process for authorized committees is completed, RAD prepares a similar listing of nonauthorized committees that have exceeded the Audit Point Assessment thresholds. During the 1996 election cycle, 95 nonauthorized committees exceeded the thresholds. **Eight nonauthorized committees were approved by the Commissioners for audits for cause.**<sup>38</sup> These committees also accumulated the largest number of audit points assigned by RAD. Exhibit 4–18 indicates the number of RAD referrals to the Audit Division and OGC for FY 1993 through FY 1998.

The Audit Point Assessment system is conducted with a high level of internal control and review to ensure that point assignments conform to the RAD standards. The RAD Compliance Branch uses an automated system to track RFAs and assigned points. RAD reports analysts use a separate manual system to track RFAs and point assignments. Both systems are compared to verify RFAI responses and point scoring. RAD reports analysts maintain detailed paper logs providing an audit trail of review work performed and their findings. RAD supervisors review analyst logs, RFAs, and reviewed files to ensure consistency and accuracy. While redundant processing of point assignment between reports analysts and compliance staff is evident, the system provides a double check to ensure that audit points are assigned fairly.

Exhibit 4–18

**RAD Referrals to Audit and OGC (1993- 1998)**

Fiscal Year	RAD Referrals to:	
	Audit	OGC
1993	84	112
1994	13	93
1995	101	60
1996	–	28
1997	200	57
1998	1	33

Source: MIS data, RAD Review, September 30, 1998.

<sup>38</sup>In addition to the seven authorized and eight nonauthorized committees that the Commission approved for audits-for-cause, Audit resources were also required for three additional audits that were not in the for-cause category.

Reports analysts manually conduct a review of all filed reports. A calculator is used to verify the mathematical accuracy of the reported financial activity, both for the period in question and the calendar year. All entries on supporting schedules are calculated to ensure that the totals concur with the various summary page figures. Exhibit 4–19 represents the average time that analysts spend reviewing reports filed by type of committee during the 1998 election cycle.

Exhibit 4–19

**Average Minute per Report Review**

Committee Type	Average Minutes per Report
<b>Authorized Committees</b>	
• Presidential	16
• House	24
• Senate	50
<b>Nonauthorized Committees</b>	
• Non-Party	15
• Party	57
• Delegate	7
• Independent Expenditure	7
• Communication Costs	6

Source: RAD response to PwC data request, October 5, 1998.

**RAD referrals to OGC primarily involve FECA reporting violations related to nonfiling or chronically late filing.** The referrals also identify cases of excessive contributions, but in some instances, these apparent violations result from a committee’s difficulty in attributing contributions between the primary and general elections and tracking election-cycle contribution limits against calendar-year reporting timeframes. RAD referrals are sent to the Office of the General Counsel Central Enforcement Docket, where they are rated under the Enforcement Priority System for case activation and assignment. This process is discussed further at Section 4.4.3.

**Improvement Opportunity 4- 15: Continue to calibrate the RAD referral thresholds with OGC Enforcement Section civil penalty guidelines so that RAD referrals to OGC result in conciliation agreements with monetary penalties.** A review of 20 randomly selected closed matters under

review indicated the a few referrals to OGC from RAD were beneath the threshold level established by OGC civil penalty guidelines for recommendation to the Commission. Continued efforts to harmonize the RAD referral criteria and OGC civil penalty guidelines will focus resources on reporting violations that warrant civil penalty disposition.

**Improvement Opportunity 4- 16: To increase the level of detection of patterns of improper campaign finance practices, RAD should initiate a data-mining and contributor-collaboration software pilot to assess the degree to which “financial” transaction violations can be identified.** Until the FEC implements a mandatory electronic filing system and RAD redesigns its reports review process, reports analysts will continue to manually verify calculations and transactions on each page of each filed

report. While RAD does use the disclosure database to conduct transactional analysis with filed reports, the design of the disclosure database limits the ability to detect patterns of contributions that might be connected by name, address, or timing. Such a software package was presented to the Commission for an Advisory Opinion ruling (AOR) on using the FEC disclosure database for marketing purposes (see AOR 1998–04).

#### **4.3.2 Audit Division, Title 2 Audits for Cause**

The Audit Division is primarily responsible for two different audit functions: Title 2 Audits for Cause and Title 26 Presidential Audits. Although the FEC does not have the authority to conduct random audits,<sup>39</sup> a candidate or committee can be audited for cause if a review of its filings indicates noncompliance with the FECA. These Title 2 audits are one tool used by the FEC in order to deter noncompliance. (Title 26 Presidential Audits are discussed in relation to the Presidential Public Funding Program later in Section 4.4.)

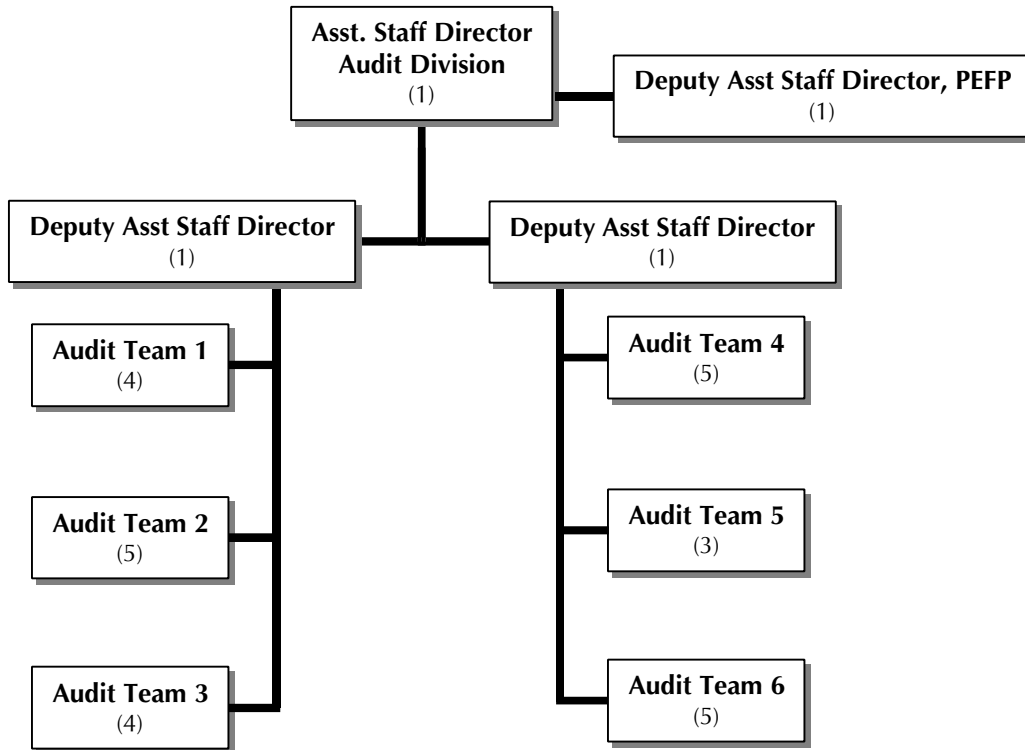
Exhibit 4–20 depicts an organizational chart of the Audit Division at the end of FY 1998. The Audit Division has a total staff of 30 permanent FTEs and depending on the election cycle, may have a number of temporary positions to handle peak workloads. Twenty-six of these positions are divided across six audit teams, each with a team manager. Three of the audit teams report to one Deputy Assistant Staff Director and the other three teams report to a second Deputy Assistant Staff Director. A third Deputy Assistant Staff Director is responsible for administering the Presidential Election Campaign Fund. The entire Audit Division is led by the Assistant Staff Director for Audit, who manages the division with the assistance of the three Deputies.

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<sup>39</sup>The FEC conducted random audits in 1976. In total, 106 audits occurred of both winning and losing candidates randomly selected by seat. In 1979, Congress amended the law to eliminate the FEC's ability to conduct random audits. There are those who believe that the FEC cannot effectively test its own referral criteria without periodically going out to the filing community to conduct a small sample of random audits (in a similar fashion as the IRS). They also believe that random audits would not only validate FEC thresholds for noncompliance, but would also serve as a deterrent.

Exhibit 4-20

**Federal Election Commission  
Audit Division  
(FTEs)**



Source: FEC Staffing Report September 25, 1998.

Title 2 audits pass through the four phases of Commission vote and notification to the committee, preaudit process, fieldwork, and postaudit report processing.

The input that triggers the audit-for-cause process comes from the RAD referral process, discussed in Section 4.3.1.2. RAD routinely sends a batch of authorized committees in March (following the year of the general election) and a batch of nonauthorized committees between August and December (following the year of the general election) to the Audit Division. Title 2 audits for cause must be approved by the Commissioners prior to initiating the audits.

#### **4.3.2.1 Commission Vote and Notification of Committee**

Title 2 audits are nearly identical for both authorized and unauthorized committees. However, a statutory time constraint that applies to Title 2 audits for authorized committees requires the FEC to initiate these audits

within six months after the general election. The term “initiate” implies that Audit staff have commenced field work. As a result, once the referrals are received in Audit from RAD (nearly four and a half months after the general election), the staff usually have only six weeks to get authorization from the Commissioners to begin their work. The Commissioners and the Audit Division discuss the number of audits that can potentially be completed, given available resources and existing workloads. As a rule, the Commissioners customarily select the referrals with the highest number of points for auditing. At this point in the process, any audit referrals that do not get at least four votes of approval or are not pursued (because of resources and timing) are considered closed (although a referral from RAD to OGC could still occur).

In comparison, Congress requires that Title 2 audits for unauthorized committees be initiated within 30 days of the Commission’s vote to conduct an audit. The Commissioners will determine which referrals will not be subject to immediate audit-for-cause actions. As Audit Division resources become available, referrals will be selected from the pool (usually based on their audit points) and forwarded to the Commissioners for approval to conduct an audit. Without the same six-month window that exists for Title 2 audits of authorized committees, the FEC can conduct more audits of unauthorized committees over a longer period of time.

Once the Commission has approved a referral, Audit will send an overnight pro forma letter to the committee to explain that it has been selected for a Title 2 audit. This letter also requests the committee to make certain information available that is necessary for the FEC Audit staff to review prior to commencing the fieldwork. The auditors will then contact the committee to schedule the fieldwork. The auditee can either have the auditors begin at once or request a delay. If a delay is requested, the audit can be scheduled outside of the 30-day or six-month window. Contact with the committee and scheduling is presumed to initiate the audit, thus satisfying all statutory time constraints.

#### **4.3.2.2 Preaudit Process**

Auditors familiarize themselves with issues related to the committee and begin to prepare for fieldwork. Auditors contact RAD and OGC to discuss any information relevant to the auditee, such as an existing MUR or RFAI. During the preaudit process, auditors review past and present reports to identify trends and potential areas to focus on during the audit. Reporting data for receipts and disbursements is analyzed from information maintained in the disclosure database. These data are prepared for reconciliation with the electronic financial data requested from the

committee in the letter of notification (the electronic data that the FEC requests may or may not be provided by the committee). After completing their preliminary analysis in the preaudit phase, Audit staff may need to modify the audit program to add areas that require further review.

#### **4.3.2.3 Fieldwork**

FEC auditors conduct an entrance conference with the committee at the beginning of their fieldwork. During this conference, the auditors establish points of contact with the committee and explain why the committee was selected for an audit, what they should expect, and what initial information will need to be accessible for review.

An inventory of records, including limited testing, is first conducted to determine whether the records are materially complete and in an auditable state. If a material portion of the records has not been provided, the auditee is notified in writing and given 30 days to obtain the requested records. If, at the end of this 30-day period, the records are available, fieldwork will commence. If not, the auditors may recommend to the Commissioners that subpoenas for records be authorized both to the auditee and to any other entities in possession of the relevant records.

Once the records are deemed materially complete, the fieldwork is then conducted using the audit program developed during the preaudit phase. Auditors perform tests and, depending on the amount of activity, use sampling methods to test the auditee's transactions. They gather evidence and data for the workpapers to support the findings in the final report.

An exit conference is conducted at the conclusion of fieldwork. The auditors disclose to the committee any material findings that they discovered. After the exit conference, the auditors leave the field, and the auditee has 10 days to submit its official response to the findings. A committee can send the auditors any documented evidence, receipts, or reports that may prove a finding incorrect. When the auditors return from the field, they assess the findings against thresholds established by the Commission in order to determine their materiality.

#### **4.3.2.4 Postaudit Report Processing**

The auditors prepare an interim audit report that discloses any material findings. The interim audit report encompasses any response submitted by the auditee after the exit conference. The auditors have complete discretion with regard to incorporating edits and revisions into the main body of the report. The Audit staff complete the audit program and index workpapers



for the Team Manager's review. An internal peer review process reviews the draft report and associated workpapers.

If the findings are material, but do not contain any unresolved legal issues, the report is prepared and forwarded to the auditee. In this situation, the report does not require Commissioner review or approval, and the auditee has 30 days to respond to the findings (a one-time 15-day extension can be requested). The auditors prepare the final audit report after either receiving the response or the deadline lapses. The final report will include any response from the auditee. Once again, the auditors have complete discretion with regard to edits and revisions that result from auditee responses. After referencing, the final audit report is forwarded to Commissioners for a tally vote or consideration at an open Commission meeting. This is the first opportunity for the Commissioners to review the actual audit report. A copy of the report is also distributed to the auditee prior to the vote. If the Commissioners approve the report, the official final report is provided to the auditee and then publicly released. If the Commissioners do not vote to approve the report, the report is still publicly released, and the Commissioners can attach their remarks. When the Commissioners do not approve audit report findings, the matter is considered closed, and the report is placed on the public record.

If the findings in the interim report contain any unresolved legal issues, Audit will forward the report to the Public Financing, Ethics, and Special Project section of OGC who will review the findings to determine possible legal implications. After this review, OGC forwards a legal analysis to Audit, and if Audit agrees with OGC, the legal analysis will be appropriately incorporated into the interim report. If Audit disagrees with OGC, a cover memo will be drafted with the Audit opinion and attached to the legal analysis and interim report, which will go directly to the Commissioners for discussion in an executive session. This discussion could occur over several executive sessions and involve a process in which Audit staff work with the Commissioners to revise the interim report. The Commissioners eventually approve the interim report and forward it to the auditee.

After the Final Report has been issued, a determination within the Audit Division is made about whether to refer a case to the OGC for enforcement action.

**Conducting audits for cause does not appear to achieve any definitive purpose or outcome.** The most obvious reason for conducting audits for cause is to deter noncompliant behavior; however, the Commissioners have not defined a deterrence theory for the Title 2 audit process. Audit does not

appear to have enough resources to conduct a sufficient number of audits for cause to have a deterrent effect throughout the filing community. Referrals are received semiannually in Audit, totaling approximately 100 referrals annually. Approximately 8 to 10 percent of these referrals are typically audited. For example, in the 1996 election cycle, RAD referred 99 authorized committees for audits for cause, but only 7 were actually audited. This example is not meant to attribute fault to the Audit Division. Rather, **the Commissioners have not determined a priority and clear purpose for Title 2 audits, and this has resulted in an ineffective audit-for-cause program supported by an inadequate number of audit staff.** A few observations about staff utilization related to different types of audits yield further elaboration on the incomplete deterrence provided by audits for cause.

**Utilization patterns indicate that the resources devoted to audits for cause for a two-year period, primarily during the Presidential election year, are insufficient to maintain a significant and consistent number of audits for cause as a viable deterrent.** During a Presidential election year, Audit staff can only be assigned to a small number of audits for cause. The majority of staff must be assigned to Title 26 Presidential audits during the year of, and the year after, an election, and audits for cause pick up later during the last two years of the four-year election cycle.<sup>40</sup> This occurs largely as a result of the statutory priority of Title 26 Presidential audits over Title 2 audits and the Commissioners' policy to complete Presidential audits within two years of the date of the general election.

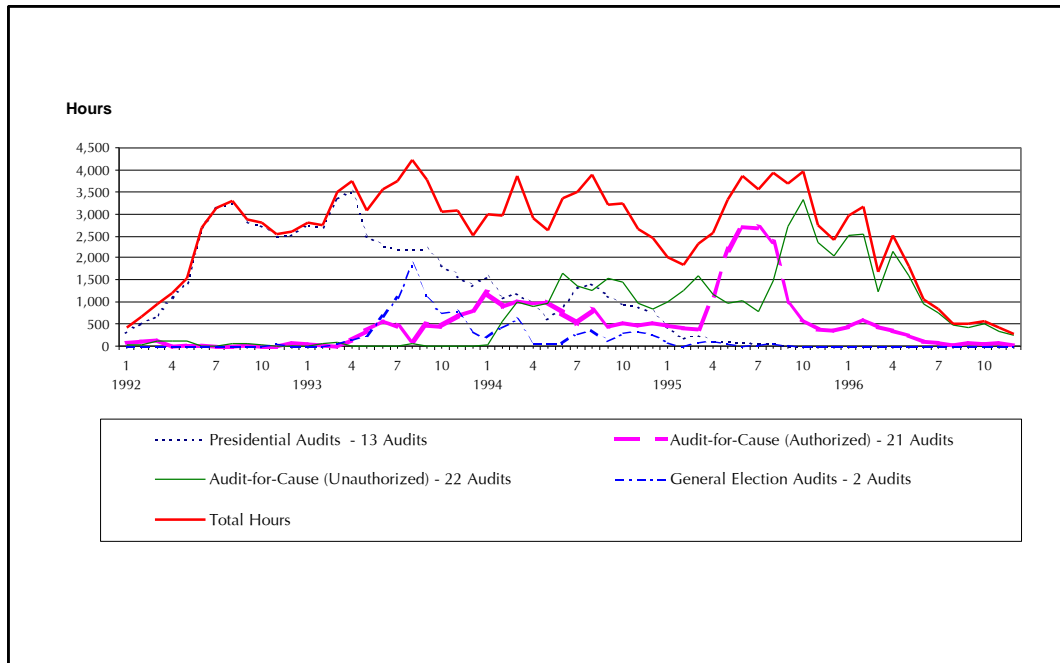
Looking ahead to the Year 2000 election—an open Presidential election year with no incumbent—more candidates will likely run for the Presidency than in 1996. This likelihood will require additional Audit resources to conduct more Title 26 audits, further reducing the Audit Division's capacity to conduct Title 2 audits. Exhibit 4–21 indicates utilization patterns within the two major audit areas<sup>41</sup> of FEC during the 1992 presidential election cycle.

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<sup>40</sup>A four-year election cycle as it pertains to FEC activities and workload would typically include the year prior to the Presidential election, the year of the election, and two years after the election.

<sup>41</sup>The two major FEC Audit areas include Presidential Audits and Audits for Cause. These areas can be further divided into Presidential Primary Audits and Presidential General Election Audits, as well as Audits for Cause for both Authorized and Unauthorized Committees.

## Exhibit 4-21

**Audit Division Workload Utilization**

Note: The 1992 election cycle was used because it was the most recent four-year cycle that includes comprehensive data for both a Presidential election and regular elections (the 1996 election cycle would have required data from 1998 that is not yet available). This exhibit was generated from data obtained from the FEC MIS system, which includes a time-reporting capability that captures the hours charged by an employee to a particular audit.

**When questioned about why they do audits for cause, the Audit staff consistently reply, “In order to verify disclosure of the campaign reports and clarify the public record.”** Often what is reported is not exactly what occurs regarding campaign finances, and the audit for cause can be considered one of the last tools FEC has to work with a committee towards voluntary compliance. To this end, the outcome of some audits for cause is a series of amendments to bring a committee’s report into compliance. In addition, some Audit staff view the audit for cause to be a learning tool for new and less experienced committees. However, the FEC completes so few audits for cause that it is not clear that this is truly an effective mechanism for clearing the public record and teaching campaigns proper compliance with the FECA. Furthermore, audits for cause represent a reactive and expensive approach to enforcing compliance and promoting education.

The FEC does not appear to use audits for cause to identify and disseminate information about important trends that may be occurring in the field. It is not evident that the FEC analyzes the findings from audit reports to distill potentially important lessons learned that could affect the conduct of the

disclosure or compliance programs. Many Title 2 audits of authorized committees involve new and less experienced candidates. Of these audits for cause, most findings were a result of poor bookkeeping and reporting behavior as opposed to willful violations. Common audit areas include misstatement of financial activity, failure to itemize disbursements, and apparently excessive contributions.

Many of these findings were addressed through voluntary submissions of amendments, at times completely unprompted by the FEC. Also, these newer committees usually do not generate any significant legal issues for OGC. Further analysis of this information could result in the identification of better educational support for new candidates or enhanced disclosure methods. Audit staff have suggested that they are not completely confident of the informational value that could come from historically assessing audits for cause, because the low number of these audits may be statistically insignificant to provide accurate insights. Also, because audits for cause are not randomly selected, this assessment could present statistical inaccuracies. Nevertheless, the audit results can be tracked and used so long as the FEC is careful and does not attempt to distill significant conclusions solely from these results.

**Once an audit for cause is approved by the Commissioners, the FEC conducts a full-scope audit of committee finances and does not focus solely in the areas where RAD identified potential problems.** This means that all areas of the committee are audited, and testing can result in the auditors expanding their scope of analysis for further investigation into any particular area. In this respect, audits for cause allow the FEC to audit random areas once a committee has been flagged through the referral process. In fact, Audit staff frequently spend large amounts of time working issues that are completely unrelated to whatever initially triggered the referral. The FEC does not track Audit findings that were related to the initial RAD referral or findings discovered as a result of the full-scope nature of audits for cause. However, it is evident that full-scope audits take longer and cost more than limited-scope audits.

**Audits for cause are not directly tied to OGC prioritization thresholds and often result in no enforcement action.** The Audit Division spends nearly half of its budget to investigate audits for cause, or approximately \$2 million from 1992 to 1996. Each audit for cause typically costs between \$30,000 and \$50,000 to complete. The total cost of audits for cause is typically as much as the Title 26 Presidential audits over an election cycle.

**Audit report referrals to OGC go directly to Public Financing, Ethics, and Special Projects (PFESP) where they are prioritized using separate criteria**

**(EPS II).** This arrangement between Audit and PFESP has evolved over the past several years in an effort to dedicate legal resources to support Title 2 and Title 26 audit outcomes. Within PFESP, Title 26 referrals are prioritized over Title 2 referrals; however, no formal prioritization is given to Audit referrals to ensure that some action occurs, even though the FEC has already expended significant resources to thoroughly review a committee's records. No action is initiated on Audit referrals until sufficient resources become available. In many cases, resources are never assigned, and the statute of limitations expires, forcing the FEC to close the referral without taking action. OGC can also review the referral and deem the findings insufficient to warrant civil penalties. **Between 1992 and 1996, Audit referred 32 matters to OGC out of 43 Title 2 audits for cause. Enforcement actions resulted in only 4 of the 32 referrals,** primarily because PFESP could not effectively process the volume of referrals from Audit in a timely manner or assigned low enforcement priority ratings to Title 2 referrals.

***Improvement Opportunity 4- 17: Assign Audit resources to establish a compliance program that achieves value-added outcomes.*** To more effectively use its Audit resources, the Commission should take the following actions:

- Determine the strategic purpose and priority of audits for cause
- Appropriately staff the Title 2 program
- Redesign the referral process (beginning in RAD)
- Restructure the Audit Division

The FEC Title 2 program is underfunded to produce broad results that go beyond affecting individuals involved with isolated audits. In other words, the low number of Title 2 audits that the FEC can presently conduct can only marginally affect the entire filing community. As a result, Title 2 audits seem to validate the public record and deter instances of noncompliance only on a limited, case-by-case basis. Although the actual deterrent effect of Title 2 audits is difficult to measure, certainly not enough audits are conducted. The Audit Division would be the first to acknowledge that many more audits are needed, which causes the value of the Title 2 program, as it exists today, to be in question.

The Commission should define the goals of the Title 2 program and determine how audits for cause fit with the overall mission of the FEC. For example, if the Commission intends to rely on Title 2 audits as a viable deterrent of noncompliance, then the funding for the Title 2 program should be increased to conduct more audits. In fact, the FEC has taken steps in this

direction by increasing funding and staffing levels in the Audit Division (further additions are planned for the next fiscal year). Given this recent action, the Commissioners should now work to determine a threshold for the appropriate number of Title 2 audits necessary to potentially increase visibility in the filing community and to deter noncompliant behavior.

The current referral process does not effectively prioritize work across the FEC divisions involved with compliance and ultimately results in the misallocation of highly skilled Audit resources. Referrals and specific staff projects should be prioritized based on a single integrated set of thresholds approved by the Commission and applicable throughout the Divisions involved with compliance.

Audit should be primarily engaged in Title 2 audits that are active priorities for the Commission. Generally speaking, once an audit is initiated, the FEC should plan to commit sufficient resources to assure an appropriate compliance outcome. Audits that generate referrals to PFESP, which subsequently are not considered for potential enforcement action reflect a pattern of ineffective resource allocation. The FEC must either establish the means to create adequate enforcement outcomes for Title 2 referrals or else reassess the purpose of the Title 2 program.

The Audit Division could be restructured to incorporate all functional responsibilities for the Title 2 program. For example, legal staff could be assigned to audit teams, perhaps on a rotational basis, and the Audit Division would assume greater responsibility and accountability to complete each enforcement action. The OGC would primarily be involved with providing quality assurance for the attorneys assigned to Audit. The intent here is to consolidate the responsibilities associated with conducting Title 2 audits and enforcement actions in order to achieve the following objectives:

- Streamline the Title 2 audit/enforcement process by eliminating unnecessary handoffs between organizational units (e.g., reduce or eliminate the need for formal legal comments from OGC, immediate responsiveness with regard to writing subpoenas)
- Involve attorneys early in the process so that they become familiar with relevant Audit issues and can quickly offer legal guidance as needed
- Develop cross-disciplinary expertise between attorneys and auditors
- Ensure that each Title 2 audit results in a distinct outcome
- Enable the administration of a civil penalty schedule for routine Audit referrals (see improvement opportunity 4–21)

In order to explore this vision of a combined Title 2 audit and civil enforcement program, the FEC will need to establish a team of Audit and OGC staff to further deliberate and plan this new environment.

The FEC might also consider innovative approaches to specialization and project planning in order to maintain an adequate and consistent level of Title 2 audits. This initiative could include exploring specialized teams of auditors who primarily focus on Title 2 audits or Title 26 audits. By analyzing utilization patterns and specific work cycles, staff work could be appropriately scheduled to eliminate downtime and maximize project consistency. This could free up some audit resources by reducing disruptions in the workflow that currently create inefficiencies. For example, when auditors routinely switch between different committees and types of audits, they must expend valuable time to refamiliarize themselves with the audit work and issues.

Another alternative approach to conduct more Title 2 audits involves limiting the scope of the audits. Limited-scope audits would require less resources and have shorter cycle times. The decision to implement limited-scope audits for cause will partially be a philosophical one. The issue boils down to whether more audits focused in specific areas are better than fewer audits with a broader range.<sup>42</sup> Audit management has suggested that being constrained to look only at the flags generated through the referral process would detrimentally affect findings. However, a more thorough cost-benefit analysis tied to specific outcomes that the FEC hopes to achieve with Title 2 audits would inform this decision.

In addition, more referrals could be subject to audit if the Congress extended the statute of limitations from six months to one year. This extension would allow the FEC more time to coordinate its Audit staff to initiate more Title 2 audits, thus increasing coverage to a greater number of potential violators. However, even if this time period is extended, all audits for cause should still be completed, as a general rule, prior to the date of the following general election.

**Process inefficiencies that affect Title 2 audits appear to be unique to the campaign environment.** The Audit Division is well managed to produce

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<sup>42</sup>One issue with incorporating limited-scope audits into the Title 2 program is that, historically speaking, the flags from the current RAD referral process do not routinely correspond to the findings. This should be factored into both redesigning the referral process and the philosophical decision regarding the use of limited-scope audits to achieve some desired outcome.

discrete outputs and meet deadlines. However, the staff operates in a campaign environment that creates certain unavoidable inefficiencies:

- Auditors often have to either use manual schedules to analyze financial data or input the data into software applications for audit testing. No statutory regulations require committees to submit their financial data through electronic media, as is the case with Title 26 audits. Even though many committees keep their records using a form of electronic media, they often do not voluntarily make electronic submissions that would help the auditors do their job.
- Audit programs are difficult to streamline because Commissioners demand high degrees of precision and have low tolerance for error. As a result, an audit program frequently increases in length as it is modified.
- Auditors operate in an environment that has been likened to “auditing in a fishbowl.” Many interested parties are watching the FEC and want to know that each campaign and committee is evaluated against identical criteria and subject to the same analytical interpretation.
- The postaudit reporting phase involves a lengthy process that has multiple reviews among numerous Divisions, as well as waiting periods for auditee responses. Commissioners’ reviews also take time, but help to informally create leadership involvement.

**The Audit Division has proactively made improvements to its internal processes.** Auditors use e-mail to send documents, reports, and communications when out in the field. Field staff use PCs with spreadsheet, word-processing, database, and sampling applications. They are able to connect to the FEC home network to search specific reports and get information. They have developed standard in-house electronic workpapers for easy access and also maintain hardcopy workpapers, correspondence, and reports on file.

The FEC has also adopted improved audit techniques, such as sampling, to increase Audit staff efficiency. Auditors use dollar unit sampling to test a large population of transactions.

The Audit Division maintains an extensive and informative MIS time-reporting system. Audit management actively tracks the status of each project and monitors individual staff hours per audit phase. Although Audit does collect a great deal of data, they do not routinely defer to the management information at hand for decision-making purposes. This is, in part, a result of the fact that information is gathered according to numerous reporting cycles and reported in a variety of hard-to-use formats.



### 4.3.3 Office of the General Counsel

The Office of the General Counsel (OGC) is the largest organizational unit of the FEC. During FY 1998, OGC maintained an average level of 99 FTEs, representing 34 percent of the FEC total staff authorization and 29 percent of the Commission's FY 1998 appropriation of \$30.9 million.

The General Counsel is one of three statutory officers appointed by the Commission and is responsible for directing the agency's enforcement activities, representing and advising the FEC in legal actions brought before it, and serving as the Designated Agency Ethics Official. The Office of the General Counsel handles all civil litigation, including Title 26 Presidential public funding cases that come before the U.S. Supreme Court. OGC also drafts Advisory Opinions and regulations for Commissioner consideration, as well as other legal memoranda interpreting Federal campaign finance laws.

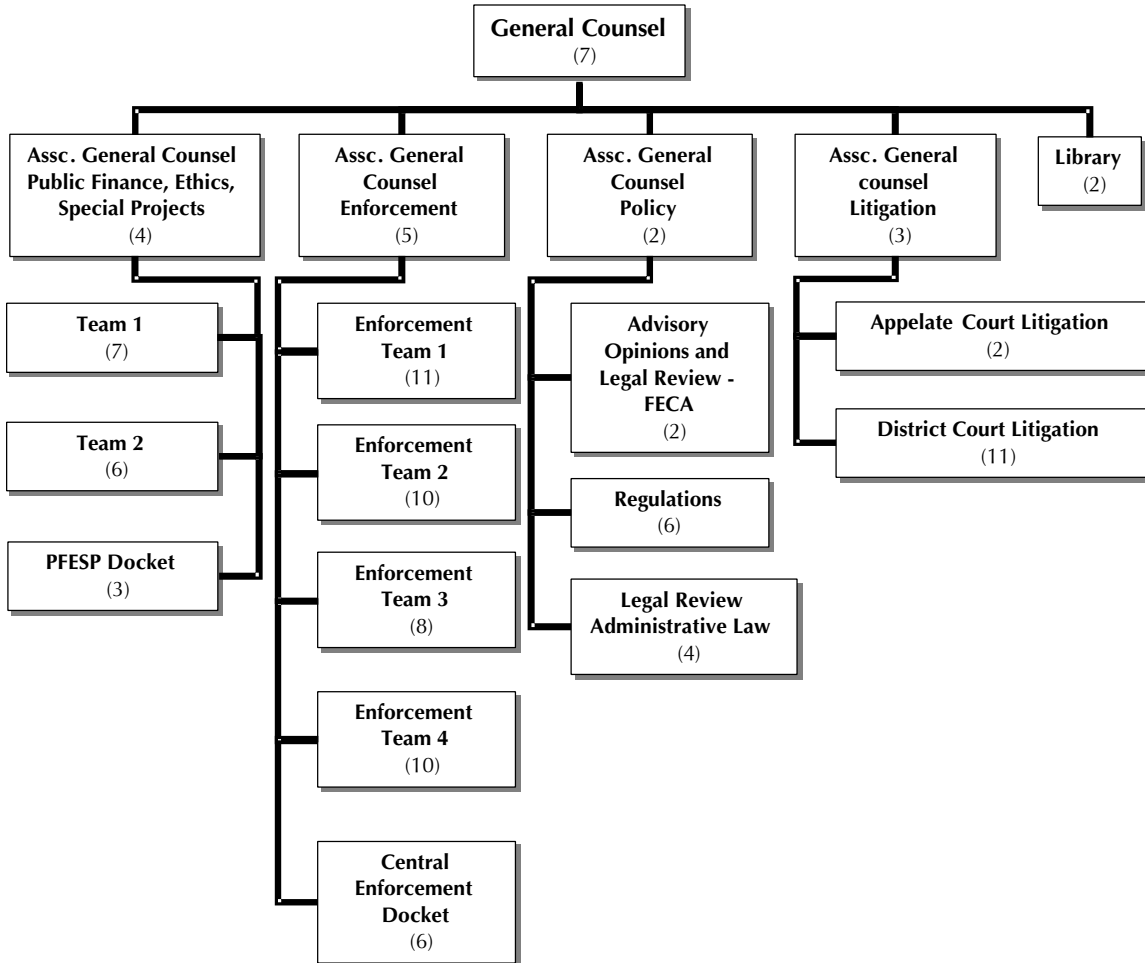
Four Associate General Counsels supervise organizational sections divided along the following functional lines:

- Public Financing, Ethics, and Special Projects (PFESP)
- Enforcement
- Policy
- Litigation
- Other (the General Counsel and nonsupervisory support staff)

Exhibit 4-22 depicts the organization of OGC, with FTEs associated with each section as of the end of FY 1998. Exhibit 4-23 shows the allocation of OGC staff among functions at the end of FY 1998. Total OGC personnel grew by nine during FY 1998 and will continue to grow in FY 1999.

Exhibit 4-22

**Office of the General Counsel**  
With Full-Time-Equivalent Staffing



Source: FEC Staffing Report September 25, 1998.

Exhibit 4-23

**Allocation of OGC FTE Resources for FY 1998**

<b>OGC Staff</b>	<b>TOTAL</b>	<b>Enforcement</b>	<b>PFESP</b>	<b>Policy</b>	<b>Litigation</b>	<b>Other</b>
Attorneys	63	28	13	10	11	1
Paralegals	18	10	4	2	2	0
Investigators	2	2	0	0	0	0
Ethics	1	0	1	0	0	0
Library	2	0	0	0	0	2
Secretaries	12	5	2	2	2	1
Administrative	10	4	0	0	1	5
<b>TOTALS</b>	<b>108</b>	<b>49</b>	<b>20</b>	<b>14</b>	<b>16</b>	<b>9</b>

Source: FEC FY 2000 Budget Justification, Table 11, November 16, 1998.

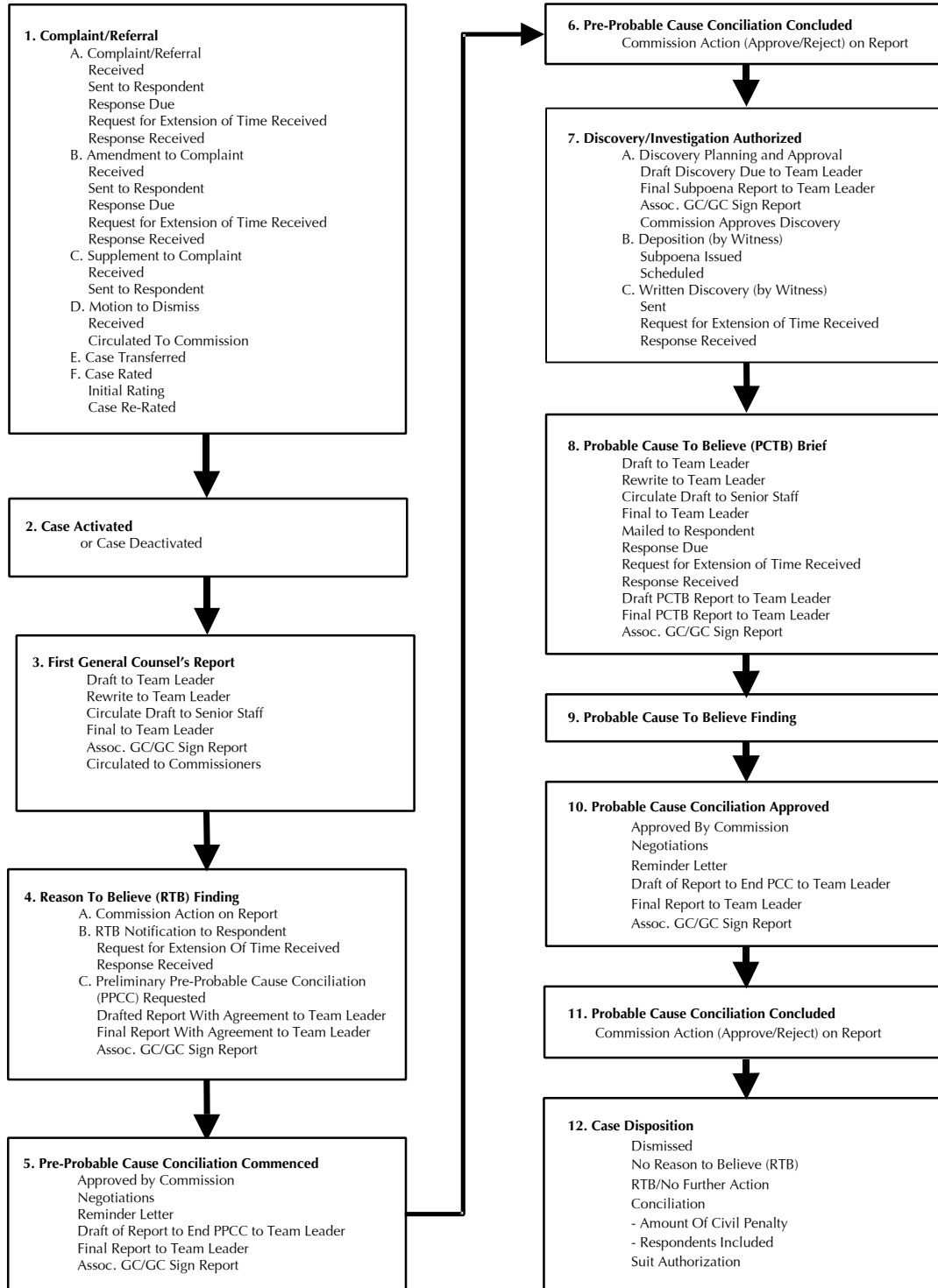
**4.3.3.1 Overview of the Enforcement Process**

As depicted by Exhibits 4-24 and 4-25, the entire enforcement process has 12 primary decision steps, 8 of which require Commissioner approval.<sup>43</sup> Exhibit 4-24 illustrates the potential steps and levels of review that could occur throughout the enforcement process.

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<sup>43</sup> The scope of this review does not include issues related to the interpretation of FECA; the enforcement process as specified under the FECA or FEC regulation; or Commissioner actions with respect to approving OGC enforcement, litigation, or policy or Advisory Opinion recommendations. However, all of these factors are interrelated and affect compliance and enforcement outcomes.

# Federal Election Commission Enforcement Process



Source: FEC Enforcement Case Stages, January 1, 1998

Exhibit 4–25

**Enforcement Process Review Steps**

<b>Step</b>	<b>Enforcement Process Activity</b>	<b>Commissioner Approval Required</b>
1	Receive Complaint or Referral	No
2	Activate or Deactivate a Case	No
3	Circulate First General Counsel’s Report to Commissioners	No
4	Find Reason to Believe	Yes
5	Commence Pre-Probable Cause Conciliation	Yes
6	Conclude Pre-Probable Cause Conciliation	Yes
7	Authorize Discovery and Investigation	Yes
8	Circulate Probable Cause Brief	No
9	Find Probable Cause to Believe	Yes
10	Commence Probable Cause Conciliation	Yes
11	Conclude Probable Cause Conciliation	Yes
12	Dispose of Case by Commissioners	Yes

Cases enter the enforcement process through either internal or external means. Internally generated cases result from the following actions:

- Referrals from the Reports Analysis Division that have met specific thresholds
- Field audits conducted for cause by the Audit Division
- Title 26 Presidential public funding audits
- FEC Directive Six-initiated referrals
- Referrals from other agencies, such as the Department of Justice, that come across potential FECA violations during the course of other investigations
- Sua Sponte submissions in which individuals or groups voluntarily disclose to the FEC the facts of a violation that has occurred on their part

Externally generated matters arise from complaints filed by individuals or groups alleging violations of FECA or FEC regulations.

**Central Enforcement Docket.** Whether internally or externally generated, cases are received by the Central Enforcement Docket (CED) or the Public Financing, Ethics, and Special Projects (PFESP) Docket. Internal referrals are assigned Matter Under Review (MUR) numbers once the Commission has

### **Filing a Complaint**

Any person may file a complaint if he or she believes that a violation of the Federal election campaign laws or FEC regulations has occurred or is about to occur. The complaint must be made in writing and must comply with certain requirements. For example, it must

- Provide the full name and address of the person filing the complaint (called the complainant);
- Be signed, sworn, and notarized;
- Clearly recite the facts that show specific violations under FEC jurisdiction;
- Clearly identify each person, committee, or group who is alleged to have committed a violation (called the respondent);
- Include any documentation supporting the allegations, if available; and
- Differentiate between statements based on the complainant's personal knowledge and those based on information and belief (statements not based on personal knowledge should identify the source of the information).

found the Reason To Believe. For externally generated complaints, complainants are notified of the receipt of their complaint and informed that the Commission will notify them again once the entire case is resolved. Until then, the FEC is required by law to keep its actions regarding the MUR confidential

Within five days after receiving a complaint, OGC sends each respondent a copy of the complaint. The respondent then has 15 days to respond in writing, explaining why no action should be taken.

**Case Activation.** After the 15-day response period has elapsed, CED processes each case through the Enforcement Priority System to create a relative ranking of case importance. Cases warranting the use of Commission resources are held in an "inactive" status. Every four to six weeks, the Associate General Counsel and the Enforcement Team Assistant General Counsels convene to review the pending docket in order to assign and activate cases to staff attorneys depending on their availability and skill level. A memorandum is provided to the Commissioners regarding which cases have been selected for activation.

**First General Counsel's Report.** Once a case is activated, an initial legal and factual analysis is provided in the First General Counsel's Report, usually within 30 days of case activation. Prepared by staff attorneys, the report is then reviewed by an Assistant General Counsel or Associate General Counsel before either being submitted to the Commissioners for a tally vote or placed on the Commissioners' agenda. The First General Counsel's Report recites the factual and legal basis of the case and generally makes one or more of four threshold recommendations to the Commissioners for their consideration:

- To open a Matter Under Review or decline to open a Matter Under Review (only for internally generated matters)
- To find Reason To Believe or not To find Reason to Believe
- To take no further action and close the file or open an investigation

- To approve the factual and legal analysis and proposed conciliation agreement

**Case Disposition.** If the Commission finds a Reason To Believe a violation has occurred in filing and other simple cases, initial efforts are directed at attempting to reach a Pre-Probable Cause Conciliation Agreement with the respondents. Otherwise, an investigation is required before the Commission is willing to begin efforts at Pre-Probable Cause Conciliation.<sup>44</sup> OGC provides a Commissioner-approved draft agreement to the respondents, and if agreed to, the signed document is presented to the Commissioners for final approval.

If conciliation efforts fail to reach a settlement, the Commission may move to the next enforcement step, using its investigative authority to make use of depositions, interrogatories, and subpoenas. If an investigation substantiates a Finding of Probable Cause To Believe, OGC sends a brief to the respondents regarding the Probable Cause recommendation.<sup>45</sup>

Respondents also file briefs in response to the Probable Cause recommendation. After reviewing the briefs of both the General Counsel and the respondent, Commissioners vote on whether there is Probable Cause To Believe that a violation has occurred or is about to occur. Four affirmative votes of the Commissioners are required. If the Commissioners decide that there is No Probable Cause To Believe, the case is closed, and the parties are notified. If the Commissioners determine that there is Probable Cause To Believe that the law has been violated, they attempt to correct or prevent the violation by entering into a written Conciliation Agreement with the respondent.

**Conciliation.** If the Commission and the respondent negotiate a Conciliation Agreement, the written agreement becomes effective once it is approved by the affirmative votes of four Commissioners and signed by the respondent and either the Associate General Counsel or General Counsel. The agreement generally includes a description of the facts and the law, admissions of the violations by the respondent, any remedial actions that the respondent must take, and a provision for the payment of a civil penalty

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<sup>44</sup> Pre-probable cause conciliation does not appear in the FECA but the Commission innovated the concept to speed case resolution.

<sup>45</sup> A General Counsel's brief is sent to the respondent even if the General Counsel believes the investigation did not substantiate a finding of Probable Cause to Believe. In this case, the General Counsel's recommendation to the Commissioners would be to find No Probable Cause To Believe. From the period of January 1, 1994, through September 30, 1998, the Commission has disposed of only one case with a finding of No Probable Cause To Believe (see Exhibit 4-26).

by the respondent. If conciliation does not result in an agreement within the 90-day period, the FEC may file suit against the respondent in Federal district court.

A complainant who disagrees with the Commission's dismissal of a complaint or who believes that the FEC failed to act in a timely manner may file a petition in the U.S. District Court for the District of Columbia seeking to find that the Commission's actions were "arbitrary and capricious" or "contrary to law."

#### **4.3.3.2 Overall Case Disposition**

During the period January 1, 1994, through September 30, 1998, the Commission closed 1,179 cases, or roughly 21 cases per month over this 57 month period. Exhibit 4-26 illustrates case disposition statistics for this timeframe. Of this total:

- 59 percent were dismissed
- 3 percent were found to have No Reason To Believe
- 12 percent were found to have Reason To Believe but no further action was taken.
- Only one case was found to have No Probable Cause to Believe with no further action taken.
- 1 percent were found to have Probable Cause To Believe but no further action was taken.
- 22 percent of all cases resulted in a Conciliation Agreement
- 2 percent resulted in suit authorization



Exhibit 4-26

**Federal Election Commission CASE DISPOSITION**  
January 1, 1994 through September 30, 1998

ACTION	CY 1994		CY 1995		CY 1996		CY 1997		CY 1998*		TOTAL	
	Cases	%	Cases	%	Cases	%	Cases	%	Cases	%	Cases	%
Dismissed	192	61%	120	51%	93	46%	222	74%	71	58%	698	59%
No Reason to Believe	12	4%	8	3%	9	4%	3	1%	4	3%	36	3%
Reason to Believe**	33	11%	36	15%	42	21%	19	6%	10	8%	140	12%
No Probable Cause to Believe**	0	0%	1	0%	0	0%	0	0%	0	0%	1	0%
Probable Cause to Believe**	2	1%	3	1%	5	2%	2	1%	1	1%	13	1%
Conciliation	67	21%	65	27%	46	23%	52	17%	32	26%	262	22%
Suit Authorization	8	3%	4	2%	9	4%	3	1%	5	4%	29	2%
<b>TOTAL</b>	<b>314</b>	<b>100%</b>	<b>237</b>	<b>100%</b>	<b>204</b>	<b>100%</b>	<b>301</b>	<b>100%</b>	<b>123</b>	<b>100%</b>	<b>1179</b>	<b>100%</b>

\*CY 1998 through Sept. 30, 1998

\*\* No further Action Taken

Source: OCG response to PwC data request 10/6/98

In 1995, the Commission began using an activation ratio as a more meaningful measure of enforcement performance. This is the ratio of active enforcement cases to all pending cases, where the monthly average number of active cases is divided by the monthly average of total pending cases in the enforcement and PFESP dockets. Exhibit 4-27 illustrates the average monthly active and inactive cases for the calendar year 1995 through September 30, 1998.

Exhibit 4–27

**Average Monthly Active and Inactive Cases**  
January 1, 1995 through September 30, 1998

Calendar Year	Active Cases		Inactive Cases		Total Cases
	Number	% of Total	Number	% of Total	
1995	139	47%	155	53%	294
1996	121	44%	151	56%	272
1997	98	33%	198	67%	296
1998*	92	51%	90	49%	182

\* Through September 30, 1998

Source: OGC response to PwC data request October 6, 1998.

Activation ratios are affected by the number of enforcement personnel available, the number of respondents, and the seriousness and complexity of cases. During this 45-month timeframe, enforcement staff levels were limited by budgetary constraints, the number of complaints increased approximately 30 percent, the number of respondents increased by 155 percent, and the Commission began pursuing cases involving complex cases resulting from the 1996 election cycle.

Exhibit 4–28 illustrates the monthly average number of pending cases and the monthly average number of respondents in pending enforcement cases. As the data indicate, the monthly average of total pending cases has remained relatively constant, but the number of respondents per pending

Exhibit 4–28

**Average Number of Respondents in Pending Cases**  
January 1, 1995 through September 30, 1998

	1995	1996	1997	1998*
Monthly Average Number of Total Pending Cases	294	271	296	182
Monthly Average Number of Total Respondents	1537	1416	2071	2090
Monthly Average Number of Respondents per Pending Case	5.2	5.2	7.0	11.5

\*Through September 30, 1998.

Source: OGC response to PwC data request October 6, 1998.

case has doubled. **As the number of respondents increases per case, each investigative step in the enforcement process consumes an increasing amount of resources to move the case forward.** Each of the 12 steps in the FEC enforcement process, as described in Exhibit 4-24, could be worked for each respondent in a Matter Under Review. In general, the level-of-effort required to work each case has increased approximately 100 percent from the 1995 and 1996 average number of respondents per case to the average 1998 number.

**The growing number of respondents and increasing case complexity is beginning to exceed the enforcement capacity of the FEC.** The

Commission represents that it now “grapples with such complex legal matters as determining when improper coordination between a candidate and a labor union or corporation occurs, analyzing whether soft money is being used to fund contributions to Federal candidates, defining what type of entity qualifies as a political committee, and determining when a person qualifies as a member of a membership association.”<sup>46</sup> Because of this case complexity and the increasing number of respondents, significant enforcement actions may not be activated in the future or if activated, may be dismissed for lack of resources. Increasing the number of enforcement personnel will increase case activation and closure rates.

Other factors also appear to inhibit FEC case activation and disposition:

Factors Internal to FEC	Factors External to FEC
<ul style="list-style-type: none"> <li>• Limited investigative resources to conduct interviews, analyze nonfinancial documents, and assess geographically dispersed fact patterns</li> <li>• Each step in the enforcement process (as shown in Exhibit 4–24) requires repetitive reviews, supervisory concurrence, and approval.</li> <li>• Absence of workload standards and monitoring system to assess staff utilization and case progress</li> <li>• Inability to leverage third-party Federal investigative resources<sup>47</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Inherent legal and factual complexity</li> <li>• Number of respondents</li> <li>• FECA-specified time frames</li> <li>• FECA requirements for Commissioner approval at numerous investigative stages</li> <li>• Respondent’s cooperation in providing information</li> <li>• Five-year statute of limitations</li> </ul>

The Commissioners have taken several steps to increase case resolution. For example, they

- Sent conciliation proposals with many Reason To Believe notices to speed case disposition,
- Authorized OGC to conduct more discovery through informal means, and to eliminate formal approval steps in order to speed case disposition,
- Authorized the circulation of certain enforcement matters for tally votes, and

<sup>46</sup>Federal Election Commission, FY 2000 Budget Request Justification, November 16, 1998, page 29.

<sup>47</sup>The FEC has requested enforcement assistance from the Department of Justice.

- Authorized the use of standard civil penalty guidelines for RAD referred reporting-related violations in developing recommendations to the Commission.

Within the last two years, OGC has begun employing a document imaging system to help manage large document-intensive cases.

***Improvement Opportunity 4- 18: The OGC should convene an internal working group of enforcement staff attorneys and team leaders to develop recommendations for consideration by the Commissioners to reduce the number of internal legal reviews embedded in the current enforcement process.*** As illustrated in Exhibit 4–24, and echoed by interviews with staff attorneys and Commissioners, the number of hierarchical reviews and revisions at each stage of enforcement cases result in lengthy rework processes that slow case movement. Efforts should be directed at reducing the number of handoffs and levels of hierarchical reviews to get reports to the Commissioners in shorter time periods.

#### **4.3.3.3 Enforcement Priority System**

In early 1992, the Office of the General Counsel set out to develop a system that would enable the Commission to more effectively manage its caseload as part of a total quality management initiative. Although each staff attorney had specific work assignments, OGC had never attempted to develop detailed criteria for prioritizing cases on an officewide basis. As the General Counsel stated in his September 22, 1992, Memorandum to the Commission: “ ...we have become more and more dissatisfied with the length of time it is taking us to complete enforcement cases. As we have noted on many occasions, we have too many cases for too few people. While many of our cases need more than one staff member assigned, the staff resources are just not present.”

OGC established internal teams to research, develop, and design an approach to systematically prioritize cases. Information was gathered from an internal OGC staff survey, a survey of Commissioners, reviews of literature on Commission proceedings, and contacts with other Federal agencies (such as the Securities and Exchange Commission, the Equal Employment Opportunity Commission and the Federal Energy Regulatory Commission), as well as State election enforcement agencies.

In 1993, the Commissioners first approved the Enforcement Priority System (EPS) design and then approved

- The process to implement the new Enforcement Priority System;
- A listing of cases for dismissal whose activity had occurred prior to January 1, 1989;
- A listing of cases recommended for dismissal because their significance was less relevant to newly rated pending cases; and
- The establishment of the Central Enforcement Docket as the point-of-entry for all new enforcement matters to apply the EPS screening criteria consistently.

By approving the EPS, the Commissioners changed the FEC enforcement approach "...to focus its resources to pursue more effectively those cases that are likely to have the most important impact on the administration of the Federal election campaign system." Referred to in the General Counsel's memorandum as an "organic" system subject to circumstantial change, the Commissioners periodically review the EPS and approve revisions to its underlying subelements.

The EPS is based on the following seven elements disclosed in January 1994 under a Freedom of Information Act request: respondents/players, impact on the process, intrinsic seriousness of the violation, topicality of the activity, development of the law, subject matter, and countervailing considerations.

In order to assess the effectiveness and fairness of the EPS, three senior members of the PwC project team signed confidentiality agreements with the FEC that allowed access to sensitive EPS documentation, including scoring sheets for closed cases, and a review of 20 randomly selected closed cases. In-depth interviews were conducted with the Enforcement Associate General Counsel and the staff responsible for the Central Enforcement Docket.

**The application of the EPS meets its original intention of allowing the exercise of judgment while providing sufficient structure to lessen the likelihood of inconsistent application.** EPS appears to provide meaningful differentiation among cases and allows OGC and the Commissioners to assess a comparative ranking of top cases. **No partisan bias was evident in the rating of cases along the seven criteria or in the assignment of points, nor was the weighting differentially associated with type of committee, whether authorized or nonauthorized, or political party.** All Commissioners receive the complete EPS scoring sheets on all cases from the Central Enforcement Docket. A high level of document security and internal control structure surrounds the EPS process.

The EPS assigns points to internal referrals and external complaints that result in a categorization of internal referrals or external complaints into “tiers.” Tier rankings provides the Commission with a management tool to match the seriousness of a particular case to the resources available to undertake investigation of the matter.

All EPS ratings are performed under the direction of the Central Enforcement Docket (CED). CED uses the referral or complaint, respondent replies, and publicly available statistical data in FEC filings to complete the EPS ratings for each case. CED staff also conduct activities associated with incoming cases, such as notifying respondents, responding to requests for extension of time, and receiving responses. Ranked cases are held in the CED on an “inactive” status, pending assignment to an enforcement team.

**Case Activation.** On average, enforcement staff attorneys work three cases at any given time.<sup>48</sup> Each month, the Associate General Counsel for Enforcement and the enforcement team leaders assess the nonactivated cases in inventory and select which cases to activate. In addition to the EPS rating and ranking, they consider the capabilities of staff with time coming available, the amount of available time the staff will have, and the Commission’s desire to enforce the full spectrum of the law. They also consider cases going stale which, if not activated soon, would be dropped because of “staleness”.<sup>49</sup> A copy of the detailed EPS rating is provided to the Commissioners, who also have the complaint and responses, and access to the publicly available information. This information, presented on a monthly basis, gives the Commissioners the opportunity to evaluate case activation decisions.

**The Commission’s enforcement docket encompasses the broad spectrum of possible FECA violations to ensure compliance coverage for all areas of the law.** Cases can range from internally generated straightforward late filing violations involving a single respondent to external complaints alleging complex and multiple violations involving numerous respondents. The EPS system provides preliminary case information and tracks cases up to the point that they are assigned to staff. At this point, the MUR Tracking

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<sup>48</sup> For the Enforcement Section, MIS pending case status data indicate that on average, 3.4 active cases were assigned per FTE in FY 1996, 2.8 active cases were assigned per FTE in FY 1997, and 2.4 active cases were assigned per FTE in FY 1998. Source: MIS Summary Report, September 1998.

<sup>49</sup> Stale cases are those in which the gathering of evidence to support allegations becomes more difficult to develop as the case ages. In addition, staleness can also reflect cases whose resolution would exceed the five-year Federal statute of limitations.

System (MTS) captures limited input regarding assigned staff and internal case deadlines.

**One tier contains cases which are typically not activated because they are low rated.** An exception to this general rule would be when the Commissioners vote to activate because of other matters (involving the committee, individual or organization subject to the complaint or referral) are also ongoing within the Commission.

**Another low rated tier of cases is worked to maintain the integrity of the FEC requirement for fair and full and timely disclosure.** These cases typically can be worked more quickly and are assigned to new attorneys and attorneys with short gaps in their schedules. Very few of these cases are dropped for staleness.

**Some high priority cases are dropped for staleness.** The longer these cases cannot be activated and assigned to enforcement staff, the utility of commencing an investigation declines until they reach a point when activation would in all likelihood not result in substantive closure.

Under the EPS process, cases that are either low rated or have become stale are dismissed at periodic intervals. During each calendar quarter, OGC recommends batches of cases to the Commission for dismissal. **During the period of January 1, 1994 through September 30, 1998, 59 percent of the 1,179 cases considered by the FEC were dismissed.** Approximately 40 percent of the dismissals were attributed to staleness, and 55 percent were attributed to low EPS prioritization. The remaining cases were dismissed for other reasons.

Typically, the dismissed cases have remained inactive within the Central Enforcement Docket for specific time periods that vary with their tier classification. (The thresholds are held confidential by the Commission to protect the efficacy of the enforcement process). As shown in Exhibit 4–29, most dismissals are attributed to EPS low rated or staleness scorings.

Exhibit 4-29

**Cases Dismissed under the Enforcement Priority System**

January 1, 1994 through September 30, 1998

Action	1994	1995	1996	1997	1998*	TOTALS
Cases Dismissed under EPS						
• Low-Rated	128	66	34	128	32	388
• Stale	49	54	52	79	39	273
Other Reasons	15	-	7	15	-	37
<b>Total Cases Dismissed</b>	<b>192</b>	<b>120</b>	<b>93</b>	<b>222</b>	<b>71</b>	<b>698</b>

\*Through September 30, 1998

Source: OGC response to PwC data request October 6, 1998.

The Commission is provided with a monthly status report of OGC enforcement activities that identifies cases which have been activated; however, the report does not state why one case was activated over another, or which cases have not been activated and why. The Commissioners do have copies of individual complaints, responses, and EPS rating sheets which provides the raw materials to review and question the bases for case activation. However, the information is not provided in the same useful format that OGC works from. The Commissioners do periodically question why a case was or was not activated and the Commissioners are provided a narrative summary of low rated cases recommended for dismissal. (Stale cases are not summarized). At least four Commissioners must affirmatively approve all decisions to dismiss cases.

The Public Financing, Ethics, and Special Projects (PFESP) Section maintains its own rating and ranking system called EPS II which was developed in 1995 in an effort to further streamline OGC procedures related to Presidential public financing audits. PFESP handles internal referrals and complaint-generated matters related to Title 2 and Title 26 audit matters.

**EPS II has tiers for ranking cases; most low rated cases are dismissed.** EPS II gives greater weight to matters pertaining to Presidential publicly funded committees over Title 2 for cause matters. EPS II applies different rating criteria for evaluation of Title 2 committees from those of the EPS mechanism maintained by the Central Enforcement Docket. Enforcement matters may be transferred to the PFESP Docket when a case involves an audited committee or contains issues that overlap with a pending audit.



**While Enforcement has closed 863 cases during the October 1, 1994 to September 30, 1998 period, PFESP has closed only 70 cases, according to MIS data.**<sup>50</sup> As represented by the General Counsel, Conciliation Agreements were reached in 20 cases involving 152 respondents with civil penalties totaling \$403,863. EPS II statistics indicate that most dismissals are attributed to low ratings and staleness. It appears that PFESP and Audit Division resources could be better leveraged by the early identification in the audit cycle of whether the Matters Under Review are considered low rated or have inherent statute-of-limitation timelines that would inevitably lead to dismissal.

***Improvement Opportunity 4- 19: OGC should prepare and maintain documentation identifying why cases were selected for activation.*** Where activation decisions are not strictly based on EPS rankings, OGC should document the reasons why and provide them to the Commissioners. OGC should also provide the Commissioners with a periodic report of nonactivated cases pending in its inactive inventory, with a profile of offense characteristics.

***Improvement Opportunity 4- 20: Development efforts should be initiated by OGC to define additional scoring criteria that estimate resource allocation by tier of case.*** The use of the case management system will enable OGC to track enforcement staff resources spent on each step of the enforcement process by case. Case resource consumption information can be aggregated over a period of time to correspond to each tier in EPS and EPS II. For example, OGC could associate a range of average costs by tier, similar to the average costs per Matter Under Review currently tracked by the detailed management information report.<sup>51</sup>

#### **4.3.3.4 Allocation of OGC Enforcement Resources**

During FY 1998, OGC tracked 174,773 staff hours, equivalent to 99.3 FTEs (1760 hours is equivalent to 1 FTE) along seven aggregated programmatic functions. Excluding OGC administration (supervisory and nonsupervisory time, **approximately 47 percent of MIS reported hours were consumed by enforcement activities conducted by the PFESP and Enforcement Sections.**

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<sup>50</sup>Unlike the CED EPS tracking system, PFESP maintains a poorly organized spreadsheet tracking system of cases that in some instances lacks complete information regarding case disposition. Based on spreadsheet data provided by PFESP docket staff on October 30, 1998, the study team could only aggregate closed case dispositions for 41 cases opened and closed during this period.

<sup>51</sup>Detailed MIS reports for FY 1997 and FY 1998 indicate that the average cost per externally generated Matter Under Review was \$35,005 and \$42,193, respectively.

PFESP primarily conducts legal reviews of Title 26 Presidential public funding audits and Title 2 for-cause audits. The Section also reviews debt settlement proposals and administrative terminations referred from the Reports Analysis Division and supports the Commission’s oversight of ethics policy and specific projects.

The Enforcement Section oversees all other enforcement proceedings. It is further subdivided into four Enforcement Teams and the Central Enforcement Docket. Each enforcement team handles a diversity of cases ranging in origin, offense, and complexity. As indicated in Exhibits 4–30 and 4–31, externally-generated complaints consume 82% of PFESP enforcement-related activity and more than 60% of the Enforcement staff

time. Externally generated matters consume more resources dedicated to the investigative phases of the enforcement process.

The allocation of FY 1998 Enforcement resources appears to correspond to the mixture of internally and externally generated enforcement matters. As shown in Exhibit 4–32, the FEC has more cases resulting from complaints than from internal referrals. Moreover, as illustrated by 1994 and 1996 data, the number of complaints filed during an election year increases significantly. It should be noted that a case filed in one year might not be activated for disposition until the following year.

Exhibit 4–30

**PFESP Section Resource Allocation (FY 1998)**

<b>PFESP Enforcement Functions</b>	<b>Hours</b>	<b>FTE</b>
Internal Referral Title 2	626	.4
Internal Referral Title 26 Public Finance	1,554	.9
External Complaint Title 2	2,045	1.2
External Complaint Title 26 Public Finance	7,811	4.4
<b>PFESP Total Enforcement</b>	<b>12,036</b>	<b>6.8</b>

Source: MIS OGC Hours and FTE FY 1998, November 19, 1998.

Exhibit 4–31

**Enforcement Section Resource Allocation (FY 1998)**

<b>Enforcement Functions</b>	<b>Hours</b>	<b>FTE</b>
Debt Settlements and Administrative Terminations	898	.5
Central Enforcement Docket	7,440	4.2
Enforcement Policy	2,774	1.6
External Complaint Enforcement	42,961	24.4
Internal Referral Enforcement	15,432	8.8
Internal Referral Presidential Enforcement	1,032	.6
<b>Enforcement Section Totals</b>	<b>70,538</b>	<b>40.1</b>

Source: MIS OGC Hours and FTE FY 1998, November 19, 1998.

Exhibit 4-32

**External Complaints and Referrals  
January 1, 1994 through September 30, 1998**

	1994	1995	1996	1997	1998*	TOTALS
External Complaints	259	53	258	63	79	712
Internal Referrals	97	95	56	84	32	364
<b>Total New Cases</b>	<b>356</b>	<b>148</b>	<b>314</b>	<b>147</b>	<b>111</b>	<b>1076</b>

\* Through September 30, 1998  
Source: OGC response to PwC data request October 6, 1998.

**4.3.3.5 Internal Referrals**

The Central Enforcement Docket receives referrals generated by the Reports Analysis Division (RAD) and matters referred from other Federal agencies. RAD referrals are based on a point scoring system reviewed and adjusted after each election cycle by the Commission to focus enforcement resources on the more egregious violations that cover the spectrum of FECA prohibitions, limitations, and disclosure requirements (See discussion at Section 4.3.1.2). The number of RAD referrals to OGC has been decreasing since the 1990 election cycle because the thresholds for RAD referrals were raised to reduce the workload sent to OGC. In FYs 1990 and 1991, for instance, RAD made 112 and 243 referrals to the OGC, respectively. In FYs 1997 and 1998, RAD made 57 and 33 referrals to OGC, respectively.<sup>52</sup>

**In general, RAD referrals represent instances of nonfiling, chronic late filing, and excessive contributions.** A RAD analyst prepares a referral template that identifies the name of the political committee, the relevant statute, a background summary describing the potential violations, and supporting documentation such as a computer print-out of dates of when reports were filed and RAD notices sent. The Central Enforcement Docket receives the referral and rates it according the EPS tier rankings.

**Based on a review of 20 randomly selected cases, on average, internal RAD referrals move through the enforcement process in shorter timeframes than external complaints. But Central Enforcement Docket case-activation times vary widely.** For instance, two nearly identical chronically late filer RAD referrals to OGC (made in April 1997 for potential violations that occurred in the 1996 election cycle) were tracked. One case was activated by CED within 30 days of receipt. A Conciliation Agreement was reached two months later. The other case was activated by

<sup>52</sup> MIS report October 21, 1998.

CED eight months later in November 1997. A Conciliation Agreement was not reached for another five months, fully 13 months from the date of the RAD referral. Both agreements levied identical civil penalties.

**Internal RAD referrals appear to be mechanical recitations of factual and legal circumstances.** Unlike external complaints, little variation in the composition of the First General Counsel's report to the Commission recommending opening a Matter Under Review, finding Reason To Believe, and approving a conciliation agreement with a civil penalty was observed.

**More than 25 percent of enforcement resources are consumed by internal referrals.** As noted earlier, internal referrals to the CED include matters from the Reports Analysis Division, as well as matters referred from other Federal agencies or sua sponte filings. MIS data indicate that 15,432 hours, equivalent to 8.8 FTEs, were spent during FY 1998 on closing 48 internal referrals. Based on an average projected FTE rate per hour of \$31.81<sup>53</sup>, close to \$500,000 was expended on labor for working these cases to conclusion, or roughly \$10,000 per closed internal referral.

***Improvement Opportunity 4- 21: The Congress should authorize the FEC to establish an administrative fine system for straightforward filing and record-keeping-related violations within legislatively prescribed fine ceilings.*** The FEC should be allowed to specify guidelines that correspond to thresholds set in the Reports Analysis OGC referral and Audit point scoring criteria. Internal referrals from the both the Reports Analysis and Audit Divisions (related to Title 2 for-cause audits) should be made eligible for administrative fine disposition.<sup>54</sup>

Establishment of a standard fine schedule for nondeliberate and straightforward reporting violations would move some reporting violations out of the enforcement process and allow existing Enforcement resources to be reallocated to more significant and complex external complaints. To create a unified process, the administrative fine process should be administered by the Reports Analysis and Audit Divisions. Further analysis is required to identify the specific amount of resources that could be reallocated from the PFESP and Enforcement Sections, but an estimate of four to six FTEs appears reasonable.

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<sup>53</sup>MIS report, January, 1998.

<sup>54</sup>Amendments to the FECA would be required to institute an administrative fine system.

#### 4.3.3.6 Management Information Systems

**OGC maintains a comprehensive index of deadlines, timeframes and time goals for specific enforcement actions and assignments.** Without a formal, computer-based case management tracking system, it is not possible to verify adherence to these timeframes. The absence of an integrated management information system is more pronounced in the Office of the General Counsel, where simple case input and output measures do not adequately reflect the wide variety of case composition.

OGC currently uses a manual time allocation system to account for staff time on case, program, and subprogram activities. But the intent of the time allocation system is to track hours by FTE to avoid breaching statutory FTE ceilings, not for performance management. Staff manually record time, which is then given to the Office of Planning and Management for input into the FEC Management Information System (MIS). MIS data reflect the number and percentage of pending cases, the status of activation, and historical averages.

The Enforcement Section does track hours by cases, but they do not believe that these data are particularly accurate because of inconsistent staff record keeping. Moreover, the Enforcement Section does not have benchmarks to determine attorney capacity and to evaluate attorney workload handling. Interviews with OGC managers and staff confirm that time allocation system information and MIS data are not used for managing workloads but rather is primarily used for budget justifications and reporting purposes at the Commission level.

In FY 1998, more than 29,000 hours (equivalent to 16.6 FTEs) were recorded under "General Counsel Administration."<sup>55</sup> **Failure to apportion supervisory and nonsupervisory responsibilities among OGC programs understates the true compliance costs associated with program activities.**

OGC is in the process of implementing a case management system. In November 1997, the Commission awarded a contract to Law Manager Inc. (LMI) to modify its off-the-shelf legal management software program to meet the needs of OGC.<sup>56</sup> **This system presents OGC with the opportunity to more efficiently manage its caseload by tracking more data related to case characteristics and status.** Increased management information will allow

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<sup>55</sup>MIS OGC Hours and FTE FY 1998, November 18, 1998.

<sup>56</sup>As noted in the Section 1, PricewaterhouseCoopers is a subcontractor to LMI, which began this work before GAO contracted with PwC to conduct this management review. GAO was informed of this potential conflict of interest prior to contract award.

OGC to measure accurately the amount of resources associated with specific case characteristics and the time associated with phases of a case. Building case resource profiles creates an opportunity for OGC to present to the Commission a case “budget” submission that estimates resources projected to be consumed with specific case disposition. With better case management information in hand, the Commission will be in a position to assess actions that it can take to further streamline the enforcement process.

***Improvement Opportunity 4- 22: The FEC should compile an annual descriptive offense profile of compliance matters to better inform Commissioners, policy makers, and the public of emerging law enforcement trends [identical to Improvement Opportunity3- 2].*** The FEC represents that it seeks to enforce the full spectrum of the FECA. Creating an offense categorization profile would better inform Commissioners, policy makers, and the public of emerging or changing noncompliance patterns. For Commissioners, this information would help them strategically decide on the proportional allocation of compliance resources. For the policy makers and the public, it would better communicate the law enforcement challenges faced by the FEC and where the FEC chose to commit its compliance resources.

#### **4.4 Presidential Public Funding Findings**

**Objective:** “Under the Public Financing Program, the Commission seeks to:

- Certify the eligibility of Presidential candidates and committees for Federal payments in a timely and accurate fashion
- Help ensure that U.S. Treasury payments to certified committees are made accurately and on time
- Promote public trust that all public monies are accounted for and expended in compliance with the FECA”

Source: FEC FY 2000 Budget Request Justification, November 16, 1998.

Every Presidential election since 1976 has been financed with public funds. Congress designed the public funding program to correct several problems perceived in the Presidential electoral process including:

- Disproportionate influence (or appearance of influence) of the wealthiest contributors
- Demands of fundraising that prevented some candidates from adequately presenting their views to the public
- Increasing cost of Presidential campaigns

To address these problems, Congress devised a program that combines public funding with limitations on nonpublicly provided contributions and expenditures. Dollars from the \$3 Federal Income Tax checkoff accumulate in the Presidential Election Campaign Fund to provide

- Matching funds to qualified Presidential candidates for primaries,
- Funds to the major parties for Presidential nominating conventions, and
- Outright grants to the Presidential nominees for the general election.

Based on statutory criteria, the FEC determines which Presidential candidate committees are eligible to receive public funds. Once a committee qualifies and is certified by the Commissioners, public funds are disbursed by the Treasury Department. To receive public funds, Presidential candidates must agree to the following conditions:

- Abide by the statutory limits on contributions and expenditures
- Maintain detailed records of their financial activities
- Comply with the Title 26 audit requirements
- Make repayments to the Treasury based on Commission determination

The Audit Division administers two integral processes within the Presidential public funding program: certification of public funding and Title 26 audits. Both of these processes are primarily executed by the Audit staff with assistance from the Office of the General Counsel for coordinating legal review and concurrence of matching fund certification, as well as addressing any legal issues that arise from Title 26 audits.

#### **4.4.1 Certification of Public Funding**

Under the FECA, the Commission is required to determine whether candidates meet certain eligibility criteria and to certify candidates eligible to receive public funds. The public funding program essentially involves processes for the certification of primary matching funding, convention funding, and general election grants.

**Primary Matching Funds.** The certification of primary matching funds begins with eligibility certification. Primary election candidates seeking matching funds submit a Letter of Agreements and Certifications. This letter is a contract with the Government in which a candidate promises to comply with the law and an FEC audit in exchange for public funding. A candidate's "threshold submissions" may accompany this letter as well.

Threshold submissions include documentation of individual contributions up to \$250 each. Candidates can first send in threshold submissions to establish their eligibility during the year before the election. Candidates seeking their party's nomination to the Presidency qualify to receive matching funds by raising more than \$5,000 in each of 20 states (i.e., a sum of individual contributions no more than \$250 each that totals over \$100,000). The first matching payments are then made in January of the election year.

The FEC requires participants in the Presidential public funding program to submit contribution information through electronic media in order to expedite the certification and disbursement of matching funds. Data Systems makes hardcopy printouts of the threshold submissions for use in Audit, which reviews all threshold submissions with zero tolerance for error. The Deputy Assistant Staff Director of Audit manages this process with a few temporary staff who:

- Verify that each check is matchable by State, based on statutory criteria;
- Verify that contributor information is adequate (i.e., includes name of contributor, occupation, and correct signature); and
- Analyze threshold submissions for any unusual patterns or trends.

Audit staff follow standard review procedures for threshold submissions to verify that the requests meet the necessary standards of matchability. This process is actually repeated twice by a another staff person, reviewed by the Deputy Assistant Staff Director, and then reviewed once again in a referencing process by an available auditor. In addition, the Deputy Assistant Staff Director identifies apparent trends using Data Systems printouts that sort the threshold submissions based on a variety of single variables.

If the candidate submits all appropriate documentation and meets the necessary requirements, Audit prepares an eligibility report for the Commissioners. Upon report approval, Audit drafts a letter to the Treasury Department approving the disbursement of funds. Audit proactively works with candidates to help them become eligible for primary matching funds.

Once the Commission determines that a candidate has met the eligibility criteria, he or she may submit monthly contributions up to \$250 from individuals for matching. Presidential candidates and committees are also required to provide electronic media for all matching submissions. After eligibility certification, Audit staff rely on a sample of committee submissions (created by Data Systems from the candidate's electronic



media) to determine the appropriate amount that is matchable. Audit uses reject codes to indicate why specific submissions within the sample were not matchable. If a sample has too many erroneous submissions, the entire request for matching funds can be rejected that month. Once Audit determines that an amount is matchable, it recommends how much to certify for Commission approval. Upon Commissioner approval, the FEC issues a letter to Treasury for the actual disbursement of funds.

**Convention Funding.** The certification of convention funding involves a grant process that takes only a few days and occurs once every four years. The Treasurer or President of the convention committee sends a Request for Funds letter to the FEC. Audit reviews the letter, works with the committee to make any necessary revisions, and makes a recommendation to disburse funds. The letter is forwarded to OGC for legal analysis. Audit incorporates any feedback from OGC into a report for the Commissioners. The Commissioners generally vote within 24 hours to approve the funding, and a letter is drafted and forwarded to Treasury.

Each major party is entitled to a public grant of \$4 million (based on 1976 statutory formula plus a cost-of-living adjustment) to finance its Presidential nominating convention. In 1996, each major party received approximately \$12 million. A qualified minor party (a party whose Presidential candidate received between 5 and 25 percent of the vote in the preceding election) may become eligible for partial convention funding based on its Presidential candidate's share of the popular vote in the preceding election. New parties are not eligible for convention funding.

**General Election Grants.** As soon as the Presidential and Vice Presidential candidates are nominated by the parties, they immediately send a signed Nomination letter to the FEC to begin the certification for general election funding. Audit and OGC simultaneously review the letter to make sure that it satisfies all of the necessary requirements. Audit will work with the candidates to quickly identify any information that may have been neglected and correct the situation. Once the letter is accepted, Audit prepares a Grant Eligibility Report. The Commissioners immediately vote, and if they approve the funding, a letter is drafted and transmitted to Treasury certifying payment. This entire process takes only a few hours.

#### **4.4.2 Title 26 Audits**

The Presidential election audits, also known as Title 26 audits, cannot begin until the Presidential candidate either drops out of the Presidential race or is forced to discontinue by statute (not receiving enough votes in the primary elections) or the general election has been completed. The intent of this

policy is to avoid interference with the candidate’s election schedule by creating negative publicity that may occur in the course of an audit. The audit will not commence until a candidate is completely out of the race and the FEC is at no risk of affecting the outcome of an election.

As shown in Exhibit 4–33, Title 26 general election and primary audits cost significantly more than Title 2 for cause audits because they require more technical steps. Presidential campaigns are

- Nationwide and involve millions of dollars,
- Subject to state limits for primary elections,
- Subject to limits for certain types of expenditures and contributions, and
- Subject to qualified campaign expense determinations.

Exhibit 4–33

**Average Hours and Costs of Title 2 and Title 26 Audits**

Type of Audit	Average Hours	Average Costs
Title 2 for cause (Authorized committee)	1,480	\$37,000
Title 2 for cause (Unauthorized committee)	2,125	\$54,000
Title 26 General Election	5,290	\$142,000
Title 26 Post Primary	5,085	\$127,000

Source: FEC Audit Division MIS data.

From the beginning of the Presidential public funding program, the FEC has been criticized over the timeliness with which it completes its Presidential audits. Again, as illustrated in Exhibit 4–33, the average hours spent conducting a general election or primary audit exceeds 5,000 hours, or the equivalent of more than 2.8 FTEs per audit. For the 1996 Presidential election, for example, the Audit Division performed three general election audits and 11 primary election audits.<sup>57</sup>

For Title 26 audits, auditors make sure that once a candidate or committee receives public funds, the candidate or committee complies with all applicable limits on expenditures and contributions. In most instances, distinguishing between primary or general election contributions and expenditures complicates these audits. For example, the way a donation is

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<sup>57</sup>In addition, the Audit Division executed Presidential campaign committee General Election Legal and Compliance Fund audits and five convention funding-related audits.

attributed requires analysis to identify where and when it was made and by whom.

Presidential audits receive a high degree of public scrutiny because they can result in Commissioner-ordered repayments of public funds. If Audit staff make a determination that repayments are warranted, they must also consider whether the matter in question applies to other Presidential committees. If Audit staff propose a finding that is inconsistently applied, other committees may seek redress. Everyone is looking at every issue, and Audit staff defend their findings all the way through the audit process right up to Commissioner consideration.

In order to improve the timeliness of Presidential audits, the FEC has accorded Presidential audits higher priority over all other FEC audits. FEC directives require that all Presidential campaign election audits must be completed within two years of the date of the general election.

The postaudit/reporting stage is a lengthy process that has many reviews with different Divisions and waiting periods for the auditee. **In the Presidential audit cycle, the FEC successfully restructured this stage to eliminate some of the review processes and waiting periods in order to meet the Commission's two-year deadline to complete all Presidential audits.** The Exit Conference Memorandum (ECM) used in Title 26 audits reduces the formal involvement of Commissioners in the production of audit reports. However, even within the new ECM process, informal and formal reviews by OGC of the ECM and the Final Audit Report represent handoffs that require staff to spend additional time learning and deciphering issues.

Although using the ECM speeds the entire audit process, it also allows the public to officially access the Final Audit Report at the same time as the Commissioners. Once the Final Audit Report is forwarded to the Commissioners in open session, it may take several sessions to come to a final vote on the Report. Commissioners, OGC, and the Audit Division review and discuss the Report. The Audit Division and OGC often have to revise Audit Reports and make changes depending on the outcomes of Commissioner meetings.

During the 1992 election cycle, more than \$43 million of public funds were disbursed to the Presidential candidates and approximately \$2.2 million were repaid by candidates as a result of Title 26 audits. The cost to conduct the audits for the Presidential primary candidates, the general election, and the convention committees during the 1992 election cycle

was approximately \$2.1 million. Thus, the amount of repayments was nearly equal to the cost of the audits.

#### 4.5 Election Administration

**Objective:** “Through the Office of Election Administration, the agency will:

- Carry out its statutory responsibilities under the National Voter Registration Act (NVRA) to help improve the national level of voter registration
- Help ensure that state and local election officials receive informational and educational assistance in administering Federal elections in an efficient and effective manner
- Foster public confidence in the fairness and reliability of the polling process in Federal elections.”

Source: FEC FY 2000 Budget Request Justification, November 16, 1998.

Although part of the FEC, the Office of Election Administration (OEA) does not focus on campaign finance issues but rather assists State and local election officials by responding to inquiries, publishing research, and conducting workshops on all matters related to election administration. The OEA also answers questions from the public and briefs foreign delegations on the U.S. election process, including motor-voter registration and voting statistics

OEA is comprised of five staff: a Director, a Deputy Director, and three research specialists. OEA has no support staff on a regular basis but employs a temporary administrative assistant. The staff is cross-trained to cover absences caused by frequent travel. OEA’s international work is high level and policy-oriented. The Office resembles a library, with many paper reports and books filed in shelves along the walls.

OEA programs are divided into the two major areas of Continuing Operational Programs and Intermittent Research Projects. Continuing Operational Programs encompasses statutorily mandated tasks under the FECA, of the National Voter Registration Act (NVRA), and Voting Systems Standards (VSS) as well as such traditional programs and publications as Clearinghouse Advisory Panel meetings, community outreach through speaking engagements and conferences, the FEC Journal on Election Administration, and the Election Case Law publication.

Intermittent research projects comprise those tasks that are not mandated by statute, but are authorized by law and assist OEA in meeting its statutory mandate. These research projects include updating the Ballot Access and Innovation in Election Administration series and producing such

publications as Absentee Voting, Training Election Officials, and Organizing Election Offices.

OEA produces many products each year. During 1997, it completed its second report to Congress on the implementation of the National Voter Registration Act (NVRA), the “motor-voter” law. This report, *The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office, 1994–1996*, contained an analysis of the NVRA’s impact and recommendations for improving the administration of the Act.

Another 1997 OEA publication — *Developing a Statewide Voter Registration Database* — detailed how State election administrators can assist and support local election offices by developing an integrated Statewide voter registration database. OEA also released new editions of two series: *Election Case Law ‘97* and the *Journal of Election Administration*, Vol. 18. The case law update summarized court decisions on selected election administration topics through December 1996. The *Journal* examined systems of representation, including Illinois’ experience with cumulative voting and a discussion of how alternative systems of representation can be used as voting rights remedies.

Although one of OEA’s main responsibilities is to respond to inquiries, it does not have an automated tracking system. The OEA proposes to image all files to facilitate file and retrieval capabilities and seek ways to make its research easier to access. Some OEA data exist on the FEC Web site such as voter registration, election turnout figures, a graph of trends, a synopsis of the NVRA report and tables, and the election office directory.

The OEA relationship with the rest of the FEC is sound, although there is a perception that other Divisions and the Commissioners view OEA as a research and development function — independent of and not connected to the FEC mission concerning campaign finance.

5.0

## Summary of Recommendations

## 5.0 Summary of Recommendations

Sections 3 and 4 of this report contain 33 opportunities for improvement to increase overall FEC performance. They range from incremental short-term changes that could be implemented entirely by the FEC, to significant and long-term changes that require Congressional action. This section narrows the universe of opportunities to a targeted list of 21 recommendations that will yield the largest sustainable increase in FEC performance. In general, three overarching themes are presented.

First, the Congress and the FEC need to initiate actions that will eventually allow the FEC to shift some resources from its disclosure activities to its compliance programs through the following means:

- Develop a comprehensive, mandatory electronic data filing system for the major filers in conjunction with a significant business process reengineering effort throughout the FEC
- Redesign disclosure processes, using industry standard database software, and realign disclosure organizational units to improve processing time, accuracy, and cost
- Monitor compliance with the FECA through a computer-based exception reporting system to verify transaction accuracy, content, and disclosure thresholds

Second, consideration of further increases in enforcement staff levels should be linked with implementation of activities to increase compliance and enforcement productivity in the following ways:

- Move nondeliberate and straightforward reporting violations such as failure to meet reporting deadlines away from the enforcement process and into an administrative fine system which will allow enforcement resources to focus on more significant violations
- Establish workload and performance standards for all compliance matters to better allocate and manage available resources
- Aggregate data about compliance matters by descriptive offense category to better coordinate screening criteria and to prioritize compliance resources for the strategic outcomes desired by Commissioners
- Reassess the roles and responsibilities within the Office of the General Counsel to reduce staff time consumed in repetitive legal reviews of

enforcement matters and to harmonize the reports review and audit-screening criteria referrals to expedite case activation

Third, the organization needs to renew itself by conducting a broad range of organizational development activities to strengthen leadership and accountability, to enhance human resource management, and to nurture increased communication and collaboration throughout the organization.

Exhibit 5–1 identifies four recommendations that require Congressional authorization to improve FEC capabilities and provide the foundation to implement further FEC managed actions to streamline disclosure processes and reallocate compliance resources. Recommendation timeframes identify the election cycle for which these amendments should be made effective.

Exhibit 5–1

**Recommendations Requiring Congressional Action**

Recommendation	Timeframe	Report Citation
<p><b>1. Authorize mandatory electronic filing for major filers.</b> Electronic filing offers the most cost-efficient and effective method to capture campaign finance transactions. FEC needs legislative authority to require committees, which meet FEC-determined thresholds of financial activity, to file reports electronically by a date certain.</p>	<p>For the 2002 election cycle</p>	<p>4.2.6</p>
<p><b>2. Standardize reporting on an election-cycle basis (campaign-to-date basis), rather than a calendar-year basis.</b> Standardized reporting periods on an election-cycle basis would simplify candidate committee record-keeping, reduce the number of filing errors requiring RFAs, and increase the usefulness of the disclosure database.</p>	<p>For the 2002 election cycle</p>	<p>4.2.5</p>
<p><b>3. Transfer the point-of-entry for Senate candidate committee reports to the FEC.</b> The FEC must maintain separate and costly filing, imaging, and document retrieval processes to accommodate Senate filings. Establishing the FEC as the single point-of-entry for filings would reduce FEC costs and increase the timeliness of filing and compliance notices.</p>	<p>For the 2000 election cycle</p>	<p>4.2.7</p>
<p><b>4. Authorize the FEC to establish an administrative fine schedule, subject to reasonable appeal procedures, for straightforward disclosure violations.</b> Moving these violations out of the formal enforcement process would allow the more efficient and effective use of enforcement resources for activating and resolving more significant matters under review.</p>	<p>For the 2000 election cycle</p>	<p>4.3.3.5</p>



Exhibit 5–2 identifies six recommendations to improve the FEC disclosure program. Recognizing that the FEC is fully occupied with day-to-day operational requirements, implementation assistance from outside sources may be required. An estimate for that assistance is identified under “Approach.” Recommendation timeframes identify the fiscal year in which implementation should be initiated.

Exhibit 5–2

**Recommendations for FEC Action: Disclosure**

<b>Recommendation</b>	<b>Approach</b>	<b>Time-frame</b>	<b>Report Citation</b>
<b>5. Enforce the use of standard filing guidelines and forms for the entire regulated community during the transition to electronic filing.</b> Standardizing how forms and amendments to forms are submitted and requiring the submission of all disclosure information in a typeface format would improve the disclosure and reports review processes.	Will require Notice of Proposed Rule Making	FY 1999	4.2.1
<b>6. Set up Internet connections on several PCs in the Public Records Division so that the public can access the FEC Web page.</b> This step enhances resources available in Public Records.	Minimal Data Systems support	FY 1999	4.2.1
<b>7. Engage in intraprogram and interprogram management-planning activities to improve resource utilization and to enable process efficiencies.</b> Increased emphasis on management planning will support improvements in disclosure productivity.	Ongoing work with business process maps as a baseline	FY 1999	4.2.9
<b>8. Realign resources in Disclosure and in Data Systems coding and entry into a single disclosure process with one accountable manager.</b> Consolidating the disclosure process from two divisions into one with a single manager will increase accountability and streamline disclosure process functions and resources.	Three months developing consolidation plan (\$50,000 for facilitation support)	FY 2000	4.2.4
<b>9. Work with internal and external user groups to determine modernization requirements for the existing disclosure database.</b> Beginning to assess internal and external user requirements will accelerate the move away from DB1032 to a relational database and thereby strengthen the disclosure and reports analysis processes.	Six months to design ADP strategy (\$500,000 for database design support and acquisition)	FY 2000	4.2.8

Exhibit 5–2

**Recommendations for FEC Action: Disclosure**

<b>Recommendation</b>	<b>Approach</b>	<b>Time-frame</b>	<b>Report Citation</b>
<p><b>10. <i>Transition to a paperless disclosure and reports review process.</i></b> During the transition period to an electronic filing environment, the FEC will need to support existing and new disclosure and reports review processes. For example, the Reports Analysis Division requires a business process reengineering (BPR) study to design an electronic reports review and exception reporting system. (Dependent on Congressional authorization to require mandatory electronic filing with a date certain.)</p>	Six months to design and document system requirements (\$500,000 for BPR study)	FY 2001	3.3.10 4.2.3

Exhibit 5–3 identifies five recommendations to improve the FEC compliance program. Recognizing that the FEC is fully occupied with day-to-day operational requirements, implementation assistance from outside sources may be required. An estimate for that assistance is identified under “Approach”. Recommendation timeframes identify the fiscal year in which implementation should be completed.

Exhibit 5–3

**Recommendations for FEC Action: Compliance**

<b>Recommendation</b>	<b>Approach</b>	<b>Time-frame</b>	<b>Report Citation</b>
<p><b>11. <i>Prepare and maintain documentation supporting EPS case-activation decisions.</i></b> This step will increase the transparency and accountability of OGC case-activation decisions.</p>	Two months	FY 1999	4.3.3.3
<p><b>12. <i>Compile an annual descriptive offense profile of compliance matters to better inform Commissioners, policy makers, and the public about emerging law enforcement trends.</i></b> To undertake this project, the FEC will need outside assistance from other Federal law enforcement statistics agencies and a contractor to design a database (in conjunction with the case management system) and to code closed cases.</p>	Eight months to research, design, automate, and code closed cases (\$250,000)	FY 1999	3.3.4 4.3.3.6

Exhibit 5–3

**Recommendations for FEC Action: Compliance**

<b>Recommendation</b>	<b>Approach</b>	<b>Time-frame</b>	<b>Report Citation</b>
<b>13. Convene an internal OGC working group to develop recommendations for consideration by the Commissioners to reduce the number of legal reviews embedded in the enforcement process.</b> This effort will speed Commissioner consideration of enforcement case stages.	Four months	FY 2000	4.3.3.2
<b>14. Complete the case management system and use the workflow and staff utilization data to establish enforcement workload standards.</b> After the system has tracked cases throughout FY 1999, a baseline set of metrics should guide the development of these standards.	Twelve months	FY 2000	4.3.3.6
<b>15. Assign dedicated resources to establish a single Title 2 audit-for-cause process in the Audit Division independent of Title 26 audit resource requirements.</b> Conducting a predetermined threshold number of audits for cause is necessary to enhance visibility in the filing community and to deter noncompliant activities.	Additional Audit Division personnel	FY 2001	4.3.2.4

Exhibit 5–4 describes six recommendations to enhance FEC organizational capacity.

Exhibit 5–4

**Recommendations for FEC Action: Organizational Development**

<b>Recommendation</b>	<b>Approach</b>	<b>Time-frame</b>	<b>Report Citation</b>
<b>16. Select a permanent Staff Director tasked to improve overall organizational performance.</b> The FEC now has the opportunity to select a permanent Staff Director who can help renew the organization. FEC Commissioners should consider retaining an executive-recruiting firm to validate the candidate list for their consideration.	Two months to identify candidates (\$50,000 for candidate validation)	FY 1999	3.3.6
<b>17. Establish annual performance objectives for the Staff Director and the General Counsel.</b> To establish and maintain organizational accountability, Commissioners need to communicate desired organizational achievements to both statutory officers and delegate authority to execute tasks.	Three months to establish performance criteria	FY99	3.3.6

Exhibit 5-4

**Recommendations for FEC Action: Organizational Development**

Recommendation	Approach	Time-frame	Report Citation
<p><b>18. Encourage more collaboration and communication among existing work groups.</b> The Staff Director should convene regularly scheduled meetings to increase cross-divisional communication and collaboration and to review management information system performance data.</p>	Minimal	FY 1999	3.3.5
<p><b>19. Develop a new performance appraisal process for managers.</b> A pilot project should be initiated, using an upward feedback system, to ensure that FEC managers have put into practice those behaviors that foster communication and ownership of problems and reward innovation.</p>	Six months to research, develop, and administer pilot survey (\$50,000)	FY 1999	3.3.7
<p><b>20. Explore alternatives to the Federal General Service classification system.</b> Alternatives to the current use of the Federal GS classification system should be explored as a means to increase promotional opportunities and provide a more flexible compensation system.</p>	Four months to research and investigate options, with OPM support	FY 1999	3.3.11
<p><b>21. Conduct customer satisfaction surveys after an election cycle to understand expectations and measure changes in filer satisfaction with the products and services provided by the FEC.</b> Using the baseline findings provided in this report, regular surveys will allow FEC to discontinue services that have diminishing value, to better understand the needs of the filing community, and to better deploy FEC resources.</p>	\$75,000 each election cycle	FY 2001	3.3.3

6.0

FEC Comments

## **6.0 FEC Comments**

The FEC was provided a draft of the report on January 15, 1999, and invited to comment. Their response, dated January 21 (beginning on the next page) is included in its entirety.

The page number references in their response are to the draft report. While there was no major revision to the report, most of the page references are different because of editing to improve readability, page layout changes, development of final graphics, and revisions to the text. These latter revisions were in response to technical comments on minor points of fact by FEC as well as the study team's further analysis of the FEC and its processes.



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

January 21, 1999

OFFICE OF THE CHAIRMAN

Mr. Kevin Bacon  
Project Partner, Management Consulting Services  
PriceWaterhouseCoopers L.L.P  
1616 North Fort Myer Drive  
Arlington, Virginia 22209-3195

Dear Mr. Bacon:

Enclosed is the FEC's formal response to the PriceWaterhouseCoopers *Technology and Performance Audit and Management Review of the Federal Election Commission*.

The Federal Election Commission (FEC or Commission) commends Pricewaterhouse-Coopers (PwC) for conducting a fair audit/management review and for attempting to understand the complex nature of the Commission's purpose and work.<sup>1</sup> The report comes at a propitious time, as the Commission, comprising 6 Presidential appointees, has just experienced a 50 percent change in membership. Three new Commissioners began their terms in 1998.

We are heartened by PwC's recognition of our accomplishments. At the same time, we recognize that the Commission has room for improvement. We welcome, therefore, PwC's suggestions for how we can do our job better. We take the recommendations seriously, and, in the coming months, we will study them and try to find ways to implement those that will enable us to serve the public better and to more effectively carry out our mission of administering and enforcing the Federal election laws. While the recommendations are helpful, in some cases they are not sufficiently specific to be implemented without further definition and exploration. As a first step in responding to the report, therefore, we will seek, where appropriate, to undertake cost/benefit analyses and to define the specifics of the recommendations in the report.

Here, we offer our general observations on the draft Audit/Management Review Report.

**Recognition of FEC Accomplishments**

We are very pleased by PwC's overall assessment that:

- The Federal Election Commission operates in a fair, nonpartisan, ethical manner (p. ES - 3). More specifically, PwC concluded that there is no partisan bias in the FEC's processing of

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<sup>1</sup> Under separate cover, we have submitted to PricewaterhouseCoopers a list of factual corrections.

reports, in its disclosure of information to the public, or in its review of reports (that can lead to internal audit or enforcement referrals) (Exhibit ES-1, p. ES-5). Similarly, the report found that the Commission's compliance programs were executed in a nonpartisan manner, including the Enforcement Priority System (a system for prioritizing enforcement matters in the face of limited staff resources) (p. ES-2 and Exhibit ES-1, p. ES-5).

- The FEC places a premium on facilitating voluntary compliance with the law, and the vast majority of participants in the electoral process comply with the spirit and letter of the law (p. ES-3).
- The filing community is quite satisfied with the products and services provided by the FEC (section 3.1, p. 3-1).
- The Commission routinely meets disclosure deadlines and provides detailed information on campaign receipts that enables the public to make informed choices (Exhibit ES-1, p. ES-4).
- The FEC appears to have adhered to Congressional instructions for earmarking appropriations for computerization modernization and electronic filing (section 3.3.8.2, pp. 3-27 and 3-28).
- Since 1996, the FEC has made substantial progress in enhancing and upgrading its computing capabilities (p. ES-7).
- The FEC has successfully fostered many strategic initiatives in its disclosure and compliance programs to increase efficiency and effectiveness (section 3.3.4, pp. 3-16 and 3-17).
- In the Presidential audit cycle, the FEC successfully restructured its audit system to complete the Presidential audits within two years after the election (section 4.4.2, p. 4-92).
- Productivity has increased in the processing, review and dissemination of campaign finance transactions in the face of increasing workloads (p. ES-2).
- The agency maintains a reliable management information system used for measuring program results, allocating resources and formulating budget justifications (pp. ES-5 and ES-7).
- Human resource recruitment, selection and retention procedures are standardized and consistently used throughout the agency (p. ES-6).

#### **Recommendations and Identification of Need for Legislative Recommendations**

The Commission endorses the overarching themes of PricewaterhouseCooper's recommendations to the agency, which are summarized in the report as follows:<sup>2</sup>

- *Congress and the FEC need to initiate actions that will eventually allow the FEC to shift some resources from its disclosure activities to its compliance programs* (section 5.0, p. 5.1).

<sup>2</sup> Italicized material used in this document represents language quoted directly from the PricewaterhouseCoopers draft audit/management review report.



- *Consideration of further increases in enforcement staff levels should be linked with implementation of steps to increase compliance and enforcement productivity in other ways (section 5.0, p. 5.1). The Commission is willing to explore the PwC suggestions as well as others in an effort to improve productivity in the compliance and enforcement area. While increasing the number of enforcement personnel will increase case activation and closure rates (section 4.3.3.2, p. 4-73), there are several additional changes that should be considered.*
- *The FEC needs to renew itself by conducting a broad range of organizational development activities to increase leadership accountability, enhance human resource management and nurture increased communication and collaboration throughout the organization (section 5.0, p 5-2).*

As to more specific recommendations, the FEC notes of particular interest the following suggestions (appearing in Exhibit 5-1, p. 5-2) and agrees with PwC that these recommendations would require legislative change.

- Congress should give the FEC authorization to require mandatory electronic filing for major filers.
- Congress should authorize the FEC to establish an administrative fine schedule, subject to reasonable appeal procedures.
- Congress should require authorized (candidate) committees to report on an election-cycle basis (campaign-to-date basis) rather than a calendar-year basis, the current system.
- Congress should transfer the point-of-entry for Senate candidate committee reports to the FEC.<sup>3</sup>

In addition, the Commission supports PwC's recommendation that (if Congress grants the FEC authority to require electronic filing) the FEC should begin the transition to a paperless disclosure and reports review process (Exhibit 5-2, No. 10, p. 5-4).

#### **Recognition of Influence of Outside Factors on FEC Operations**

The Commission also notes with interest PwC's periodic observations that certain factors outside the Commission's control may affect FEC operations and the public's perception of the value that the FEC adds to the election process. In particular, we note the following observations contained in the report:

- *A significant number of the respondents [15 stakeholders interviewed by PwC] were in agreement that FEC disclosure information, when compared to the totality of political*

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<sup>3</sup> The Commission is already discussing informally with Senate staff steps to improve the images of Senate reports received by the Commission and to establish an electronic filing capability in the Senate. A properly designed electronic filing program could eliminate the significance of point-of-entry as an issue from the Commission's perspective.

*spending that is not regulated or reported, has become less meaningful with the advent of emerging political communication activities (section 3.2.1, p. 3-5).*

- *Although established as an independent commission, the FEC environment is driven by legislative and judicial branch oversight....The Federal judiciary defines the scope of its reach through evolving interpretations of the constitutional boundaries of political communications and activities (section 3.3.1 p. 3-10).*  
While PwC's observation (above) acknowledges judicial oversight as a factor influencing FEC operations, it does not describe the degree to which judicial opinions, individually and collectively, affect Commission enforcement policies and operations. Judicial opinions have both limited the Commission's jurisdiction, and, in some instances, made it more difficult to investigate and prove violations of the FECA. While there may be no remedy for this situation, which indeed may be viewed as either a positive or negative factor, policy makers reviewing Commission operations should be fully aware of its impact.
- *The Commission's foremost filing community consists of both Legislative and Executive branch candidates and Federal officeholders, which finds the FEC in the unique position of regulating those same officeholders that define the level and use of its organizational resources (section 3.3.1, p. 3-10).*

**Conclusion**

In conclusion, we refer to PricewaterhouseCoopers's overall view of the agency:

*Although it has shortcomings, the FEC is by and large a competently managed organization with a skilled and motivated staff. The ability of the FEC to adapt to the changing election environment, however, has been hindered by the FECA statute itself, escalating campaign finance disclosure and compliance workloads, and an organizational culture that has attempted incremental change in a deadline-driven environment stretched by limited resources (p. ES -2).*

We believe that the PricewaterhouseCoopers's draft report lays out some helpful suggestions for trying to overcome these obstacles, and we look forward to working with the Congress to implement change.

Sincerely,



Scott E. Thomas  
Chairman