



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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AGENDA ITEM

March 9, 2015

For Meeting of 5-2-15

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson *LJS*
Deputy General Counsel – Law

Gregory R. Baker *GRB*
Deputy General Counsel – Administration

Alec Palmer *AP*
Staff Director

SUBJECT: Engaging the Public and Stakeholders

Chair Ravel has requested that the Office of General Counsel (OGC) and the Office of the Staff Director (OSD) summarize the agency's past efforts to engage the public and stakeholders in its activities, and propose ways to improve such engagement in the future.

Attached are two memorandums, providing the requested information from OGC and OSD respectively. Please let us know if you have any questions or require any additional information.

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MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson
Deputy General Counsel – Law *LJS*

Gregory R. Baker *GRB*
Deputy General Counsel – Administration

Kevin Deeley *KS*
Acting Associate General Counsel, Litigation

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Acting Associate General Counsel, Policy

Daniel Petalas *DAP*
Associate General Counsel, Enforcement

SUBJECT: Engaging the Public and Stakeholders

This memorandum provides the requested information regarding the agency's past efforts and future proposals to engage the public and stakeholders in the agency's activities from the perspective of the Office of General Counsel (OGC). OGC consists of five organizational units: (1) the Deputy General Counsel – Administration; (2) the Deputy General Counsel – Law; (3) the Enforcement Division; (4) the Litigation Division; and (5) the Policy Division. Each unit within OGC serves a different role in how it interacts and engages with the public and stakeholders. Accordingly, we first discuss OGC's past efforts and possible future proposals on an office-wide basis. We then focus on past efforts by specific divisions within OGC, where applicable, and tailor our future proposals for each depending on the role of the respective division.

I. OGC-Wide

A. Prior Efforts to Engage Public and Stakeholders

1. Presenting at FEC conferences

Representatives from OGC, particularly within the Policy and Litigation Divisions, have for many years made presentations about recent developments in campaign finance law at FEC conferences and webinars. (In 2014, the participation of OGC was reduced for out-of-town conferences to one representative due to budgetary restrictions.)

These events engage stakeholders in learning more about developments in campaign finance law, and also offer these stakeholders an opportunity to learn how the law and regulations might apply to their particular circumstances. The efforts appear to have been successful based on the survey responses. Part of the reason for the success is likely the time spent to present information in a way that is understandable to nonlawyers.

2. Speaking at law schools

Representatives of OGC have spoken about particular litigation matters, closed enforcement cases or the work of the Commission generally on law school campuses. These efforts appear to have been successful based on informal feedback from faculty and students.

3. Recruiting

In the process of recruiting for summer law clerk positions, representatives of OGC have been able to interact with law students about the Commission. Those efforts have led in the past to increased interest by law students and to some of the speaking engagements referenced above.

4. Other public speaking engagements

Representatives of OGC made presentations to other audiences, such as annual presentations to the Council on Governmental Ethics Law and several presentations to the California Political Treasurers Association. Those efforts appear to have been successful based on feedback from members and return invitations.

B. Possible Future Approaches to Increase Participation

1. Expanded role at FEC conferences and webinars

Although Policy and Litigation staff regularly participate in the Commission's conferences and webinars, the Enforcement Division has not been an active participant in such public forums, due to the confidentiality restrictions imposed on open enforcement matters. However, attorneys in the Enforcement Division could make more general presentations on trends in enforcement in campaign finance law and highlight any significant developments in connection with closed Matters Under Review (MURs).

2. *More detailed outreach to the press*

The Commission could provide more information in its press releases regarding litigation successes, the filing of offensive litigation cases, or closed enforcement matters, potentially including comments from Commissioners or staff. At other times in the past, Commissioners did not object to more detailed press releases regarding matters such as conciliation agreements and court cases. Other law enforcement agencies include information in their press releases in order to engage the public. The Commission also could hold press conferences or increase the number of resolved matters about which Commissioners or staff speak with the press on behalf of the agency.

3. *Expand recruiting*

OGC has lessened the amount of on-campus recruiting it does because summer law clerk positions are no longer paid or likely to lead to postgraduate employment. If OGC expanded its on-campus recruiting to seek more applicants for unpaid summer law clerk positions, it could have a side effect of increasing attention to the Commission's work.

II. The Policy Division

Due to the nature of its matters, public outreach and engagement are an integral part of the Policy Division's practice. Public engagement is statutorily mandated for both rulemakings and advisory opinions.¹ This discussion therefore focuses primarily on the Policy Division's past and prospective efforts to maximize public engagement in these contexts.

A. Prior Efforts to Engage Public and Stakeholders

1. Advisory opinion requestor appearances at open sessions

In 2009, the Commission published a Notice of New Advisory Opinion Procedures and Explanation of Existing Procedures, describing changes to the Commission's advisory opinion procedure that would offer persons requesting advisory opinions the opportunity to appear before the Commission at an open meeting to answer questions. 74 Fed. Reg. 32160 (July 7, 2009). This new program was intended to "promote transparency and fairness," "help ensure that the Commission fully considers all significant aspects of the proposed transaction or activity before voting on the advisory opinion," and "help some Requestors to understand better the basis for the Commission's decision." *Id.*

Since the procedure was established, numerous requestors and their counsel have taken advantage of the opportunity to appear before the Commission, either in person or by phone. The procedure has provided the Commission with opportunities to ask questions of requestors to clarify facts underlying requests, as well as to discuss possible ramifications of draft advisory opinions before voting on them.

¹ See 52 U.S.C. § 30108(d) (formerly 2 U.S.C. § 437f(d)) (requiring opportunity for public comment on advisory opinion requests); 5 U.S.C. § 553(c) (requiring opportunity for public participation in rulemaking).

2. *Dedicated email address for advisory opinion comments*

In 2013, the Policy Division established a dedicated email address for any person to submit comments on draft advisory opinions. Prior to the establishment of this means of commenting, comments had to be submitted by fax to both the Office of the Commission Secretary and OGC. Providing a dedicated email address has made it easier for interested persons — whether stakeholders or members of the general public — to comment on draft advisory opinions, and has also streamlined the process of posting the comments on the Commission’s website.

3. *Searchable Electronic Rulemaking System*

In 2011, the Policy Division worked with the Information Technology Division to establish a searchable electronic rulemaking system (SERS). SERS enables the public to submit comments on rulemakings electronically, which makes it easier for more people to participate in rulemakings. While many stakeholders continue to provide comments on rulemakings, the general public has also made use of the electronic commenting capabilities to participate in the rulemaking process, as illustrated by the approximately 32,000 public comments received recently through SERS in connection with REG 2014-01 (Earmarking, Affiliation, Joint Fundraising, Disclosure, and Other Issues (*McCutcheon*)).

SERS also enables the public to have online access to Commission rulemaking documents. SERS currently contains all rulemaking documents from 1995 through the present, and the Policy Division continues to prepare older rulemaking documents to be added to the system. SERS allows the general public to search for rulemaking documents by name, date, search terms, petitioner or commenter name, and other criteria, or to browse rulemakings by year. It also allows users to search the Code of Federal Regulations and to browse it by year.

B. Possible Future Approaches to Increase Participation

As noted above, the advisory opinion and rulemaking processes already involve more public interaction than many other Commission activities. The Commission could nonetheless attempt to further enhance public engagement regarding advisory opinions and rulemakings in a number of ways, as described below.

1. *Commenter interaction*

The Commission could enhance public participation in rulemakings by enabling commenters to interact with each other during the comment period. The Commission could accomplish this by posting comments to the Commission’s website on a rolling basis, rather than at the close of the comment period, or by extending and restructuring the comment period to create a “rebuttal” comment period that follows the initial comment period. The Commission has offered opportunities for rebuttal comments in some rulemakings (*e.g.*, Participation by Federal Candidates and Officeholders at Non-Federal Fundraising Events; Independent Expenditures and Electioneering Communications by Corporations and Labor Organizations) but this could be done on a more consistent basis.

In the advisory opinion process, the Commission already posts comments to the website on a rolling basis, which facilitates some commenter interaction. However, the advisory opinion comment period could also be restructured to allow for a more formal rebuttal comment period by posting draft advisory opinions earlier and setting separate deadlines for initial comments and rebuttal comments.

2. Public workshops

The Commission could enhance public participation by holding public workshops before issuing NPRMs or after issuing NPRMs but before issuing final rules. Workshops are used to elicit high-level, interactive participation by experts and stakeholders, and often take the form of panels, roundtable discussions, and breakout sessions. Federal agencies that have used public workshops include the National Institute of Standards and Technology at the Department of Commerce, the Food and Drug Administration, the Nuclear Regulatory Commission, the Environmental Protection Agency, and the Federal Trade Commission. While some of these workshops were held in relation to specific rulemakings, others were not. The Commission could hold workshops relating to specific rulemakings, potential rulemaking projects, or general Commission regulatory goals. Workshops could be single events or held as a series focusing on related issues or rulemaking projects.

3. Public fora, town hall meetings, and listening sessions

Public fora, town hall meetings, and listening sessions are generally intended for a wider participant base and audience than workshops and involve less interaction between participants, typically offering participants the opportunity to speak for a limited duration to accommodate a greater number of speakers. Federal agencies that have held such events include the Equal Employment Opportunity Commission, the Federal Trade Commission, and the Social Security Administration. The Commission could hold these events in person, either in Washington, D.C. or elsewhere around the country (perhaps in conjunction with Commission conferences), or online, thereby giving stakeholders and the general public the opportunity to participate at a lower cost and without having to spend time traveling. The in-person and online participation methods could also be combined, such as by live webcasts of in-person events, as has been done for some Information Division seminars and outreach sessions.

4. Negotiated rulemaking

Negotiated rulemaking would involve bringing together representatives of the Commission and various affected interest groups to negotiate the text of a proposed rule, which the rulemaking committee would then recommend to the Commission. *See* Negotiated Rulemaking Act of 1990, Pub. L. No. 101-648, 104 Stat. 4969 (codified at 5 U.S.C. § 561-570). The Commission would not be required to propose or adopt the recommended rule. Negotiated rulemaking committees would be presided over by an impartial facilitator, not a Commissioner. Negotiated rulemaking committees are subject to the Federal Advisory Committee Act (“FACA”), which requires each advisory committee to be “fairly balanced in its membership in

terms of the points of view represented and the functions to be performed.” 41 C.F.R. § 102-3.30(c).

5. Targeted outreach

The Commission could target its outreach efforts to specific groups of interested persons by, for example:

- Creating a Policy Twitter account, which would likely attract many stakeholders as followers, to provide news and updates on public rulemaking and advisory opinion activity as it occurs;
- Encouraging interested outside groups to publicize agency outreach activities to *their* constituencies;
- Providing a web-based sign-up for those interested in receiving notice of specific rulemaking events;
- Providing the Information Division with targeted communications to send via blast email to relevant lists; and
- Using questionnaires or surveys to determine public awareness and tailor education and outreach accordingly.

6. Training

The Commission could offer training on new and amended regulations. The Information Division currently makes available online a number of videos explaining various aspects of campaign finance regulation and compliance with certain regulations. The Commission could expand this effort by holding live training sessions when it promulgates significant new regulations or amendments to existing regulations. (These could also be live-streamed, as noted above.) The Policy Division has held such training sessions for other divisions of the agency and some have been made available online to the public; providing live training would afford stakeholders the opportunity to interact with agency staff and ask questions to make the training more suited to their needs.

III. Compliance Advice Team, Deputy General Counsel for Law

The Compliance Advice Team provides legal advice to the Office of Compliance — including both the Reports Analysis Division (RAD) and the Audit Division — to assist with the disclosure and audit processes, and provides both informal and formal guidance as to any legal questions that may arise during those processes.

A. Prior Efforts to Engage Public and Stakeholders

1. Request for consideration of a legal question

In 2011, the Commission adopted a program to allow committees to formally request, through a written submission, that the Commission consider a legal question earlier in the reports review process and the audit process than was otherwise previously allowed. 76 Fed. Reg. 45798 (2011). The Compliance Advice Team processes the request for legal consideration and submits a legal memorandum to the Commission with recommendations as to how the Commission should proceed. Since the inception of the program, the Commission has received 13 requests for legal consideration. This program has been successful in terms of resolving some of the legal issues before the committees are too entrenched in the disclosure and/or audit processes. The program benefits from an annual assessment from the staff, which allows the staff to make recommendations on how the program can be improved.

For example, in 2014, the staff recommended (and the Commission approved) a procedure to allow committees to submit their requests electronically. Three committees filed their requests electronically at the end of 2014. To further improve the program, during the same time period, OGC worked closely with the Information and Information Technology Divisions to ensure that all relevant materials relating to the Commission's program for outside requests, including the underlying policy program, were readily available on the Commission's website and easily accessible both to the regulated community and members of the public.

One possible improvement would be to design a separate tab on the FEC website dedicated solely to these requests. Currently, a link to all submitted requests can be found on the "Policy Statements" section of the FEC website, which may be counter-intuitive to locate. As currently designed, the public must have working knowledge of each division within OGC, or the agency as a whole, in order to locate guidance and other information relevant to the work of that particular division. A web redesign that focused on how a member of the public would categorize the relevant information (rather than a Division-driven focus) would potentially be helpful in making legal guidance and other OGC documents more accessible to the public.

2. Audit hearing process

In 2009, the Commission instituted a program that provides committees that are being audited an opportunity to request a hearing before the Commission prior to the Commission adopting a Final Audit Report. 74 Fed. Reg. 33140 (July 10, 2009). This program allows committees to request a hearing and to present their arguments directly to the Commission before the Commission approves a final draft of the audit report, and is conducted in an open meeting. The Compliance Advice Team works with the Audit Division to frame the issues for the audit hearing and to address any legal questions related to the hearing. While the audit process can be time consuming and this additional procedure has added more time to the period allowed for the Audit Division to process the final audit reports, it has benefitted the Commission in that commissioners have an opportunity to ask relevant questions in a public forum prior to the adoption of a final report. And both the public and stakeholders have an opportunity to be

apprised of what legal or factual issues are of concern to the Commission in reaching its findings in its final audit reports.

B. Possible Future Approaches to Increase Participation

1. Improvements to Audit Hearing Process

To further engage the general public, the Commission may wish to consider whether it wants to offer the public an opportunity to comment on an audit before the Commission approves the final audit report. While this additional comment period would add even more time to the audit process, it may further engage stakeholders and the general public, and the Commission may benefit from information that may not otherwise be available in the audit context.

2. Revision of Compliance publications

The Compliance Division (within OSD) publishes three publications – the Final Control and Compliance Manual, the Presentation in Good Order, and the Audit Brochure (“The FEC Audit Process: What to Expect”) – which have as their targeted audience the committees that are the subject of those processes. The Financial Control and Compliance Manual explains the budgeting and financial control process to publicly-financed committees of candidates for President. The Presentation in Good Order provides instructions on how to submit requests for matching funds for presidential primary committees, and the audit brochure explains the audit process.

These publications could be modified or supplemented, with the assistance of OGC, so that they could be useful to the public at large, using language and terminology that is more accessible than as currently drafted.

IV. Enforcement Division

The Enforcement Division is responsible for overall enforcement of FECA, and following procedures set forth in the statute, the Enforcement Division investigates alleged violations of the law and recommends to the Commission appropriate action to take with respect to apparent violations. The Act’s confidentiality provisions and other legal privileges and prohibitions substantially curtail the ability of the Commission to engage directly with the public and stakeholders in pending enforcement matters. The Enforcement Division’s efforts to address the public or stakeholders outside the MUR process are therefore similarly limited in turn.

Nonetheless, in the last several years, a number of developments have served to help inform the public and stakeholders about the enforcement process generally and have afforded respondents additional procedural opportunities to engage in the process directly. Some of these procedures were the result of suggestions presented at public hearings concerning the Enforcement process held in both 2003 and 2009, during which stakeholders had the opportunity to submit written comments, and in some cases, appear before the Commission. For example:

- In 2009 the Commission published a Guidebook for Complainants and Respondents on the FEC Enforcement Process, and again revised that document in 2012.
- In 2013, the Division developed a manual describing in detail its current processes and procedures, a document that is available on the Commission's website.
- Moreover, Respondents may now request a hearing at the Probable Cause to Believe Stage (2007), may request discovery of certain documents in the case file at certain points in the enforcement process (2011), and may request leave to file a supplemental reply brief at the Probable Cause to Believe stage (2011).
- The Commission has also provided that respondents will be notified and provided an opportunity to respond in internally generated matters (2009), and that respondents receive a status report in cases in which the Commission has not voted on the matters for a year (2009).

In addition, we have noted at the outset of the memorandum a number of possible approaches that may provide additional opportunities for the Commission to inform the public and stakeholders about the work of the Enforcement Division generally.

V. Administrative Law Team, Deputy General Counsel - Administration Division

OGC's Administrative Law Team engages directly with the public through the agency's Freedom of Information Act (FOIA) Program and also plays a vital role in processing closed Enforcement case files for public disclosure. In both areas, the Team strives to enhance the FEC's engagement with the public by ensuring information about the agency's operations is made public as efficiently and thoroughly as possible.

A. Past Efforts

1. Electronic submission of FOIA requests and FEC website

The FEC's FOIA Requester Service Center (FOIA Office) has undertaken a number of initiatives in recent years to better serve FOIA requesters. In late-2008 the agency launched its FOIA page on the agency's website and began accepting requests and appeals submitted by email to the agency's dedicated FOIA account, foia@fec.gov. The FOIA page on the FEC's website provides links to commonly requested information that is available on the website, such as campaign finance reports, advisory opinions, and closed Enforcement case files; information about how to file a FOIA request and appeal; contact information for the FEC's FOIA Office; and an "Electronic Reading Room," which includes copies of the agency's FOIA Annual Reports and Annual Chief FOIA Officer Reports. By providing more extensive information about what documents may be obtained without filing a FOIA request and how to properly file a FOIA request, OGC's FOIA Office has been able to improve its responsiveness to all requesters. Accepting and responding to FOIA requests and appeals submitted via email has enabled the FOIA Office to begin processing requests and appeals and to provide responses much more quickly. Today the agency receives and responds to approximately 75 percent of all FOIA requests and appeals through e-mail.

2. FOIA training

The FOIA Office has also taken steps in recent years to ensure that all FOIA staff receive regular training on the Freedom of Information Act's processing requirements and exemptions. Specifically, FOIA Program Staff have annually attended FOIA training provided by Department of Justice's Office of Information Policy, which covers all aspects of processing and responding to FOIA requests, including improving customer service. The agency's Chief FOIA Officer and FOIA Public Liaison have also attended FOIA sessions at the Council on Government Ethics Laws annual conference, which provided information about techniques other entities subject to freedom of information laws are using to more effectively process and respond to requests.

3. Closed enforcement case processing

The Administrative Law Team conducts legal review and prepares for public release all closed Enforcement case files, including those for MURs, Administrative Fines (AFs), and Alternative Dispute Resolution (ADR) matters. With respect to all closed Enforcement matters, the Team endeavors to quickly provide the public with access to all information that may be released under applicable laws, regulations, and agency policies.

The Team works collaboratively with attorneys in the Enforcement Division and the Public Disclosure Division to ensure that the closed MUR file documents are placed on the public record within 30 days of closeout and in accordance with the agency's "Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files," 68 Fed. Reg. 70426 (Dec. 18, 2003). Through these efforts the agency generally places 100 percent of closed MUR files on the public record within 30 days of the date the respondents are notified of the Commission's vote to close the matter.

The Team also works with the Office of Administrative Review (OAR) to process for public release closed AF files, and has recently begun working with the ADR Office to process closed ADR case files. By centralizing the legal review and redaction process for all closed Enforcement matters, the Administrative Law Team is now able to ensure consistency between what information is disclosed in different types of matters, and when possible to coordinate the release of related matters processed by different offices and thereby provide the public with more complete information about the Enforcement process. With respect to the closed AFs, the Team is currently working with OAR on ways to expedite the review process and to ensure that all closed matters are placed on the public record within 30 days of the letter notifying the respondents of the agency's final determination.

B. Possible Future Approaches to Increase Participation

1. FOIA processing improvements

To continue improving the FEC's public engagement through the FOIA Program, the FOIA Office is considering ways to update and improve the agency's FOIA webpage. Specifically, it is looking into what types of regularly requested documents could be added to the "Electronic Reading Room," thereby providing the public with faster access to those materials and freeing FOIA Office resources to respond to other requests. The FOIA Office is also considering ways to improve agency-wide awareness of FOIA and its requirements, so that staff across the agency are able to better assist the FOIA Office with searches for responsive documents and providing timely responses to requesters. Additionally, the FOIA Office could look into the feasibility of obtaining more comprehensive FOIA processing software, which would allow the office to process the entire FOIA request, and appeal, if necessary, within one integrated software platform.

2. Disclosure of closed enforcement matters

As discussed above, the Administrative Law Team, with the assistance of the Enforcement division, is responsible for preparing for public release all closed enforcement case files. The Commission could update both 11 C.F.R. § 5.4, its regulation regarding the public disclosure of closed enforcement matters, and the agency's interim disclosure policy on that subject that has been in place since 2003.

In *AFL-CIO v. FEC*, 333 F.3d 168 (D.C. Cir. 2003), the Court of Appeals for the D.C. Circuit struck down 11 C.F.R. § 5.4(a)(4), which required the public release of all material in a closed MUR file not otherwise exempt under FECA or FOIA. The court acknowledged the validity of the interests the Commission advanced in support of the regulation -- namely, deterring future violations and promoting Commission accountability. But it held that the regulation failed to adequately balance those interests with the potential chilling effect on First Amendment-protected activity by non-respondents whose names might appear in the investigative file. The Commission responded to the decision by adopting the current MUR disclosure policy statement, 68 Fed. Reg. 70426 (Dec. 18, 2003), previously discussed above. In this policy, the Commission identified fourteen categories of documents that it would place on the public record at the close of a matter. It explained that it had selected these categories either because they "do not implicate the Court's concerns . . . or, because they play a critical role in the resolution of the matter, the balance tilts decidedly in favor of public disclosure . . . [or they] will assist the public in understanding the record without intruding upon the associational interests of respondents." *Id.* at 70427.

However, the policy statement also indicated that it was intended only as a stop-gap measure:

"The Commission is not placing on the public record certain other materials from its investigative files, such as subpoenaed records, deposition transcripts, and other records produced in discovery, even if those evidentiary documents are referenced in, or attached to, documents specifically subject to

release under this interim practice. Release of these underlying evidentiary documents may require a closer balancing of the competing interests cited by the D.C. Circuit. *Accordingly, the Commission will consider the appropriateness of disclosing these materials only after a full rulemaking with the opportunity for public comment.*”

Id. (emphasis added). The Commission explicitly stated that the rulemaking, “with full opportunity for public comment, will be initiated in 2004.” However, it never was initiated, nor were the invalidated portions of 11 C.F.R. § 5.4(a) ever formally repealed.

The Commission could undertake a rulemaking to make the 2003 interim policy permanent and replace section 5.4(a). It could also consider whether there were additional categories of documents it wished to include in the public record, as well as related questions. For instance, the Commission has for at least a decade, and perhaps longer, not released the files of internally generated matters where it “declined to open a MUR” on the grounds that the regulation and the policy called for disclosure of closed files, and that if the Commission declined to open a MUR there was technically no file to disclose. The Commission could also clarify whether it wished to release “*sua sponte*” submissions in the same manner it presently treats complaints.

VI. The Litigation Division

The Litigation Division represents the Commission before the federal district courts and courts of appeal in all civil litigation involving the campaign finance statutes, including representing the Commission when it has authorized suit in enforcement matters in which the parties were unable to reach conciliation during the administrative enforcement process.

FEC Website. In addition to the FEC conferences, webinars and other public speaking engagements discussed generally above, the Litigation Division has assisted the Information and Public Records Divisions in making increased information available on the website pertaining to the activities of the Litigation Division. The posting of litigation documents from not only the Commission, but also its litigation adversaries, was the result of a recommendation from a previous public forum.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM

TO: The Commission

FROM: Alec Palmer *AP*
Staff Director

DATE: March 9, 2015

SUBJECT: Engaging the Public and Stakeholders

Chair Ravel requested the Office of the Staff Director (OSD) and Office of General Counsel (OGC) provide information on past efforts used to engage the public and stakeholders in its activities. The attached document consolidates the responses I received from several of the OSD managers. The responses are arranged by OSD Division and then by specific office.

Please feel free to contact me if you need additional information or have any questions.

Thank You.

COMMUNICATIONS DIVISIONS

I. INFORMATION DIVISION

A. Current

FEC to Public/Stakeholders

- Host Conferences, Seminars, Roundtable Workshops, Webinars and FEC Connect sessions
- Administer FEC Invitations Program
- Visited state capitals as part of State Outreach Program– discontinued in 2010 due to budget constraints and questions re: cost effectiveness
- Maintain numerous web pages, including:
 - All “Help with Reporting and Compliance” pages (except RAD FAQs), including FEC Record, Compliance Map, reporting pages, e-learning and more
 - “Quick Answers” pages
 - Some sections of “Law, Regulations and Procedures” pages, including Litigation and E&J
 - Commission Calendar
 - Tips for Treasurers (including RSS Feed)
- Manage FECMail (GovDelivery web-based email service)
- Send mass emails to registered committees and other stakeholders, including prior notices
- Manage FECTube (YouTube channel)
- Co-administer @FECUpdates (Twitter) with Press
- Held Joint FEC-IRS Workshop on 527 Organizations – hoped to be 1st of many, but IRS declined
- IRS Representatives presented at FEC Conferences until 2012 – IRS stopped

Public/Stakeholders to FEC

- Receive written evaluations from participants for all outreach programs
- Conduct surveys of Record subscribers re: satisfaction with services
- Maintain “Contact Us” web page
- Manage and staff Toll-free Information line
- Respond to email inquiries – info@fec.gov

Internal Communications

- Maintain InfoWeb Research Index – soon to debut as Knowledge Management tool for agency
- Collaborate extensively with all Commission offices, including RAD, OGC, Press, Public Records, Congressional Affairs and IT
- Post daily updates on FECnet

B. Proposed

New Initiatives/Enhancements

- Automatically populate reporting pages and Compliance Map using Oracle database to ensure dates are accurate, current and reach the public as quickly and efficiently as possible
- Standardize Commission Calendar to permit users to subscribe (*a la* Google Calendar)

- Expand agency's use of Twitter
- Create FEC Facebook Page
- Increase collaboration with other federal and state agencies

II. Press Office

A. Current

What We've Tried Unsuccessfully Before:

- We used to issue press releases on batches of resolved MURs, ADRs, but it took too long to get Press Committee approval. The solution has been the Weekly Digest, which made its debut in 2009, provided a firm weekly deadline for approvals.

B. Proposed

What We Could Do To Improve Outreach:

- Include MURs, ADRs and AFs disclosed in the Enforcement Query System under the "What's New" section of the website. (If people don't know how to search for new cases, they will find out about newly resolved matters only on Fridays, with the publication of the Weekly Digest.)
- Members of the public should be able to subscribe to receive email alerts when any closed enforcement matter has been made public. This option is not currently available.
- Develop a dynamic, web-based table that captures all MURs, ADRs and AFs and categorizes enforcement matters by violation topic so that users can easily search by issue. Any civil penalty amount should be included as well. We need to be clear, concise and consistent in how we present this data. We should also be able to say clearly when the Commission deadlocks instead of using code. (Currently, we are instructed to write, "The Commission closed the file.")
- When an ADR results in a split vote, provide a summary of the matter for public disclosure. Currently, the agreements resulting from resolved ADR matters are published but nothing conclusive is published in the case of a deadlock. The closeout letters promise some sort of description of the case will be forthcoming.
- Provide adequate labeling on Excel spreadsheets and other documents provided in response to FOIA requests.
- Institute a FOIA Reading Room on the website, where most FOIA responses with general public interest would be published.
- Answer more press queries directly instead of sending them through FOIA, which can greatly delay the response. (Most current example, a request was received for "the number of pending FEC enforcement cases and how long they have been pending.... I would basically just like to know how many Matters Under Review (MURs) are currently open and how many have been pending for over a year, two years, three, four, or even five years.")
- Regularly update statistics on agency activities, such as enforcement cases or processing of campaign finance filings, on the website. One example would be here, which was last updated in 2010: <http://www.fec.gov/em/enfpro/EnforcementProfile.shtml>.
- Members of the public should be able to subscribe to a committee tracking system, which will allow users to receive an email notification when a particular candidate files a new report, amendment or receives a Request for Additional Information. Subscription should be available by individual committee or by a particular set of candidates in a given district or state.

- Commissioners and staff should be mindful about the timely commencement of public meetings. Most people understand that an occasional delay is normal, but delays are habitual.
- Commissioners should take into consideration that while serious policy disagreements continue on the 9th floor, many staff are left with unanswered questions from the public on important matters. There is also sometimes maneuvering between Commissioners' offices on the issuance of statements, which leads to staff being kept in the dark about whether or when statements will be issued. It would be helpful to have one staffer on the 9th floor who can serve as the liaison between the agency departments who serve the public and the Commissioners' offices. This person could also be in charge of preparations for hearings and other public forums.
- The Commission should become more active in social media, particularly with Twitter. The agency should move beyond tweeting out press releases and use the platform to remind the public of upcoming hearings, the release of new committee registration forms and enforcement matters, etc. Press and Information should be permitted to respond to Tweets when a question is asked.

III. Congressional Affairs Office

A. Current

Public

- Information Division Conferences. Prior to 2014, Congressional Affairs presented at FEC Information Division Conferences. Each conference included two panel presentations on "Recent Developments," which covered federal legislative developments, as well as OGC presentations on rulemakings and litigation. We received positive feedback from conference attendees, especially repeat attendees who found the legislative update to be a dynamic addition to the program of more established campaign finance workshops. In 2014, in an effort to reduce travel costs, federal legislative developments were not included in the "Recent Developments" panel presentations. Starting this year, we are resuming participation. One challenge has been to make the legislative presentation germane in light of limited enactment of legislation. We have worked with OGC and the Information Division to reorganize the entire "Recent Developments" workshop to focus on specific topics. The discussion of each topic will include litigation and rulemaking developments as well as relevant legislation. While the previous structure had separate litigation, rulemaking and legislative portions, this revised topical structure will help attendees to connect pending legislation to other recent developments.
- Occasional constituent inquiries. From time to time, Congressional staff forward constituent inquiries to us. When the inquiries relate to the FEC, we put the staff member or constituent in contact with the appropriate FEC personnel. Often the inquiries relate to voting or election administration. We use the Public Disclosure Division's publication, Combined Federal/State Disclosure and Election Directory, to identify the appropriate agency for the inquiry and provide the name of the correct agency and its contact information including address and telephone number to the constituent or staff member. We consider this small effort for us to go beyond "not my department" to be very successful for two reasons. First, it assists Congressional staff, who must process large volumes of constituent inquiries. Second, for the constituents, these matters relate to voting and were sufficiently important to them to motivate the inquiry, even if

their efforts were misdirected. Our efforts assure that their voting related inquiry will be routed to the appropriate agency.

Stakeholders: Congress

- **Legislative Recommendations.** Once the Commission approves Legislative Recommendations, they are provided with original cover letters signed by the FEC Chair to the President, the Vice President as President of the Senate, the Speaker of the House and each Member of Congress who serves on the Senate Rules and Administration Committee or the Committee on House Administration. Staff for those committees and staff on the Appropriations Subcommittees are provided copies as well, and we often meet with staff to discuss Legislative Recommendations. When Members are newly assigned to those committees, a letter from the FEC Chair with a copy of the Legislative Recommendations is sent to that Member. When a Member introduces a bill related to a topic covered by a Legislative Recommendation, we contact the Member's staff to discuss the bill and typically provide that staff with a copy of the agency's Legislative Recommendations. Additionally, whenever Congressional staff raise an issue related to a Legislative Recommendation in discussions with our office, we describe the related Legislative Recommendation and provide all of the Legislative Recommendations, flagging the related recommendation. When we become aware of a Member raising an issue related to a Legislative Recommendation at a public event, we contact the Member's staff and follow the same procedure. (*See New Member of Congress and New Staff Orientation, below.*)
- **Budget Requests.** Working with the Office of the Chief Financial Officer, Congressional Affairs plays a role in drafting Office of Management and Budget (OMB) Budget Requests and Congressional Budget Justifications. As provided in FECA, our office ensures that the FEC's OMB budget requests are concurrently submitted to Congress, specifically the Appropriations Committees. We typically participate in OMB budget hearings on the FEC's request, and have persuaded OMB to include some of the Commission's Legislative Recommendations in the President's Budget. In lieu of budget hearings before the Appropriations Subcommittees, staff typically contact our office with any questions about the budget requests.
- **Congressional Oversight Inquiries.** Inquiries from Congressional committees related to their oversight responsibilities can range from simple questions to complex inquiries. Two agencies of Congress—the U.S. Government Accountability Office (GAO) and the Congressional Research Service (CRS)—assist Congress in its oversight responsibilities, and pose questions to us as part of that work. GAO requests tend to be formal and complex and require multiple meetings and more elaborate preparations to complete. Much more frequent are inquiries from CRS. Our responses to any of these inquiries can range from simply providing publicly available information to assembling teams of FEC staff to prepare draft responses for Commission consideration.
- **Congressional Compliance Inquiries.** Multiple times each day, we receive calls seeking information about compliance obligations. Typically, these queries are resolved by providing copies of relevant authorities. If the question presents an unresolved legal issue, we suggest callers consider seeking an advisory opinion. We are in regular contact with staff from the House and Senate Ethics Committees as they respond to issues with campaign finance implications as well.
- **New Member of Congress and New Staff Orientation.** When a new staff member is assigned to the FEC at one of our oversight committees or an Appropriations subcommittee, we meet with that staff person and provide the most recent budget request and Legislative Recommendations. We also provide an overview of FEC operations and answer any questions.

In addition, the Committee on House Administration for several years has invited us to appear at New Member of Congress Orientation. We do so with staff from House Ethics Committee.

- Confirmation of Nominee Commissioners. Pursuing Senate confirmation of Presidential nominees is a responsibility of White House staff, so any role for us is at their invitation. It has ranged from no activity, to background assistance, to substantial involvement, including meeting with Senators and nominees.
- Inviting Members of Congress and Staff to FEC Proceedings. We keep key staff informed of significant Commission meetings and activities. In some instances, other staff have requested that we advise them of Commission meetings on particular topic. Congressional staff value the heads up for important Commission events, even for those they are not able to attend. Staff have also stated appreciation for the focus on particularly noteworthy meetings. On one previous occasion for an agency process hearing, we were asked to extend individual invitations to every Member of the House and Senate. We issued all of those invitations, but received in response only a few statements of unavailability.

Stakeholders: Executive & Judicial Branches

- White House and Office of Management and Budget (OMB). Interaction with White House staff and with OMB staff is described in *A. Legislative Recommendations*, *B. Budget Requests* and *F. Confirmation of Nominee Commissioners*, above.
 - Department of State. As part of the Commission's Invitation Program, we contact the State Department to ensure it has no objection to FEC Commissioners or staff meeting with representatives of foreign governments.
 - Department of Treasury. In the wake of the Gabriella Miller Kids First Research Act, Public Law No. 113-94, 128 Stat. 1085 (2014), our office and OGC reached an informal agreement with the Treasury Department. Starting in January 2017, our office will provide to Treasury officials the FEC publication entitled *Federal Elections 2016*. Similar publications have been compiled by the Public Disclosure Division every two years since 1982, and each includes official election results as certified by state election officials. We anticipate providing Presidential election results to Treasury after they are circulated to Commissioners and prior to posting them on the FEC website. This information will assist Treasury in carrying out its continuing responsibilities related to the funds formerly known as convention funds.
 - Supreme Court of the United States. When the FEC is a litigant in a case before the Supreme Court, OGC obtains invitations to oral argument from the Office of the Solicitor General, which represents the FEC before the Supreme Court. On several occasions when the FEC was a party to a case, our office has sought and received a limited number of additional invitations from the Marshal of the Court. On one occasion when the FEC was not a party to a case, our office sought an invitation to oral argument from the Marshal at the request of a Commissioner, but we were unsuccessful.
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COMPLIANCE DIVISIONS

I. Reports Analysis Division

A. Current

Past efforts RAD has made to engage with the public and stakeholders

- Creation of YouTube FECFile reporting tutorials
- Getting Started with FECFile manual
- Creation of RAD FAQ webpage (including assigned analyst look up function)
- RAD email address provided on RAD webpage for feedback
- Staff presents workshops in conferences, seminars, roundtables and webinars
- "Meet Your Analyst Sessions" following reporting roundtables
- RAD Customer Service Survey
- Creation of RAD Review Process segment in workshops
- Creation of RAD Brochure
- Providing extended phone coverage for quarterly filing deadlines
- Automation of RFAI and non-filer process to send letters via email
- Development of Self Assign Password System and Webforms 1 and 2 with EFO

The success or failure of those past efforts, including the reasons for that success or failure

- All efforts have proven successful in assisting the public with compliance and filing reports
- Outreach efforts noted above have contributed to increased compliance and a better understanding of the disclosure requirements by filers.
- RAD Customer Service Survey allowed us to measure the quality of the service we provide to filers
- Automating our RFAI and non-filer process resulted in filers receiving notification sooner, resulting in complete and accurate disclosure on a more timely basis
- Creation of RAD FAQ web page has given filers additional tools to assist them with compliance. We have received nearly 300,000 hits since its creation in January of 2012.

B. Proposed

Ideas--both big and small--to improve the FEC's engagement with the public and stakeholders

- Ability to receive and respond to inquiries via email in RAD
- Ability to provide chat support on the FEC website and/or as committees are using the Commission's electronic filing software. As calls and voicemails get backed up during busy filing periods, some of the issues could be remedied with direct chat for quick questions
- Providing more "help" functions and links to useful information within the electronic filing software (we utilized this approach with the Webforms 1 and 2)
- Better advertisement of helpful resources available. Perhaps expand use of Twitter for this purpose.

II. Alternative Dispute Resolution Office

A. Current

Past efforts ADRO has made to engage with the public and stakeholders

- Creation of ADRO webpage
- Creation of ADR case FAQs for distribution with introductory letters
- Creation of Commitment form
- Creation & distribution of ADRO participant survey
- Creation of ADR Brochure
- Negotiations and discussions with stakeholders to resolve matters
- Creation of briefing materials for new Commissioners
- Timely response to telephone or email inquiries about cases

The success or failure of those past efforts, including the reasons for that success or failure

- All efforts appear to be successful in assisting the public with compliance
- Outreach efforts noted above have contributed to increased compliance and a better understanding of the ADR process
- ADRO participant survey allowed us to measure the quality of the service and receive feedback

B. Proposed

Ideas--both big and small--to improve the FEC's engagement with the public and stakeholders

- Ability to receive and respond to inquiries via email
- Better advertisement of helpful resources available – engage with state election entities to provide information for each new political committee.
- Engage FEC staff in Commission wide activities – get to know more of their colleagues and what each does.
- Invite the public to provide feedback on FEC processes on a regular basis
- The ADR Office would create a program survey using Survey Monkey and send it to all past participants in the process.

III. Administrative Fine Program

A. Proposed

Ideas--both big and small--to improve the FEC's engagement with the public and stakeholders

- Providing more useful information on the Administrative Fine web page.
 - How to challenge
 - How to pay
 - Key AFP statistics (number of Final Determinations made, dollar amount of violations assessed, and dollar amount of violations collected organized by election cycle)
 - Easy access to publicly released cases
- Ability to receive and respond to inquiries via email

IV. Audit Division

A. Current

Past efforts Audit has made to engage with the public and stakeholders

- Audit Hearings
- Creation of Audit Report Search System on the FEC website
- Greater Transparency of Audit Reports and associated documents such as Legal Analyses, Committee Responses, Statement of Reasons, etc are now available on the FEC website
- Consideration of Legal Questions by the Commission Program and all documents associated with the Request are placed on the FEC website
- Audit Brochure- This document explains the audit process and provides responses to FAQ's
- Audit Thresholds are placed on the FEC website for greater transparency of enforcement action
- Public Funding for Presidential Primary Candidates- Financial Control and Compliance Manual (2007)
- Presentation in Good Order Manual (Primary Matching Fund Process) is placed on the FEC website
- Submissions for Presidential Primary Matching Funds are placed on the FEC website
- Internal Controls for Political Committees are placed on the FEC website
- E-Learning Video: Best Practices: Internal Controls for Committees
- Exit and Entrance Conferences- Conferences are held with committees to explain the audit process and present audit findings.

The success or failure of those past efforts, including the reasons for that success or failure

- All efforts have proven successful in assisting the public and regulated community with understanding the audit process and actions of the Commission.
- Greater transparency of the audit process via audit hearings and other initiatives under Directive 70 have enabled stakeholders to have access to the process and decision-making of the Commission.
- The Internal Controls for Political Committees helps bring awareness to problem of fraudulent activity. This compliments RAD's Best Practices initiatives.
- The documents provided for Public Funding are outdated. So the few new candidates that wish to become eligible for public funds may find some of the information is not current. In the 2012 cycle, we relied heavily on personal contact with the committees (typically fringe candidates) to answer their questions....we provided numerous one-on-one meetings to help committees through the matching funds process.

B. Proposed

Ideas--both big and small--to improve the FEC's engagement with the public and stakeholders

- Travel to the committees for Audit fieldwork to gain rapport with committee officials to improve compliance and decrease the amount of time it takes to complete fieldwork
Partner with RAD at educational seminars to provide best practices on performing bank reconciliations and maintaining records (including those needed for credit card transactions).
These are the areas we see the most compliance issues.

- Audit Scope- Provide greater explanation on how the FEC scopes an audit, so the committees have a better understanding of what an audits covers and how the FEC focuses resources on identified high risk areas. Better explaining how Audit scoping works with committees and explaining the audit reviews with committees.
- Update Public Funding documents and provide a more direct path on the FEC website to obtain the information- (Note: it is important to keep in mind when prioritizing outreach efforts by the Commission that the number of committees using public funds is very small- for the 2012 cycle, only 3 committees used public funding).
- Leadership PAC Committees- provide best practices for recordkeeping.

V. Public Disclosure Division

A. Current

Past efforts that the Public Disclosure Division (PDD) has made to engage with the public and stakeholders

- Public Records Office tours and presentations to visiting student groups (high school and college), journalism classes (i.e., Medill, AU), organizations/associations, election officials, foreign dignitaries and other visitors to the FEC
- Public Records presentations, roundtables and workshops conducted off-site to high school/college classes; election officials; professional organizations; i.e., Radio and Television News Directors Foundation (RTNDF) and at FEC-sponsored conferences
- Presentations and meetings with election-related professional associations (COGEL, NASS, NASED, IFES)
- Demonstrations and site visits to/from state election offices, particularly regarding the use of disclosure technologies (State Access Program, State Filing Waiver Program)
- Telephone Conference Calls (formally-scheduled and ad hoc) to provide demonstrations and instructions regarding the use and availability of electronic data and reports
- Public Information Specialists (currently 4) dedicated to providing quality, outstanding customer service to the public (in-person, on the phone and through written correspondence and e-mails to the Public Records Office)
- Live telephone assistance to the public, 9am – 5pm, via the toll-free telephone line (research assistance; website tutorials; orders for reports, printouts and publications; other questions)
- Creation and use of dedicated e-mail address for public inquiries (pubrec@fec.gov)
- Extended hours during reporting periods for telephone assistance and the review of reports in the Public Records Office for the public and members of the press (until April 2007)
- Creation of "Your Guide to Researching Public Records" brochure
- Creation of tutorials (handouts and online) and other information sheets that explain the electronically available data
- Installation and administration of FEC Faxline (automated document faxing system) (1990's to present)
- Creating and maintaining disclosure-related sections of the FEC website and continually working with IT staff to develop tools and other data sets that will enhance the public's access to, and understanding of, reports and data on file with the Commission
- Mailings to organizations and schools (upon request) of FEC press releases, data and other publications, particularly in the Fall prior to a Presidential general election (Pre-Internet)

- Notification/announcements of publicly-available FEC data and publications via the *FEC Record* newsletter and press releases (and now via the Website and Twitter)

The success or failure of those past efforts, including the reasons for that success or failure

- All efforts have proven successful in educating and assisting the public over the years on the Commission's ever-evolving disclosure program.
- Outreach efforts have successfully introduced new programs and technologies that have been well received; notably the Commission's State Filing Waiver Program, which was a Semi-Finalist in the 2001 "Innovations in American Government" awards program.
- Outreach efforts to state election officials have led to their using FEC disclosure systems as models for their own systems (i.e., State EQS and E-filing). This has led to greater disclosure for the public at the state-level.

B. Proposed

Ideas--both big and small--to improve the FEC's engagement with the public and stakeholders

- Greater tools (ability to conduct webinars, on-line chat functionality, etc.) to allow the Public Records Staff to be more interactive with the public online and through the development of online tutorials and presentations specifically geared for the general public at all levels (elementary school age and beyond).'
 - General coordination/outreach to national, but especially local, public school systems; particularly their government and political science programs. (These teachers would also be involved with their SGA, Young Democrats and Young Republicans groups within the schools.)
 - Specific outreach to local school systems to seek to be included in any available Internship Programs for their Political Science/Government classes (or for community service hours). Being on the list of approved internship sites would lead to more awareness of the FEC generally. Actual student participation would result in their bringing their experiences and knowledge back to the classroom and to their peers.
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OFFICE OF CHIEF INFORMATION OFFICER

A. Current

The individuals below are contacted periodically to announce new data products, changes in current data products and known system downtime that affects updating public data files.

Campaign Finance Groups

Jacob Fenton	The Sunlight Foundation
Bob Lannon	The Sunlight Foundation
Susi Alger	Center for Responsive Politics
Skyler Treat	Center for Responsive Politics
Bob Biersack	Center for Responsive Politics
Sarah Bryner	Center for Responsive Politics
Carrie Levine	Citizens for Responsibility and Ethics in Washington

Academics

Stephanie Curtis	Brigham Young University
Albert May	The George Washington University

Press

Brian Buck	Associated Press
Peter Brusoe	Bloomberg News
Tony Roza	The Green Papers
Aaron Bycoffe	The Huffington Post
Derek Willis	The New York Times
Aaron Blake	The Washington Post
Chris Wilson	Time
Chris Schnaars	USA Today
Luke Rosiak	Washington Examiner

Other Government Agencies

Sam Garrett	Congressional Research Service
Lindsay Young 18F	
Raphael Majma 18F	

In addition, staff in OCIO have participated in the following seminars and presentations.

- In conjunction with the Press Office:
- National Press Club: "FEC Data Diving" (once an election cycle)
- George Washington University School of Media and Public Affairs: FEC data "lecture" (one or twice an academic year)
- Speaking / Lecture
- Boston University Hariri Institute for Computing and Computational Science and Engineering: "Data + Narrative: Storytelling with Money and Politics Data." with AI

Grimes, director of technology for the Massachusetts Office of Campaign and Political Finance

- Data Discussion : David Magleby, Brigham Young University, forthcoming "Financing the 2016 Election." Once an election cycle for each of his books in the "Financing the Election" series.
- OCIO also participates in all Commission outreach efforts as it relates to seeking comment from stakeholders on Website improvements
- OCIO also reaches out to the regulated community and vendors as to changes related to efilings modifications