

In summary, the agency has lost 12% of its workforce during a period in which its workload has skyrocketed. These reductions have been entirely among career agency staff. They include campaign finance analysts, attorneys, and auditors who carry out the essential functions of the FEC. One impact is that the FEC ranked last among comparable agencies in a 2021 survey of employee satisfaction and engagement.

In addition, having worked in the federal OIG community for 15 years, I can tell you from experience that agencies are reluctant to report performance challenges. As such, it is significant that the FEC has done just that and has reported that performance has been adversely impacted by staff shortages and that performance targets have been reduced as a result. For example, the agency reported that it has not met performance goals to complete audits and process committee reports on time due to staff shortages.

Agency resource limitations affect the implementation of OIG recommendations. As detailed further in my written testimony and our Semi-Annual Reports to Congress, the OIG has addressed 173 hotline inquiries, conducted numerous evaluations and audits, and issued 25 recommendations in the past three years. Currently, there remain 20 open recommendations. Those recommendations cover agency operations and programs ranging from improvements in campaign finance oversight, stronger regulation of unlawful foreign contributions, and improvements to agency financial and human capital management.

My staff and I have good working relationships with the Commission and agency leadership, who have been open in their dialogue with us in response to OIG recommendations. A common refrain in that dialogue has been that the agency's limited resources impede implementation of OIG recommendations. Despite these challenges, my office will continue to provide oversight of the FEC, to include developing actionable recommendations to improve agency operations and programs.

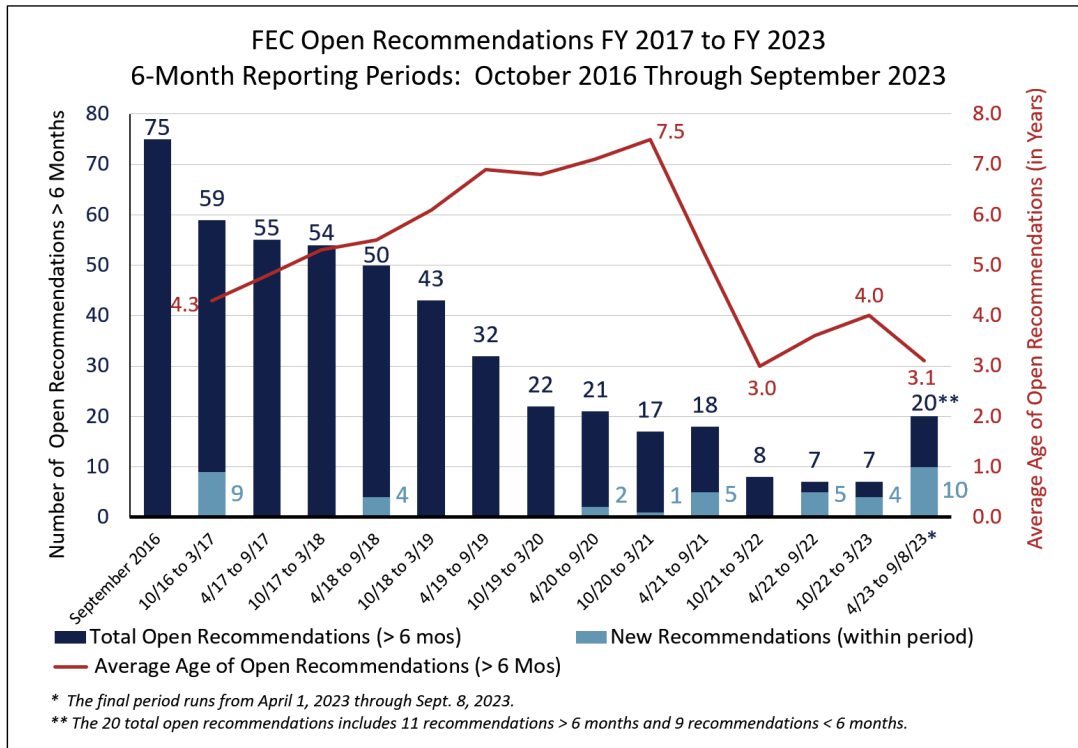
Closing

In closing, I want to thank Chairman Steil, Ranking Member Morelle, and the Members of the Committee for this opportunity to testify today.

Going forward, the OIG remains committed to conducting engagements in support of the FEC. I look forward to continuing to work with my OIG team, the Commission, members of Congress, and CIGIE to provide oversight of the FEC on behalf of the American taxpayers. Our work to date reflects the exceptional efforts of the OIG team. It is my honor and privilege to lead such a talented group of individuals. Thank you again for this opportunity and if you have any questions, I will be happy to address them.



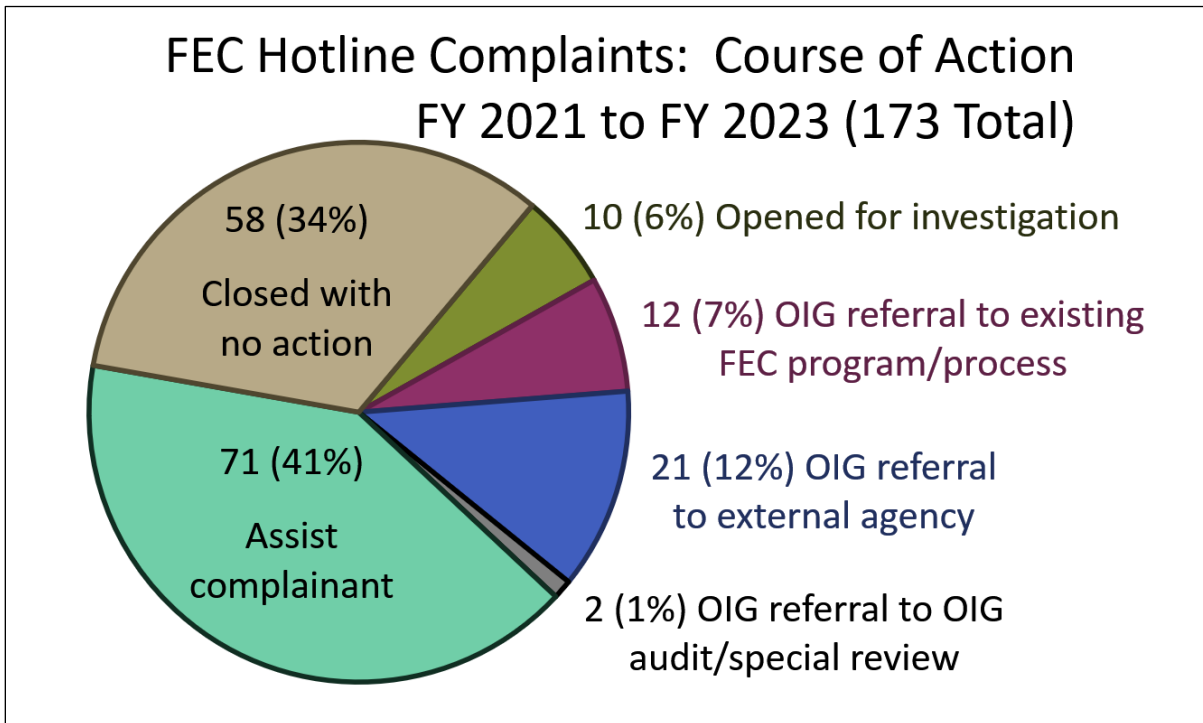
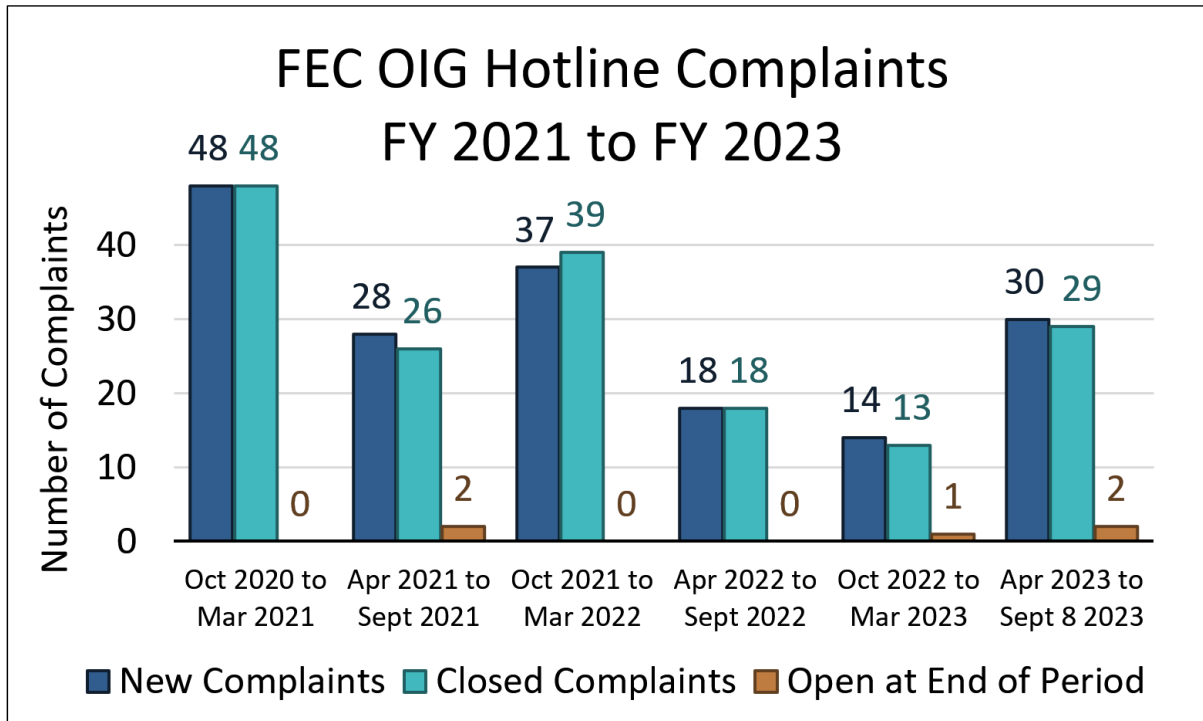
Appendix 1 – OIG Open Recommendations Statistics (October 2016 – September 2023)

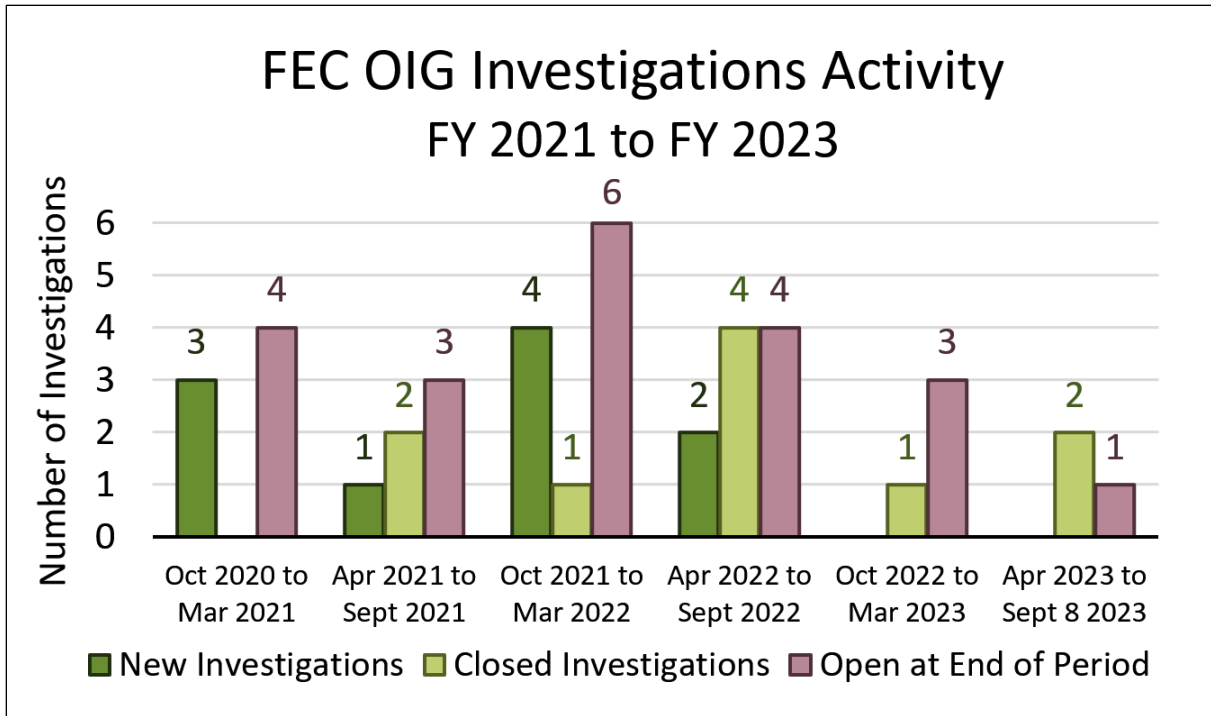


FEC OIG Open Recommendations (1-20 of 20) as of September 8, 2023

Report Title	Reporting Number	Report Date	Recommendation Text
Inspection of the FEC's disaster recovery plan and continuity of operations plans.	OIG-12-06	1/30/2013	Procure the necessary hardware/software to fully test the data entry application needed for Disclosure by December 2013.
			Ensure the disaster recovery Kofax server is updated to mirror the Kofax production server by June 2013.
Allegations of Bias Against FEC Personnel Reviewing 58Th Presidential Inaugural Committee Reports	I21INV00037	7/29/2021	The OIG recommends that the Commission update the relevant standards to clarify the criteria used to identify potential violations and provide measurable standards concerning the review of inaugural committee reports.
			The OIG recommends that the Commission update the inaugural committee review process.
			The OIG recommends that RAD memorialize a policy concerning the identification of potential foreign donations and that the Commission consider updating relevant forms and instructions to ensure filers are aware of verification requirements imposed by federal regulation.
			The OIG further recommends that RAD's policy include specific thresholds that will trigger the issuance of requests for additional information (RFAs) for donations with foreign addresses, notwithstanding purported verification by the relevant committees (political and inaugural).
Management Letter for OIG Special Review of the Federal Election Commission (FEC) Contracting Officers Representative (COR) Program	SR-22-01	5/26/2022	The Procurement Office should memorialize the COR certification tracking procedures it has implemented.
OIG Review of Commission Directive 06, Handling of Internally Generated Matters	2023-10-001	10/11/2022	Revise Directive 06 to include current FECA citations and guidance related to OIG referrals of campaign finance related matters to OGC.
Independent Audit Report of FEC's FY 22 Financial Statements	OIG-22-01	11/15/2022	We recommend FEC OCIO remediate critical-level and high-level vulnerabilities according to the FEC System Security Plan.
			We recommend the FEC OCIO establish controls to ensure user accounts are deactivated timely when employees separate from the agency.
			We recommend the FEC OCIO document and maintain evidence that the controls for identifying and obtaining management's approval for deviations from its established configuration settings for Windows 10 devices is performed on a consistent basis.
Audit Report of the FEC's Human Capital Management for FY2022	OIG-22-02	4/25/2023	We recommend that FEC's senior management in collaboration with the FEC's Director of the Office of Human Resources and the FEC's CHCO should develop a plan to strategically manage human capital across the agency that is informed by the OPM HCOP and HCF guidance. The HCM plan should include the salient elements of the OPM human capital guidance and workforce planning activities that are scaled to the FEC's size and needs.
			We recommend that FEC's management should develop a strategic human capital management plan to include a process for conducting and documenting a skills gap analysis of its workforce.
			We recommend that FEC's management should develop a strategic human capital management plan to include a process for succession planning for senior leaders and mission-critical positions.
			We recommend that FEC's management should develop a strategic human capital management plan to include guidance on the development of training programs, including formal training plans for appropriate employees (e.g., employees with skills gaps and for succession planning purposes).
			We recommend that FEC's management should develop a strategic human capital management plan to include a more consistent and efficient performance management process and negotiate with the BU to: <ul style="list-style-type: none"> • Transition BU employees to the electronic performance management system and require the same templates be completed as the NBU employees. • Move all employees to the same standard performance period instead of evaluating BU employees' performance on their hired anniversary date.
Review of the FEC Travel and Purchase Card Programs	Special Review 23-02	8/1/2023	That the agency follows the general purchase card training requirements from OMB A-123, Appendix B and GSA SmartPay guidelines, to ensure all program participants have completed training requirements and maintain training certifications as required.
			That the agency negotiate with the NTEU to update the LMA to include the travel voucher requirements documented in the Federal Travel Regulations § 301-52.7.
			That the agency monitor that the travel voucher is submitted within five working days according to FTR § 301-52.7.
			That the agency update and finalize the travel policy, travel manual, and procurement office policies and procedures.

Appendix II - Hotline and Investigations Activity (FY 2021 – FY 2023)





Additional Hotline and Investigations Statistics:

Contacts

The hotline logged 179 contacts in addition to the 175 complaints received during the period FY 2021 to 2023. These are general communications and inquiries that do not allege specific wrongdoing.

Closing Reports

Of the 10 investigations closed during the three-year period FY 2021 to FY 2023, seven resulted in Reports of Investigation released to the FEC Commissioners. Three were closed with a Closing Memorandum that was not provided to management due to insufficient evidence.

Referrals for Criminal Prosecution

During the three-year period FY 2021 to FY 2023, the FEC OIG made one (1) referral to DOJ for potential criminal prosecution and one (1) referral to state and local prosecuting authorities.

Investigations Recommendations

The FEC OIG made 11 recommendations that resulted from investigations activity during the three-year period FY 2021 to FY 2023. Seven of those recommendations were closed leaving four recommendations that remain open.

Federal Election Commission Office *of the* Inspector General

Management and
Performance Challenges
Facing the FEC for FY 2023

October 26, 2022



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Introduction and Approach

Why do we publish this report?

In accordance with the Reports Consolidation Act of 2000, the Federal Election Commission (the “FEC” or “Commission”) Office of Inspector General (OIG) identifies the most serious management and performance challenges facing the Commission and provides a brief assessment of the Commission’s progress in addressing those challenges. By statute, this report is required to be included in the FEC’s Agency Financial Report.

What are management challenges?

The Government Performance and Results Modernization Act of 2010 identifies major management challenges as programs or management functions that are vulnerable to waste, fraud, abuse, and mismanagement, and where a failure to perform well could seriously affect the ability of the agency to achieve its mission objectives. Each challenge area is related to the agency’s mission and reflects both continuing vulnerabilities and emerging issues. The FEC OIG identified the top management and performance challenges facing the Commission as the following:

- Growth of election spending
- Identifying and regulating unlawful foreign contributions
- Continuity of operations
- Human capital management
- Cybersecurity

How did we identify these challenges?

We identified the Commission’s major management and performance challenges by recognizing and assessing key themes from OIG audits, special reviews, hotline complaints, investigations, and an internal risk assessment, as well as reports published by external oversight bodies, such as the Office of Personnel Management (OPM) and the Government Accountability Office (GAO). Additionally, we reviewed previous management challenge reports to determine if those challenges remain significant for this submission. Finally, we considered publicly available information and internal Commission records. As a result, we identified five key management and performance challenges, which are detailed herein.

Management and Performance Challenge: Growth of Election Spending

In recent years, federal campaign fundraising and spending have increased dramatically, particularly since the U.S. Supreme Court’s decision in *Citizens United v. FEC* in 2010. The rapid growth of contributions to campaigns and committees, both in total dollars and in the number of contributions, has not been met with corresponding budgetary resources for the FEC to provide campaign finance oversight.

Total spending on federal election campaigns during presidential years increased from \$3.1 billion in 2000 to approximately \$14.4 billion for the 2020 election cycle, nearly a 5-fold increase. Spending on the 2022 mid-term elections reached \$5.6 billion through September 30, 2022, nearly equaling the \$5.7 billion spent for the entirety of the 2018 mid-term election cycle. Projected spending for the full 2022 mid-term is \$7.7 billion based on historical precedents.

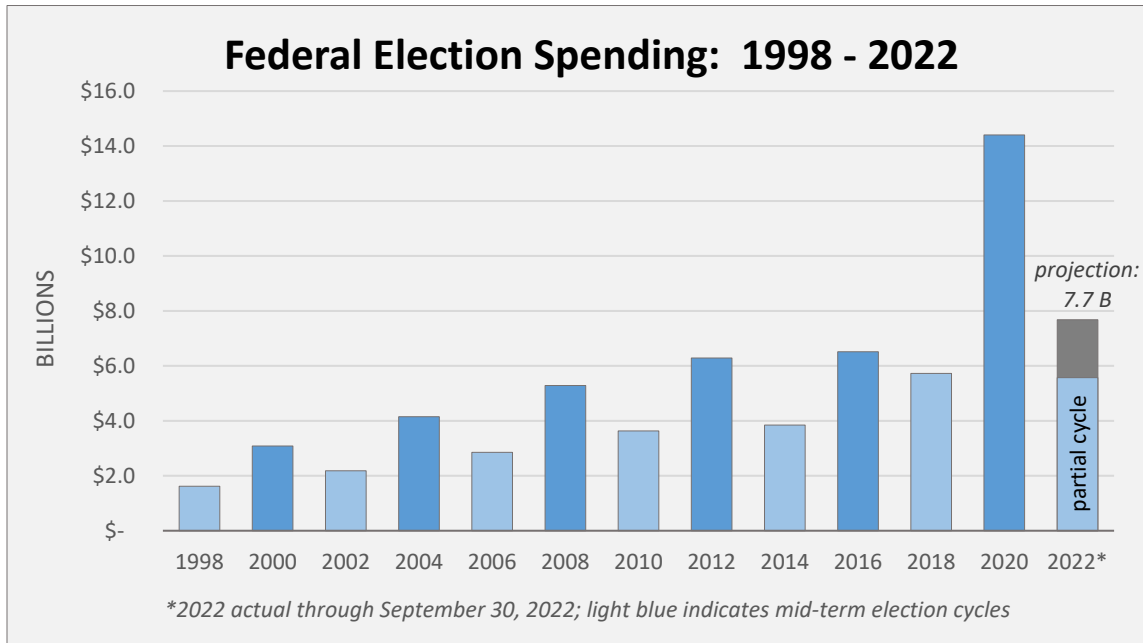


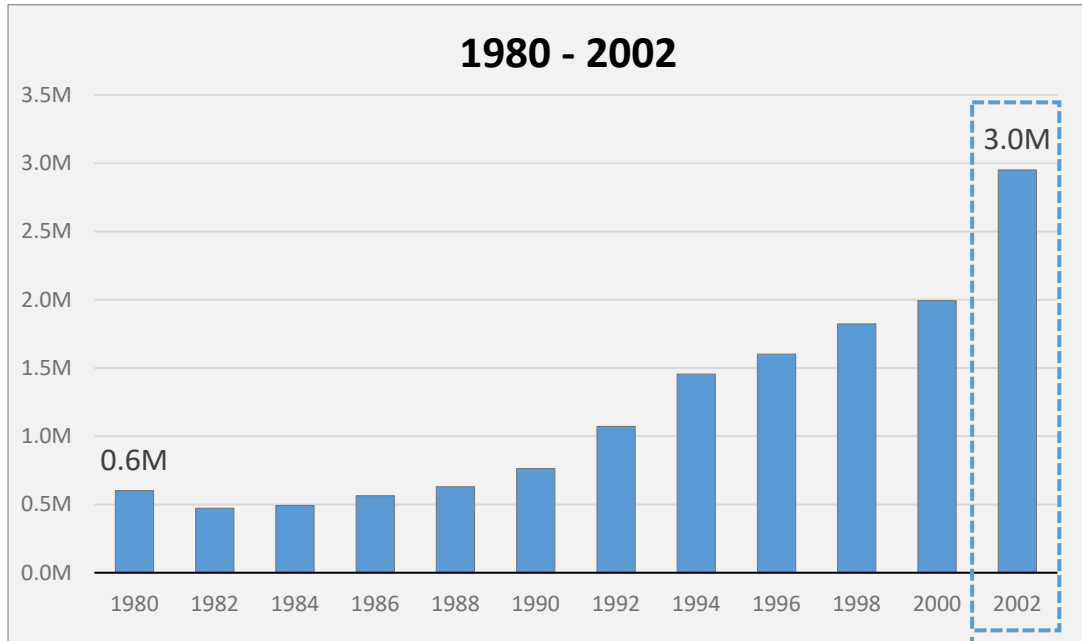
Figure: Total spending on congressional, presidential, and party committees per election cycle reported to the FEC by all filers. The totals in this figure include PAC expenditures to campaign committees. All data is obtained from FEC filings. The 2022 projection is based on 2018 percentages.

The total number of transactions subject to FEC regulation and oversight has also dramatically increased, especially in recent years. Transactions are reported in mandatory filings with the FEC and are comprised of itemized details of receipts (including contributions), disbursements (including expenditures), and other financial activity.

Some highlights of transaction growth, which is illustrated on the following page, include:

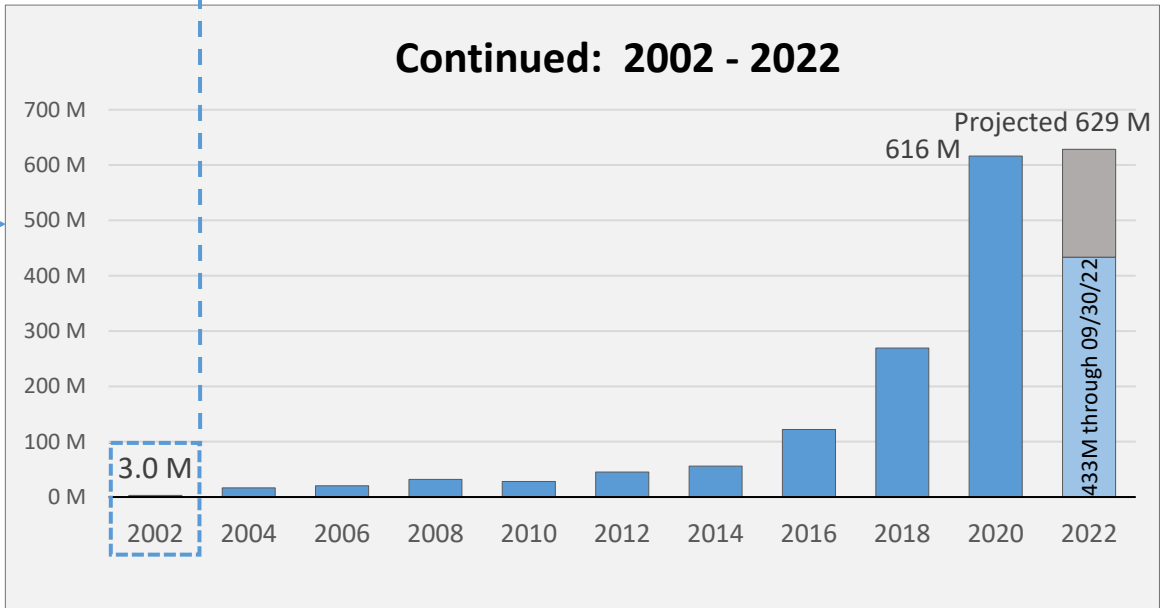
- Between 1980 and 2002, the total number of transactions subject to FEC regulation and oversight increased from approximately 602,000 to nearly 3.0 million per election cycle.
- In the 2018 election cycle, the FEC handled nearly 270 million transactions.
- That number exceeded 616 million transactions in the 2020 election cycle.
- The number of transactions for the 2022 mid-term cycle is expected to surpass the 2020 presidential cycle.

FEC Total Transactions (1980 - 2022)



Between 1980 and 2002, the total number of transactions subject to FEC regulation and oversight increased from approximately 602,000 to nearly 3.0 million per election cycle.

By 2018, the FEC handled nearly 270 million transactions in that cycle. That number exceeded 616 million in 2020 and is expected to surpass 629 million for 2022.



Despite dramatic increases in campaign expenditures and the number of transactions subject to FEC regulation and oversight, the Commission’s budget has remained largely static and has even faced recent reductions. Since 2008, the FEC’s budget has increased by an average of only 1.4% per year. Those increases have not kept up with inflation, which has averaged approximately 2.5% per year over the same period. Indeed, the FEC’s 2022 budget was **approximately 14.3% less** than its 2008 budget when adjusted for inflation.¹

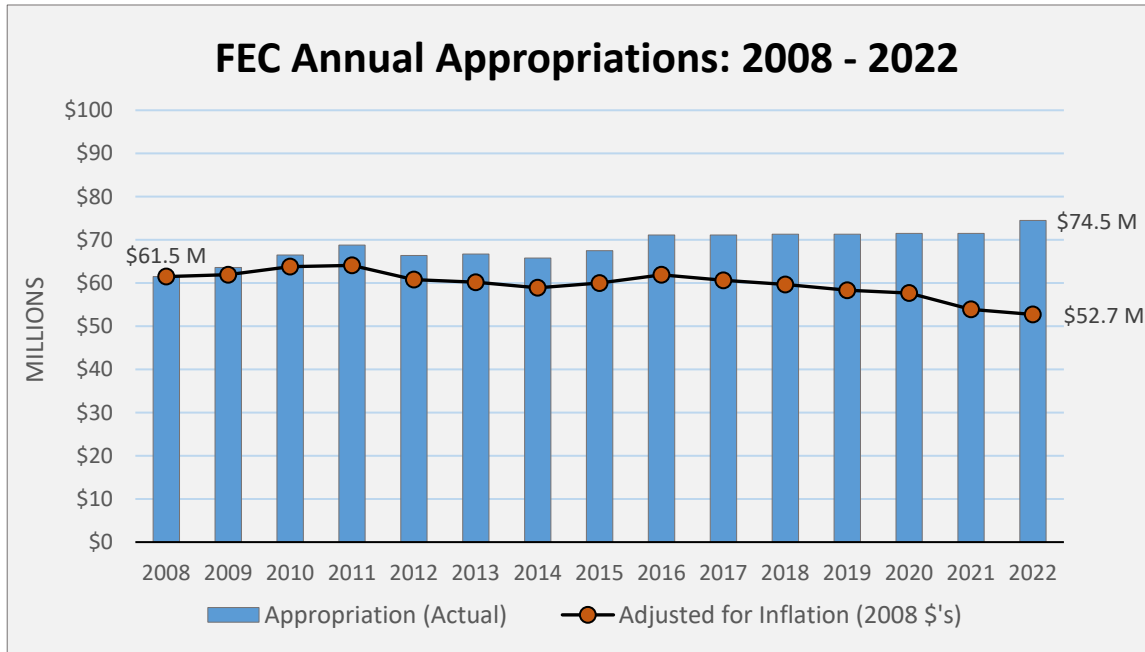


Figure: Annual congressional budget appropriations to the FEC, as reported in Congressional budget justifications. Inflation adjustment from Bureau of Labor Statistics published annual CPI data.

In addition, the nature of federal campaigns has evolved in recent years. Online fundraising, the influence of dark money, and potential foreign electoral influence continue to place further strain on the FEC’s ability to provide oversight of federal campaigns. As such, absent additional resources, the FEC faces challenges in successfully regulating campaign finance.

Management and Performance Challenge: Identifying and Regulating Unlawful Foreign Contributions

Identifying and regulating unlawful foreign campaign contributions continues to pose a significant challenge to the FEC. As campaign expenditures and the number of transactions subject to FEC regulation and oversight increase, potential contributions by foreign nationals also increase, which demands greater scrutiny by agency regulators. However, an August 2021 OIG report found that the FEC’s practice of relying on filers’ self-certifications concerning potential foreign contributions poses a national security risk and provides insufficient oversight

¹ This is not merely due to recent inflation during 2021-2022. As shown in the accompanying chart, the FEC’s annual budget evinces a pattern of decline dating back to 2011 when adjusted for inflation.

of possible illegal foreign donations. Indeed, numerous recent cases highlight the risk of unlawful foreign influence in U.S. elections.

The Federal Election Campaign Act of 1971 (FECA), related statutes, and implementing regulations prohibit direct and indirect contributions to candidates, political committees, and inaugural committees by foreign nationals. As noted above, campaign expenditures and transactions subject to FEC regulation and oversight have dramatically increased in recent years. However, as previously noted, the FEC's budget has remained static, if not reduced, over the same period. Indeed, the FEC's FY 2022 budget was approximately 14% less than its 2008 budget when adjusted for inflation. The increase in transactions subject to review, in conjunction with declining resources (in real terms), poses a challenge for the FEC in identifying and regulating unlawful contributions.

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

Notwithstanding these risks, an August 2021 investigative report by the OIG found that the FEC's current practices provide limited oversight of potential foreign contributions. Specifically, the OIG investigation found that the FEC identifies many potential foreign national donations based on the reported addresses of donors, but generally defers to a committee's self-certification that it verified the U.S. citizenship of those donors. However, that practice does not appear to be memorialized in policy and relies heavily on the good faith and due diligence of filers.

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

Management and Performance Challenge: Continuity of Operations

Recent and dramatic changes in workplace dynamics due to the COVID-19 pandemic pose many management and performance challenges for the FEC. Federal agencies, including the FEC, have implemented various return-to-office policies after the expiration of evacuation orders that mandated remote work during the height of the pandemic. However, substantial uncertainty remains regarding how the post-pandemic work environment will look for the FEC, how the FEC's telework policies will affect retention and recruitment, and how the agency would respond to a future pandemic or similar event that disrupts operations.

The FEC implemented a pilot program that provides more telework opportunities than were available to most employees prior to the pandemic. However, that pilot program will end in March 2023. Significant disagreements remain among stakeholders, including the Commissioners, FEC managers, and the FEC workforce, concerning the degree to which the

FEC should permanently embrace telework and remote work. Moreover, if the Commissioners themselves are unable to agree upon permanent changes to agency policies, it may result in much more limited telework and remote work options for FEC employees.

The OIG has observed concerns about the impact of limited telework and remote work options on employee morale and attrition in the course of numerous recent engagements. Concerns include potential employee turnover, given that greater telework and remote work options appear to be permanent expectations for the modern public and private sector workplaces. As such, many stakeholders at the FEC have expressed concerns that, absent continued telework and remote work flexibilities, FEC employees may seek telework and remote employment options elsewhere, resign, or retire, if eligible. The OIG will further evaluate this issue in future engagements; however, FEC leadership should prioritize further study of this and related concerns.

Management and Performance Challenge: Human Capital Management

Human capital management is the process of acquiring, training, managing, and retaining employees to effectively execute the agency's mission. In prior management challenge reports the OIG identified, among other things, the unusual salary structure of certain senior leaders at the Commission (including Commissioners), the practice of agency personnel serving in acting positions for extended periods of time, and the Commission's attempt to address these issues through repeated legislative recommendations to Congress.

These challenges have a direct impact on the Commission's management of human capital. For example, the problems brought about by the challenged senior salary structure, coupled with declining staffing levels and increased workload, appear to have contributed to the recent 29th out of 29 ranking among small agencies that the FEC received in the Partnership for Public Service's 2021 Best Places to Work in the Federal Government report.²

Commissioner Pay: The FECA specifies that FEC Commissioners are to be paid equivalent to level IV of the Executive Schedule; however, pay for political appointees at the FEC has been frozen since 2019 with little increases over the last 10 years. As a result, some personnel in the GS 15 and Senior Level (SL) positions earn higher salaries than the FEC Commissioners. This unique salary structure has a direct impact on Commissioner morale and may indirectly impact staff morale throughout the agency. The problem is intensified by the high costs of living and working in Washington, D.C. that commissioners must bear to serve term appointments.

Salary Structure (Staff Director and General Counsel): Currently, the senior leadership roles of the Staff Director and Chief Information Officer (CIO) are occupied by the same individual and have been since August 2011. Information technology is ever evolving, which affects all government agencies. Without a fully dedicated CIO to focus on technological issues, to ensure resources are properly allocated, and that adequate processes are in place for the protection and safeguards of the agency, the agency will remain at risk.

² See [Partnership for Public Service Survey Results and Rankings](#).

Similarly, the Deputy General Counsel for Law is concurrently serving as the Acting General Counsel and has been doing so since September 2016.³ This has potential to put the agency at risk of not effectively and efficiently meeting its mission requirements, as robust internal dialogue and diversity of opinion are essential to ensuring the agency considers competing legal theories and courses of action.

The FECA requires the Staff Director to be paid at Level IV and the General Counsel to be paid at Level V of the Executive Schedule. Further, this statutory requirement provides that both positions supervise personnel at the GS 15 and SL pay scales, who may have higher salaries than Levels IV or V of the Executive Schedule. This disparity creates significant challenges in recruitment and retention of talent for two of the most senior career positions at the FEC.

Management previously reported that the Commission adopted legislative recommendations in 2021, 2018, 2017, 2016, 2015, 2014, 2013 and 2011 that urged Congress to remove the statutory references to the Executive Schedule in FECA with respect to the FEC Staff Director and General Counsel Positions. The removal of that reference would ensure the two positions be compensated under the same schedule as the Commission's other senior managers.

Declining Staffing Levels: Despite dramatic increases in campaign expenditures and the number of transactions subject to FEC regulation and oversight (see management challenge #1), the Commission reported that staffing levels have decreased by over 17.5% since 2012.⁴ The agency maintained an average of 295-296 employees throughout FY 2022. The increase in workload combined with declining staffing levels has resulted in performance benchmark and morale challenges. Additionally, the FEC must focus on employee retention challenges as the Commission continues to define its new normal in a hybrid work environment.

Morale: The FEC ranked last (29/29) among small agency workplaces in the 2021 Partnership for Public Service report. Each year, the Partnership for Public Service ranks federal workplaces by analyzing employee engagement and satisfaction scores across all federal agencies. Specifically, these results refer to the commitment of the workforce, job and organizational satisfaction, and employee desire to achieve results. The rankings are separated by large, medium, and small agencies and the data used for compiling these rankings is collected by OPM through its Federal Employee Viewpoint Survey (FEVS). Additionally, the OPM published preliminary results from the 2022 FEVS survey and the data indicated that employee morale across the federal government fell two points in 2022.

The foregoing human capital challenges are impacting the FEC's ability to achieve its mission objectives effectively and efficiently. Despite the internal resource constraints and emerging external issues beyond the Commission's control, we encourage the Commission to continue to invest in the recruitment of quality employees, training employees, and motivating employees to complete mission objectives.

³ The FEC posted a job announcement for the General Counsel position on USAJOBS with an opening application date of September 30, 2021, and a closing date of October 22, 2021. As of October 26, 2022, the position remains unfilled.

⁴ The FEC reported 293 employees on board as of September 2022—a 17.5% decrease compared to FY 2012 (355).

Protecting data, systems, and networks from threats remains a top challenge. The FEC was established to protect the integrity of federal campaign finance by providing transparency and enforcing and administering federal campaign finance laws. In doing so, the FEC discloses campaign finance data to the public and as a result, encounters large volumes of webpage traffic from stakeholders and members of the public. In efforts to streamline transparency initiatives and improve business processes, the Commission is more technology reliant today, as is society; as such, it is imperative that the Commission continue to prioritize cybersecurity.

Cybersecurity encompasses attempts from criminals and adversaries to obtain sensitive information linked to government networks, personal identifiable information, intellectual property, and other sensitive data. Cyber threats may arise from phishing, ransomware, or other malware attacks and can infiltrate any level within an organization. In response to ever-growing threats, the Commission has partnered with the Department of Homeland Security (DHS) and the Cybersecurity and Infrastructure Security Agency (CISA), an operational component under DHS, to improve its overall security posture by identifying, protecting, and responding to network vulnerabilities. We encourage the agency to continue to utilize these partnerships and work to develop the in-house expertise to protect the network.

It is essential that the Commission continue to maintain the integrity and availability of its information, as it looks to modernize its systems, which includes moving towards a cloud environment. We recognize that federal agencies have struggled to compete with the private sector for cyber expertise and talent; however, the Commission should continue to seek and adequately compensate industry experts to manage the FEC's cybersecurity requirements. We encourage the Commission to continue to be proactive in establishing a cybersecurity framework and strengthen internal controls to mitigate external threats from entering the FEC's network.

Conclusion

The OIG presents these challenges as ongoing issues facing the FEC in FY 2023. These challenges impede efficiency and effectiveness in the management of FEC operations and programs. The OIG remains dedicated to independent oversight to ensure accountability of the mission of the FEC.

FY 2022 Management Challenges Not Included in FY 2023 Report

All FY 2022 management challenges have been included in this report although some have been updated, retitled, and/or consolidated.

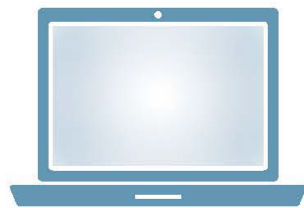


Federal Election Commission
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* Available from 9:00 a.m. to 5:00 p.m.
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Or you may call toll free at 1-800-424-9530 (press 0; then dial 1015). You may also file a complaint by completing the Hotline Complaint Form (<http://www.fec.gov/oig>) and mailing it to: 1050 First Street, N.E., Suite 1010, Washington DC 20463.

Individuals including FEC and FEC contractor employees are encouraged to alert the OIG to fraud, waste, abuse, and mismanagement of agency programs and operations. Individuals who contact the OIG can remain anonymous. However, persons who report allegations are encouraged to provide their contact information in the event additional questions arise as the OIG evaluates the allegations. Allegations with limited details or merit may be held in abeyance until further specific details are reported or obtained. Pursuant to the Inspector General Act of 1978, as amended, the Inspector General will not disclose the identity of an individual who provides information without the consent of that individual, unless the Inspector General determines that such disclosure is unavoidable during the course of an investigation. To learn more about the OIG, visit our Website at: <http://www.fec.gov/oig>.

Together we can make a difference!