

Memorandum

Date: November 7, 2012

To: The Honorable Commissioners

From: Frances Garcia, Inspector General



Subject: Fiscal Year 2012 Management and Performance Challenges

The Reports Consolidation Act of 2000 requires the Inspector General (IG) to report annually on the most serious management and performance challenges facing the U.S. Commission on Civil Rights (Commission) and to assess the Commission's progress in addressing those challenges.¹ For fiscal year 2012, we have identified two challenges: (1) aligning the organizational structure with the budget, and (2) better leveraging state advisory committees. (See attachments I and II for more information about these challenges.)

To identify these management and performance challenges, we systematically reviewed Commission reports (annual performance and accountability reports, strategic plan, and strategic human capital plan) to determine what challenges, if any, the Commission had previously reported. We also analyzed past audit reports issued by GAO and reviewed Commission policies and procedures relevant to these issues and concerns. In addition, we used a semi-structured interview to obtain the opinions of the eight Commissioners, eight Commission managers located at headquarters and in the regional offices, two past Commission managers, and the financial statement auditor. In particular, we asked these officials to discuss issues and concerns they believe seriously affect the ability of the Commission to achieve its mission and goals, how such issues or concerns affect the Commission, and what actions were taken during fiscal year 2012 to address them. The scope of our work did not include contacting members of the state advisory committees. It should be noted that additional challenges and weaknesses may exist in areas where we have yet to perform audits or investigations or in areas concerning fraud or other serious problems, abuses, and deficiencies.

We conducted this performance audit from July 2012 to November 2012 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our audit objectives.

¹Pub. L. No. 106-531, 114 Stat. 2537 (Nov. 22, 2000).

Agency Comments

The Inspector General provided the Commission with a draft of this report for review and comment. The Commission agreed with these challenges. The Commission also provided technical comments that were incorporated, as appropriate.

If you would like to discuss these challenges please contact me at (202) 512-5748 or garciaf@gao.gov.

List of Addressees

The Honorable Martin R. Castro, Chairman

The Honorable Abigail Thernstrom, Vice Chair

The Honorable Roberta Achtenberg

The Honorable Todd Gaziano

The Honorable Gail Heriot

The Honorable Peter Kirsanow

The Honorable David Kladney

The Honorable Michael Yaki

Attachment I

Aligning Organizational Structure with the Budget

The United States Commission on Civil Rights' (Commission) organizational structure is rooted in the past and does not effectively support the operations of the Commission. While facing flat appropriations of about \$9 million for more than a decade, the Commission has continued to operate with fewer staff. Staff reductions were generally achieved through attrition, with no subsequent organizational restructuring to improve mission efficiency. As a result, the Commission has an organizational structure that has vacancies in key positions, little flexibility to fill those vacancies, and employees that are holding multiple management positions. Moreover, the Commission has been operating without a staff director, who would normally serve as the administrative head of the agency. Given these conditions, the Commission is faced with a serious challenge of aligning its organizational structure with its budget to efficiently and effectively accomplish its statutory mission.

In its 2008-2013 strategic plan, the Commission established an objective to “streamline and/or reorganize the Commission’s structure to efficiently execute its mission and make efficient use of its appropriations.”² To address this objective, the Commission identified the need to conduct an assessment of the effectiveness and efficiency of its administrative structure, and based on the results, develop a plan of action for achieving increased agency effectiveness and efficiency. However, in its fiscal year 2010 Performance and Accountability Report,³ the Commission concluded that it did not have the resources to conduct an assessment of its structure and develop a plan of action. Furthermore, in the approved goals and objectives for the Commission’s 2014-2018 Strategic Plan, the Commission does not include a goal or objective to restructure the Commission. The commissioners are aware that restructure may be necessary and the plan could be updated to include this goal at a later date.

The Commission is a fact-finding federal agency required to report on civil rights issues. Established by the Civil Rights Act of 1957, the Commission is currently directed by eight part-time commissioners. The Commission has a number of responsibilities, including investigating claims of civil rights and voting rights violations and studying and disseminating information on the impact of federal civil rights laws and policies.⁴ The Commission accomplishes its mission by: (1) investigating alleged deprivations of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, or national origin; and (2) (a) studying and collecting information, (b) appraising the relevant federal laws and policies, (c) serving as a national clearinghouse for information, and (d) preparing public service announcements or advertising campaigns regarding

²U.S. Commission on Civil Rights, *Reinvigorating the Nation’s Civil Rights Debate—2008-2013 Strategic Plan* (as adopted October 2007).

³U.S. Commission on Civil Rights, *Performance and Accountability Report for Fiscal Year 2010*.

⁴Commissioners serve 6-year terms. Four commissioners are appointed by the President, two by the President pro tempore of the Senate, and two by the Speaker of the House of Representatives. No more than four commissioners can be of the same political party.

discrimination or denials of equal protection of the laws under the Constitution of the United States because of color, race, religion, sex, age, disability, or national origin, or in the administration of justice. The Commission may hold hearings and, within specific guidelines, issue subpoenas to obtain certain records and have witnesses appear at hearings. The Commission must submit to the President and the Congress at least one report annually that monitors federal civil rights enforcement in the United States, and such other reports as deemed appropriate by the Commission, the President, or the Congress.

Our work identified the following serious concerns contributing to the need to align the Commission's organizational structure with the budget:

- **Organizational structure:** Our interviews confirmed that the Commission's current organizational structure is not efficient given the reduced staffing levels and flat appropriations. The Commission's organizational structure, governed by regulations issued in 2002,⁵ was predicated on an organization much larger than what exists today. In the past decade, staff levels have dropped by more than 40 percent, from about 70 in fiscal year 2002 to about 40 in fiscal year 2012, including the eight part-time commissioners. The Commission's current organizational structure is composed of seven operational units or offices in headquarters and six regional offices (see figure 1).
- **Lack of a staff director:** The staff director position has been vacant since January 2011, which significantly hinders the Commission's ability to establish an efficient and effective organizational structure. The staff director for the Commission serves as the administrative head of the Commission and is appointed by the President with the concurrence of a majority of the Commission. Our interviews confirmed that the lack of a staff director is a serious concern affecting the leadership of the Commission and the management of its human capital. Between February 2011 and April 2012, a senior attorney who was also the acting general counsel served as the acting staff director. In addition, the position of deputy staff director—responsible for day-to-day administration of the agency—has been vacant since at least fiscal year 2007.
- **Vacancies in other key positions:** In addition to the lack of a staff director and deputy staff director, the Commission has vacancies in other key positions. As shown in figure 1, as of September 30, 2012, nine of the top fourteen positions, including the staff director and deputy staff director (more than 64 percent), were either vacant, held by managers holding multiple positions, or held by acting managers. For example, the director of the southern regional office was also the acting director of the western regional office, and the acting chief of the Regional Programs Coordination Unit.⁶ Further, the Office of Civil Rights Evaluations

⁵45 C.F.R. Chapter VII, 67 Fed. Reg. 70482–70508, Nov. 22, 2002.

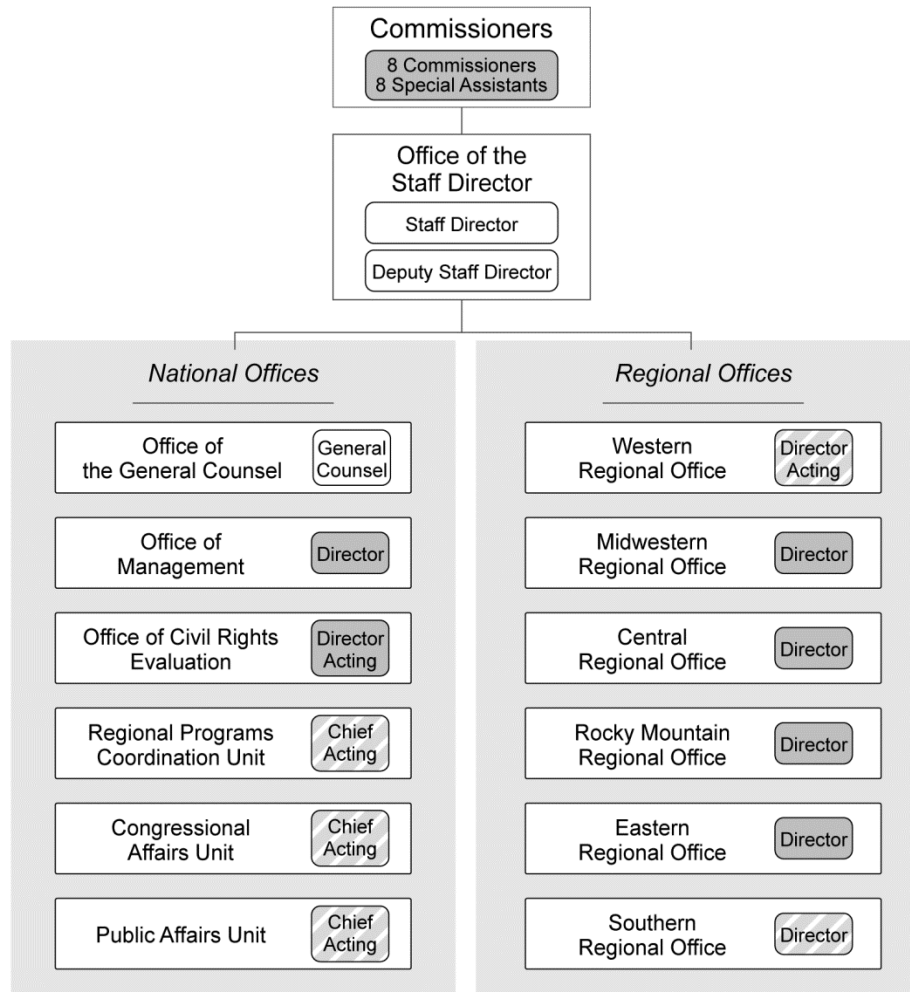
⁶The Regional Programs Coordination Unit is responsible for directing and coordinating the programs and work of the regional offices and 51 State Advisory Committees to the Commission and maintaining liaison between regional offices and the various headquarters' offices of the Commission.

(OCRE) has been under the supervision of an acting director for more than 2 years. This position is important because OCRE is often called upon to provide subject matter and analytical expertise for preparing evaluations of civil rights issues. As the Commission recently reported, significant gaps exist in all mission-critical positions (civil rights analyst, social science analyst, attorney, supervisor/manager, information technology specialist, chief of public affairs, and chief of congressional affairs).⁷

During fiscal year 2012, the Commission took steps to help expedite the appointment of a staff director or acting staff director. However, in the absence of such an appointment, the Commission ultimately revised certain policies and procedures, temporarily reassigning several functions of the staff director.

⁷United States Commission on Civil Rights, *Human Capital Management Report FY 2011*.

Figure 1: Organization Chart as of September 30, 2012



- Legend:
- Filled Position
 - Positions Filled by the Same Person
 - Vacant Position

Source: OIG.

Attachment II

Better Leveraging State Advisory Committees

The Commission has long recognized the challenge of effectively utilizing the state advisory committees that it has established in each of the 50 states and the District of Columbia, as required by statute. However, the Commission continues to report mixed progress and acknowledges serious concerns regarding its efforts to reduce the number of committees not re-chartered after their 2-year charters expire, and to otherwise increase committee productivity. For example, at the end of fiscal year 2012, only 23 of the 51 committees had active charters, and the Commission had publicly released only three committee reports during the year. Therefore, we believe the Commission continues to face the challenge of leveraging these committees better in helping to achieve its mission.

State advisory committees are composed of private citizen volunteers appointed by the Commission to help identify local civil rights issues. Each committee must have a minimum of 11 members, but no more than 19. Membership is subject to certain general guidelines, such as balance in the representation of different viewpoints and fairness in the functions to be performed. The committees can investigate within their states any subject that the Commission itself is authorized to investigate and provide advice to the Commission in writing about their findings and recommendations.⁸ They are also authorized to hold public fact-finding meetings and to invite government officials and private persons to provide information and their views on various subjects. According to requirements of the Federal Advisory Committee Act, as amended, each committee must have a charter approved by the Commission that enables it to operate and which is valid for a term of 2 years.⁹ The Commission is then responsible for renewing the charters. If the charter is not renewed at the end of the term, the committee terminates.

A May 2006 GAO report highlighted the need for timely re-chartering and made recommendations to improve the re-chartering process and make the most effective use of the state advisory committees.¹⁰ The Commission subsequently implemented these recommendations through actions that included developing a formal process for approving charters within specific timetables; establishing a 65-day timeframe for national office review of committee reports, and incorporating the mission and work of

⁸State advisory committees advise the Commission about any (1) alleged deprivations of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, or national origin, or in administration of justice, (2) matters related to discrimination or denial of equal protection of the law and the effect federal laws and policies have with respect to equal protection of the laws, and (3) matters of mutual concern in the preparation of reports of the Commission to the President and Congress. They are also charged to assist the Commission and receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to advisory committee inquiries.

⁹Federal Advisory Committee Act, 5 U.S.C. appendix 2.

¹⁰GAO, *U.S. Commission on Civil Rights: The Commission Should Strengthen Its Quality Assurance Policies and Make Better Use of Its State Advisory Committees*, GAO-06-343 (Washington, D.C.: May 1, 2006).

these committees in its strategic plan. In addition, the Commission’s 2008-2013 strategic plan established objectives and performance measures related to state advisory committees to help meet its goal of shaping a national conversation on current and future civil rights issues that identifies civil rights priorities for policymakers.¹¹ For example, an objective for this goal was to reinvigorate the state advisory committees, which included performance measures to (1) increase the number of committees re-chartered annually, (2) eliminate the backlog of un-chartered committees, and (3) achieve an average re-charter time of 60 days.

As indicated in table 1 below, annual performance measures reported by the Commission for its state advisory committees showed some limited improvements. In particular, the number of committees with active charters increased from 26 (51 percent) in fiscal year 2008 to 36 (71 percent) in fiscal year 2011. However, this progress had not continued in fiscal year 2012 as only 23 (45 percent) committees had active charters. Final fiscal year 2012 data on the number of fact-finding activities was not available at the time we completed our report. Regarding its fiscal year 2011 data, the Commission acknowledged that due primarily to the lack of civil rights analysts in all but one of its six regional offices, committee fact-finding activities had decreased and that of the nine completed reports, only three were fact-finding activities.

Table 1: Commission Performance Data for State Advisory Committees–Fiscal Years 2008 to 2012

Number of committee:	Fiscal year				
	2008	2009	2010	2011	2012
Active charters (percent of 51 committees)	26 (51%)	33 (65%)	39 (76%)	36 (71%)	23 (45%)
Reports	5	7	5	9	3
Fact-finding activities (meetings, briefings, forums)	21	14	22	13	^a

^aFinal fiscal year 2012 data on the number of fact-finding activities was not available at the time we completed our report. Source: OIG analysis of Commission data.

Our interviews confirmed that timely re-chartering of state advisory committees remains a serious Commission concern. They also highlighted a number of factors that they believe contribute to re-chartering delays and other committee productivity issues, which included:

- **Limited resources to support committee activities:** The Commission has six regional offices that assist the 51 state advisory committees in their planning, fact-finding, reporting, and re-chartering activities. However, regional office staffing to accomplish these duties is minimal. Most offices consist of two staff members,

¹¹U.S. Commission on Civil Rights, *Reinvigorating the Nation’s Civil Rights Debate–2008-2013 Strategic Plan* (as adopted October 2007).

usually a director and an administrative person. Some commissioners and managers also noted that a lack of funding limited committee activities.

- **Commission partisanship:** The commissioners are responsible for approving the appointment of state advisory committee members. Some commissioners and managers believed that partisanship made it difficult to vet committee members, which affected the timeliness of re-chartering the committees.
- **Two-year committee appointments:** The Commission appoints its state advisory committee members for a 2-year term. Some commissioners and managers noted that the 2-year appointment term was not long enough, primarily given the requirements of the re-appointment process, and offered solutions such as having the Commission seek to increase the length of committee appointments.
- **Lack of staff director:** Duties of the staff director include submitting recommendations for committee appointments to the Commission prior to its vote on committee re-chartering as well as approving the release of SAC reports. During fiscal year 2012, the Commission had no Presidentially-appointed staff director and had an acting staff director for only about the first half of the year. As a result, some commissioners and managers identified this as an obstacle to timely committee re-chartering and to the low number of SAC reports published.

During fiscal year 2012, the Commission took several actions to address timely re-chartering. In particular, in the absence of a staff director, the Commission established temporary procedures that authorized the Commission Chair to review final committee reports, and created a bipartisan committee of two commissioners to make recommendations to the Commission on committee re-chartering. In addition, the Commission approved the goals and objectives for its next strategic plan (2014-2018) that included an overall goal of increasing the participation of the state advisory committees, with a specific objective of strengthening the re-chartering process.

(999821)

Reporting Fraud, Waste, and Abuse in the U.S. Commission on Civil Rights

To report fraud, waste, or abuse in Commission programs and operations, do one of the following. (You may do so anonymously.)

- Call toll-free (866) 680-7963 to speak with a hotline specialist, available 24 hours a day, 7 days a week.
- Report online at: <https://oig.alertline.com>.

Obtaining Copies of Office of the Inspector General Reports, Publications, and Testimonies

Copies of OIG reports, publications, and testimonies are available on the Commission's website: <http://www.usccr.gov/OIG/index.php>.