



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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TESTIMONY BEFORE THE
COMMITTEE ON HOUSE ADMINISTRATION
U.S. HOUSE OF REPRESENTATIVES

HEARING: *OVERSIGHT OF THE FEDERAL ELECTION COMMISSION*

SEPTEMBER 20, 2023

Introduction

The Federal Election Commission (“FEC”) is taking the opportunity of the Committee on House Administration’s oversight hearing to provide this report to the Committee. The Federal Election Commission was established by the Federal Election Campaign Act Amendments of 1974.¹ Congress created the Commission to strengthen the integrity of the federal campaign finance process under the Federal Election Campaign Act (FECA).² The Commission is also responsible for administering the public funding program for presidential campaigns under the Presidential Election Campaign Fund Act and the Presidential Primary Matching Payment Account Act.³ The Federal Election Campaign Act, which is the foundation of federal campaign finance regulation, reflects Congress’s efforts to ensure that voters are fully informed about the sources of candidates’ financial support. FECA also imposes amount limitations and source prohibitions on contributions received by federal candidates, political party committees and other political committees. Public confidence in the political process depends not only on laws and regulations to ensure transparency of campaign finance, but also on the knowledge that noncompliance may lead to enforcement proceedings.

The Federal Election Commission’s mission is to protect the integrity of the federal campaign finance process by providing transparency and fairly enforcing and administering federal campaign finance laws. The FEC’s strategic goal of fairly, efficiently and effectively administering and enforcing the Federal Election Campaign Act encompasses four strategic objectives:

- to inform the public about how federal campaigns and committees are financed;
- to promote voluntary compliance through educational outreach and to enforce campaign finance laws effectively and fairly;
- to interpret the FECA and related statutes, providing timely guidance to the public regarding the requirements of the law; and
- to foster a culture of high performance in order to ensure that the agency accomplishes its mission efficiently and effectively.

To accomplish its legislative mandate, the FEC is directed by up to six Commissioners, and the six currently serving Commissioners all appear before the Committee today. Currently, 305 employees (which includes the Commissioners) support the agency in accomplishing its mission. The Commission maintains its redesigned website at FEC.gov and, in March 2018,

¹ Federal Election Campaign Act Amendments of 1974, Public Law 93-443, 88 Stat. 1263 (1974).

² Federal Election Campaign Act of 1971, Public Law 92-225, 86 Stat. 3 (1972), as amended (FECA). FECA is codified at 2 U.S.C. §§ 431 to 455.

³ Presidential Election Campaign Fund Act, Public Law 92-178, 85 Stat. 562 (1971), codified at 26 U.S.C. §§ 9001 to 9013; and Presidential Primary Matching Payment Account Act, Public Law 93-443, 88 Stat. 1297 (1974), codified at 26 U.S.C. §§ 9031 to 9042.

moved to its new offices at 1050 First Street, Northeast, in Washington, D.C. The Federal Election Commission received an appropriation of \$81,674,000 for Fiscal Year (FY) 2023.

The Commission did not have a quorum of at least four members from September 2019 to June 2020. Commissioner Trainor joined the Commission in June 2020, which brought Commission membership to four. Shortly thereafter with another commissioner’s resignation, the Commission again lost its quorum from July to December 2020. Commissioners Broussard, Cooksey and Dickerson joined in December 2020, which restored a quorum to the Commission, and Commissioner Lindenbaum joined the Commission in August 2022.

I. FEC’s BUDGET

A. FUNDING

Table 1 below presents the appropriations the Federal Election Commission has received in FY 2016 through FY 2023, the amounts provided in the bills reported by the House of Representatives Appropriations Committee and the Senate Appropriations Committee for FY 2024, as well as the amount the FEC requested for FY 2025 in its September 11, 2023 submission to the Office of Management and Budget (OMB).⁴ (Excluded are amounts for lease termination expenses of \$5 million and \$8 million for FYs 2016 and 2017, respectively.)

Table 1: FEC Appropriations

Fiscal Year	Appropriation Level	Amount for Operational Budget
FY 2016	Enacted	\$71,119,000
FY 2017	Enacted	\$71,119,000
FY 2018	Enacted	\$71,250,000
FY 2019	Enacted	\$71,250,000
FY 2020	Enacted	\$71,497,000
FY 2021	Enacted	\$71,497,000
FY 2022	Enacted	\$74,500,000
FY 2023	Enacted	\$81,674,000
<i>FY 2024</i>	<i>President’s Budget/Agency Request</i>	<i>\$93,483,187</i>
<i>FY 2024</i>	<i>S. 2309</i>	<i>\$81,674,000</i>
<i>FY 2024</i>	<i>H. R. 4664</i>	<i>\$74,500,000</i>
<i>FY 2025</i>	<i>FEC’s OMB Budget Request</i>	<i>\$98,341,185</i>

The Commission is well aware of the constraints on federal spending generally, and although the FEC’s appropriation is a small portion of discretionary spending, the Commission appreciates the support of its mission that Congress has shown in this budget climate by

⁴ The Federal Election Campaign Act requires that, whenever the FEC submits any budget request to OMB, the Commission must concurrently transmit a copy of the budget request to Congress. FECA, § 307(d), *codified at* 52 U.S.C. § 30107(d).

maintaining these appropriation levels during the period FYs 2016 to 2021 and for the 4.20 percent and 9.63 percent increases in FYs 2022 and 2023, respectively. The Commission also understands that the Committee on House Administration does not appropriate funds. However, effective oversight of the agency would not be possible without due consideration to the FEC budget outlook.

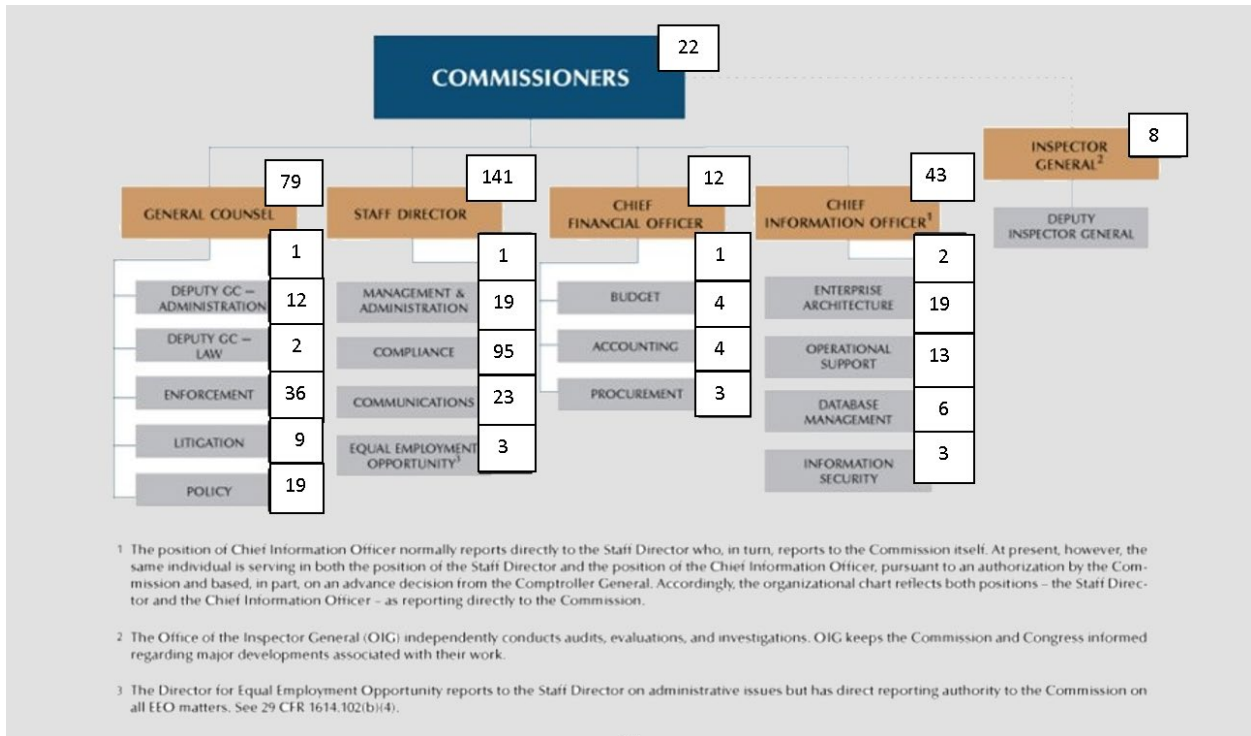
During the period while funding amounts for the FEC were generally level, the Commission faced rising costs. The FEC was able to meet its statutory mission primarily due to efficiencies gained by reassigning staff using details, maximizing operational efficiencies through reorganizations, and improving technology and processes, among other efficiencies. For non-personnel costs, the Commission continually reviews its operations and processes for opportunities to enact cost-saving measures. Senate electronic filing continues to permit the FEC to avoid what would have been insurmountable expenses as well. For personnel costs, the Commission has critically analyzed every position vacated through attrition to determine whether the agency could absorb the loss of that position by using existing staff resources, and constrained hiring has contributed to reductions in FEC staffing levels. In recent years, the FEC has begun to exhaust the benefits that can be gained through such efficiencies and has, in some situations, reduced performance targets in response to these reductions in staffing amid increasing campaign finance activity.

The FEC's increasing workload continues to strain current staffing resources. During the period FY 2012 to FY 2022, the number of FEC employees was reduced by approximately 17 percent while the levels of campaign finance activity, and the resulting workload, was increased. Between FY 2016 and FY 2022, the FEC also reduced IT operational costs and largely refrained from funding the modernization of certain systems to stay within appropriated levels. This has placed strain on IT operations and the agency's cybersecurity posture. With the 2024 presidential election fast approaching, the agency predicts that additional funding will be needed to continue services and IT security at current levels. At the same time, the agency plans to continue targeted investments towards its modernization efforts to account for significant growth in transactions reported to the FEC and real-time information requests from its website. The requested increases for FYs 2024 and 2025 would allow the FEC to continue its hiring momentum from FY 2023 and continue to modernize its infrastructure to support its disclosure mission. Reductions from those amounts could require the FEC to reverse its hiring momentum and, under the appropriation level in H.R. 4664, the agency would need to target an FY 2025 staffing level that is lower than the agency's current staffing level. Additionally, most IT modernization projects would be paused under the H.R. 4664 funding scenario, at the risk of losing some of the value of previous investments in these projects and of reducing the level of service the agency is able to provide to the public.

B. FEC's ALLOCATION OF STAFF

Federal Election Commission employees are arranged into various mission-related or support offices in order to accomplish the agency's mission and meet the requirements of other legislation. Chart 1 below depicts that arrangement and has been annotated with the number of employees in each of the organizational units.

Chart 1: FEC's Organizational Structure and Distribution of Employee 305 Employees as of September 15, 2023



The Office of Compliance includes the Reports Analysis Division (65), the Audit Division (25), the Alternative Dispute Resolution Office (3), and the Office of Administrative Review (1) (which reviews the challenges within the Administrative Fine Program). The Office of Communications includes the Information Division (13), the Public Disclosure and Media Relations Office (8) and Congressional Affairs (2).

During the period FY 2012 to FY 2022, the number of FEC employees was reduced by approximately 17 percent while the levels of campaign finance activity, and the resulting workload, was increased. Chart 2 illustrates the decrease in FTE FY 2013 to FY 2022.

**Chart 2: FEC Actual FTE
FY 2013 to FY 2022**

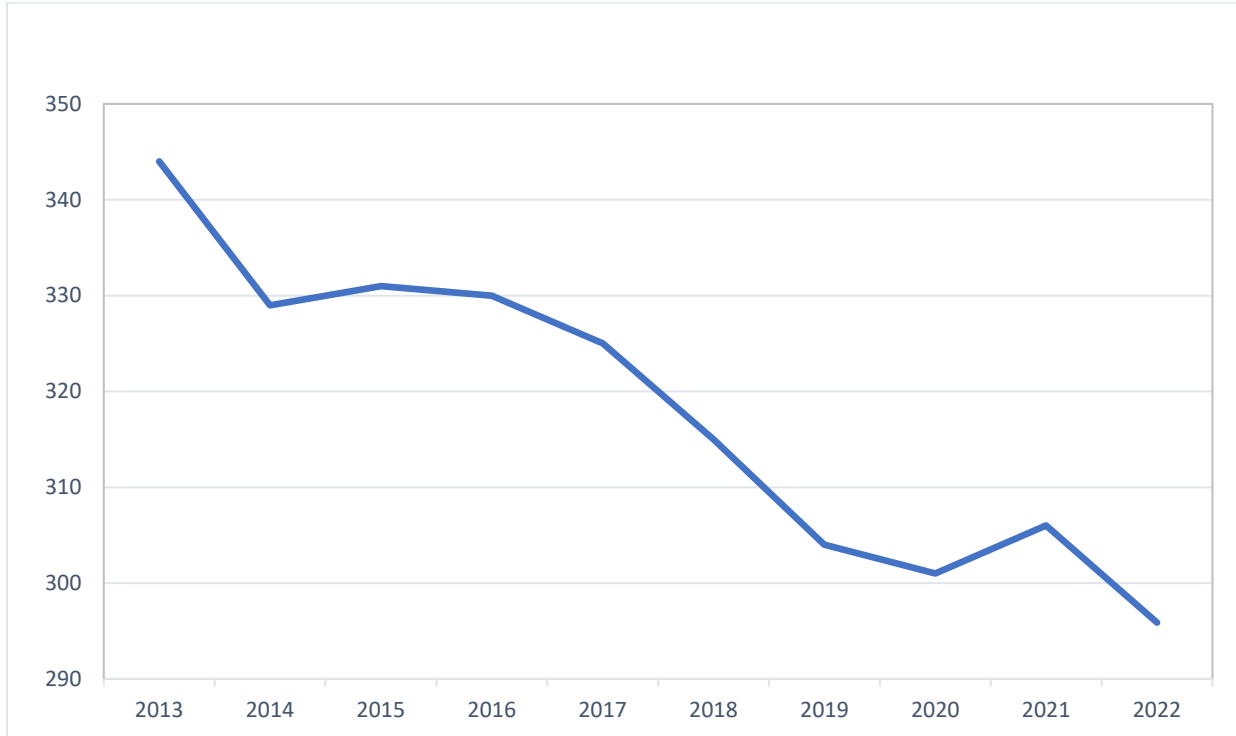


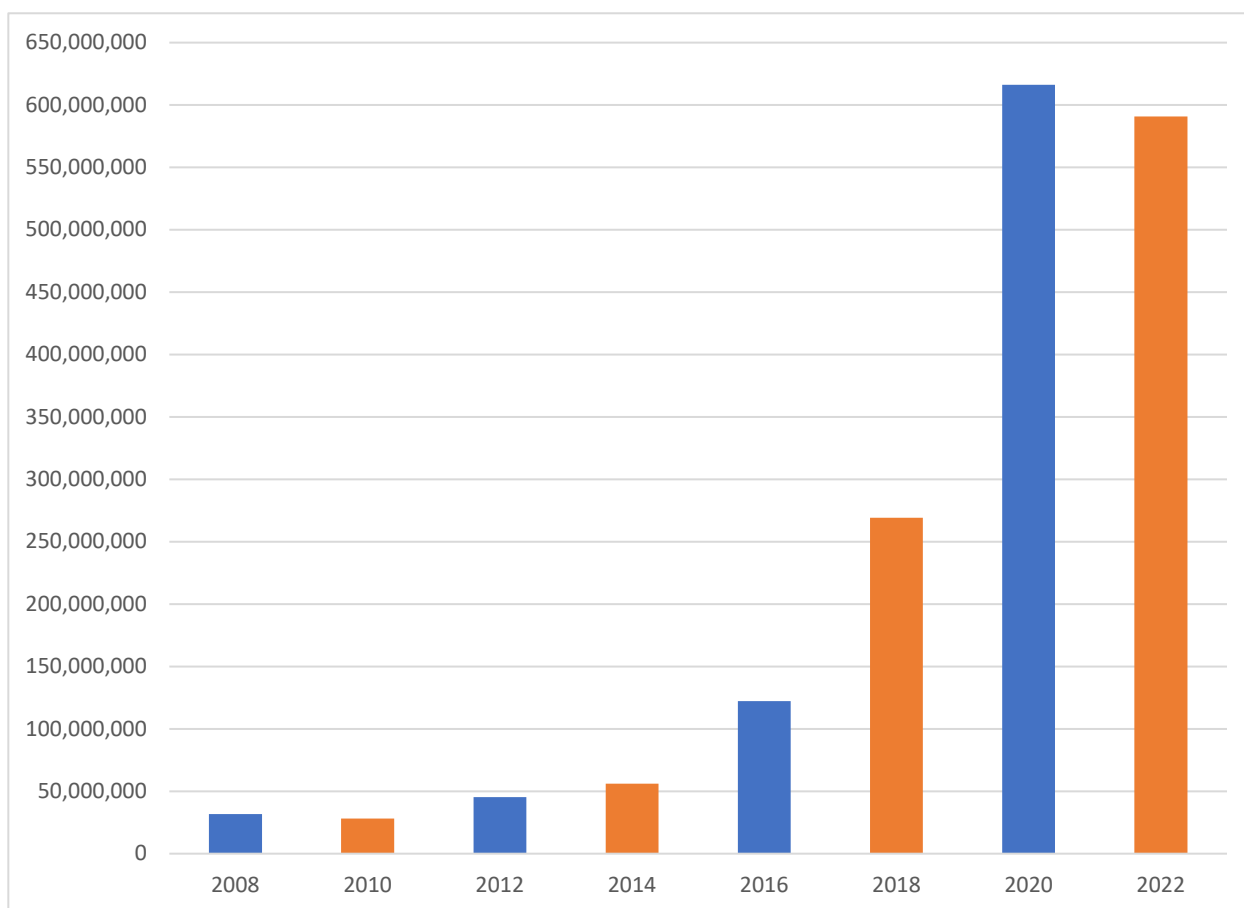
Table 2 below shows the declines in FEC staffing broken down by office.

Table 2: FEC Employment Levels

Office/Division	2012	2023	Change	Change
Office of Commissioners	21	22	+1	+1.1%
Office of Staff Director	205	184	-21	-10.2%
Staff Director	2	1	-1	-50.0%
Office of Compliance	108	95	-13	-12.0%
Office of Communications	27	23	-4	-14.8%
Office of Management & Admin.	21	19	-2	-9.5%
Equal Employment Opportunity	3	3	0	0.0%
Office of Chief Information Officer	44	43	-1	-2.2%
Office of General Counsel	109	79	-30	-27.5%
General Counsel	3	1	-2	-66.7%
Administration	10	12	+2	+20.0%
Policy Division	21	19	-2	-9.5%
Enforcement Division	59	36	-23	-38.9%
Litigation Division	14	9	-5	-35.7%
Law	2	2	0	0%
Office of the Chief Financial Officer	13	12	-1	-7.7%
Office of the Inspector General	6	8	+2	+33.3%
TOTAL	354	305	-49	-13.8%

In order to fulfill its disclosure mission, the FEC receives campaign finance reports, statements and other disclosure documents from more than 16,000 political committees and other filers. During the 2020 presidential election cycle, these filers reported more than 600 million financial transactions, which were reviewed by FEC staff and disclosed to the public on the FEC’s website. This is more than double the number of transactions reported in the previous election cycle, and a nearly 400 percent increase compared to the previous presidential election cycle. During the 2022 election cycle, these filers reported more than 590 million financial transactions, also which were reviewed by FEC staff and disclosed to the public on the FEC’s website. This is a nearly 120 percent increase compared to 2018, the last nonpresidential election cycle. Based on transactions reported this cycle so far, and comparing that data to the experience in the most recent presidential election cycle, the FEC’s OCIO projects that reported transactions in 2023-2024 will very likely establish new records for the number of reported transactions. Chart 3 below illustrates the increase in reported transactions.

**Chart 3: Transactions Reported to the FEC
2008-2022 Election Cycles**



II. FEC’s PERFORMANCE AND OPERATIONS

A. CAMPAIGN FINANCE INFORMATION

1. Engaging and Informing the Public About Campaign Finance Information

Disclosing the sources and amounts of funds used to finance federal elections is one of the most important duties of the FEC. Full disclosure of the sources and amounts of campaign funds and fair enforcement of federal campaign finance laws allow the public to make informed decisions in the political process. Transparency requires that information is not only kept by the FEC, but also provided to the public in an easily accessible way. The campaign finance reports are accessible to the public through FEC.gov at <https://www.fec.gov/data/>. By making disclosure reports available online, the FEC provides the public with up-to-date information about the financing of federal elections and political committees’ compliance with campaign finance laws.

Table 3 below presents the Total Receipts and Disbursements Reported to the FEC by all entities that disclosed to the FEC over the last six completed election cycles. For each election cycle, it also includes a count of the number of transactions reported to the FEC. This count shows dramatic increases due to new fundraising and contribution sharing techniques that have resulted in voluminous reports to be processed at the FEC.

Table 3: Total Reported Receipts, Disbursements and Transactions

Election Cycle	Total Receipts	Total Disbursements	Transaction Count
2012	\$8,884,594,132	\$8,795,764,278	45,246,781
2014	\$5,976,582,396	\$5,815,419,284	55,976,477
2016	\$10,926,836,244	\$10,729,954,205	122,147,807
2018	\$10,333,084,467	\$10,010,442,497	269,306,129
2020	\$27,920,436,935	\$27,179,565,409	616,177,514
2022	\$16,756,114,939	\$16,616,729,447	590,843,921

Over the past several years, the FEC has made significant progress to modernize its IT systems and processes. These efforts include the redesign of the FEC website and the migration to a cloud environment of the FEC’s campaign finance database, which contains over forty years of transaction-level campaign finance data reported to the agency. Handling the surge in transaction counts would have been extraordinarily difficult and expensive, if the database had not migrated to a cloud environment. Moreover, the FEC began to shut down its four physical data centers during FY 2018, completed the migration of all targeted applications since then, and anticipates completing the agency’s cloud migration during FY 2024. To continue to mitigate an anticipated steep rise in future cost, the FEC is pursuing a modernization plan now and over the next several years to continue cloud migration and improve IT processes.

Chart 4 below presents Total Receipts and Disbursements Reported to the FEC by all entities since 1980.

**Chart 4: Total Receipts and Disbursements
1980-2022**

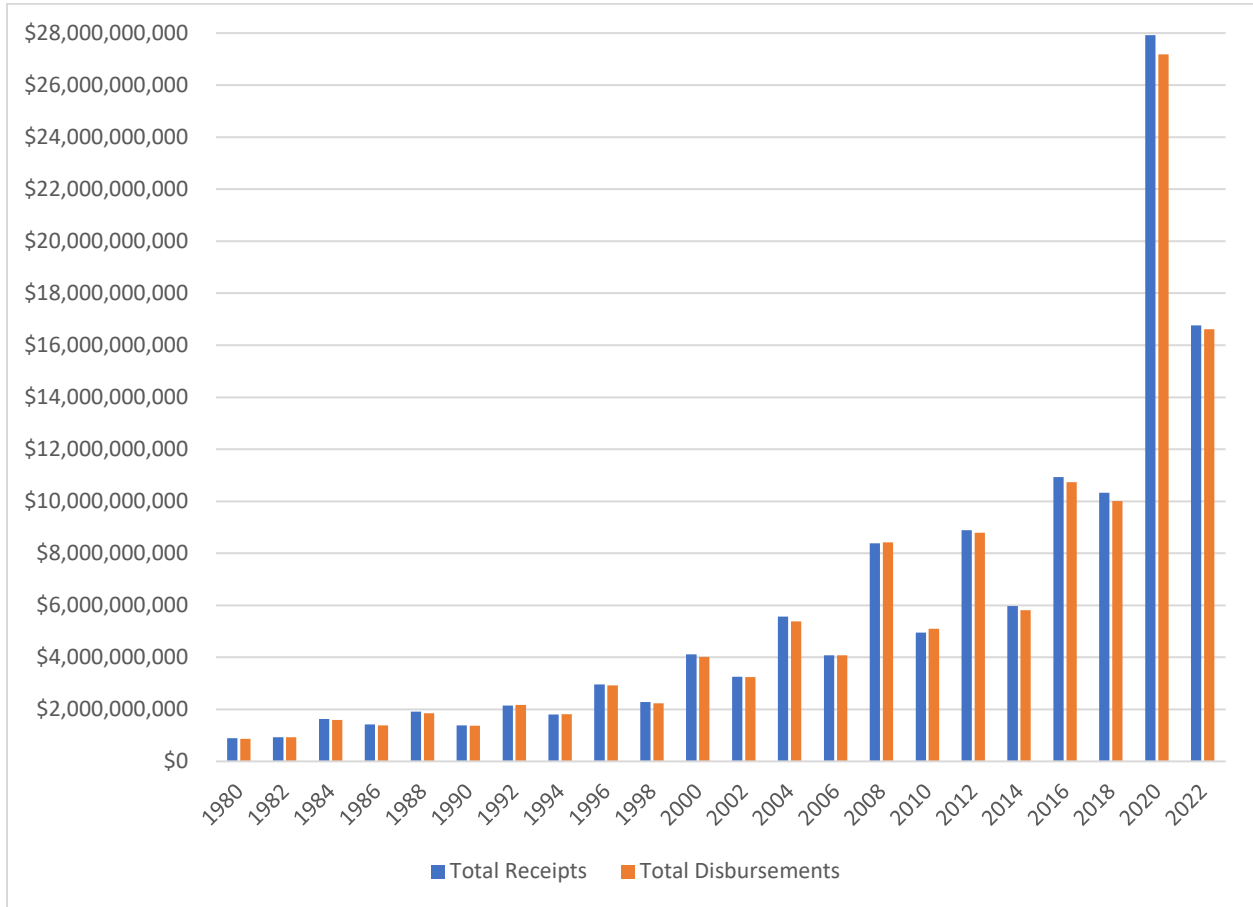
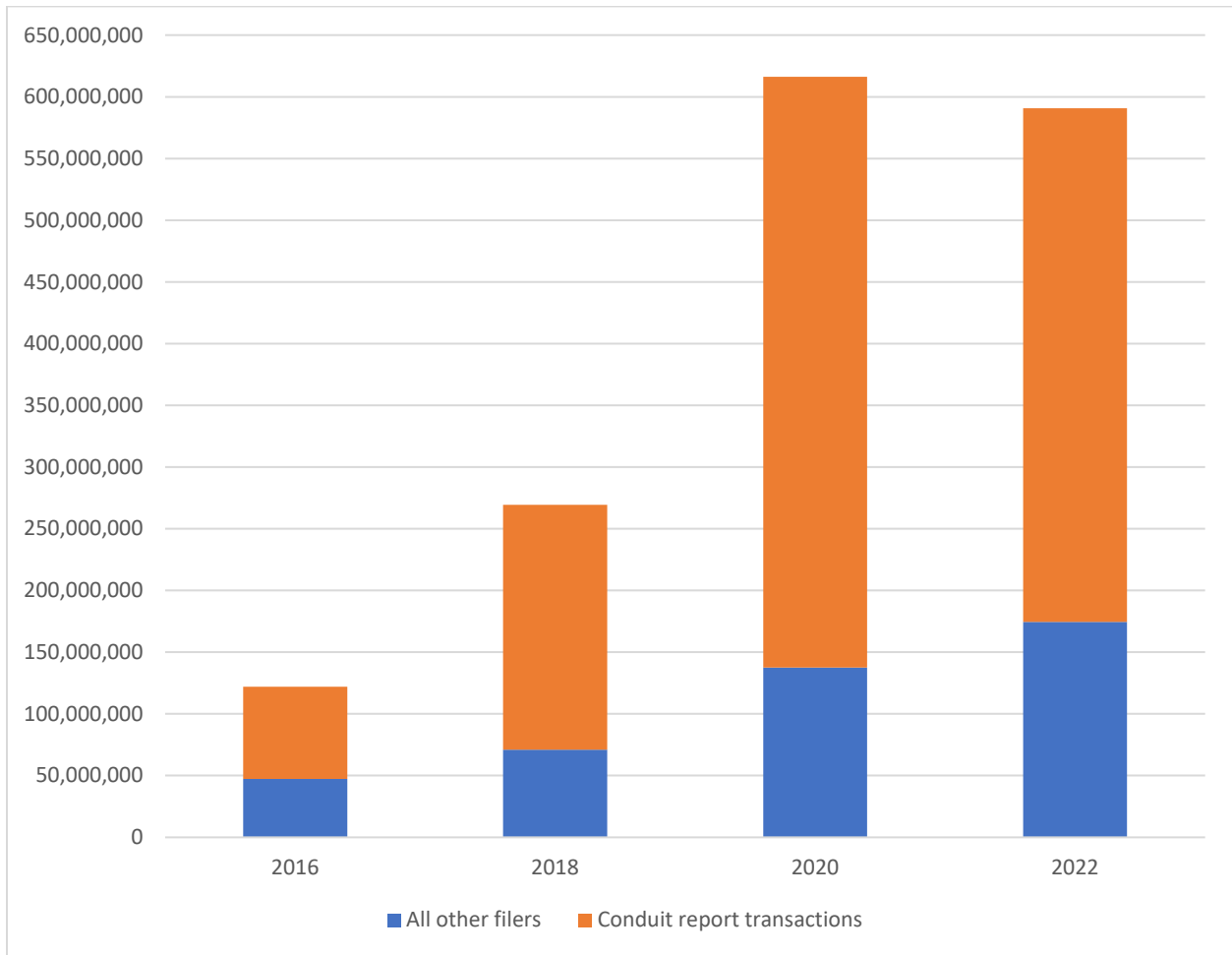


Chart 3 above shows the increase in the number of transactions reported to the FEC, and Chart 5 below shows that this increase is accounted for by increasing numbers of transactions reported by conduits.

**Chart 5: Transactions Report to the FEC
2016-2022 Election Cycles**



Transparency requires that information is not only kept by the FEC, but also provided to the public in an easily accessible way. In order to make certain that campaign finance disclosure information is quickly available and easily accessible to the public, the agency has made a number of improvements to modernize its campaign finance disclosure database and public interface. Specifically, the FEC has developed application programming interfaces (APIs) and other tools to improve access to campaign finance data. The API permits users to customize data searches making vast quantities of campaign finance data readily available. It received over 407 million hits during the 2020 presidential election cycle. With the steep rise in transactions reported every election cycle comes a heavier burden on the FEC’s API to quickly search across the FEC’s campaign finance database and display the data requested by the public. These trends

in campaign finance activity illustrate how crucial it is for the agency to continue to implement new programs and systems to ensure the timely disclosure of this increasing volume of campaign finance data.

Three Information Technology (IT) modernization projects in particular are essential components of the FEC's long-term strategy to meet the increase in both reported transactions and public demand for this data: (1) efforts to modernize the FEC's eFiling software and the eFiling System Infrastructure; (2) the modernization of the campaign finance data pipeline and (3) legacy applications migrated to the cloud during previous fiscal years, including the modernization of legacy programs that support the critical tasks of data review and management workflow and the voting and certification system used by the Commission. Adequate funding will help to ensure that the FEC continues work to modernize the eFiling system and internal applications, including the modernization of the campaign finance data pipeline, solutions for the Reports Analysis Division's review process and the voting and certification system used by the Commission. The successful completion of these projects will ensure the FEC can continue to efficiently, fairly and effectively achieve its mission.

2. Protecting Campaign Finance Information

Protecting information technology systems and data has never been more vital than in the current environment, particularly for the campaign finance information reported to the FEC. The Commission has taken strategic steps to implement a platform of security and privacy. FEC recognizes that perfect security is not feasible; it is a continuing process of detecting risks, process improvements and hardening defenses. For that reason, the benchmark of the FEC's approach to cybersecurity is practicability and continuous improvement. The FEC's cybersecurity strategy outlines an approach of securing infrastructure and preventing intrusions through a holistic cybersecurity program led by the Chief Information Security Officer. In partnership with the United States Department of Homeland Security and cybersecurity partners, the agency continues to evaluate emerging threat vectors and focus on efforts to enhance both defenses and mitigation strategies as potential intrusion attempts occur on a regular basis.

The FEC has adopted a four pillared approach to security and privacy. The four pillars are to (1) adopt National Institute of Standards and Technology Cyber Security Framework; (2) implement a robust security architecture; (3) adopt Cloud First Initiative; and (4) build a cybersecurity culture.

Adopt National Institute of Standards and Technology Cyber Security Framework

The first pillar of the FEC's overarching strategy to protect security and privacy is to adopt the National Institute of Standards and Technology (NIST) Cyber Security Framework (CSF). The FEC is exempted from the Paperwork Reduction Act's requirement that federal agencies adhere to the NIST standards for information technology security. Nonetheless, the Commission voted to adopt the NIST *Risk Management Framework* and NIST IT security control "best practices." The FEC's cyber security strategy, which encompasses the NIST CSF and industry best practices, outlines an approach of securing infrastructure and preventing intrusions through a holistic cybersecurity program.

Implement a Robust Security Architecture

The second pillar of our strategy is to implement a robust security architecture. In partnership with the Department of Homeland Security (DHS), the OCIO has collaborated with FEC stakeholders and technical experts to identify, protect, detect and respond to the impact of known and unknown threats, continuously assessing security controls and addressing the remaining residual risks. The FEC has also entered into an inter-agency agreement with DHS to participate in the Federal Continuous Diagnostics and Mitigation program. By partnering with DHS, the FEC is able to leverage that agency's cybersecurity resources, which would be cost prohibitive for an agency of the FEC's size to procure independently.

The FEC has proactively pursued significant joint efforts with DHS to better identify and remediate emerging threats to the FEC's systems and networks. In addition, the FEC maintains ongoing information security efforts, including a security operation center, participation in CISA's Continuous Diagnostics and Mitigation (CDM) program, and security controls that address identified cybersecurity gaps. These efforts help to ensure that identified risks are appropriately addressed and that the cybersecurity program and security architecture will continue to safeguard the agency's infrastructure, networks, and applications against cyber threats and malicious activities.

Adopt Cloud First Initiative

The third pillar of our strategy is to adopt a cloud first initiative for security, accessibility and recoverability. Hosting systems and data in a cloud environment allows the FEC to utilize our cloud service providers' significant resources that are dedicated to maintaining the highest level of security. In addition, by utilizing the cloud service providers' robust disaster recovery solutions, the FEC eliminates the need to maintain physical disaster recovery sites, which are costly to maintain and secure. The FEC has already completed the migration of its largest database, the campaign finance database, its website and targeted applications to a cloud environment. FEC.gov, which was launched in May 2017, uses FedRAMP Authorized cloud services, which provides a standardized approach to security assessment, authorization, and continuous monitoring for cloud products and services.

Build a Cybersecurity Culture

The fourth pillar of this strategy is to build a cybersecurity culture. For this comprehensive cybersecurity strategy to be successful, the OCIO will partner with Federal agencies and industry leaders to leverage best practices for our IT workforce. The first line of defense in maintaining the protection and integrity of the agency's network is the ongoing education of employees about their role in identifying and preventing malicious activities. Additionally, the FEC has taken steps to build capacity in its Information Security Office, and it has recently filled a security position with a cybersecurity engineer/analyst.

B. PROMOTING COMPLIANCE WITH THE FEDERAL ELECTION CAMPAIGN ACT

1. Encouraging Compliance Through Education

Helping those subject to the Commission's jurisdiction understand their obligations under federal campaign finance laws is an essential component of voluntary compliance. The FEC's education and outreach programs provide information necessary for compliance with campaign finance laws and give the public the context necessary to interpret the campaign finance data filers disclose.

Using the FEC's toll-free line and public email accounts, staff in the Information Division, Reports Analysis Division, Congressional Affairs Office and Public Disclosure and Media Relations Division respond to thousands of inquiries each year regarding campaign finance data disclosed to the public and questions about how to comply with the campaign finance law and its reporting requirements.

The Commission also encourages voluntary compliance by hosting interactive training programs for candidates, parties and political action committees. Online discussions of campaign finance topics, webinars and regional conferences address recent changes in the law and focus on fundraising, methods of candidate support and reporting regulations. The agency expects to resume its regional conferences in the 2025-26 election cycle. In the interim, committees will have the opportunity to attend in-person seminars at FEC headquarters this fall and a full slate of webinars throughout the remainder of this cycle.

Another online training service enables political committees, reporters, students and other groups to schedule live, interactive online training sessions with FEC staff. This on-demand service allows the FEC to provide tailored, distance learning presentations and training to the public in a manner that significantly increase the availability of FEC staff to serve the public. The service also offers an efficient and effective way for alternative dispute resolution and other enforcement respondents to satisfy the terms of their agreements with the agency.

In addition to these interactive training programs, the Commission provides a myriad of educational resources on its YouTube channel (FECTube) and website (FEC.gov). FECTube offers a wide range of instructional videos and tutorials—including curated playlists for candidates, parties, PACs and individual citizens—that enable users to obtain guidance tailored to their specific activities. Website visitors can access comprehensive guides written in plain language that summarize the rules for all types of committees, from registration to termination. Although these guides are also available in print, the FEC's transition to web-based media has allowed the agency to reduce significantly its printing, storage and mailing costs while at the same time encouraging new and expanded ways of communicating with the public via the website. For example, visitors can sign up to receive email notifications any time website content that interests them is updated and when campaign finance reports are received by the agency.

The Commission’s website is also an important source of instantly accessible information about FECA, Commission regulations, and Commission proceedings. In addition to viewing campaign finance data, anyone with Internet access can use the website to track Commission rulemakings, search advisory opinions, audits, and closed enforcement matters, view campaign finance data, and find reporting dates.

2. Enforcing FECA’s Requirements

a. Enforcement and Compliance Processes

The FEC has formed strategies for ensuring that its enforcement and compliance programs are fair, effective and timely. The Commission’s statutory obligation is to administer, interpret and enforce the Federal Election Campaign Act, which serves the compelling governmental interest in deterring corruption and the appearance of corruption in financing elections. In doing so, the Commission remains mindful of the First Amendment’s guarantees of freedom of speech and association, and the practical implication of its actions on the political process.

The FEC has exclusive jurisdiction over civil enforcement of federal campaign finance laws. Commission enforcement actions, which are handled primarily by the Office of General Counsel (OGC), originate from a number of sources, including external complaints, referrals from other government agencies and matters generated by information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. Enforcement matters are handled by OGC pursuant to the requirements of FECA. If the Commission cannot settle or conciliate a matter involving an alleged violation, the Commission may initiate civil litigation by filing and prosecuting a civil action in Federal district court to address the alleged violation. Closed enforcement matters are available via the FEC website.

The United States Department of Justice (DOJ) has jurisdiction over criminal enforcement of federal campaign finance laws. The Commission consults with DOJ, as appropriate, on matters involving both civil and criminal enforcement of FECA. In April 2023, the Commission and the FEC reached a new Memorandum of Understanding (MOU) that explains: “[t]he purpose of this MOU is to promote the enforcement of federal campaign finance laws and to establish guidelines for the Commission and [DOJ] to engage in parallel proceedings, share information in the appropriate circumstances, and otherwise properly advance the missions of both agencies subject to all relevant legal and ethical constraints informed by mutual respect of the independence of each agency.”⁵ The MOU replaced an earlier agreement that dated from 1977, and in reaching a new agreement, the FEC and DOJ resolved successfully

⁵ Commissioner Trainor voted against approval of the MOU and issued a [Statement](#) explaining his position.

the only findings from a comprehensive review of campaign finance law by the United States Government Accountability Office.⁶

To augment OGC’s traditional enforcement role, the Office of Compliance manages several programs that seek to remedy alleged violations of FECA and encourage voluntary compliance. These programs include: 1) the Alternative Dispute Resolution (ADR) Program, 2) the Administrative Fine Program and 3) the Audit Program. The Commission’s Alternative Dispute Resolution Program is designed to resolve matters more swiftly by encouraging the settlement of less-complex enforcement matters with a streamlined process that focuses on remedial measures for candidates and political committees, such as training, internal audits and adopting compliance and internal control measures. Violations involving the late submission of, or failure to file, disclosure reports are subject to the Administrative Fine Program. This Program is administered by the Reports Analysis Division (RAD), which assess monetary penalties, and the Office of Administrative Review, which handles challenges to the penalty assessments. The Audit Program conducts “for cause” audits under the FECA in those cases where political committees have failed to meet the threshold requirements for demonstrating substantial compliance with the Act, and conducts mandatory audits under the public funding statutes. Subject to limited redactions, program review requirements approved by the Commission and used by RAD and the Audit Division are public documents.

Commission staff in RAD review an ever-increasing volume of reports to track compliance with the law and to ensure that the public record provides a full and accurate representation of reported campaign finance activity. If the FEC’s review identifies an apparent violation or raises questions about the information disclosed on a report, RAD sends a request for additional information to the filer, affording an opportunity to take remedial action or correct the public record, if necessary. If the filer is able to resolve the FEC’s concerns, it may avoid an enforcement action. If not, the Commission has several tools available to it, such as the Administrative Fine Program, Audit Program, the ADR Program and the traditional enforcement program. In addition, RAD devotes a significant amount of resources assisting filers with compliance, handling phone calls on a daily basis, and electronic inquiries through a new web portal system.

The ADR Program was implemented in FY 2001 with the primary objective to enhance the agency’s overall effectiveness through more expeditious resolution of enforcement matters with fewer resources required to process complaints and internal referrals. A case is closed when the Commission votes on the recommendation made by the ADR Office (ADRO) as to what final action should be taken. The ADRO has closed 1,064 matters from the inception of the program through August 31, 2023, assessing \$3,043,478 in civil penalties.

In response to a legislative mandate, an Administrative Fine Program was implemented in July 2000 to address late and non-filing of disclosure reports in a more efficient and effective manner. The Administrative Fine Program is administered by RAD and Office of Administrative Review, which are within the Office of Compliance. Since the Administrative

⁶ U.S. Government Accountability Office, *Campaign Finance: Federal Framework, Agency Roles and Responsibilities, and Perspectives*, GAO-20-66R (Feb. 2020), available at: <https://www.gao.gov/products/gao-20-66r>.

Fine Program's inception in July 2000 through August 31, 2023, the Commission has closed 4,255 cases and assessed fines of more than \$10 million. Most importantly, the Administrative Fine Program continues to succeed in reducing the number of late and non-filed reports, thereby increasing campaign finance transparency through the timely disclosure of campaign finance activity. The Administrative Fine Program's legislative authorization applies through the campaign finance disclosure reports covering 2023 financial activity. Without further legislation, the Program will expire and will not apply to subsequent campaign finance disclosure reports. The first of the Commission's highest priority Legislative Recommendations is that Congress should make the Administrative Fine Program a permanent program. In July, this Committee ordered legislation to be reported that includes a provision that would make the Administrative Fine Program a permanent program.⁷ Earlier this month, the Senate passed S. 2747, a bill that would extend the Administrative Fine Program for ten years. This bipartisan legislation was sponsored by Senate Rules and Administration Chairwoman Klobuchar and Ranking Member Fischer, and it passed the Senate by unanimous consent. The Commission appreciates the continuing support of the Committee on House Administration, which has been instrumental in enacting previous extensions, in enacting legislation to continue Administrative Fine Program.

The Commission generally conducts audits when a committee appears not to have met the threshold requirements for substantial compliance. The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of FECA. In addition, the Commission is required by law to audit presidential campaigns that accept public funds. The Commission has completed a total of 1,057 audits since 1976, these reports are available for review on the FEC website, and searchable by election cycle, committee/candidate name and by overall finding and/or issue.

b. Recent Enhancements to the Processes and Procedures

Since December 2020, the Commission has updated and revised a number of policies and procedures regarding enforcement and compliance matters. In July 2023, the Commission approved an Agency Procedure Regarding Litigation.⁸ New procedures for Auditing Political Committees outside of the Presidential public funding context were approved in May 2023, following public comments and a hearing in February 2023. The Commission voted to direct the Public Disclosure and Media Relations Offices to decline to confirm or deny the filing of any complaint in response to future inquiries (April 2023).⁹ The agency's procedure for addressing foreign respondents was adjusted in February 2022. Finally, the Commission has on its agenda revisions to the procedures for investigations conducted by the FEC's Office of General Counsel.

⁷ American Confidence in Elections Act, H.R. 4563, 118th Cong. § 351 (2023) (sponsored by Chairman Steil).

⁸ Five Commissioners supported the procedure, and one was opposed.

⁹ Four Commissioners supported the motion, and two were opposed.

c. *Status of FEC Enforcement*

Between January 1, 2012 and September 15, 2023, the Commission closed 1,497 Matters Under Review (MURs) through the ordinary enforcement process described in section 309 of FECA.¹⁰ It also closed an additional 41 Matters Under Review on OGC’s docket by referring them to ADRO for resolution. 198 matters are currently pending at the FEC. 91 of those matters are active and 107 are inactive.

The following table shows the election cycle that pertains to the matters currently pending at the FEC.

Table 4: Pending Enforcement Cases by Election Cycle

Election Cycle	Active	Inactive	Total
2016	2	0	2
2018	8	3	11
2020	32	10	42
2022	45	75	120
2024	4	19	23
TOTAL	91	107	198

(As of September 15, 2023)

In September 2016, the Commission directed the agency to prioritize foreign national prohibition matters. In response, the Office of General Counsel has taken a number of steps to do so. Along with cases that are statute-of-limitations imperiled when OGC receives them, foreign national prohibition cases are assigned to OGC staff attorneys before any other class of cases. OGC has also modified its Status of Enforcement reports to the Commission so that the Commission is provided with complete data on every foreign national prohibition case on a quarterly basis. Further, OGC has revised its procedures so that it may more efficiently track the progress of all foreign national prohibition matters through the enforcement process. Finally, for foreign national prohibition matters that are not resolved by tally votes, the Commission has prioritized the placement of these matters on Executive Session agendas for faster Commission consideration.

¹⁰ Matters Under Review are a type of administrative enforcement matter handled by the Commission’s Office of General Counsel pursuant to section 309 of FECA. External complaints filed with the Commission are designated Matters Under Review (MURs) and assigned a MUR number upon receipt. MURs may be designated by the Commission itself; for instance, if the Commission determines to sever an allegation or a respondent from an existing MUR and pursue a case separately, it will open a new MUR, sever the portions of the case from the existing MUR, and transfer them to the new MUR. There are also preliminary types of enforcement matters that may also become MURs and are assigned MUR numbers if the Commission determines to “open a MUR” and pursue the matter. These case types are RAD referrals, Audit Referrals, and Pre-MURs (*sua sponte* submissions or external referrals), and other internally-generated matters.

On September 15, 2016, the Commission’s enforcement docket contained 14 matters containing allegations of violations of the foreign national prohibition. Between that date and September 15, 2023, the Commission closed those 14 matters and an additional 62 matters containing allegations of violations of the foreign national prohibition. Of those 76 matters, the Commission found reason to believe and initiated an investigation in 13 matters. The Commission concluded seven of the matters with conciliation agreements providing for total civil penalties of \$1,974,000. As of September 15, 2023, five enforcement matters on the Commission’s docket contain allegations of violations of the foreign national prohibition.

C. INTERPRETING AND DEVELOPING THE CAMPAIGN FINANCE LAWS

The Commission responds to questions about how the Federal Election Campaign Act applies to specific situations by issuing advisory opinions (AOs). In addition, Congressional action, judicial decisions, petitions for rulemaking, Commission initiatives, or other changes in campaign finance often necessitate that the Commission update or adopt new regulations.

Rulemakings

Recently, the Commission has completed several rulemakings. Within the last calendar year, four new or revised regulations have become effective, as follows: Contributions in the Name of Another (August 5, 2023); Internet Communication Disclaimers and Definition of “Public Communication” (March 1, 2023); Repaying Candidate Loans (November 30, 2022); and Reporting Independent Expenditures (September 30, 2022). Additionally, the Commission is accepting comments on a rulemaking petition on the use of artificial intelligence in campaign advertisements until October 16, 2023. Among the projects pending on the Commission’s rulemaking docket are a rulemaking on Candidate Salaries, which was the subject of a Commission hearing in March 2023, and another rulemaking on Technology Modernization that was expanded with a Supplemental Notice of Proposed Rulemaking in December 2022.

Advisory Opinions

The Commission has recently issued several noteworthy AOs in the areas of technology services, and the use of campaign funds by candidates and Members of Congress to pay certain security, cybersecurity and childcare expenses.

In AO 2022-14 (Google LLC), the Commission approved Google’s pilot program that excludes from Gmail spam filters emails sent by federal candidate committees, party committees, and leadership PACs because it would be offered to all similarly situated entities for commercial and not political reasons in the ordinary course of business.

Since 2017, the Commission has issued key clarifications about FECA’s restrictions on personal use of campaign funds for security, cybersecurity¹¹ and childcare expenses¹² of Members of Congress and candidates. FECA and Commission regulations prohibit personal use of campaign funds, which occurs when campaign funds are used to fulfill any commitment, obligation, or expense that would exist irrespective of a candidate’s campaign or an individual’s duties as a federal officeholder. In each of the circumstances presented, the Commission determined that the proposed use of funds was permissible under FECA and Commission regulations and was not a prohibited personal use.¹³

In addition, the Commission issued AO 2023-01 (Barragán) that considered the application of FECA and FEC regulations to the use of campaign funds for travel expenses incurred in connection with events held by the Congressional Hispanic Caucus. Chairman Steil filed two comments regarding the application of the Rules of the U.S. House of Representatives and the regulations of the Committee on House Administration to this question.

D. ADMINISTERING THE PRESIDENTIAL PUBLIC FUNDING PROGRAM

The Commission’s responsibilities also include administering the public funding of Presidential elections, as provided in the Presidential Primary Matching Account Act and the Presidential Election Campaign Fund Act. Through the public funding program, the federal government provides matching funds to candidates seeking their party’s Presidential nomination and grants to Presidential nominees for their general election campaigns.¹⁴

The program is funded by taxpayers who voluntarily check off the \$3 designation for the Presidential Election Campaign on their income tax returns. The percentage of taxpayers who check off the designation for the Presidential Election Campaign Fund continues to decline overall. Recent statistics from the Internal Revenue Service show the following check off rates:

¹¹ See AO 2023-04 (Guy for Congress) (home security window films); AO 2022-25 (Mike Crapo for U.S. Senate) (various residential security installations and upgrades for state and DC homes); AO 2022-17 (Warren Democrats Inc.) (cybersecurity expenses for home network); AO 2022-02 (Steube) (security gates); AO 2021-03 (NRSC and NRCC) (*bona fide*, legitimate, professional security personnel); AO 2020-06 (Escobar) (home wiring and lighting expenses); AO 2018-15 (Wyden) (cybersecurity expenses for personal electronic devices and accounts); and AO 2017-07 (Sergeant at Arms) (installing, upgrading and monitoring nonstructural security devices in a residence); see also AO 2011-17 (Giffords) (costs of enhanced security measures for residence recommended by the U.S. Capitol Police); AO 2011-05 (Terry) (same); & AO 2009-08 (Gallegly) (same).

¹² See AO 2022-07 (Swalwell) (overnight childcare expenses incurred during reelection campaign activities); AO 2019-13 (MJ for Texas); and AO 2018-06 (Liuba for Congress) (childcare expenses during campaign activity); see also AO 1995-42 (McCrery) (same).

¹³ However, in AO 2022-07 (Swalwell), the Commission did not approve a response by the required four votes as to whether Congressman Swalwell could use campaign funds to pay for overnight childcare if he travels for other candidates’ campaign events or at the request of foreign governments or other entities. Commissioners Dickerson and Broussard issued a [Statement](#).

¹⁴ Presidential nominating conventions of the major parties received a grant of public funds from 1976 through 2012, and a minor party received a nominating convention grant in 2000. Convention funding was terminated by the Gabriella Miller Kids First Research Act, Public Law 113-94, 128 Stat. 1085 (2014).

Table 5: Taxpayer Participation Rates

Calendar Year	Percent of Tax Returns with PECF Designation
2022	3.5 %
2021	3.3 %
2020	3.6 %
2019	3.8 %
2018	3.9 %
2017	4.1 %
2016	4.4 %
2015	5.4 %

In the 2020 presidential election cycle, no candidate participated in the presidential public funding programs. In 2016, two primary candidates participated in public funding programs, and their campaigns received a total of \$1.5 million in public funds.

The balance in the Presidential Election Campaign Fund as of July 31, 2023, is \$398,506,693, according to the U.S. Treasury. This accumulation of funds is due to reduced candidate participation in the presidential public funding programs.¹⁵

E. THE 2022 FEC LEGISLATIVE RECOMMENDATIONS

The Federal Election Campaign Act authorizes the Commission to make recommendations for legislative action. In December 2022, the Commission most recently approved 15 Legislative Recommendations. The Recommendations are:

Part I: Highest Priority Legislative Recommendations

- Make the Administrative Fine Program for Reporting Violations Permanent
- Increase the Rate of Pay for Staff Director and General Counsel
- Amend the Foreign National Prohibition to Include Substantial Assistance
- Amend the Foreign National Prohibition to Include State and Local Ballot Initiatives, Referenda and Recall Elections

Part II: Priority Legislative Recommendations

- Electronic Filing of Electioneering Communication Reports
- Prohibit Fraudulent PAC Practices

¹⁵ The first major party presidential nominee who had declined to participate in the presidential primary election public funding program was then-Governor George W. Bush in 2000. The first major party presidential nominee to decline to participate in the presidential general election public funding program was then-Senator Barack H. Obama in 2008. Senator John S. McCain was the last major party presidential nominee to participate in either presidential election public funding program when he received a general election grant in 2008.

- Fraudulent Misrepresentation of Campaign Authority
- Conversion of Campaign Funds
- Prohibit Aiding or Abetting the Making of Contributions in Name of Another
- Require Disclosures to Contributors Regarding Recurring Contributions
- Increase and Index for Inflation Thresholds and Exemptions
- Permit Political Committees to Make Disbursements by Methods Other than Check

Part III: Other Improvements

- Extend the Respondent Notification Period from Five to Ten Days
- Extend the Time to Establish Reporting Dates for Special Elections
- Update the Federal Campaign Finance Statutes

The Commission's 2022 Legislative Recommendations can be found at <https://www.fec.gov/legal-resources/legislation/#legislative-recommendations> and are also attached.

Conclusion

The Commission appreciates the interest of the Committee on House Administration in this agency and its work. Following the oversight hearing of the Election Subcommittee of the Committee on House Administration in 2011, the FEC and the Committee collaborated on increasing the information the FEC makes public about its processes, which enhanced the FEC's transparency about its work. The Commissioners look forward to a similarly productive exchange with the Committee on House Administration in connection with the September 20, 2023 oversight hearing.