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United States Government Accountability Office
Washington, DC 20548

March 7, 2005

The Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
House of Representatives

The Honorable Orrin G. Hatch
Member
United States Senate

Subject: *U.S. Commission on Civil Rights: Deficiencies Found in Financial Management and Internal Controls*

The United States Commission on Civil Rights (Commission) was first established in 1957 as the Commission on Civil Rights.[1] The Commission's life was extended in 1983[2] and reestablished again in 1994[3] with its current name. The Commission's purpose is to collect and study information on discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice in such areas as voting rights, enforcement of federal civil rights laws, and equal opportunity in education, employment, and housing. The Commission has been subject to long-standing congressional concerns over the adequacy of its management practices and procedures, concerns that were reinforced by several GAO reports. In July 1997, we issued a report in which we found broad management problems at the Commission, including limited awareness of how its resources were used.[4] In more recent studies, we found that the Commission lacked

[1]Civil Rights Act of 1957, Pub. L. No. 85-315, 71 Stat. 634 (Sept. 9, 1957).

[2]Civil Rights Commission Act of 1983, Pub. L. No. 98-183, 97 Stat. 1301 (Nov. 30, 1983).

[3]Civil Rights Commission Amendments Act of 1994, Pub. L. No. 103-419, 108 Stat. 4338 (Oct. 25, 1994).

[4]GAO, *U.S. Commission on Civil Rights: Agency Lacks Basic Management Controls*, GAO-/HEHS-97-125 (Washington, D.C.: July 8, 1997).

good project management and transparency in its contracting procedures[5] and needed improved strategic planning.[6]

As a result of these reports and other concerns, you asked us to conduct additional work at the Commission. Specifically, you asked us to determine whether (1) the Commission's financial transactions (receipts, obligations, and expenditures) for the fiscal year ended September 30, 2003, were properly authorized, approved, and supported and (2) the Commission had effective internal controls over financial transactions and reporting. You also asked us to review the manner in which the Commission addressed its budget priorities.

To respond to this request, we obtained the Commission's fiscal year 2003 transaction files serviced by the Department of the Treasury's Bureau of the Public Debt (BPD), and the Commission's payroll transactions serviced by the U.S. Department of Agriculture's (USDA) National Finance Center (NFC). We examined supporting documentation and approvals for both statistically and nonstatistically selected transactions, as discussed later in more detail in the scope and methodology of this report. We evaluated the Commission's internal controls over financial transactions and reporting by reviewing policies and procedures; interviewing Commission staff, including the former staff director;[7] and reviewing the results of our tests of the Commission's fiscal year 2003 financial transactions. We also determined the levels of total funding requested and received by the Commission for fiscal years 1995 through 2005, reviewed the Commission's fiscal years 2003 through 2005 budget justifications and its performance plans, and interviewed Commission officials and others to determine how the Commission's budget priorities were being addressed.

Results in Brief

Our tests of the Commission's fiscal year 2003 financial transactions identified substantial deficiencies in the underlying support for a significant level of its expenditures. Specifically, while our tests of $5.3 million of payroll transactions found them to be substantially correct, our tests of $4.9 million of nonpayroll-related transactions, including travel and procurement, found serious deficiencies in the supporting documentation underlying these transactions. These deficiencies precluded us from being able to determine whether as much as 18 percent of the statistically tested nonpayroll-related transactions of the Commission for fiscal year 2003 were valid.

Our review of the Commission's internal controls over nonpayroll financial transactions and financial reporting identified fundamental weaknesses in internal

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[5]GAO, *U.S. Commission on Civil Rights: More Operational and Financial Oversight Needed*, GAO-04-18 (Washington, D.C.: Oct. 31, 2003).

[6] GAO, *U.S. Commission on Civil Rights: Management Could Benefit from Improved Strategic Planning and Increased Oversight*, GAO-05-77 (Washington, D.C.: Oct. 8, 2004).

[7] The former staff director's employment at the Commission was terminated on December 6, 2004.

controls. We found that the Commission lacked a formal comprehensive set of policies and procedures governing its financial management practices. We also identified serious deficiencies in the Commission's maintenance of financial records, enforcement of travel regulations, adherence to the Federal Acquisition Regulation (FAR)[8] regarding the ordering process for contracted services from commercial vendors, adherence to provisions of the Prompt Payment Act,[9] monitoring of budgetary resources, and cost accumulation and reporting. These deficiencies stemmed from a weak overall control environment, which led to BPD's decision to discontinue providing accounting services for the Commission after fiscal year 2003, citing inadequate management oversight and control. This weak control environment increases the risk of abuse of the Commission's financial resources.

Our review of the manner in which the Commission addressed its budget priorities found that the Commission was unable to provide evidence of how its fiscal year 2003 budgetary resources were used to fulfill its statutory duties and to achieve the six goals listed in its fiscal year 2003 annual performance plan. Further, we could not determine how the Commission planned, communicated, and prioritized its budgetary resources, which makes it difficult for the Office of Management and Budget (OMB) and the Congress to understand whether the Commission is using its financial resources to achieve its mission and goals. Given the long-standing congressional concerns over the Commission's management priorities, we believe the Commission could enhance the transparency of its budgetary, financial, and operational activities.

We are making 39 recommendations to the Commission to strengthen its overall financial management and internal controls.

Background

The Commission was established by the Civil Rights Act of 1957 to be an independent, bipartisan, fact-finding federal entity required to report on civil rights issues. The Commission is authorized to study the impact of federal civil rights laws and policies and is required to submit at least one report annually to the President and the Congress that monitors federal civil rights enforcement in the United States and other reports as considered appropriate by the Commission, the President, or the Congress. In addition, the Commission investigates allegations of individual citizens being deprived of voting rights, conducts appraisals of federal laws and policies with respect to discrimination or denial of equal protection of the laws under the Constitution of the United States, serves as a national clearinghouse for information, and educates the public to discourage discrimination.

[8]The FAR, established to codify uniform policies and procedures for acquisition by executive agencies, applies to acquisitions of supplies and services made by federal executive agencies with appropriated funds.

[9]Codified at 31 U.S.C. §§ 3901-3904 and implemented at 5 C.F.R. 1315.

The Commission is currently directed by eight compensated, part-time commissioners who serve 6-year terms on a staggered basis. 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 at any one time can be of the same political party. With the concurrence of a majority of the Commission's members, the President may also designate a chairperson and vice-chairperson from among the Commission's members. On December 6, 2004, the President appointed two new commissioners to replace two with expiring terms. On that same day, the President designated a new Commission chairperson and vice-chairperson, both of whom were concurred by a majority of the Commission's members.

A staff director, who is appointed by the President with the concurrence of a majority of the commissioners, oversees the daily operations of the Commission and manages the staff in six regional offices and the Washington, D.C., headquarters. The President also appointed a new staff director on December 6, 2004.[10] The Commission operates four headquarters units, whose chiefs and managers report directly to the staff director: the Office of Civil Rights Evaluation, Office of General Counsel, Office of Management, and Regional Programs Coordination Unit.

The Commission also has 51 State Advisory Committees (SAC), as required by statute—1 for each state and the District of Columbia. SACs are composed of citizens familiar with local and state civil rights issues. Their members serve without compensation and assist the Commission with its fact-finding, investigative, and information dissemination functions.

The Commission receives a quarterly apportionment from OMB to spend its fiscal year appropriations. Since fiscal year 1995 the Commission has operated on an annual appropriation of about $9 million with salaries and benefits constituting about 73 percent. Because of level funding since fiscal year 1995, the Commission's purchasing power in fiscal year 2003 had decreased by 24 percent as it had to absorb cost-of-living and other pay and expense increases. The number of full time equivalent (FTE) employees has steadily decreased from 95 in fiscal year 1995 to 64 in fiscal year 2004, a 33 percent decrease.

Enclosure I provides a breakdown of the Commission's available resources and the use of those resources in fiscal year 2003 (table 1), as well as the Commission's fiscal year 2003 expenditures population by budget object class (table 2).

The Accountability of Tax Dollars Act of 2002[11] was signed by the President on November 7, 2002. The act requires the Commission to annually prepare and submit

[10] The majority of the Commission's members concurred with the President's appointment.

[11] Pub. L. No. 107-289, 116 Stat. 2049 requires the Commission and other covered executive agencies that were not previously required to obtain an annual audit under another statute to begin submitting annual audited financial statements to the Congress and OMB.

audited financial statements to OMB and the Congress. Fiscal year 2004 is the first year the Commission was required to meet this new statutory requirement.[12] Further, OMB required agencies to submit their audited financial statements for fiscal year 2004 no later than 6 weeks after the close of the fiscal year.[13] As of February 28, 2005, the Commission's independent public accountant had not yet issued its audit report on the Commission's fiscal year 2004 financial statements.

Scope and Methodology

To review the financial transactions recorded by the Commission during fiscal year 2003, we examined receipts, obligations, and expenditures for proper supporting documentation and management approval. Because our work was limited to a review of transactions recorded by the Commission for fiscal year 2003, there is a risk that there could be unrecorded transactions for goods or services that the Commission purchased before September 30, 2003, that were recorded or paid after this date. Using statistical sampling, we selected for review 52 salary-related transactions from a universe of 4,035 transactions totaling $5.3 million that we obtained from the Commission's payroll processor, USDA's NFC. We also statistically selected for review 68 nonsalary-related transactions, such as procurement and rent transactions, which were selected from a universe of 8,251 transactions totaling $4.9 million that we obtained from the Commission's accounting services provider, Treasury's BPD. We augmented our statistical samples by reviewing in detail another 72 transactions selected judgmentally. These transactions consisted of all travel transactions over $1,000, all contractual transactions over $10,000, some credit adjustments, and other expenditures exhibiting unusual characteristics. These 72 nonstatistically selected transactions totaled $0.4 million. Enclosure II provides a detailed breakdown of our testing approach with respect to the Commission's fiscal year 2003 financial transactions.

As part of our review of the Commission's financial transactions for selected procurement transactions, we also interviewed General Services Administration (GSA) officials about the contracting procedures a federal agency should use for certain procurement activities and discussed with current and former Commission officials the contracting procedures actually used. In addition, we sought to obtain responses from the Commission's former chairperson on matters related to the agency's media relations contract, but we did not receive a response.

To determine if internal controls over financial transactions and reporting were effective, we obtained an understanding of the accounting procedures and related

[12]The act permitted the OMB Director to exempt a covered agency from the requirement in any given fiscal year if its budget in that fiscal year does not exceed $25 million and if the Director determines that an audited financial statement is not warranted due to an absence of risks associated with the agency's operations, demonstrated performance, or other relevant factors. While OMB exempted the Commission from the reporting requirement in fiscal years 2002 and 2003, it denied the Commission's request for an exemption from the audit requirement for fiscal year 2004.

[13]In 2001, OMB announced the executive branch's intention to significantly accelerate agencies' financial reporting time line, requiring that for fiscal year 2004 and thereafter they issue their financial statements by November 15, which is about 6 weeks after the end of the fiscal year.

internal controls of the Commission, including financial accounting services provided by Treasury's BPD and payroll processing services provided by USDA's NFC. We reviewed the policies and procedures used by the Commission, interviewed current and former Commission staff, and interviewed BPD staff. We also reviewed the internal control effect of the results of our testing of the Commission's fiscal year 2003 financial transactions.

To determine the manner in which the Commission addressed its budget priorities, we reviewed the total levels of funding requested and received by the Commission for fiscal years 1995 through 2005. We also reviewed the Commission's budget justifications and its annual performance plans for fiscal years 2003 through 2005. In addition, we interviewed current and former Commission officials and others about the Commission's budget apportionment and allotment processes, and its budget goals, activities, and projects.

Our audit findings are based on our review of documentation provided to us by the Commission. In many cases, the documentation initially provided to us as support for the Commission's financial transactions was insufficient in demonstrating proper authorization, approval, or overall validity of the transaction. In those cases where documentation was lacking, we requested further support from the Commission, if such support existed. In addition, BPD provided some documentation on behalf of the Commission and the Commission itself provided some further support. However, as of an agreed cut-off date of November 24, 2004, there was a substantial amount of documentation missing that the Commission's former staff director told us they could not find.

We performed our field work in Washington, D.C., from May 20, 2004, through December 10, 2004, in accordance with U.S. generally accepted government auditing standards for performance audits.

Financial Transactions Lacked Adequate Support

In our review of the Commission's fiscal year 2003 financial transactions, we found substantial expenditures that lacked adequate supporting documentation. Salary expenses, which comprised about half of the Commission's annual expenditures, appeared to be adequately supported. However, as much as 18 percent of the statistically selected nonpayroll-related transactions we examined, such as procurement and other miscellaneous expenses, lacked sufficient support for concluding whether they were valid. Similar deficiencies were found in the nonstatistical nonpayroll transactions we tested.

GAO's *Standards for Internal Control in the Federal Government* [14] identifies the minimum level of quality acceptable for internal control in the federal government

[14] GAO, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999).

and provides the basis against which internal control is to be evaluated. Control activities, one of the five standards for internal control, include a wide range of diverse activities such as authorizations, approvals, verifications, and the creation and maintenance of related records that provide evidence of execution of these activities as well as appropriate documentation. This standard requires, among other things, the following:

- All transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination. All documents and records should be properly managed and maintained.

- Only valid transactions are to be initiated or entered into.

- Transactions should be promptly recorded to maintain their relevance and value to management in controlling operations and making decisions.

- Transactions are to be completely and accurately recorded.

In addition, section 150 of OMB Circular No. A-11, *Preparation, Submission and Execution of the Budget*, implements statutory requirements, by providing that agencies must have a system of administrative control of funds for obligations and expenditures.

The lack of adherence to these requirements resulted in our finding a high level of exceptions in our testing of the Commission's fiscal year 2003 financial transactions and raises concerns as to the validity of a number of these transactions.

Payroll Transactions Were Substantially Correct

Payroll transactions consisting of direct salaries represented about half of the Commission's fiscal year 2003 expenditures. We tested a statistical sample of 52 payroll transactions for fiscal year 2003 consisting of salary expenses to ensure that they were properly authorized, approved, and supported. We found no substantive errors in this sample and that the transactions were properly authorized, approved, and supported. In addition, we tested two salary-related credit transactions and found them to be properly authorized and supported. These credit transactions represented corrections of errors in the transaction records. Although errors may exist in the payroll transactions we did not test, we can statistically conclude that the $5.3 million in payroll expenditures in the Commission's records are valid and adequately authorized, approved, and supported.[15]

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[15]During our testing of payroll transactions, we classified errors as substantive errors or internal control errors. Substantive errors would be errors that call into question the dollar amount of some or all of a given transaction. Internal control errors are instances in which specific internal control criteria are not met. In some cases, an error could represent both an internal control deficiency and a substantive error.

However, in our testing of the Commission's payroll transactions, we noted that for two of the three payroll transactions we tested involving commissioners, time sheets for two biweekly pay periods were submitted and paid at the same time. The Commission's human resources director told us that this is not unusual and that commissioners have submitted time sheets for up to five biweekly pay periods at one time. This practice could lead to the Commission not recognizing expenses in the proper period for accounting purposes.

Nonsalary Transactions Lacked Adequate Support

We tested a statistical sample of 56 nonsalary transactions, including expenses associated with procurement, payroll benefits, and rent for fiscal year 2003 to determine if they were properly authorized, approved, and supported by appropriate documentation. We also tested a statistical sample of 12 credit transactions. Our testing revealed significant deficiencies in the support and underlying records for numerous sampled transactions. Specifically, we found the following:

- For three transactions, the Commission did not provide documentation to support the validity of the transactions. The transactions consisted of three entries to write off unusual negative accrued liabilities of $83,719, accounts receivable of $25,587, and old equipment of $6,366. In all three cases, the Commission could not provide support to justify the entries to adjust account balances. In reviewing documentation provided by BPD, the Commission's former accounting services provider for fiscal year 2003, we found that BPD had informed the Commission of its plans to make the accounting entries by a certain date. However, the Commission did not provide any documentation evidencing its response to BPD as to whether it had support for the adjustment amounts. The Commission's lack of supporting documentation increases the risk that improper transactions could be processed and recorded, distorting the financial records of the entity.

- For two transactions totaling $17,130, the Commission did not provide evidence of proper approval of the transactions. The transactions consisted of payments to vendors for computer and electrical services. Payment vouchers are approved by the staff director or his designee, and the absence of such approval could result in unauthorized transactions being processed, leading to improper payments.

- For four transactions with commercial vendors totaling $10,176, we found the Commission's contract files to be insufficient: the contract files did not document (1) the agency's basis for decisions made during the acquisition process, (2) support for the actions the agency took, and (3) information for an outside review of the procurement process. The lack of documentation in contract files necessary to satisfy internal control standards and procurement regulations increases the risk that procurement transactions could have been made that were not in accordance with the requirements of the FAR. This and other procurement-related matters are discussed later in this report.

Based on the results of our work, we estimate that the combined upper error limit of nonsalary-related debit and credit transactions that were not properly authorized, approved, and supported by appropriate documentation is $883,018.[16] In essence, the results of our statistical testing indicate that as much as 18 percent of the $4.9 million in nonsalary-related expenditure transactions for fiscal year 2003 lacked proper authorization, approval, or validity.[17]

In performing our transaction testing, we experienced great difficulty in obtaining adequate documentation from the Commission in a timely manner. It took the Commission over 5 months to provide some documentation for our sampled transactions although former and current agency officials initially said it would take no more than a week to accumulate the majority of the documentation for those transactions. While BPD was able to provide us with some documentation on the Commission's behalf, as of November 24, 2004, when the Commission provided to us its final compilation of available documentation, we had not received adequate documentation for all of the transactions selected for testing.

Further Transaction Testing Revealed Significant Documentation Deficiencies

As part of our review of the Commission's fiscal year 2003 financial transactions, we augmented our tests of statistical samples of salary- and nonsalary-related expense transactions by testing an additional nonstatistical selection of 72 fiscal year 2003 transactions. These transactions consisted of all 32 travel transactions of $1,000 or more, all 22 contractual transactions of $10,000 or more, and 18 other nonsalary transactions that we deemed to be of an unusual nature, such as credit transactions or other uncommon characteristics. For 38 of these transactions (53 percent), we found significant deficiencies in the supporting documentation.[18] These deficiencies, by category of expense activity, are discussed below.

Travel Transactions

In testing all 32 selected travel transactions of $1,000 or more, we identified the following deficiencies:

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[16]Our estimate is based on a 63 percent confidence level, with a tolerable error of $100,820. We chose a 63 percent confidence level because we augmented our statistical test with a nonstatistical test of additional nonsalary-related expenditure transactions, as discussed in the scope and methodology.

[17]During our testing of nonsalary transactions, we classified errors as substantive errors or internal control errors. Substantive errors would be errors that call into question the dollar amount of some or all of a given transaction—for example, a payment for services that had not been received would constitute a payment made in error. Another example would be a payment recorded in the accounting records for which there is no documentary evidence to support the fact that a disbursement was made. Internal control errors are instances in which specific internal control criteria are not met–for example, a transaction was not properly authorized for payment. In some cases, an error could represent both an internal control deficiency and a substantive error.

[18]Some of the transactions contained multiple deficiencies.

- For 28 transactions, the Commission did not provide adequate evidence to support airfare expenditures. Airfares should be properly supported by a payment receipt or itinerary from the travel agency that shows the amount paid for the ticket and boarding passes to indicate that the trip was taken. The lack of such supporting documentation may allow improper travel transactions to be processed and paid. In response to this matter, the Commission, as part of its efforts to improve its travel processes, issued memos in November 2004 to its employees and other travelers[19] stating that itineraries or invoices listing ticket price and boarding passes must be submitted with travel vouchers.

- For 17 transactions, the Commission did not provide complete evidence that the trips were actually taken in accordance with the *Federal Travel Regulation*.[20] For 8 of these transactions, the Commission did not provide any travel vouchers for $8,657 of the recorded airfare expenditures. The lack of adequate supporting documentation may allow the recording of airfare expenditures although travel may never have occurred or may allow improper travel transactions to be processed and paid.

- For three transactions, the Commission could not provide evidence that it ever received reimbursement for travel overcharges totaling $857. For one of these transactions, the Commission's travel agency overcharged $538 on a $100 airline ticket and for two transactions, employees were overpaid and owed $319 to the Commission. The lack of reimbursement will result in higher travel costs being incurred and recorded by the Commission.

In total, of the $97,196 in expenditures related to the 32 travel transactions we tested, $54,847, or 56 percent, was unsupported due to the deficiencies noted above. The $54,847 unsupported amount includes $10,674 for which the Commission did not provide any travel vouchers. In testing travel transactions, we also found 16 instances where the Commission either did not provide to us evidence of travel authorizations, or evidence of approval of travel vouchers. However, we were eventually able to obtain such documentation from BPD.

Contractual Transactions

In an October 2003 report, we reported that the Commission lacked sufficient management control over its contracting procedures.[21] The Commission routinely did not follow proper procedures for its fiscal year 2002 contracting activities and had inadequate controls over the administration of its contracts. These weaknesses

[19] The Commission issued a memo to its State Advisory Committee representatives, of which there are 15 for each of the 50 states and the District of Columbia, who are not employees, but when authorized, may travel at the expense of the Commission.

[20] The *Federal Travel Regulation* was promulgated by GSA and is codified at 41 C.F.R. chapters 300-304. It implements statutory requirements and executive branch policies for travel by federal civilian employees and others authorized to travel at government expense.

[21] GAO-04-18.

continued in fiscal year 2003. In testing 31 nonstatistically selected contract-related transactions, including all those of $10,000 or more, we identified deficiencies in the Commission's transactions with commercial vendors and its procurement of goods and services as follows:

- For eight transactions totaling $59,499 involving six commercial vendors, we found that the Commission did not adhere to the federal procurement regulations and procedures that were established by GSA under the FAR and, where applicable, other related guidance. For example, in procuring services from different commercial vendors on the GSA Federal Supply Schedule (FSS), we found the following deficiencies in the Commission's procurement actions:

  -- The Commission did not satisfy competition requirements[22] in using GSA's on-line shopping service or in reviewing catalogs or pricelists of at least three contractors on the FSS that provide such services.

  -- The Commission's contract files did not document the agency's basis for selecting the service providers as prescribed by the FAR and the special ordering procedures of GSA.

  In discussions with GSA officials (and consistent with our findings in our prior work[23]), we ascertained that when a contract exceeds the $2,500 micro-purchase threshold, a federal agency cannot simply select a contractor because it is on the FSS—the federal agency has to consider other information before making the selection. Other information is available through GSA's on-line services or by reviewing the catalogs or pricelists of at least three contractors on the FSS. The Commission's circumvention of federal procurement regulations—including not documenting in the contract files the basis for selecting contractors—could result in the government incurring potentially greater costs than necessary to procure goods and services.

- For the Commission's $81,636 fiscal year 2003 media relations contract[24] with a vendor it procured off the FSS, the contract file we reviewed did not include a Commission-required signed statement by the contractor that it had no organizational conflict of interest. We found the Commission's statement of work with the contractor to basically define organizational conflict of interest to mean that because of other activities or relationships with persons or agencies, the contractor might be unable or potentially unable to render impartial assistance or advice to the Commission, or the contractor's objectivity in performing needed work is or might be otherwise impaired, or the contractor has an unfair competitive edge. On November 24, 2004, the Commission provided us with a

[22] FAR 8.405-2.

[23] GAO-04-18.

[24] The fiscal year 2003 contract was initially established under a purchase order with an amount to not exceed $156,000. In September 2003, the Commission made two downward modifications totaling $74,364, leaving an obligated amount of $81,636.

signed statement from the vendor noting that it had no organizational conflict of interest with the Commission during the contract periods of service (October 1, 2000, through September 30, 2003). However, this signed statement was dated November 10, 2004, well after the period of service under the contracts. By not having contractors' signed statements on-hand prior to selecting the vendor to provide services, the Commission made itself susceptible to entering into contracts with businesses that may have an organizational conflict of interest that could impair objectivity.

- We also reviewed seven of the Commission's contract files for services provided by commercial vendors that the agency selected using other than the FSS. None of these cases had documentation in the contract files supporting the agency's basis for selecting the vendors. In addition, one contract's statement of work lacked a provision on organizational conflict of interest. This situation makes the Commission prone to potentially entering into contracts with contractors that may have an organizational conflict of interest and could impair objectivity.

- In discussing procurement matters with the former staff director and the chief of administrative services who handled procurements of less than $10,000, we found that both had minimal training on procurement issues. The former staff director approved all procurement decisions at or above the $10,000 threshold but admitted that his procurement knowledge was based on primarily on-the-job training and contract law as an attorney. The lack of training by those responsible for procurement matters made the Commission susceptible to misinterpreting federal procurement regulations as it did when obtaining services off the FSS.

- For one transaction consisting of payment for a Commission meeting held at a Charlotte, North Carolina, hotel in February 5 and 6, 2003, we found evidence that the authorizing purchase order for the transaction was prepared after the actual charge was incurred. A procurement request for estimated hotel charges of $16,227 was prepared on January 30, 2003. However, an authorizing purchase order was dated January 31, 2003, in the exact amount of the bill for $10,739, which would not have been known until the bill had been issued by the hotel on February 19, 2003. This indicated that the purchase order was not prepared on January 31, but rather on February 19 or later, after the amount of the actual charge was known. The Commission provided us with no documentation that reflected authorization to procure services in advance of an authorized order for supplies or services.[25] Procurement authorizations prepared after expenditures are incurred represent a breakdown in internal controls and could result in an Antideficiency Act violation.[26]

[25]According to FAR 1.602-1(b), no contract shall be entered into unless the contracting officer ensures that all requirements of law, executive orders, regulations, and all other applicable procedures, including clearances and approvals, have been met.

[26] An Antideficiency Act violation occurs when a government employee makes or authorizes an expenditure or obligation in excess of an amount available in an appropriation for the expenditure or obligation (31 U.S.C. § 1341(a)) or an amount available in an apportionment or an amount permitted by regulation involving the subdivision of appropriated funds (31 U.S.C. § 1517(a)).

Also related to the February 2003 meeting in Charlotte, North Carolina, we found that the Commission incurred excessive charges of $660 as follows:

-- The former chairperson's hotel suite cost $169 per night plus $23 tax for the nights of February 5 and 6. This exceeded the maximum lodging rate of $81 per night plus $11 tax paid for all other Commission hotel rooms. The *Federal Travel Regulation* allows up to 300 percent of the maximum lodging per diem allowance under certain conditions,[27] but we could find no written authorization for this actual expense in the records provided to us by the Commission.[28] Regarding this matter, a former Commission official referred to a long-standing agency policy that governs the accommodation practices for commissioners but could not provide any documentation evidencing the policy.

-- Two no-show charges for room and tax of $92 per night were incurred (although the hotel did adjust for three other no-show charges). No-show charges are not an effective use of government funds and can typically be avoided if reservations are cancelled at least a day in advance.

-- A room charge of $92 for the deputy general counsel was incurred for the night of February 7, after the meeting was over. The deputy general counsel provided documentation to us that she paid for this room on her personal credit card; therefore, it appears that the hotel double-billed the Commission for this room. We could find no evidence that the Commission identified this overbilling and received a reimbursement or credit.

Other Expense Transactions

Other transactions we included in the nonstatistical selection consisted of contract and service-related transactions of less than $10,000, other miscellaneous expenses, and credit adjustments. In testing these 18 transactions, we identified the following deficiencies:[29]

- For five contract-related transactions with commercial vendors totaling $19,826, the contract files did not contain evidence of the Commission's basis for selecting the vendors.

- For one transaction for professional services totaling $3,000, the Commission did not comply with the Prompt Payment Act's requirement that it pay interest if vendors are not paid pursuant to their contractual payment date or within 30 days of receipt and acceptance of the goods or services. In this case, the Commission

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[27] 41 C.F.R. 301-11.30.

[28] Approval of actual expenses is usually in advance of travel and at the discretion of the agency. See 41 C.F.R. 301-11.302.

[29] Some of the transactions contained multiple deficiencies.

submitted the vendor's reminder invoice, not the original invoice that it had received several weeks earlier, to its accounting services provider who processed the payment.

- For one transaction for professional services totaling $3,357, there was no evidence of the satisfactory receipt of the services.

- For one credit adjustment for an intragovernmental transaction totaling $9,758, there was no evidence that the Commission appropriately authorized approval of the transaction.

In addition to these deficiencies, we also found that a transaction classified as subsistence and support in the Commission's records should actually have been split among four separate budget object codes. This transaction consisted of the charges the Commission incurred for the meeting it held in Charlotte, North Carolina, on February 5 and 6, 2003. Although the purchase request, receipt, and acceptance approval all appropriately listed four separate budget object codes and amounts to be charged, the entire bill was charged to one budget object code on the purchase order and the processed invoice as contractual services. Budget object codes should be properly charged in accordance with section 8.3 of OMB Circular No. A-11. Charging incorrect budget object codes distorts financial and budgetary information pertaining to the use of the Commission's financial resources.

Recommendations

To address the issue we identified with respect to payroll transactions, we recommend that the Commission, through its staff director or his designee, do the following.

1. Instruct commissioners to submit time sheets biweekly or at least monthly so that the Commission recognizes expenses in the proper period for accounting purposes.

To address the issues we identified with respect to nonsalary transactions, we recommend that the Commission, through its staff director, instruct the Commission chief of budget and finance to do the following.

2. Review account balances on a periodic and regular basis to identify unusual account balances.

3. Create and retain appropriate documentation in transaction files to support accounting entries made to adjust or write off assets and liabilities.

4. Respond, and document the response, to the accounting service provider before any accounting entries are made on behalf of the Commission.

5. Retain sufficient evidence in transaction files to show that all transactions have been properly approved for payment.

6. Include evidence of transaction authorization, such as a purchase order, in each voucher package prior to approval for payment by the staff director or his designee.

7. Prepare purchase authorizations in advance of the expenditure or provide documentation for any exceptions to be properly approved.

8. Monitor the prompt processing of vendor invoices upon receipt so that vendors can be timely and accurately paid.

9. Have evidence of the receipt of goods and services prior to approving transactions for payment and retain such evidence in the transaction files.

10. Charge the appropriate budget object code as evidenced by supporting documentation.

11. Ensure that travelers provide appropriate documentation to support airfare transactions, including a payment receipt or itinerary from the travel agency that shows the airfare paid and boarding passes to indicate that the trip was taken.

12. Provide travel vouchers by travelers as evidence that the trips were taken and to support amounts claimed for reimbursement.

13. Document and retain for review travel transactions including travel authorizations prepared and signed by the Commission, as well as Commission-approved travel vouchers.

14. Maintain written justification for any cases where the Commission approved travel costs for reimbursement although the traveler could not provide appropriate documentation.

15. Ensure that travel-related overcharges and traveler reimbursements are timely collected or offset against amounts due.

16. Document in writing policies on travel accommodation practices for commissioners.

17. Provide written travel policies to assist travelers in understanding the requirements and procedures to follow.

18. Implement a travel policy requiring travelers to call to cancel a hotel reservation to avoid a no-show charge.

19. Inform travelers via written communication that reimbursement will be made only for costs directly related to business purposes for government travel and not for personal charges.

To address the issues we identified with respect to procurement of goods and services, we recommend that the Commission, through its staff director, instruct the Commission chief of administrative services to do the following.

20. Prepare and maintain contract files, including contract award and contract administration, to document the basis for Commission decisions in acquiring goods and services from commercial vendors, to document each step in the acquisition process, and to document information for an outside review of the procurement process.

21. Document review of catalogs or price lists for at least three contractors or a review of information on GSA's on-line shopping service about the supply or service offered under the schedule before making a selection when procuring goods or services off the Federal Supply Schedule.

22. Ensure that all statements of work contain a provision on organizational conflict of interest and that contract files contain signed assurances that contractors have no organizational conflict of interest.

23. Provide for employees responsible for procurement activities to receive periodic training and updates on federal procurement rules, regulations, procedures, and issues.

Substantial Deficiencies Exist in the Commission's Internal Controls

We found serious deficiencies in the design and operating effectiveness of the Commission's internal controls over financial transactions, reporting, and budgeting. These deficiencies increase the risk that transactions will be improperly prepared, processed, and reported. They also increase the risk of inappropriate use of the Commission's financial resources and raise serious questions about the Commission's ability to have a successful audit of its fiscal year 2004 financial statements.[30]

<u>Commission Had No Formal Financial Policies and Procedures</u>

The Commission lacked a formal, comprehensive set of policies and procedures to govern its day-to-day financial management practices. Instead, Commission staff refer to a wide range of federal policies as needed. GAO's *Standards for Internal Control in the Federal Government* refers to control activities as the policies, procedures, techniques, and mechanisms that enforce entity management's directives. The lack of formal policies and procedures at the Commission increases the risk that control mechanisms are not established to ensure proper accountability over government resources and activities specific to the needs of the Commission. This was evident in the results of our testing of travel and contractual transactions previously discussed where the Commission did not routinely follow proper procedures for its travel and contracting activities.

[30] As of February 28, 2005, the Commission's independent public accountant had not yet issued its audit report on the Commission's fiscal year 2004 financial statements.

Financial Transactions Were Not Adequately Supported

The Commission experienced great difficulty in providing support for its fiscal year 2003 financial transactions. It took the Commission over 5 months to provide us documentation to support the 192 transactions we selected for testing. Even after this extensive period of time, the documentation for a substantial number of these transactions was either missing or seriously deficient. GAO's *Standards for Internal Control in the Federal Government* requires that all transactions be clearly documented and that documentation be readily available for examination. As discussed earlier in this report, the lack of adequate support resulted in our being unable to determine whether a significant level of reported activity was valid.

Budgeting and Administrative Funds Control Was Weak

As with its financial transactions and reporting, we found that the Commission did not have a budget execution plan to show how it expected to use its resources nor an adequate administrative system of fund controls to ensure that spending controls were not exceeded. Agencies are expected to prepare financial plans and to request an apportionment from OMB that is based on a careful forecast of obligations to be incurred for programs or operations planned during the year. The primary purpose of the apportionment process is to centralize the Administration's approval of agency spending plans to achieve the most effective and economical use of these funds and to prevent agencies from obligating more funds than they are authorized to spend. OMB is responsible for approving apportionments, which control the rate of spending during the year by limiting the amount of funds that can be obligated—typically by time period, program, project, or some other reporting category.

In addition, the Antideficiency Act requires that an agency head prescribe, by regulation, a system of administrative control of funds. This system allots authority to obligate funds to heads of offices and program managers making them responsible not only for carrying out the Commission's programs and operations, but for managing funds within spending controls. In addition, spending plans and their execution are the starting point for developing budget requests in subsequent years.

Travel Regulations Were Not Enforced

As discussed earlier, our testing of travel-related transactions for fiscal year 2003 identified numerous instances in which the Commission did not enforce the travel requirements contained in the *Federal Travel Regulation*, including the requirement to provide complete evidence for trips actually taken. In addition, based on our review of 32 nonstatistically selected travel-related transactions,[31] we noted that in 15 out of 185 instances where an individual was reimbursed by the Commission for travel costs, the traveler took more than 15 days, and as many as 226 days, to submit a voucher for reimbursement of hotel, per diem, and other charges. This excessive

[31]Most of the 32 selected travel transactions represent payment to Citibank USA for travel costs charged by individuals traveling on behalf of the Commission for a specific period. For example, a selected travel transaction may include charges for 10 travelers.

period is in violation of the *Federal Travel Regulation's* requirement that travel vouchers be submitted within 5 working days of the trip or every 30 days if on continuous travel status. When Commission processing and payment, which normally ran 30 days, is added, some 60 to 90 days would likely have lapsed since the traveler first made the charges on a government travel credit card. Rather than pay amounts from personal funds, this may explain why, according to the Commission's chief of budget and finance, several Commission cardholders were delinquent in making their payments on their government travel cards, in violation of the credit card agreement.

Federal Acquisition Regulations for Procuring Supplies and Services from Commercial Vendors Were Not Consistently Followed

Based on our testing of the Commission's fiscal year 2003 financial transactions involving contract payments to commercial vendors, including inquiries of former and current Commission staff, the Commission did not follow the FAR in 10 of the 13 contract-related transactions tested. In reviewing those 10 contract files, we found no evidence of the Commission's basis for selecting the contractor. In addition, for 9 of the 13 contract-related transactions, there was no evidence in the contract files that the Commission reviewed available information before selecting the contractor as required under the FAR.[32] This information would consist of price lists of at least three vendors on GSA's approved vendor list or, in other cases, solicited offers from at least three vendors.

Included in these nine transactions was the Commission's largest contract of $81,636 for media relation services. While this contractor was a GSA FSS contractor, there was no evidence in the contract file that the Commission reviewed the catalogs or price lists of comparable contractors on the GSA FSS in accordance with the FAR and GSA's special ordering procedures (SOPs).[33] Such actions circumvent the competitive selection process, resulting in the government incurring potentially greater costs than necessary to procure services.

Contract Data Was Not Entered Into the Federal Procurement Data Center

In reviewing the Commission's reporting on its procurement activities we found that the Commission did not enter fiscal year 2003 contract data into the Federal Procurement Data Center (FPDC). According to federal regulations,[34] agencies are required to collect and report procurement data to FPDC quarterly. The government

[32]The FAR requires, with limited exceptions, that the agency's contracting officer—an agency official who has the authority to enter into, administer, or terminate contracts and make related determinations and findings—promote and provide for full and open competition in soliciting offers and awarding government contracts. The competitive procedures available for use in fulfilling the requirement for full and open competition are as follows: (a) sealed bids, (b) competitive proposals, (c) a combination of competitive procedures, and (d) other competitive procedures.

[33] GSA may establish SOPs for a particular schedule. Unless otherwise noted, SOPs take precedence over the procedures in FAR 8.405. See FAR 8.403.

[34] 48 C.F.R. 4.602.

uses FPDC as its central repository of statistical information on federal contracting that contains detailed information on contract actions of $25,000 or more and summary data on procurements of less than $25,000. The Commission's failure to report required procurement data evidences that management did not ensure that the federal directive was carried out.

Prompt Payment Act Requirements Were Not Consistently Followed

As our detailed tests of its fiscal year 2003 financial transactions showed, the Commission did not always pay vendors by the contractual due date or, if no date was established, within 30 days after receipt of a proper invoice for goods and services, as specified by the Prompt Payment Act. Failure to pay within the statutory time frames resulted in at least $653 of interest being paid to vendors. In addition, we identified two transactions for which the Commission did not pay interest to vendors on late payments. The Commission's poor prompt payment performance caused the government to incur unnecessary costs for goods and services and is thus a waste of government resources. Additionally, the failure to pay interest that is rightfully owed to vendors when payments for services provided are late denies vendors amounts to which they are entitled and subjects the Commission to the risk of claims for additional penalties.

Commission's Monitoring of Budgetary Resources Could Be Improved

The Commission did not use the U.S. Government Standard General Ledger (SGL) 4000 accounts, which include accounts to track budget authority, obligations, and outlays necessary to prepare financial statements (statements of budgetary resources and financing), and required Treasury financial reports. Instead, the Commission stated that it tracked its budget on informal cuff records (EXCEL worksheets). This approach is prone to error if transactions are not properly monitored and recorded and created differences with budgetary amounts recorded by BPD on behalf of the Commission that were not periodically reconciled.[35] This became a significant problem in August 2003, when BPD expressed its concern in written correspondence that the Commission was in danger of overobligating funds, which could have resulted in a violation of the Antideficiency Act.

Full Costs Were Not Tracked by Project

The Commission identified hours charged to specific projects on time sheets, and Commission officials stated that the Commission accumulates costs by project. However, despite our repeated requests, the Commission was unable to provide us evidence of how costs were accumulated by project for fiscal year 2003 and whether administrative time and other overhead costs such as rent, supplies, travel, and other costs were included. Federal Accounting Standards have required federal entities to

[35] While the Commission did not use the SGL 4000 accounts, BPD, as the Commission's accounting service provider, did utilize them.

report the full costs of outputs in general purpose financial reports since fiscal year 1998.[36]

We were able to obtain a Commission cost report for the second quarter of fiscal year 2004 that showed $397,432 of what appeared to be primarily direct salary charges for eight projects and $1,192,017 of primarily total salary charges. These amounts would indicate that administrative staff salaries not allocated to specific projects were double the level of direct salary charges. Considering that one-quarter of the Commission's total fiscal year 2004 appropriation of $9,096,000 would be $2,274,000, the cost report included about half the costs and thus did not appear to include nonsalary overhead such as rent, supplies, travel, and other costs.

Commission's Internal Control Environment Was Weak

The internal control deficiencies discussed above are symptoms of a long-standing, fundamental problem plaguing the Commission: an overall weak internal control environment. In an earlier report, we found broad management problems at the Commission, which appeared to be an agency in disarray, with limited awareness of how its resources were being used.[37] A lack of these basic, well-established management controls makes the Commission vulnerable to resource losses due to waste or abuse.

The control environment reflects management's commitment to and attitude toward the implementation and maintenance of an effective internal control structure. The control environment that management promulgates through the organization will strongly influence the design and operation of control policies and procedures. It will also determine how effective controls are at mitigating risks and achieving results. Further, the environment is affected by the manner in which the Commission delegates authority and responsibility throughout the organization. Duties should be segregated to assure that one individual cannot control all key aspects of a transaction. However, we found that the Commission's former staff director exercised significant control over Commission transactions and activities, such that it overrode internal controls by responsible staff. For example, the former staff director routinely approved travel vouchers for payment although many of the transactions lacked adequate supporting documentation.

In addition to the internal control issues discussed above, the extent to which the Commission's internal control environment is weak is further evidenced by BPD's decision in September 2003 to discontinue providing accounting services for the Commission. On September 9, 2003, BPD informed the Commission that it would not

[36] FASAB Statement of Federal Financial Accounting Standard (SFFAS) No. 4, *Managerial Cost Accounting Standards* (Washington, DC.: July 31, 1995), as modified by SFFAS No. 9, *Deferral of the Effective Date of Managerial Cost Accounting Standards* (Washington, DC.: October 1997). In addition, section 221.3 of OMB Circular No. A-11 encourages agencies to include full costs to achieve program outputs. If full costs cannot be precisely calculated, agencies should prepare their best estimate or approximation of the full cost.

[37] GAO/HEHS-97-125.

renew the interagency agreement to provide accounting services to the Commission for fiscal year 2004. BPD believed that management control and oversight of Commission resources were inadequate, which they indicated could lead to overobligation of funds, resulting in a violation of the Antideficiency Act.

In a December 9, 2003, letter to the Commission's former staff director, BPD outlined its various concerns about the financial management of the Commission during fiscal year 2003 that had almost led to the Commission violating the Antideficiency Act. While the Commission, through the former staff director, maintained that the discontinuance of BPD accounting and procurement services stemmed purely from cost considerations, our review of the financial transactions of the Commission, and the internal control issues we identified during our review, are consistent with BPD's expressed concerns about the state of the Commission's financial management practices.

Prior to November 2002, the Commission was not required under federal law to prepare annual financial statements or have them subjected to independent audit. However, with the enactment of the Accountability of Tax Dollars Act of 2002, the Commission became subject to an annual financial statement audit requirement. Fiscal year 2004 was the first year for which the Commission was required to submit annual audited financial statements to the Congress and OMB. We found no evidence that the Commission had ever had its financial statements audited or was required to. Given the serious internal control issues we identified as a result of our testing of financial transactions and our review of the Commission's internal controls, it is highly unlikely that the Commission will be able to obtain a successful first-year audit of its fiscal year 2004 financial statements. Additionally, it is also clear that the Commission did not comply with the accelerated financial reporting deadline of November 15, 2004, for federal entities, required by OMB to take effect beginning with financial statements for fiscal year 2004. As of February 28, 2005, the Commission's independent public accountant had not yet issued its audit report on the Commission's fiscal year 2004 financial statements.

Recommendations

To strengthen the Commission's internal controls, we recommend that the Commission, through its staff director or his designee, take the following actions.

24. Work with the Commission's current accounting service provider to develop specific policies and procedures for the Commission with respect to control activities and the processing, recording, and reporting of financial transactions.

25. Require that all financial transactions be properly approved and supported before being processed and that documentation for transactions be readily available.

26. Develop financial or operating plans and have periodic budget execution reviews of the status of obligations against these plans.

27. Establish an administrative fund control system to hold managers accountable for executing the budget against financial or operating plans.

28. Require that the financial management system support the administrative fund control system.

29. Require that travel transactions be timely submitted for reimbursement in accordance with the *Federal Travel Regulation* and be processed promptly.

30. Require that all aspects of the Commission's procurement of goods and services be properly documented, including the method of solicitation, competition, and selection, in accordance with the FAR.

31. Report required fiscal year 2003 procurement data to the Federal Procurement Data Center.

32. Implement procedures for reporting future years' procurement data to the Federal Procurement Data Center on an annual basis.

33. Require that payments to commercial vendors be properly processed and timely made in accordance with the requirements of the Prompt Payment Act.

34. Establish controls to timely monitor and reconcile budgetary transactions between Commission cuff records and its service provider reports.

35. Accumulate and report complete and adequate cost information by project.

36. Strengthen the Commission's internal control environment by documenting management's commitment and attitude in implementing and maintaining an effective internal control structure, including audits and the adequate segregation of duties.

Commission's Budgetary Resources Are Not Linked to its Mission and Goals

In reviewing the manner in which budget priorities were addressed, we found that the Commission was unable to provide evidence of how its fiscal year 2003 budgetary resources were used to fulfill its statutory duties and to achieve the six goals listed in its fiscal year 2003 annual performance plan.[38] For example, the Commission could not determine the extent and amount of budgetary resources expended in fiscal year 2003 for one of its goals: public services announcements (PSAs). Further, we could not determine how the Commission planned, communicated, and prioritized its budgetary resources, which makes it difficult for OMB and the Congress to understand whether the Commission is using its financial resources to achieve its mission and goals. While projects to be funded were generally approved by the

[38] The Government Performance and Results Act (GPRA) of 1993 requires federal executive agencies—including independent commissions—to submit strategic and annual performance plans as well as report annually on progress made. Annual plans show how an agency intends to carry out its objectives and measure its performance in reaching long-term strategic goals.

commissioners, the Commission's former staff director determined how budgetary resources were actually spent. Given the long-standing congressional concerns over the Commission's management priorities, we believe that the Commission should take the initiative to improve the linkage of its resources to its statutory duties and goals through better planning and budget execution, and to enhance the transparency of its budgetary, financial, and operational activities.

Statutory Authority

The Congress provides broad direction to the Commission through its authorizing legislation, which mandates that the Commission investigate allegations that certain citizens are being deprived of their right to vote by reason of their color, race, religion, sex, age, disability, or national origin, or by reason of fraud. The Commission's statutory duties are also to

1. study and collect information relating to 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;

2. make appraisals of the laws of the federal government with respect to 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;

3. serve as a national clearinghouse for information relating to 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; and

4. prepare PSAs and advertising campaigns to discourage 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.

In addition, the Commission is required to submit to the President and the Congress at least one report annually that monitors federal civil rights enforcement efforts in the United States.

Planning

While the Commission's duties are explicitly laid out in its authorizing statute, the annual appropriations process gives the Commission discretion in how it will use its budgetary resources to meet its mission. For fiscal years 2003 through 2005, the general language contained in the Appropriations Committee reports states "The Commission investigates charges of citizens being deprived of voting rights and other civil rights, and collects, studies, and disseminates information on the impact of

Federal laws and policies on civil rights."[39] This language does not contain specific direction regarding how appropriations are to be applied to specific budget priorities or projects. Therefore, it is the responsibility of Commission management to plan, communicate, and prioritize the use of its budgetary resources to demonstrate fulfillment of its statutory duties and achievement of its goals.

The Commission listed six civil rights goals in its fiscal years 2003 through 2005 performance plans, which appear consistent with its statutory mission. However, we found that the Commission was unable to provide evidence linking its goals, funding requests, and accounting information needed to support the costs of current projects and activities. For example:

- In its fiscal year 2003 budget request for appropriations, the Commission maintained that it has been unable to effectively communicate and disseminate information to the public as a result of its outmoded technology and equipment. However, the Commission provided no cost information on the resources needed to effectively upgrade its technology and equipment, nor did it provide information on how such an investment would further its ability to achieve its goals.

- In its fiscal year 2004 budget request for appropriations, the Commission stated that it needed to hire at least another 10 employees to meet emerging issues and address new projects. However, the Commission again provided no detailed cost information for these two items, or the program effect if these employees were not hired.

For the performance budgeting display, OMB Circular No. A-11 states that, to the extent possible, agencies should attempt to align budget accounts with programs and distinguish among the components that contribute to different strategic goals and objectives. However, OMB Circular No. A-11 specifically notes that this requirement is only applicable to major programs and activities. Additionally, the circular does not require that agencies show the financial costs associated with their goals and activities, nor does it require that agencies present information by project or activity. Consequently, while providing cost information by goals and proposed projects and activities and linking budget requests to performance plans would be informative, there is no requirement for the Commission to present information by project in the President's Budget or in its congressional budget submission.

Another mechanism that can be used to link budgetary resources to actual performance is a strategic plan. However, we had previously reported that the Commission had not updated or revised its GPRA-required strategic plan and goals since 1997.[40] As a result, the Commission continued to rely on strategic goals developed in 1997 to formulate its current annual goals. Without revisiting its

[39] H.R. CONF. REP. No. 108-10, at 772 (2003); H.R. REP. No. 108-221, at 145 (2003); and H.R. REP. No. 108-576, at 119 (2004).

[40] GAO-05-77.

strategic goals, the Commission does not have a firm basis on which to develop its annual goals. We have previously made recommendations to the Commission to update its strategic plan and to ensure that performance plans and reports include all elements required under GPRA.

In its last congressional oversight hearing, the Commission was criticized for poor management practices, the lack of detailed project costs, and disregard of OMB budget procedures and its own budgeting process by failing to submit its fiscal year 2002 budget to commissioners for approval.[41] During that hearing, one of the commissioners stated that while the Commission requested a substantial budget increase each year, in the commissioner's view, the Commission is unable to effectively plan from month to month, let alone for the year.[42]

Budget Execution

The Commission does have a mechanism to provide more meaningful information on the use of its budgetary resources through the apportionment process. An apportionment is a plan on how budgetary resources will be spent, which is approved by OMB. For fiscal year 2003, the quarterly apportionment the Commission received from OMB on how to spend its $9 million appropriation was presented by budget object class, which in essence presented the breakout in broad categories such as salaries, benefits, and travel. However, OMB Circular No. A-11 states that a key purpose of the apportionment process is to identify meaningful program reporting categories that agencies will report their obligations against in their SF-133, *Reports on Budget Execution and Budgetary Resources*. Agencies can work with OMB to develop meaningful reporting categories that will better inform congressional oversight committees on how budgetary resources are being prioritized and directed. Through this process, the Commission has an opportunity to explain how its funding will be used to affect the achievement of its statutory duties.

The Commission has not taken advantage of this opportunity. Instead, the Commission's former staff director determined how quarterly funding would be spent by broad budget object class. In reviewing the Commission's fiscal year 2003 budgetary and financial records, we found no established mechanisms or defined benchmarks to link budget plans or reported expenditures to goals, activities, or projects.

For example, although required to prepare PSAs and advertising campaigns, we could find no evidence that the Commission compiled or reported any information on how much of its fiscal year 2003 budgetary resources were actually used for these activities. In reviewing the Commission's requests for appropriations for fiscal years 2003 through 2005, we found that the Commission reported disparate information on PSAs. In its fiscal year 2003 request for appropriations, the Commission's plans for

[41] Hearing before the Subcommittee on the Constitution, Committee on the Judiciary, House of Representatives, 107th Cong. 16 (Apr. 11, 2002).

[42] Id. (Statement of Commissioner Thernstrom).

PSA activity were limited. It stated that it planned to air at least one PSA and, to the extent possible with available funding, develop and implement a single public service advertising campaign.

In testing the Commission's fiscal year 2003 transactions, we identified at least $18,788 of payments to a media services contractor for media outreach and story placement to newspapers, television, and radio stations, which included public announcements concerning voting rights in Florida. However, we could find no evidence of a formal PSA campaign that linked back to the Commission's fiscal year 2003 request for appropriations. This lack of information organized around mission and goals makes it difficult for OMB and the Congress to understand, and the Commission to explain, how existing budgetary resources are prioritized and spent. In turn, it raises questions about whether the Commission's budget requests for additional funding are supportable.

Further, in its fiscal year 2004 request for appropriations, the Commission reported detailed information on its fiscal year 2002 PSA national radio campaign, *The American Way*. While this information stated that more than 460 radio stations had aired the PSA an average of 131 times and had reached an audience of over 161 million, this campaign was barely mentioned in the Commission's fiscal year 2003 budget request. In addition, the 2004 request stated that in fiscal year 2003, the Commission began work on a Spanish language PSA and would continue this work into fiscal year 2004, in addition to developing a fifth PSA campaign. Again, we could find no linkage of budget resources to PSA goals, activities, or projects.

Assessment

We found that the Commission has never assessed its programs nor had its programs rated and evaluated by OMB in terms of outcomes, outputs, and inputs.[43] OMB officials indicated that its oversight of the Commission has been limited because of its small size and budget. Consequently, OMB has not performed a Program Assessment Rating Tool (PART) on the Commission and none is currently planned.[44]

PART was developed to assess and improve program performance so that the federal government can achieve better results. A PART review helps identify a program's strengths and weaknesses to inform funding and management decisions aimed at making the program more effective. PART therefore looks at all factors that affect and reflect program performance, including program purpose and design; performance measurement (including outcomes, outputs, and inputs), evaluations, and strategic planning; program management; and program results. Because PART includes a consistent series of analytical questions, it allows programs to show

[43]Outcomes describe the intended result or consequence that will occur from carrying out a program or activity. Outputs are the goods or services produced by a program or organization and provided to the public or others. Inputs are resources, often measured in dollars, used to produce outputs and outcomes.

[44] However, OMB plans to assess 20 percent of all federal programs annually such that all programs would be eventually reviewed over a 5-year period represented by the fiscal years 2004-2008 budgets.

improvements over time, and allows comparisons between similar programs. Although not required, the Commission could use PART as a tool in its planning process to achieve better results.

Recommendations

We recommend that the Commission, through its staff director, instruct the Commission chief of budget and finance, or his designee, to take the following actions.

37. Work with OMB within the apportionment process to identify meaningful program reporting categories that the Commission can use to report its obligations against in its SF-133, *Reports on Budget Execution and Budgetary Resources*, and other external reports.

38. Consider the costs and benefits of doing program self-assessments and evaluate programs in terms of outcomes, outputs, and inputs.

39. Use the Program Assessment Rating Tool to identify weaknesses in Commission programs and to assist in the planning process.

Commission Comments and Our Evaluation

We received written comments from the Office of the Staff Director of the U.S. Commission on Civil Rights, which represented the official response of the agency. In its comments, the Commission agreed with our report's findings and further stated that our report will serve as a useful guide as the agency begins to reform its financial management and internal controls. The Commission's comments are reproduced in their entirety in enclosure III.

Unless you publicly announce its contents earlier, we plan no further distribution until 30 days after the date of this letter. At that time, we will send copies of this report to the Chairman of the U.S. Civil Rights Commission and other interested parties. In addition, this report will also be available at no charge on the GAO Web site at http://www.gao.gov.

If you or your staff have any questions, please contact me at (202) 512-3406 or by e-mail at sebastians@gao.gov or Roger R. Stoltz, Assistant Director, at (202) 512-9408 or by e-mail at stoltzr@gao.gov. Key contributors to this report were Charles E. Norfleet, Ryan D. Holden, Esther Tepper, Viny Talwar, Sharon O. Byrd, F. Abe Dymond, Jacquelyn N. Hamilton, and Denise M. Fantone.

Steven J. Sebastian

Steven J. Sebastian
Director
Financial Management and Assurance

Enclosure I

Resources and Expenditures

Table 1: Commission on Civil Rights Schedule of Fiscal Year 2003 Appropriations, Obligations, and Outlays

Account	Amount
Appropriations	$9,096,000
Less: .0065 rescission	-59,124
Available appropriation	9,036,876
Less: Unobligated appropriations	-22,005
Obligations	9,014,871
Less: Unexpended obligations*	-258,432
Outlays	$8,756,439

Source: President's Budget and Department of the Treasury, Bureau of the Public Debt.

*This amount consists of $223,276 of payables and $35,156 of undelivered orders, which represent the value of goods and services ordered that have been obligated but have not been received.

Table 2: Commission on Civil Rights Schedule of Fiscal Year 2003 Expenditures Population by Budget Object Code (BOC)

BOC	Description of BOC	Amount
11	Personnel compensation	$5,316,324
12	Personnel benefits	1,692,473
13	Benefits to former personnel	2,291
21	Travel and transportation of persons	202,076
22	Transportation of things	35,728
23	Rent, communications, utilities, and misc. charges	1,208,467
24	Printing and reproduction	86,764
25	Other services	969,254
26	Supplies and materials	209,929
31	Equipment	507,909
42	Insurance claims and indemnities	9,794
43	Interest and dividends	653
	Total**	**$10,241,662**

Source: Department of the Treasury, Bureau of the Public Debt.

**The difference of $1,485,223 between the expenditure population and outlays in table 1 is caused by proprietary accounting adjustments such as $501,182 of old equipment written off as fully depreciated, while outlays contain both current and prior year payments.

Enclosure II

Testing Approach

Table 1: Statistical Samples and Population Summary

	Samples		Population	
	Total number of sampled selections	**Total dollar value of sampled transactions**	**Total number of transactions in the population**	**Total dollar value of transactions in the population**
Nonsalary debit transactions	56	$2,350,461	7,012	$6,147,274
Nonsalary credit transactions	12	(267,057)	1,239	(1,221,936)
Subtotal	68	2,083,404	8,251	4,925,338
Salary transactions	52	130,127	4,035	5,316,324
Total	**120**	**$2,213,531**	**12,286**	**$10,241,662**

Source: GAO analysis of Commission data.

Table 2: Nonstatistically Selected Transaction Summary

	Selections	
	Total number of nonstatistically selected transactions	**Total dollar value of nonstatistically selected transactions**
Salary credits	2	($7,629)
Travel debit transactions greater than $1,000	32	97,196
Travel credit transactions greater than $1,000	1	(1,251)
Contractual service debit transactions greater than $10,000	22	396,936
Contractual service credit transactions greater than $10,000	4	(103,357)
Contractual service credit transactions less than $10,000	2	(11,165)
Other nonsalary debit transactions less than $10,000	9	39,042
Total	**72**	**$409,772**

Source: GAO analysis of Commission data.

Table 3: Statistically Selected and Nonstatistically Selected Summary

	Samples	
	Total number of transactions tested	Total dollar value of transactions tested
Total	**192**	**$2,623,303**

Source: GAO analysis of Commission data.

Enclosure III
Comments from the United States Commission on Civil Rights

UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON, D.C. 20425

OFFICE OF STAFF DIRECTOR

February 1, 2005

Steven Sebastian
Director
Financial Management and Assurance Division
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Re: GAO Draft Report

Dear Mr. Sebastian:

We appreciate the opportunity to respond to the draft report prepared by the Government Accountability Office's Financial Management and Assurance Team regarding the U.S. Commission on Civil Rights' financial management and internal controls. Over the last several years, the GAO has issued a series of reports that collectively portray the Commission as being, in the GAO's term, an "agency in disarray." This newest report further refines that portrait, presenting a sobering analysis of the state of the agency as new management now assumes responsibility for its direction. The report's findings are serious, detailed, and alarming. They will serve as a useful guide as we begin to reform our financial management and internal controls.

Again, we thank you for the opportunity to respond to this report and to use it as a tool for improving our financial management. We appreciate the seriousness of the weaknesses that you have identified and believe that your report has been an important service to this agency.

Sincerely,

Kenneth L. Marcus
Staff Director

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