

House Report 110-919 - COMMERCE, JUSTICE, SCIENCE, AND RELATED
AGENCIES APPROPRIATIONS BILL, 2009

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

Fiscal Year 2008 enacted \$329,300,000
Fiscal Year 2009 request 341,925,000
Recommended in the bill 350,425,000
Bill compared with:
 Fiscal Year 2008 enacted +21,125,000
 Fiscal Year 2009 request +8,500,000

The Equal Employment Opportunity Commission (EEOC) has jurisdiction over employment discrimination issues within the Federal government and also for private employers, State and local agencies, employment services and labor organizations. The EEOC receives, reviews, investigates and processes charges of employment discrimination and files discrimination suits. The EEOC also provides guidance and information to both employers and employees concerning their rights and responsibilities under applicable laws. For fiscal year 2009, the Committee recommends \$350,425,000, which is \$8,500,000 over the budget request.

Backlog reduction.--The Committee remains very concerned about the rising charge backlog at the EEOC. The backlog at the end of fiscal year 2007 was 54,970 charges, a 37 percent increase over the backlog at the end of the previous fiscal year. The EEOC estimates that the charge backlog will be 66,976 at the end of fiscal year 2008 and 75,000 at the end of fiscal year 2009. With the workload increasing drastically, staff levels, particularly among front line staff such as investigators and attorneys, have been inadequate to reduce or contain the backlog. Consequently, the Committee recommends an increase of \$9,545,000 to begin addressing this problem and directs the EEOC to report to the House and Senate Committees on Appropriations within 60 days of the enactment of this Act with a comprehensive plan for backlog reduction. The plan should address future resource requirements and hiring needs, including new staff to fill EEOC's 231 existing 'unfunded' full-time equivalent positions and any additional hires needed to counterbalance the coming wave of employee retirements, as necessary.

Accuracy of workload projections.--The Committee questions the accuracy of the EEOC's future workload projections because the assumptions underlying those projections appear overly optimistic. The EEOC is using assumptions on case resolutions, for example, that significantly exceed the rate of resolution actually achieved in recent years. These discrepancies become particularly apparent when the projections in the Inventory and Resolutions Workload Table are compared to

midyear data that EEOC collects and distributes internally. The EEOC is urged to further refine its projections (which are a major factor in calculating the estimated charge backlog for a given year) by calibrating them with actual data, such as those available through the annual midyear review.

National Contact Center transition- Last fiscal year, the EEOC migrated its customer service operation from the contractor-based National Contact Center (NCC) to an in-house call intake function. The Committee strongly supported this migration, and the fiscal year 2009 recommendation reiterates this support by including \$3,635,000 for call processing personnel and information technology expenses. In order to ensure that callers being handled by the new in-house customer response function are receiving service that is equal to or better than the service that was received through the NCC, the EEOC is directed to report to the House and Senate Committees on Appropriations on comparative customer satisfaction data no later than 60 days after the enactment of this Act. The report should also include a cost-benefit analysis of hiring higher credentialed employees for the call intake function, which might provide more substantive assistance to callers and resolve a greater number of calls at the first point of contact.

State, local and tribal assistance- The Committee recommends \$28,000,000 for payments to State and local Fair Employment Practice Agencies (FEPAs) and Tribal Employment Rights Organizations (TEROs). This will provide the FEPAs and TEROs with a level of support that is comparable to assistance received in fiscal year 2008. The Committee is aware that EEOC is looking at actual processing costs per charge for the FEPAs and TEROs, which will inform future decisions about the level of reimbursement provided to these agencies. EEOC is directed to submit its findings on state, local and tribal per charge costs to the House and Senate Committees on Appropriations when that data becomes available.

Outreach- The Committee does not accept EEOC's proposal to reduce its outreach budget by \$1,500,000. EEOC should be doing more, not less, to reach underserved communities and other vulnerable populations to educate them about their workplace rights.

Restructuring- The Committee is aware of EEOC's continuing efforts to restructure various portions of its operations, including EEOC headquarters and parts of the federal operations office. Experiences during the field office restructuring process raised significant issues relating to EEOC's restructuring goals and have caused the Committee hesitation with respect to ongoing restructuring efforts. As a result, the Committee continues a provision from last year requiring EEOC to notify the Congress via reprogramming procedures prior to implementing any repositioning, restructuring or reorganization within the agency.

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Appropriations, 2008	\$329,300,000
Budget estimate, 2009	341,925,000
Committee recommendation	341,925,000

The Committee recommendation provides \$341,925,000. The recommendation is \$12,625,000 above the fiscal year 2008 enacted level and is the same as the budget request.

The Committee remains concerned at rising of backlog charges of employment discrimination at the Equal Employment Opportunity Commission [EEOC]. The Committee is disturbed that this issue has not been addressed in a systematic or strategic manner. The Committee is concerned that there is a lack of leadership and will at the EEOC to adequately address this problem and it could affect the ability of EEOC to meet its mission and mandate to promote equal opportunity at the workplace.

A recent GAO study conducted at the request of the Committee, found that not only is the EEOC's workload increasing but that the EEOC has not taken any actions to identify best practices for prioritizing and investigation charges. GAO found that over the past 4 years EEOC's private sector workload has increased by 10 percent and found that multiple factors contribute to the growing workload including growth of new charges and a decline in investigative staff. The GAO study concluded that if EEOC cannot keep pace with its growing private sector workload its mission and mandate to promote equal opportunity in the workplace could be compromised. The Committee directs the EEOC to report to the Committee on the steps the EEOC is taking to make sure its mission and mandate is not compromised.

The Committee is also concerned with EEOC lagging in filling frontline staff including investigators. Many of these FTE positions have remained unfilled for over 1 year despite increased need and growing backlog. The Committee further directs EEOC to submit a plan within 60 days of enactment of this act to the Committee outlining what steps the EEOC is taking to filling those positions, reasons for the delay in filling these positions and how these delays can be prevented in the future.

The GAO study also found that EEOC has not taken the necessary steps to fully address future workforce needs in their draft Strategic Workforce Plan. Specifically,

EEOC's workforce planning has not been approached strategically or systematically. The EEOC has not based workforce planning on mission needs, customer expectations workload or current workforce. The study concluded that EEOC could better address its growing caseload if it made better use of strategic planning than it is currently doing.

The Committee directs the EEOC to implement the GAO recommendations and report back to the Committee 60 days within enactment of this act on how the EEOC is implementing GAO recommendations.

Omnibus Bill and Report Language:

22 EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

23 SALARIES AND EXPENSES

24 For necessary expenses of the Equal Employment
25 Opportunity Commission as authorized by title VII of the

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1 Civil Rights Act of 1964, the Age Discrimination in Em-
2 ployment Act of 1967, the Equal Pay Act of 1963, the
3 Americans with Disabilities Act of 1990, and the Civil
4 Rights Act of 1991, including services as authorized by
5 5 U.S.C. 3109; hire of passenger motor vehicles as author-
6 ized by 31 U.S.C. 1343(b); nonmonetary awards to private
7 citizens; and not to exceed \$26,000,000 for payments to
8 State and local enforcement agencies for authorized serv-
9 ices to the Commission, \$343,925,000: *Provided*, That the
10 Commission is authorized to make available for official re-
11 ception and representation expenses not to exceed \$2,500
12 from available funds: *Provided further*, That the Commis-
13 sion may take no action to implement any workforce repo-
14 sitioning, restructuring, or reorganization until such time
15 as the House and Senate Committees on Appropriations
16 have been notified of such proposals, in accordance with
17 the reprogramming requirements of section 505 of this
18 Act. *Provided further*, That the Chair is authorized to ac-
19 cept and use any gift or donation to carry out the work
20 of the Commission.

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The bill provides \$343,925,000 for the Equal Employment Opportunity Commission (EEOC), which is \$2,000,000 above the budget request.

Backlog reduction.—EEOC's rising charge backlog is a significant concern, but it does not appear that this issue is being addressed by EEOC in a systematic or strategic manner. Consequently, the EEOC is provided an increase of \$6,545,000 to begin addressing this problem. EEOC is directed to report to the House and Senate Committees on Appropriations within 60 days of the enactment of this Act with a comprehensive plan for backlog reduction, including future resource requirements and hiring needs. The hiring needs section of the plan should also address EEOC's large number of unfilled existing frontline staff positions. The report should specify what steps EEOC is taking to fill those positions, the reasons for the delay in filling them and how these delays can be prevented in the future.

Accuracy of workload projections.—The assumptions underlying EEOC's future workload projections appear overly optimistic or otherwise inaccurate. The EEOC is urged to further refine its projections by calibrating them with actual data, such as those available through the annual midyear review.

Customer service transition.—The fiscal year 2009 funding level includes \$3,635,000 to complete the transition of EEOC's customer service operation to an in-house function. To ensure that callers being handled by the new in-house

operation are receiving service that is equal to or better than the service that was received through the prior system, EEOC is directed to report to the House and Senate Committees on Appropriations on comparative customer satisfaction data no later than 60 days after the enactment of this Act. The report should also include a cost-benefit analysis of hiring higher credentialed employees for the call intake function.

State, local and tribal assistance.—EEOC is directed to submit the findings of its ongoing review of state, local and tribal per charge costs to the House and Senate Committees on Appropriations when that data becomes available.

Workforce planning.—A recent GAO study found that EEOC did not strategically or systematically approach mission needs, customer expectations, workload or current workforce needs in its draft Strategic Workforce Plan. The study concluded that EEOC could better address its growing caseload if it made better use of strategic planning. EEOC is directed to implement the recommendations of GAO and to report back to the House and Senate Committees on Appropriations within 60 days of the enactment of this Act on how those recommendations were implemented.