

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION



PERFORMANCE AND ACCOUNTABILITY REPORT (PAR) FISCAL YEAR 2022

November 15, 2022

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Message from the Chair

November 15, 2022

I am pleased to submit the Performance and Accountability Report for Fiscal Year 2022. This report provides performance information in keeping with the requirements of the Government Performance and Results Modernization Act of 2010 and includes audited financial statements and accompanying documentation as mandated by the Accountability of Tax Dollars Act of 2002.

In response to the COVID pandemic FMSHRC implemented a fulltime teleworking plan for all personnel and transitioned to exclusively electronic filings and issuances. Beginning on January 3, 2022, FMSHRC resumed in-person hearings within the discretion of the presiding Chief Administrative Law Judge. In April 2022, FMSHRC implemented a plan for employees to resume in-person work in FMSHRC office spaces while also maintaining partial telework schedules. In July 2022, FMSHRC resumed in-person oral arguments and decisional meetings consistent with its COVID-19 Workplace Safety Plan.

In Fiscal Year 2022, FMSHRC met or substantially met the performance targets for all four trial level goals in the Office of the Chief Administrative Law Judge. The number of trial level cases on hand also has been reduced significantly over the past several years, with 1,127 remaining at the end of FY 2022. At the appellate level, FMSHRC met its case targets for four of its five goals.

We are pleased to report the independent auditor's opinion that the financial statements present fairly, in all material aspects, FMSHRC's financial position. No matters involving internal control were noted and no material internal control weaknesses were identified. It is my assessment that the financial and performance data in this report are reliable and complete.



Mary Lu Jordan
Chair

Management Discussion and Analysis

MISSION AND ORGANIZATIONAL STRUCTURE

The Federal Mine Safety and Health Review Commission (FMSHRC, or the Commission) is an independent adjudicatory agency that provides administrative trial and appellate review of legal disputes arising under the Federal Mine Safety and Health Act of 1977 (Mine Act), as amended. The Commission is entirely independent and is not a component of the Department of Labor (DOL) or Mine Safety and Health Administration (MSHA).

Section 113 of the Mine Act establishes FMSHRC and sets forth its responsibilities. The Mine Improvement and New Emergency Response Act of 2006, P.L. 109-236 (MINER Act) added an additional responsibility to FMSHRC, resolving disputes between the Secretary of Labor and underground coal operators with respect to the contents of emergency response plans or the Secretary's refusal to approve such plans.

The mission of FMSHRC is to provide just, speedy, and legally sound adjudication of proceedings authorized under the Mine Act in a manner that deters noncompliance with the Act and ensures that a penalty once proposed and contested before the Commission is not compromised out of view of the public or without justification.

FMSHRC currently consists of four organizational elements:

- Office of the Chair and Commissioners (OCC);
- Office of the General Counsel (OGC);
- Office of the Chief Administrative Law Judge (OCALJ); and
- Office of the Executive Director (OED).

The Commission is headquartered in Washington, DC with satellite offices located in Denver, CO and Pittsburgh, PA.

The Commission carries out its responsibilities through trial-level adjudication by administrative law judges and appellate review of the judges' decisions by a five-member Commission. The Commissioners are appointed by the President and confirmed by the Senate.

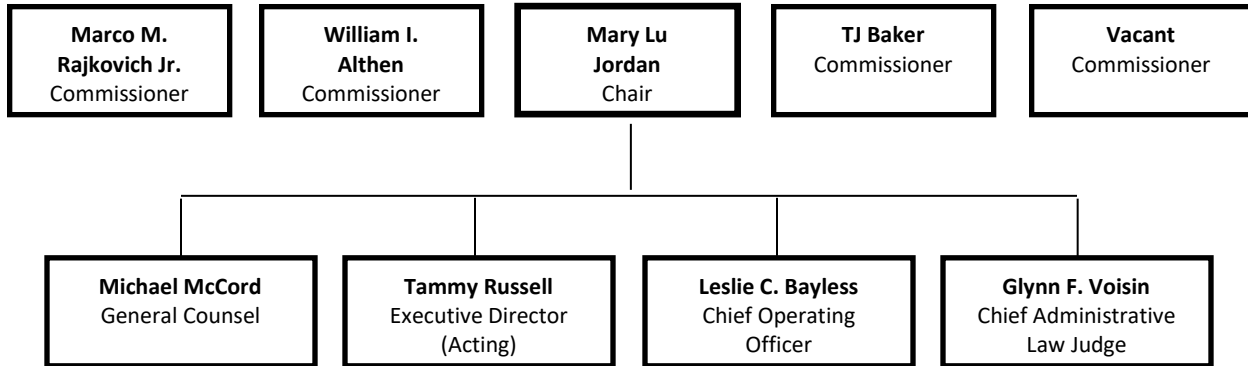
Most cases involve the contest of civil penalties proposed by MSHA to mine operators for alleged violations of mandatory health and safety standards, and address whether the alleged safety and health violations occurred as well as the assessment of appropriate civil penalties sufficient to deter operator noncompliance. The Commission is required by the Mine Act to review proposed penalty settlements between operators and MSHA to ensure that a penalty once proposed and contested before the

Commission is not compromised out of the view of the public and without justification. Other types of cases include contests of MSHA orders to close a mine for health or safety reasons, miners' requests for compensation after being idled by such orders, review of MSHA's approval or disapproval of operators' emergency response and other mine safety plans, miners' complaints that they suffered discrimination because they exercised protected safety rights, and miners' allegations of interference with the exercise of such rights. Disputes involving the temporary reinstatement of a miner, or an emergency response plan must be decided on an expedited basis.

Once a case is filed with the Commission, it is referred to the Chief Administrative Law Judge (Chief Judge). Thereafter, litigants in the case must submit additional filings before the case is assigned to a judge. To expedite the decisional process, the Chief Judge may rule on certain motions and, where appropriate, issue orders of settlement, dismissal, or default. Otherwise, once a case is assigned to an individual judge, that judge is responsible for the case and rules upon motions and settlement proposals. If a hearing is necessary, the judge schedules and presides over the hearing, and issues a decision based upon the record. A judge's decision becomes a final, non-precedential order of the Commission unless it is accepted for review by the Commission. The Commission provides administrative appellate review. It may, in its discretion, review decisions issued by judges when requested by a litigant, or it may, on its own initiative, direct cases for review. The Commission's decisions are precedential and appeals from the Commission's decisions are heard in the federal courts of appeals.

The Chair of the Commission is responsible for the administrative operations of the Commission. The Chief Operating Officer (COO) oversees the Commission's daily operations and provides management guidance to the Chair to ensure Commission compliance with federal regulations and improve the Commission's overall efficiency and effectiveness. The Office of the Executive Director (OED) function provides budget and financial management, and administrative and technical services -- including human resources and procurement and contracting. During FY 2022, the information technology and facilities management functions were transitioned out of OED and placed directly under the COO.

KEY PERSONNEL ORGANIZATION CHART



PERFORMANCE GOALS

For Fiscal Year 2022, FMSHRC set forth the following strategic goals:

Strategic Goal 1: Ensure expeditious, fair, and legally sound adjudication of cases.

Strategic Goal 2: Increase the Commission’s overall operational efficiency and effectiveness.

Strategic Goal 3: Achieve organizational excellence through workforce development.

KEY CHALLENGES

FMSHRC’s major challenge is the unpredictability of the workload. The number of contests filed by operators or appellate petitions brought to FMSHRC at both the trial and appellate levels is not subject to FMSHRC’s control.

- Most trial level cases that come before FMSHRC involve civil penalties proposed by MSHA against mine operators. These cases are the result of mine operators contesting those penalties.
- Most of the cases accepted for review are generated from petitions filed by parties adversely affected by a judge’s decision. In addition, the Commission, on its own initiative, may decide to review a case.
- The Commission at the appellate level also considers requests to reopen cases in which a mine operator is in default for failing to timely respond to the Secretary’s proposed penalty or to a judge’s order (“default cases”).

Our average time from receipt to disposition (i.e. pendency) of trial level cases decreased from 196 days in 2021 to 183 days in 2022. This is due to the processing of a large number of default cases in FY 2021, many of which were a year or more old. By FY 2022 many of these cases had been resolved and were no longer having such a

significant impact on pendency. FMSHRC's appellate case inventory of substantive cases was also reduced during 2022. FMSHRC continues to improve its capacity to handle cases and consistently works to ensure systems, procedures, and staffing are able to resolve any future caseload spikes.

ANALYSIS OF FINANCIAL STATEMENTS

The Accountability of Tax Dollars Act of 2002 requires that FMSHRC's financial statements be audited annually. In accordance with the Accountability of Tax Dollars Act of 2002, FMSHRC began annual audits in FY 2003. FMSHRC has received an "unmodified" opinion for each annual review conducted by an independent auditor.

FMSHRC has contracted with the Department of the Treasury, Bureau of the Fiscal Service, Administrative Resource Center, for accounting services since 1998. The Administrative Resource Center prepared FMSHRC's FY 2022 financial statements, which include comparative data for FY 2021. The principal financial statements include the Balance Sheet, Statement of Net Cost, Statement of Changes in Net Position, and Statement of Budgetary Resources.

Analysis of the Balance Sheet

FMSHRC's assets in fiscal year 2022 were \$9,885,421 as of September 30, 2022. The Fund Balance with Treasury of \$9,869,417 represents FMSHRC's largest asset as of September 30, 2022. This is an increase of approximately 9 percent from fiscal year 2021 and represents approximately 99 percent of the agency's total assets. Property, Equipment, and Software accounts for approximately less than 1 percent of FMSHRC's total assets as of September 30, 2022. The net fixed asset value of \$177 equals the cost less accumulated depreciation and represents the current book value of those assets.

FMSHRC's liabilities in fiscal year 2022 totaled \$3,589,828 as of September 30, 2022. This is an increase of \$841,579 from the fiscal year 2021 balance of \$2,748,249. Accounts payable balance at September 30, 2022, was \$2,181,298 an increase of \$829,981 from September 30, 2021. Accrued payroll liabilities and payroll taxes increased \$92,021. Unemployment insurance increased \$382 in 2022. Unfunded annual leave increased \$49,168 in 2022 from 2021. Unfunded annual leave represents approximately 22 percent of total agency liabilities.

Net position is the difference between total assets and total liabilities. The total net position for fiscal year 2022 increased by \$3,991 from fiscal year 2021.

Analysis of Statement of Net Cost

The Statement of Net Cost shows the net cost of operations for the agency, and it is broken out between FMSHRC's two major functions, Administrative Law Judges and Review Commission. The total net cost of operations in 2022 was \$17,268,446, which is an increase of \$929,216 from the 2021 net cost of operations of \$16,339,230, a change of approximately less than 6 percent.

Analysis of the Statement of Changes in Net Position

The Statement of Changes in Net Position reports the change in the agency's net position during the reporting period. The net position consists of two components, the unexpended appropriations, and the cumulative results of operations. The Net Position increased \$3,991 in 2022 from 2021, a change of approximately .1 percent.

Analysis of the Statement of Budgetary Resources

The Statement of Budgetary Resources presents how the budgetary resources were made available and the status of the budgetary resources at the end of the reporting period. The total budgetary resources must always equal the total status of budgetary resources. For fiscal year 2022, FMSHRC had total budgetary resources of \$21,250,619, which is \$143,633 less than in 2021.

Statement of Financial Impact due to COVID-19

The COVID-19 pandemic did not have a significant financial impact on the agency's financial statements during FY 2022. Therefore, no additional budgetary resources were required from the Office of Management and Budget (OMB).

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION				
Table of Key Measures				
Dollars in Thousands			Increase	(Decrease)
	FY 2022	FY 2021	\$	%
COSTS				
Total Financing Sources	\$17,316	\$16,377	\$939	5.7%
Less: Net Cost	\$17,269	\$16,339	\$930	5.7%
Net Change of Cumulative Results of Operations	\$47	\$38	\$9	23.7%
NET POSITION				
Assets:				
Fund Balance with Treasury	\$9,869	\$9,009	\$860	9.5%
Accounts Receivable - Intragovernmental	\$12	\$0	\$12	100%
Accounts Receivable - Other than Intragovernmental	\$4	\$5	(\$1)	(20%)
Property, Equipment, and Software	\$0	\$26	(\$26)	(100%)
Total Assets:	\$9,885	\$9,040	\$845	9.3%
Liabilities:				
Accounts Payable - Intragovernmental	\$888	\$265	\$623	235%
Other Liabilities - Intragovernmental	\$164	\$273	(\$109)	(39.9%)
Accounts Payable - Other than Intragovernmental	\$1,294	\$1,086	\$208	19.2%
Federal Employees Benefits Payable	\$805	\$751	\$54	7.2%
Other Liabilities - Other than Intragovernmental	\$439	\$373	\$66	17.7%
Total Liabilities:	\$3,590	\$2,748	\$842	30.6%
Net Position (Assets minus Liabilities)	\$6,295	\$6,292	\$3	.05%

MANAGEMENT ASSURANCES

Analysis of Systems, Controls, and Legal Compliance

FMSHRC is responsible for establishing and maintaining effective internal control over financial reporting, which includes safeguarding assets and complying with applicable laws and regulations. As a small independent Federal agency, it is more efficient for FMSHRC to leverage servicing agencies for key functions than to build an organic capability. Consequently, FMSHRC must rely heavily on the systems and controls provided by servicing agencies to meet OMB's guidelines and the requirements of law with respect to financial management, accounting systems, and financial reporting.

All financial data reported was obtained from the FY 2022 accounting reports prepared by the Department of the Treasury, Bureau of the Fiscal Service, Administrative Resource Center, FMSHRC's accounting servicing provider. The performance data on case intake and dispositions has been verified by Commission managers. There are no known material inadequacies or non-conformance in either the completeness or reliability of the data reported.

The Administrative Resource Center has provided assurance that their financial management systems comply with Federal financial management system requirements, applicable Federal accounting standards, and the USSGL at the transaction level.

FMSHRC is in compliance with the Federal Managers Financial Integrity Act by maintaining effective internal controls to support reliable financial reporting and compliance with laws and regulations applicable to FMSHRC.

There have been no significant deficiencies or material weaknesses in the design or operation of internal controls over financial reporting during FY 2022. During the audit of the financial statements the independent auditor did not identify any significant deficiencies or material weaknesses. The independent auditor has provided an unmodified opinion on the financial statements.

Limitations of the Financial Statements

The principal financial statements are prepared to report the financial position and results of operations of the Federal Mine Safety and Health Review Commission, pursuant to the requirements of 31 U.S.C. § 3515(b). The statements are prepared from FMSHRC's books and records in accordance with Federal GAAP and the formats prescribed by OMB. Reports used to monitor and control budgetary resources are prepared from the same books and records. The statements should be read with the realization that they are for a component of the U.S. Government.

FRAUD REDUCTION REPORT

Pursuant to the Fraud Reduction and Data Analytics Act of 2015 (Public Law 114-186,

32 U.S. Code 3321), FMSHRC is reporting on its fraud reduction efforts for FY 2022 and the final quarter of FY 2021 in three key areas:

1. Implementation of financial and administrative controls

As a small agency, FMSHRC outsources financial, travel, human resources, and procurement services to a shared services provider through an interagency agreement. Additionally, FMSHRC's payroll services are managed by another government agency through a shared services interagency agreement. This creates a built-in separation of functions for agency business, with several checks and balances. Internally, financial and administrative controls are under currently review by management to establish adequate standard processes and procedures. For FY 2022, management focused on corrective action related to segregation of duties and independent checks for procurement and contracting.

2. The fraud risk principle in the Standards for Internal Control in the Government (the GAO Green Book)

Annually, FMSHRC completes the independent financial statement auditor's comprehensive Fraud, Waste and Abuse questionnaire. The questionnaire is completed and signed by management. Assertions are made that managers are not aware of allegations of fraud or suspected fraud, and that they understand risks specific to FMSHRC.

For FY 2022, management noted insufficient internal controls to prevent, detect, and deter fraud. Additionally, management noted suspected management involvement in alleged incidents of fraud, currently pending external investigation. Consequently, management is reviewing internal controls and need for corrective action in the areas of misappropriation of assets, waste of government resources, and abuse of authority.

FMSHRC maintains low risk of fraudulent financial reporting. Financial reporting is provided by an authorized shared services financial provider. FMSHRC's financial statements have been audited annually since 2003.

3. OMB Circular A-123 with respect to leading practices for managing fraud risk

Given the FY 2022 identification of insufficient internal controls related to managing fraud risk, FMSHRC management is committed to reassessing the agency's Enterprise Risk Management and Internal Control profile and establishing proper policies and standard processes and procedures for implementation.

Performance Section

PERFORMANCE GOALS AND RESULTS

For Fiscal Year 2022, FMSHRC set forth the following strategic goals:

Strategic Goal 1: Ensure expeditious, fair, and legally sound adjudication of cases.

Strategic Goal 2: Increase the Commission's overall operational efficiency and effectiveness.

Strategic Goal 3: Achieve organizational excellence through workforce development.

The first strategic goal is accomplished through the Administrative Law Judges function at the trial level, and the Commission Review function at the appellate level. The second and third strategic goals are accomplished through the Office of the Executive Director function and the Chief Operating Officer.

ADMINISTRATIVE LAW JUDGES FUNCTION

FMSHRC employs administrative law judges to hear and decide contested cases at the trial level. Judges travel to hearing sites located at or near the mine involved to afford mine operators, miners, and their representatives a full opportunity to participate in the hearing process or provide virtual hearings where appropriate. FMSHRC judges are also responsible for evaluating and approving or denying settlement agreements proposed by the parties under the Mine Act.

FMSHRC received 2,107 new case filings in FY 2022. The number of new cases was a seven percent increase from the 1,974 received in FY 2021.

There were 1,001 trial level cases pending at the start of FY 2022. In FY 2022 there were 1,968 dispositions.

The FY 2022 end-of-year inventory was 1,127 undecided cases.

FMSHRC met or substantially met all four performance targets for the Administrative Law Judges function, as shown in the Performance Measurement Matrix.

**ADMINISTRATIVE LAW JUDGES FUNCTION
PERFORMANCE MEASUREMENT MATRIX**

Performance Metrics - Office of the Chief Administrative Law Judges Function							
Performance Goal		FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	
Average time from receipt to disposition of all cases (measured in days)	Target	290	260	240	180	180	
	Result	257	188	161	196 ¹	183	
	Status	M	M	M	SM	SM	
Average time from receipt to disposition of penalty cases (measured in days)	Target	280	250	235	180	180	
	Result	257	175	153	184	171	
	Status	M	M	M	SM	SM	
Percent of all cases on hand over 365 days in age	Target	20%	20%	20%	20%	20%	
	Result	4%	4%	1%	11%	6%	
	Status	M	M	M	M	M	
Number of cases pending at year end	Anticipated	--	2,429	1,723	1,730	886	938
	Result		1,730	1,212	886	1,001	1,127
	Status	--	M	M	M	M	M

Status:

M - Target met or exceeded

SM - Target substantially met - within 10% of target

NM - Target not met

COMMISSION REVIEW FUNCTION

FMSHRC decides two principal types of cases: (1) substantive cases, which are cases in which a judge has issued a final or interlocutory decision on the merits and the Commission has granted a petition for review filed by either party, or at least two Commissioners have decided to grant review on their own initiative; and (2) default cases, which are cases where an operator has failed to timely contest a proposed penalty or to timely respond to a judge's order and the operator has filed a motion to reopen the final order.

In FY 2022, 16 petitions were filed, and 12 were granted. The targets for substantive cases were met for all four of the substantive case categories, as show on the following matrix.

The pendency of all substantive cases was 13 months in FY 2022 versus a goal of 13 months. Thus, the goal was met.

The average time from briefing completion to decision issuance was 9 months in FY 2022, which met the goal of 13 months.

In FY 2021, 48 default cases remained on hand at the end of that fiscal year. Of these 48 cases, 22 cases had been on hand for more than 6 months. This was 46 percent of the total number of cases. Thus, the goal of 40 percent was not met.

The Commission disposed of 4 substantive cases in FY 2022, ending the year with 13 substantive cases on hand.

**COMMISSION REVIEW FUNCTION
PERFORMANCE MEASUREMENT MATRIX**

Performance Metrics - Commission Review Function						
Performance Goal		FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Average time from date granted to issuance of decision for substantive cases (measured in months)	Target	15	15	15	13	13
	Result	12	17	18	13	12
	Status	M	NM	NM	M	M
Average time from briefing completion to issuance of decision for substantive cases (measured in months)	Target	9	9	12	9	9
	Result	9	12	12	10	9
	Status	M	NM	M	SM	M
Percent of substantive cases on hand over 18 months in age	Target	20%	20%	20%	20%	20%
	Result	11%	7%	12%	20%	16%
	Status	M	M	M	M	M
Percent of default cases on hand over 6 months in age	Target	30%	25%	25%	40%	40%
	Result	0%	23%	40%	36%	46%
	Status	M	M	NM	M	NM
Number of substantive cases pending at year end	Anticipated	16	16	16	16	16
	Result	9	14	8	5	13
	Status	M	M	M	M	M

Status:

M - Target met or exceeded

SM - Target substantially met - within 10% of target

NM - Target not met

OFFICE OF THE EXECUTIVE DIRECTOR FUNCTION

The Office of the Executive Director (OED) provides administrative services to support FMSHRC's accomplishment of its mission and strategic goals. The primary functions are financial management, human resources, procurement and contracting, and general administrative service support.

The financial management services function includes the areas of budget and accounting, such as budget formulation, budget execution, funds control, financial reporting, and vendor payments.

Human resources services cover the areas of recruitment and placement, classification and pay administration, performance management and incentive awards, employee benefits and retirement, personnel security, coordination of employee training programs, and wellness and employee assistance programs.

Procurement and contracting services include maintaining a simplified acquisition program for supplies and services, contract implementation and oversight, and coordination of services and supplies.

Other general administrative services provided by OED include the administration of employee travel authorizations and reimbursements and the Metro subsidy program.

During FY 2022, the following functions were transitioned out of OED and placed directly under the Chief Operating Officer (COO): information technology and facilities management.

Information technology entails help-desk functions, network administration, cybersecurity, policy formulation, and telecommunications.

Facilities management services cover property and space management, organization management, and physical security.

In FY 2022 and prior years, there were no performance measurements for administrative operations. However, steps are being taken to introduce performance measures for Strategic Goals 2 and 3 over FY 2023.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

**INDEPENDENT AUDITOR'S REPORT
AND
FINANCIAL STATEMENTS**

**FOR THE YEARS ENDED
SEPTEMBER 30, 2022 AND 2021**



**Prepared By
Brown & Company CPAs and Management Consultants, PLLC
November 15, 2022**



FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

**INDEPENDENT AUDITOR'S REPORT
AND
FINANCIAL STATEMENTS
FOR THE YEARS ENDED
SEPTEMBER 30, 2022 AND 2021**

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INDEPENDENT AUDITOR’S REPORT

Mary Lu Jordan, Chairman
Tammy Russell, Executive Director
Federal Mine Safety Health and Review Commission
Washington, D.C.

In our audits of the fiscal years 2022 and 2021 financial statements of the Federal Mine Safety Health and Review Commission (the Commission), we found:

- the Commission’s financial statements as of and for the fiscal years ended September 30, 2022, and 2021, are presented fairly, in all material respects, in accordance with United States of America (U.S.) generally accepted accounting principles;
- no material weaknesses in internal control over financial reporting based on the limited procedures we performed; and
- no reportable noncompliance with provisions of applicable laws, regulations, contracts, and grant agreements for fiscal year 2022.

The following sections discuss in more detail (1) our report on the financial statements, which includes required supplementary information (RSI)¹ and other information included with the financial statements²; (2) our report on internal control over financial reporting; (3) our report on compliance with laws, regulations, contracts, and grant agreements.

Report on the Financial Statements

Opinion

In accordance with the provisions of the Accountability of Tax Dollars Act of 2002 (ATDA) (Pub. L. No. 107-289), we have audited The Commission’s financial statements. The Commission’s financial statements comprise the balance sheets as of September 30, 2022, and 2021; the related statements of net cost, changes in net position, and budgetary resources for the fiscal years then ended; and the related notes to the financial statements. In our opinion, the Commission’s financial statements present fairly, in all material respects, the Commission’s financial position as of September 30, 2022, and 2021, and its net costs of operations, changes in net position, and budgetary resources for the fiscal years then ended in accordance with U.S. generally accepted accounting principles.

Basis for Opinion

We conducted our audits in accordance with U.S. generally accepted government auditing standards. Our responsibilities under those standards are further described in the Auditor’s Responsibilities for the Audit

¹ The RSI consists of Management’s Discussion and Analysis and the Statement of Budgetary Resources, which are included with the financial statements.

² Other information consists of information included with the financial statements, other than the RSI, Financial section, and the auditor’s report.

of the Financial Statements section of our report. We are required to be independent of the Commission and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibility of Management for the Financial Statements

The Commission's management is responsible for (1) the preparation and fair presentation of these financial statements in accordance with U.S. generally accepted accounting principles; (2) preparing, measuring, and presenting the RSI in accordance with U.S. generally accepted accounting principles; (3) preparing and presenting other information included in the Commission's financial statements, and ensuring the consistency of that information with the audited financial statements and the RSI; and (4) designing, implementing, and maintaining effective internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit of the financial statements conducted in accordance with U.S. generally accepted government auditing standards will always detect a material misstatement or a material weakness when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements, including omissions, are considered to be material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with U.S. generally accepted government auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements in order to obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion.
- Obtain an understanding of internal control relevant to our audit of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control over financial reporting. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Perform other procedures we consider necessary in the circumstances.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the financial statement audit.

Required Supplementary Information

U.S. generally accepted accounting principles issued by the Federal Accounting Standards Advisory Board (FASAB) require that the RSI be presented to supplement the financial statements. Such information is the responsibility of management and, although not a part of the financial statements, is required by FASAB, which considers it to be an essential part of financial reporting for placing the financial statements in appropriate operational, economic, or historical context. We have applied certain limited procedures to the RSI in accordance with U.S. generally accepted government auditing standards, which consisted of inquiries of management about the methods of preparing the RSI and comparing the information for consistency with management's responses to the auditor's inquiries, the financial statements, and other knowledge we obtained during the audit of the financial statements, in order to report omissions or material departures from FASAB guidelines, if any, identified by these limited procedures. We did not audit and we do not express an opinion or provide any assurance on the RSI because the limited procedures we applied do not provide sufficient evidence to express an opinion or provide any assurance.

Other Information

The Commission's other information contains a wide range of information, some of which is not directly related to the financial statements. This information is presented for purposes of additional analysis and is not a required part of the financial statements or the RSI. Management is responsible for the other information included in the Commission's financial statements. The other information comprises the information included in the annual report but does not include the financial statements and our auditor's report thereon. Our opinion on the financial statements does not cover the other information, and we do not express an opinion or any form of assurance thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

Report on Internal Control over Financial Reporting

In connection with our audits of the Commission's financial statements, we considered the Commission's internal control over financial reporting, consistent with our auditor's responsibilities discussed below.

Results of Our Consideration of Internal Control over Financial Reporting

Our consideration of internal control was for the limited purpose described below, and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies³ or to express an opinion on the effectiveness of the Commission's internal control over financial reporting. Given these limitations, during our audit, we did not identify any deficiencies in internal control over

³ Other information consists of information included with the financial statements, other than the RSI, Financial section, and the auditor's report. A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

financial reporting that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that have not been identified.

During our 2022 audit, we identified deficiencies in MSC's internal control over financial reporting that we do not consider to be material weaknesses or significant deficiencies.

Nonetheless, these deficiencies warrant MSC management's attention. We have communicated these matters to MSC management and, where appropriate, will report on them separately.

Basis for Results of Our Consideration of Internal Control over Financial Reporting

We performed our procedures related to the Commission's internal control over financial reporting in accordance with U.S. generally accepted government auditing standards.

Responsibilities of Management for Internal Control over Financial Reporting

Commission management is responsible for designing, implementing, and maintaining effective internal control over financial reporting relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibilities for Internal Control over Financial Reporting

In planning and performing our audit of the Commission's financial statements as of and for the fiscal year ended September 30, 2022, in accordance with U.S. generally accepted government auditing standards, we considered the Commission's internal control relevant to the financial statement audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control over financial reporting. Accordingly, we do not express an opinion on the Commission's internal control over financial reporting. We are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses. We did not consider all internal controls relevant to operating objectives, such as those controls relevant to preparing performance information and ensuring efficient operations.

Definition and Inherent Limitations of Internal Control over Financial Reporting

An entity's internal control over financial reporting is a process effected by those charged with governance, management, and other personnel, the objectives of which are to provide reasonable assurance that (1) transactions are properly recorded, processed, and summarized to permit the preparation of financial statements in accordance with U.S. generally accepted accounting principles, and assets are safeguarded against loss from unauthorized acquisition, use, or disposition, and (2) transactions are executed in accordance with provisions of applicable laws, including those governing the use of budget authority, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent, or detect and correct, misstatements due to fraud or error.

Intended Purpose of Report on Internal Control over Financial Reporting

The purpose of this report is solely to describe the scope of our consideration of the Commission's internal control over financial reporting and the results of our procedures, and not to provide an opinion on the effectiveness of the Commission's internal control over financial reporting. This report is an integral part

of an audit performed in accordance with U.S. generally accepted government auditing standards in considering internal control over financial reporting. Accordingly, this report on internal control over financial reporting is not suitable for any other purpose.

Report on Compliance with Laws, Regulations, Contracts, and Grant Agreements

In connection with our audits of the Commission's financial statements, we tested compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements consistent with our auditor's responsibilities discussed below.

Results of Our Tests for Compliance with Laws, Regulations, Contracts, and Grant Agreements

Our tests for compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements disclosed no instances of noncompliance for fiscal year 2022 that would be reportable under U.S. generally accepted government auditing standards. However, the objective of our tests was not to provide an opinion on compliance with laws, regulations, contracts, and grant agreements applicable to the Commission. Accordingly, we do not express such an opinion.

Basis for Results of Our Tests for Compliance with Laws, Regulations, Contracts, and Grant Agreements

We performed our tests of compliance in accordance with U.S. generally accepted government auditing standards. Our responsibilities under those standards are further described in the Auditor's Responsibilities for Tests of Compliance section below.

Responsibilities of Management for Compliance with Laws, Regulations, Contracts, and Grant Agreements

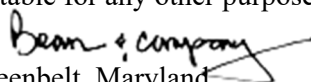
Commission management is responsible for complying with laws, regulations, contracts, and grant agreements applicable to the Commission.

Auditor's Responsibilities for Tests of Compliance with Laws, Regulations, Contracts, and Grant Agreements

Our responsibility is to test compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements applicable to the Commission that have a direct effect on the determination of material amounts and disclosures in the Commission's financial statements, and to perform certain other limited procedures. Accordingly, we did not test compliance with all laws, regulations, contracts, and grant agreements applicable to the Commission. We caution that noncompliance may occur and not be detected by these tests.

Intended Purpose of Report on Compliance with Laws, Regulations, Contracts, and Grant Agreements

The purpose of this report is solely to describe the scope of our testing of compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements, and the results of that testing, and not to provide an opinion on compliance. This report is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering compliance. Accordingly, this report on compliance with laws, regulations, contracts, and grant agreements is not suitable for any other purpose.


Greenbelt, Maryland
November 15, 2022

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
BALANCE SHEET
AS OF SEPTEMBER 30, 2022 AND 2021
(In Dollars)

	2022	2021
Assets:		
Intragovernmental:		
Fund Balance with Treasury (Note 2)	\$ 9,869,417	\$ 9,009,482
Accounts Receivable, Net (Note 3)	12,131	-
Total Intragovernmental	9,881,548	9,009,482
Other than Intragovernmental:		
Accounts Receivable, Net (Note 3)	3,696	4,468
General Property, Plant, and Equipment, Net (Note 4)	177	25,901
Total Other than Intragovernmental	3,873	30,369
Total Assets	\$ 9,885,421	\$ 9,039,851
Liabilities: (Note 5)		
Intragovernmental:		
Accounts Payable	\$ 887,605	\$ 265,127
Other Liabilities (Note 6)	163,918	272,793
Total Intragovernmental	1,051,523	537,920
Other than Intragovernmental:		
Accounts Payable	1,293,693	1,086,190
Federal Employee Benefits Payable	805,057	751,466
Other Liabilities (Note 6)	439,555	372,673
Total Other than Intragovernmental	2,538,305	2,210,329
Total Liabilities	\$ 3,589,828	\$ 2,748,249
Net Position:		
Unexpended Appropriations - Funds from Other than Dedicated Collections	\$ 7,070,537	\$ 7,113,962
Total Unexpended Appropriations (Consolidated)	7,070,537	7,113,962
Cumulative Results of Operations - Funds from Other than Dedicated Collections	(774,944)	(822,360)
Total Cumulative Results of Operations (Consolidated)	(774,944)	(822,360)
Total Net Position	6,295,593	6,291,602
Total Liabilities and Net Position	\$ 9,885,421	\$ 9,039,851

The accompanying notes are an integral part of these financial statements.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
STATEMENT OF NET COST
FOR THE YEARS ENDED SEPTEMBER 30, 2022 AND 2021
(In Dollars)

	2022	2021
Gross Program Costs:		
Commission Review:		
Gross Costs	\$ 7,672,376	\$ 6,976,547
Less: Earned Revenue	(274)	(39)
Net Program Costs	\$ 7,672,102	\$ 6,976,508
Administrative Law Judge:		
Gross Costs	\$ 9,666,369	\$ 9,372,793
Less: Earned Revenue	(70,025)	(10,071)
Net Program Costs	\$ 9,596,344	\$ 9,362,722
Net Cost of Operations	\$ 17,268,446	\$ 16,339,230

The accompanying notes are an integral part of these financial statements.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
STATEMENT OF CHANGES IN NET POSITION
FOR THE YEARS ENDED SEPTEMBER 30, 2022 AND 2021
(In Dollars)

	2022	2021
Unexpended Appropriations:		
Beginning Balance	\$ 7,113,962	\$ 7,252,099
Appropriations Received	17,539,000	17,184,000
Other Adjustments	(1,026,036)	(1,636,921)
Appropriations Used	(16,556,389)	(15,685,216)
Net Change in Unexpended Appropriations	(43,425)	(138,137)
Total Unexpended Appropriations	\$ 7,070,537	\$ 7,113,962
Cumulative Results of Operations:		
Beginning Balance	\$ (822,360)	\$ (860,152)
Appropriations Used	16,556,389	15,685,216
Imputed Financing (Note 9)	760,093	691,896
Other	(620)	(90)
Net Cost of Operations	(17,268,446)	(16,339,230)
Net Change in Cumulative Results of Operations	47,416	37,792
Total Cumulative Results of Operations	\$ (774,944)	\$ (822,360)
Net Position	\$ 6,295,593	\$ 6,291,602

The accompanying notes are an integral part of these financial statements.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
STATEMENT OF BUDGETARY RESOURCES
FOR THE YEARS ENDED SEPTEMBER 30, 2022 AND 2021
(In Dollars)

	2022	2021
Budgetary Resources:		
Unobligated Balance from Prior Year Budget Authority, Net (Note 10)	\$ 3,641,940	\$ 4,200,233
Appropriations	17,539,000	17,184,000
Spending Authority from Offsetting Collections	69,679	10,019
Total Budgetary Resources	\$ 21,250,619	\$ 21,394,252
Status of Budgetary Resources:		
New Obligations and Upward Adjustments (total)	\$ 15,810,391	\$ 17,095,614
Unobligated Balance, End of Year:		
Apportioned, Unexpired Accounts	2,431,064	1,077,198
Expired Unobligated Balance, End of Year	3,009,164	3,221,440
Unobligated Balance, End of Year (total)	5,440,228	4,298,638
Total Budgetary Resources	\$ 21,250,619	\$ 21,394,252
Outlays, Net and Disbursements, Net:		
Outlays, Net (total)	\$ 15,653,029	\$ 15,375,491
Distributed Offsetting Receipts	(620)	(136)
Agency Outlays, Net	\$ 15,652,409	\$ 15,375,355

The accompanying notes are an integral part of these financial statements.



FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION NOTES TO THE FINANCIAL STATEMENTS

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Reporting Entity

The Federal Mine Safety and Health Review Commission (“the Commission”) is an independent federal agency with the mission of providing administrative trial and appellate review of legal disputes arising under the Federal Mine Safety and Health Amendments Act of 1977, Public Law 91-173, amended by Public Law 95-164. The Commission reporting entity is comprised of General Funds and General Miscellaneous Receipts.

General Funds are accounts used to record financial transactions arising under congressional appropriations or other authorizations to spend general revenues.

General Fund Miscellaneous Receipts are accounts established for receipts of non-recurring activity, such as fines, penalties, fees and other miscellaneous receipts for services and benefits.

The Commission has rights and ownership of all assets reported in these financial statements. The Commission does not possess any non-entity assets.

B. Basis of Presentation

The financial statements have been prepared to report the financial position and results of operations of the Commission. The Balance Sheet presents the financial position of the agency. The Statement of Net Cost presents the agency’s operating results; the Statement of Changes in Net Position displays the changes in the agency’s equity accounts. The Statement of Budgetary Resources presents the sources, status, and uses of the agency’s resources and follows the rules for the Budget of the United States Government.

The statements are a requirement of the Chief Financial Officers Act of 1990, the Government Management Reform Act of 1994 and the Accountability of Tax Dollars Act of 2002. They have been prepared from, and are fully supported by, the books and records of the Commission in accordance with the hierarchy of accounting principles generally accepted in the United States of America, standards issued by the Federal Accounting Standards Advisory Board (FASAB), Office of Management and Budget (OMB) Circular A-136, Financial Reporting Requirements, as amended, and the Commission accounting policies which are summarized in this note. These statements, with the exception of the Statement of Budgetary Resources, are different from financial management reports, which are also prepared pursuant to OMB directives that are used to monitor and control the Commission’s use of budgetary resources. The financial statements and associated notes are presented on a comparative basis. Unless specified otherwise, all amounts are presented in dollars.

C. Basis of Accounting

Transactions are recorded on both an accrual accounting basis and a budgetary basis. Under the accrual method, revenues are recognized when earned, and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. Budgetary accounting facilitates the control and monitoring of federal funds as well as the compliance with legal requirements on the use of federal funds.

D. Fund Balance with Treasury

Fund Balance with Treasury is an asset of a reporting entity and a liability of the General Fund. It is the aggregate amount of the Commission's funds with Treasury in expenditure and receipt fund accounts. Appropriated funds recorded in expenditure accounts are available to pay current liabilities and finance authorized purchases.

The Commission does not maintain bank accounts of its own, has no disbursing authority, and does not maintain cash held outside of Treasury. When the reporting entity seeks to use FBWT to liquidate budgetary obligations, Treasury will finance the disbursements in the same way it finances all other disbursements, which is to borrow from the public if there is a budget deficit (and to use current receipts if there is a budget surplus). Funds are disbursed for the agency on demand.

E. Accounts Receivable

Accounts receivable consists of amounts owed to the Commission by other federal agencies and the general public. Amounts due from federal agencies are considered fully collectible. Accounts receivable from the public include reimbursements from employees. An allowance for uncollectible accounts receivable from the public is established when, based upon a review of outstanding accounts and the failure of all collection efforts, management determines that collection is unlikely to occur considering the debtor's ability to pay.

F. Property, Equipment, and Software

Property, equipment and software represent furniture, fixtures, equipment, and information technology hardware and software which are recorded at original acquisition cost and are depreciated or amortized using the straight-line method over their estimated useful lives. Major alterations and renovations are capitalized, while maintenance and repair costs are expensed as incurred. The Commission's capitalization threshold is \$50,000 for individual purchases and \$500,000 for bulk purchases. Property, equipment, and software acquisitions that do not meet the capitalization criteria are expensed upon receipt. Applicable standard governmental guidelines regulate the disposal and convertibility of agency property, equipment, and software. The useful life classifications for capitalized assets are as follows:

<u>Description</u>	<u>Useful Life (years)</u>
Leasehold Improvements	Period of Lease
Office Equipment	5

G. Advances and Prepaid Charges

Advance payments are generally prohibited by law. There are some exceptions, such as reimbursable agreements, subscriptions and payments to contractors and employees. Payments made in advance of the receipt of goods and services are recorded as advances or prepaid charges

at the time of prepayment and recognized as expenses when the related goods and services are received.

H. Liabilities

Liabilities represent the amount of funds likely to be paid by the Commission as a result of transactions or events that have already occurred.

The Commission reports its liabilities under two categories, Intragovernmental and Other than Intragovernmental. Intragovernmental liabilities represent funds owed to another government agency. Liabilities other than intragovernmental represent funds owed to any entity or person that is not a federal agency, including private sector firms and federal employees. Each of these categories may include liabilities that are covered by budgetary resources and liabilities not covered by budgetary resources.

Liabilities covered by budgetary resources are liabilities funded by a current appropriation or other funding source. These consist of accounts payable and accrued payroll and benefits. Accounts payable represent amounts owed to another entity for goods ordered and received and for services rendered except for employees. Accrued payroll and benefits represent payroll costs earned by employees during the fiscal year which are not paid until the next fiscal year.

Liabilities not covered by budgetary resources are liabilities that are not funded by any current appropriation or other funding source. These liabilities consist of accrued annual leave, actuarial FECA, unemployment insurance, and deferred rent. Deferred rent is the difference at year-end between the sum of monthly cash disbursements paid to date for rent and the sum of the average monthly rent calculated based on the term of the lease.

I. Annual, Sick, and Other Leave

Annual leave is accrued as it is earned, and the accrual is reduced as leave is taken. The balance in the accrued leave account is adjusted to reflect current pay rates. Liabilities associated with other types of vested leave, including compensatory, restored leave, and sick leave in certain circumstances, are accrued at year-end, based on latest pay rates and unused hours of leave. Funding will be obtained from future financing sources to the extent that current or prior year appropriations are not available to fund annual and other types of vested leave earned but not taken. Nonvested leave is expensed when used. Any liability for sick leave that is accrued but not taken by a Civil Service Retirement System (CSRS)-covered employee is transferred to the Office of Personnel Management (OPM) upon the retirement of that individual. Credit is given for sick leave balances in the computation of annuities upon the retirement of Federal Employees Retirement System (FERS)-covered employees.

J. Accrued and Actuarial Workers' Compensation

The Federal Employees' Compensation Act (FECA) administered by the U.S. Department of Labor (DOL) addresses all claims brought by the Commission employees for on-the-job injuries. The DOL bills each agency annually as its claims are paid, but payment of these bills is deferred for two years to allow for funding through the budget process. Similarly, employees that the Commission terminates without cause may receive unemployment compensation benefits under the unemployment insurance program also administered by the DOL, which bills each agency quarterly for paid claims. Future appropriations will be used for the reimbursement to DOL. The liability consists of the unreimbursed cost paid by DOL for compensation to recipients under the FECA.

K. Retirement Plans

The Commission employees participate in either the CSRS or the FERS. The employees who participate in CSRS are beneficiaries of the Commission matching contribution, equal to seven percent of pay, distributed to their annuity account in the Civil Service Retirement and Disability Fund.

Prior to December 31, 1983, all employees were covered under the CSRS program. From January 1, 1984 through December 31, 1986, employees had the option of remaining under CSRS or joining FERS and Social Security. Employees hired as of January 1, 1987 are automatically covered by the FERS program. Both CSRS and FERS employees may participate in the federal Thrift Savings Plan (TSP). FERS employees receive an automatic agency contribution equal to one percent of pay and the Commission matches any employee contribution up to an additional four percent of pay. For FERS participants, the Commission also contributes the employer's matching share of Social Security.

FERS employees and certain CSRS reinstatement employees are eligible to participate in the Social Security program after retirement. In these instances, the Commission remits the employer's share of the required contribution.

The Commission recognizes the imputed cost of pension and other retirement benefits during the employees' active years of service. OPM actuaries determine pension cost factors by calculating the value of pension benefits expected to be paid in the future and communicate these factors to the Commission for current period expense reporting. OPM also provides information regarding the full cost of health and life insurance benefits. The Commission recognized the offsetting revenue as imputed financing sources to the extent these expenses will be paid by OPM.

The Commission does not report on its financial statements information pertaining to the retirement plans covering its employees. Reporting amounts such as plan assets, accumulated plan benefits, and related unfunded liabilities, if any, is the responsibility of the OPM, as the administrator.

L. Other Post-Employment Benefits

The Commission employees eligible to participate in the Federal Employees' Health Benefits Plan (FEHBP) and the Federal Employees' Group Life Insurance Program (FEGSIP) may continue to participate in these programs after their retirement. The OPM has provided the Commission with certain cost factors that estimate the true cost of providing the post-retirement benefit to current employees. The Commission recognizes a current cost for these and Other Retirement Benefits (ORB) at the time the employee's services are rendered. The ORB expense is financed by OPM, and offset by the Commission through the recognition of an imputed financing source.

M. Use of Estimates

The preparation of the accompanying financial statements in accordance with generally accepted accounting principles requires management to make certain estimates and assumptions that affect the reported amounts of assets, liabilities, revenues, and expenses. Actual results could differ from those estimates.

N. Reclassification

Certain fiscal year 2021 balances have been reclassified, retitled, or combined with other financial statement line items for consistency with the current year presentation.

O. Classified Activities

Accounting standards require all reporting entities to disclose that accounting standards allow certain presentations and disclosures to be modified, if needed, to prevent the disclosure of classified information.

P. Contingencies

In accordance with SFFAS No. 5, Accounting for Liabilities of the Federal Government, we recognize material contingent liabilities meeting the following criteria:

- A past event or exchange transaction has occurred;
- A future cash outflow is probable; and
- A future cash outflow is measurable.

The estimated liability we record is either a specific amount or within a range of amounts. If some amount within the range is a better estimate than any other amount within the range, that amount is recognized. If no amount within the range is a better estimate than any other amount, we recognize the minimum amount in the range, and we disclose the range and a description of the nature of the contingency.

If one or more, but not all, of the above criteria for recognition are met, and there is a reasonable possibility of loss, we will disclose, if material, the nature of the contingent liability, along with a range of possible loss, if estimable, and a description of the nature of the contingency.

NOTE 2. FUND BALANCE WITH TREASURY

Fund balance with Treasury account balances as of September 30, 2022 and 2021, were as follows:

	2022	2021
Status of Fund Balance with Treasury:		
Unobligated Balance		
Available	\$ 2,431,064	\$ 1,077,198
Unavailable	3,009,164	3,221,440
Obligated Balance Not Yet Disbursed	4,429,189	4,710,844
Total	\$ 9,869,417	\$ 9,009,482

No discrepancies exist between the Fund Balance reflected on the Balance Sheet and the balances in the Treasury accounts.

The available unobligated fund balances represent the current-period amount available for obligation or commitment. At the start of the next fiscal year, this amount will become part of the unavailable balance as described in the following paragraph.

The unavailable unobligated fund balances represent the amount of appropriations for which the period of availability for obligation has expired. These balances are available for upward adjustments of obligations incurred only during the period for which the appropriation was available for obligation or for paying claims attributable to the appropriations.

The obligated balance not yet disbursed includes accounts payable, accrued expenses, and undelivered orders that have reduced unexpended appropriations but have not yet decreased the fund balance on hand (see also Note 11).

NOTE 3. ACCOUNTS RECEIVABLE, NET

Accounts receivable balances as of September 30, 2022 and 2021, were as follows:

	2022	2021
Intragovernmental		
Accounts Receivable	\$ 12,131	\$ -
Total Intragovernmental Accounts Receivable	\$ 12,131	\$ -
Other than Intergovernmental		
Accounts Receivable	\$ 3,696	\$ 4,468
Total Other than Intragovernmental Accounts Receivable	\$ 3,696	\$ 4,468
Total Accounts Receivable	\$ 15,827	\$ 4,468

The accounts receivable is made up of amounts owed by other federal agencies and employee receivables. Historical experience has indicated that the majority of the receivables are collectible. There are no material uncollectible accounts as of September 30, 2022 and 2021.

NOTE 4. GENERAL PROPERTY, PLANT AND EQUIPMENT, NET

Schedule of General Property, Plant and Equipment, Net as of September 30, 2022:

Major Class	Acquisition Cost	Accumulated Amortization/ Depreciation	Net Book Value
Leasehold Improvements	\$ 377,363	\$ 377,186	\$ 177
Furniture & Equipment	1,424,326	1,424,326	-
Total	\$ 1,801,689	\$ 1,801,512	\$ 177

Schedule of General Property, Plant and Equipment, Net as of September 30, 2021:

Major Class	Acquisition Cost	Accumulated Amortization/ Depreciation	Net Book Value
Leasehold Improvements	\$ 377,363	\$ 351,462	\$ 25,901
Furniture & Equipment	1,424,326	1,424,326	-
Total	\$ 1,801,689	\$ 1,775,788	\$ 25,901

NOTE 5. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities for the Commission as of September 30, 2022 and 2021, include liabilities not covered by budgetary resources. Congressional action is needed before budgetary resources can be provided. Although future appropriations to fund these liabilities are likely and anticipated, it is not certain that appropriations will be enacted to fund these liabilities.

	2022	2021
Intragovernmental – FECA	\$ 950	\$ 950
Intragovernmental – Unemployment Insurance	382	-
Unfunded Leave	777,475	728,307
Deferred Lease Liabilities	-	123,472
Total Liabilities Not Covered by Budgetary Resources	\$ 778,807	\$ 852,729
Total Liabilities Covered by Budgetary Resources	2,811,011	1,895,520
Total Liabilities Not Requiring Budgetary Resources	10	-
Total Liabilities	\$ 3,589,828	\$ 2,748,249

FECA and the Unemployment Insurance liabilities represent the unfunded liability for actual workers compensation claims and unemployment benefits paid on the Commission’s behalf and payable to the DOL.

Unfunded leave represents a liability for earned leave and is reduced when leave is taken. The balance in the accrued annual leave account is reviewed quarterly and adjusted as needed to accurately reflect the liability at current pay rates and leave balances. Accrued annual leave is paid from future funding sources and, accordingly, is reflected as a liability not covered by budgetary resources. Sick and other leave is expensed as taken.

The deferred lease liability amount represents the difference at year end between the sum of monthly cash disbursements paid to date for base rent and the sum of the average monthly rent calculated based on the term of the lease. This was due to a lease agreement entered into at 1331 Pennsylvania Avenue that had rent abatement provisions.

NOTE 6. OTHER LIABILITIES

Other liabilities account balances as of September 30, 2022 were as follows:

	Current	Non Current	Total
Intragovernmental			
Employer Contributions and Payroll Taxes Payable (without reciprocals)	\$ 30,248	\$ -	\$ 30,248
Custodial Liability (to the General Fund)	10	-	10
Employer Contributions and Payroll Taxes Payable	104,828	-	104,828
Other Post Employment Benefits Due and Payable	27,500	-	27,500
Unfunded FECA Liability	950	-	950
Other Unfunded Employment Related Liability	382	-	382
Total Intragovernmental Other Liabilities	\$ 163,918	\$ -	\$ 163,918
Other than Intragovernmental			
Accrued Funded Payroll and Leave	\$ 439,555	\$ -	\$ 439,555
Total Other than Intragovernmental Other Liabilities	\$ 439,555	\$ -	\$ 439,555
Total Other Liabilities	\$ 603,473	\$ -	\$ 603,473

Other liabilities account balances as of September 30, 2021 were as follows:

	Current	Non Current	Total
Intragovernmental			
Employer Contributions and Payroll Taxes Payable (without reciprocals)	\$ 27,815	\$ -	\$ 27,815
Employer Contributions and Payroll Taxes Payable	82,122	-	82,122
Other Post Employment Benefits Due and Payable	38,434	-	38,434
Unfunded FECA Liability	950	-	950
Deferred Lease Liability	123,472	-	123,472
Total Intragovernmental Other Liabilities	\$ 272,793	\$ -	\$ 272,793
Other than Intragovernmental			
Accrued Funded Payroll and Leave	\$ 372,673	\$ -	\$ 372,673
Total Other than Intragovernmental Other Liabilities	\$ 372,673	\$ -	\$ 372,673
Total Other Liabilities	\$ 645,466	\$ -	\$ 645,466

NOTE 7. LEASES

Operating Leases

The Commission occupies office space in three locations, of which all three of the lease agreements are required to be accounted for as operating leases. The total operating lease expense for the years ended September 30, 2022 and 2021, were \$1,858,507 and \$1,801,822, respectively.

The Commission occupies office space at 721 19th St, Denver, CO under a lease agreement that is accounted for as an operating lease. The lease term began on June 1, 2019 and expires on May 31, 2029. Below is an estimated schedule of future payments, including estimated real estate taxes and operating expenses which are subject to annual adjustments.

Fiscal Year	Asset Category Building	Totals Federal
2023	\$ 148,654	\$ 148,654
2024	149,661	149,661
2025	150,689	150,689
2026	151,739	151,739
2027	152,810	152,810
There after	257,057	257,057
Total Future Lease Payments	\$ 1,010,610	\$ 1,010,610

The Commission occupies office space at 875 Greentree Rd, Pittsburgh, PA under a lease agreement that is accounted for as an operating lease. The lease term began September 13, 2010 and expires on September 30, 2023. Below is a schedule of future payments for the term of the lease, including estimated real estate taxes and operating expenses which are subject to annual adjustments.

Fiscal Year	Asset Category Building	Totals Federal
2023	\$ 110,652	\$ 110,652
Total Future Lease Payments	\$ 110,652	\$ 110,652

The Commission occupies office space at 1331 Pennsylvania Avenue, Washington, DC under a lease agreement that is accounted for as an operating lease. The lease term began on August 23, 2022 and expires on August 22, 2032. This lease includes a negotiated period of free rent which covers the first eight months of the contract. Below is a schedule of future payments for the term

of the lease, including estimated real estate taxes and operating expenses which are subject to annual adjustments.

Fiscal Year	Asset Category Building	Totals Federal
2023	\$ 395,802	\$ 395,802
2024	1,601,561	1,601,561
2025	1,699,867	1,699,867
2026	1,724,377	1,724,377
2027	1,749,622	1,749,622
Thereafter	8,916,751	8,916,751
Total Future Lease Payments	\$ 16,087,980	\$ 16,087,980

The operating lease amounts do not include estimated payments for leases with annual renewal options.

NOTE 8. CONTINGENCIES

The agency recognizes and discloses contingencies in accordance with SSFAS No. 5, as amended by SFFAS No. 12. In FY 2022, the agency incurred a liability for \$100,000 for a legal case where the risk of loss was probable and the claim was settled. There are two additional cases where the estimate of the possible liability or range of possible liability cannot be determined as of September 30, 2022.

NOTE 9. INTER-ENTITY COSTS

The Commission recognizes certain inter-entity costs for goods and services that are received from other federal entities at no cost or at a cost less than the full cost. Certain costs of the providing entity that are not fully reimbursed are recognized as imputed cost and are offset by imputed revenue. Such imputed costs and revenues relate to employee benefits and claims to be settled by the Treasury Judgement Fund. The Commission recognizes as inter-entity costs the amount of accrued pension and post-retirement benefit expenses for current employees. The assets and liabilities associated with such benefits are the responsibility of the administering agency, OPM. For the periods ended September 30, 2022 and 2021, respectively, inter-entity costs were as follows:

	2022	2021
Office of Personnel Management	\$ 760,093	\$ 691,896
Total Imputed Financing Sources	\$ 760,093	\$ 691,896

NOTE 10. NET ADJUSTMENTS TO UNOBLIGATED BALANCE, BROUGHT FORWARD, OCTOBER 1

The Unobligated Balance Brought Forward from the prior fiscal year has been adjusted for recoveries of prior year paid and unpaid obligations and other changes such as canceled authority. The Adjustments to Unobligated Balance Brought Forward, October 1, as of September 30, 2022, and 2021, consisted of the following:

	2022	2021
Unobligated Balance Brought Forward From Prior Year, October 1	\$ 4,298,638	\$ 5,708,014
Recoveries of Prior Year Obligations	369,338	129,140
Other Changes in Unobligated Balances	(1,026,036)	(1,636,921)
Unobligated Balance From Prior Year Budget Authority, Net	\$ 3,641,940	\$ 4,200,233

NOTE 11. UNDELIVERED ORDERS AT THE END OF THE PERIOD

As of September 30, 2022 budgetary resources obligated for undelivered orders were as follows:

	Federal	Non-Federal	Total
Unpaid Undelivered Orders	\$ 185,417	\$ 1,444,890	\$ 1,630,307
Total Undelivered Orders	\$ 185,417	\$ 1,444,890	\$ 1,630,307

As of September 30, 2021, budgetary resources obligated for undelivered orders were as follows:

	Federal	Non-Federal	Total
Unpaid Undelivered Orders	\$ 207,014	\$ 2,608,308	\$ 2,815,322
Total Undelivered Orders	\$ 207,014	\$ 2,608,308	\$ 2,815,322

NOTE 12. EXPLANATION OF DIFFERENCES BETWEEN THE SBR AND THE BUDGET OF THE U.S. GOVERNMENT

The President’s Budget that will include fiscal year 2022 actual budgetary execution information has not yet been published. The President’s Budget is scheduled for publication in February 2023 and can be found at the OMB Web site: <http://www.whitehouse.gov/omb/>. The 2023 Budget of the United States Government, with the “Actual” column completed for 2021, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

In Millions

	Budgetary Resources	New Obligations & Upward Adjustments (Total)	Net Outlays
Combined Statement of Budgetary Resources	\$ 21	\$ 17	\$ 15
Unobligated Balance Not Available	(3)	-	-
Difference - Due to Rounding	(1)	(1)	-
Budget of the U.S. Government	\$ 17	\$ 16	\$ 15

NOTE 13. CUSTODIAL ACTIVITY

The Commission's custodial activity primarily consists of collection of fines, penalties, proprietary interest and miscellaneous income. While these collections are considered custodial, they are neither primary to the mission of the Commission nor material to the overall financial statements. The Commission's total custodial collections are \$0 and \$61 for the years ended September 30, 2022, and 2021, respectively.

NOTE 14. RECONCILIATION OF NET COST TO NET OUTLAYS

The reconciliation of net outlays, presented on a budgetary basis, and the net cost, presented on an accrual basis, provides an explanation of the relationship between budgetary and financial accounting information.

Reconciliation of Net Cost to Net Outlays as of September 30, 2022:

	Intragovernmental	Other than Intragovernmental	Total
Net Operating Cost (SNC)	\$ 6,005,584	\$ 11,262,862	\$ 17,268,446
Components of Net Cost Not Part of the Budgetary Outlays			
Property, Plant, and Equipment Depreciation Expense	-	(25,724)	(25,724)
Increase/(Decrease) in Assets:			
Accounts Receivable, Net	12,131	(782)	11,349
(Increase)/Decrease in Liabilities:			
Accounts Payable	(622,478)	(207,503)	(829,981)
Federal Employee Benefits Payable	-	(53,591)	(53,591)
Other Liabilities	108,885	(66,882)	42,003
Financing Sources:			
Imputed Cost	(760,093)	-	(760,093)
Total Components of Net Operating Cost Not Part of the Budgetary Outlays	\$ (1,261,555)	\$ (354,482)	\$ (1,616,037)
Misc Items			
Distributed Offsetting Receipts (SBR 4200)	-	(620)	(620)
Custodial/Non-Exchange Revenue	10	(10)	-
Non-Entity Activity	620	-	620
Total Other Reconciling Items	\$ 630	\$ (630)	\$ -
Total Net Outlays (Calculated Total)	\$ 4,744,659	\$ 10,907,750	\$ 15,652,409
Budgetary Agency Outlays, Net (SBR 4210)			
Budgetary Agency Outlays, Net			\$ 15,652,409

Reconciliation of Net Cost to Net Outlays as of September 30, 2021:

	Intragovernmental	Other than Intragovernmental	Total
Net Operating Cost (SNC)	\$ 5,474,261	\$ 10,864,969	\$ 16,339,230
Components of Net Cost Not Part of the Budgetary Outlays			
Property, Plant, and Equipment Depreciation Expense	-	(34,431)	(34,431)
Increase/(Decrease) in Assets:			
Accounts Receivable, Net	-	2,516	2,516
(Increase)/Decrease in Liabilities:			
Accounts Payable	(25,632)	(262,636)	(288,268)
Federal Employee Benefits Payable	-	(66,113)	(66,113)
Other Liabilities	127,358	(12,995)	114,363
Financing Sources:			
Imputed Cost	(691,896)	-	(691,896)
Total Components of Net Operating Cost Not Part of the Budgetary Outlays	\$ (590,170)	\$ (373,659)	\$ (963,829)
Misc Items			
Distributed Offsetting Receipts (SBR 4200)	-	(136)	(136)
Custodial/Non-Exchange Revenue	61	(61)	-
Non-Entity Activity	90	-	90
Total Other Reconciling Items	\$ 151	\$ (197)	\$ (46)
Total Net Outlays (Calculated Total)	\$ 4,884,242	\$ 10,491,113	\$ 15,375,355
Budgetary Agency Outlays, Net (SBR 4210)			
Budgetary Agency Outlays, Net			\$ 15,375,355