



**FEDERAL MINE SAFETY  
AND HEALTH  
REVIEW COMMISSION**

**PERFORMANCE AND  
ACCOUNTABILITY REPORT  
FISCAL YEAR 2020**

**NOVEMBER 16, 2020**

This page intentionally left blank

# Table of Contents

<b>Message from the Chair</b> .....	1
<b>Management Discussion and Analysis</b> .....	3
Mission and Organizational Structure .....	3
Performance Goals .....	5
Key Challenges .....	5
Analysis of Financial Statements .....	6
Management Assurances .....	8
Fraud Reduction Report.....	9
<b>Performance Section</b> .....	11
Performance Goals and Results .....	11
Administrative Law Judges Function .....	11
Commission Review Function .....	13
Office of Executive Director Function .....	15
<b>Enclosure 1: Federal Mine Safety and Health Review Commission Independent Auditor's Report and Financial Statements for the Years Ended September 30, 2020 and 2019</b>	

This page intentionally left blank

## Message from the Chair

November 16, 2020

I am pleased to submit the Performance and Accountability Report for Fiscal Year 2020. 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.

FMSHRC 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.

FMSHRC carries out its responsibilities through trial-level adjudication by administrative law judges and appellate review of judges' decisions by a five-member Commission appointed by the President and confirmed by the Senate. Most cases involve civil penalties assessed against mine operators by the Department of Labor and address whether or not the alleged safety and health violations occurred and if so, the degree of gravity and negligence involved, so that appropriate sanctions may be imposed.

The first quarter of 2020 posed significant challenges as COVID-19 ravaged our nation. In response, FMSHRC implemented a fulltime teleworking plan for all personnel, initiated complete electronic filings and issuances and suspended in-person hearings, Oral Arguments and Commission meetings, while utilizing virtual technology capabilities when appropriate. An Agency Reopening Plan was also formulated governing a phased-in approach for return to office operations. Despite these significant challenges, FMSHRC continues to improve trial and appellate case pendency times, resulting in more timely resolutions for petitioners.

FMSHRC has set forth the following strategic goals:

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

Strategic Goal 2: Manage FMSHRC's human resources, operations, facilities, and information technology systems to ensure a continually improving, effective, and efficient organization.

In Fiscal Year 2020, FMSHRC met the performance targets for all four trial level goals in the Office of the Administrative Law Judges. Of particular note, the Office of Administrative Law Judges averaged 161 days to resolve an individual trial level case, which was much quicker than the 240 day FY 2020 target. The number of trial level cases on hand also has been reduced significantly over the past several years, with 886 remaining at the end of FY 2020.

At the appellate level, FMSHRC met its substantive case targets for three of its five goals. FMSHRC only had two of five Commissioners between August 30, 2018 and March 25, 2019, thus lacking a quorum during that time period. The lack of a quorum for so long had an adverse impact on the length of time that cases decided in FY 2020 were pending before the Commission.

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.

FMSHRC's mission is to provide the just, speedy, and legally sound adjudication of proceedings authorized under the Mine Act, thereby enhancing compliance with the Act and contributing to the improved health and safety of the nation's miners. We remain committed to that mission, and to the sound use of public resources in its accomplishment.



Marco M. Rajkovich, Jr.  
Chair

# Management Discussion and Analysis

## MISSION AND ORGANIZATIONAL STRUCTURE

The Federal Mine Safety and Health Review Commission (FMSHRC) is an independent adjudicatory agency charged with resolving disputes arising from the enforcement of safety and health standards in the nation's mines. Under its enabling statute, the Federal Mine Safety and Health Act of 1977 (Mine Act), as amended, the Commission does not regulate the mining industry, nor does it enforce the Mine Act; those functions are delegated to the Secretary of Labor acting through the Mine Safety and Health Administration (MSHA). FMSHRC's mission is to provide just, speedy, and legally sound adjudication of proceedings authorized under the Mine Act, thereby enhancing compliance with the Act and contributing to the improved health and safety of the nation's miners.

The scope of FMSHRC's mission was expanded by the passage of the Mine Improvement and New Emergency Response Act of 2006, P.L. 109-236 (MINER Act). That statute amended the Mine Act and vested FMSHRC with the responsibility for resolving disputes over the contents of mine emergency plans adopted by underground coal mine operators and submitted to MSHA for review and approval. The MINER Act imposed tight deadlines on FMSHRC and its judges with respect to these proceedings and FMSHRC has adopted procedural rules to meet these deadlines.

FMSHRC consists of four organizational elements:

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

The majority of FMSHRC employees are stationed in Washington, DC. The OCALJ has satellite offices in Pittsburgh, PA, and Denver, CO.

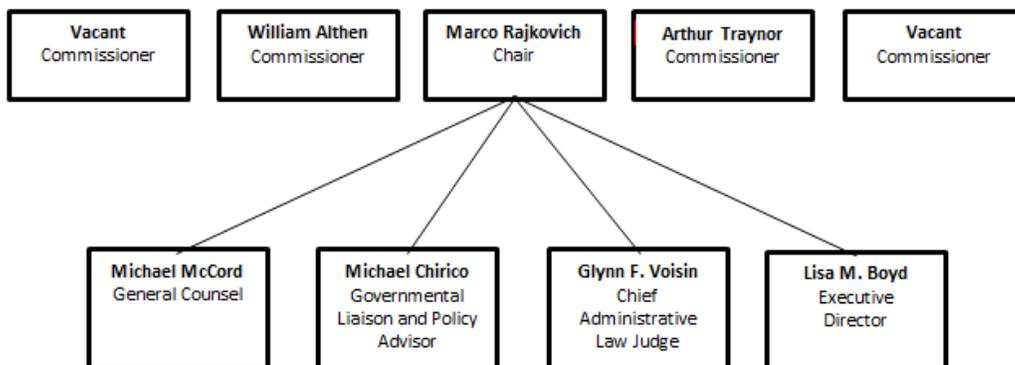
FMSHRC carries out its responsibilities through trial-level adjudication by judges and appellate review of judges' decisions by a five-member Commission appointed by the President and confirmed by the Senate. Most cases involve civil penalties assessed against mine operators by MSHA, and address whether or not the alleged safety and health violations occurred and if so, the penalty that should be assessed. Other types of cases involve mine operators' contests of mine closure orders, miners' complaints of safety or health-related discrimination, miners' applications for compensation after a mine is idled by a closure order, and review of disputes between MSHA and underground coal mine operators relating to those operators' mine emergency plans.

Once a case is filed with FMSHRC, 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 FMSHRC unless it is accepted for review by FMSHRC’s five-member 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. A grant of review in either case requires an affirmative vote of at least two Commissioners. The Commission’s decisions are precedential, and appeals from the Commission’s decisions are heard in the federal circuit courts of appeal.

The Office of the Executive Director supports the above functions by providing budget and financial management, and administrative and technical services -- including human resources and information technology, procurement and contracting, and facilities management.

**KEY PERSONNEL  
ORGANIZATION CHART**



## PERFORMANCE GOALS

FMSHRC has two strategic goals:

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

Strategic Goal 2: Manage FMSHRC's human resources, operations, facilities, and information technology systems to ensure a continually improving, effective, and efficient organization.

## KEY CHALLENGES

FMSHRC's overall management priority continues to be the expeditious, fair, and legally sound adjudication of cases at the trial and appellate levels.

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").

Historically, FMSHRC faced a significant challenge when the number of new trial level cases filed increased by 170% from FY 2007 to FY 2010. FMSHRC also saw a related increase in appellate cases filed, with an increase of 380% from FY 2009 to FY 2011. These increases led to substantial trial and appellate level case backlogs.

Through a combination of reengineered business processes, increased staffing, and a decline in the number of new contests filed, FMSHRC has been able to reduce the cases on hand. By the end of FY 2018, FMSHRC had essentially eliminated its trial case backlog, and was able to begin working to resolve each case as soon as a complete set of filings were received from all parties. This is reflected in our average time from receipt to disposition (i.e. pendency) of trial level cases dropping from 188

days in 2019 to 161 days in 2020. FMSHRC also significantly reduced its appellate case backlog of substantive cases. FMSHRC is working to ensure systems, procedures, and staffing are able to better resolve any future caseload spikes.

A second challenge is that FMSHRC is unable to resolve appellate cases when it does not have a quorum of Commissioners. Between August 30, 2018 and March 25, 2019, FMSHRC only had two Commissioners of five appointed to the Commission, thus lacking a quorum. The prolonged lack of a quorum had an adverse impact on the number of cases that were disposed of in FY 2019 and the length of time that cases were pending before the Commission. Thus, due to the lack of a quorum for a significant portion of FY 2019, a high number of relatively old cases were pending at the beginning of FY 2020. Moreover, changes instituted by MSHA regarding the contest of civil penalties resulted in a spike in the number of default cases.

## 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 2020 financial statements, which include comparative data for FY 2019. 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 2020 were \$8,900,178 as of September 30, 2020. The Fund Balance with Treasury of \$8,837,894 represents FMSHRC's largest asset as of September 30, 2020. This is an increase of approximately 7 percent from fiscal year 2019 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, 2020. The net fixed asset value of \$60,332 equals the cost less accumulated depreciation and represents the current book value of those assets.

FMSHRC's liabilities in fiscal year 2020 totaled \$2,508,231 as of September 30, 2020. This is a decrease of \$97,654 from the fiscal year 2019 balance of \$2,605,885. Accounts payable balance at September 30, 2020, was \$1,063,049 a decrease of \$100,839 from September 30, 2019. Accrued payroll liabilities, payroll taxes payable, and unemployment insurance increased \$14,804 in 2020. Unfunded annual leave increased

\$123,028 in 2020 from 2019. Unfunded annual leave represents approximately 26 percent of total agency liabilities.

Net position is the difference between total assets and total liabilities. The total net position for fiscal year 2020 increased by \$635,629 from fiscal year 2019.

### ***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 2020 was \$16,372,911, which is an increase of \$396,356 over the 2019 net cost of operations of \$15,976,555, a change of approximately 2 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 \$635,629 in 2020 from 2019, a change of approximately 11 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 2020, FMSHRC had total budgetary resources of \$22,501,717, which is \$1,207,040 more than in 2019.

### ***Statement of Financial Impact due to COVID-19***

FMSHRC did not have a significant financial impact on the agency's financial statements during FY 2020 due to the COVID-19 pandemic. Therefore, no additional budgetary resources were required from the Office of Management and Budget (OMB).

<b>FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION</b>				
<b>Table of Key Measures</b>				
Dollars in Thousands	<i>FY 2020</i>	<i>FY 2019</i>	<b>Increase / (Decrease)</b>	
			\$	%
<b>COSTS</b>				
Total Financing Sources	\$16,329	\$16,018	311	2%
Less: Net Cost	\$16,373	\$15,977	396	2%
<b>Net Change of Cumulative Results of Operations</b>	<b>(\$44)</b>	<b>\$41</b>	<b>(\$85)</b>	<b>-207%</b>
<b>NET POSITION</b>				
<b>Assets:</b>				
Fund Balance With Treasury	\$8,838	\$8,245	\$ 593	7%
Accounts Receivable	\$2	\$16	(\$14)	-88%
Property, Equipment, and Software	\$60	\$101	(\$41)	-41%
<b>Total Assets</b>	<b>\$8,900</b>	<b>\$8,362</b>	<b>\$538</b>	<b>6%</b>
<b>Liabilities</b>				
Accounts Payable - Intergovernmental	\$239	\$78	\$161	206%
Other	\$1,445	\$1,442	\$ 3	0.2%
Accounts Payable	\$ 824	\$1,086	(\$262)	-24%
<b>Total Liabilities</b>	<b>\$2,508</b>	<b>\$2,606</b>	<b>(\$ 98)</b>	<b>-4%</b>
<b>Net Position (Assets minus Liabilities)</b>	<b>\$6,392</b>	<b>\$5,756</b>	<b>\$636</b>	<b>11%</b>

## 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. These services are supplemented by internal control procedures within FMSHRC sufficient to ensure that the performance and financial data included in this audit report are complete and reliable.

All financial data reported were obtained from the FY 2019 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 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 2019. 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 2018 and the final quarter of FY 2018 in three key areas:

### ***1. Implementation of financial and administrative controls***

FMSHRC contracts with a shared service provider for financial, travel, human resources, and procurement services through an interagency agreement. 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, most financial transactions involve at least three support staff.

### ***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.

FMSHRC has a low risk of fraud in these areas:

- **Fraudulent financial reporting risk:** Financial reporting is provided by an authorized shared financial provider. All financial reporting, including financial statements and necessary journal entries, is reviewed and approved by FMSHRC's Executive Director, who serves as FMSHRC's CFO, prior to submission to OMB. FMSHRC's financial statements have been audited annually since 2003.
- **Misappropriation of assets:** All assets are recorded in the general ledger, inventoried and tracked in automated software managed by FMSHRC. Proper sign out procedures are incorporated for all equipment and property being removed from the property.
- **Waste of government resources and abuse of authority or position:** The nature of the FMSHRC mission means most of the commission expenditures are on salary and benefits, and related variable expenses (facilities, IT services, etc.). The opportunities for fraud or waste are limited, as the commission has very few contracts, minimal travel expenses, and doesn't otherwise expend federal funds through grants. FMSHRC has also ensured leadership and staff have required whistleblower training, including an understanding of how to report suspected wrongdoing to an independent party outside of FMSHRC.

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

FMSHRC utilizes automated time and attendance, procurement, contract payments, and travel and purchase card systems located within other agencies. FMSHRC has agency points of contact for purchase and travel cards, as does the financial service provider. The assigned FMSHRC staff reviews all travel receipts for reimbursement before approving travel vouchers, generally entered into the travel system by FMSHRC's travelers and support staff. Travel service provider accountants reconcile FMSHRC's Central Billing Account each month.

Agency-specified types of vendors allowed for use are established under the procurement card program via the use of the Master Contract Codes. All other vendors

will result in a card decline until the type of procurement is reviewed and approval is given temporarily for the purchase.

## Performance Section

### PERFORMANCE GOALS AND RESULTS

FMSHRC has set forth the following strategic goals:

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

Strategic Goal 2: Manage FMSHRC's human resources, operations, facilities, and information technology systems to ensure a continually improving, effective, and efficient organization.

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 strategic goal is accomplished through the Office of the Executive Director function.

### 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 in order to afford mine operators, miners, and their representatives a full opportunity to participate in the hearing process. FMSHRC judges are also responsible for evaluating and approving or denying settlement agreements proposed by the parties under the Mine Act.

FMSHRC received 2,213 new case filings in FY 2020. The number of new cases was a twenty-six percent decrease from the 3,017 received in FY 2019.

There were 1,212 trial level cases pending at the start of FY 2020. In FY 2020 there were 2,539 dispositions.

The FY 2020 end-of-year inventory was 886 undecided cases. This was the tenth consecutive year that the number of pending cases was reduced by the end of the year.

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 Administrative Law Judges Function							
Performance Goal		FY 2016	FY 2017	FY 2018	FY2019	FY 2020	
Average time from receipt to disposition of all cases (measured in days)	Target	300	300	290	260	240	
	Result	348	328	257	188	161	
	Status	NM	SM	M	M	M	
Average time from receipt to disposition of penalty cases (measured in days)	Target	330	330	280	250	235	
	Result	309	307	257	175	153	
	Status	M	M	M	M	M	
Percent of all cases on hand over 365 days in age	Target	20%	20%	20%	20%	20%	
	Result	21%	19%	4%	4%	1%	
	Status	SM	M	M	M	M	
Number of cases pending at year end	Anticipated	--	4,200	3,300	2,429	1,723	1,730
	Result	4,452	3,058	2,592	1,730	1,212	886
	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.

Because the Commission lacked a quorum of members for half of FY 2019, it had no authority to issue substantive decisions or default decision during that time period. Thus, due to the lack of a quorum for a significant portion of FY 2019, a high volume of relatively old cases were pending at the beginning of FY 2020.

In FY 2020, 13 petitions were filed, and 8 were granted.

The targets for substantive cases were met with regard to three of the five goals, as shown on the following performance measurement matrix.

The pendency of all substantive cases (date granted to issuance of decision) was 18 months in FY 2020, versus a goal of 15 months.

The average time from briefing completion to decision issuance was 12 months in FY 2020, which met the goal of 12 months.

In FY 2019, 72 default cases remained on hand at the end of that fiscal year. By the end of fiscal year 2020, 40 percent of the 140 default cases on hand were more than six months old.

The Commission disposed of 17 substantive cases in FY 2020, ending the year with 8 substantive cases on hand. The Commission resolved 16 default cases in FY 2020, ending the year with 141 on hand.

**COMMISSION REVIEW FUNCTION  
PERFORMANCE MEASUREMENT MATRIX**

<b>Performance Metrics - Commission Review Function</b>						
<b>Performance Goal</b>		<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
Average time from date granted to issuance of decision for appellate cases (measured in months)	Target	31	12	15	15	15
	Result	22	15	12	17	18
	Status	M	NM	M	NM	NM
Average time from briefing completion to issuance of decision for appellate cases (measured in months)	Target	27	9	9	9	12
	Result	19	13	9	12	12
	Status	M	NM	M	NM	M
Percent of appellate cases on hand over 18 months in age	Target	40%	30%	20%	20%	20%
	Result	11%	14%	11%	7%	12%
	Status	M	M	M	M	M
Percent of default cases on hand over 6 months in age	Target	12%	30%	30%	25%	25%
	Result	57%	56%	0%	23%	40%
	Status	NM	NM	M	M	NM
Number of appellate cases pending at year end	Anticipated	19	18	16	16	16
	Result	18	21	9	14	8
	Status	M	NM	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, information technology, facilities management, 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.

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

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

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

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

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

**FOR THE YEARS ENDED  
SEPTEMBER 30, 2020 AND 2019**



**Prepared By  
Brown & Company CPAs and Management Consultants, PLLC  
November 16, 2020**



**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

**INDEPENDENT AUDITOR'S REPORT  
AND  
FINANCIAL STATEMENTS  
FOR THE YEARS ENDED  
SEPTEMBER 30, 2020 AND 2019**

**TABLE OF CONTENTS**

INDEPENDENT AUDITOR'S REPORT ON THE FINANCIAL STATEMENTS .....	1
BALANCE SHEET .....	6
STATEMENT OF NET COST .....	7
STATEMENT OF CHANGES IN NET POSITION.....	8
STATEMENT OF BUDGETARY RESOURCES.....	9
NOTES TO THE FINANCIAL STATEMENTS.....	10



## INDEPENDENT AUDITOR'S REPORT

Federal Mine Safety Health and Review Commission  
Washington, D.C.

In our audits of the fiscal years 2020 and 2019 financial statements of the Federal Mine Safety Health and Review Commission ("Commission"), we found:

- the Commission's financial statements as of and for the fiscal years ended September 30, 2020, and 2019, are presented fairly, in all material respects, in accordance with 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 for fiscal year 2020 with provisions of applicable laws, regulations, contracts, and grant agreements we tested.

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

### Report on the Financial Statements

In accordance with the provisions of 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, 2020, and 2019; 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.

We conducted our audits in accordance with U.S. generally accepted government auditing standards and the provisions of OMB Bulletin No. 19-03, *Audit Requirements for Federal Financial Statements*. We believe that the audit evidence we obtained is sufficient and appropriate to provide a basis for our audit opinions.

### Management's Responsibility

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 documents containing the audited financial statements and auditor's report, and ensuring the consistency of that information with the audited financial statements and the RSI; and (4) maintaining effective internal control over financial reporting, including the design, implementation, and maintenance of 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

Our responsibility is to express an opinion on these financial statements based on our audits. U.S. generally accepted government auditing standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement. We are also responsible for applying certain limited procedures to RSI and other information included with the financial statements.

An audit of financial statements involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the auditor's assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation 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 entity's internal control. Accordingly, we express no such opinion. An audit of financial statements also involves evaluating the appropriateness of the accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. Our audits also included performing such other procedures as we considered necessary in the circumstances.

### Opinion on 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, 2020, and 2019, and its net cost of operations, changes in net position, and budgetary resources for the fiscal years then ended in accordance with U.S. generally accepted accounting principles.

### Other Matters

#### 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. Although the RSI is not a part of the financial statements, FASAB considers this information 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. We read the other information included with the financial statements in order to identify material inconsistencies, if any, with the audited financial statements. Our audit was conducted for the purpose of forming an opinion on the Commission's financial statements. We did not audit and do not express an opinion or provide any assurance on the other information.

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

#### Management's Responsibility

The Commission's management is responsible for maintaining effective internal control over financial reporting, including the design, implementation, and maintenance of 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

In planning and performing our audit of the Commission's financial statements as of and for the year ended September 30, 2020, in accordance with U.S. generally accepted government auditing standards, we considered the Commission's internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, 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.

*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, 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 that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

### 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.

### Results of Our Consideration of Internal Control over Financial Reporting

Our consideration of internal control was for the limited purpose described above, and was not designed to identify all deficiencies in internal control that might be material weaknesses and significant deficiencies 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 financial reporting that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

### 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 responsibility discussed below. We caution that noncompliance may occur and not be detected by these tests. We performed our tests of compliance in accordance with U.S. generally accepted government auditing standards.

### Management's Responsibility

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

### Auditor's Responsibility

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 perform certain other limited procedures. Accordingly, we did not test compliance with all laws, regulations, contracts, and grant agreements applicable to the Commission.

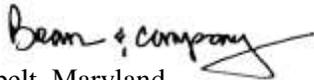
### Results of Our Tests for Compliance with Laws, Regulations, Contracts, and Grant Agreements

Our tests for compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements disclosed no instances of noncompliance for fiscal year 2020 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.

### 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.

This report is intended solely for the information and use of the management of the Commission, OMB, and the U.S. Congress, and is not intended to be, and should not be, used by anyone other than these specified parties.



Greenbelt, Maryland  
November 16, 2020

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**  
**BALANCE SHEET**  
**AS OF SEPTEMBER 30, 2020 AND 2019**  
(In Dollars)

	2020	2019
<b>Assets:</b>		
Intragovernmental		
Fund Balance With Treasury (Note 2)	\$ 8,837,894	\$ 8,245,327
Total Intragovernmental	8,837,894	8,245,327
Accounts Receivable, Net (Note 3)	1,952	15,894
General Property, Plant, and Equipment, Net (Note 4)	60,332	100,982
<b>Total Assets</b>	<b>\$ 8,900,178</b>	<b>\$ 8,362,203</b>
<b>Liabilities:</b>		
Intragovernmental		
Accounts Payable	\$ 239,495	\$ 77,667
Other (Note 6)	400,150	509,421
Total Intragovernmental	639,645	587,088
Accounts Payable	823,554	1,086,221
Other (Note 6)	1,045,032	932,576
<b>Total Liabilities (Note 5)</b>	<b>\$ 2,508,231</b>	<b>\$ 2,605,885</b>
<b>Net Position:</b>		
Unexpended Appropriations - All Other Funds	\$ 7,252,099	\$ 6,572,294
Cumulative Results of Operations - All Other Funds	(860,152)	(815,976)
Total Net Position	\$ 6,391,947	\$ 5,756,318
<b>Total Liabilities and Net Position</b>	<b>\$ 8,900,178</b>	<b>\$ 8,362,203</b>

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**  
**STATEMENT OF NET COST**  
**FOR THE YEARS ENDED SEPTEMBER 30, 2020 AND 2019**  
(In Dollars)

	2020	2019
<b>Gross Program Costs:</b>		
Commission Review:		
Gross Costs	\$ 6,862,515	\$ 6,607,011
Net Program Costs	\$ 6,862,515	\$ 6,607,011
Administrative Law Judge:		
Gross Costs	\$ 9,510,396	\$ 9,369,544
Net Program Costs	\$ 9,510,396	\$ 9,369,544
<b>Net Cost of Operations</b>	<b>\$ 16,372,911</b>	<b>\$ 15,976,555</b>

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, 2020 AND 2019**  
(In Dollars)

	2020	2019
<b>Unexpended Appropriations:</b>		
Beginning Balances	\$ 6,572,294	\$ 5,205,942
<b>Budgetary Financing Sources:</b>		
Appropriations Received	17,184,000	17,184,000
Other Adjustments	(809,591)	(578,631)
Appropriations Used	(15,694,604)	(15,239,017)
Total Budgetary Financing Sources	679,805	1,366,352
Total Unexpended Appropriations	\$ 7,252,099	\$ 6,572,294
<b>Cumulative Results of Operations:</b>		
Beginning Balances	\$ (815,976)	\$ (857,039)
<b>Budgetary Financing Sources:</b>		
Appropriations Used	15,694,604	15,239,017
<b>Other Financing Sources (Non-Exchange):</b>		
Imputed Financing (Note 8)	634,131	778,601
Total Financing Sources	16,328,735	16,017,618
Net Cost of Operations	(16,372,911)	(15,976,555)
Net Change	(44,176)	41,063
Cumulative Results of Operations	\$ (860,152)	\$ (815,976)
Net Position	\$ 6,391,947	\$ 5,756,318

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, 2020 AND 2019**  
**(In Dollars)**

	2020	2019
<b>Budgetary Resources:</b>		
Unobligated balance from prior year budget authority, net (discretionary and mandatory)	\$ 5,317,717	\$ 4,110,677
Appropriations	17,184,000	17,184,000
<b>Total Budgetary Resources</b>	<b>\$ 22,501,717</b>	<b>\$ 21,294,677</b>
<b>Status of Budgetary Resources:</b>		
New obligations and upward adjustments (total)	\$ 16,793,703	\$ 15,194,016
Unobligated balance, end of year:		
Apportioned, unexpired account (Note 2)	1,366,257	2,025,893
Expired unobligated balance, end of year (Note 2)	4,341,757	4,074,768
Unobligated balance, end of year (total)	5,708,014	6,100,661
<b>Total Budgetary Resources</b>	<b>\$ 22,501,717</b>	<b>\$ 21,294,677</b>
<b>Outlays, Net and Disbursements, Net:</b>		
Outlays, net (total)	15,781,842	15,266,654
Distributed Offsetting Receipts	(164)	(1,759)
<b>Agency outlays, net</b>	<b>\$ 15,781,678</b>	<b>\$ 15,264,895</b>
<b>Disbursements, net (total) (mandatory)</b>	<b>\$ 15,781,842</b>	<b>\$ 15,266,654</b>

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 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 With the Public. Intragovernmental liabilities represent funds owed to another government agency. Liabilities with the Public 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, deferred rent, and the amounts due to Treasury for collection and accounts receivable of civil penalties and FOIA request fees. 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 effective at 100%.

## **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 (FEGLIP) 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. 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.

### NOTE 2. FUND BALANCE WITH TREASURY

Fund balance with Treasury account balances as of September 30, 2020 and 2019, were as follows:

	2020	2019
<b>Status of Fund Balance with Treasury:</b>		
Unobligated Balance		
Available	\$ 1,366,257	\$ 2,025,893
Unavailable	4,341,757	4,074,768
Obligated Balance Not Yet Disbursed	3,129,880	2,144,666
<b>Total</b>	<b>\$ 8,837,894</b>	<b>\$ 8,245,327</b>

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 9).

### NOTE 3. ACCOUNTS RECEIVABLE, NET

Accounts receivable balances as of September 30, 2020 and 2019, were as follows:

	2020	2019
With the Public		
Accounts Receivable	\$ 1,952	\$ 15,894
<b>Total Accounts Receivable</b>	<b>\$ 1,952</b>	<b>\$ 15,894</b>

The accounts receivable is made up of employee receivables. Historical experience has indicated that the majority of the receivables are collectible. There are no material uncollectible accounts as of September 30, 2020 and 2019.

**NOTE 4. GENERAL PROPERTY, PLANT AND EQUIPMENT, NET**

Schedule of General Property, Plant and Equipment, Net as of September 30, 2020:

Major Class	Acquisition Cost	Accumulated Amortization/Depreciation	Net Book Value
Leasehold Improvements	\$ 377,363	\$ 325,738	\$ 51,625
Furniture & Equipment	1,424,326	1,415,619	8,707
<b>Total</b>	<b>\$ 1,801,689</b>	<b>\$ 1,741,357</b>	<b>\$ 60,332</b>

Schedule of General Property, Plant and Equipment, Net as of September 30, 2019:

Major Class	Acquisition Cost	Accumulated Amortization/Depreciation	Net Book Value
Leasehold Improvements	\$ 377,363	\$ 300,014	\$ 77,349
Furniture & Equipment	1,424,326	1,400,693	23,633
<b>Total</b>	<b>\$ 1,801,689</b>	<b>\$ 1,700,707</b>	<b>\$ 100,982</b>

**NOTE 5. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES**

The liabilities for the Commission as of September 30, 2020 and 2019, 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.

	2020	2019
Intragovernmental – FECA	\$ 950	\$ 950
Intragovernmental – Unemployment Insurance	40,752	29,499
Unfunded Leave	662,065	539,037
Deferred Lease Liabilities	258,169	392,866
<b>Total Liabilities Not Covered by Budgetary Resources</b>	<b>\$ 961,936</b>	<b>\$ 962,352</b>
<b>Total Liabilities Covered by Budgetary Resources</b>	<b>1,546,295</b>	<b>1,643,533</b>
<b>Total Liabilities</b>	<b>\$ 2,508,231</b>	<b>\$ 2,605,885</b>

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, 2020 were as follows:

	Current	Non Current	Total
Intragovernmental			
FECA Liability	\$ 950	\$ -	\$ 950
Unemployment Insurance Liability	40,752	-	40,752
Payroll Taxes Payable	100,279	-	100,279
Deferred Lease Liability	134,697	123,472	258,169
<b>Total Intragovernmental Other Liabilities</b>	<b>\$ 276,678</b>	<b>\$ 123,472</b>	<b>\$ 400,150</b>
With the Public			
Payroll Taxes Payable	\$ 23,727	\$ -	\$ 23,727
Accrued Funded Payroll and Leave	359,190	-	359,190
Unfunded Leave	662,065	-	662,065
Other Liability with Related Budgetary Obligations	50	-	50
<b>Total Public Other Liabilities</b>	<b>\$ 1,045,032</b>	<b>\$ -</b>	<b>\$ 1,045,032</b>

Other liabilities account balances as of September 30, 2019 were as follows:

	Current	Non Current	Total
Intragovernmental			
FECA Liability	\$ 950	\$ -	\$ 950
Unemployment Insurance Liability	29,499	-	29,499
Payroll Taxes Payable	86,106	-	86,106
Deferred Lease Liability	134,697	258,169	392,866
<b>Total Intragovernmental Other Liabilities</b>	<b>\$ 251,252</b>	<b>\$ 258,169</b>	<b>\$ 509,421</b>
With the Public			
Payroll Taxes Payable	\$ 69,327	\$ -	\$ 69,327
Accrued Funded Payroll and Leave	324,212	-	324,212
Unfunded Leave	539,037	-	539,037
<b>Total Public Other Liabilities</b>	<b>\$ 932,576</b>	<b>\$ -</b>	<b>\$ 932,576</b>

## NOTE 7. LEASES

### Operating Leases

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			Totals
	Building	Equipment	ADP Equipment	Federal
2021	\$ 146,701	\$ -	\$ -	\$ 146,701
2022	147,667	-	-	147,667
2023	148,654	-	-	148,654
2024	149,661	-	-	149,661
2025	150,689	-	-	150,689
Thereafter	561,607	-	-	561,607
<b>Total Future Payments</b>	<b>\$ 1,304,978</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 1,304,978</b>

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			Totals
	Building	Equipment	ADP Equipment	Federal
2021	\$ 108,617	\$ -	\$ -	\$ 108,617
2022	109,620	-	-	109,620
2023	110,652	-	-	110,652
<b>Total Future Payments</b>	<b>\$ 328,889</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 328,889</b>

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, 2012 and expires on August 22, 2022. This lease has deferred rent in the amount of \$11,225 per month. 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			Totals
	Building	Equipment	ADP Equipment	Federal
2021	\$ 1,792,124	\$ -	\$ -	\$ 1,792,124
2022	1,313,336	-	-	1,313,336
<b>Total Future Payments</b>	<b>\$ 3,105,460</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 3,105,460</b>

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

## NOTE 8. 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, 2020 and 2019, respectively, inter-entity costs were as follows:

	2020	2019
Office of Personnel Management	\$ 634,131	\$ 778,601
Total Imputed Financing Sources	\$ 634,131	\$ 778,601

## NOTE 9. UNDELIVERED ORDERS AT THE END OF THE PERIOD

As of September 30, 2020 budgetary resources obligated for undelivered orders were as follows:

	Federal	Non-Federal	Total
Unpaid Undelivered Orders	\$ 105,320	\$ 1,438,765	\$ 1,544,085
Total Undelivered Orders	\$ 105,320	\$ 1,438,765	\$ 1,544,085

As of September 30, 2019, budgetary resources obligated for undelivered orders were as follows:

	Federal	Non-Federal	Total
Unpaid Undelivered Orders	\$ 67,737	\$ 403,896	\$ 471,633
Total Undelivered Orders	\$ 67,737	\$ 403,896	\$ 471,633

## NOTE 10. EXPLANATION OF DIFFERENCES BETWEEN THE SBR AND THE BUDGET OF THE U.S. GOVERNMENT

The President's Budget that will include fiscal year 2020 actual budgetary execution information has not yet been published. The President's Budget is scheduled for publication in February 2021 and can be found at the OMB Web site: <http://www.whitehouse.gov/omb/>. The 2021 Budget of the United States Government, with the "Actual" column completed for 2019, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

In Millions

	Budgetary Resources	New Obligations & Upward Adjustments	Net Outlays
Combined Statement of Budgetary Resources	\$ 21	\$ 15	\$ 15
Unobligated Balance Not Available	(4)	-	-
Difference - Due to Rounding	-	2	-
Budget of the U.S. Government	\$ 17	\$ 17	\$ 15

## NOTE 11. CUSTODIAL ACTIVITY

The Commission's custodial activity primarily consists of collection of fines, penalties, as well as Freedom of Information Act requests. 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 \$92 and \$2,436 for the years ended September 30, 2020, and 2019, respectively.

## NOTE 12. 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, 2020:

	Intragovernmental	With the Public	Total
Net Operating Cost (SNC)	\$ 5,576,277	\$ 10,796,634	\$ 16,372,911
<b>Components of Net Operating Cost Not Part of the Budgetary Outlays</b>			
Property, plant, and equipment depreciation	-	(40,650)	(40,650)
<b>(Increase)/Decrease in assets not affecting Budget Outlays:</b>			
Accounts receivable	-	(13,942)	(13,942)
<b>(Increase)/Decrease in liabilities not affecting Budget Outlays:</b>			
Accounts payable	(161,828)	262,667	100,839
Salaries and benefits	(24,174)	10,622	(13,552)
Other liabilities	133,445	(123,078)	10,367
<b>Other financing sources:</b>			
Imputed federal employee retirement benefit costs	(634,131)	-	(634,131)
Total Components of Net Operating Cost Not Part of the Budget Outlays	\$ (686,688)	\$ 95,619	\$ (591,069)
<b>Components of the Budget Outlays That Are Not Part of Net Operating Cost</b>			
Other	92	(92)	-
Total Components of the Budget Outlays That Are Not Part of Net Operating Cost	\$ 92	\$ (92)	\$ -
Net Outlays (Calculated Total)	\$ 4,889,681	\$ 10,892,161	\$ 15,781,842
<b>Related Amounts on the Statement of Budgetary Resources</b>			
Outlays, net, (total) (SBR 4190)			15,781,842
Distributed offsetting receipts (SBR 4200)			(164)
Agency Outlays, Net (SBR 4210)			\$ 15,781,678
<b>Reconciling Items:</b>			
	Distributed Offsetting Receipts		(164)

Reconciliation of Net Cost to Net Outlays as of September 30, 2019:

	Intragovernmental	With the Public	Total
Net Operating Cost (SNC)	\$ 5,101,358	\$ 10,875,197	\$ 15,976,555
<b>Components of Net Operating Cost Not Part of the Budgetary Outlays</b>			
Property, plant, and equipment depreciation	-	(45,472)	(45,472)
<b>(Increase)/Decrease in assets not affecting Budget Outlays:</b>			
Accounts receivable	-	(1,563)	(1,563)
<b>(Increase)/Decrease in liabilities not affecting Budget Outlays:</b>			
Accounts payable	(6,712)	162,800	156,088
Salaries and benefits	(26,857)	(101,595)	(128,452)
Other liabilities	136,230	(48,132)	88,098
<b>Other financing sources:</b>			
Imputed federal employee retirement benefit costs	(778,601)	-	(778,601)
<b>Total Components of Net Operating Cost Not Part of the Budget Outlays</b>	<b>\$ (675,940)</b>	<b>\$ (33,962)</b>	<b>\$ (709,902)</b>
<b>Components of the Budget Outlays That Are Not Part of Net Operating Cost</b>			
Other	(645)	(1,113)	(1,758)
<b>Total Components of the Budget Outlays That Are Not Part of Net Operating Cost</b>	<b>\$ (645)</b>	<b>\$ (1,113)</b>	<b>\$ (1,758)</b>
<b>Net Outlays (Calculated Total)</b>	<b>\$ 4,424,773</b>	<b>\$ 10,840,122</b>	<b>\$ 15,264,895</b>
<b>Related Amounts on the Statement of Budgetary Resources</b>			
Outlays, net, (total) (SBR 4190)			15,266,654
Distributed offsetting receipts (SBR 4200)			(1,759)
<b>Agency Outlays, Net (SBR 4210)</b>			<b>\$ 15,264,895</b>