FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION



PERFORMANCE AND ACCOUNTABILITY REPORT (PAR)

FISCAL YEAR 2026

November 16, 2026

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Table of Contents

Message from the Chair **1**

Management's Discussion and Analysis **2**

BACKGROUND AND MISSION 2

ORGANIZATIONAL STRUCTURE 4

KEY CHALLENGES 6

ANALYSIS OF FINANCIAL STATEMENTS 8

MANAGEMENT ASSURANCES 10

FRAUD REDUCTION REPORT 12

Agency Performance Plan **14**

PERFORMANCE FRAMEWORK 14

PERFORMANCE GOALS AND RESULTS 14

Strategic Goal 1: Improve Adjudicatory Processes Across Trial and Appellate Functions 15

Strategic Goal 2: Strengthen Internal Controls and Governance 19

Strategic Goal 3: Effectively Monitor and Evaluate Organizational Performance 20

Strategic Goal 4: Promote Evidence-Based Management 21

Enclosure 1: Federal Mine Safety and Health Review Commission Independent Auditor's Report and Financial Statements for the Years Ended September 30, 2026, and 2025.

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Message from the Chair

November 16, 2026

I am pleased to present the Federal Mine Safety and Health Review Commission's (FMSHRC or the Commission) Performance and Accountability Report for Fiscal Year (FY) 2026. This report provides information on the Commission's performance in accordance with the Government Performance and Results Modernization Act of 2010 and includes financial statements and related information as required by the Accountability of Tax Dollars Act of 2002.

During FY 2026, FMSHRC continued to carry out its statutory responsibilities under the Federal Mine Safety and Health Act of 1977 (the Mine Act)(as amended by the Mine Improvement and New Emergency Response Act (MINER Act) of 2006). The Commission remained committed to the fair and impartial adjudication of matters within its jurisdiction, accountability for federal resources, and administration of its programs in accordance with applicable laws, regulations, and established procedures.

The Commission continued to utilize electronic filing and its existing case management systems to support adjudicatory operations. At the trial level, Administrative Law Judges (ALJs) conducted proceedings in accordance with applicable statutory and procedural requirements, including in-person hearings as the Chief Administrative Law Judge (Chief ALJ) determined appropriate. At the appellate level, the Commission conducted adjudicatory activities in accordance with applicable statutory and procedural requirements and maintained a quorum until August 2026. Thereafter, appellate activities were subject to applicable quorum requirements. The performance results presented in this report reflect adjudicatory activities during the fiscal year.

This report presents the Commission's performance results for FY 2026. During the fiscal year, the Office of the Chief Administrative Law Judge (OCALJ) met one of its ten established performance targets and concluded the year with 1,352 trial-level cases pending. At the appellate level, the Commission met two of its four established case-processing targets. The accompanying sections of this report provide additional information on case activity, workload, and performance measures.

The Commission's financial statements and the results of the independent financial statement audit are presented in the Financial Section of this report. The accompanying independent auditor's report provides the auditor's opinion and related findings, as applicable. Financial reporting and internal control matters are addressed in the relevant sections of this report in accordance with applicable federal reporting requirements.

FMSHRC remains committed to fulfilling its statutory mission through fair and impartial adjudication, accountability, and responsible stewardship of federal resources. The Commission will continue to administer its responsibilities consistent with applicable statutory and regulatory requirements.

Marco M. Rajkovich, Jr.
Chair

Management's Discussion and Analysis

BACKGROUND AND MISSION

About the Commission

The Commission is an independent adjudicatory agency established under Section 113 of the Mine Act. The Mine Act assigns FMSHRC responsibility for adjudicating disputes arising from the enforcement of mandatory mine safety and health standards of the nation's mines.

Under the Mine Act, FMSHRC 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), and, with respect to Section 105(c)(3), to miners themselves.

Mission

The mission of FMSHRC is to provide just and speedy adjudication of proceedings authorized under the Mine Act in a manner that ensures an unbiased resolution and penalty that is not compromised out of view of the public.

Functions and Procedures

FMSHRC carries out its responsibilities through trial-level adjudication by ALJs and appellate review of the ALJs' 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. FMSHRC 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 FMSHRC 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.

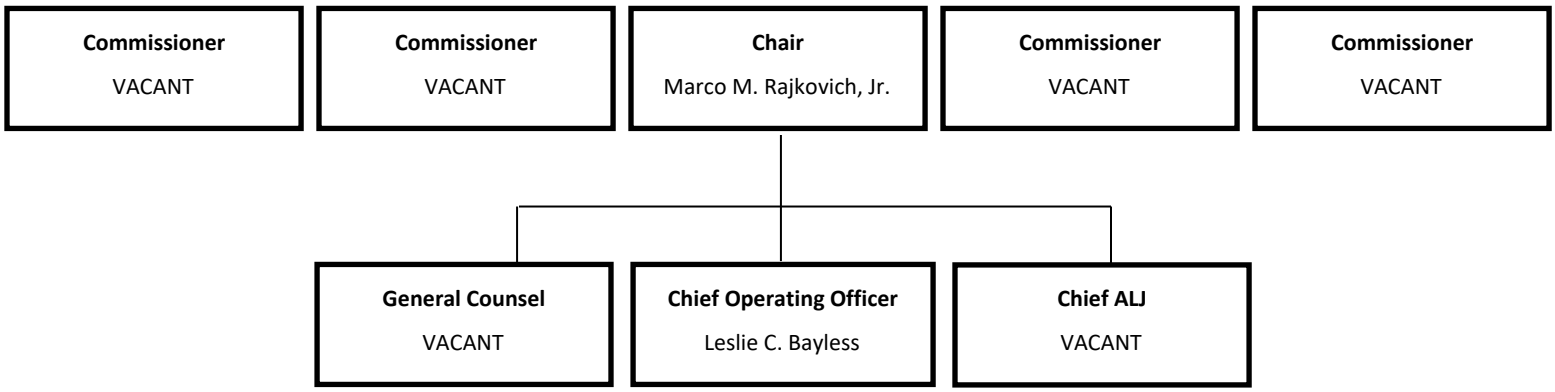
Once a case is filed with FMSHRC, it is referred to the Chief ALJ. Thereafter, litigants in the case must submit additional filings before the case is assigned to an ALJ. To expedite the decisional process, the Chief ALJ may rule on certain motions and, where appropriate, issue orders of settlement, dismissal, or default. Otherwise, once a case is assigned to an individual ALJ, that ALJ is responsible for the case and rules upon motions and settlement proposals. If a hearing is necessary, the ALJ schedules and presides over the hearing, and issues a decision

based upon the record. An ALJ's decision becomes a final, non-precedential order of FMSHRC unless it is accepted for appellate review by the Commissioners.

FMSHRC provides administrative appellate review. It may, in its discretion, review decisions issued by ALJs when requested by a litigant, or it may, on its own initiative, direct cases for review. The Commissioners' decisions are precedential, and appeals from the Commissioners' decisions are heard in the federal courts of appeals.

ORGANIZATIONAL STRUCTURE

FMSHRC is headquartered in Washington, DC, with a satellite office located in Denver, CO.



FMSHRC's authorizing statute, the Mine Act, outlines two major organizational components to fulfill its mission: the trial level and the appellate level.

1. Trial Level – Office of the Chief Administrative Law Judge (OCALJ)

   OCALJ is led by the Chief ALJ and provides trial-level adjudication by ALJs. The ALJs hear and decide cases initiated by the Secretary of Labor, mine operators, miners, and miners' representatives.

   OCALJ staff is divided among two geographical locations, with no further subdivision of components, all reporting through the same chain of command under the Chief ALJ.

2. Appellate Level – Office of the Chair and Commissioners (OCC)

   a. Commissioner Function

      OCC is led by a five-member Commission. The Commission hears appeals of ALJs' decisions by granting a petition for discretionary review from one or more of the parties or by directing review on its own motion. In addition, at the appellate level, the Commission considers motions to reopen cases where an operator has failed to timely contest a proposed penalty or to timely respond to the Secretary of Labor's penalty petition.

   b. General Counsel Function

      The Commission receives support from Counsels led by the General Counsel. In addition to fulfilling its agency appellate functions, Counsels fulfill other statutorily and regulatorily mandated functions and roles for the agency, such as those required by the Freedom of Information Act (5 U.S.C. § 552), the Ethics in Government Act of 1978, the Government in

the Sunshine Act (5 U.S.C. § 552b), the Privacy Act of 1974 (5 U.S.C. § 552a) and the Mine Act's provisions for judicial review (30 U.S.C. § 816).

c. Operations Function

The Chair of the Commission is also responsible for its administrative operations. The Chief Operating Officer reports directly to the Chair and oversees FMSHRC's daily administrative operations within the scope of delegated authority, provides management guidance to the Chair on compliance with federal regulations, and identifies opportunities to improve FMSHRC's overall efficiency and effectiveness.

Primary services include financial management, human resources, and information technology services, as well as procurement and contracting, facilities management, and general administrative service support.

KEY CHALLENGES

FMSHRC operates in an adjudicatory environment in which the volume, timing, and complexity of cases are influenced by factors outside the Commission's direct control. These factors affect case-processing activities and the number of matters pending at both the trial and appellate levels.

At the trial level, most cases before FMSHRC involve civil penalties proposed by MSHA and contested by mine operators pursuant to applicable statutory procedures.

At the appellate level, the Commission considers petitions for discretionary review filed by parties adversely affected by an ALJ's decision. The Commission may also direct review on its own motion in accordance with applicable statutory requirements. Additionally, the Commission considers motions to reopen cases involving final penalty assessments or defaults, as permitted under applicable law.

During FY 2026, the Commission maintained an appellate quorum until August 2026. Thereafter, appellate activities were subject to applicable quorum requirements. The Commission's reported performance results reflect case-processing activities during the fiscal year.

In FY 2026, the Commission received 3 petitions for discretionary review and granted 1. During the fiscal year, 89 default cases were filed. At the conclusion of FY 2026, 8 default case dockets remained pending. The Commission maintained an appellate quorum until August 2026; thereafter, appellate activities were subject to applicable quorum requirements.

During FY 2026, the Commission disposed of 31 substantive appellate case dockets and 81 default case dockets, for a total of 112 case dockets. At fiscal year-end, 1 substantive case docket and 8 default case dockets remained pending, for a total of 9 pending dockets. These results reflect FY 2026 appellate case activity, including the period before the Commission lost its quorum in August 2026.

The Commission's performance measures and reported results provide information regarding adjudicatory workload and case-processing activity during the applicable reporting periods.

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, Center for Financial Management (CFM), for accounting services since 1998. Center for Financial Management (CFM) prepared FMSHRC's FY 2026 financial statements. 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 FY 2026 were $13,949,465. The Fund Balance with Treasury of $13,872,318 represents FMSHRC's largest asset as of September 30, 2026. This represents an increase of approximately 12% from fiscal year 2025 and accounts for approximately 99% of the agency's total assets.

FMSHRC's liabilities in fiscal year 2026 totaled $1,704,799. This is a decrease of $2,241,321 from the fiscal year 2025 balance of $3,946,120. The Intragovernmental Accounts payable on September 30, 2026, was $1,138,112. The balance as of September 30, 2025, was $874,603. Employer contributions and payroll taxes payable totaled $36,139 on September 30, 2026. The balance as of September 30, 2025, was $59,668. Federal employees' salaries, leave, and benefits payable decreased $404,322 in FY 2026 from FY 2025. Unfunded annual leave decreased by $318,386 in FY 2026 from FY 2025. Unfunded annual leave represents approximately 16.95% percent of total agency liabilities.

The net position is the difference between total assets and total liabilities. The total net position for fiscal year 2026 increased by $3,782,330 from $8,462,336 in fiscal year 2025 to $12,244,666 as of September 30, 2026.

Analysis of the 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, the trial level and the appellate level. The total net cost of operations in fiscal year 2026 was $14,134,363, which is a decrease of $2,766,454 from the fiscal year 2025 net cost of operations of $16,900,817, a change of approximately 16.4 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 by $3,782,330, an increase in fiscal year 2026 from fiscal year 2025, a change of approximately 44.7 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 2026, FMSHRC had total budgetary resources of $25,344,420, which is $729,047 more than in fiscal year 2025.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION				
Table of Key Measures				
Dollars in Thousands			**Increase / (Decrease)**	
	FY 2026	***FY 2025***	$	%
COSTS				
Total Financing Sources	$14,442	$17,032	($2,590)	(15.21%)
Less: Net Cost	$14,134	$16,900	($2,766)	(16.37%)
Net Change of Cumulative Results of Operations	**$307**	**$131**	**$176**	**134.35%**
Assets:				
Fund Balance with Treasury	$13,872	$12,383	$1,489	12.02%
Accounts Receivable – Intragovernmental	$0	$25	($25)	(100%)
Advances and Prepayments	$75	$0	$75	--
Accounts Receivable – Other than Intragovernmental	$0	$0	$0	--
Property, Equipment, and Software	$2	$0	$2	--
Total Assets:	**$13,949**	**$12,408**	**$1,541**	**12.42%**
Accounts Payable – Intragovernmental	$1,138	$875	$263	30.06%
Other Liabilities – Intragovernmental	$56	$66	($10)	(15.15%)
Accounts Payable – Other than Intragovernmental	$110	$2,200	($2,090)	(95%)
Federal Employees' Salary/Leave/Benefits Payable	$401	$805	($404)	(50.19%)
Total Liabilities:	**$1,705**	**$3,946**	**($2,241)**	**(56.79%)**
Net Position (Assets minus Liabilities)	**$12,245**	**$8,462**	**$3,783**	**44.71%**

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 were obtained from the FY 2026 accounting reports prepared by the Department of the Treasury, Bureau of the Fiscal Service, Administrative Resource Center, FMSHRC's accounting servicing provider. FMSHRC managers have verified the performance data on case intake and dispositions. Although the FY 2026 financial statement audit identified two material weaknesses in internal control over financial reporting, the auditors issued an unmodified opinion on FMSHRC's financial statements.

Based on the results of our assessment, FMSHRC can provide reasonable assurance regarding its internal controls over operations, reporting, and compliance as of September 30, 2026, except for the material weaknesses identified during the FY 2026 financial statement audit. The auditors identified weaknesses involving entity-level controls, including the documentation of appropriate control activities, organizational structure, and recruitment and retention of qualified personnel. The auditors also identified a material weakness involving the availability of payroll and personnel documentation during the transition between service providers. FMSHRC acknowledges these findings and recognizes the need to strengthen its internal control environment through appropriate corrective actions.

Summary of Financial Statement Audit and Management Assurances

Table 1. Summary of Financial Statement Audit

Audit Opinion			Unmodified		
Material Weaknesses	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Ending Balance**
Entity-Level Control Policies and Procedures	1	0	0	0	1
Payroll and Personnel Documentation	0	1	0	0	1
Total Material Weaknesses	1	1	0	0	2

Table 2. Summary of Management Assurances

Effectiveness of Internal Control over Financial Reporting (FMFIA Section 2)

Statement of Assurance			Modified			
Material Weaknesses	**Beginning**	**New**	**Resolved**	**Consolidated**	**Reassessed**	**Ending**
Entity-Level Control Policies and Procedures	1	0	0	0	0	1
Payroll and Personnel Documentation	0	1	0	0	0	1
Total	1	1	0	0	0	2

Effectiveness of Internal Control over Operations (FMFIA Section 2)

Statement of Assurance			Unmodified, Modified, or No Assurance			
Material Weaknesses	**Beginning**	**New**	**Resolved**	**Consolidated**	**Reassessed**	**Ending**
	TBC	TBC	TBC	TBC	TBC	TBC

Conformance with Federal Financial Management System Requirements (FMFIA Section 4)

Statement of Assurance			Status			
Non-Conformances	**Beginning**	**New**	**Resolved**	**Consolidated**	**Reassessed**	**Ending**
N/A	N/A	N/A	N/A	N/A	N/A	N/A

Compliance with Section 803(a) of the Federal Financial Management Improvement Act (FFMIA)

Requirement	Agency	Auditor
1. Federal Financial Management System Requirements	To confirm	To confirm
2. Applicable Federal Accounting Standards	To confirm	To confirm
3. USSGL at Transaction Level	To confirm	To confirm

Note: The FY 2025 entity-level finding is shown as the beginning balance based on its open status since FY2024.

Limitations of the Financial Statements

The principal financial statements are prepared to report the financial position and results of operations of FMSHRC, 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 2026 and the final quarter of FY 2025 in three key areas:

1. Implementation of financial and administrative controls

As a small agency, FMSHRC outsources budget, financial, human resources, procurement, and travel services to a shared services provider through an interagency agreement. Additionally, FMSHRC's payroll services are managed externally through a shared services interagency agreement. The outsourcing of these functions allows FMSHRC to tap into the abilities and capacity of a large, better-resourced agency with its own systems of internal controls.

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

FMSHRC is in the process of establishing a formal internal controls mechanism. Although significant efforts were made throughout FY 2026 to address operational areas that lack internal controls, additional staffing with the requisite expertise is still needed to ensure comprehensive and effective internal controls within FMSHRC, rather than relying on the internal controls of its service providers. Consistent with the Administration's commitment to strong governance and stewardship of federal resources, FMSHRC is working to address the findings identified in the September 2025 GAO report as part of this effort.

The *Standards for Internal Control in the Federal Government* (GAO Green Book) require a fraud risk management program, consistent with the Administration's priorities to enhance transparency, accountability, and internal controls. While FMSHRC currently lacks sufficient resources to establish this program at the necessary level and fully address the related GAO report recommendations, it remains committed to strengthening its control environment. FMSHRC continues to participate in the independent financial statement auditor's annual fraud, waste, and abuse interviews, where potential allegations are disclosed, and benefits from a low risk of fraudulent financial reporting through its use of an authorized shared services financial provider.

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

OMB Circular A-123 provides the framework for effective fraud risk management. FMSHRC is committed to addressing GAO and external audit findings and strengthening its internal

control environment. Although FMSHRC benefits from a hybrid operational model that incorporates support from external agencies, it must continue building its own policies, procedures, and processes to achieve full compliance with the Circular. To support these efforts, FMSHRC will seek the appropriate resources necessary to meet these requirements.

Agency Performance Plan

PERFORMANCE FRAMEWORK

The current performance framework includes data from FMSHRC's 2022-2026 Strategic Plan and the newly released 2026-2030 Strategic Plan.

During FY 2026, FMSHRC transitioned from its 2022-2026 Strategic Plan to its 2026-2030 Strategic Plan, published in April 2026. This transition introduced changes to the agency's strategic goals, objectives, and associated performance measures. Therefore, this report presents FY 2026 performance results within the context of both strategic planning frameworks. Where performance measures continued across both plans, full-year results are presented to maintain consistency and comparability. Where measures were introduced, revised, or discontinued, the report identifies the applicable reporting periods and explains changes affecting performance assessment.

As the 2026-2030 Strategic Plan establishes a multiyear framework for agency priorities and performance, certain goals, objectives, and associated performance measures are intended for implementation in subsequent fiscal years. Accordingly, FY 2026 performance results reflect those objectives and measures implemented during the reporting period. Objectives and measures not yet implemented will be incorporated into future annual performance reporting as they become operational.

PERFORMANCE GOALS AND RESULTS

2022-2026 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

2026-2030 Strategic Goals

Strategic Goal 1: Improve Adjudicatory Processes Across Trial and Appellate Functions

Strategic Goal 2: Strengthen Internal Controls and Governance

Strategic Goal 3: Effectively Monitor and Evaluate Organizational Performance

Strategic Goal 4: Promote Evidence-Based Management

Strategic Goal 1: Improve Adjudicatory Processes Across Trial and Appellate Functions

(formerly: Ensure expeditious fair, and legally sound adjudication of cases)

Cases at the trial level are handled by OCALJ. FMSHRC employs ALJs to hear and decide contested cases at the trial level. The ALJs afford mine operators, miners, and their representatives a full opportunity to participate in the hearing process. FMSHRC ALJs are also responsible for evaluating and approving or denying settlement agreements proposed by the parties under the Mine Act.

Many of FMSHRC's cases present issues of first impression under the Mine Act. That is, the cases raise issues that prior decisions of FMSHRC or the courts have not resolved. Many cases involve the interpretation of safety and health standards and regulations promulgated by MSHA.

FMSHRC has established the following strategic objectives and performance measures for trial-level cases:

Performance Metrics – Trial Level

Strategic Objective 1.1 – Ensure Timely Issuance of Decisions at the Trial Level						
Measure	**2022-2026 Strategic Plan**				**2026-2030 Strategic Plan**	
	FY 2022	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026 Target**	**FY 2026 Results**
1.1.1 Average time from receipt to the disposition of all cases.[1]	183 days SM	192 days SM	225 days NM	222 days NM	200 days	235 days

[1] Target for FY 2022-FY 2025 was 180 days. M - Target met or exceeded, SM - Target substantially met - within 10% of target, NM - Target not met.

1.1.2 Average time from an Answer to the disposition of all cases.	--	--	--	--	180 days	203 days
1.1.3 Average time from an Answer to the disposition of all cases, excluding appeals to the Commission and Circuit Courts, contest cases, motions to reopen cases, and cases with Special Investigation-related stays.	--	--	--	--	170 days	193 days
1.1.4 Average time from an Answer to the disposition of all cases after referral to Settlement Counsel or Settlement Judge for mediation.[2]	--	--	--	--	200 days	93 days
1.1.5 Average time from receipt to the disposition of penalty cases.[3]	171 days M	184 days SM	217 days NM	192 days SM	200 days	226 days
1.1.6 Average time from an Answer to the disposition of penalty cases.	--	--	--	--	180 days	182 days
1.1.7 Average time from an Answer to the disposition of penalty cases, excluding appeals to the Commission and Circuit Courts, contest cases, motions to reopen cases, and cases with Special Investigation-related stays.	--	--	--	--	170 days	175 days
1.1.8 Percent of all cases on hand over 365 days in age.[4]	6% M	10% M	21% SM	14% M	10%	18%
1.1.9 Percent of all cases on hand over 365 days in age, measured from receipt of Answer.	--	--	--	--	10%	19%
1.1.10 Percent of all cases on hand over 365 days in age measured from receipt of Answer, excluding appeals to the Commission and Circuit.	--	--	--	--	10%	18%

FMSHRC received 1,730 new case filings in FY 2026. There were 1,145 trial level cases pending at the start of FY 2026. In FY 2026 there were 1,523 dispositions. The FY 2026 end-of-year inventory was 1,352 undecided cases.

[2] FY 2026 is the first year FMSHRC used this metric for the purpose of capturing data on the use of Settlement Counsel/Judge. Cases referred to mediation often are the most complex and time intensive. Every case referral to Settlement Counsel was made by the assigned ALJ, usually well into the litigation process, rather than from the time an answer was received. Consequently, the most accurate measurement of the mediation function is the average time from "assignment to mediation" (not "answer received") to disposition, which for FY 2026 is 93 days.
[3] See footnote 1.
[4] Target for FY 2022-FY 2025 was 20%.

The five-member Commission 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 (*sua sponte*); and (2) default cases, also referred to as motions to reopen (MTRs), 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.

The general authority for the review of ALJs' decisions is outlined in section 113(d)(1) of the Mine Act. The Act states that an ALJ's decision shall become final 40 days after its issuance, unless within that period any two Commissioners direct that the decision be reviewed. Most substantive cases come before FMSHRC when two or more Commissioners vote to grant a petition for discretionary review filed by a party adversely affected or aggrieved by the ALJ's decision. FMSHRC may also consider an ALJ's interlocutory ruling under certain circumstances.

Two or more Commissioners may also direct any ALJ's final decision for review sua sponte (on FMSHRC's initiative, without the parties filing a petition). Sua sponte review is limited to ALJs' decisions that are contrary to law or FMSHRC policy, or that present a novel question of policy.

By law, a quorum of three Commissioners is required to decide substantive cases. When FMSHRC lacks a quorum of Commissioners, it cannot issue decisions, and this affects the average time required to reach decisions.

FMSHRC has established the following strategic objectives and performance measures for appellate-level cases:

Performance Metrics – Appellate Level (Commissioners, General Counsel Function)

Strategic Objectives 1.2 – Ensure Timely Issuance of Decisions at the Appellate Level						
Measure	**2022-2026 Strategic Plan**				**2026-2030 Strategic Plan**	
	FY 2022	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026 Target**	**FY 2026 Results**
1.2.1 Average time from direction for review to issuance of decision (measured in months).[5]	12 M	13 M	13 M	15 NM	--	--

[5] Target for FY 2022-FY 2024 was 13 months, and for FY 2025, the target was 12 months. M - Target met or exceeded, SM - Target substantially met - within 10% of target, NM - Target not met.

1.2.2 Average time from briefing completion to issuance of decision (measured in months).[6]	9 M	10 SM	10 SM	13 NM	--	--
1.2.3 Percent of cases on hand over 18 months in age.[7]	16% M	18% M	33% NM	31% NM	--	--
1.2.1 Average time from briefing completion to issuance of a decision (measured in months).	--	--	--	--	<12 months	19 months
1.2.2 Completion of periodic appellate docket reviews.	--	--	--	--	Every 30 days	Every 30 days

Strategic Objective 1.3 – Issue Orders Addressing Motions to Reopen Cases in a Timely Manner						
Measure	**2022-2026 Strategic Plan**				**2026-2030 Strategic Plan**	
	FY 2022	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026 Target**	**FY 2026 Results**
1.3.1 Average time from receipt of the motion to issuance of final order (measured in months). [8]	4 M	5 M	7 M	12 M	--	--
1.3.1 Average time from receipt of final submission relating to the MTR to issuance of final order	--	--	--	--	120 days	228 days
1.3.2 Completion of periodic reviews of pending MTR	--	--	--	--	Every 30 days	Every 23 days

OGC attorneys are responsible for conducting initial research in substantive cases and, when requested, Commissioners' Counsels will sometimes prepare draft opinions for Commissioners. Each Commissioner may have an attorney advisor as Counsel, who reports directly to the individual Commissioner and also assists with research and preparation of opinions.

In FY 2026, 3 petitions were filed, and 1 was granted. In FY 2026, 89 default cases were filed and 8 default cases remained on hand at the end of the fiscal year. This was 8.9 percent of the total number of default cases.

[6] Target for FY 2022-FY 2025 was 9 months.
[7] Target for FY 2022-FY 2025 was 20%.
[8] Target for FY 2022-FY 2025 was 12 months.

The average processing time from briefing completion to issuance of a decision was 19 months in FY 2026, exceeding the target of 12 months. Therefore, this performance goal was not met. The average processing time for motions to reopen from receipt of final submission to issuance of a final order was 228 days, exceeding the target goal of 120 days.

FMSHRC disposed of a total of 112 case dockets (31 substantive case dockets and 81 default case dockets) during FY 2026.The year ended with 1 substantive case and 8 default cases pending for total of 9 dockets.

Strategic Goal 2: Strengthen Internal Controls and Governance

FMSHRC initiated Enterprise Risk Management (ERM) planning efforts at the end of FY 2026 and will continue to develop for implementation over FY 2027. This process requires significant agencywide internal coordination to design a comprehensive framework and finalize associated requirements.

Strategic Objective 2.1 – Establish an Enterprise Risk Management Framework	
Measure	**Future Target**
2.1.1 ERM framework approved and implemented	Yes
2.1.2 Percentage of organizational functions represented in the enterprise risk register	100%
2.1.3 Percentage of high-priority enterprise risks with documented mitigation strategies	100%

Strategic Objective 2.2 – Improve Internal Controls to Mitigate Enterprise Risks	
Measure	**Future Target**
2.2.1 Percentage of enterprise risk areas with documented internal control assessments completed	100%
2.2.2 Number of internal control gaps identified through assessments	0
2.2.3 Percentage of identified control gaps documented with preliminary risk ratings or impact assessments	75%

Strategic Objective 2.3 – Promote a Risk-Aware Organizational Culture	
Measure	**Future Target**
2.3.1 Percentage of staff receiving ERM training	100%
2.3.2 Participation in formal risk identification and reporting processes	100%

Strategic Objective 2.4 – Reinforce Information Technology, Data, and Security Capabilities	
Measure	**Future Target**
2.4.1 Completion of baseline assessments of IT, data, and security controls	Yes
2.4.2 Percentage of critical systems or data domains with documented security or control reviews completed	75%
2.4.3 Number of high-level IT or security gaps identified through assessments	0

For Strategic Objective 2.4, FMSHRC completed baseline security control matrices for Microsoft 365 and the agency's electronic case management system (eCMS) and advanced the review and implementation of operational and technical security controls. The agency also conducted FedRAMP, authorization to use (ATU), interconnection security, continuous monitoring, high-value asset (HVA), privacy, and FISMA-related activities. Agencywide percentages and high-level gap measures remain under development pending completion and consolidation of the full system inventory and assessment results.

Strategic Goal 3: Effectively Monitor and Evaluate Organizational Performance

Performance Metrics – Appellate Level (General Counsel Function)

Strategic Objective 3.1 – Promote Public Trust through FOIA Transparency						
Measure	**2022-2026 Strategic Plan**				**2026-2030 Strategic Plan**	
	FY 2022	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026 Target**	**FY 2026 Results**
3.1.1 Average age of complex FOIA requests	--	--	--	--	< 6 months	3.3 months
3.1.2 Simple FOIA requests processed within the statutory period of 20 days	--	--	--	--	100%	93%
3.1.3 FOIA requests received and closed during the same fiscal year	--	--	--	--	90%	98%

While FMSHRC would ideally like to complete all simple FOIA requests in under 20 days, that is not always feasible due to a variety of reasons. This year, FMSHRC received one request during the government shutdown. By order from the Office of Information Policy – Department of Justice (DOJ), requests received during the shutdown cannot be tolled. In other words, the clock continued to

run on the requests even though federal employees were not in duty status to receive or process them. Two other requests took 25 days to process as the search for the requested records took longer than anticipated due to certain agency technological limitations discovered during the search.

Strategic Objective 3.2 – Monitor Timeliness and Workload Across Key Functions	
Measure	**Future Target**
3.2.1 Timeliness and workload indicators monitored for identified core functions.	Yes
3.2.2 Routine performance trends produced.	Every 90 days
3.2.3 Significant performance variances or bottlenecks identified and elevated for leadership awareness.	Yes

Organization-wide performance monitoring and reporting have not yet been established as implementation depends on completing foundational work and prerequisite activities, which require requisite time and resources.

Strategic Objective 3.3 – Enhance Performance Reporting	
Measure	**Future Target**
3.3.1 Performance reports produced on a defined schedule.	Yes
3.3.2 Percentage of performance data validated for accuracy and completeness	80%

Strategic Goal 4: Promote Evidence-Based Management

Strategic Objective 4.1 – Use Evidence-Based Workforce Planning and Resource Allocation						
Measure	**2022-2026 Strategic Plan**				**2026-2030 Strategic Plan**	
	FY 2022	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026 Target**	**FY 2026 Results**
4.1.1 Staffing plan informed by workforce and workload analysis completed	--	--	--	--	Yes	Yes
4.1.2 Percentage of hiring actions aligned with identified staffing or capability needs	--	--	--	--	100%	100%
4.1.3 Percentage of resource allocation decisions supported by documented workforce or workload data	--	--	--	--	100%	100%

Strategic Objective 4.2 – Strengthen Human Capital Accountability Through Evidence-Based Practices						
Measure	**2022-2026 Strategic Plan**				**2026-2030 Strategic Plan**	
	FY 2022	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026 Target**	**FY 2026 Results**
4.2.1 Percentage of hiring actions reviewed for appropriate use of hiring authorities	--	--	--	--	100%	100%
4.2.2 Percentage of hiring officials completing merit-based hiring training	--	--	--	--	75%	100%
4.2.3 Percentage of hiring-related issues identified through reviews or audits that are documented and addressed	--	--	--	--	100%	20%

The agency's Human Capital Evaluator conducted a retrospective review of prior hiring actions to assess compliance with applicable federal hiring requirements, Merit System Principles, veterans' preference requirements, and delegated examining procedures. The review identified areas requiring corrective action and strengthened internal controls and oversight of merit-based hiring practices.

For Strategic Objective 4.2.3, five hiring-related issues were identified but only one was addressed through corrective action. Corrective action for the remaining four is in process and will continue to be tracked through completion.

FEDERAL MINE SAFETY AND HEALH REVIEW COMMISSION

AUDIT REPORT

SEPTEMBER 30, 2026

ALLMOND & COMPANY, LLC

Certified Public Accountants
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Lanham, Maryland 20706
(301) 918-8200

A/C ALLMOND & COMPANY, LLC CERTIFIED PUBLIC ACCOUNTANTS

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Independent Auditors' Report

Chair, Federal Mine Safety and Health Review Commission
Chief Operating Officer:

Report on the Financial Statements

Opinion

In accordance with the Accountability of Tax Dollars Act of 2002, we have audited the Federal Mine Safety and Health Review Commission (FMSHRC) financial statements. FMSHRC financial statements comprise the balance sheets as of September 30, 2026 and 2025; 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, FMSHRC's financial statements present fairly, in all material respects, FMSHRC's financial position as of September 30, 2026, and 2025, 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.

Basis for Opinion

We conducted our audits in accordance with U.S. generally accepted auditing standards (GAAS); the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 24-02, *Audit Requirements for Federal Financial Statements*. Our responsibilities under those standards and OMB Bulletin No. 24-02 are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the FMSHRC 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.

Responsibilities of Management for the Financial Statements

Management is responsible for

- the preparation and fair presentation of the financial statements in accordance with U.S. generally accepted accounting principles;
- preparing, measuring, and presenting the Required Supplementary Information (RSI) in accordance with U.S. generally accepted accounting principles;
- preparing and presenting other information included in FMSHRC's Performance and Accountability Report, and ensuring the consistency of that information with the audited financial statements and the RSI; and
- 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 Responsibilities for the Audit of the Financial Statements

Our objectives are to (1) obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and (2) 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 GAAS, generally accepted government auditing standards (GAGAS), and OMB Bulletin No. 24-02 will always detect a material misstatement or 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 GAAS, GAGAS, and OMB Bulletin No. 24-02, 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.
- Obtain an understanding of internal control relevant to an 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 FMSHRC'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 of 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 (RSI)

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 under standards issued 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. These procedures consisted of (1) inquiring of management about the methods used to prepare the RSI and (2) comparing the RSI for consistency with management's responses to our inquiries, the financial statements, and other knowledge we obtained during the audit of FMSHRC's 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

FMSHRC'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 FMSHRC's Performance Accountability Report. The other information comprises the *Message from the Chair*, *Management Discussion and Analysis (MD&A)* and *Performance* sections 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 exist 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 audit of FMSHRC's financial statements, we considered FMSHRC's internal control over financial reporting, consistent with the 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 deficiencies[1] or to express an opinion on the effectiveness of FMSHRC's internal control over financial reporting. Given these limitations, during our 2026 audit, we identified two deficiencies in FMSHRC's internal control over financial reporting that we consider to be material weaknesses. These deficiencies are described in the accompanying *Exhibit I, Material Weakness Findings and Recommendations,* to this report.

We considered the material weaknesses in determining the nature, timing, and extent of our audit procedures on FMSHRC's fiscal year 2026 financial statements. Although the material weaknesses in internal control did not affect our opinion on FMSHRC's fiscal year 2026 financial statements, misstatements may occur in unaudited financial information reported internally and externally by FMSHRC because of the internal control deficiencies described in this report.

We also identified an additional deficiency in the FMSHRC's internal control over financial reporting that we do not consider to be a material weakness or significant deficiency that, nonetheless, warrant's

1 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 the attention by those charged with governance.

management's attention. We have communicated this matter to FMSHRC management and, where appropriate, will report on it separately.

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

We performed our procedures related to FMSHRC's internal control over financial reporting in accordance with U.S. generally accepted government auditing standards and OMB audit guidance.

Responsibilities of Management for Internal Control over Financial Reporting

FMSHRC 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 FMSHRC's financial statements as of and for the fiscal year ended September 30, 2026, in accordance with U.S. generally accepted government auditing standards, we considered FMSHRC'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 FMSHRC's internal control over financial reporting. Accordingly, we do not express an opinion on FMSHRC'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 internal control over financial reporting are to provide reasonable assurance that

- 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

- 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 FMSHRC's internal control over financial reporting and the results of our procedures, and not to provide an opinion on the effectiveness of FMSHRC'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 audit of FMSHRC'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 2026 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 FMSHRC. 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 and OMB audit guidance.

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

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

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 FMSHRC that have a direct effect on the determination of material amounts and disclosures in FMSHRC'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 FMSHRC**.** 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.

FMSHRC's Response to Findings

FMSHRC's responses to the findings identified during our audit are described in a separate letter immediately following our report. FMSHRC's responses were not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on them.

Allmond & Company, LLC

Lanham, MD
November 16, 2026

Improvements needed in FMSHRC Entity Level Control Policies and Procedures 2026-01

CONDITION:

Improvements are needed in the Federal Mine Safety and Health Review Commission (FMSHRC) entity-level control policies and procedures. Entity-level controls are an integral part of an entity's internal control systems and serves as a foundation of the processes management uses to guide its operations. These controls include the control environment, risk assessment, information and communication, control activities, and monitoring activities. We noted FMSHRC has weaknesses in its entity-level controls within the following areas:

Design Appropriate Types of Control Activities – FMSHRC management did not have documented policies and procedures over significant financial processes. FMSHRC was unable to provide documented policies and procedures over their Financial Reporting, Fund Balance with Treasury, Payroll and Personnel, and Budget significant process areas during the FY 2026 FMSHRC Financial Statement Audit.

Organizational Structure – FMSHRC management has not established the organizational structure necessary to enable the entity to plan, execute, control, and assist the organization in achieving its objectives. Management develops the overall responsibilities from the entity's objectives that enable the entity to achieve its objectives and address related risks. Currently, FMSHRC has several senior leadership positions vacant including Chief Human Capital Officer, Chief Financial Officer, and Executive Director.

Recruitment, Development, and Retention of Individuals– In prior years we noted that FMSHRC was under an unofficial hiring freeze that made it difficult for the agency to hire and retain the skillset necessary to support the agency's operations.

CRITERIA:

U.S. Government Accountability Office GAO-25-107721, *Standards for Internal Control in the Federal Government* (or "Green Book"), May 2025 revision, *Section 10.03 Design of Appropriate Types of Control Activities* states that, "Management clearly documents internal control and all transactions and other significant events in a manner that allows the documentation to be readily available for examination. Documentation and records are properly managed and maintained."

In addition, *Section 10.02 Response to Objectives and Risk* states, "Management designs control activities in response to achieve an effective internal control system. Control activities are the actions management establishes through policies and procedures to specifically mitigate risks to achieving the entity's objectives to acceptable levels. Control activities support all the components of internal control but are particularly aligned with the risk assessment component. As part of periodic and ongoing risk assessments, management identifies objectives; the risks related to the entity and its objectives, including its service organizations; the entity's risk tolerance; and risk responses."

Also, *Section 3.03 Organizational Structure* states, "Management develops an organizational structure with an understanding of the overall responsibilities and assigns these responsibilities to enable the organization to operate efficiently and effectively, comply with applicable laws and regulations, and reliably report information."

Ultimately, as *Section OV2.10 Documentation Requirements*, of the Greenbook states, "Documentation is a necessary part of an effective internal control system. The level and nature of documentation vary based on the size of the entity and the complexity of the operational processes the entity performs. Management uses judgment in determining the extent of documentation that is needed. Documentation is required for the effective design, implementation, and operating effectiveness of an entity's internal control system."

CAUSE:

FMSHRC significantly relies on the role of their service providers, Bureau of Fiscal Service Center for Financial Management (BFS/CFM) and General Services Administration (GSA) in their significant processes as well as their internal policies and procedures.

FMSHRC has not documented internal policies and procedures for all significant process areas, including outlining the responsibilities of FMSHRC management and personnel as well as the responsibilities of FMSHRC's service providers.

EFFECT:

Without documented FMSHRC policies and procedures, FMSHRC is at risk of having an ineffective internal control system. More specifically, FMSHRC is susceptible to failing to design and implement control activities to achieve objectives and appropriately respond to risks.

Additionally, management and other personnel are at risk of being unable to adequately fulfill appointed positions ultimately leaving the agency vulnerable to misstatements in financial reporting.

RECOMMENDATION:

We recommend that FMSHRC management:

- Document policies and procedures for all significant process areas; including outlining the responsibilities of FMSHRC personnel and the responsibilities of FMSHRC's service providers.
- Ensure that all management and personnel, directly and indirectly responsible for performing processes outlined, have read, and understand the documented policies and procedures.
- Perform periodic review of policies and procedures, and policies and procedures are updated in a timely manner.
- Develop process narratives to assist new and transitioning personnel in understanding their scope of responsibilities and job function as well as help management perform review.

MANAGEMENT RESPONSE

See Management's Response immediately following our report.

See Management's Response immediately following our report.
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AUDITORS' RESPONSE

We will perform audit procedures during FY 2027 to determine if appropriate corrective action has been taken.

Failure to Provide Payroll and Personnel Documentation 2026-02

CONDITION:

The Federal Mine Safety and Health Review Commission's (FMSHRC) management was unable to provide requested documentation for the year-end payroll and personnel samples selected for the period between July 1, 2026, and September 30, 2026. Specifically, FMSHRC management was unable to provide the following documentation for 22 payroll and personnel samples:

- Personnel Action Request Form (SF-52) or equivalent
- Notice of Personnel Action (NPA) (SF-50)
- Leave and Earnings Statement (LES)
- Health Benefits Election Form SF-2809
- Life Insurance Election Form SF-2817
- Thrift Saving Plan Election From, TSP-1
- Time and Attendance Forms

CRITERIA:

U.S. Government Accountability Office GAO-25-107721, *Standards for Internal Control in the Federal Government* (or "Green Book"), May 2025 revision, *Section 10.04 Design of Appropriate Types of Control Activities* states that, "Management clearly documents internal control and all transactions and other significant events in a manner that allows the documentation to be readily available for examination. Documentation and records are properly managed and maintained."
Additionally, as *Section OV2.10 Documentation Requirements*, of the Greenbook states, "Documentation is a necessary part of an effective internal control system. The level and nature of documentation vary based on the size of the entity and the complexity of the operational processes the entity performs. Management uses judgment in determining the extent of documentation that is needed. Documentation is required for the effective design, implementation, and operating effectiveness of an entity's internal control system."

Lastly, the Office of Personnel Management's Guide to Personnel Recordkeeping, updated January 15, 2026, *Chapter 1 Electronic Records* states "The purpose of the electronic Official Personnel Folder (e-OPF) and the paper Official Personnel Folder (OPF) is to document the employment history of individuals employed by the Federal Government. The electronic Official Personnel Folder must be complete; that is, when combined with any other documents the agency chooses to retain in paper, or is required by law or regulation to be maintained in paper, it must contain all the information.

OPM requires that each agency ensures that electronic Official Personnel Folder systems:

- Be thoroughly documented.
- Be able to produce legible paper copies of all records. These copies should be in compliance with the Guide to Preparing Personnel Actions, Chapter 3, Subchapter 3 for SFs 50 & 52. Other form copies should be in conformance with the requirements of the program office that requires the collection and use of the information in accordance with 41 CFR subchapter B, Management and

Use of Information and Records, part 101-11- 203 (b), Standard Forms and Optional Forms Management Program.

- Have access controls to ensure a high level of security and confidentiality.
- Allow correction and removal of erroneous records under strict authorization controls.
- Include backup and disaster recovery procedures.
- Provide for regular recopying, reformatting, and other maintenance necessary to ensure that the records will be retained and useable throughout its life cycle.
- Identify information in a way that authorized users can retrieve and maintain the required records."

CAUSE:

At the end of FY 2026, FMSHRC began transitioning from their shared service providers for Payroll and Human Resources Services, the Bureau of Fiscal Service Center for Financial Management (BFS/CFM) and the National Finance Center (NFC) to the U.S. General Services Administration (GSA). During the migration of the Official Personnel Files, representatives from GSA and FMSHRC management were unable to access payroll documentation processed and stored prior to the migration.

EFFECT:

The lack of documentation to support amounts recorded in the general ledger increases the risk that payroll benefit expenses and related liabilities may be inaccurately recorded, which could result in potential misstatements in the financial statements.

Additionally, the agency and their service provider being unable to access Official Personnel Files reduces the ability to detect errors, unauthorized transactions or improper benefit calculations in the payroll process.

RECOMMENDATION:

We recommend that FMSHRC management, in collaboration with their service provider, perform a thorough review of employee Official Personnel Files once the migration concludes to ensure completeness and accuracy of documentation. Additionally, we recommend developing and implementing a contingency plan for similar situations so that FMSHRC management will have access to official records when necessary.

MANAGEMENT RESPONSE

See Management's Response immediately following our report.

AUDITORS' RESPONSE

We will perform audit procedures during FY 2027 to determine if appropriate corrective action has been taken.

The following table provides the fiscal year (FY) 2026 status of all recommendations included in the Independent Auditor's Report on FMSHRC's FY 2025 Financial Statements (December 18, 2025).

FY 2025 Finding	Initial Finding Year	FY 2025 Recommendation	FY 2025 Status
Improvements needed in FMSHRC Entity Level Control Policies and Procedures (2025-01)	2024	We recommend that FMSHRC management: • Document policies and procedures for all significant process areas; including outlining the responsibilities of FMSHRC personnel and the responsibilities of FMSHRC's service providers. • Ensure that all management and personnel, directly and indirectly responsible for performing processes outlined, have read, and understand the documented policies and procedures. • Perform periodic review of policies and procedures, and policies and procedures are updated in a timely manner. • Develop process narratives to assist new and transitioning personnel in understanding their scope of responsibilities and job function as well as help management perform review.	Open Open Open Open

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Office of the Chair

MEMORANDUM

DATE: November 16, 2026

TO: Allmond & Company
FY 2026 Financial Statement Audit Team

FROM: Theodosia Villatoro-Sorto
Administrative Officer and Transitional Services Project Manager
On Behalf of Chair Marco M. Rajkovich, Jr.

SUBJECT: Management Response to FY 2026 Audit Findings — NFR 2026-01 and 2026-02

I. PURPOSE

This memorandum presents the Federal Mine Safety and Health Review Commission's (FMSHRC or Commission) management responses to the three Notices of Findings and Recommendations (NFRs) issued in connection with the financial statement audit for the fiscal year ended September 30, 2026.

The Commission acknowledges the importance of maintaining effective internal controls, accurate financial reporting, and compliance with applicable federal requirements. Management remains committed to addressing identified deficiencies through corrective actions that are practical, risk-based, and consistent with the Commission's organizational structure and available resources.

Management respectfully requests that the audit team consider the substantial operational demands associated with the Commission's FY 2026 Human Resources (HR), Payroll, and Procurement transitions, as well as its established organizational structure, documented delegations of authority, and reliance on federal shared service providers.

II. EXECUTIVE SUMMARY OF MANAGEMENT POSITIONS

NFR 2026-01 — Entity-Level Internal Controls

Management acknowledges the need to strengthen internal control documentation and financial oversight. However, the Commission requests that the auditors distinguish between positions eliminated through organizational reorganization, positions that are formally vacant, and management functions currently performed under delegated authority.

NFR 2026-02 — Payroll and Personnel Documentation

Management acknowledges the inability to provide 22 requested payroll and personnel samples during the audit. However, the Commission requests that the auditors distinguish between temporary limitations in accessing historical records during the service-provider transition and a determination that supporting records were never maintained or are missing.

III. MANAGEMENT RESPONSES

A. NFR 2026-01 — Improvements Needed in Entity-Level Control Policies and Procedures

Management Position

The Commission recognizes its responsibility to establish and maintain effective internal controls consistent with the Government Accountability Office's *Standards for Internal Control in the Federal Government* (GAO Green Book).

During FY 2026, FMSHRC undertook significant HR, Payroll, and Procurement transitions involving GSA, the National Finance Center (NFC), the Bureau of the Fiscal Service (BFS), Treasury, and other federal partners. The HR and Payroll transition, beginning in Pay Period 17 (PP17), required extensive coordination, data validation, system access arrangements, and operational continuity planning.

These simultaneous transitions placed substantial demands on the Commission's limited administrative resources and affected the timing of certain internal control improvement activities.

Organizational Structure and Delegated Authority

The Commission has undergone an organizational reorganization that eliminated the Office of the Executive Director. Accordingly, management requests that the auditors evaluate leadership responsibilities and vacancies against the Commission's current organizational structure rather than positions that no longer exist.

The Commission further requests reconsideration of the characterization of the Chief Human Capital Officer (CHCO) function as vacant.

The Administrative Officer, Theodosia Villatoro-Sorto, serves as the CHCO and performs the associated human capital management responsibilities.

On March 24, 2026, Chair Marco M. Rajkovich, Jr. formally delegated personnel appointing authority to the Administrative Officer pursuant to 5 U.S.C. § 302. This delegation encompasses hiring, promotions, reassignments, disciplinary actions, separations, and related personnel matters.

The Administrative Officer has completed Human Capital Framework Evaluator Training and required Delegated Examining training. The Delegated Examining Certification Assessment remains a planned professional development milestone.

Management also recognizes the importance of financial leadership and intends to fill the Director of Finance function during the fiscal year, subject to applicable administrative processes and available resources.

Corrective Action Commitments

The Commission will:

1. Maintain documented management responsibilities and delegations of authority consistent with its approved organizational structure.
2. Strengthen financial management oversight and accountability.
3. Review and update financial reporting, budget, payroll, personnel, and Fund Balance with Treasury procedures.
4. Clarify responsibilities between Commission personnel and federal shared service providers.
5. Enhance internal control training, monitoring, and documentation.
6. Track corrective actions and implementation milestones through established administrative processes.

Management Request

Management respectfully requests that the audit team consider the Commission's current organizational structure, existing delegations, operational constraints, and the impact of the FY 2026 administrative transitions when evaluating this finding and the related prior-year recommendations.

B. NFR 2026-02 — Failure to Provide Payroll and Personnel Documentation

Management Position

The Commission acknowledges the auditors' inability to obtain 22 requested payroll and personnel samples during the FY 2026 audit.

However, management emphasizes that limitations in accessing historical payroll data were identified and communicated before and during the transition of HR and Payroll services to GSA.

Correspondence dated August 5, 2026, and October 2026, concerning *SCR 83742 FMSHRC De-implementation Agency Discussion*, documented material limitations and dependencies identified by NFC.

These included:

- Historical payroll information would not transfer directly from NFC to GSA but would be provided through Treasury's process.
- NFC could not certify the completeness or accuracy of historical information transferred through that process.
- Subsequent retrieval or transfer of historical payroll records could require an approved Software Change Request and Interagency Service Agreement.

- Post-transition technical assistance could involve additional coordination, agreements, and funding.
- Limited historical system access and targeted training could be explored to address agency reporting requirements.

These communications demonstrate that management identified transition-related records access risks and actively coordinated with federal service providers to address them.

Distinction Between Records Accessibility and Records Retention

Management emphasizes that an inability to retrieve supporting documentation at the time of an audit does not, on its own, establish that the underlying documentation was never created, improperly maintained, or permanently lost.

Likewise, the absence of documentation available for examination does not, by itself, establish that the underlying payroll transactions were improperly processed.

The Commission recognizes that documentation must be accessible to support effective audit procedures and internal control requirements. Accordingly, management will continue efforts to retrieve and validate the requested records.

Corrective Action Commitments

The Commission will:

7. Coordinate with GSA, NFC, BFS, and Treasury, as appropriate, to locate and retrieve historical payroll and personnel documentation.
8. Determine the appropriate procedures and agreements required for historical records access.
9. Assess the completeness and availability of records maintained across the respective service-provider systems.
10. Establish clearer responsibilities for records retrieval and retention.
11. Evaluate contingency procedures to mitigate documentation accessibility risks during future system transitions.

Management Request

Management respectfully requests that the audit team consider the documented transition communications and distinguish between records that were temporarily unavailable for retrieval and records affirmatively determined to be missing or improperly maintained.

Management Request

Management respectfully requests that the audit team consider the timing and operational complexity of the PP17 transition when evaluating the circumstances contributing to this finding.

IV. MANAGEMENT OVERSIGHT AND CORRECTIVE ACTION IMPLEMENTATION

The Commission will continue coordinating corrective action activities through its established management structure and federal shared service arrangements.

Implementation priorities will focus on strengthening internal controls, improving documentation accessibility, clarifying accountability, and enhancing financial reporting accuracy.

Corrective actions will be evaluated and prioritized based on operational risk, statutory and regulatory requirements, available resources, and the Commission's ability to maintain continuity of mission-critical functions.

V. CONCLUSION

The Commission appreciates the audit team's recommendations and recognizes the importance of continuous improvement in federal financial management and internal controls.

FMSHRC remains committed to addressing identified deficiencies while ensuring that audit conclusions accurately reflect the Commission's organizational structure, established delegations of authority, documented transition activities, and the operational circumstances affecting FY 2026.

Management respectfully requests that these considerations be reflected in the final evaluation and characterization of NFRs 2026-01 and 2026-02.

The Commission will continue working collaboratively with the audit team, GSA, NFC, BFS, Treasury, and other appropriate federal partners to strengthen accountability, resolve outstanding matters, and support reliable financial reporting.

Respectfully,

THEODOSIA VILLATORO-SORTO

Digitally signed by THEODOSIA VILLATORO-SORTO
Date: 2026.11.16 14:49:21 -05'00'

Theodosia Villatoro-Sorto
Administrative Officer and Transitional Services Project Manager
On Behalf of Chair Marco M. Rajkovich, Jr.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

FINANCIAL STATEMENTS

FOR THE YEARS ENDED
SEPTEMBER 30, 2026 AND 2025



FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
FINANCIAL STATEMENTS
FOR THE YEARS ENDED SEPTEMBER 30, 2026 AND 2025

TABLE OF CONTENTS

BALANCE SHEETS……..1

STATEMENTS OF NET COST……...2

STATEMENTS OF CHANGES IN NET POSITION……3

STATEMENTS OF BUDGETARY RESOURCES……4

NOTES TO THE FINANCIAL STATEMENTS……..…….5-16

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
BALANCE SHEETS
AS OF SEPTEMBER 30, 2026 AND 2025
(In Dollars)

	2026	2025
Assets		
Intragovernmental Assets		
Fund Balance with Treasury (Note 2)	$ 13,872,318	$ 12,382,838
Accounts Receivable, Net (Note 3)	-	25,324
Advances and Prepayments	74,674	94
Total Intragovernmental Assets	13,946,992	12,408,256
Other than Intragovernmental Assets		
Accounts Receivable, Net (Note 3)	-	200
Property, Plant, and Equipment, Net (Note 4)	2,473	-
Total Other than Intragovernmental Assets	2,473	200
Total Assets	**$ 13,949,465**	**$ 12,408,456**
Liabilities (Note 5)		
Intragovernmental Liabilities		
Accounts Payable	$ 1,138,112	$ 874,603
Other Liabilities (Note 6)	56,048	66,268
Total Intragovernmental Liabilities	1,194,160	940,871
Other than Intragovernmental Liabilities		
Accounts Payable	109,897	2,200,185
Federal Employee Salary, Leave, and Benefits Payable	400,742	805,064
Total Other than Intragovernmental Liabilities	510,639	3,005,249
Total Liabilities	**$ 1,704,799**	**$ 3,946,120**
Net Position		
Unexpended Appropriations		
Funds from Other than Dedicated Collections	$ 12,544,451	$ 9,069,470
Total Unexpended Appropriations (Consolidated)	12,544,451	9,069,470
Cumulative Results of Operations		
Funds from Other than Dedicated Collections	(299,785)	(607,134)
Total Cumulative Results of Operations (Consolidated)	(299,785)	(607,134)
Total Net Position	**$ 12,244,666**	**$ 8,462,336**
Total Liabilities and Net Position	**$ 13,949,465**	**$ 12,408,456**

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

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
STATEMENTS OF NET COST
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2026 AND 2025
(In Dollars)

	2026	2025
Gross Program Costs		
Commission Review:		
Gross Costs	$ 10,176,158	$ 10,945,015
Less: Earned Revenue	(61)	(145)
Net Program Costs	**$ 10,176,097**	**$ 10,944,870**
Administrative Law Judge:		
Gross Costs	$ 3,958,290	$ 5,985,710
Less: Earned Revenue	(24)	(29,763)
Net Program Costs	**$ 3,958,266**	**$ 5,955,947**
Net Cost Of Operations	**$ 14,134,363**	**$ 16,900,817**

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

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
STATEMENTS OF CHANGES IN NET POSITION
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2026 AND 2025
(In Dollars)

	2026	2025
Unexpended Appropriations		
Beginning Balance	$ 9,069,470	$ 8,438,440
Appropriations Received	18,012,000	18,012,000
Other Adjustments	(879,785)	(1,643,467)
Appropriations Used	(13,657,234)	(15,737,503)
Net Change in Unexpended Appropriations	3,474,981	631,030
Total Unexpended Appropriations	**$ 12,544,451**	**$ 9,069,470**
Cumulative Results of Operations		
Beginning Balance	$ (607,134)	$ (738,459)
Appropriations Used	13,657,234	15,737,503
Imputed Financing (Note 9)	784,563	1,294,864
Other	(85)	(225)
Net Cost of Operations	(14,134,363)	(16,900,817)
Net Change in Cumulative Results of Operations	307,349	131,325
Total Cumulative Results of Operations	**$ (299,785)**	**$ (607,134)**
Net Position	**$ 12,244,666**	**$ 8,462,336**

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

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
STATEMENTS OF BUDGETARY RESOURCES
FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2026 AND 2025
(In Dollars)

		2026		2025
Budgetary Resources				
Unobligated Balance From Prior Year Budget Authority, Net (Note 10)	$	7,332,420	$	6,573,690
Appropriations		18,012,000		18,012,000
Spending Authority From Offsetting Collections		-		29,683
Total Budgetary Resources	**$**	**25,344,420**	**$**	**24,615,373**
Status of Budgetary Resources				
New Obligations and Upward Adjustments (Total)	$	17,330,627	$	17,548,515
Unobligated Balance, End of Year				
Apportioned, Unexpired Accounts		793,336		596,486
Unexpired, Unobligated Balance, End of Year		793,336		596,486
Expired, Unobligated Balance, End of Year		7,220,457		6,470,372
Unobligated Balance, End of Year (Total)		8,013,793		7,066,858
Total Budgetary Resources	**$**	**25,344,420**	**$**	**24,615,373**
Outlays, Net and Disbursements, Net				
Outlays, Net (Total)	$	15,642,735	$	15,719,212
Distributed Offsetting Receipts		(99)		(225)
Agency Outlays, Net	**$**	**15,642,636**	**$**	**15,718,987**

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

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's 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 those 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 Fund Balance with Treasury 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 $25,000 for individual purchases and $250,000 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:

Description	Useful Life (years)
IT Hardware	3-5 Years
Furniture	7 Years
Leasehold Improvements	Shorter of 10 Years or Remaining Lease

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, and unemployment insurance.

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's 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 unreimbursed cost paid by DOL for compensation to recipients under the FECA.

K. Retirement Plans

The Commission's employees participate in either the CSRS or the FERS. The employees who participate in CSRS are beneficiaries of the Commission's 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's 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. Contingencies

In accordance with SFFAS No. 5, Accounting for Liabilities of the Federal Government, amended by SFFAS No. 12, Recognition of Contingent Liabilities Arising from Litigation, 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.

O. Reclassification

Certain fiscal year 2025 balances have been reclassified, retitled, or combined with other financial statement line items for consistency with the current year presentation.

P. 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, 2026 and 2025, were as follows:

	2026	2025
Status of Fund Balance With Treasury		
Unobligated Balance	$ 8,013,793	$ 7,066,858
Obligated Balance Not Yet Disbursed	5,858,525	5,315,980
Total Fund Balance With Treasury	**$ 13,872,318**	**$ 12,382,838**

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

Unobligated balances may include amounts that are not available for current use and are restricted to future use.

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.

NOTE 3. ACCOUNTS RECEIVABLE, NET

Accounts receivable balances as of September 30, 2026 and 2025, were as follows:

	2026	2025
Intragovernmental		
Accounts Receivable	$ -	$ 25,324
Total Intragovernmental Accounts Receivable	$ -	$ 25,324
Other than Intragovernmental		
Accounts Receivable	$ -	$ 200
Total Other than Intragovernmental Accounts Receivable	$ -	$ 200
Total Accounts Receivable	**$ -**	**$ 25,524**

The accounts receivable is primarily 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, 2026 and 2025.

NOTE 4. PROPERTY, PLANT, AND EQUIPMENT, NET

Schedule of General Property, Plant, and Equipment, Net as of September 30, 2026 and 2025:

	Acquisition Cost	Accumulated Depreciation and Amortization	Net Book Value
2026			
Major Class:			
Leasehold Improvements	$ 377,363	$ 377,363	$ -
Furniture and Equipment	751,190	748,717	2,473
Total	**$ 1,128,553**	**$ 1,126,080**	**$ 2,473**
2025			
Major Class:			
Leasehold Improvements	$ 377,363	$ 377,363	$ -
Furniture and Equipment	1,424,326	1,424,326	-
Total	**$ 1,801,689**	**$ 1,801,689**	**$ -**

NOTE 5. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities for the Commission as of September 30, 2026 and 2025, 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.

	2026	2025
Intragovernmental-Unemployment Insurance	$ 13,309	$ -
Unfunded Leave	288,947	607,333
Total Liabilities Not Covered by Budgetary Resources	$ 302,256	$ 607,333
Total Liabilities Covered by Budgetary Resources	1,402,543	3,338,787
Total Liabilities	**$ 1,704,799**	**$ 3,946,120**

Unemployment Insurance liabilities represent the unfunded liability for 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.

NOTE 6. OTHER LIABILITIES

Other liabilities account balances as of September 30, 2026 and 2025, were as follows:

	Current	Non-Current	Total
2026			
Intragovernmental Other Liabilities			
Employer Contributions and Payroll Taxes Payable (without reciprocals)	$ 8,217	$ -	$ 8,217
Employer Contributions and Payroll Taxes Payable	27,922	-	27,922
Other Post Employment Benefits Due and Payable	6,600	-	6,600
Other Unfunded Employment Related Liability	13,309	-	13,309
Total Intragovernmental Other Liabilities	**$ 56,048**	**$ -**	**$ 56,048**
Total Other Liabilities	**$ 56,048**	**$ -**	**$ 56,048**
2025			
Intragovernmental Other Liabilities			
Employer Contributions and Payroll Taxes Payable (without reciprocals)	$ 12,943	$ -	$ 12,943
Employer Contributions and Payroll Taxes Payable	46,725	-	46,725
Other Post Employment Benefits Due and Payable	6,600	-	6,600
Total Intragovernmental Other Liabilities	**$ 66,268**	**$ -**	**$ 66,268**
Total Other Liabilities	**$ 66,268**	**$ -**	**$ 66,268**

NOTE 7. LEASES

The Commission occupies office space in three locations, of which all three of the lease agreements are accounted for as intragovernmental leases per SFFAS 54 guidance. Annual rent for each location is charged by the General Service Administration (GSA), which acts as the federal leasing agent for the Commission. Lease payments are increased annually based on the adjustments for operating cost and real estate tax escalations. The total intragovernmental lease expense as of September 30, 2026 and 2025 was $1,932,172 and $1,897,139, respectively.

The Commission occupies office space at 721 19th St, Denver, CO under a lease agreement that is accounted for as an intragovernmental 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.

Below is a schedule of future payments for the term of the lease:

	Buildings	Total Federal
Fiscal Year		
2027	$ 152,810	$ 152,810
2028	153,905	153,905
2029	103,153	103,153
Total	**$ 409,868**	**$ 409,868**

The Commission occupied office space at 875 Greentree Road, Pittsburgh, Pennsylvania, under a lease

agreement that is accounted for as an intragovernmental lease. The Commission has vacated the Pittsburgh office space. The lease remains subject to the terms and conditions of the applicable lease agreement. The financial statements reflect the lease in accordance with applicable federal accounting standards.

Below is a schedule of future payments for the term of the lease:

	Buildings	Total Federal
Fiscal Year		
2027	$ 109,360	$ 109,360
2028	109,360	109,360
2029	119,462	119,462
2030	122,829	122,829
2031	122,829	122,829
2032-2034	276,364	276,364
Total	**$ 860,204**	**$ 860,204**

The Commission occupies office space at 1331 Pennsylvania Avenue, Washington, DC under a lease agreement that is accounted for as an intragovernmental 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.

Below is a schedule of future payments for the term of the lease:

	Buildings	Total Federal
Fiscal Year		
2027	$ 1,749,622	$ 1,749,622
2028	1,775,624	1,775,624
2029	1,802,407	1,802,407
2030	1,829,993	1,829,993
2031	1,858,407	1,858,407
2032	1,650,321	1,650,321
Total	**$ 10,666,374**	**$ 10,666,374**

The operating lease amount does not include estimated payments for leases with annual renewal options.

NOTE 8. COMMITMENTS AND CONTINGENCIES

The agency recognizes and discloses contingencies in accordance with SSFAS No. 5, as amended by SFFAS No. 12. In FY 2026, there are two cases where the estimate of possible liability or range of possible liability is a combined $10,000 as of September 30, 2026.

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 fiscal years ended September 30, 2026 and 2025, respectively, inter-entity costs were as follows:

		2026		2025
Office of Personnel Management	$	784,563	$	1,294,864
Total Inter-Entity Costs	**$**	**784,563**	**$**	**1,294,864**

NOTE 10. UNOBLIGATED BALANCE FROM PRIOR YEAR BUDGET AUTHORITY, NET

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, 2026 and 2025, consisted of the following:

		2026		2025
Unobligated Balance Brought Forward from Prior Year, October 1	$	7,066,858	$	7,007,186
Recoveries of Prior Year Obligations		1,145,347		1,209,971
Other Changes in Unobligated Balances		(879,785)		(1,643,467)
Unobligated Balance from Prior Year Budget Authority, Net (Discretionary and Mandatory)	**$**	**7,332,420**	**$**	**6,573,690**

NOTE 11. UNDELIVERED ORDERS AT THE END OF THE PERIOD

Budgetary resources obligated for undelivered orders as of September 30, 2026 and 2025 were as follows:

		Intragovernmental		Other than Intragovernmental		Total
2026						
Paid Undelivered Orders	$	74,674	$	-	$	74,674
Unpaid Undelivered Orders		4,176,647		279,334		4,455,981
Total Undelivered Orders	**$**	**4,251,321**	**$**	**279,334**	**$**	**4,530,655**
2025						
Paid Undelivered Orders	$	94	$	-	$	94
Unpaid Undelivered Orders		1,518,061		484,456		2,002,517
Total Undelivered Orders	**$**	**1,518,155**	**$**	**484,456**	**$**	**2,002,611**

NOTE 12. EXPLANATION OF DIFFERENCES BETWEEN THE STATEMENT OF

BUDGETARY RESOURCES AND THE BUDGET OF THE U.S. GOVERNMENT

The President's Budget that will include fiscal year 2026 actual budgetary execution information has not yet been published. The President's Budget is scheduled for publication in February 2027 and can be found at the OMB website: https://www.whitehouse.gov/omb/. The Fiscal Year 2027 Budget of the United States Government, with the "Actual" column completed for 2025, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

(In Millions)

	Total Budgetary Resources	New Obligations & Upward Adjustments (Total)	Distributed Offsetting Receipts	Net Outlays
Combined Statement of Budgetary Resources	$ 25	$ 18	$ -	$ 16
Unobligated Balance Not Available	(6)	-	-	-
Difference Due to Rounding	(1)	(1)	-	-
Budget of the U.S. Government	**$ 18**	**$ 17**	**$ -**	**$ 16**

NOTE 13. CUSTODIAL REVENUES

The Commission's custodial collection primarily consists of fines, penalties, proprietary interest, and Freedom of Information Act request fees. 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 total custodial collections are $0 and $0 for the years ended September 30, 2026 and 2025, respectively.

NOTE 14: RECONCILIATION OF NET OPERATING COST & NET BUDGETARY 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.

The reconciliation of Net Cost to Net Outlays as of September 30, 2026:

	Intragovern-mental	Other than Intragovern-mental	Total
Net Operating Cost (Revenue) Reported on Statement of Net Cost	**$ 7,726,320**	**$ 6,408,043**	**$ 14,134,363**
Components of Net Operating Cost Not Part of the Budgetary Outlays			
Property, Plant, and Equipment Depreciation Expense	-	(495)	(495)
Increase/(Decrease) in Assets Not Affecting Budgetary Outlays:			
Accounts Receivable, Net	(25,324)	(200)	(25,524)
Advances and Prepayments	74,580	-	74,580
(Increase)/Decrease in Liabilities Not Affecting Budgetary Outlays:			
Accounts Payable	(263,509)	2,090,288	1,826,779
Federal Employee Salary, Leave, and Benefits Payable	-	404,322	404,322
Other Liabilities	10,220	-	10,220
Financing Sources:			
Imputed Cost	(784,563)	-	(784,563)
Total Components of Net Operating Cost Not Part of the Budgetary Outlays	**$ (988,596)**	**$ 2,493,915**	**$ 1,505,319**
Components of the Budgetary Outlays That Are Not Part of Net Operating Cost			
Acquisition of Capital Assets	$ -	$ 2,968	$ 2,968
Total Components of the Budgetary Outlays That Are Not Part of Net Operating Cost	**$ -**	**$ 2,968**	**$ 2,968**
Misc Items			
Distributed Offsetting Receipts (SBR 4200)	$ -	$ (99)	$ (99)
Custodial/Non-Exchange Revenue	(149)	149	-
Non-Entity Activity	85	-	85
Total Other Reconciling Items	**$ (64)**	**$ 50**	**$ (14)**
Total Net Outlays (Calculated Total)	**$ 6,737,660**	**$ 8,904,976**	**$ 15,642,636**
Budgetary Agency Outlays, Net (SBR 4210)			
Budgetary Agency Outlays, Net			**$ 15,642,636**

The reconciliation of Net Cost to Net Outlays as of September 30, 2025:

	Intragovern-mental	Other than Intragovern-mental	Total
Net Operating Cost (Revenue) Reported on Statement of Net Cost	**$ 6,566,415**	**$ 10,334,402**	**$ 16,900,817**
Components of Net Operating Cost Not Part of the Budgetary Outlays			
Increase/(Decrease) in Assets Not Affecting Budgetary Outlays:			
Accounts Receivable, Net	5,885	(393)	5,492
Advances and Prepayments	(4,758)	-	(4,758)
(Increase)/Decrease in Liabilities Not Affecting Budgetary Outlays:			
Accounts Payable	224,702	(241,973)	(17,271)
Federal Employee Salary, Leave, and Benefits Payable	-	122,720	122,720
Other Liabilities	6,851	-	6,851
Financing Sources:			
Imputed Cost	(1,294,864)	-	(1,294,864)
Total Components of Net Operating Cost Not Part of the Budgetary Outlays	**$ (1,062,184)**	**$ (119,646)**	**$ (1,181,830)**
Misc Items			
Distributed Offsetting Receipts (SBR 4200)	$ -	$ (225)	$ (225)
Custodial/Non-Exchange Revenue	(9)	9	-
Non-Entity Activity	225	-	225
Total Other Reconciling Items	**$ 216**	**$ (216)**	**$ -**
Total Net Outlays (Calculated Total)	**$ 5,504,447**	**$ 10,214,540**	**$ 15,718,987**
Budgetary Agency Outlays, Net (SBR 4210)			
Budgetary Agency Outlays, Net			**$ 15,718,987**