



Report to the Chair, Committee on  
Health, Education, Labor and Pensions  
U.S. Senate

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September 2025

# MINE SAFETY

## Commission That Reviews Legal Disputes Needs Improved Management Oversight

# GAO Highlights

Highlights of [GAO-25-107171](#), a report to the Chair, Committee on Health, Education, Labor and Pensions, U.S. Senate

## Why GAO Did This Study

In 2024, about 327,000 miners worked at nearly 12,700 U.S. mines. By law, U.S. mines must undergo routine inspections to ensure they meet federal health and safety standards. The Commission reviews legal disputes about violations of these standards. It has an \$18 million budget and about 60 employees.

GAO was asked to review the Commission's operations and oversight. This report examines (1) how the Commission is addressing management weaknesses and (2) the challenges it has faced accessing independent oversight and options that exist to obtain support from an IG.

GAO reviewed Commission documents and external audits and interviewed agency officials and federal and industry stakeholders. GAO also assessed the Commission's performance against relevant federal laws, regulations, and internal control standards. In addition, GAO interviewed several investigative agencies, IGs, and other federal stakeholders about strategies for agencies to access independent oversight.

## What GAO Recommends

GAO recommends that Congress consider authorizing another agency's IG to also serve as the Commission's Inspector General. GAO is also making eight recommendations to the Commission to address management weaknesses, including those related to performance management, workforce planning, and other internal control deficiencies. The Commission agreed with GAO's recommendations and described planned actions to address them.

View [GAO-25-107171](#). For more information, contact Thomas Costa at [CostaT@gao.gov](mailto:CostaT@gao.gov).

September 2025

## MINE SAFETY

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## What GAO Found

The Federal Mine Safety and Health Review Commission (Commission) has not addressed numerous management and operational weaknesses. According to senior officials, Commission leaders have often been disengaged from administering the Commission's operations and have generally not addressed key challenges faced in carrying out its administrative functions. GAO identified a range of challenges, including:

- **Agency performance management.** The Commission has not fully incorporated key practices for managing its performance. Although it has established long-term goals in its strategic plan, the Commission does not have ways to measure progress toward most of those goals or consistently use reliable performance data to set new goals. Officials said that current and past Commission chairs were not fully aware of performance management requirements. As a result, the Commission is missing opportunities to improve its effectiveness and efficiency.
- **Workforce planning.** The Commission lacks a comprehensive workforce plan, which would help address the Commission's operational challenges and future staffing needs. Officials acknowledged that the Commission lacks staff with human capital, financial, and other key skills, but it has not filled those gaps. The Commission also faced performance challenges due to several Administrative Law Judge retirements. One senior official told us the Commission lacks a succession plan even though all judges have been eligible to retire since 2022.
- **Other internal control deficiencies.** The Commission has not addressed several internal control deficiencies to improve its operations. For example, the Commission's 2024 financial audit found an inadequate budget approval process, but a senior Commission official said the Commission could not fully address that deficiency without additional skilled personnel, and they do not have a plan to hire those personnel. In addition, the Commission has not established processes to manage its risks, ensure it is complying with relevant laws and regulations, or address other deficiencies.

Since 2021, the Commission has sought, with limited success, oversight for a variety of alleged improprieties and personnel matters. Many federal agencies have an Inspector General (IG) to investigate such allegations, but the Commission lacks an IG and instead sought assistance from several third parties. The Commission received limited investigative support from an external IG and the Office of Special Counsel. However, the Commission was unable to secure assistance to investigate allegations of improper procurement activities against a senior official, who remained on paid administrative leave for more than 3 years. Given the Commission's challenges obtaining oversight support, it would benefit from having an IG designated in statute. The IG could be from a larger agency with related expertise and should be provided with appropriate resources to take on Commission oversight.

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## Abbreviations

ALJ	Administrative Law Judge
CIGIE	Council of the Inspectors General on Integrity and Efficiency
Commission	Federal Mine Safety and Health Review Commission
COO	Chief Operating Officer
CSB	U.S. Chemical Safety and Hazard Investigation Board
EPA	Environmental Protection Agency
FBI	Federal Bureau of Investigation
GPRA	Government Performance and Results Act of 1993
GPRAMA	GPRA Modernization Act of 2010
IG	Inspector General
Mine Act	Federal Mine Safety and Health Act of 1977, as amended
OGC	Office of the General Counsel
OMB	Office of Management and Budget
OPIC	Overseas Private Investment Corporation
OPM	Office of Personnel Management
OSC	Office of Special Counsel
USAID	U.S. Agency for International Development

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September 25, 2025

The Honorable Bill Cassidy, M.D.  
Chair  
Committee on Health, Education, Labor and Pensions  
U.S. Senate

Dear Mr. Chair:

In 2024, over 327,000 miners worked at nearly 12,700 mines across the U.S. In the same year, 28 workers died in mining accidents. By law, U.S. mines must meet federal standards intended to promote the health and safety of mine workers and must undergo routine inspections to ensure compliance with these standards. The Federal Mine Safety and Health Review Commission (Commission) is a small, independent agency responsible for reviewing legal disputes about violations of mine safety and health standards. These disputes generally involve a review of enforcement actions taken by the Department of Labor's Mine Safety and Health Administration, which include issuing citations or mine-closure orders and proposing civil penalties for violations of the Federal Mine Safety and Health Act of 1977, as amended (Mine Act).<sup>1</sup> In fiscal year 2024, the Commission completed its review of more than 2,000 of these disputes.

In 2022, two senior Commission officials reported allegations of mismanagement by the head of the Commission to the U.S. Senate Committee on Health, Education, Labor and Pensions. These allegations included inappropriate policy changes and unreasonable personnel actions. The head of the Commission also reported to the Committee concerns about employee misconduct related to ethics and criminal violations. That same year, multiple Commission employees were placed on paid administrative leave; one employee, a senior officer in the Commission's Office of the Executive Director, remained on paid leave for

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<sup>1</sup>Federal Mine Safety and Health Review Commission, "About FMSHRC," accessed on August 8, 2025, <https://www.fmshrc.gov/about>. See Pub. L. No. 95-164, 91 Stat. 1290. According to the Commission, other types of cases include disputes of Mine Safety and Health Administration orders to close a mine for health or safety reasons; miners' requests for compensation after being idled by such orders; review of the Mine Safety and Health Administration'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.

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over 3 years. In addition, questions were raised about the Commission's ability to obtain independent oversight, since it did not have an Inspector General to investigate the type of allegations that were raised.

You asked us to review the Commission's operations and oversight. This report examines (1) how the Commission is addressing weaknesses, including those related to managing agency performance, budget and procurement, human capital, and internal controls; and (2) challenges the Commission has faced in accessing independent oversight, and what options exist to obtain support from an Inspector General.

To address the first objective about how the Commission is addressing management weaknesses, we reviewed Commission documents, particularly related to performance management activities, human capital operations, and financial management.<sup>2</sup> In addition, we reviewed third-party assessments of the Commission's operations, including financial audits.<sup>3</sup> We spoke with each of the Commission's senior leaders to obtain their perspectives on Commission operations, including any management weaknesses.<sup>4</sup> We also interviewed 14 employees across the Commission for their perspectives on operations and management.<sup>5</sup> We obtained information and collected documents from the Commission's external stakeholders, including mine operators, a labor union, and the Department of Labor.<sup>6</sup>

We also reviewed selected past personnel actions, and we investigated selected allegations of wrongdoing related to the Commission's past

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<sup>2</sup>We did not conduct a substantive review of the Commission's handling of its casework.

<sup>3</sup>Executive agencies are required to prepare annual financial statements and have them audited. 31 U.S.C. § 3515. The Commission engages an independent public accounting firm to perform this audit.

<sup>4</sup>We spoke with five commissioners, including two whose terms have ended since we spoke with them. One of the commissioners we spoke with was appointed to the position during our review and had previously served as a Supervisory Attorney Advisor in the Office of the Chief Administrative Law Judge. We also spoke with the Chief Operating Officer, the General Counsel, the Deputy General Counsel, the Chief Administrative Law Judge, and the Hearing Office Director.

<sup>5</sup>We selected employees from each of the Commission's organizational units and office locations, including some at random within a particular unit. The group of employees we selected is not intended to be a representative sample of the Commission's entire workforce.

<sup>6</sup>We also interviewed officials at the Occupational Safety and Health Review Commission, an agency with a mission and budget similar to those of the Commission.

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procurement activities. We evaluated the Commission's efforts to address its management weaknesses against relevant federal laws and regulations, internal control standards, leading performance management and human capital practices, and the Commission's own goals.<sup>7</sup>

To address our second objective about challenges the Commission has faced in obtaining independent oversight, we interviewed officials about the Commission's efforts in this area and collected related documentation. We also interviewed officials from the Council of the Inspectors General on Integrity and Efficiency (CIGIE), the Small Agency Council, and the Department of Labor's Office of Inspector General for their perspectives on small agency operations and oversight.

We conducted this performance audit from November 2023 to September 2025 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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<sup>7</sup>We assessed certain components of the Commission's internal control system related to (1) exercising oversight responsibility, (2) establishing structure, responsibility and authority, (3) identifying, analyzing, and responding to risks, (4) implementing control activities, (5) using quality information, (6) communicating internally, and (7) evaluating issues and remediating deficiencies. GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

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## Background

### Mission and Organizational Structure

The Commission provides administrative trial and appellate review of legal disputes under the Mine Act. According to the Commission, most of its cases involve the contest of civil penalties assessed against mine operators and address whether alleged safety and health violations occurred, as well as the appropriateness of proposed penalties. The Commission's fiscal year 2024 budget was about \$18 million. It employs about 60 full-time workers at its headquarters in Washington, D.C., and in satellite offices in Denver, Colorado, and Pittsburgh, Pennsylvania.

The Commission has four organizational units (see table 1).<sup>8</sup>

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**Table 1: Federal Mine Safety and Health Review Commission Organizational Units**

Unit	Description
Office of the Chair and Commissioners	Includes the chair, up to four other commissioners, and their immediate staff, such as confidential attorney advisors and assistants who support adjudication of appellate cases and various administrative duties.
Office of the General Counsel	Includes the General Counsel, Deputy General Counsel, and other attorneys who support appellate case adjudication—including providing advisory memos to commissioners and tracking the progress of cases. Attorneys may serve as counsel to an individual commissioner. <sup>a</sup> The office also provides legal support for agencywide programs, such as programs related to ethics and the Freedom of Information Act.
Office of the Chief Administrative Law Judge	Includes the Chief Administrative Law Judge (ALJ), all other ALJs, and staff such as supervisory attorneys, law clerks, and management analysts who support and track the agency's adjudication of trial cases.
Office of the Executive Director	Includes the Executive Director and support staff who carry out various administrative functions for the agency, such as human resources, financial management, budget, procurement services, facilities, and information technology.

Source: Federal Mine Safety and Health Review Commission officials and documents. | GAO-25-107171

<sup>a</sup>Commissioners have the option to have an Office of the General Counsel attorney advisor assigned to them as counsel in a part-time capacity or have the agency employ a full-time confidential attorney advisor as a political appointee to support their appellate duties.

When mine operators dispute the penalties, the Commission reviews the alleged violations and resulting penalties and makes a legal determination. Its decisions may be appealed in the relevant federal Court of Appeals.

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<sup>8</sup>According to Commission officials, the agency submitted a reorganization plan in April 2025 to the Office of Management and Budget for review pursuant to Executive Order 14210, *Implementing the President's "Department of Government Efficiency" Workforce Optimization Initiative* (Feb. 11, 2025). The plan proposes changes to the Commission's organizational units.



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The Commission carries out its mission through two levels of adjudication:

- **Trial review by administrative law judges (ALJ).** The Commission employs ALJs to hear and decide legal disputes under the Mine Act. ALJs evaluate and approve or deny settlement proposals between parties and, when necessary, conduct hearings. An ALJ's decision becomes the Commission's final order 40 days after its issuance unless within that time the Commission has directed that it will review the decision at the appellate level. In fiscal year 2024, the Commission received 1,877 new cases for trial review and its ALJs decided or approved settlements in 2,013 cases, according to its most recent Performance and Accountability Report.<sup>9</sup>
- **Appellate review by commissioners.** The Commission includes up to five commissioners who conduct appellate reviews.<sup>10</sup> The commissioners review ALJ decisions if (1) a party requests a review and two commissioners grant the review, or (2) two of the commissioners direct a case for review on their own initiative. In fiscal year 2024, the Commission granted reviews for 10 ALJ decisions and decided 12 such cases, according to its most recent Performance and Accountability Report. The commissioners also decide whether to reopen "default" cases for trial review, which are cases in which a mine operator has requested the Commission consider their case after they failed to meet a procedural deadline to dispute a proposed penalty or respond to an ALJ's order. The Commission's most recent Performance and Accountability Report said the Commission had 38 default cases pending review at the end of fiscal year 2024.

One of the commissioners serves as the Commission's chair, who is responsible on behalf of the Commission for the administrative operations

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<sup>9</sup>Federal Mine Safety and Health Review Commission, *Performance and Accountability Report (PAR): Fiscal Year 2024* (Nov. 15, 2024). Dispositions include cases the Commission decides on the merits and cases that are settled. ALJs evaluate and approve or deny settlement agreements proposed by the parties under the Mine Act.

<sup>10</sup>Commissioners are appointed by the President and confirmed by the Senate. Commissioners serve 6-year terms, and vacancies can be filled only for the remainder of a term. 30 U.S.C. § 823(a), (b)(1). The Commission may have fewer than five commissioners at any given time, as commissioner positions are vacant during the period between the end of a commissioner's term and when the Senate confirms a Presidential nominee to fill the vacancy. The Commission requires at least three commissioners to review ALJ decisions.

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of the agency.<sup>11</sup> The Commission's Chief Operating Officer (COO) oversees the agency's daily operations and provides management guidance to the chair. The Office of the Executive Director's responsibilities include human resources, contracting and procurement for services such as court reporting, managing time and attendance, and federal reporting, such as annual performance and accountability reports, according to Commission officials. During the absence of the senior officer placed on leave in the Office of the Executive Director, the COO took on significant additional responsibilities, such as managing the Commission's budget, information technology, facilities, and general administrative services.

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## Agency Performance Management and Enterprise Risk Management

An agency's strategic plan and related documents are key components of performance management, which involves measuring the agency's progress toward pre-established goals. Our past work has defined performance management as a three-step process by which organizations (1) define desired outcomes, (2) measure performance, and (3) use performance information (see fig. 1).<sup>12</sup>

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<sup>11</sup>30 U.S.C. § 823(b)(2). The President designates one of the commissioners as chair. 30 U.S.C. § 823(a).

<sup>12</sup>GAO, *Coast Guard: Additional Actions Needed to Improve Commercial Fishing Vessel Safety Efforts*, [GAO-23-105289](#) (Washington, D.C.: Nov. 2, 2022).

**Figure 1: Key Steps and Practices of Results-Oriented Performance Management**



Source: GAO. | GAO-25-107171

Various federal laws and guidance direct performance management activities across the federal government. For instance, the Government Performance and Results Act of 1993 (GPRA), as amended by the GPRA Modernization Act of 2010 (GPRAMA), generally requires federal agencies to issue strategic plans that include strategic goals and objectives for their major functions and operations.<sup>13</sup> Agencies are generally required to issue an annual performance plan that covers each

<sup>13</sup> 5 U.S.C. § 306.

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program activity set forth in its budget.<sup>14</sup> In addition, agencies are generally required to assess their progress toward achieving goals and objectives through routine performance reviews.<sup>15</sup> The Office of Management and Budget (OMB) provides guidance to agencies on how to comply with GPRA and GPRAMA.<sup>16</sup>

Enterprise risk management is a forward-looking management approach that allows agencies to assess threats and opportunities that could affect the achievement of its goals. According to OMB, an effective enterprise risk management program should promote a common understanding of recognizing and describing potential risks that can affect an agency's mission and the delivery of services to the public.<sup>17</sup> Such risks include strategic, market, cyber, legal, reputational, political, and a broad range of operational risks.

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## Federal Hiring Authorities and Agency Oversight

The Office of Personnel Management (OPM) is the federal government's central personnel management agency that administers and enforces federal civil service laws, regulations, and rules. OPM has delegated many personnel decisions to federal agencies and encourages agencies to use human capital flexibilities, such as hiring authorities, to accomplish their missions. For example, in 1996, OPM delegated competitive examining authority to federal agencies for virtually all positions in the competitive service.<sup>18</sup>

OPM is responsible for ensuring that the personnel management functions it delegates to agencies are conducted in accordance with merit

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<sup>14</sup>31 U.S.C. § 1115(b).

<sup>15</sup>31 U.S.C. § 1116.

<sup>16</sup>OMB issues guidance for federal agencies to meet GPRA and GPRAMA requirements in its Circular No. A-11. See OMB, *Preparation, Submission, and Execution of the Budget*, OMB Circular No. A-11 (revised August 2025).

<sup>17</sup>OMB issues guidance that directs agencies to implement a capability for enterprise risk management. See OMB, *Management's Responsibility for Enterprise Risk Management and Internal Control*, OMB Circular No. A-123 (July 15, 2016).

<sup>18</sup>Federal civil service employees, other than those in the Senior Executive Service, are employed in either the competitive service or the excepted service. See 5 U.S.C. §§ 2102, 2103. The competitive service examination process is one of the processes intended to ensure that agencies' hiring activities comply with merit principles. Excepted service positions are those positions which are excepted from the competitive service by or pursuant to statute, by the President, or by OPM. 5 C.F.R. § 213.101. OPM may except positions from the competitive service, for example, when it determines that appointments into such positions through competitive examination are not practicable.

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system principles and the standards established by OPM.<sup>19</sup> For example, OPM requires agencies to seek approval before they appoint current or recent political appointees to a permanent career position in the civil service to safeguard merit system principles and ensure fair and open competition that is free from political influence.<sup>20</sup>

The Office of Special Counsel (OSC) is an independent agency whose primary mission is to safeguard the merit system in federal employment by protecting employees and applicants for federal employment from prohibited personnel practices. Among other responsibilities, OSC investigates and prosecutes allegations of prohibited personnel practices. Individuals who believe that a prohibited personnel practice has been committed may file complaints with OSC. In some cases, if OPM finds evidence that an agency engaged in potential prohibited personnel practices, it refers the matter to OSC for additional investigation.<sup>21</sup>

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## Inspectors General

Inspectors General (IG) provide oversight for certain federal agencies.<sup>22</sup> As of February 2023, there were a total of 74 IGs established by law that operate across the federal government; IGs operate in Cabinet departments and larger executive branch agencies, as well as smaller entities such as certain boards and commissions.<sup>23</sup> IGs lead offices that generally operate as independent units within an agency. Their responsibilities include:

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<sup>19</sup>5 U.S.C. § 1104(b). The majority of authorities and procedures governing appointments to career positions are outlined in Title 5 of the U.S. Code and Title 5 of the Code of Federal Regulations. Merit system principles are one of the fundamental statutory requirements applying to civil service appointments. These principles require that agencies follow a selection process that is fair, open, and based on skills, knowledge, and ability. Another key provision under Title 5 prohibits certain personnel practices, including granting any job applicant a preference or advantage not authorized by law and failing to fulfill veterans' preference requirements.

<sup>20</sup>See OPM, *Political Appointees and Career Civil Service Positions*, Memorandum for Heads of Executive Departments and Agencies (Feb. 23, 2018).

<sup>21</sup>See GAO, *Personnel Practices: OPM Can Improve Oversight and Transparency of Agencies' Hiring of Political Appointees into Career Federal Positions*, [GAO-23-105066](#) (Washington, D.C.: Apr. 27, 2023).

<sup>22</sup>The Inspector General Act of 1978, as amended, established IG offices to serve as independent, objective offices within certain federal departments and entities to, among other things, conduct audits and investigations relating to the programs and operations of those departments and entities.

<sup>23</sup>Congressional Research Service, *Statutory Inspectors General in the Federal Government: A Primer*, R45450 (Nov. 13, 2023).

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- conducting audits and investigations,
  - promoting economy and efficiency in preventing and detecting fraud and abuse,
  - reviewing existing and proposed legislation and regulations, and
  - keeping the agency head and Congress informed about fraud and other serious problems.<sup>24</sup>

IGs are generally authorized to have access to agency records to perform their functions and responsibilities. IGs are also typically authorized to receive and investigate “whistleblower” complaints from agency employees about potential impropriety in agency programs and operations.<sup>25</sup> According to CIGIE, IGs maintain hotlines for individuals to report confidential information about potential fraud and abuse.

In the past, we have found that IGs play a critical role in federal oversight and all significant federal programs and entities should be subject to IG oversight.<sup>26</sup> We also reported some concerns about creating and maintaining small IG offices with limited resources, because a small IG office may not have the ability to maintain the technical skills and expertise needed to provide adequate and cost-effective oversight.<sup>27</sup>

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<sup>24</sup>5 U.S.C. § 404(a).

<sup>25</sup>OSC also operates as a secure channel for federal employees within executive branch agencies to disclose evidence of wrongdoing, such as violations of law, rule, or regulation; gross mismanagement; gross waste of funds; and abuse of authority. OSC does not have authority to investigate these disclosures itself; rather, if it determines there is a substantial likelihood of wrongdoing, it refers the matter to the agency’s head for an investigation. See 5 C.F.R. § 1800.3(a). According to OSC, agency heads commonly task their IG offices with investigating potential wrongdoing referred to them by OSC.

<sup>26</sup>GAO, *Inspectors General: Oversight of Small Federal Agencies and the Role of the Inspectors General*, [GAO-14-503T](#) (Washington, D.C.: Apr. 10, 2014).

<sup>27</sup>GAO, *U.S. Export-Import Bank: Views on Inspector General Oversight*, [GAO-01-1038R](#) (Washington, D.C.: Sept. 6, 2001). In addition, we previously reported that when the Denali Commission’s IG resigned in 2013, there was no one to serve as acting IG for the agency because the individual was the only employee in the agency’s Office of Inspector General. Given this vacancy, the Department of Commerce’s Office of Inspector General agreed to provide oversight services for the Denali Commission on a temporary basis. See GAO, *Denali Commission: Options Exist to Address Management Challenges*, [GAO-15-72](#) (Washington, D.C.: Mar. 25, 2015).

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## The Commission Has Not Addressed Many Management Weaknesses, Including Gaps in Performance Management and Internal Controls

The Commission has many management weaknesses that it has not addressed. The Commission is not able to measure progress toward achieving most of its strategic goals. The Commission also has budget and procurement oversight challenges and does not have a comprehensive strategic workforce plan to guide its human capital program. In addition, the Commission has not established a comprehensive enterprise risk management system and lacks a comprehensive plan to address gaps it has identified in its internal control system. Without leadership demonstrating a commitment to continuous improvement, the Commission may not be able to address these key challenges.

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## The Commission Has Not Fully Incorporated Key Practices for Managing Its Performance

The Commission developed a strategic plan that includes three long-term goals; however, it has not fully established near-term performance goals or measures to assess progress toward achieving its strategic goals. When the Commission did measure progress, it did not ensure the reliability of some data used for those measurements. The Commission also did not consult with Congress or other stakeholders when developing its strategic plan, and it did not identify the resources required to achieve the goals it established in its strategic plan.

### Goals and Performance Measures

#### Strategic and Performance Goals

The Commission's first strategic goal is to ensure expeditious, fair, and legally sound case adjudication. To help achieve the first part of this strategic goal, the Commission established near-term performance goals for expeditious case adjudication, including average time frames for processing cases. The Commission defined a performance goal for how quickly the ALJs decide trial cases and a performance goal for the percentage of trial cases that are more than a year old. The Commission also created performance goals for how long it takes to decide appellate cases and a goal for the percentage of these cases that are older than 18 months.

The Commission's first strategic goal also emphasized fair and legally sound case adjudication. However, the Commission did not define "fair" or "legally sound" with regard to case adjudication, establish related near-term performance goals, or develop a way to measure progress toward meeting these goals. As a result, the Commission is not able to measure the fairness and legal soundness of its case adjudication or assess its performance by comparing planned and actual results. Under GPRAMA, performance goals are a target level of performance expressed as a

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tangible, measurable objective, against which actual achievement can be compared.<sup>28</sup> The Commission acknowledged that it may not have complied with the relevant section of federal law and OMB guidelines and stated that it intends to ensure compliance going forward.

The Commission's second strategic goal is to increase operational efficiency and effectiveness. This strategic goal does not include near-term performance goals to measure progress in meeting the strategic goal. The Commission did establish a related strategic objective to increase internal transparency by updating agencywide policies, such as those related to telework and employee onboarding and offboarding. However, according to officials, the Commission has not developed a way to measure progress towards this objective.

The Commission's third strategic goal is to achieve organizational excellence through workforce development. This strategic goal also does not include near-term performance goals to measure progress in meeting the strategic goal. This strategic goal does include objectives that direct the Commission to improve talent management and promote work-life programs. However, one senior Commission official said they did not have ways to measure progress toward meeting these objectives, and two other senior officials said they were unfamiliar with them.

### **Data Reliability**

For trial cases, the Commission uses an electronic case management system to capture the time it takes to process a case from when the case is received to when it is resolved, among other data. Commission officials said the system has checks for ensuring data reliability.

The Commission's effort to track appellate cases, however, is informal and the resulting data may not be reliable. To collect appellate case data, the Commission uses what a senior official called the "old-fashioned paper and pencil method" to estimate the average time it takes to process appellate reviews of ALJ decisions. Specifically, according to the General Counsel, to report results for appellate case adjudication, he would estimate the average time it took to decide all the appellate cases without doing any calculations. He said that the Commission had no procedure

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<sup>28</sup>31 U.S.C. § 1115(h)(9). GPRAMA requires performance goals to be expressed in an objective, quantifiable, and measurable form unless agencies, in consultation with the OMB, determine that it is not feasible. In such cases an "alternative form" performance goal may be used. 31 U.S.C. § 1115(b)(2), (c).



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for checking the quality of these appellate time frame estimates.<sup>29</sup> Two Commission officials questioned the reliability of the data, which were published in the most recent Performance and Accountability Report. That report does not describe how the Commission ensures the reliability of its data. However, GPRAMA requires agencies' performance plans to describe how they ensure the accuracy and reliability of data used to measure progress towards performance goals.<sup>30</sup> These two officials said the Commission's appellate data might be more effectively managed in the agency's case management system to allow the agency to collect and track its case data in one system.<sup>31</sup>

### Stakeholder Input

When developing its strategic plan, a senior Commission official said the Commission collected input from across its internal departments but did not consult with stakeholders, such as Congress, mine operators, the Department of Labor, or worker advocates and unions. GPRAMA requires federal agencies developing strategic plans to consult with Congress, including obtaining majority and minority views from the appropriate authorizing, appropriating, and oversight committees.<sup>32</sup>

We have previously reported that consultations with Congress are intended, in part, to ensure that agency performance information is useful for congressional oversight and decision-making.<sup>33</sup> Agencies are also required to solicit and consider the views and suggestions of entities that are potentially affected by or interested in the strategic plan. Commission

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<sup>29</sup>Given the Commission's approach, we were unable to conduct an independent review to verify the relevant information in the Commission's Performance and Accountability Report. A senior Commission official said that, moving forward, the Commission would calculate the case time frame averages by considering the time from completion of a case briefing to the issuance of a decision for each case.

<sup>30</sup>The Commission acknowledged that it may not have complied with this legal requirement and stated that it intends to better ensure the accuracy and reliability of the appellate data going forward.

<sup>31</sup>Officials said the Commission was currently modifying its case management system to track appellate data, though they did not provide a timeframe for when the update will be completed.

<sup>32</sup>5 U.S.C. § 306(d). The agency is required to consult with the appropriate committees at least once every two years.

<sup>33</sup>GAO, *Managing for Results: Executive Branch Should More Fully Implement the GPRA Modernization Act to Address Pressing Governance Challenges*, [GAO-13-518](#) (Washington, D.C.: June 26, 2013).

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officials said the Commission may not have complied with GPRAMA because it did not consult with Congress at least every 2 years on its strategic plan.

### **Resource Needs**

The Commission's strategic plan also does not consistently identify the resources needed to achieve its strategic goals. For example, to achieve its goal of timely appellate decisions, one strategy the Commission identified was to fill open positions in its Office of the General Counsel (OGC) as caseloads increased. However, according to officials, the Commission did not identify the resources it would need to fill those positions, nor did it identify what caseload increases would require filling an open OGC position. GPRAMA specifies that federal agencies should identify the resources required to achieve their goals in their strategic plans.<sup>34</sup> The Chair was not aware of this requirement, and the Commission historically had relied on the Office of the Executive Director, which lacked sufficient knowledge of the requirement.

### **Limited Use of Performance Information**

The Commission has made limited use of the performance information it collects for its first strategic goal. It uses performance data on timely adjudication of trial and appellate cases to determine whether it has met its casework performance goals and publishes that data in its performance and accountability reports. Commission officials said that, on the trial side, the Chief ALJ discusses case data and processing times with ALJs and that the Commission uses performance data to adjust case assignments and allocate resources such as law clerks. Despite these efforts, five mine operators and a union of mine workers expressed concerns about case processing times at the trial level.

Likewise, for the Commission's appeals, two senior Commission officials and Department of Labor officials told us they had concerns about the Commission's lack of timeliness when processing default cases, among other appellate-level duties. At the end of fiscal year 2024, the Commission did not meet its goal for the percentage of default cases pending that had been on hand over 6 months, according to its 2024

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<sup>34</sup>An agency's strategic plan is required to include a description of how its goals and objectives are to be achieved, including a description of the operational processes, skills and technology, and the human, capital, information, and other resources required to achieve those goals and objectives. 5 U.S.C. § 306(a)(4)(A).

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Performance and Accountability Report.<sup>35</sup> According to officials, in July 2024, the Commission began addressing the default case backlog by assigning default cases to commissioners one at a time. Further, in July 2025, the Commission began to focus on achieving a lower average case age by using data to prioritize older cases.<sup>36</sup> The number of default cases has decreased significantly over the past several years, according to officials, from a high of 144 cases at the end of fiscal year 2020 to 33 in June 2025.

Two senior officials said, however, that the Commission was not using performance data to inform its strategy for establishing performance goals. Our guide on evidence-based policymaking suggests that agencies should use performance data to set new or revise existing goals, among other uses.<sup>37</sup> One senior official said that the Commission should assess whether the current performance goals are the most appropriate way to measure success. Officials said that Commission chairs were generally unaware of performance management requirements and were more focused on casework.

Overall, the Commission has not established a process to implement key performance management steps such as defining desired outcomes, reliably measuring performance, and consulting with Congress and relevant stakeholders. As a result, the Commission is missing key opportunities to inform its resource allocation and improve its effectiveness and efficiency.

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<sup>35</sup>The Commission had a goal of no more than 40 percent of its default cases being older than 6 months, but over half of its cases exceeded this goal, according to the 2024 Performance and Accountability Report.

<sup>36</sup>The Commission's strategic plan stated the Commission would conduct meetings on a quarterly basis when processing times lag, and officials said they were using these meetings and information to set target dates for memoranda and draft decisions. Commission officials also said that the Commission cannot resolve default cases until the Secretary of Labor gives them the case information, and as a result, the Commission could also consider changing its goal to incorporate the date it receives case information.

<sup>37</sup>GAO, *Evidence-Based Policymaking: Practices to Help Manage and Assess the Results of Federal Efforts*, [GAO-23-105460](#) (Washington, D.C.: July 12, 2023). Our guide states that evidence can also be used to inform agency decisions, such as how to allocate resources, determine corrective actions to resolve problems, and develop strategies.

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## The Commission Has Improved Some Aspects of Financial Management, but Challenges Remain

### Budget Allocation

In fiscal year 2022, the Commission conducted an internal review of its budget and procurement system and found a lack of internal controls. The Commission then established certain basic controls, and a shared service provider helped it address several challenges with budget allocation, contracting, and purchase card use.

When the Commission reviewed its budget and procurement system, it found that it did not fully track its expenditures and funding needs, according to officials. To improve the accuracy of its accounting and provide better visibility into resources, in 2023 the Commission contracted with a shared service provider for full budget support, including budget execution reviews and projections.<sup>38</sup> For example, the service provider now reviews all transactions to ensure they are accounted for correctly and conducts detailed payroll projections, according to a senior Commission official.

### Contracting

In 2021, a third-party procurement assessment found that the Commission did not follow certain Federal Acquisition Regulation requirements. For example, the assessment found that the Commission did not follow appropriate processes for competitive contracting and raised concerns about the training received by the staff performing contracting duties, among other shortcomings.<sup>39</sup> In 2023, the Commission expanded its contracting support through the same shared service provider it used for budget allocation services. According to a senior Commission official, this provider now conducts federally compliant procurement activities on the Commission's behalf.

### Purchase Cards

Before 2023, the Commission had not exercised appropriate oversight of its purchase card program, according to Commission officials. Based on allegations identified by Commission officials, we investigated the Commission's use of purchase cards and found that Commission transactions were not always properly authorized or recorded. For example, we found that an employee in the Office of the Executive Director had signed paperwork to approve training purchases for the senior officer they reported to, including ethics training. That employee

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<sup>38</sup>The Commission maintains a contract with the Department of the Treasury's Bureau of Fiscal Service to provide administrative support for the agency's operations, including for financial management, procurement, and human resources services.

<sup>39</sup>The assessment indicated that the Commission did not comply with Federal Acquisition Regulation requirements in other ways: documenting procurement files and producing binding contract agreements with statements of work and associated pricing that holds contractors accountable for their performance.

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lacked authority to approve the purchases, according to a senior Commission official.

We also found that several purchase orders did not accurately record what was purchased. For example, in 2021 the Commission issued a purchase order for \$125,000 for “Staff Training Reimbursement.” However, Commission officials said this record was not accurate, as no training was ultimately ordered or provided, and no money was disbursed. Our review of Commission records showed dozens of these purchase orders where money was obligated but subsequently not paid, totaling over \$800,000 from fiscal year 2020 through fiscal year 2024.<sup>40</sup> Officials acknowledged that training expenditures were approved without proper authority and problems occurred with inaccurate recording of items purchased through various orders.<sup>41</sup>

To address its purchase card challenges, in 2023 the Commission engaged the same shared service provider it used for budget support to oversee its purchase card program. The service provider now conducts external oversight of the Commission’s purchase card use, including ad hoc purchase audits to ensure compliance. The Commission also created a supply request form that requires multiple approvals. According to a senior Commission official, all purchases are now made through authorized vendors and tracked in a spreadsheet.

Despite improvements, the Commission continues to face challenges with financial management. For example:

- In June 2024, the Commission postponed an ALJ hearing because funding ran out on a contract that provided essential courtroom services, according to Commission officials.<sup>42</sup> ALJ hearings are a key mission function and are conducted so witnesses can testify on certain cases. In this instance, the Commission was unprepared for a budgeting shortfall because they had not tracked their use of

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<sup>40</sup>For purchase orders where money was obligated but not paid, the money has been de-obligated and will be returned to the United States Treasury.

<sup>41</sup>Federal internal control standards state that transactions should be authorized and executed only by persons acting within their scope of authority, and transactions should be completely and accurately recorded. [GAO-14-704G](#).

<sup>42</sup>In addition to being a financial management challenge, one Commission official said postponing the hearing represented a leadership challenge for the Office of the Chief Administrative Law Judge. The official said the office did not have accountability mechanisms in place to monitor how it used its resources.

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contracted services, according to Commission officials. These officials told us the postponement caused significant scheduling problems for the attorneys and witnesses involved.

- The Commission occasionally loans its ALJs to serve as an ALJ at another agency where they may oversee hearings or settlement discussions.<sup>43</sup> According to a senior Commission official, due to poor internal financial administration, the Commission did not set up the necessary agreements with OPM and therefore the Commission's shared service provider was unable to set up the proper accounting system to receive other agencies' funding until late in fiscal year 2024.<sup>44</sup> As a result, the official said the Commission was unable to use about \$100,000 in funds from the ALJs' work.<sup>45</sup>
- From 2020 through 2024, the Commission had on average left more than \$1.7 million—or nearly 10 percent—of its annual appropriated funds unspent, and twice left more than \$2 million, according to the Commission's annual financial statements. However, three officials told us that the Commission needs to hire personnel with human capital and budget expertise, among other needs, and a senior Commission official said that much of the unspent appropriation was supposed to be used to fill vacant positions. Two senior officials, in addition to the Chair, said the Chair was reluctant to hire staff until the Commission restructured its administrative functions.

A 2024 financial audit also found that Commission management did not have documented policies and procedures for significant financial processes and noted that there was no Chief Financial Officer. Further, the audit found that the Commission still needed to improve its contract approval process. It stated that the Commission was unable to show that it had appropriate budgetary approval before recording contractual

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<sup>43</sup>Commission records indicate that three ALJs participated in the ALJ loaner program in fiscal year 2024. This program, administered by OPM, allows agencies that employ ALJs to "loan" ALJs to other agencies for reimbursable interagency details. See 5 C.F.R. § 930.208.

<sup>44</sup>Specifically, officials told us that the Commission did not work appropriately with OPM to implement the ALJ loaner program and did not create appropriate interagency agreements with the other agencies. Not taking these steps meant that the Commission could not work with its shared service provider to create a reimbursable activity fund and have the ALJs charge time to the proper internal account, according to Commission officials. One senior official said that the Office of the Chief Administrative Law Judge should not have taken on ALJ loaner cases until these interagency agreements were in place and said it reflected a management challenge.

<sup>45</sup>The Commission received the funds too late in the fiscal year to obligate them, according to Commission officials.

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obligations in its financial system across a sample of contracts totaling more than \$1.7 million. The 2024 audit recommended that management obtain, document, and retain budgetary approval for each contract prior to obligation and that management establish internal policies and procedures for documenting the procurement process. The 2024 audit also noted that without appropriate budgetary approval, the Commission would be at risk of over-obligating funds, which could potentially result in a violation of the Antideficiency Act.<sup>46</sup>

The Commission concurred with the audit's findings on the need for budgetary approval and procurement policies. In the Commission's response to the 2024 audit recommendations, it said that it had made "substantial progress" in addressing related issues over the past 2 years. For example, the Commission said it had improved contract management processes in coordination with its shared service provider. However, the Commission said that the long-standing systemic issues resulting from improper historical contracting methods would require more time to remediate.

The Commission's strategic plan notes that the proper administration of agency resources is key to the success of its mission. However, a senior official said the Commission did not have written policies to monitor how it spends its appropriated funds. Further, federal internal control standards state that management should obtain reliable financial data on a timely basis to enable effective monitoring. Without appropriate policies for monitoring how the Commission spends its appropriated funds, the Commission will not have assurance that funds are being used efficiently to accomplish its goals.

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## The Commission's Human Capital Program Lacks Plans and Policies, and the Commission Has Taken Some Improper Hiring Actions

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<sup>46</sup>The Antideficiency Act prohibits federal agencies from obligating or expending federal funds in advance or in excess of an appropriation, and from accepting voluntary services.

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## Inadequate Workforce Planning

We found multiple challenges that warrant strategic workforce planning. According to the COO, the Commission lacks a comprehensive strategic workforce plan to help it determine the number of staff and the skills and competencies it needs to achieve its goals. Rather, the Commission's hiring efforts have generally focused on backfilling positions as vacancies arise. The Chair also acknowledged there had been several workforce challenges at the Commission, and she was unsure how to address them. In particular, the Commission has challenges with its ALJ and OGC staffing.

- **ALJ staffing.** The Commission recently faced challenges managing its trial-level performance due to several ALJ departures. As of September 2025, the Commission had five ALJs, down from eleven in 2022.<sup>47</sup> One ALJ retired in 2022 and another retired in 2023, leaving nine.<sup>48</sup> According to the Commission, after these retirements, the average time to process ALJ cases increased from 192 days in fiscal year 2023 to 225 days in fiscal year 2024.<sup>49</sup> Three more ALJs retired in January 2025, another retired in July 2025—leaving the Commission with five ALJs—and one more is expected to retire by the end of the calendar year.

Prior to these departures, an Office of the Chief Administrative Law Judge's February 2020 analysis concluded that a range of 8 to 11 ALJs was required to meet its performance goals for processing trial cases. This analysis also noted that it may be prudent for the Commission to have more than the recommended number of ALJs on staff in the short term to lessen the impact of potentially losing several ALJs in a short period of time. Nonetheless, a senior official told us

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<sup>47</sup>The number of ALJs counted here does not include the Chief ALJ, who manages the administrative duties of the office.

<sup>48</sup>The Commission did not backfill either vacancy. A Commission official told us that the ALJ who retired in 2023 processed cases at roughly twice the rate of all other ALJs. According to the Commission, all the remaining Commission ALJs have been eligible for regular retirement since 2022.

<sup>49</sup>A senior official told us that the increase in fiscal year 2024 was in part due to case processing delays from the Mine Safety and Health Administration. According to the Commission, the Mine Safety and Health Administration did not send most of the penalty dockets that it would have otherwise sent in the last quarter of fiscal year 2024 due to internal mailing contracting issues. According to the Commission, the average time for ALJs to process cases had not exceeded 200 days since 2018, when the Commission nearly finished clearing out the backlog created by litigation under certain legislation.



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that the Commission lacked a formal succession plan to manage the risk of future ALJ retirements.<sup>50</sup>

Officials told us that the Office of the Chief Administrative Law Judge has made repeated requests to the current Chair to hire additional ALJs since 2022, including discussing new data and strategies in January 2024 in light of the possible retirement of several more ALJs. In November 2024, the Chair approved a request from the Office of the Chief Administrative Law Judge to hire three ALJs, but officials told us that the Commission was unable to begin the hiring process immediately due to a human capital records challenge.<sup>51</sup> Further, officials told us that the Commission is now subject to an executive branch hiring freeze and the process to hire ALJs can be lengthy. In a June 2025 letter to OPM, the Commission requested an exemption from the hiring freeze requirements to hire two new ALJs so it may fulfill its central mission, noting that it had a critical need to hire at least two ALJs to replace the five projected to be lost during 2025.<sup>52</sup> As of July 2025, a senior official told us that the Commission had not received a response from OPM to its request for an exemption from the executive branch hiring freeze to make new ALJ hires.

- **OGC staffing.** The Commission has no formalized workforce plan to determine OGC attorney staffing needs.<sup>53</sup> According to officials, OGC attorney advisors support appellate casework by creating advisory memos. Some OGC attorney advisors also serve as counsel to individual commissioners. Senior officials told us that this function was established decades ago when commissioners needed additional legal help to manage their caseload. Commission leadership has also assigned some duties to OGC staff to ensure that the Commission complies with relevant laws and regulations, though officials told us there were gaps in skills for obtaining compliance support for administrative matters. Some officials said that the Commission

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<sup>50</sup>Succession plans address an agency's need to replace competent personnel for key roles over the long term.

<sup>51</sup>In 2024, following an internal review, the Commission determined that its existing ALJ position descriptions lacked proper approval documentation from OPM, which officials told us prevented the Commission from hiring new ALJs. The Commission subsequently drafted new ALJ position descriptions, and OPM approved them in June 2025.

<sup>52</sup>In May 2025, the Office of the Chief Administrative Law Judge updated its data and recommended to the Commission Chair that the Commission hire new ALJs to replace each of the 4 to 5 ALJs retiring in 2025.

<sup>53</sup>The Commission's strategic plan lists several strategies for OGC to meet objectives for the appellate division, including imposing a time frame for submitting decision drafts and assigning default cases to OGC attorneys on a rotating basis.

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should reassess the duties assigned to OGC for fulfilling current needs.<sup>54</sup> A key principle of strategic workforce planning is to determine the skills and competencies that are needed to successfully achieve an agency's missions and goals. Nonetheless, the Commission's General Counsel told us there were no documented plans to determine the number of attorneys needed to address OGC's workload or the distribution of grade levels for the positions.

In recent years, third-party assessments have identified other skill gaps in the Commission's workforce, including in procurement and human capital management:

- The 2021 third-party procurement assessment recommended that the Commission hire an experienced contracting officer. According to officials, the Commission has since acquired additional contracting services from its shared service provider and a Commission administrative unit employee is being trained to conduct contracting activities.
- In 2022, OPM assessed the Commission's staffing and concluded that its structure and administrative positions did not fully support its strategic plan. OPM found that some administrative positions were misclassified due to the Commission's structure, low staff levels, and employee skill gaps. For example, OPM found that the Commission lacked staff to manage workforce planning and talent management. The Commission has not yet addressed these staffing gaps.
- In 2024, the Commission's financial auditor found that the Commission had delegated authority and responsibilities to certain employees who lacked the appropriate qualifications, training, and experience needed to competently perform the functions outlined in their scope of work.

The COO said she generally agreed with the findings from these assessments and has sought to fill some positions, including a human capital specialist and a finance director. The Chair said she agreed that the Commission needed additional administrative support staff, though she had refrained from approving any new hires for administrative

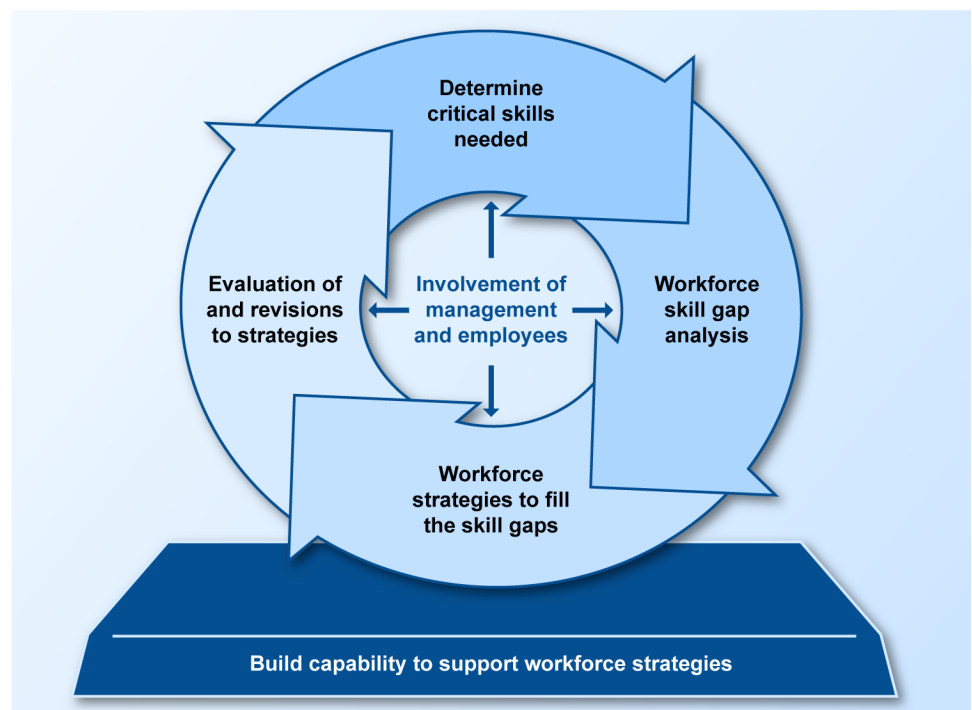
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<sup>54</sup>For example, one commissioner told us that the Commission should review its longstanding practice of OGC's involvement with processing appellate casework, citing that some of the work OGC is assigned may not be the most effective or efficient use of the Commission's resources.

operations until a sensitive personnel matter in the administrative unit was resolved.<sup>55</sup>

Strategic workforce planning addresses two critical needs: (1) aligning an agency's human capital program with its current and emerging mission and programmatic goals and (2) developing long-term strategies for acquiring, developing, and retaining staff to achieve an agency's programmatic goals.<sup>56</sup> As we have previously reported, workforce planning can assist federal agencies in achieving their missions and strategic goals (see fig. 2).<sup>57</sup>

**Figure 2: Strategic Workforce Planning Process**



Source: GAO. | GAO-25-107171

<sup>55</sup>The Commission placed a senior officer in the Office of the Executive Director on administrative leave in March 2022 in response to allegations of misconduct. The following section will provide more information on these allegations.

<sup>56</sup>GAO, *Human Capital: Key Principles for Effective Strategic Workforce Planning*, [GAO-04-39](#) (Washington, D.C.: Dec. 11, 2003).

<sup>57</sup>GAO, *DOD Financial Management: Action Needed to Enhance Workforce Planning*, [GAO-25-105286](#) (Washington, D.C.: Oct. 10, 2024).

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According to federal internal control standards, agency management should continually assess the knowledge, skills, and abilities needed for the agency to secure a qualified workforce that can help achieve its organizational goals.<sup>58</sup> Management should also consider how best to retain valuable employees, plan for their eventual departure, and maintain continuity by hiring employees with the skills and abilities the agency needs.

A goal in the Commission's strategic plan is to achieve organizational excellence through workforce development, which in turn supports the Commission's goal to increase its overall operational efficiency and effectiveness. The Commission's COO said that a workforce plan would be beneficial, though she said she had not had the resources to create one. This is in part because she had been carrying out the responsibilities of a senior officer in the Office of the Executive Director for several years while that officer was on administrative leave.<sup>59</sup> With a strategic workforce plan that identifies critical areas of expertise, the Commission could employ an agencywide human capital strategy to address its current operational challenges and future staffing needs.

## Informal Hiring Practices and Improper Hiring Actions

The COO told us the Commission has few documented hiring and promotion policies. Only the Office of the Chief Administrative Law Judge has hiring policies for its positions, though the ALJ hiring policy has remained in draft form for several years.<sup>60</sup> The General Counsel told us the process for promoting individuals in his office was largely informal; when some OGC staff were recently promoted, the Commission did not announce any vacancies or solicit application materials.<sup>61</sup> Officials could not provide a reason for the Commission's lack of hiring and promotion policies, though the head of one office said they understood it to be the

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<sup>58</sup>[GAO-14-704G](#).

<sup>59</sup>The COO also said the Commission needs to update its position descriptions for jobs across the agency to ensure that duties listed in the descriptions aligned with current roles.

<sup>60</sup>Officials told us that the ALJ hiring policy was never finalized after it was drafted in 2019. Officials also noted the policy needs updating, and that the Commission is not currently working on the policy.

<sup>61</sup>According to Commission officials, these promotions involved appointments to positions that required a competitive selection process.

responsibility of the Commission’s administrative unit to ensure that personnel actions complied with relevant laws and regulations.

Several employees we spoke with perceived that favoritism had guided certain hiring and promotion actions in multiple Commission offices. According to the Merit Systems Protection Board, perceptions of favoritism have the potential to lower employee satisfaction and negatively affect an agency’s performance.<sup>62</sup>

Certain personnel actions at the Commission also may not have followed relevant federal authorities governing civil service appointments, particularly related to fair and open competition when applying merit-based selection requirements. Examples include:

- **Temporary appointments of former commissioners.** Since 2008, the Commission has appointed seven former commissioners to temporary advisor positions after their terms expired (see table 2). A senior official told us these positions were generally for former commissioners who had been renominated and were awaiting Senate confirmation. One commissioner we spoke with said that the Commission made these temporary appointments to prevent a break in pay and benefits.

**Table 2: Temporary Advisor Appointments of Former Commissioners at the Federal Mine Safety and Health Review Commission (Commission)**

Individual	Preceding commissioner term duration	Temporary advisor appointment duration	Employment action following temporary advisor appointment
Former Commissioner A	Aug. 2006 to Dec. 2007	Jan. 2008 to Mar. 2008	Reappointed as a commissioner in Mar. 2008
Former Commissioner B	Aug. 2003 to Aug. 2008	Aug. 2008 to Oct. 2008	Reappointed as a commissioner in Oct. 2008
	Oct. 2008 to Aug. 2014	Aug. 2014 to Apr. 2015	Reappointed as a commissioner in Apr. 2015
	Apr. 2015 to Aug. 2020	Aug. 2020 to Oct. 2022	Reappointed as a commissioner in Oct. 2022
Former Commissioner C	Aug. 2003 to Aug. 2008	Aug. 2008 to Oct. 2008	Reappointed as a commissioner in Oct. 2008
	Oct. 2008 to Aug. 2014	Aug. 2014 to Apr. 2015	Reappointed as a commissioner in Apr. 2015

<sup>62</sup>Merit Systems Protection Board, *Preserving the Integrity of the Federal Merit Systems: Understanding and Addressing Perceptions of Favoritism* (Washington, D.C.: Dec. 2013).

	Apr. 2015 to Aug. 2020	Aug. 2020 to Jan. 2021	Appointed as a Commission administrative law judge in Jan. 2021
Former Commissioner D	Apr. 2008 to Aug. 2012	Aug. 2012 to Aug. 2013	Reappointed as a commissioner in Aug. 2013
Former Commissioner E	May 2010 to Aug. 2016	Aug. 2016 to Aug. 2018	Retired in Aug. 2018
Former Commissioner F	Aug. 2013 to Aug. 2018	Aug. 2018 to Mar. 2019	Reappointed as a commissioner in Mar. 2019
Former Commissioner G	Mar. 2019 to Aug. 2024	Aug. 2024 to present	N/A

Source: Federal Mine Safety and Health Review Commission documentation. | GAO-25-107171

Note: Individuals may have served as the Commission's chair during a preceding commissioner term. The Commission has up to five commissioners who are appointed by the President and confirmed by the Senate. Commissioners serve 6-year terms, and vacancies can be filled only for the remainder of a term. 30 U.S.C. § 823(a), (b)(1).

Commission personnel records indicate that two of the commissioners held multiple temporary appointments during this period and some of the appointments lasted more than a year. According to the Commission, it may not have complied with relevant federal law with respect to many of these appointments, since it appears it granted an unauthorized preference to the former commissioners.<sup>63</sup> Commission officials said they recently modified their approach to providing former commissioners with temporary appointments. In 2024, the Commission received OPM's approval to appoint a former commissioner to a temporary position that did not require a competitive selection process.<sup>64</sup>

- **Career appointments of former contractors.** In 2021, the Commission appointed three individuals to federal career positions who had previously been contractors in the Office of the Chief Administrative Law Judge.<sup>65</sup> Prior to the selection process, Commission records indicate that management said it would approve

<sup>63</sup>Specifically, the Commission said that it may not have complied with 5 U.S.C. § 2302(b)(6)—which prohibits agency officials from granting any preference or advantage to an applicant that is not authorized by law, rule, or regulation—when it appointed former commissioners to Schedule A temporary advisor positions. According to Commission records, the Commission made nine of these appointments since 2008. We have referred this issue to OSC for further action as appropriate.

<sup>64</sup>In this case, the agency made use of a limited-term Senior Executive Service appointment, which does not require the use of merit staffing procedures. 5 C.F.R. §§ 317.601(c), 317.603.

<sup>65</sup>Commission officials told us that the Commission had begun shifting contract work in the Office of the Chief Administrative Law Judge to full-time employees and the Commission planned to eliminate the need for contract work in its docket office by January 2026.

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of filling the vacancies only with contractors who were conducting work at the Commission. For the search, the Commission posted job announcements for two locations and at two position levels for each location, resulting in four ranked lists of qualified candidates. Three of the lists contained veterans who ranked higher than the contractors. To make their selections, Commission officials used the only list with no veterans on it to hire the three contractors for the positions. The Commission said that the agency may not have complied with relevant federal law with regard to these individuals because it may have granted an unauthorized preference to the contractors.<sup>66</sup>

In addition, one of the hired contractors did not work at the worksite indicated on the list from which they were selected. Commission records indicate that from August 2021 until May 2023 the Commission paid the employee based on the locality pay rate that corresponded to the incorrect worksite, rather than a lower locality pay rate that corresponded to the employee's actual worksite.<sup>67</sup> The Commission acknowledged that it may not have complied with relevant locality pay regulations with regard to this employee. Officials also told us that Commission records did not indicate whether any overpayments to the employee were recovered, and they were not able to find more information about the matter.<sup>68</sup>

- **Appointment of a political appointee to a career position.** In 2020, the Commission appointed a political appointee to a career position.<sup>69</sup> According to OPM, the Commission was required to obtain OPM's approval before appointing a current or recent political appointee to a career position and had not done so. In 2022, OPM reviewed the appointment at the Commission's request and said it could not

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<sup>66</sup>Specifically, the Commission said the agency may not have complied with 5 U.S.C. § 2302(b)(6). We have referred this issue to OSC for further action as appropriate.

<sup>67</sup>A federal employee's official worksite is used to determine the locality pay area and corresponding locality pay rate. 5 C.F.R. §§ 531.604, 531.605.

<sup>68</sup>Officials told us that they were not able to provide further information about whether the Commission's human capital shared service provider had done anything to reconcile any overpayments, citing personnel changes at the service provider as the reason. We have referred this issue to the Commission's acting general counsel for further action as appropriate.

<sup>69</sup>The political appointee held a position that was policy-determining or involved a close and confidential working relationship with the head of an agency or other key appointed officials. 5 C.F.R. § 213.3301. These types of positions are part of Schedule C of the excepted service and are not subject to the competitive examination process. 5 C.F.R. §§ 213.101(a), 302.101(c)(7).

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conclude that the selection conformed with merit system principles or was free from political influence or favoritism. OPM ordered the Commission to correct the improper appointment and referred the matter to OSC for further investigation. The appointed individual subsequently left the Commission. According to Commission officials, OSC briefed the Commission on the findings from its investigation in 2024 and said that the Commission engaged in prohibited personnel practices regarding this appointment.

According to OPM, agency policies that describe procedures for how to handle job applications help ensure agencies adhere to the merit system principle of fair and open competition. Agency policies for certain hiring authorities provide a stronger foundation for compliance when they convey detailed instructions on how employees will carry out relevant laws and regulations. These policies should include (1) general hiring requirements and procedures, (2) guidance on applying relevant legal authorities, and (3) dated approvals.<sup>70</sup> Comprehensive hiring policies, including for internal promotions, can help the Commission ensure it complies with legal requirements and selects the most qualified candidates for open positions. In addition, documented hiring policies can help ensure that an agency retains organizational knowledge, and that this knowledge is not limited to a few personnel.<sup>71</sup> Establishing documented policies can also provide more transparency to Commission staff and help mitigate perceptions of favoritism.<sup>72</sup>

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## The Commission Has Deficiencies in Its Internal Control System and Lacks Comprehensive Plans to Address Them

### Enterprise Risk Management

The Commission has not properly established procedures to manage its risks, comply with relevant laws, or address other internal control deficiencies. As a result, the Commission does not have controls in place to manage challenges to achieving its goals and objectives, it has gaps in its internal control systems, and it does not have a comprehensive plan to correct identified deficiencies.

The Commission has not taken steps to comprehensively manage risk across the agency. According to officials, during the Commission's most recent strategic planning cycle, it did not formally assess or manage risk

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<sup>70</sup>OPM, *Excepted Service Hiring Authorities: Their Use and Effectiveness in the Executive Branch* (Washington, D.C.: July 2018).

<sup>71</sup>[GAO-14-704G](#).

<sup>72</sup>The Merit Systems Protection Board recommends supervisors make their hiring and promotion actions transparent, as employees may perceive wrongdoing in the absence of evidence that the rules were followed correctly during the selection process. See Merit Systems Protection Board, *Preserving the Integrity of the Federal Merit Systems*.



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or establish a comprehensive structure for implementing a robust enterprise risk management process. Officials told us that the Commission had taken initial steps to assess risk, though it needed to fill key roles to set up effective oversight mechanisms.<sup>73</sup> The Commission's 2024 financial audit stated that the Commission needs to improve its agencywide control policies and procedures, including those related to risk assessment. The audit also stated that the Commission's lack of documented policies and procedures imperils its ability to identify and respond to risk.

Under OMB Circular No. A-11 and No. A-123, agencies should coordinate the implementation of their enterprise risk management capability that assesses and manages risk as part of their strategic planning and review process. We have reported that enterprise risk management allows agencies to assess threats and opportunities that could affect the achievement of their goals, and we identified essential elements of enterprise risk management.<sup>74</sup> Commission officials acknowledged that the Commission did not fully follow relevant OMB guidance for enterprise risk management; specifically, it did not have comprehensive risk management or establish an effective governance structure to manage risk. Officials told us that they had begun to address these concerns. By establishing a comprehensive enterprise risk management program, the Commission will be better able to determine the most significant risks to achieving its goals and prioritize how to use its resources to address them.

## Compliance

The Commission has gaps in its internal control system for assuring it complies with relevant laws and regulations. For example, the 2021 third-party procurement assessment found that the Commission did not adhere to certain Federal Acquisition Regulation requirements. In addition, Commission officials told us that they may not have complied with

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<sup>73</sup>The Commission's most recent Performance and Accountability Report noted that the Commission participates in annual interviews regarding fraud, waste, and abuse as a part of its independent financial audit. However, that report also stated that the Commission has not established a fraud risk management program at the level necessary to comply with federal standards for internal controls.

<sup>74</sup>GAO, *Food Safety: Federal Efforts to Manage the Risk of Arsenic in Rice*, [GAO-18-199](#) (Washington, D.C.: Mar. 16, 2018). In a 2016 report, we updated our 2005 risk management framework to (1) reflect changes to OMB's Circular No. A-123, which requires agencies to implement enterprise risk management; (2) incorporate recent federal experience; and (3) identify essential elements of federal enterprise risk management. See GAO, *Enterprise Risk Management: Selected Agencies' Experiences Illustrate Good Practices in Managing Risk*, [GAO-17-63](#) (Washington, D.C.: Dec. 1, 2016).

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applicable law for several hiring actions, including some as recent as 2021. Officials also said the Commission had not complied with the law when it did not conduct employee surveys in 2023 or 2024.<sup>75</sup>

Commission management acknowledged that the Commission may have deficiencies in ensuring compliance across its operations, particularly for the areas of human capital, procurement, and financial management. Officials told us that the Commission historically relied on the Office of the Executive Director to ensure compliance in administrative areas, though multiple senior officials said they now realize that the Office of the Executive Director did not have the relevant expertise for this work.<sup>76</sup> In 2021, the Commission hired a COO to oversee its administrative functions. The COO told us she established compliance controls and cited the Commission's administrative shared service providers as one resource for obtaining compliance assistance in administrative matters. Nonetheless, the COO noted that additional expertise is needed to ensure compliance.

The Commission's OGC plays a role in some compliance initiatives, including administering the Commission's ethics and Freedom of Information Act programs. However, senior officials in OGC told us they generally do not advise Commission leadership on compliance with administrative matters. These officials told us that the Commission does not have staff attorneys with the specific skills needed to ensure that Commission operations are compliant with certain relevant laws and regulations, including those relating to hiring, procurement, and financial management.

Two commissioners told us that they recently took time away from their appellate work to provide legal services for a sensitive personnel matter and noted it would be a better use of the Commission's resources to assign such duties to staff attorneys, such as those in OGC. One current and another former commissioner said that it would benefit the Commission to review whether OGC should be assigned duties to advise

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<sup>75</sup>Under Section 1128 of the National Defense Authorization Act for Fiscal Year 2004 (codified at 5 U.S.C. § 7101 note), agencies are required to conduct annual employee surveys and are generally required to post the survey results publicly on the agency's website. Commission officials acknowledged the Commission had not complied with these legal requirements in 2023 or 2024.

<sup>76</sup>For example, the General Counsel told us that, when OGC made recent promotions, he presumed the Office of the Executive Director reviewed the relevant rules to ensure agency compliance, though he stated he was not certain whether this occurred.

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it on legal compliance with administrative matters such as hiring and termination. Officials from the Occupational Safety and Health Review Commission, a similarly sized and tasked agency, told us that it assigns these types of duties to its OGC staff to ensure compliance with laws and regulations. According to federal internal control standards, management should assign responsibilities to discrete units within an agency's organizational structure to ensure the agency complies with applicable laws and regulations. Further, management should consider how units interact to fulfill their overall responsibilities and determine what key roles are needed to fulfill a unit's assigned responsibilities.<sup>77</sup> If the Commission assigns compliance responsibilities to specific personnel, it will be better positioned to address its compliance challenges.

#### Internal Control Deficiencies and Corrective Action

The Commission has identified many deficiencies in its internal control system, particularly through third-party assessments, though it does not have a comprehensive plan for corrective action. According to federal internal control standards, agency management should (1) evaluate and document internal control deficiencies and (2) determine appropriate corrective actions for internal control deficiencies on a timely basis. In addition, third parties can help management identify issues in the agency's internal control system, though management has the responsibility to evaluate any issues identified to determine whether they rise to the level of an internal control deficiency.<sup>78</sup> Over the past 5 years, the Commission has received findings from at least seven third-party assessments that have identified potential deficiencies in the agency's internal control system, and Commission management has responded to them in different ways (see table 3).

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<sup>77</sup>[GAO-14-704G](#). OMB Circular No. A-123 also specifies that federal leaders and managers are responsible for maintaining compliance with relevant laws and regulations.

<sup>78</sup>[GAO-14-704G](#); also see OMB Circular No. A-123.

**Table 3: Third-Party Assessments of the Federal Mine Safety and Health Review Commission (Commission)**

Third party	Assessment topic (date)	Selected third-party findings	Actions taken in response to assessment
Professional services firm	Procurement assessment (2021)	The Commission did not follow Federal Acquisition Regulation requirements when it conducted certain procurements; agency staff lacked appropriate training.	The Commission outsourced procurement function to a shared service provider <sup>a</sup>
Human capital shared service provider	Office of the Executive Director structure and position assessment (2022)	The office structure and positions did not fully support strategic plan; positions were misclassified; structure had gaps in workforce planning and position management.	Commission management has reviewed some position descriptions, though the agency has maintained an unofficial hiring freeze since 2022.
Department of the Interior Office of Inspector General <sup>b</sup>	Investigation of alleged misconduct by an employee (2023)	The employee did not violate any Commission rules on a matter related to a large transfer of electronic agency records to a personal device, as the Commission had no relevant policies.	The Commission created an employee code of conduct for using the agency's information technology equipment.
Department of the Interior Office of Inspector General <sup>b</sup>	Investigation of alleged misconduct by an official (2023)	Official #1 violated an ethics pledge related to a Commission hiring matter.	The Commission provided some officials with additional ethics training.
Department of the Interior Office of Inspector General <sup>b</sup>	Investigation of alleged misconduct by an official (2023)	Official #2 potentially implicated a federal criminal law related to extortion. U.S. Attorney's Office declined prosecution.	None; the official is no longer employed by the Commission.
Financial auditor	Annual financial statement audit (2024)	The Commission lacked documented policies or procedures for significant processes; agency budgetary approval process had deficiencies.	The Commission has drafted a plan to address the findings and officials said that the Commission needs to obtain additional resources to fully implement its plan.
Office of Personnel Management (OPM) and Office of Special Counsel (OSC) <sup>c</sup>	Review of career appointment of former political appointee (2022–2024)	OPM determined in 2022 that the Commission did not seek approval prior to an appointment and could not conclude that the action conformed with merit system principles. OPM referred the allegation to OSC. According to Commission officials, OSC found that multiple Commission hiring actions may not have complied with federal law. OSC briefed the Commission on the findings from its investigation in 2024 and recommended disciplinary action for the hiring official.	The former political appointee is no longer employed by the Commission. The hiring official retired in 2025 after receiving a decision for removal from the Commission.

Source: GAO analysis of Federal Mine Safety and Health Review Commission interviews and related documentation. | GAO-25-107171

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<sup>a</sup>The Commission makes use of a shared service provider to outsource some administrative support for the agency's operations, including for financial management, procurement, and human resources services.

<sup>b</sup>Inspectors General are independent units within certain agencies that may conduct audits, investigations, and inspections, among other things. The Department of the Interior Office of Inspector General provided the Commission with investigative services through an interagency agreement.

<sup>c</sup>OPM is the federal government's central personnel management agency that administers and enforces federal civil service laws, regulations, and rules. OSC is an independent agency that investigates and prosecutes allegations of certain civil service law violations.

The Commission has made progress on some of the issues that the third parties identified, but it has not addressed others. For example, the Commission hired a shared service provider to help with its procurement activities and provided additional ethics training for some officials. In other cases, Commission management has yet to address findings that the third parties identified. For example, the Commission's 2024 financial audit found internal control deficiencies and recommended that it document policies and procedures for all significant process areas and ensure that budgetary approval is documented for each contract before obligating funds. The audit found that Commission staff were unable to provide evidence of budgetary approval for more than 10 percent of procurement and budget samples that the audit tested. As of July 2025, the Commission had created a plan to address these issues identified in the audit. However, a senior Commission official said they could not implement the plan until the Commission hired people with the necessary skills.

Officials said that the Commission did not have a process in place for identifying internal control deficiencies and had not fully adhered to relevant OMB Circular No. A-123 guidance concerning corrective action plans for addressing internal control deficiencies.<sup>79</sup> Officials also said that the Commission lacked a structured framework for tracking and addressing deficiencies and had an absence of personnel with the necessary expertise. Without establishing a process to address internal control deficiencies on a timely basis, including those identified by third parties, the Commission risks the integrity of its operations and may miss opportunities to improve its performance.

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<sup>79</sup>See OMB Circular No. A-123, Section V.

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## Commission Leadership's Limited Attention to Employee Feedback and Overseeing Operations Threatens Its Performance and Accountability

### Limited Leadership Attention to Employee Feedback

Commission leadership has given limited attention to soliciting employee feedback to inform new initiatives or address potential workplace culture challenges. The Commission has not sought formalized employee feedback since 2022, although federal law requires agencies annually to solicit employee feedback about the agency's work environment.<sup>80</sup> Several employees told us that when the Commission had solicited feedback, management did not develop strategies to address any shortcomings identified. We selected 14 employees across the Commission to discuss their perspectives on working at the Commission. Nine employees told us that management did not solicit employee feedback. Three employees specifically said they perceived a disconnect between management and staff.

In late 2020, the Commission formed a work environment committee, which identified the Commission's core values of fair treatment, respect, service, and trust. The committee drafted recommendations that sought to address training, agency communication and engagement, inclusivity, and leadership. A committee member told us that the recommendations were not formally submitted to the Chair at the time due to other management challenges. The committee is no longer active.

Employee feedback helps management evaluate an agency's adherence to ethical values and standards of conduct, according to federal internal control standards.<sup>81</sup> Those standards also state that an agency's management should receive quality information about operations from personnel. Without this feedback, Commission management may miss opportunities to improve its operations and achieve Commission objectives.

### Limited Leadership Attention to Commission Operations

Commission leadership has given limited attention to managing its operations. The Commission Chair—who has held the position for about

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<sup>80</sup>5 U.S.C. § 7101 note.

<sup>81</sup>[GAO-14-704G](#).

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15 of the past 30 years—told us that she focused more on the Commission’s appellate work than on management duties.<sup>82</sup> She also said that she was generally not familiar with specific Commission goals or other information in the current strategic plan and 2024 Performance and Accountability Report.

Three senior Commission officials told us that disengaged leadership threatened the Commission’s ability to accomplish its goals. The officials emphasized that, without action by the Chair, the Commission could not take steps such as hiring staff and creating policies. In addition, the officials described a broader lack of attention to the Commission’s strategic plan and to management of the Commission’s performance. For example, one department head said that they were generally unfamiliar with the goals listed in the strategic plan and were specifically unfamiliar with their department’s goals. Other senior leaders said they did not use the Commission’s goals, and two suggested the Commission’s completed casework showed the agency is accomplishing its mission.

Two former Commission chairs told us that leadership should have been more involved with administering Commission operations. One told us that Commission leadership generally had not been as aware of the Commission’s human capital needs and other operational challenges as they should have been. Another former chair told us that administering the Commission is a central function of the chair’s role, but that leadership relied too heavily on a key Commission official who did not have the skills or training to carry out their duties successfully. Though three officials said that the Commission had started to identify ways to make improvements—such as the COO assembling a list of agency policies that staff need to create or update—the officials also said that current leadership was not sufficiently engaged.<sup>83</sup>

Leadership disengagement can undermine agency performance management. Our past reporting noted that the demonstrated commitment of senior leadership is perhaps the single most important element of successfully managing and improving the performance of

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<sup>82</sup>The Commission chair is—by statute—in charge of the administrative operations of the agency. 30 U.S.C. § 823(b)(2). The chair also serves as a commissioner adjudicating appellate cases.

<sup>83</sup>These policies include budget, human resource, and administrative policies, according to a senior Commission official.

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federal organizations.<sup>84</sup> According to federal internal control standards, management sets the agency's strategic plan and uses internal controls to achieve its objectives.<sup>85</sup> We found that the Commission had not established an internal control system to ensure the effectiveness and efficiency of its operations. Sustained leadership commitment to oversight and accountability is the key to driving the sort of transformational change needed at the Commission. Without leadership demonstrating a commitment to continuous improvement, the agency may not be able to meet its goals. Commission leadership has the opportunity to demonstrate this commitment by addressing the shortfalls we have identified to strengthen the Commission's internal control system and, ultimately, the oversight of the Commission's operations.

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## The Commission Has Sought Independent Oversight from a Variety of Sources for Targeted Issues but Lacks Comprehensive Oversight

### The Commission Had Challenges Obtaining Independent Oversight but Received Help on a Limited Set of Issues

Since 2021, the Commission sought investigative support for certain personnel matters after it became aware of allegations of improper procurement activities against one official and additional allegations of misconduct against other officials.<sup>86</sup> To investigate these matters, the Commission sought assistance from third parties, particularly an external

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<sup>84</sup>[GAO-23-105460](#).

<sup>85</sup>[GAO-14-704G](#).

<sup>86</sup>Additional allegations included allegations of fraud against a Commission official.



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IG.<sup>87</sup> The Commission received support for some of its personnel matters, though it was unable to resolve the allegations of improper procurement activities.

In November 2021, the Commission received allegations that a senior officer in the Office of the Executive Director engaged in improper procurement activities, and, in March 2022, the Commission placed the officer on administrative leave.<sup>88</sup> Following advice from the Commission's human capital shared service provider, a senior Commission official told us that they contacted two federal agency IG offices to request support for investigating the employee's alleged improper procurement activities.<sup>89</sup> The official told us that the first IG office said it could not take on additional work due to limited resources, and the Commission was unable to secure an agreement with the second IG office. A Commission official told us that their contact at the second IG office recommended that they reach out to the Federal Bureau of Investigation (FBI).<sup>90</sup>

A senior Commission official told us that they reached out to the FBI in February 2022 and were interviewed by FBI officials. According to

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<sup>87</sup>IGs may provide their services to agencies other than their own, such as those arranged through an interagency agreement. We refer to IGs in these arrangements as external or consulting IGs. For example, the interagency agreement between the Commission and the Department of the Interior IG specified that the Department of the Interior IG would provide investigative services to the Commission and noted other services that could be provided, such as legal opinions and advice, ethics advice and guidance, external affairs/congressional and media relations, data analytics, Freedom of Information Act matters, and administrative support.

<sup>88</sup>Executive branch agencies may place an employee on administrative leave when the employee is subject to an investigation (i.e., "investigative leave") in certain circumstances. 5 C.F.R. § 630.1503. Employees on investigative leave receive full pay. We did not investigate or reach legal conclusions regarding any alleged improper actions taken by individual Commission officials or employees.

<sup>89</sup>A senior official told us that the Commission initially sought assistance from the Commission's human capital shared service provider, but the provider informed the Commission it did not have the capability or jurisdiction to investigate the procurement allegations. The provider recommended reaching out to IGs from other federal agencies for support, as a Commission official noted an IG would have the resources to investigate the allegations. The provider also recommended the Commission consider reaching out to OSC to file a disclosure of wrongdoing, but Commission officials decided against this approach. According to Commission officials, the Commission would still have faced the challenge of finding investigative support if OSC referred the disclosure back to the Commission for an investigation.

<sup>90</sup>Among other things, the FBI investigates violations of federal law by public officials and oversees the nationwide investigation of allegations of fraud related to federal government procurement.

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Commission officials, the FBI opened an inquiry into the allegations related to the senior officer's procurement activities. Officials said they were advised that the FBI's involvement should not deter the Commission from pursuing other avenues for investigating the allegations, such as securing the help of an IG.<sup>91</sup> As of January 2024, Commission officials told us that their last contact with the FBI was in July 2023.<sup>92</sup>

In March 2022, a White House official directed the Commission to contact CIGIE for assistance securing IG investigative services.<sup>93</sup> According to officials, the Commission sought IG support for a variety of issues related to misconduct by three officials, in addition to the Office of the Executive Director senior officer's alleged improper procurement activities.<sup>94</sup> CIGIE officials informed the Commission that it would work to find IG support for it, though it advised the Commission to avoid seeking support for any matter that might interfere with the FBI's inquiry related to the senior officer on administrative leave.<sup>95</sup> In July 2022, CIGIE notified the Commission that the Department of the Interior IG had agreed to assist it.

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<sup>91</sup>According to Commission officials, the FBI informed the agency that it typically receives allegations of criminal law violations at federal agencies from IG offices, who conduct investigatory work to support the allegations. Many IGs have law enforcement authority to carry out criminal investigations. According to the CIGIE, some IG offices have personnel that have received special deputation from the U.S. Marshals Service. IGs are generally required to report to the Attorney General whenever they have reasonable grounds for believing a criminal law violation has occurred. 5 U.S.C. § 404(d).

<sup>92</sup>As part of our investigation into selected allegations of wrongdoing related to the Commission's past procurement activities, we contacted the FBI in March 2024. An official told us that they could not confirm or deny that there was an ongoing investigation at the Commission.

<sup>93</sup>CIGIE is an independent entity within the executive branch consisting primarily of federal statutory IGs. Its mission is to address integrity, economy, and effectiveness issues that transcend individual agencies, and to increase the professionalism and effectiveness of personnel in IG offices.

<sup>94</sup>The Commission also requested another shared human capital service provider conduct a thorough investigation into the allegations against the senior officer; however, the provider said it did not have the capability to do so. The provider noted its administrative investigations typically involve reviewing an employee's known performance or misconduct issues and working with an agency supervisor to collect information that may support taking an adverse action against the employee, such as a reprimand, suspension, or termination.

<sup>95</sup>A CIGIE representative told the Commission that if the FBI were to decline prosecution of possible criminal wrongdoing in favor of administrative remedies, then CIGIE could assist the Commission with finding an IG for investigative support regarding the allegations against the senior officer.

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In October 2022, the Commission entered into an interagency agreement with the Department of the Interior IG office for investigating a specific ethics matter. Commission officials said they hoped the investigation would also resolve the improper procurement allegations concerning the senior officer. In June and July of 2023, the Department of the Interior IG office delivered three investigative reports to the Commission on alleged misconduct of the three other officials.<sup>96</sup> Commission officials told us that they also sought investigative support for the allegations of improper procurement activities concerning the senior officer. However, in July 2023, the Department of the Interior IG office said it would not be able to conduct additional work beyond the ethics matter identified above. In September 2023, the Commission sent a letter to CIGIE requesting investigative support for the improper procurement allegations. In response, CIGIE informed the Commission in November 2023 that no other IG had expressed interest in providing investigative support.<sup>97</sup>

The Commission ultimately removed the senior officer from their position due to an unrelated administrative matter. As noted earlier, OPM reviewed a 2020 Commission hiring action and informed the Commission that it could not conclude the action conformed with merit system principles. OPM referred the matter to OSC for review and appropriate action. Commission officials told us that OSC briefed the Commission on the findings from its investigation in November 2024 and recommended disciplinary action for the senior officer, who was the hiring official.<sup>98</sup> The Commission subsequently sent a notice of proposed removal to the senior officer, who retired after receiving a decision for removal. By this point, the senior officer had been on administrative leave for over 3 years.

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<sup>96</sup>According to the interagency agreement, the Commission has primary responsibility for determining what disclosure, if any, is appropriate or required under the law for the reports of investigation. Commission officials told us that two of the three reports were currently under consideration for future publication pursuant to Freedom of Information Act proactive disclosure provisions.

<sup>97</sup>CIGIE officials told us that CIGIE was typically able to assist agencies with obtaining one-time assistance for an investigation or other service from an IG who volunteers to take on the work. Officials added that CIGIE could not typically accommodate an agency with many requests due to IG offices' resource constraints.

<sup>98</sup>After a prohibited personnel practice investigation is completed, OSC may request the agency take corrective or disciplinary action. In some cases, OSC may file a petition for corrective or disciplinary action with the Merit Systems Protection Board.

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## Several Options Exist to Meet the Commission's Oversight Needs, Including Using an Existing Inspector General

Senior Commission officials said that the Commission could benefit from additional independent oversight. One commissioner said that the myriad investigations over the last few years showed the need for dedicated independent oversight. Several officials told us that the barriers to securing investigative services remained and could lead to future challenges. Officials noted that if the Commission were to receive an allegation of impropriety, it would not have the ability to investigate it. Nonetheless, some officials expressed concern that creating an IG office whose sole jurisdiction was the Commission would be an inefficient use of resources.

We reviewed examples of smaller agencies that obtained oversight assistance from external IGs, which generally occurred in three ways and are discussed below. Stakeholders we spoke with, including officials from CIGIE, an IG office, and a consortium of small agencies, provided examples of smaller agencies that obtained assistance from IG offices to provide independent oversight. Stakeholders noted that the options typically require additional resources and, in some cases, legislative action by Congress. Further, some arrangements may be more effective for an agency depending on the support the agency seeks. Below are three options.

### Obtain Specific, Limited Services from an External IG

Multiple stakeholders said that an agency may be able to establish an arrangement for specific services from an external IG, such as when the Commission obtained services from the Department of the Interior IG in 2022 and 2023. CIGIE officials cautioned that IGs typically do not have the resources to take on additional work that falls outside of their statutory jurisdiction. Further, officials from one IG office told us they had concerns about agreeing to conduct an investigation for another agency, as they said investigatory authority may be difficult to obtain. A senior Commission official told us that a disadvantage of the Department of the Interior IG agreement was that the IG would not be available to follow up with the Commission on its work, including potential recommendations or legal violations. In the following examples, agencies received services from external IGs:

- Prior to 2020, the U.S. Agency for International Development (USAID) IG provided oversight in a limited capacity to the Overseas Private

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## Create a New IG for the Commission

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Investment Corporation (OPIC).<sup>99</sup> The USAID IG had the statutory authority to conduct IG-related services for OPIC, and OPIC had the authority to reimburse the USAID IG for these services. For example, for fiscal year 2014, an interagency agreement specified that the USAID IG would provide OPIC with oversight, including certain audits, a purchase card survey, and a fraud awareness program briefing.

- We reported in 2020 that the National Mediation Board established an agreement with the National Labor Relations Board IG to (1) operate a hotline for National Mediation Board employees to report issues of fraud, waste, and abuse involving National Mediation Board programs and operations and (2) take limited action to address complaints, such as informing the appropriate law enforcement agency or the National Mediation Board Chair or board members.<sup>100</sup> We reported that the agreement did not call for the National Labor Relations Board IG to begin investigations on its own. In a prior report, we also called for Congress to consider authorizing an appropriate federal agency's IG to provide oversight of the National Mediation Board, as envisioned by the third option below.<sup>101</sup>

Another option is that Congress may create a new IG for the Commission. However, we previously reported concerns about creating and maintaining small IG offices with limited resources, where an IG might not be able to access the technical skills and expertise needed for adequate and cost-effective oversight.<sup>102</sup> CIGIE officials also cautioned that small IG offices typically have little funding and limited resources to carry out their missions. As such, they usually cannot conduct investigations on their own and may need assistance from a larger IG office. For example, CIGIE officials said that the Department of the Interior IG office has on occasion provided support to smaller IG offices that have limited investigative resources. To illustrate, the Department of the Interior IG has handled certain investigations for the Election Assistance

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<sup>99</sup>The BUILD Act of 2018 placed the functions of OPIC within a new agency, the U.S. International Development Finance Corporation, under the jurisdiction of a newly required U.S. International Development Finance Corporation IG. Pub. L. No. 115-254, Div. F, 132 Stat. 3186, 3485-3519. OPIC transitioned to the U.S. International Development Finance Corporation in January 2020.

<sup>100</sup>GAO, *National Mediation Board: Additional Actions Needed to Fully Implement Prior GAO Recommendations and Improve Agency Management and Oversight*, [GAO-20-236](#) (Washington, D.C.: Feb. 2020).

<sup>101</sup>GAO, *National Mediation Board: Strengthening Planning and Controls Could Better Facilitate Rail and Air Labor Relations*, [GAO-14-5](#) (Washington, D.C.: Dec. 2013).

<sup>102</sup>[GAO-01-1038R](#).

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## Designate an Existing IG as Commission IG

Commission IG office. Commission officials told us that creating a new IG office within the Commission would require a significant amount of the agency's budget and resources and might not be a sustainable approach for addressing their oversight challenges.

The final option is for Congress to designate an existing IG also as the Commission's IG. CIGIE officials said that a larger agency's IG office could assume responsibility for a smaller agency like the Commission. These officials said that such an IG office would need additional long-term funding for the new responsibility, such as funding for additional staff. An example of such an arrangement is the Environmental Protection Agency (EPA) IG, which is also the IG for the U.S. Chemical Safety and Hazard Investigation Board (CSB), an independent agency with a budget and staffing similar to those of the Commission.<sup>103</sup> The EPA IG office has reviewed CSB's management and issued a report in 2020 on CSB's management challenges. It issued another report in 2021 that assessed CSB's progress in addressing these challenges.<sup>104</sup> Further, the EPA IG office provides a hotline to receive complaints of fraud, waste, and abuse across CSB's operations. We have also recommended on a case-by-case basis that small agencies could benefit from oversight by an IG from another agency with a similar mission.<sup>105</sup>

An IG for the Commission, as designated by statute, could fulfill some of the Commission's oversight duties by targeting its operations for audit, inspection, or investigation. In this role, an IG could also support the improvement of the Commission's operations by serving as a continuous source of institutional knowledge to the chair and commissioners, officials

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<sup>103</sup>Pub. L. No. 118-42, 138 Stat. 25, 278 (2024). The CSB is an independent federal agency that investigates chemical incidents to determine the cause or probable cause.

<sup>104</sup>See EPA Office of Inspector General, *Fiscal Year 2020 U.S. Chemical Safety and Hazard Investigation Board Management Challenges*, 20-N-0218 (Washington, D.C.: July 6, 2020) and *Fiscal Year 2022 U.S. Chemical Safety and Hazard Investigation Board Top Management Challenges*, 22-N-0003 (Washington, D.C.: Nov. 10, 2021).

<sup>105</sup>See [GAO-14-503T](#). There are several examples where IGs in federal departments and agencies with relatively large budgets provide oversight of federal entities with relatively small budgets. For example, the Department of State IG has oversight authority for the U.S. Agency for Global Media. 22 U.S.C. § 6209a. In addition, the U.S. Agency for International Development IG provided oversight to several small federal entities, specifically the Millennium Challenge Corporation, the U.S. African Development Foundation, and the Inter-American Foundation. Finally, the Department of Transportation IG is authorized to provide some oversight of the National Transportation Safety Board. 49 U.S.C. § 1137(a).

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who hold limited-term political appointments.<sup>106</sup> We have previously stated that it is important for an independent, objective, and reliable IG structure to be in place where appropriate in the federal government to ensure adequate audit and investigative coverage.<sup>107</sup> The Commission could be assigned an IG from a federal department or agency with similar expertise, such as the Department of Labor IG, whose jurisdiction includes the Department of Labor's Mine Safety and Health Administration. The Department of Labor IG office noted that to take on such a role, they would need additional resources to hire and train new staff and to support any travel required to conduct the work.

A designated IG would be able to assess the progress the Commission has made toward addressing its deficiencies through routine audits of its internal control system and recommend corrective action when necessary. Further, if Commission officials were to report allegations of impropriety to a designated IG, the IG could investigate the allegations and brief the Commission head on its findings to help inform management's oversight.

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## Conclusions

The Federal Mine Safety and Health Review Commission urgently needs to address its challenges so it can ensure compliance with laws and regulations and be able to achieve its mission efficiently and effectively. We are making several recommendations for the Commission to improve its management. Implementing these recommendations will require the attention of the Chair, COO, and other senior leaders.

Some senior leaders—including the Chair—were not aware of the goals of the Commission's strategic plan, which should form the foundation of its operations. The Commission's management of its performance lacks key practices, such as consistently setting performance goals and collecting and using reliable data to improve its performance. Commissioners and other officials have pointed to the Commission's completed case work as evidence that the agency achieves its mission. However, internal and external stakeholders voiced concern about the Commission's lack of timeliness with certain cases and with data reliability. Our work also demonstrates that the Commission is not focused on all of its strategic goals.

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<sup>106</sup>For example, since 2015, six individuals have occupied the chair position at the Commission (including acting chair positions).

<sup>107</sup>[GAO-14-503T](#).

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The Commission continues to face challenges over its financial management, despite making progress over the last few years. The Commission has obtained help from a shared service provider to improve areas such as budget allocation and contracting, but its most recent audit showed continued problems for its contract approval process. Also, the Commission has forgone millions of dollars in appropriations that could have helped it hire people with the skills needed to oversee its financial management, including developing written policies for monitoring how the Commission spends its appropriated funds.

More broadly, the Commission's workforce has substantial skill gaps, and people with the right skills are needed to implement these recommendations. The Commission does not have a strategic workforce plan to guide its effort to recruit and retain staff with the skills needed to fulfill its mission and address its challenges. The Commission also needs hiring and promotion policies to aid efforts under the workforce plan. Until the Commission implements procedures to ensure its workforce has the skills it needs, it will lack the assurance that it has used its resources to conduct its operations in an effective and efficient manner that complies with relevant federal laws and regulations.

The Commission has failed to meet fundamental standards for internal controls. The agency has not established a comprehensive enterprise risk management process to determine the most significant risks to achieving its goals. Further, the Commission faces shortcomings in identifying organizational roles and responsibilities to support the Commission's compliance efforts. The Commission also lacks a process to address internal control deficiencies, despite concerning allegations of waste, fraud, and abuse. Though the Commission was aware of a number of these shortcomings—including those identified by third parties—Commission leadership frequently did not act to correct the problems in a timely manner. In addition, the Commission has not sought formalized employee feedback since 2022. Ultimately, the Chair has statutory authority over administrative operations of the Commission and is responsible for addressing this lack of appropriate oversight.

The Commission requires additional oversight, including investigative assistance. For example, the Commission placed a senior officer in its Office of the Executive Director on administrative leave for over 3 years in part because the agency was unable to secure support to fully investigate allegations of impropriety against the official. A designated IG would be able to provide such support, and the most prominent IG office that



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oversees an agency with related expertise is the Department of Labor Office of Inspector General.

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## Matter for Congressional Consideration

Congress should consider authorizing an appropriate federal agency's Office of Inspector General, such as the Department of Labor's Office of Inspector General, to provide independent audit and investigative oversight of the Commission. As part of this consideration, Congress should consider authorizing appropriate funding to support the additional resources, such as staff, required to conduct the work.

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## Recommendations

The Chair of the Federal Mine Safety and Health Review Commission should ensure that the Commission establishes a process for managing the agency's performance—including defining goals, reliably measuring performance, and using performance information—that follows federal performance management guidance. The process should promote the participation of all senior leaders at the Commission and establish the Commission's goals and objectives in consultation with Congress and relevant stakeholders. The process should also provide the Commission the opportunity to identify the resources it needs to achieve its goals. (Recommendation 1)

The Chair of the Federal Mine Safety and Health Review Commission should ensure that the Commission develops written policies for reviewing and monitoring how the Commission spends its appropriated funds to promote their effective use. (Recommendation 2)

The Chair of the Federal Mine Safety and Health Review Commission should ensure that the Commission develops a strategic workforce plan that identifies the critical areas of expertise—such as human capital, finance, and legal compliance—needed to achieve the Commission's goals and creates a strategy to address identified resource gaps. (Recommendation 3)

The Chair of the Federal Mine Safety and Health Review Commission should ensure that the Commission creates comprehensive hiring and promotion policies that are consistent with leading practices and legal requirements. (Recommendation 4)

The Chair of the Federal Mine Safety and Health Review Commission should ensure that the Commission establishes a comprehensive enterprise risk management process to help the agency determine the most significant risks to achieving its goals and prioritize how to use its resources to address these risks. (Recommendation 5)

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The Chair of the Federal Mine Safety and Health Review Commission should assign roles and responsibilities to ensure the Commission complies with relevant laws and regulations. (Recommendation 6)

The Chair of the Federal Mine Safety and Health Review Commission should ensure that the Commission establishes a process to address internal control deficiencies—including those identified by third parties—through corrective action. (Recommendation 7)

The Chair of the Federal Mine Safety and Health Review Commission should ensure that the Commission obtains employee feedback on an annual basis and posts the results publicly on the agency's website. (Recommendation 8)

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## Agency Comments and Our Evaluation

We provided a draft of this report to the Federal Mine Safety and Health Review Commission (Commission) for review and comment. The Commission provided technical comments, which we incorporated as appropriate. In its written comments, reproduced in appendix I, the Commission agreed with our eight recommendations and discussed its plans to address them.

- For recommendation 1, the Commission acknowledged the deficiencies of its past strategic planning efforts and performance goals and measures and said it will develop near-term performance goals and measures to aid its progress toward its strategic goals, in line with federal law and following federal performance management guidance. The Commission also said it will improve its case-related data, and that when it has developed an appropriate plan to address GAO's concerns it will seek to incorporate stakeholder feedback into the plan (including consultations with Congress, the Department of Labor, mine operators, and worker advocates).
- For recommendation 2 on developing policies to monitor spending, the Commission said it has engaged shared service providers to ensure compliance with federal regulations, adjusted processes to ensure spending oversight, and plans to hire a financial manager with the requisite skills to create our recommended policies.

The Commission also concurred with our human capital recommendations.

- For recommendation 3, the Commission agreed that it needs a strategic workforce plan and said the Chair will work with senior

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leadership to develop a plan that will address skill gaps related to human capital, finance, and legal compliance areas.

- For recommendation 4, the Commission agreed that its prior personnel policies were informal and failed to adhere to federal hiring requirements. The Commission said that it plans to create comprehensive hiring and promotion policies consistent with best practices and legal requirements. In addition, the Commission said that it will ensure supervisors receive required training on employment standards and best practices, including proper consideration of veterans' preference and equal employment opportunity guidelines.

Regarding our recommendations on internal controls, the Commission acknowledged its shortcomings and agreed that it should take steps to address them.

- For recommendation 5, the Commission said it would take corrective action by developing an enterprise risk management framework consistent with relevant federal guidance, and that the Chair will work to ensure the COO has access to the resources required to implement the framework in compliance with federal requirements.
- Likewise, for recommendation 6, the Chair plans to work with senior leadership to ensure that roles and responsibilities are assigned, communicated, and understood to ensure legal compliance with relevant statutory and regulatory requirements.
- For recommendation 7, the Commission acknowledged its need to address internal control deficiencies and said it will establish a mechanism to initiate and monitor corrective action.
- Finally, the Commission concurred with recommendation 8 on annually obtaining employee feedback; our report noted that this feedback had not been obtained since 2022. The Commission said it would take corrective action, including publicly posting the results on the agency's website.

We also provided the draft to the Department of Labor Office of Inspector General for review and comment and incorporated their technical comments as appropriate. We provided relevant portions of the draft to the Department of Labor, the Council of the Inspectors General on Integrity and Efficiency, the Office of Special Counsel, and the Occupational Safety and Health Review Commission. We incorporated technical comments received as appropriate.

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We are sending copies of this report to the Chair of the Commission, Department of the Interior Inspector General, Department of Labor Office

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of Inspector General, Council of the Inspectors General on Integrity and Efficiency, and appropriate congressional committees. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at [CostaT@gao.gov](mailto:CostaT@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix I.

Sincerely,

**//SIGNED//**

Thomas Costa  
Director, Education, Workforce, and Income Security

# Appendix I: Comments from the Federal Mine Safety and Health Review Commission



## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF THE CHAIR

### VIA ELECTRONIC MAIL

September 9, 2025

Thomas Costa  
Director, Education, Workforce, and Income Security Issues  
U.S. General Accountability Office  
Washington, DC 20548

***Re: Draft Report GAO-25-107171***

Dear Mr. Costa,

This is the formal response of the Federal Mine Safety and Health Review Commission ("FMSHRC" or "Commission") to the Government Accountability Office ("GAO") draft report GAO-25-017171, *Mine Safety: Commission that Reviews Legal Disputes Needs Improved Management Oversight*.

FMSHRC appreciates the opportunity to provide comments in response to the report and to aid GAO's efforts to monitor compliance. GAO identified three principal areas of weakness in the Commission: 1) deficiencies in performance measures to track strategic goals; 2) lack of a comprehensive workforce plan to ensure adequate staffing; and 3) issues in internal control processes and oversight, including an inadequate budget process.

The Commission has thoroughly reviewed GAO's draft recommendations and below provides commentary and responses in line with FMSHRC's goal of ensuring compliance with Congressional mandates and providing full leadership engagement with agency operations. Highlights in the response include:

- FMSHRC has initiated planning to create performance data to measure progress towards key performance goals.
- FMSHRC will establish a comprehensive workforce plan to determine the number and skills of staff needed to achieve its goals.
- FMSHRC has established a budget approval process that addresses prior deficiencies and welcomes the opportunity to obtain the appropriate resources to retain independent oversight through a dedicated Inspector General (IG).

Below we provide comments on each recommendation.

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TELEPHONE: 202-434-9900

**Recommendation 1: Performance Measures**

The Commission acknowledges the deficiencies of past strategic planning efforts and related performance goals and measures and is actively addressing these areas for corrective action. The Commission will develop near-term performance goals and measures to aid in its progress towards its three major strategic goals, in line with the Government Performance Results Modernization Act (“GPRMA”), and following federal performance management guidance. Presently, the Chair is working with senior leadership on improving the case-related data the Commission produces to track progress in case management, including by integrating appellate case tracking into the Commission’s electronic case management system (eCMS). When it has developed an appropriate plan to address GAO’s concerns, the Commission will seek to incorporate stakeholder feedback into the plan, including consultations with Congress, the Department of Labor, mine operators, and worker advocates.

**Recommendation 2: Spending Oversight Policies**

The Commission acknowledges the absence of spending oversight policies and has initiated corrective action, including since 2023 engaging shared service providers to ensure compliance with all federal regulations. To date, the Commission has adjusted processes to ensure spending oversight but has not yet created policies due to personnel resource constraints. When the federal hiring freeze is lifted, the Commission intends to hire a financial manager with the requisite skills and knowledge to address these policies.

**Recommendation 3: Strategic Workforce Plan**

The Commission concurs that a strategic workforce plan is needed and will take corrective action to support its mission. The Chair will ensure that the strategic workforce plan aligns with the Commission’s new strategic plan and addresses skill gaps to meet its annual performance goals. The Chair will work with senior leadership to conduct a workforce analysis and to develop a workforce action plan that describes steps to be taken regarding securing, retaining, and planning for the departure of employees necessary to achieve the Commission’s programmatic goals, including the hiring of ALJs pending approval by OPM to the Commission’s request for an exemption from the executive branch hiring freeze. The strategic workforce plan will identify critical areas of expertise and positions necessary to fill gaps in the areas of human capital, finance, and legal compliance. The Chair will work with senior leadership to evaluate and revise the workforce action plan based on effectiveness in meeting the Commission’s goals.

**Recommendation 4: Improved Personnel Policies**

The Commission agrees that its previously informal personnel policies failed to adhere to federal regulations governing hiring practices. The Chair will work with senior leadership in coordination with our human resources shared service provider to create

comprehensive hiring and promotion policies for the Commission that are consistent with best practices and legal requirements. Senior leadership will determine the need for department-specific guidance and, if appropriate, work with human resources personnel and the Office of General Counsel to develop or improve upon existing policies. Hiring and promotion policies will be disseminated and made accessible agencywide. The Chair will ensure supervisors receive required training on employment standards and best practices, including proper consideration of veterans' preference and EEO guidelines.

**Recommendation 5: Comprehensive Risk Management**

The Commission acknowledges the lack of comprehensive risk management governing agency operations and will take corrective action. The Chair will coordinate with the Chief Operating Officer to develop an enterprise risk management framework in line with OMB Circulars No. A-11 and No. A-123. The Chair will also endeavor to ensure the Chief Operating Officer has access to the requisite resources, including agency counsel specializing in administrative matters, required to implement the framework in compliance with federal requirements.

**Recommendation 6: Legal and Regulatory Compliance**

The Commission concurs that roles and responsibilities should be assigned to ensure the Commission complies with relevant laws and regulations. The Chair will work with senior leadership to implement the Commission's new strategic workforce plan, taking necessary actions to fill gaps in the areas of human capital, finance, and legal compliance. The Chair will work with senior leadership to ensure that human and fiscal resources are in place, and that roles and responsibilities are assigned, communicated, and understood to ensure legal compliance with relevant statutory and regulatory requirements.

**Recommendation 7: Addressing Internal Control Deficiencies**

The Commission acknowledges the need to address internal control deficiencies, including those identified by third parties. The Chair will coordinate with the Chief Operating Officer to establish a mechanism to track and prioritize recommendations and promptly initiate and monitor corrective action.

**Recommendation 8: Employee Feedback**

The Commission concurs with this recommendation and will take corrective action. Commission employees participate in the Office of Personnel Management's (OPM) annual Federal Employee Viewpoint Survey (FEVS). However, the Commission did not previously post the results publicly on the Commission's website as required but will take steps to do so for all future surveys.

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**Appendix I: Comments from the Federal Mine  
Safety and Health Review Commission**

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By executing the above improvement plans, we are confident that the Commission will be able to strengthen its internal administration. We also agree with GAO that “Congress should consider authorizing appropriate funding to support the additional resources, such as staff, required to conduct the work.” The Commission’s senior leadership and staff are committed to the continuous improvement in its mission of adjudicating cases fairly and efficiently.

We thank GAO and its staff for the effort that it has put in to producing a thorough and substantive draft report. The draft report’s recommendations and observations have contributed meaningful insights to FMSHRC’s planning for the future. We hope our comments aid in GAO’s work and that they demonstrate the Commission’s commitment to fulfilling its mission of efficiently resolving health and safety related disputes in the nation’s mines.

Respectfully submitted by:



Mary Lu Jordan  
Chair



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# Appendix II: GAO Contact and Staff Acknowledgments

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## GAO Contact

Thomas Costa, [CostaT@gao.gov](mailto:CostaT@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, Blake Ainsworth (Assistant Director), Drew Nelson (Analyst in Charge), William Boutboul, Craig Comen, Brendan Culley, Alex Galuten, Benjamin Licht, and Rebecca Sero made key contributions to this report. Also contributing to this report were Alison Cashin, Barbara Lewis, Steven Lozano, Mark MacPherson, Sarah McCoy, Christopher Morehouse, Mimi Nguyen, Amrita Sen, Almeta Spencer, Sabrina Streagle, Kate van Gelder, Adam Wendel, Clarette Yen, and Matthew Zaun.

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