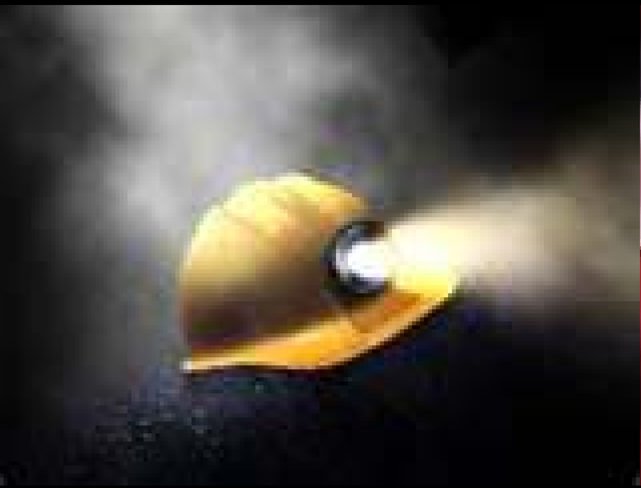
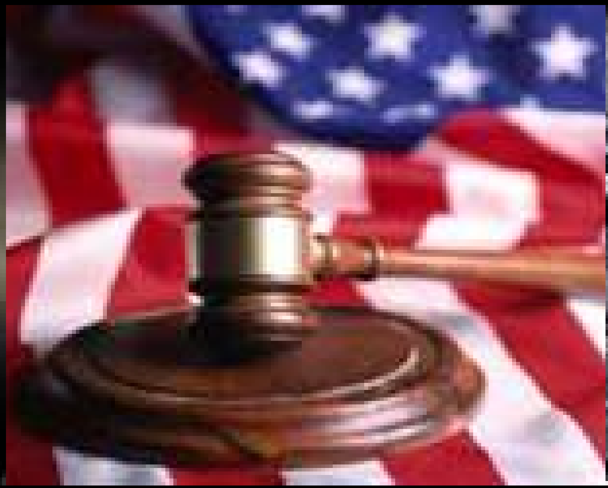


Federal Mine Safety and Health Review Commission

Performance and Accountability Report

Fiscal Year 2009

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
PERFORMANCE AND ACCOUNTABILITY REPORT
FISCAL YEAR 2009

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FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF THE CHAIRMAN

November 13, 2009

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

I am pleased on behalf of the Federal Mine Safety and Health Review Commission ("Commission") to submit our Fiscal Year 2009 Performance and Accountability Report (PAR). The PAR provides performance information in keeping with the requirements of the Government Performance and Results Act as well as audited financial statements and accompanying documentation mandated by the Accountability of Tax Dollars Act of 2002.

The Commission is an independent federal agency charged with resolving disputes between the Department of Labor's Mine Safety and Health Administration (MSHA) and all coal and hardrock mine operators in the United States arising from the Federal Mine Safety and Health Act of 1977. We also adjudicate cases alleging discrimination against miners in retaliation for the exercise of their safety rights under the Mine Act and we have been given additional mediation authority under the Mine Improvement and New Emergency Act of 2006 ("MINER Act"), 30 U.S.C. § 876(c)(2)(G), which was signed into law in June of 2006.

Because of the MINER Act and significant revisions to MSHA's civil penalty regulations, the Commission has seen a significant increase in its caseload over the past several years. Consequently, we have had to adjust our performance benchmarks to reflect this substantial surge in cases. Nevertheless, the productivity of our Office of Administrative Law Judges has shown a significant upswing due to the continued use of law clerks and increased emphasis on settling disputes without the need for a full evidentiary hearing.

We are also in the process of instituting the concept of electronic filing of pleadings to expedite the adjudicative process and make our case management practices more efficient.

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We intend to continue to explore methods of meeting the challenges of an increasing caseload while assuring fair and rational disposition of the disputes that come before us.

If you need any further information, please have a member of your staff contact me or the Commission's Executive Director, Lisa Boyd at (202) 434-9905.

Respectfully,

Mary Lu Jordan

Mary Lu Jordan
Chairman

Management Discussion and Analysis

Overview

The Federal Mine Safety and Health Review Commission ("Commission") is an independent adjudicatory agency charged with resolving disputes arising from the enforcement of occupational safety and health standards in the nation's mines. Under its enabling statute, the Federal Mine Safety and Health Act of 1977 ("Mine Act"), as amended, the Commission does not regulate the mining industry, nor does it enforce the Mine Act; those functions are delegated to the Secretary of Labor acting through the Mine Safety and Health Administration (MSHA).

Mission and Organization Structure

The Commission's mission is to provide just, speedy, and articulate adjudication of proceedings authorized under the Mine Act, thereby enhancing compliance with the Act and contributing to the improved health and safety of the nation's miners.

The Commission carries out its responsibilities through trial-level adjudication by the Commission's Office of Administrative Law Judges (ALJs) and appellate review of ALJ decisions by a five-member Commission appointed by the President and confirmed by the Senate. Most cases involve civil penalties assessed against mine operators by MSHA and address whether the alleged safety and health violations occurred, and, if so, the appropriate sanctions to be imposed. Other types of cases involve mine operators' contests of mine closure orders, miners' complaints of safety or health related discrimination, miners' applications for compensation after a mine is idled by a closure order, and review of disputes between MSHA and underground coal mine operators relating to those operators' mine emergency plans.

Once a case is filed with the Commission, it is given a docket number and referred to the Chief Administrative Law Judge (Chief ALJ). Thereafter, litigants in the case must submit additional filings before the case is assigned to an ALJ. To expedite the decisional process, the Chief ALJ may rule on certain motions and, where appropriate, issue orders of settlement, dismissal, or default. Otherwise, once a case is assigned to an individual judge, that judge is responsible for the case and rules upon motions and settlement proposals, schedules the case for hearing, holds the hearing, and issues a decision based upon the record. An ALJ's decision that is not reviewed becomes a final, non-precedential order of the Commission.

The 5-member Commission provides administrative appellate review based on the record. It may, in its discretion, review decisions issued by ALJ's when requested by a litigant, or it may, on its own initiative, direct cases for review. The Commission's decisions are precedential and appeals from the Commission's decisions are to the federal circuit courts of appeals.

Key Challenges

Since FY 2006, the number of new cases filed with the Commission has steadily increased. From FY 2000 through FY 2005, the average number of cases filed was 192 per month, or 2,307 per year. However, in FY 2008 and FY 2009, 8,961 and 9,230 new cases were filed, respectively. As of September 30, 2009, the Commission had a backlog of 14,090 – over 6 times the normal caseload from FY 1995 through FY 2005. The Commission currently has a backlog of over 14,000 cases. In contrast, the average backlog from FY 2000 through FY 2004 was only 1,379.

Only a small fraction of cases decided by the Commission's OALJ is appealed in any given year. Consequently, at the appellate level, the workload is expected to remain relatively consistent over the next several years. 200 new cases are anticipated for FY 2010.

In addition to conducting its appellate responsibilities, the Commission published an advanced notice of proposed rule making regarding requests to reopen cases in which a mine operator is in default for failure to respond to the Secretary's proposed penalty or to a Judge's order. The number of these cases has increased sharply, primarily due to a significant number of operators (usually small operators) who, due to increased enforcement, are contesting citations, orders, and civil penalties for the first time, and who are unfamiliar with Commission procedures.

The Commission has been taking a number of steps to dispose of cases more efficiently and reduce the backlog. In an attempt to expedite the processing of settlement decisions, the Commission is in the process of considering alternative filing requirements, such as the submission of proposed orders by the parties. For FY 2009, the Commission increased its full-time law clerks to 5 to assist the OALJ, which has substantially increased the productivity of the Judges. Currently, each clerk is assigned to 2 Judges. During FY 2009, the Commission employed the use of 6 additional contract employees and secured 5 unpaid law student summer interns to assist in reducing the backlog. The Commission continues to develop an electronic case-tracking system and electronic filing system, which will reduce processing time and improve staff productivity.

Performance Goals and Results

In view of the recent and continuing upsurge in its caseload, the Commission must continually reassess its strategic goals in light of changing circumstances. Therefore, the Commission has established benchmarks as part of its overall strategic plan, but it will also revisit and evaluate those benchmarks as part of its annual performance and budget planning activity.

The annual performance plan will clearly explain the role of each Commission activity as set forth in the Commission's budget. The plan's specific objectives, adjusted to reflect policy determinations and resource allocations in the annual budget process, will serve as intermediate steps in the Commission's overall efforts to successfully accomplish the goals of this strategic plan.

Accordingly, in order to achieve its mission, the Commission has set forth the following strategic goals: 1) to ensure expeditious, fair and legally sound adjudication of cases at the trial and appellate levels, and 2) to manage the Commission's human resources, operations, facilities, and systems to ensure a continually improving, effective and efficient organization.

Commission Review Function

The responsibility for the review of ALJ decisions is set forth in section 113(d)(1) of the Mine Act. The Act states that an ALJ's decision shall become final 40 days after its issuance, unless within that period any two Commissioners direct that the decision be reviewed.

Most cases come before the Commission when two or more Commissioners vote to grant a petition for discretionary review filed by a party adversely affected or aggrieved by the ALJ's decision. Petitioners may include miners, miners' representatives, mine operators or the Secretary of Labor. The Commission is also charged with the responsibility of reviewing disputes arising over the emergency response plans of underground coal operators pursuant to the Mine Improvement and New Emergency Response Act of 2006 (<u>MINER Act</u>), P.L. 109-236.

Two or more Commissioners may also direct any case for review *sua sponte* (on the Commission's own motion, without the parties filing a petition). *Sua sponte* review is limited to ALJ decisions that are contrary to law or Commission policy, or that present a novel question of policy. By law, a quorum of three Commissioners is required to consider and decide cases appealed from the Commission's ALJs. Many of the Commission's cases present issues of first impression under the Mine Act. That is, the cases raise issues that have not been resolved by prior decisions of the Commission or the courts or the cases involve the interpretation of safety and health standards and regulations newly promulgated by MSHA.

The Commission began FY 2009 with an inventory of 103 undecided cases and received 184 new cases during the year. One hundred ninety two dispositions were made during FY 2009, resulting in 95 undecided cases remaining at the end of the fiscal year. In FY 2010, the Commission began the year with an inventory of 95 undecided cases, and 200 new cases are anticipated for the year.

Of the 192 cases decided in FY 2009, 4 were substantive decisions, 184 were procedural orders in default cases, and 4 were denials of petitions for review. The average age of the 95 default cases pending on the Commission's docket as of September 1, 2009 was 4.1 months, and the average age of the 4 substantive decisions issued in FY 2009 was 9.6 months.

During FY 2009, the number of default cases handled by the Commission continued to be a major challenge, particularly for the Commission's Office of the General Counsel (OGC). Default cases typically involve situations where a mine operator has allegedly failed to challenge civil penalties proposed by the MSHA within the prescribed 30-day period for contesting such proposed penalties. Under the Mine Act, proposed penalties that are not contested in a timely manner automatically become final Commission orders. Operators may file written requests with the Commission seeking to establish "good cause" to re-open the final orders. The Commission has determined that operators may file requests seeking to establish good cause to re-open final orders utilizing principles adopted by the Federal Courts.

The number of default cases received by the Commission increased dramatically from 68 in FY 2007 to 177 in FY 2008 - a 250 percent increase. This higher rate continued in FY 2009 as 170 default cases were received. The increase in default orders has greatly increased the demands on OGC's attorneys, who must analyze each case and prepare a draft order for the Commissioners.

The following table provides the performance goals and results for this function for FYs 2006 - 2009.

COMMISSION REVIEW APPELLATE CASES						
ISSUE OPINION IN A TIMELY MANNER					GOAL	
PERFORMANCE GOALS	FY 2006	FY 2007	FY 2008	FY 2009	MET	NOT MET
Decide all cases within 18 months of receipt. (undecided cases over 18 months of age)	0	0	0	0	√	
Assign all cases before briefing is completed. (cases briefed but unassigned)	0	0	0	0	√	
Maintain average age of substantive decisions at 12 months of less. (average age of substantive decisions)	15.5	5.1	8.9	9.6	√	

Administrative Law Judge Function

The Commission employs Administrative Law Judges to hear and decide contested cases at the trial level, as initiated by the Secretary of Labor, mine operators, and miners or their representatives. The judges are also responsible for evaluating and approving or denying settlement agreements under the Mine Act.

Administrative Law Judges travel to hearing sites located at or near the mine involved in order to afford mine operators, miners and their representatives full opportunity to participate in the hearing process.

The Commission believes that the number of new case filings will not decrease in the coming years as operators continue to elect to contest higher civil penalties proposed by MSHA and as MSHA increases its utilization of its “pattern of significant and substantial violations” sanctions.

The Commission’s Office of Administrative Law Judges began FY 2009 with an inventory of 9,737 cases and 9,239 new cases were filed during the year. Case dispositions for the year were 4,766, resulting in an end-of-year inventory of 14,213 undecided trial cases. The number of new trial cases received in FY 2009 was 280 percent higher than FY 2005. The Commission Judges’ disposition rate remained constant in FY 2009 with 91% of these dispositions occurring within 12 months of assignment. In FY 2010, the Commission is beginning the year with an inventory of 14,213 undecided trial cases, and 9,200 cases are anticipated for the year.

The Commission monitors its workload by Dockets. Each Docket contains one or more citations, and each citation is, in essence, a separate case for which a Judge must render a decision. Prior to February 2009, Dockets were limited to 20 citations due to MSHA’s practices. Therefore, each Docket would be comprised of no more than 20 citations, or cases. However, since MSHA has removed that limit, Dockets may now include all citations related to a particular inspection. Therefore, the number of citations in one Docket could range from 1 to a few hundred. Approximately 10% of our Dockets were affected by the removal of the 20 citation limit.

The following table provides the performance goals and results for this function for FYs 2006 – 2009.

OFFICE OF ADMINISTRATIVE LAW JUDGES						
Ensure Timely Issuance of Decisions					GOAL	
PERFORMANCE GOALS	FY 2006	FY 2007	FY 2008	FY 2009	MET	NOT MET
Issue 90 percent of decisions within 180 days of receipt of the post-hearing briefs.	88%	69%	60%	86%		✓
Issue 95 percent of settlement decisions within 60 days of receipt of settlement motions.	96%	80%	73%	61%		✓
Decide 90 percent of cases within 12 months of assignment.	98%	97%	79%	91%	✓	
Undecided cases over 365 days of age.	N/A	N/A	2,989	3,738		✓

Office of the Executive Director Function

The Office of the Executive Director (OED) provides administrative services to support the Commission in fulfilling its mission.

OED provides strategic planning and operational management for the organization. OED also includes administrative services, financial, human resources, procurement, technology management, and computer and information security. The day-to-day tasks performed under the direction of the Executive Director include:

- Supporting the development and implementation of the Agency's strategic goal;
- Supporting the implementation and development of effective and efficient case management and administrative systems through information technology hardware and software;
- Maintaining and enhancing a website to provide the public with user friendly access to Commission information;
- Enhancing telecommunications and improving technology efficiency and effectiveness;
- Providing support agency-wide in the areas of human resources, procurement, budget, finance, equal opportunity, and general administrative services;
- Providing personnel, payroll, benefits, hearing coordination, and travel coordination to agency employees; and
- Procuring goods and services, maintenance and needed repairs of equipment, training, reference materials, and supplies and office space.

Analysis of Financial Statements

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

The Commission has contracted with the Bureau of Public Debt, Administrative Resource Center, for accounting services since 1998. The Administrative Resource Center prepared the Commission's FY 2009 financial statements, which include comparative data for FY 2008. The principal financial statements include the Balance Sheet, Statement of Net Cost, Statement of Changes in Net Position, and Statement of Budgetary Resources.

Analysis of the Balance Sheet

The Commission's assets in fiscal year 2009 were $3,130,660 as of September 30, 2009. This represents a decrease of $748,956 from fiscal year 2008. The Fund Balance with Treasury of $3,019,141 represents the Commission's largest asset as of September 30, 2009. This is a decrease of approximately 21 percent from fiscal year 2008 and represents approximately 96 percent of the agency's total assets. General Property, Plant and Equipment accounts for approximately 4 percent of the Commission total assets as of September 30, 2009. The net fixed asset value of $111,179 equals the cost less accumulated depreciation and represents the current book value of those assets.

The Commission's liabilities in fiscal year 2009 totaled $649,438 as of September 30, 2009. This is a decrease of $56,395 from the fiscal year 2008 balance of $705,833. Accounts payable balance at September 30, 2009, was $81,201, a decrease of $71,648 from September 30, 2008. Accrued payroll liabilities and payroll taxes payable increased slightly in 2009. Unfunded annual leave decreased $24,380 in 2009 from 2008. Unfunded annual leave represents approximately 42 percent of total agency liabilities.

Net position is the difference between total assets and total liabilities. The total net position for fiscal year 2009 decreased by $692,561 from fiscal year 2008.

Analysis of Statement of Net Cost

The statement of Net Cost shows the net cost of operations for the agency, and it is broken out between the Commissions two major programs, Administrative Law Judge and Commission. The total net cost of operations in 2009 was $8,893,048, an increase of $539,832, or 6 percent, over the 2008 net cost of operations of $8,353,216.

Analysis of the Statement of Changes in Net Position

The Statement of Changes in Net Position reports the change in the agency's net position during the reporting period. The net position consists of two components, the unexpended appropriations and the cumulative results of operations. The Net Position decreased $692,561 in 2009 from 2008, a change of approximately 22 percent.

Analysis of the Statement of Budgetary Resources

The Statement of Budgetary Resources presents how the budgetary resources were made available and the status of the budgetary resources at the end of the reporting period. The total budgetary resources must always equal the total status of budgetary resources. For fiscal year 2009, the Commission had total budgetary resources of $10,694,210, which is $14,458 less than in 2008.

Management Assurances

Systems, Controls, and Legal Compliance

The Commission is responsible for establishing and maintaining effective internal control over financial reporting which includes safeguarding assets and complying with applicable laws and regulations. As a micro independent agency, the Commission must rely heavily on the systems and controls provided by servicing agencies to meet the OMB's guidelines and the requirements of law with respect to financial management, accounting systems, and financial reporting. These services are supplemented by internal control procedures within the Commission sufficient to assure that the performance and financial data included in this audit report are complete and reliable.

All financial data reported was obtained from the FY 2009 accounting reports prepared by the Bureau of Public Debt, the Commission's accounting servicing provider, and the performance data on case intake and dispositions has been verified by Commission managers. There are no material inadequacies or non-conformance in either the completeness or reliability of the data reported.

Commission managers are pleased to certify, with reasonable assurance, that the Commission's systems of internal controls and the systems of accounting used by the Bureau of Public Debt are in compliance with the Federal Managers Financial Integrity Act.

The EEO Office of the Commission directs and manages a comprehensive EEO program assuring compliance with all Federal anti-discrimination laws and regulations. It provides policy and legal guidance to the Chairman and other senior level managers, ensuring that the agency is kept abreast of all critical developments in the law. The EEO office oversees the EEO counseling, alternative dispute resolution ("ADR") and complaint procedures. It develops, manages and implements the agency's EEO policies and procedures. The office coordinates and conducts the required EEO agency-wide trainings for all personnel. The EEO office prepares and submits agency reports in compliance with the statutory and Equal Employment Opportunity Commission ("EEOC") reporting requirements (e.g., the Congressional submission under the No FEAR Act, EEOC Management Directive 715, and the Annual Federal EEO Statistical Report of Discrimination Complaints). It works with senior managers to promote equal opportunity in recruitment, training, benefits, and promotion.
Last year, the EEO Office incurred a number of expenses as part of its mission. It purchased on-line training for all personnel to review the requirements of the No FEAR Act. This is a requirement for all new personnel and agency-wide every two years. The office also hired two contract counselors to meet with agency employees and one mediator to resolve a formal complaint. The agency also prepared a Final Agency Decision (FAD) in one case. In order to keep current with the ever-changing EEO law and requirements, the EEO Director attends training courses and EEO Director meetings. The office plans to continue its annual trainings in the EEO field so as to proactively prevent discrimination and to raise the awareness of employees and managers as to their rights and remedies.

The Commission has implemented a new system of providing annual ethics training to its employees. Previously, the Commission typically presented one hour of ethics training through a general overview to employees who were required to receive annual ethics training under 5 C.F.R. §§ 2638.704 and 2638.705. During FY 2009, Commission employees have been receiving ethics training on-line at a website managed by the Bureau of Public Debt. In creating the training, the Commission identified various subjects relating to ethics that are relevant to Commission employees.

For each subject, the Commission's ethics officials drafted background material and questions and answers that specifically relate to issues likely to be faced by Commission employees. Employees read the material, answer the questions, and read further information provided in the answers. An automatic certificate of completion is then generated for record-keeping purposes.

The new ethics training method has led to a number of positive changes. First, the Commission now provides training more often and as the specific need arises. In FY 2009, the Commission provided two training sessions for employees. In addition, the Commission has been able to involve a greater spectrum of employees in training, rather than only those employees required to receive annual training. The Commission also has been able to tailor training to current matters at issue. Finally, the

Commission's ethics officials have noticed a heightened awareness in employees regarding their ethical obligations.

During the 2009 fiscal year, the agency received 46 FOIA requests. The majority of these requests were for case-related materials. When the agency was in possession of documents and information that were responsive to the FOIA request, the request was granted and the information provided within the 20-day statutory time period. For five requests, the agency did not possess records responsive to the request made. No requests were denied in part or in whole. The agency collected $64.30 in fees.

The agency has a Chief FOIA Officer and a FOIA Liaison who administer its FOIA program. During FY 2009, both employees expended on average 5% of their work time administering the agency's FOIA program. Other agency employees participated in responding to certain FOIA requests, on an as-needed basis. Overall, in FY 2009, the agency's FOIA program involved approximately 1 - 2% of the agency's overall work load and cost approximately $12,000 in expenses, including personnel time.

The Commission continues to devote a major portion of its information technology efforts to network security. In FY 2009, the Commission implemented proactive measures in order to protect the networks core infrastructure as well as end user computer and their privacy. Symantec End Point Protection Suite and deployment of the Symantec Mail Security module for exchange have added additional security from internal and external threats against the core infrastructure and end users.

Performance Data Verification

The adjudicative and managerial goals and objectives set forth above can be achieved through an integrated set of strategies that build on current Commission programs and initiatives. The Commission now provides same day electronic recordings of oral arguments and decisional meetings on its web site. The Commission's Performance Data and Verification web site access is provided in real time. The Commission is implementing a new case management system so that all case files will be stored electronically. The system will ultimately allow parties to file all documents electronically as well.

Working from the premise that fair and expeditious decision-making and efficient agency management go hand in hand, the Commission adopts the following strategies to implement the strategic goals and objectives: 1) prioritize the decisional process; 2) maintain and enhance an information technology program; 3) improve human resources management; and 4) promote employee accountability.

The Commission will evaluate its progress towards accomplishing its strategic goals, through analysis of the results of its performance measures and through a continual reassessment of its workload and the needs of the parties that it serves. Program strengths and weakness will be assessed to determine alternative courses of action.

The Commission will use the results of these evaluations to develop the annual performance goals and objectives which will focus the Commission's activities for the year.

Limitations of the Financial Statements

The principal financial statements have been prepared to report the financial position and results of operations of the Federal Mine Safety and Health Review Commission, pursuant to the requirements of 31 U.S.C. 3515 (b).

The statements have been prepared from the books and records of the Commission in accordance with GAAP for Federal entities and the formats prescribed by OMB. The statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

November 8, 2009

Mr. Tyrone Brown, CPA
Managing Member
Brown & Company CPAs, PLLC
1101 Mercantile Lane
Suite 122
Largo, MD 20774

Dear Mr. Brown:

This letter is in connection with your audit of the Federal Mine Safety and Health Review Commission's Principal Statements (also referred to as "financial statements") as of September 30, 2009 and 2008 for the purposes of (1) expressing an opinion as to whether the Principal Statements are presented fairly, in all material respects, in conformity with accounting principles generally accepted in the United States of America, and (2) reporting whether the agency's financial management systems substantially comply with Federal financial management systems requirements, applicable Federal accounting standards, and the U.S. Government Standard General Ledger (SGL) the transaction level as of September 30, 2009.

Certain representations in this letter are described as being limited to matters that are material. For purposes of this letter, matters are considered material if they involve $82,000 or more. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in the light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement.

We confirm, to the best of our knowledge and belief, the following representations made to you during your audit that these representations are as of the date of your auditor's report, and pertain to the periods covered by the financial statements.

1. We are responsible for the fair presentation of the Principal Statements and Required Supplementary Stewardship Information in conformity with accounting principles generally accepted in the United States of America.

2. The financial statements are fairly presented in conformity with accounting principles generally accepted in the United States of America.

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3. We have made available to you all:

   a. financial records and related data,

   b. communications from the Office of Management and Budget (OMB) concerning noncompliance with or deficiencies in financial reporting practices.

4. There are no material transactions that have not been properly recorded in the accounting records underlying the financial statements or disclosed in the notes to the financial statements.

5. The Federal Mine Safety and Health Review Commission has satisfactory title to all owned assets, including stewardship property, plant, and equipment: such assets have no liens or encumbrances, nor have any assets been pledged.

6. We have no plans or intentions that may materially affect the carrying value or classification of assets and liabilities.

7. Guarantees under which the Federal Mine Safety and Health Review Commission is contingently liable have been properly reported or disclosed

8. Related-party transactions and related receivables or payables, including assessments, loans, transfers, and guarantees have been appropriately recorded and disclosed.

9. All intra-entity transactions and activities have been appropriately identified and eliminated for financial reporting purposes, unless otherwise noted. All intra-governmental transactions and balances have been appropriately recorded, reported, and disclosed. We have reconciled intra-governmental transactions and balances with the appropriate trading partners for the four fiduciary transactions identified in Treasury's *Intra-governmental Fiduciary Transactions Accounting Guide*, and other intra-governmental asset, liability and revenue amounts as required by OMB Bulletin 97-01, as amended.

10. There are no:

    a. violations or possible violations of laws and regulations whose effects should be considered for disclosure in the financial statements or as a basis for recording a loss contingency,

    b. unasserted claims or assessments that are probable of assertion and must be disclosed, that have not been disclosed, or

    c. material liabilities or gain or loss contingencies that are required to be accrued or disclosed, that have not been disclosed.

11. Management acknowledges its responsibility for the design and implementation of programs and controls to prevent and detect fraud. We confirm that management has no:

    a. knowledge of any fraud or suspected fraud affecting the organization involving management, employees who have significant roles in internal control, and others, where the fraud could have a material effect on the financial statements.

    b. knowledge of any allegations of fraud or suspected fraud affecting the organization received in communications from employees, former employees, or others.

12. Pursuant to the Federal Mangers' Financial Integrity Act, we have assessed the effectiveness of the Federal Mine Safety and Health Review Commission's internal control in achieving the following objectives:

    a. reliability of financial reporting – transactions are properly recorded, processed, and summarized to permit the preparation of the Principle Statements and Required Supplementary Stewardship Information in accordance with accounting standards generally accepted in the United States of America, and that assets are safeguarded against loss from unauthorized acquisition, use, or disposition;

    b. compliance with applicable laws and regulations – transactions are executed in accordance with: (i) laws governing the use of budget authority and other laws and regulations that could have a direct and material effect on the financial statements, and (ii) any other laws, regulations, and government wide policies identified by OMB in Appendix C of OMB's Audit Bulletin; and

    c. reliability of performance reporting – transactions and other data that support reported performance measures are properly recorded, processed, and summarized to permit the preparation of performance information in accordance with criteria stated by management.

13. We are responsible for implementing and maintaining financial management systems that comply substantially with Federal financial management systems requirements, applicable Federal accounting standards, and the SGL at the transaction level.

14. We have assessed the financial management systems to determine whether they comply substantially with these Federal management systems requirements. Our assessment was based on guidance issued by OMB.

15. The financial management systems complied substantially with Federal financial management systems requirements, applicable Federal accounting standards, and the SGL at the transaction level as of September 30, 2009.

16. We have complied with all aspects of contractual agreements that would have a material effect on the financial statements in the event of noncompliance.

17. We are responsible for the Federal Mine Safety and Health Review Commission's compliance with applicable laws and regulations.

18. We have identified and disclosed to you all laws and regulations that have a direct and material effect on the determination of financial statement amounts.

19. We believe that the effects of the uncorrected financial statement misstatements summarized in the accompanying schedule (if any) are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

20. No events have occurred subsequent to the date of the statement of financial position that would require adjustment to, or disclosure in, the financial statements.

21. No material events or transactions have occurred subsequent to September 30, 2009 that have not been properly recorded in the financial statements and required supplementary stewardship information or disclosed in the notes thereto.

22. We have used the materiality threshold of $82,000, used for reporting items in this management representation letter. Items below this threshold would not be considered exceptions or reported as such in the representation letter.

23. The information presented on the agency's Statement of Budgetary Resources agrees with the information submitted on the agency's year-end Reports on Budget Execution and Budgetary Resources (SF 133). This information will be used as input for the fiscal year 2009 actual column of the Program and Financing Schedules reported in the fiscal year 2009 Budget of the U.S. Government. Such information is supported by the related financial records and related data.

Mary Lu Jordan

Mary Lu Jordan
Chairman

Lisa M. Boyd

Lisa M. Boyd
Executive Director

INDEPENDENT AUDITOR'S REPORT ON THE FINANCIAL STATEMENTS

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

We have audited the accompanying balance sheet of the Federal Mine Safety and Health Review Commission (FMSHRC) as of September 30, 2009 and 2008, and the related statements of net cost, changes in net position, and budgetary resources, for the years then ended (collectively referred to as the financial statements). These financial statements are the responsibility of FMSHRC's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *U.S. Government Auditing Standards*, issued by the Comptroller General of the United States; and, Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements.* Those standards and OMB Bulletin No. 07-04 require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the FMSHRC as of September 30, 2009 and 2008 and its net costs, changes in net position, and budgetary resources for the years then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *U.S. Government Auditing Standards* and OMB Bulletin No. 07-04, we have also issued a report dated November 12, 2009 on our consideration of the FMSHRC internal control over financial reporting and its compliance with provisions of laws and regulations. Those reports are an integral part of an audit performed in accordance with *U.S. Government Auditing Standards* and should be read in conjunction with this report in considering the results of our audit.

The FMSHRC's Management's Discussion & Analysis contains a wide range of information, some of which is not directly related to the financial statements. We do not express an opinion on this information. However, we compared this information for consistency with the financial statements and discussed the methods of measurement and presentation with FMSHRC officials. Based on this limited work, we found no material inconsistencies with the financial statements, U.S. generally accepted accounting principles, or OMB guidance.

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

Brown & Company

Largo, Maryland
November 12, 2009

BROWN & COMPANY CPAs, PLLC
CERTIFIED PUBLIC ACCOUNTANTS AND MANAGEMENT CONSULTANTS

INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING

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

We have audited the financial statements of the Federal Mine Safety and Health Review Commission (FMSHRC) as of and for the year ended September 30, 2009 and have issued our report thereon dated November 12, 2009. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; and the standards applicable to financial audits contained in *U.S. Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements.*

In planning and performing our audit, we considered the FMSHRC's internal control over financial reporting by obtaining an understanding of the FMSHRC's internal control, determined whether internal controls had been placed in operation, assessed control risk, and performed tests of controls in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 07-04. The objective of our audit was not to provide an opinion on internal control and therefore, we do not express an opinion on internal control.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be significant deficiencies. Under standards issued by the American Institute of Certified Public Accountants and OMB Bulletin No. 07-04, a significant deficiency is a deficiency in internal control, or a combination of deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be a material weakness. A material weakness is a significant deficiency, or combination of significant deficiencies, that result in a more than remote likelihood that a material misstatement of the financial statements will not be prevented or detected. Because of inherent limitations in internal controls, misstatements, losses, or non-compliance may nevertheless occur and not be detected. However, we noted no matters involving the internal control and its operation that we considered to be significant deficiencies or material weaknesses as defined above.

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

Brown & Company

Largo, Maryland
November 12, 2009

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CERTIFIED PUBLIC ACCOUNTANTS AND MANAGEMENT CONSULTANTS

INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH LAWS AND REGULATIONS

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

We have audited the financial statements of the Federal Mine Safety and Health Review Commission (FMSHRC) as of and for the year ended September 30, 2009, and have issued our report thereon dated November 12, 2009. We conducted our audit in accordance with auditing standards generally accepted in the United States of America, and the standards applicable to financial audits contained in *U.S. Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements.*

The management of the FMSHRC is responsible for complying with laws and regulations applicable to the FMSHRC. As part of obtaining reasonable assurance about whether the FMSHRC's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain other laws and regulations specified in OMB Bulletin No. 07-04. We limited our tests of compliance to these provisions and we did not test compliance with all laws and regulations applicable to the FMSHRC.

The results of our tests of compliance disclosed no reportable instances of noncompliance with other laws and regulations discussed in the preceding paragraph that are required to be reported under *U.S. Government Auditing Standards* or OMB Bulletin No. 07-04.

Providing an opinion on compliance with certain provisions of laws and regulations was not an objective of our audit, and, accordingly, we do not express such an opinion. However, we noted no noncompliance with laws and regulations, which could have a direct and material effect on the determination of financial statement amounts.

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

Brown & Company

Largo, Maryland
November 12, 2009

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FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
BALANCE SHEET
AS OF SEPTEMBER 30, 2009 AND 2008
(In Dollars)

		2009		2008
Assets:				
Intragovernmental:				
Fund Balance With Treasury (Note 2)	$	3,019,141	$	3,798,259
Total Intragovernmental		3,019,141		3,798,259
Accounts Receivable (Note 3)		340		-
General Property, Plant and Equipment, Net (Note 4)		111,179		81,357
Total Assets	$	3,130,660	$	3,879,616
Liabilities:				
Intragovernmental:				
Accounts Payable	$	-	$	2,094
Other (Note 6)		47,193		39,607
Total Intragovernmental		47,193		41,701
Accounts Payable		81,201		150,755
Other (Note 6)		521,044		513,377
Total Liabilities	$	649,438	$	705,833
Net Position:				
Unexpended Appropriations - Other Funds	$	2,645,321	$	3,392,425
Cumulative Results of Operations - Other Funds		(164,099)		(218,642)
Total Net Position	$	2,481,222	$	3,173,783
Total Liabilities and Net Position	$	3,130,660	$	3,879,616

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

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
STATEMENT OF NET COST
FOR THE YEARS ENDED SEPTEMBER 30, 2009 AND 2008
(In Dollars)

		2009		2008
Program Costs:				
Commission Review				
Gross Costs (Note 8)	$	4,733,967	$	4,313,028
Net Program Costs	$	4,733,967	$	4,313,028
Other Programs:				
Administrative Law Judge Determinations				
Gross Costs (Note 8)	$	4,159,081	$	4,040,188
Net Program Costs	$	4,159,081	$	4,040,188
Net Cost of Operations	$	8,893,048	$	8,353,216

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

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
STATEMENT OF CHANGES IN NET POSITION
FOR THE YEARS ENDED SEPTEMBER 30, 2009 AND 2008
(In Dollars)

		2009		2008
Cumulative Results of Operations:				
Beginning Balances	$	(218,642)	$	(207,051)
Budgetary Financing Sources:				
Appropriations Used		8,495,515		7,936,929
Other Financing Sources (Non-Exchange):				
Imputed Financing Sources		452,076		404,696
Total Financing Sources		8,947,591		8,341,625
Net Cost of Operations		8,893,048		8,353,216
Net Change		54,543		(11,591)
Cumulative Results of Operations	$	(164,099)	$	(218,642)
Unexpended Appropriations:				
Beginning Balances	$	3,392,425	$	4,427,549
Budgetary Financing Sources:				
Appropriations Received		8,653,000		8,096,000
Other Adjustments		(904,589)		(1,194,195)
Appropriations Used		(8,495,515)		(7,936,929)
Total Budgetary Financing Sources		(747,104)		(1,035,124)
Total Unexpended Appropriations	$	2,645,321	$	3,392,425
Net Position	$	2,481,222	$	3,173,783

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

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
STATEMENT OF BUDGETARY RESOURCES
FOR THE YEARS ENDED SEPTEMBER 30, 2009 AND 2008
(In Dollars)

	2009	2008
Budgetary Resources:		
Unobligated Balance:		
Unobligated Balance Brought Forward, October 1	$ 2,921,486	$ 3,386,498
Recoveries of Prior Year Unpaid Obligations	24,313	420,365
Budget Authority		
Appropriation	8,653,000	8,096,000
Less: Permanently Not Available	904,589	1,194,195
Total Budgetary Resources	$ 10,694,210	$ 10,708,668
Status of Budgetary Resources:		
Obligations Incurred		
Direct	$ 8,759,964	$ 7,787,182
Unobligated Balance		
Apportioned	25,615	358,031
Unobligated Balance Not Available	1,908,631	2,563,455
Total Status of Budgetary Resources	$ 10,694,210	$ 10,708,668
Change in Obligated Balance:		
Obligated Balance, Net		
Unpaid Obligations, Brought Forward, October 1	$ 876,773	$ 1,313,227
Obligations Incurred Net	8,759,964	7,787,182
Less: Gross Outlays	8,527,529	7,803,270
Less: Recoveries of Prior Year Unpaid		
Obligations, Actual	24,313	420,365
Obligated Balance, Net, End of Period		
Unpaid obligations	1,084,895	876,773
Total, Unpaid Obligated Balance, Net, End of Period	$ 1,084,895	$ 876,773
Net Outlays:		
Net Outlays:		
Gross Outlays	$ 8,527,529	$ 7,803,270
Net Outlays	$ 8,527,529	$ 7,803,270

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

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

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Reporting Entity

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

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

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

MSC has rights and ownership of all assets reported in these financial statements. We do not possess any non-entity assets.

B. Basis of Presentation

The financial statements have been prepared to report the financial position, net cost of operations, changes in net position, and the status and availability of budgetary resources of MSC. The statements are a requirement of the Chief Financial Officers Act of 1990, the Government Management Reform Act of 1994 and the Accountability of Tax Dollars Act of 2002. They have been prepared from, and are fully supported by, the books and records of MSC in accordance with the hierarchy of accounting principles generally accepted in the United States of America, standards approved by the principals of the Federal Accounting Standards Advisory Board (FASAB), OMB Circular A-136, *Financial Reporting Requirements* and MSC accounting policies which are summarized in this note. These statements, with the exception of the Statement of Budgetary Resources, are different from financial management reports, which are also prepared pursuant to OMB directives that are used to monitor and control MSC's use of budgetary resources.

C. Budgets and Budgetary Accounting

Congress usually enacts appropriations to permit MSC to incur obligations for specified purposes. In fiscal years 2009 and 2008, we were accountable for General Fund appropriations. We recognize budgetary resources as assets when cash (funds held by the U.S. Treasury) is made available through the Department of Treasury General Fund warrants.

D. Basis of Accounting

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

E. Revenues & Other Financing Sources

Congress enacts annual appropriations to be used, within statutory limits, for operating and capital expenditures. Appropriations are recognized as a financing source when expended.

We recognize as an imputed financing source the amount of accrued pension and post-retirement benefit expenses for current employees paid on our behalf by the Office of Personnel Management (OPM).

F. Taxes

MSC, as a Federal entity, is not subject to Federal, State, or local income taxes, and, accordingly, no provision for income taxes has been recorded in the accompanying financial statements.

G. Fund Balance with Treasury

The U.S. Treasury processes cash receipts and disbursements. Funds held at the Treasury are available to pay agency liabilities. MSC does not maintain cash in commercial bank accounts or foreign currency balances. Foreign currency payments are made either by Treasury or the Department of State and are reported by MSC in the U.S. dollar equivalents.

H. Accounts Receivable

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

I. Property, Equipment, and Software

Property, equipment and software represent furniture, fixtures, equipment, and information technology hardware and software which are recorded at original acquisition cost and are depreciated or amortized using the straight-line method over their estimated useful lives. Major alterations and renovations are capitalized, while maintenance and repair costs are charged to expense as incurred. MSC's capitalization threshold is $50,000 for individual purchases and $500,000 for bulk purchases. Applicable standard governmental guidelines regulate the disposal and convertibility of agency property, equipment, and software. The useful life classifications for capitalized assets are as follows: Leasehold Improvements is the period of the lease, and Office Equipment is 5 years.

J. Advances and Prepaid Charges

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

K. Liabilities

Liabilities represent the amount of monies or other resources likely to be paid by the MSC as a result of transactions or events that have already occurred. No liability can be paid, however, absent an appropriation or other funding. Liabilities for which an appropriation has not been enacted or other funds received are, therefore, classified as not covered by budgetary resources. There is no certainty that the appropriation will be enacted. Additionally, the Government, acting in its sovereign capacity, can abrogate liabilities. Liabilities not covered by budgetary resources on the Balance Sheet are equivalent to amounts reported as components requiring or generating resources on the Reconciliation of Net Cost to Budget.

L. Accounts Payable

Accounts payable consists primarily of amounts owed to other Federal agencies and the public for contracts for goods or services, such as leases, utilities, telecommunications and consulting and support services.

M. Annual, Sick, and Other Leave

Annual leave is accrued as it is earned, and the accrual is reduced as leave is taken. The balance in the accrued leave account is adjusted to reflect current pay rates. Liabilities associated with other types of vested leave, including compensatory, restored leave, and sick leave in certain circumstances, are accrued at year-end, based on latest pay rates and unused hours of leave. Funding will be obtained from future financing sources to the extent that current or prior year appropriations are not available to fund annual and other types of vested leave earned but not taken. Nonvested leave is expensed when used. Any liability for sick leave that is accrued but not taken by a Civil Service Retirement System (CSRS)-covered employee is transferred to the Office of Personnel Management upon the retirement of that individual. No credit is given for sick leave balances upon the retirement of Federal Employees Retirement System (FERS)-covered employees.

N. Retirement Plans

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

FERS went into effect on January 1, 1987. FERS and Social Security automatically cover most employees hired after December 31, 1983. Employees hired prior to January 1, 1984 elected to join either FERS and Social Security, or remain in CSRS. FERS offers a savings plan to which MSC automatically contributes one percent of pay and matches any employee contribution up to an additional four percent of pay. For FERS participants, MSC also contributes the employer's matching share of Social Security.

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

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

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

O. Use of Estimates

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

P. Imputed Costs/Financing Sources

Federal Government entities often receive goods and services from other Federal Government entities without reimbursing the providing entity for all the related costs. In addition, Federal Government entities also incur costs that are paid in total or in part by other entities. An imputed financing source is recognized by the receiving entity for costs that are paid by other entities. MSC recognized imputed costs and financing sources in fiscal years 2009 and 2008 to the extent directed by OMB.

Q. Expired Accounts and Cancelled Authority

Unless otherwise specified by law, annual authority expires for incurring new obligations at the beginning of the subsequent fiscal year. The account in which the annual authority is placed is called the expired account. For five fiscal years, the expired account is available for expenditure to liquidate valid obligations incurred during the unexpired period. Adjustments are allowed to increase or decrease valid obligations incurred during the unexpired period but not previously reported. At the end of the fifth expired year, the expired account is cancelled.

NOTE 2. FUND BALANCE WITH TREASURY

Fund balance with Treasury account balances as of September 30, 2009 and 2008 were as follows:

Fund Balances:

		2009		2008
Appropriated Funds	$	3,019,141	$	3,798,259
Total	$	3,019,141	$	3,798,259

Status of Fund Balance with Treasury:

		2009		2008
Unobligated Balance				
Available	$	25,615	$	358,031
Unavailable		1,908,631		2,563,455
Obligated Balance Not Yet Disbursed		1,084,895		876,773
Total	$	3,019,141	$	3,798,259

NOTE 3. ACCOUNTS RECEIVABLE

Accounts receivable balances as of September 30, 2009 and 2008 were as follows:

		2009		2008
With the Public				
Accounts Receivable - Employee	$	340	$	-
Total Accounts Receivable	$	340	$	-

Historical experience has indicated that the majority of the receivables are collectible. There are no material uncollectible accounts as of September 30, 2009 and 2008.

NOTE 4. PROPERTY, EQUIPMENT, AND SOFTWARE

Property, equipment, and software account balances as of September 30, 2009 and 2008 were as follows:

Schedule of Property, Equipment, and Software as of September 30, 2009

Major Class	Acquisition Cost	Accumulated Amortization/ Depreciation	Net Book Value
Leasehold Improvements	$ 120,123	$ 26,829	$ 93,294
Furniture & Equipment	99,597	81,712	17,885
Total	$ 219,720	$ 108,541	$ 111,179

Schedule of Property, Equipment, and Software as of September 30, 2008

Major Class	Acquisition Cost	Accumulated Amortization/ Depreciation	Net Book Value
Leasehold Improvements	$ 54,441	$ 10,888	$ 43,553
Furniture & Equipment	99,597	61,793	37,804
Total	$ 154,038	$ 72,681	$ 81,357

NOTE 5. LIABILITIES NOT COVERED BY BUDGETARY RESOURCES

The liabilities on MSC's Balance Sheet as of September 30, 2009 and 2008, include liabilities not covered by budgetary resources. Congressional action is needed before budgetary resources can be provided. Although future appropriations to fund these liabilities are likely and anticipated, it is not certain that appropriations will be enacted to fund these liabilities.

	2009	2008
Annual Leave	$ 275,618	$ 299,998
Total Liabilities	$ 275,618	$ 299,998

NOTE 6. OTHER LIABILITIES

All Other Liabilities are considered current liabilities.

	2009		2008	
Intragovernmental Liabilities				
Payroll Taxes Payable	$	47,193	$	39,607
Total Intragovernmental Liabilities	$	47,193	$	39,607

	2009		2008	
With the Public				
Payroll Taxes Payable	$	12,547	$	6,673
Accrued Funded Payroll and Leave		232,879		206,706
Unfunded Annual Leave		275,618		299,998
Total Public Liabilities	$	521,044	$	513,377

NOTE 7. LEASES

Operating Leases

MSC occupies office space under a lease agreement that is accounted for as an operating lease. The lease term began on October 1, 2002 and expires on October 1, 2012. Lease payments are increased annually based on the adjustments for operating cost and real estate tax escalations. The total operating lease expense for Fiscal Years 2009 and 2008 were $1,262,434 and $1,302,602, respectively. Below is a schedule of future payments for the term of the lease.

Fiscal Year	Building	
2010	$	1,311,542
2011		1,337,542
2012		1,364,040
Total Future Payments	$	4,013,124

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

NOTE 8. INTRAGOVERNMENTAL COSTS AND EXCHANGE REVENUE

Intragovernmental costs and intragovernmental exchanges revenue represent goods and services exchange transactions made between two reporting entities within the Federal government, and are in contrast to those with non-federal entities (the public). Such costs and revenue are summarized as follows:

	2009	2008
Commission Review		
Intragovernmental Costs	$ 1,787,463	$ 1,580,222
Public Costs	2,946,504	2,732,806
Net Program Costs	4,733,967	4,313,028
Administrative Law Judge Determinations		
Intragovernmental Costs	1,560,562	1,508,721
Public Costs	2,598,519	2,531,467
Net Program Costs	4,159,081	4,040,188
Total Intragovernmental costs	3,348,025	3,088,943
Total Public costs	5,545,023	5,264,273
Total Net Cost	$ 8,893,048	$ 8,353,216

NOTE 9. IMPUTED FINANCING SOURCES

MSC recognizes as imputed financing the amount of accrued pension and post-retirement benefit expenses for current employees. The assets and liabilities associated with such benefits are the responsibility of the administering agency, the Office of Personnel Management (OPM). For the fiscal years ended September 30, 2009 and 2008, respectively, imputed financing was as follows.

	2009	2008
Office of Personnel Management	$ 452,076	$ 404,696
Total Imputed Financing Sources	$ 452,076	$ 404,696

NOTE 10. BUDGETARY RESOURCE COMPARISONS TO THE BUDGET OF THE UNITED STATES GOVERNMENT

The President's Budget that will include FY09 actual budgetary execution information has not yet been published. The President's Budget is scheduled for publication in February 2010 and can be found at the OMB Web site: http://www.whitehouse.gov/omb/. The 2010 Budget of the United States Government, with the Actual column completed for 2008, has been reconciled to the Statement of Budgetary Resources and there were no material differences.

NOTE 11. APPORTIONMENT CATEGORIES OF OBLIGATIONS INCURRED

Obligations incurred and reported in the Statement of Budgetary Resources in 2009 and 2008 consisted of the following:

		2009		2008
Direct Obligations, Category A	$	8,759,964	$	7,787,182
Total Obligations Incurred	$	8,759,964	$	7,787,182

NOTE 12. UNDELIVERED ORDERS AT THE END OF THE PERIOD

Statement of Federal Financial Accounting Standards No. 7, Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting, states that the amount of budgetary resources obligated for undelivered orders at the end of the period should be disclosed. For the fiscal years ended September 30, 2009 and 2008, undelivered orders amounted to $711,074 and $470,938 respectively.

NOTE 13. CUSTODIAL ACTIVITY

MSC's custodial collection primarily consists of Freedom of Information Act requests. While these collections are considered custodial, they are neither primary to the mission of MSC nor material to the overall financial statements. MSC's total custodial collections are $115 and $21 for the fiscal years ended September 30, 2009, and 2008, respectively.

NOTE 14. RECONCILIATION OF NET COST OF OPERATIONS TO BUDGET

MSC has reconciled its budgetary obligations and non-budgetary resources available to its net cost of operations.

	2009	2008
Resources Used to Finance Activities		
Budgetary Resources Obligated		
Obligations Incurred	$ 8,759,964	$ 7,787,182
Less: Spending Authority from Offsetting Collections and Recoveries	24,313	420,365
Obligations Net of Offsetting Collections and Recoveries	8,735,651	7,366,817
Other Resources		
Imputed Financing from Costs Absorbed by Others	452,076	404,696
Net Other Resources Used to Finance Activities	452,076	404,696
Total Resources Used to Finance Activities	9,187,727	7,771,513
Resources Used to Finance Items Not Part of the Net Cost of Operations		
Change in Budgetary Resources Obligated for Goods, Services and Benefits Ordered But Not Yet Provided	240,136	(570,113)
Resources That Fund Expenses Recognized in Prior Periods	24,380	-
Resources That Finance the Acquisition of Assets	65,683	54,441
Total Resources Used to Finance Items Not Part of the Net Cost of Operations	330,199	(515,672)
Total Resources Used to Finance the Net Cost of Operations	8,857,528	8,287,185
Components of the Net Cost of Operations That Will Not Require or Generate Resources in the Current Period		
Components Requiring or Generating Resources in Future Periods		
Increase in Annual Leave Liability	-	35,223
Total Components of Net Cost of Operations That will Require or Generate Resources in Future Periods	-	35,223
Components Not Requiring or Generating Resources		
Depreciation and Amortization	35,860	30,808
Other	(340)	-
Total Components of Net Cost of Operations That will not Require or Generate Resources	35,520	30,808
Total Components of Net Cost of Operations That will not Require or Generate Resources in the Current Period	35,520	66,031
Net Cost of Operations	$ 8,893,048	$ 8,353,216