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Office of Inspector General,  
Equal Employment Opportunity Commission,  
Fair Employment Practices Agencies Evaluation  
(OIG No. 2023-003-EOIG)

**FINAL REPORT**

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*Submitted by*



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## List of Abbreviations/Acronyms

<b>ARC</b>	Agency Records Center
<b>CFR</b>	Code of Federal Regulations
<b>EEOC</b>	Equal Employment Opportunity Commission
<b>EEOC HQ</b>	EEOC Headquarters (to include OFP)
<b>FEPA/FEPA's</b>	Fair Employment Practices Agencies
<b>HQ</b>	Headquarters
<b>HQ SLTP</b>	Headquarters State, Local, and Tribal Programs
<b>OFP</b>	Office of Field Programs
<b>OIG</b>	Office of Inspector General
<b>OIT</b>	Office of Information Technology
<b>RFI</b>	Request for Information
<b>SLTP</b>	State, Local, and Tribal Programs
<b>SLTP C/Ms</b>	State, Local, and Tribal Programs Coordinators/Managers
<b>SPSS</b>	Statistical Package for the Social Sciences
<b>SWR</b>	Substantial Weight Review
<b>TAR/TARs</b>	Technical Assistance Review(s)
<b>TER</b>	Targeted Equitable Relief
<b>TERO</b>	Tribal Employment Rights Ordinance or Office
<b>WSA</b>	Work Sharing Agreement

# EXECUTIVE SUMMARY

## Overview of Evaluation

The Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee. Many states and localities have laws prohibiting employment discrimination and have their own agencies responsible for enforcing those laws. These agencies are often referred to as Fair Employment Practices Agencies (FEPA/FEPAs). The EEOC's Office of Field Programs (OFP) manages the State, Local, and Tribal Programs (SLTP) that provide oversight of employment discrimination cases handled by FEPAs to ensure that EEOC standards are met for those cases.

The EEOC contracts with FEPAs for the acceptable intake and resolution of employment discrimination charges for which both EEOC and FEPAs have jurisdiction. The charging party only needs to file with one agency to have their federal and state/local rights preserved. This avoids duplication of efforts for both agencies and helps to ensure an efficient, effective, and coordinated civil rights law enforcement program, and to achieve expeditious, high-quality resolutions of employment discrimination charges.

Commissioned by the Office of Inspector General (OIG), this evaluation focused on the EEOC and its management of FEPA Program activities. The evaluation objectives were to describe and assess multiple interconnected aspects of the EEOC's management and oversight of the FEPAs. To this end, the evaluation was guided by four overarching evaluation questions, which are presented alongside the conclusions in the section below.

Four primary data collection methods were employed to answer the evaluation questions and support development of the evaluation findings, conclusions, and recommendations: (1) document review, (2) surveys of EEOC and FEPA participants, (3) qualitative interviews with EEOC and FEPA participants, and (4) focus groups with EEOC participants. All 14 EEOC District Offices with FEPAs (and 1 Field Office) were represented in the evaluation.

The OIG shared a draft of this evaluation report with the EEOC to solicit comments. In their response on August 6, 2024 (see Appendix Section C), the agency agreed to all recommendations. The agency also suggested minor changes to the report to improve clarity. In response, Clarus Research made minor edits to the report, none of which required changes to the findings, conclusions, or recommendations.

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## Conclusions

### 1. Does EEOC effectively certify and reevaluation FEPAs?

Overall, EEOC effectively certifies FEPAs. EEOC staff's understanding of the review process is consistent with guidance in the SLTP Handbook, and certification process requirements generally occur as intended when non-certified FEPAs express interest in certification. There is a need for transparent and timely communication with FEPAs for addressing certification inquiries, which could minimize inefficiencies in EEOC staff time related to Substantial Weight Review (SWR) requirements.

Reevaluation of certified FEPAs is occurring, although it is difficult to assess whether or how often reevaluation occurs *as intended* because of the inconsistent descriptions of the reevaluation process. There is a need for the EEOC to clearly and comprehensively define the reevaluation process and to achieve consistent understanding of the process across EEOC and FEPA staff, including tools, mechanisms, and timelines for reevaluation.

### 2. Does EEOC establish, meet, and manage performance goals and metrics of FEPA program activities?

The EEOC has established performance expectations for FEPA Program activities. However, the EEOC has not clearly labeled them as “performance goals and metrics” so that they are uniformly understood and communicated as such by EEOC and FEPA staff. FEPA Program performance is managed by EEOC staff using various tools and processes, including regular conversations about target numbers of intakes and charge resolutions for each FEPA, as well as SWR processes and results. Utilizing performance data helps the EEOC and FEPAs collaboratively meet annual EEOC performance goals related to charge resolutions. However, the EEOC could improve tools and mechanisms (in particular, the availability and accuracy of performance data in EEOC's case management system, the Agency Records Center [ARC]). Such improvement could help the EEOC more accurately assess and manage the degree to which case quality, timeliness, and completeness goals are met by the FEPA Program.

### 3. Does EEOC provide effective oversight of FEPA case quality?

The SWR, as a primary method for monitoring case quality, is accepted by both the EEOC and FEPAs as a fair and appropriate set of standards for FEPA case quality. Both EEOC and FEPA staff report that SWR is being conducted as expected. However, the extent to which SWR is occurring and the results of SWR could not be independently verified in this evaluation. This lack of information could make effective oversight difficult to achieve. Specifically, ARC's inability to provide data on the completion and results of SWR means there is limited, systematic information about case quality to utilize in the oversight of case quality. There is a need to better leverage

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existing tools such as ARC, as well as mechanisms such as high quality training for both EEOC and FEPA staff, to promote effective oversight.

#### **4. Does EEOC establish and maintain effective relationships/coordination with the FEPAs?**


The EEOC has established effective relationships and coordination with the FEPAs through key mechanisms such as consistent and timely communication, collaboration, training, and technical assistance. The EEOC shines in this area and effectively utilizes these mechanisms to achieve cooperation from FEPAs to help support mutual goals.

### **Recommendations**

Based on evaluation findings presented in the Evaluation Report (pages 1-16), we offer the following actionable recommendations for Fair Employment Practices Agency (FEPA) Program improvements. Although the recommendations are organized by evaluation question, they contain cross-cutting themes related to the need for the Equal Employment Opportunity Commission (EEOC) to clarify and/or develop processes, plan and provide training, solicit input from FEPAs, and communicate clearly and consistently with FEPAs.

The Office of Field Programs (OFP) should:

1. Review and update processes and procedures for communicating and working with FEPAs that inquire about certification. This includes the processes and procedures for new certification inquiries from non-certified FEPAs, as well as inquiries from certified FEPAs concerning problems with their certification status.
2. Review and update processes, procedures, and tools for reevaluating certified FEPAs. Specify and/or clarify: (a) the timeline for reevaluation, (b) required tool(s) and/or mechanism(s) for reevaluation, (c) Headquarters (HQ) State, Local, and Tribal (SLTP) roles and responsibilities for conducting or contributing to the process of reevaluation, and (d) the purpose of technical assistance reviews (TARs) and how they formally relate (or not) to the process of reevaluation.
3. Clearly describe and label FEPA Program performance goals and metrics in the SLTP Handbook.
4. Provide standardized onboarding and refresher training to SLTP Coordinators/Managers (C/Ms) to ensure more consistent practices across District Offices. Include training on practices to utilize performance goals and metrics for oversight and management of FEPA case quality.
5. Work with the Office of Information Technology (OIT) to generate more useful reports from the Agency Records Center (ARC) that are needed to monitor performance.

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6. Reinforce Substantial Weight Review (SWR) as the primary tool and method for case quality oversight by: (a) documenting in the SLTP Handbook how SWR is utilized to ensure case quality, and (b) training both SLTP and FEPA staff on SWR processes and criteria to ultimately improve case quality.
  7. Improve the feedback loop for TARs to include written documentation of findings that are shared with FEPAs, EEOC District Directors, and SLTP C/Ms for continuous quality improvement and learning.
  8. Improve SLTP's current mixed-modality training for the FEPA Program to address training needs for both EEOC and FEPA staff. Include an "on demand" digital training video library that provides FEPAs with open access to foundational training content.



# EVALUATION REPORT

## Evaluation Purpose & Evaluation Questions

The Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy, sexual orientation, and gender identify), national origin, age (40 or older), disability, or genetic information. It is also illegal to discriminate against a person because a person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. Many states and localities have their own laws prohibiting employment discrimination and have their own agencies responsible for enforcing those laws. These agencies are often referred to as Fair Employment Practices Agencies (FEPA/FEPAs).

The EEOC's Office of Field Programs (OFFP) manages the State, Local, and Tribal Programs (SLTP) that provide oversight of employment discrimination cases handled by FEPAs to ensure that EEOC standards are met for those cases. The EEOC contracts with FEPAs for intake and resolution of employment discrimination charges for which both EEOC and FEPAs have jurisdiction. The charging party only needs to file with one agency to have their federal and state/local rights preserved. This avoids duplication of efforts for both agencies and helps to ensure an efficient, effective, and coordinated civil rights law enforcement program, and to achieve expeditious, high-quality<sup>1</sup> resolutions of employment discrimination charges.<sup>2</sup>


This evaluation was commissioned by the Office of Inspector General (OIG) and focused on the EEOC and its management of activities by FEPAs. The evaluation purpose was to examine key aspects of the EEOC's management of FEPA activities to help improve the efficiency and effectiveness of mission-critical programs operating under the EEOC. To this end, the evaluation was guided by four overarching questions:

- 1. Does EEOC effectively certify and reevaluate FEPAs?**
- 2. Does EEOC establish, meet, and manage performance goals and metrics of FEPA program activities?**
- 3. Does EEOC provide effective oversight of FEPA case quality?**
- 4. Does EEOC establish and maintain effective relationships/coordination with the FEPAs?**

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<sup>1</sup> "High-quality" refers to the quality of case work (herein referred to as "case quality") as determined by EEOC's in-depth review of case work completed by FEPAs through the Substantial Weight Review (SWR) process. Performing a SWR includes analysis of the extent to which "procedural and jurisdictional requirements were met, whether the standards of proof were correctly applied, and whether the FEPA appropriately resolved the case" (p. 36 of SLTP Handbook).

<sup>2</sup> Taken from pages 66 and 154 in the 2023 SLTP Handbook.



The evaluation objectives were to describe and assess multiple interconnected aspects of the EEOC’s management and oversight of the FEPAs. The evaluation was designed to learn the following:

- The extent to which certification and reevaluation processes occur as intended.
- Whether FEPA performance metrics exist, are appropriate, and are utilized for data-driven decision making.
- The degree to which case quality standards are met.
- The degree and quality of coordination and cooperation between the EEOC and FEPAs.
- The factors that facilitate and hinder all the above.

## Methods

We employed a mixed-methods, non-experimental, and cross-sectional design for the evaluation.<sup>3</sup> Our evaluation design incorporated multiple quantitative and qualitative methods to gain a comprehensive understanding of the evaluation topic using data across multiple sources and participants. The evaluation examined practice over the five-year period between 2018 and 2023. During this period, FEPA management practices and activities were guided by the 2018-2022 EEOC Strategic Plan. Understanding how EEOC functioned relative to the standards of the 2018-2022 EEOC Strategic Plan period was vital for answering the evaluation questions. In light of the recent approval of and transition to a new 2022-2026 EEOC Strategic Plan, it also was useful to analyze how our retrospective evaluation findings on the oversight of the FEPA Program compared to the new standards of practice in the 2022-2026 EEOC Strategic Plan.

Four primary data collection methods were employed to answer the evaluation questions and support development of the evaluation findings, conclusions, and recommendations: (1) document review, (2) surveys of EEOC and FEPA participants, (3) qualitative interviews with EEOC and FEPA participants, and (4) focus groups with EEOC participants. All 14 EEOC District Offices with FEPAs (and 1 Field Office) were represented in the evaluation. In this report, those who participated in the evaluation are referred to as “evaluation participants.” Detailed information of data sources, data collection procedures, response rates, representation, and data analysis are provided in Appendix Section A. An explanation of rules applied for reporting quantitative findings is also provided in Appendix Section A.

The OIG shared a draft of this evaluation report with the EEOC to solicit comments. In their response on August 6, 2024 (see Appendix Section C), the agency agreed to all recommendations. The agency also suggested minor changes to the report to improve clarity. In response, Clarus Research made minor edits to the report, none of which required changes to the findings, conclusions, or recommendations.

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<sup>3</sup> The evaluation design combined quantitative and qualitative methods (mixed methods), did not use any experimental designs (non-experimental), and examined a point in time (cross sectional) as described in the report.

## Findings & Conclusions by Evaluation Question

In this section, we present the findings and conclusions for the four evaluation questions provided by the OIG. More detailed information related to each finding can be found in Appendix Section B, including detailed tables of survey results, as well as quotes from interviews, focus groups, and open-ended survey items. These details further explain the evaluation conclusions and recommendations and may be particularly useful for FEPA Program leadership and managers in helping to inform their strategies for implementing the recommendations.

### 1. Does EEOC effectively certify and reevaluate FEPAs?

#### Findings: Certification

The EEOC's purpose for certifying designated<sup>4</sup> FEPAs is to ensure that FEPAs consistently meet EEOC's standard for case quality. According to the 2023 SLTP Handbook, only designated FEPAs for which Substantial Weight Review (SWR)<sup>5</sup> has been conducted on 100% of their cases by SLTP Coordinators/Managers<sup>6</sup> (C/Ms) for four years are eligible to undergo the certification process. When a designated FEPA requests to undergo the certification process, SLTP staff at Headquarters (HQ SLTP) complete another review of 100% of the FEPA's cases for a year to ensure the FEPA is providing a quality product. From that point forward, SLTP C/Ms must review at least 10% (versus 100%) of the certified FEPA's cases per the SLTP Handbook. Therefore, certification also serves the purpose of more efficient oversight of FEPA case quality by the EEOC. Interviews and focus groups with evaluation participants indicate that EEOC staff understand and follow these certification review procedures and requirements.

A total of 80 out of 90 FEPAs (or 89%) that the EEOC currently works with (i.e., has a contract and Work Sharing Agreement [WSA] to allow for dual filing by both agencies) are certified. The remaining 10 (or 11%) are designated FEPAs that are not certified.<sup>7</sup> Among those certified, most (65 or 81%) were certified decades ago in the 1980s, and the remaining (15 or 29%) were certified between 1994-2018.

Both EEOC and FEPA evaluation participants reported lack of timeliness and transparency when EEOC responds to FEPAs that inquire about certification and/or errors related to their certification status. This lack of timeliness and transparency can create inefficiencies in EEOC staff time because they must conduct SWR on 100% of cases for non-certified FEPAs. For more detailed findings on certification, see Appendix Section B-1a.

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<sup>4</sup> A designated FEPA is defined in the SLTP Handbook. In brief, it is an agency that practices fair employment law and has the *authority* to grant relief, seek relief, or institute criminal proceedings.

<sup>5</sup> SWR is EEOC's in-depth review of case work completed by FEPAs. Performing a SWR includes analysis of the extent to which "procedural and jurisdictional requirements were met, whether the standards of proof were correctly applied, and whether the FEPA appropriately resolved the case" (p. 36 of SLTP Handbook).

<sup>6</sup> The SLTP Handbook uses the job title, SLTP Coordinators/Managers. It does not distinguish roles and functions between coordinators and managers.

<sup>7</sup> The EEOC-FEPA relationship is voluntary. FEPAs may choose not to be certified.

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## Conclusions: Certification

Overall, EEOC effectively certifies FEPAs. EEOC staff's understanding of the review process is consistent with guidance in the SLTP Handbook, and certification process requirements generally occur as intended when non-certified FEPAs express interest in certification. There is a need for transparent and timely communication with FEPAs for addressing certification inquiries, which could minimize inefficiencies in EEOC staff time related to SWR requirements.

## Findings: Reevaluation

Reevaluation is a process of reassessing the certification status and eligibility of certified FEPAs. The SLTP Handbook's statement that each certified FEPA *may* be reviewed at least once every three years suggests flexibility in the occurrence and/or frequency of reevaluation of certified FEPAs. This contributes to the wide variation in EEOC and FEPA staff reports and understanding of exactly how often reevaluation occurs. For example, 6 out of 24 (or 25%) EEOC survey participants and 12 out of 52 (or 23%) FEPA survey participants did not think or were not sure that reevaluation occurred every 3 years. Moreover, the process – the *how and the mechanisms* – of reevaluation is not clearly specified in the SLTP Handbook and Code for Federal Regulations (CFR). This may help to explain why evaluation participants varied in their descriptions and perceptions of what the reevaluation process entails.

Responses from both EEOC and FEPA evaluation participants reflected inconsistent understanding of the process, mechanisms, and tools for how reevaluation occurs. Furthermore, the SLTP Handbook describes technical assistance reviews (TARs) in the same section under reevaluation of certified FEPAs. However, while more details on the methods and procedures for TARs are provided in the SLTP Handbook, how they differ, if at all, from the reevaluation process is not made clear. This helps to explain why interview and focus group participants had varying opinions about whether or how TARs were part of the reevaluation process.

Some evaluation participants questioned whether “rubber stamping” occurs during the reevaluation process. To address such concerns, current SLTP leadership has taken several steps to “upgrade and update” the FEPA Program. Evaluation participants have noticed these recent changes and generally consider them to be improvements. While improvements to reevaluation were reported, survey, interview, and focus group participants also identified challenges to the reevaluation process. Evaluation participants commonly cited EEOC staff capacity (in particular, not having an adequate number of staff at HQ SLTP or in the EEOC District Offices) as a challenge to effectively reevaluating certified FEPAs every three years. The magnitude of the staffing challenge depends on precisely how the reevaluation process is defined which, as noted previously, is not clear. For more detailed findings on reevaluation of certified FEPAs, see Appendix Section B-1b.

## Conclusions: Reevaluation

Reevaluation of certified FEPAs is occurring, although it is difficult to assess whether or how often reevaluation occurs *as intended* because of the inconsistent

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descriptions of the reevaluation process. There is a need for the EEOC to clearly and comprehensively define the reevaluation process and to achieve consistent understanding of the process across EEOC and FEPA staff, including tools, mechanisms, and timelines for reevaluation.

## **2. Does EEOC establish, meet, and manage performance goals and metrics of FEPA program activities?**

### **Findings: Performance Goals & Metrics**

#### *Establishing Performance Goals and Metrics*

Evaluation participants were mixed in their respective understanding of whether performance goals and metrics were established. For example, 9 out of 23 (or 40%) EEOC survey participants indicated being unsure whether performance goals and metrics had been established or thought that they had been established to a small extent. But 14 out of 23 (61%) EEOC survey participants and 47 out of 54 (87%) FEPA survey participants reported that FEPA performance goals and metrics had been established “to a moderate or large extent.”<sup>8</sup>

EEOC interview and focus group participants explained that SLTP does not communicate with their FEPA partners by formally referencing performance goals and metrics. In other words, nowhere in the guidance provided to FEPAs from EEOC, including FEPA contracts, are the terms, “performance goals and metrics,” explicitly stated. Despite this, we found from multiple sources of data that the SLTP has established the following: (1) quantitative performance goals, namely, the number of intakes and investigations processed annually (and documented in the contract), and (2) case quality goals, namely, criteria for SWRs and for receiving contract credit (i.e., quality, timeliness, and completeness of case work).

Evaluation participants reported appreciating that these metrics set clear expectations and are helpful for FEPAs. They also voiced appreciation that these expectations are neither overly prescriptive nor onerous for FEPAs and that there is flexibility. Several evaluation participants also perceived that EEOC’s approach to performance metrics is appropriate and in keeping with the collaborative and symbiotic nature of the EEOC-FEPA relationship.

#### *Managing Performance Goals and Metrics*

The EEOC monitors performance using tools and tracking mechanisms such as WSAs, SWRs, and the Agency Records Center (ARC). The ARC, which is the EEOC’s case management system developed by the Office of Information Technology (OIT), is where FEPAs enter case-related information and request contract credit. The EEOC also monitors performance through frequent conversations with FEPAs about performance and capacity. For example, EEOC workflow management decisions are made periodically throughout the year by monitoring whether FEPAs are on track to

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<sup>8</sup> Response categories (e.g., to a small extent) in surveys are presented in quotes.

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meet their WSA and contract numbers (i.e., number of intakes and investigations<sup>9</sup> the FEPA agrees to complete in the WSA). Multiple conversations can occur between the EEOC and FEPAs throughout the year focused on whether FEPAs will be able to meet the expected number of cases documented in their WSA. This is an important opportunity for negotiation between the agencies that exemplifies flexibility and collaboration in the process. Modifications can be made, as needed, according to the capacity of FEPAs to meet the number of cases in their contract. Tracking this performance information and communicating about it frequently helps HQ SLTP manage workflow across all FEPAs to reach the FEPA Program goal for the number of charge resolutions annually.

Although the EEOC utilizes performance data for management purposes, evaluation participants reported important limitations impeding EEOC's ability to be most effective in their oversight and management of performance. Staff at HQ SLTP are unable to reliably assess using ARC whether the requisite SWRs are being conducted and completed. Further, SLTP cannot use information from ARC to determine how often SLTP and FEPA staff must reprocess and re-review cases for which substantial weight cannot initially be recorded and/or for those that are not initially accepted for credit for other reasons.<sup>10</sup> These are important gaps in the EEOC's ability to assess – and ultimately improve – performance.

### *Meeting Performance Goals*

Due to the limitations of ARC described directly above, the extent to which case quality performance goals are effectively and efficiently met could not be independently verified through ARC for the purpose of this evaluation. In terms of determining whether FEPA Program goals for the number of charge resolutions annually are met, it was most feasible to do so by looking at the big picture across all FEPAs. This is because individual annual FEPA contract numbers can be a moving target. Based on available data from the past two years, the minimum goal for the number of charge resolutions processed by the FEPA Program has been 30,000. This number was exceeded both years (fiscal years 2021-22 and 2022-23).<sup>11</sup>

According to evaluation participants, there are several factors that influence the achievement of performance goals and metrics related to the quantity and quality of cases processed by FEPAs. Specifically, on the FEPA side, there are staffing issues, including a small number of staff at FEPA agencies, FEPA staff turnover, and the related need for continuous FEPA staff training. On the EEOC side, there are limited resources to provide training. Together, these factors present a significant gap that can challenge the FEPA Program's ability to consistently meet performance goals and expectations. For more detailed findings on performance goals and metrics, see Appendix Section B-2.

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<sup>9</sup> Evaluation participants used "investigations" and "charge resolutions" interchangeably.

<sup>10</sup> FEPAs contract with the EEOC to complete a certain number of intakes and charge resolutions. When completed, they apply for credit through ARC for payment.

<sup>11</sup> The minimum goal for the number of charge resolutions was not available prior to fiscal year 2021-22. Details are provided in Appendix Section B-2c-2.

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## Conclusions: Performance Goals & Metrics

The EEOC has established performance expectations for FEPA Program activities. However, the EEOC has not clearly labeled them as “performance goals and metrics” so that they are uniformly understood and communicated as such by EEOC and FEPA staff. FEPA Program performance is managed by EEOC staff using various tools and processes, including regular conversations about target numbers of intakes and charge resolutions for each FEPA, as well as SWR processes and results.

Utilizing performance data helps the EEOC and FEPAs collaboratively meet annual EEOC performance goals related to charge resolutions. However, the EEOC could improve tools and mechanisms (in particular, the availability and accuracy of performance data in ARC) to more accurately assess and manage the degree to which case quality, timeliness, and completeness goals are met by the FEPA Program.

### 3. Does EEOC provide effective oversight of FEPA case quality?

#### Findings: FEPA Case Quality

The Substantial Weight Review (SWR) process is EEOC’s in-depth review of cases completed by FEPAs to determine case quality. Performing a SWR includes analysis of the extent to which “procedural and jurisdictional requirements were met, whether the standards of proof were correctly applied, and whether the FEPA appropriately resolved the case” (p. 36 of SLTP Handbook). Based on interviews and focus groups with EEOC and FEPA participants, a SWR conducted by SLTP C/Ms in the field is the primary tool for assessing FEPA case quality. Based on survey responses, most EEOC and FEPA participants “agreed or strongly agreed” that the SWR process is efficient, the SWR quality standards are clearly defined and fair, the criteria for SWR are appropriate for ensuring FEPA case quality, and the percentage of cases selected for SWR is sufficient to assess quality (see Table A for more details).

However, the extent to which SWRs are being conducted per guidelines in the SLTP Handbook cannot be determined using existing information from ARC. Program Analysts at HQ SLTP also confirmed that this information has not been reliably available in ARC. Nonetheless, the SLTP Director and HQ SLTP staff reported confidence that the SWRs are being conducted in accordance with the SLTP Handbook. This confidence is based on their observations of and conversations with SLTP C/Ms about the completion of SWR. Survey responses also suggest that EEOC participants are confident that SWR is being conducted for case quality oversight. Specifically, 22 out of 22 (or 100%) EEOC participants reported that SWR is “always or often” completed in strict accordance with the SLTP Handbook.

According to interview and focus group data, several factors facilitate the process of case quality oversight and help to promote FEPA case quality. First and foremost, FEPA interview participants nearly unanimously reported that the support they receive from the EEOC, including training and technical assistance, helps them meet EEOC

standards of quality, timeliness, and completeness. Further, FEPA participants appreciate the accessibility, timely communication, and responsiveness of the SLTP C/Ms and HQ SLTP (when applicable).

<b>Table A. Level of agreement with statements about SWR*</b>			
	<b>Rating</b>	<b>EEOC Responses</b>	<b>FEPA Responses</b>
The SWR process is efficient (n=24, n=48)	Strong agree	6 (25%)	12 (25%)
	Agree	16 (67%)	30 (63%)
	Disagree	2 (8%)	6 (12%)
	Strongly disagree	0 (0%)	0 (0%)
The quality standards for SWR are clearly defined (n=24, n=47)	Strong agree	7 (29%)	13 (28%)
	Agree	14 (58%)	26 (55%)
	Disagree	2 (8%)	8 (17%)
	Strongly disagree	1 (4%)	0 (0%)
The quality standards for SWR are fair (n=47)	Strong agree	-	13 (30%)
	Agree	-	29 (66%)
	Disagree	-	2 (4%)
	Strongly disagree	-	0 (0%)
The criteria for SWR are appropriate for ensuring FEPA case quality (n=24, n=47)	Strong agree	6 (25%)	13 (27%)
	Agree	16 (67%)	28 (60%)
	Disagree	2 (8%)	6 (13%)
	Strongly disagree	0 (0%)	0 (0%)
The percentage of cases selected for SWR is sufficient to assess quality (n=24, n=47)	Strong agree	3 (13%)	11 (24%)
	Agree	20 (83%)	28 (61%)
	Disagree	1 (4%)	7 (15%)
	Strongly disagree	0 (0%)	0 (0%)


\* The "n" refers to the number of respondents per survey item. The "n" for EEOC respondents is presented first. Hyphens indicate that the survey item was not included in the respective survey.

Several evaluation participants on both the EEOC and FEPA sides characterized the relationship between SLTP C/Ms and FEPA representatives as collaborative and strong. They further reported that the nature of the relationship helps to ensure SLTP C/Ms understand the capacity and needs of the FEPAs they work with and makes FEPAs comfortable reaching out with questions and concerns whenever needed. Finally, both EEOC and FEPA evaluation participants concurred that SLTP C/Ms have previous investigation experience and are very competent and knowledgeable about the intake and investigation processes, as well as the standards for review. As a result, these qualities help facilitate the oversight process and promote case quality.

Based on survey responses, FEPA participants also perceived fairly strong support from the EEOC in achieving high case quality. A total 29 out of 51 (or 57%) FEPA participants believe that EEOC supports FEPAs in achieving high case quality "to a large extent." Another 18 out of 51 (or 35%) believe this "to a moderate extent."

Since the new SLTP leadership took the helm in 2021, HQ SLTP has instituted several steps and processes intended to enhance oversight of FEPA case quality.





These steps and processes (e.g., technical assistance reviews [TARs] and requiring District Directors to discuss the FEPA Program in their annual performance reviews) were intended to improve HQ SLTP's line of sight for FEPA case quality and quality of SLTP field staff performance. For example, the TAR process helps to identify strengths and areas for improvement for both EEOC and FEPA staff performance. According to evaluation participants, these steps and processes are still a work in progress, including the need to improve feedback loops to communicate the results of TARs. However, the changes have left a positive impression on FEPA and EEOC evaluation participants, several of whom reported that the approaches are welcome changes that improve EEOC's ability to perform meaningful oversight of FEPA case quality.

Despite such improvements, challenges and concerns remain. According to surveys, interviews, and focus groups, the primary FEPA capacity challenge, which lies outside the control of EEOC SLTP, is FEPA staffing issues. Many FEPAs report being understaffed and/or experiencing high levels of turnover. Consequently, many FEPAs get behind on processing intakes and investigations and face backlogs. They also report often having to hire inexperienced staff who need considerable training.

Furthermore, the HQ SLTP does not have direct supervisory oversight over SLTP C/Ms in the field. Therefore, HQ SLTP does not manage SLTP C/Ms' performance reviews or supervise them directly. SLTP C/Ms are supervised by District Directors, who only recently had to include the performance of FEPAs in their own performance reviews. Partly as a result of TARs, HQ SLTP was made aware that SLTP C/Ms have not consistently received standardized onboarding and refresher training on how to perform their job responsibilities and collaborate with their assigned FEPAs. These factors hinder consistency in EEOC's oversight of FEPA case quality across EEOC District Offices.

Another key challenge is EEOC's ability to effectively monitor and verify that SWRs are completed as intended and how many or what percentage of cases for which substantial weight is recorded after the first SWR and/or after modifications. As reported by evaluation participants, ARC is not functioning fully for the SLTP Program. Consequently, SLTP is limited in its ability to monitor key information to inform oversight. For more detailed findings on FEPA case quality, see Appendix Section B-3.

## Conclusions: FEPA Case Quality

The SWR, as a primary method for monitoring case quality, is accepted by both the EEOC and FEPAs as a fair and appropriate set of standards for FEPA case quality. The EEOC staff are confident that SWR is being conducted as expected. However, effective oversight is difficult to achieve when the EEOC cannot accurately determine the extent to which SWR is occurring and the results of SWR. Specifically, ARC's current inability to provide data on the completion and results of SWR means there is limited systematic information about case quality to utilize in the oversight of case quality. There is a need to better leverage existing tools such as ARC, as well as mechanisms such as high quality training for both EEOC and FEPA staff, to promote effective oversight.

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## 4. Does EEOC establish and maintain effective relationships/coordination with the FEPAs?

### Findings: Relationships/Coordination

Interview and focus group participants from both EEOC and FEPAs reported a fruitful working relationship that is based on trust and respect for one another's respective roles. The relationship is fostered through consistent and reliable communication and support, training, technical assistance, conferences and forums, as well as collaborative joint filing and community outreach efforts.<sup>12</sup> Across the board, evaluation participants on both sides cited recent improvements associated with the new leadership at HQ SLTP. Such improvements included updating the SLTP Handbook, addressing training needs through a train-the-trainer program, and creating the FEPA forum. The evaluation participants voiced appreciation for these enhancements and believe they have led to improving and maintaining an effective relationship. Still, FEPA participants reported wanting additional opportunities and resources for outreach and education activities.

To further examine the relationship between the EEOC and FEPAs, we utilized the EEOC and FEPA surveys to collect satisfaction ratings. Altogether, the ratings from both EEOC and FEPA evaluation participants suggest satisfaction with the relationship between the EEOC and FEPAs, as well as communication between them. For example, 24 out of 24 (or 100%) EEOC participants and 52 out of 53 (or 98%) FEPA participants are "extremely satisfied" or "satisfied" with the relationship. Further, 24 out of 24 (or 100%) EEOC participants and 53 out of 53 (or 100%) FEPA participants are "extremely satisfied" or "satisfied" with the quality of communication between EEOC and FEPAs.

When FEPA survey participants were asked about collaborating on the Request for Information (RFI)<sup>13</sup> and input into training topics and content, FEPA responses varied. These variations corroborate other responses from FEPA participants, especially around input into training. That is, 19 out of 51 (or 38%) FEPA participants believe that FEPAs collaborate with the EEOC to complete the RFI "to a small extent" or "not at all." An even larger number and proportion of FEPA participants (25 out of 51 or 50%) believe that FEPAs have input into training topics and/or content offered by the EEOC "to a small extent" or "not at all." These ratings reflect a greater desire or expectation to have a stronger partnership in co-developing the RFI and training, both of which are critical activities that support the establishment and maintenance of the relationship.

Survey participants were also asked a series of questions about factors that facilitate positive relationships. By and large, key activities and interactions between the EEOC and FEPAs were perceived positively. Training, technical assistance provided by the EEOC, annual conferences, and outreach and education activities were perceived

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<sup>12</sup> Outreach and education activities entail projects (e.g., to increase community awareness) between the EEOC and FEPAs.

<sup>13</sup> The Request for Information (RFI) is the first step to establishing the contractual relationship between the EEOC and FEPAs.

to facilitate a positive relationship between the two agencies “to a large extent” (see Table B for more details).

<b>Table B. EEOC and FEPA participants’ perceptions of factors that facilitate a positive relationship between the EEOC and FEPAs*</b>			
	<b>Rating</b>	<b>EEOC Responses</b>	<b>FEPA Responses</b>
Training help facilitate a positive relationship between the EEOC and FEPAs (n=24, n=51)	Large extent	19 (79%)	39 (75%)
	Moderate extent	5 (21%)	10 (19%)
	Small extent	0 (0%)	2 (4%)
	Not at all	0 (0%)	1 (2%)
	Not sure	0 (0%)	0 (0%)
Technical assistance helps facilitate a positive relationship between the EEOC and FEPAs (n=24, n=52)	Large extent	17 (71%)	35 (67%)
	Moderate extent	5 (21%)	12 (23%)
	Small extent	2 (8%)	5 (10%)
	Not at all	0 (0%)	0 (0%)
	Not sure	0 (0%)	0 (0%)
Annual conference helps facilitate a positive relationship between the EEOC and FEPAs (n=24, n=53)	Large extent	19 (79%)	41 (77%)
	Moderate extent	4 (17%)	9 (17%)
	Small extent	1 (4%)	3 (6%)
	Not at all	0 (0%)	0 (0%)
	Not sure	0 (0%)	0 (0%)
Conducting outreach and education with FEPAs helps facilitate a positive relationship between the EEOC and FEPAs (n=24, n=51)	Large extent	18 (75%)	36 (71%)
	Moderate extent	6 (25%)	11 (22%)
	Small extent	0 (0%)	3 (5%)
	Not at all	0 (0%)	1 (2%)
	Not sure	0 (0%)	0 (0%)

\* The “n” refers to the number of respondents per survey item. The “n” for EEOC respondents is presented first.

Findings from interviews and focus groups corroborate these survey findings. EEOC and FEPA participants believe that having strong communication and collaboration between their offices is the principal strength and facilitating factor that has led to establishing and maintaining a meaningful and productive working relationship. FEPA participants stated the significance of the EEOC’s responsiveness, timeliness, and support as essential facilitating factors in building trust and preserving fruitful partnership. Other facilitating factors that contribute to an effective and symbiotic relationship include opportunities for training and the quality of the training by EEOC, as well as opportunities for sharing and learning from peers through FEPA forums, conferences, and other informal meetings and communication. For more detailed findings on the EEOC-FEPA relationship/coordination, see Appendix Section B-4.

### Conclusions: Relationships/Coordination

The EEOC has established effective relationships and coordination with the FEPAs through key mechanisms such as consistent and timely communication, collaboration, training, and technical assistance. The EEOC shines in this area and effectively utilizes these mechanisms to achieve cooperation from FEPAs to help support mutual goals.

## Recommendations

Based on evaluation findings presented in the Evaluation Report (pages 1-16), we offer the following recommendations as actionable next steps for Fair Employment Practices Agency (FEPA) Program improvements. Although the recommendations are organized by evaluation question, they contain cross-cutting themes related to the need for the Equal Employment Opportunity Commission (EEOC) to clarify and/or develop processes, plan and provide training, solicit input from FEPAs, and communicate clearly and consistently with FEPAs.

### Question 1: Certification and Reevaluation

#### Certification

We recommend several actions to improve certification. The Office of Field Programs (OFP) should:

1. Review and update processes and procedures for communicating and working with FEPAs that inquire about certification. This includes the processes and procedures for new certification inquiries from non-certified FEPAs, as well as inquiries from certified FEPAs concerning problems with their certification status.
  - OFP should consider the following:
    - Specify the roles/responsibilities of State, Local, and Tribal Program (SLTP) staff, making clear distinctions between the responsibilities of SLTP Coordinators/Managers (C/Ms) versus Headquarters (HQ) SLTP staff.
    - Clarify the expectations for timeliness and frequency of communication between EEOC and FEPAs about certification inquiries.
    - Specify who the main point of contact is at EEOC for FEPAs that inquire about certification.
    - Update the SLTP Handbook to reflect the resulting revised processes and procedures.
    - Update (or develop, as needed) training materials for SLTP C/Ms. Training content would consist of reviewing certification processes and timelines. The content would also address the respective roles/responsibilities of HQ SLTP staff and SLTP C/Ms, including who is responsible for communicating with FEPAs that inquire about certification.
    - Deliver training on certification processes and timelines to SLTP C/Ms.
      - SLTP C/Ms should receive training on this topic during their onboarding training to ensure consistent understanding and to standardize practice among them. Because certification inquiries occur infrequently, SLTP C/Ms who have been in their positions for a long time should receive periodic refresher training.

- If standardized SLTP C/M onboarding and refresher training do not exist, they should be developed, along with a schedule of training, to ensure consistency of all oversight practices of SLTP C/Ms across District Offices.
- Develop or update materials to be shared with FEPAs that express interest in certification for any reason. This will facilitate communication between EEOC and FEPAs that inquire about certification, as well as increase the FEPA's understanding of steps in the certification process, the timeline, and who their main point of contact is at EEOC should they have questions or concerns about their certification status.

## Reevaluation

We recommend several actions to improve reevaluation. OFP should:

2. Review and update processes, procedures, and tools for reevaluating certified FEPAs. Specify and/or clarify: (a) the timeline for reevaluation, (b) required tool(s) and/or mechanism(s) for reevaluation, (c) HQ SLTP roles and responsibilities for conducting or contributing to the process of reevaluation, and (d) the purpose of technical assistance reviews (TARs) and how they formally relate (or not) to the process of reevaluation.
- OFP should consider the following:
    - Develop a meaningful process to solicit input from SLTP C/Ms, as well as FEPA Directors (or their designees), to inform the updates. This should include soliciting input on how to ensure greater collaboration and communication between EEOC and FEPAs throughout the reevaluation process so that it is not a check-the-box or a “rubber stamping” activity. For example, create a feedback loop to ensure that FEPAs, EEOC District Directors, and SLTP C/Ms know and understand reevaluation results.
    - Update the SLTP Handbook to reflect resulting revised processes, procedures, tools, and SLTP staff roles/responsibilities for reevaluating certified FEPAs.
    - Update (or develop, as needed) training materials for SLTP C/Ms in both onboarding and refresher training curricula to promote consistent understanding and practice among SLTP C/Ms across District Offices.
    - Update (or develop, as needed) materials to communicate with FEPA Directors on the purpose, processes, and tools for reevaluation, including how results from the reevaluation process are shared with FEPAs.
      - Given the frequency of staff turnover in FEPAs, this information should be regularly communicated to sustain awareness and understanding of the reevaluation process. FEPA forums, or other meetings where FEPA Director attendance is required, are examples of where the information could be communicated.

## Question 2: Performance Goals and Metrics

We recommend several actions to improve practices for establishing, managing, and meeting performance goals and metrics. OFP should:

3. Clearly describe and label FEPA Program performance goals and metrics in the SLTP Handbook.
  - OFP should consider the following:
    - Utilize this evaluation's findings as a basis for describing the performance goals and metrics for the FEPA Program as: (a) the number of intakes and investigations processed annually, and (b) the quality, timeliness, and completeness of cases.
    - Develop and implement a plan to regularly communicate about these performance goals and metrics with EEOC and FEPA staff. Communication materials should include what the performance goals and metrics are, why they have been selected, where they are found in the SLTP Handbook, and where EEOC and FEPA staff can go if they have questions about performance goals and metrics.
      - Given the frequency of turnover in FEPAs, this information should be regularly communicated to sustain consistent awareness and understanding of performance expectations. Again, FEPA forums, or other meetings where FEPA Director attendance is required, are examples of where the information could be communicated regularly.
      - This information should be included in SLTP C/M onboarding and refresher training.
    - Clearly describe and label FEPA Program performance goals and metrics in future strategic plans.
4. Provide standardized onboarding and refresher training to SLTP C/Ms to ensure more consistent practices across District Offices. Include training on practices to utilize performance goals and metrics for oversight and management of FEPA case quality.
  - OFP should consider the following:
    - Gather input from SLTP C/Ms on best practices for oversight and management of FEPA case quality.
    - Ensure there is flexibility for SLTP C/Ms to navigate the unique context of each FEPA in developing, maintaining, and/or strengthening the relationship between EEOC and FEPAs.

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5. Work with Office of Information Technology (OIT) to generate more useful reports from the Agency Records Center (ARC) that are needed to monitor performance.
    - OFP should consider the following to ensure that ARC can:
      - Generate a report on the number and percentage of cases per FEPA submitted for credit that are approved upon initial review by EEOC.
      - Provide the option to document the primary reasons for why the case was not approved for credit upon the initial review.
      - Generate analyses on: (a) number and percentage of Substantial Weight Review (SWR) conducted per FEPA per fiscal year, (b) number and percentage of the type of SWR corrections requested by EEOC per FEPA per fiscal year, (c) number and percentage of SWR accepted during the initial review per FEPA per fiscal year, and (d) number and percentage of SWR accepted per FEPA per fiscal year.
    - OFP should also consider the following:
      - Develop and implement a continuous quality improvement plan to use these reports to monitor performance, as well as to inform the type and quantity of training for both SLTP C/Ms and FEPAs.

### Question 3: Oversight of FEPA Case Quality

We recommend several actions to improve practices for EEOC's oversight of FEPA case quality. OFP should:

6. Reinforce SWR as the primary tool and method for case quality oversight by: (a) documenting in the SLTP Handbook how SWR is utilized to ensure case quality, and (b) training both SLTP and FEPA staff on SWR processes and criteria to ultimately improve case quality.
  - OFP should consider the following:
    - Ensure that all training materials clearly indicate SWR as the primary tool and method for case quality oversight.
    - Train both SLTP C/Ms and FEPA staff on key aspects of SWR to facilitate shared understanding of SWR, its functions, and its processes. Ensure that this training content is included in the SLTP C/M onboarding and refresher training.
    - Prioritize foundational training (e.g., best practices in investigations and interviewing) of FEPA staff on case quality standards to help FEPAs meet SWR standards.

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7. Improve the feedback loop for TARs to include written documentation of findings that are shared with FEPAs, EEOC District Directors, and SLTP C/Ms for continuous quality improvement and learning.
    - OFP should consider the following:
      - When ARC has increased capacity to produce reports on performance metrics, utilize performance data to identify criteria for selecting FEPAs for participation in TARs.
      - Given the intensity of resources that TARs require, be strategic about the amount and frequency of conducting TARs, balancing the great need for FEPA training at the front end with the need for quality assurance review by EEOC at the back end.

## **Question 4: Relationships/Coordination with FEPAs**

We recommend several actions to maintain and/or strengthen EEOC relationships and coordination with FEPAs. OFP should:

8. Improve SLTP's current mixed-modality training for the FEPA Program to address training needs for both EEOC and FEPA staff. Include an "on demand" digital training video library that provides FEPAs with open access to foundational training content.
  - OFP should consider the following:
    - A mix of modalities helps balance limited resources against the great need for consistent training. In developing or updating the FEPA Program training plan, assess needs against resources. Ensure collaboration with FEPAs on developing foundational training content/curricula (e.g., best practices in investigations and interviewing). As part of the plan development process, assess the current train-the-trainer approach to determine its utility to FEPAs in meeting their training needs.
    - For all training modalities, develop and administer a brief feedback survey for continuous quality improvement.



# APPENDIX

## A. Methods

### Evaluation Design

We employed a mixed-methods, non-experimental, and cross-sectional design for the evaluation.<sup>14</sup> Our evaluation design incorporated multiple quantitative and qualitative methods to gain a comprehensive understanding of the evaluation topic using data across multiple sources and participants. The use of mixed and multiple methods and data sources was intended to increase the trustworthiness of findings from our non-experimental evaluation. The mixed-methods design for the evaluation was applied to the use of one or more methods to inform subsequent methods. We layered the methods and data sources to gather evidence on the same phenomena using different methods and participants.

The cross-sectional evaluation examined practice over the five-year period between 2018 and 2023. During this period, Fair Employment Practices Agencies (FEPA) management practices and activities were guided by the 2018-2022 Equal Employment Opportunity Commission (EEOC) Strategic Plan. Understanding how EEOC functioned relative to the standards of the 2018-2022 EEOC Strategic Plan period was vital for answering the evaluation questions. In light of the recent approval of and transition to a new 2022-2026 EEOC Strategic Plan, it also was useful to analyze how our retrospective evaluation findings on FEPA oversight and management compared to the new standards of practice in the 2022-2026 EEOC Strategic Plan.

To answer the evaluation questions, we approached the evaluation using utilization-focused principles and practices so that the evaluation would be utilized by the primary intended users (EEOC).<sup>15,16</sup> This approach is highly applicable to this evaluation given its purpose to support the EEOC in identifying concrete practices to improve the relationship between the EEOC and FEPAs. We followed key steps in the utilization-focused evaluation approach by, for example, ensuring that the primary intended users of the evaluation are engaged, aligning evaluation questions with the overarching objectives of the evaluation, employing scientific methods that are credible to the intended users, and reporting evaluation findings in a user-friendly way to facilitate utilization by the intended users.

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<sup>14</sup> The evaluation design combined quantitative and qualitative methods (mixed methods), did not use any experimental designs (non-experimental), and examined a point in time (cross sectional) as described in the report.

<sup>15</sup> Michael Quinn Patton [Patton, M. Q. & Campbell-Patton, C. E. (2021). *Utilization-focused Evaluation, 5<sup>th</sup> Edition*. Sage Publications.

<sup>16</sup> Patton, M. Q. (2012). *Essentials of Utilization-focused Evaluation*. Sage Publications.

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## Data Sources, Data Collection Procedures, & Representation

We employed four primary data collection methods to answer the evaluation questions and support development of the evaluation findings, conclusions, and recommendations: (1) document review; (2) surveys; (3) qualitative interviews; and (4) focus groups. The procedures for each are summarized below. All District Offices except Birmingham, which does not have a FEPA, were represented in the evaluation.

- 1. Document Review.** We identified and purposefully sampled documents related to the FEPA Program according to their relevance to the evaluation questions and evaluation period. We reviewed 43, spanning high-level EEOC documents that provided context about the EEOC and FEPA landscape and performance metrics, to FEPA Program-specific documents detailing FEPA staffing, standards of practice, training, and program averages. We utilized information from the document review as evidence to answer evaluation questions, as well as to inform the development of survey, interview, and focus group instruments for the evaluation.
- 2. Online Surveys.** We administered two online surveys using the Survey Monkey platform: the EEOC Survey and the FEPA Survey. Both surveys included closed-ended and open-ended items pertaining to each of the 4 evaluation questions (i.e., the topics of certification and reevaluation; performance goals and metrics; oversight of FEPA case quality; and the relationship between the EEOC and FEPAs). We designed the surveys to allow for comparison between EEOC and FEPA perspectives but also included unique questions and wording tailored to each participant group, as needed. We also crafted the surveys with respondent burden in mind; the estimated completion time was approximately 15 minutes. The target participant group for the EEOC Survey was EEOC District Directors and State, Local, and Tribal Programs (SLTP) Coordinators/Managers (C/Ms). The target participant group for the FEPA Survey was FEPA Directors (or their designee). To increase face validity and response rate, links to the surveys were disseminated to their respective participant groups by the SLTP Director via existing SLTP listservs customized for these groups. Both surveys were open for approximately 4 weeks from December 20, 2023 through January 21, 2024, with reminders sent periodically by the SLTP Director during that time frame. Survey response rates and additional information about survey respondents is included in Table 1.
- 3. EEOC Headquarters Interviews:** We conducted qualitative individual and group interviews with Office of Field Program (OFP) and SLTP leadership and staff at Headquarters (HQ) SLTP to describe the landscape of EEOC's relationship with FEPAs, to give an overview of the EEOC's oversight responsibilities for the FEPA Program, and to identify key participants at the EEOC and at FEPAs for the evaluation. Accordingly, we developed a semi-structured interview guide with 8 primary open-ended questions, along with several sub questions, on these topics. We tailored the guide, as needed, based on the individual interview participant. The EEOC HQ interviews took place between November 2023 and January 2024 and were conducted by at least two members of the evaluation

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team. One team member served as the primary interview facilitator, while another team member served as the primary note-taker and produced a transcript for each interview. Interviews were conducted in virtual sessions using the online Zoom meeting platform. Most EEOC HQ interviews lasted no longer than 90 minutes; one interview spanned several hours over the course of three different interview sessions. In total, we conducted 4 individual in-depth qualitative interviews, as well as 1 group interview that included 4 SLTP Program Analysts (see Table 1).

4. **FEPA Director Interviews:** Using a purposive sampling approach, we identified 10 FEPA Directors and invited them via email to participate in an interview. Our purposive sampling criteria were designed to achieve a mix of FEPAs across different EEOC District Offices; certified and non-certified FEPAs; FEPAs that had experienced a technical assistance review (TAR) conducted by HQ SLTP in the last 12 months and FEPAs that had not; as well as FEPAs who expressed high satisfaction in their FEPA Survey responses and those who had expressed dissatisfaction in their survey responses. To gather in-depth information on the evaluation topics from the FEPA perspective, we developed a semi-structured interview guide with 9 primary open-ended questions, along with several sub questions. We tailored the guide, as appropriate, based on the individual FEPA (e.g., for FEPAs that had participated in a TAR, we asked questions about that experience). These interviews took place in February 2024 during 60-minute virtual sessions using the online Zoom meeting platform. Interviews were conducted by at least two members of the evaluation team, one of whom facilitated the interview, while the second took notes. With permission, we recorded the interviews and used the recording to help produce a transcript for analysis. Altogether, we completed 8 individual in-depth qualitative interviews with FEPA Directors (see Table 1).
5. **EEOC District Director and SLTP Coordinator/Manager TAR Focus Group.** Using a purposive sampling approach, we identified District Directors and SLTP C/Ms who had participated in a TAR conducted by HQ SLTP within the past 12 months. Through email, we invited these individuals to participate in a focus group to provide input on all the evaluation topics from the EEOC perspective, with a special emphasis on their experiences with TARs. Accordingly, we developed a semi-structured focus group guide with 7 primary open-ended questions, along with several sub questions. The focus group took place in February 2024 during a 90-minute virtual session using the online Zoom meeting platform. Three members of the evaluation team were present; one facilitated the focus group, one took notes, and one monitored the chat and did any necessary technology troubleshooting. With permission, we recorded the focus group and used the recording to help produce a transcript. A total of 7 EEOC representatives participated in the focus group (see Table 1).
6. **EEOC SLTP Coordinator/Manager Focus Group.** All remaining SLTP C/Ms who had not experienced a TAR in the last 12 months were invited by email to participate in this focus group. The purpose of the focus group was to ensure as much representation as possible among SLTP C/Ms to provide information to

answer the evaluation questions. We developed a semi-structured focus group guide with 7 primary open-ended questions and multiple sub questions covering all the evaluation topics. The focus group took place in February 2024 and was conducted according to the methods for the TAR focus group described above. A total of 9 SLTP C/Ms participated in the focus group (see Table 1).

<b>Table 1. District and Field Office representation and available information about evaluation participant by data collection method</b>			
<b>Data Collection Methods</b>	<b># of Individual Participants &amp; # of Subgroups by Role</b>	<b>Range &amp; Average Years Tenure of Participants</b>	<b># of District &amp; Field Offices Represented</b>
EEOC Survey	N=27 <ul style="list-style-type: none"> <li>n=10 District Directors</li> <li>n=17 SLTP C/Ms or Outreach &amp; Education Coordinator</li> </ul>	In Position <ul style="list-style-type: none"> <li>&lt;1 to 22</li> <li>4.86</li> </ul> In EEOC <ul style="list-style-type: none"> <li>&lt;1 to 44</li> <li>20</li> </ul>	13 of 15 (Missing Atlanta and Birmingham – latter does not have a FEPA) and 1 Field Office
FEPA Survey	N=59 <ul style="list-style-type: none"> <li>n=38 Directors</li> <li>n=9 Assistant Directors</li> <li>n=12 Other (e.g., Compliance Officer, Investigator Supervisor, Commissioner)</li> </ul>	In Position <ul style="list-style-type: none"> <li>&lt;1 to 26</li> <li>5.75</li> </ul> In FEPA <ul style="list-style-type: none"> <li>&lt;1 to 31</li> <li>11.67</li> </ul>	14 of 15 (Missing Birmingham, which does not have a FEPA) and 1 Field Office
EEOC Headquarters Interviews	N=8 (100% response rate) <ul style="list-style-type: none"> <li>n=2 OFP leadership</li> <li>n=2 SLTP leadership</li> <li>n=4 Program Analysts</li> </ul>		15 District Offices and 1 Field Office
EEOC SLTP C/M Focus Group	N=9 (82% response rate)		9 of 11 District & Field Offices sampled
EEOC District Office Director & SLTP C/M TAR Focus Group	N=7 (100% response rate) <ul style="list-style-type: none"> <li>n=3 District Directors</li> <li>n= 4 SLTP C/Ms</li> </ul>		3 of 3 District & Field Offices sampled
FEPA Director Interviews	N=8 (80% response rate) <ul style="list-style-type: none"> <li>n=7 Director/Executive Director</li> <li>n=1 Enforcement Manager</li> </ul>		8 of 10 District & Field Offices sampled

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## Data Analysis & Reporting

### Quantitative Data Analysis

There were several sources of data for our quantitative analysis: (1) data obtained from the review of relevant documents, including aggregated data from the Agency Records Center (ARC), and (2) data collected via online surveys from EEOC and FEPA participants. For the survey data, we transported both sets of data from Survey Monkey to the Statistical Package for the Social Sciences (SPSS) version 28.0, which is the software we used to store and analyze data. We conducted descriptive statistics (e.g., frequencies, percentages, means) to describe and summarize data from evaluation sources. No inferential statistics were used because of small sample sizes that resulted in missing cells of data with fewer than 5 data points.

The following describes rules that were applied to reporting quantitative findings throughout the report, as well as notes about presenting quantitative findings:


- For ease of reading, all percentages were rounded up or down to reach 100%. Starting with the largest percentage, fractions .5 or greater were rounded up, while fractions .4 or lower were rounded down.
- Anchors used in the surveys (e.g., “to a moderate extent”) are presented in quotes in the body of the report.
- Colors were applied to tables to draw attention to patterns or discrete findings described in the narrative. The color green was applied to indicate more favorable findings, whereas the color red was applied to indicate less favorable or cautionary findings.
- The EEOC and FEPA surveys were intentionally not identical. Therefore, there are items that are not matched between the two surveys. In a few tables of findings, hyphens indicate that data were not available via the survey.
- In the table of findings, an "N" equals the total sample size of survey participants, whereas "n" equals the sub-sample of survey participants by item responses or subgrouping using participant characteristics such as staff role.

### Qualitative Data Analysis

We employed best practices for analyzing qualitative data in an evaluation context. EEOC documents, interview and focus group transcripts, and open-ended responses from surveys were the sources of data for our qualitative analysis. The foundation for the analysis of these qualitative data was content and thematic analysis, which are conventional methods in qualitative research that involve reading transcripts and other documents to identify ideas and to categorize meaningful patterns in the data. Qualitative data were analyzed using Dedoose, a mixed-methods data analysis software tool. Basic coding practices from the grounded theory approach<sup>17</sup> were utilized. For example, open coding was used to develop categories and to reduce the data; axial

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<sup>17</sup> Glaser, B. G. & Strauss, A. (1967). *The Discovery of Grounded Theory: Strategies for Qualitative Research*. Chicago, IL: Aldine Publishing Co.



coding was employed to define interconnections among those categories. We used the evaluation questions and identified measures as the basis of an initial data coding framework, but we also followed an inductive approach to allow concepts and patterns to emerge from the data.

### *Integrative Analysis and Recommendations*

We used an integrative analysis technique that involves analyzing multiple sources of quantitative and qualitative data together to triangulate data and holistically answer the evaluation questions. The foundational technique for our integrative analysis is the constant comparative method used in grounded theory. We took all the data sources and cross referenced them to generate concepts and phenomena about the EEOC's oversight of FEPAs that are entirely grounded in data. All our recommendations were evidence based and were tracked to data collected, analyzed, and interpreted for the evaluation.

## **B. Detailed Findings**

### **1. Does EEOC effectively certify and reevaluate FEPAs?**

#### **1a. Mixed-Methods Findings: Certification**

##### *1a-1. Certification Process*

The EEOC's purpose for certifying designated<sup>18</sup> FEPAs is to ensure that FEPAs consistently meet EEOC's standard for case quality. Based on the evaluation's systematic review of documents, as well as EEOC HQ interviews, we first note that only designated FEPAs may be certified. A designated FEPA is defined in the SLTP Handbook. In brief, it is an agency that practices fair employment law and has the authority to grant relief, seek relief, or institute criminal proceedings. According to the SLTP Handbook, the process of certifying FEPAs involves scrutiny of case quality. More specifically, only designated FEPAs for which SWR has been conducted on 100% of their cases by SLTP C/Ms for four years are eligible to undergo the certification process. Furthermore, the FEPA's findings and resolutions must have been accepted for 95% of cases processed in the preceding 12 months. When a designated FEPA requests to undergo the certification process, staff at HQ STLP complete another review of 100% of the FEPA's cases for a year to ensure the FEPA is providing a quality product. From that point forward, SLTP C/Ms must review at least 10% (versus 100%) of the certified FEPA's cases (plus cases identified as "no jurisdiction," "unsuccessful conciliation," and "priority charges") per the SLTP Handbook. Interviews and focus groups with evaluation participants indicate that EEOC staff understand and follow these certification review procedures and requirements.

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<sup>18</sup> A designated FEPA is defined in the SLTP Handbook. In brief, it is an agency that practices fair employment law and has the *authority* to grant relief, seek relief, or institute criminal proceedings.

### 1a-2. Certification Status and Inquiries

Of the 90 FEPAs the EEOC currently works with (i.e., has a Work Sharing Agreement [WSA] and contract), 80 (89%) are already certified, and 10 (11%) are designated FEPAs that are not certified. Among those certified, most (65 or 81%) were certified decades ago in the 1980s, and the remaining (15 or 29%) were certified in the decades thereafter with gaps in between certifications (see Table 2). One FEPA reported losing certification during the evaluation time period due to a clerical error by EEOC, and there have been more than two years of bureaucratic delays reinstating certification with little explanation from the EEOC as to why.

<b>Table 2. Number of certified and non-certified FEPAs</b>		
	<b># (%)</b>	<b># (Year of Certification by Decade)</b>
Certified FEPAs	80 (89%)	65 (1981, 1983, 1984, 1987) 3 (1994) 8 (2005) 4 (2013, 2017, 2018)
Non-Certified FEPAs	10 (11%)	N/A

Among the 10 designated FEPAs that are not certified, only two were reported to have inquired about certification in the past 5 years. These two FEPAs participated in the survey. When asked whether the EEOC responded to their respective inquiry in a timely manner, one participant indicated “to a small extent,” and the other participant was “not sure.” When asked whether the EEOC provided clear instructions on the certification process and provided support to the FEPA regarding the inquiry, one participant indicated “to a moderate extent,” and the other participant indicated “to a small extent.” In addition, the few HQ SLTP and District Office staff who had recently fielded inquiries from FEPAs about certification reported lack of clarity about how to “move this [process] along properly” and in a timely manner.

Although there are few examples to draw from given the small number of certification inquiries and issues that occur, there is evidence of delays and lack of clear communication when inquiries/issues do arise. An EEOC evaluation participant said that delays related to one FEPA that is currently undergoing the process of certification have been due to EEOC field staff not completing SWR on 100% of cases, as required. This was explained as being due to turnover in EEOC staffing that left a gap in coverage in the field. (The EEOC participant verified that this FEPA will not be certified until the proper reviews at the field and HQ SLTP have been conducted.) Lack of timeliness and transparency when it comes to certification ultimately creates inefficiencies on EEOC staff time, because they must conduct substantial weight reviews on 100% of cases for non-certified FEPAs. Altogether, these findings suggest that there is a need to better support FEPAs that inquire about certification, including certified FEPAs that experience problems with their certification status.

## 1b. Mixed-Methods Findings: Reevaluation

### 1b-1. Reevaluation Timeline

Reevaluation is a process of reassessing the certification status and eligibility of certified FEPAs. The 2023 SLTP Handbook indicates, “In accordance with 29 C.F.R §1601.78(a), each certified FEPA may be reviewed at least once every three (3) years to determine if such certification is to be maintained based on the agency’s performance.” According to 29 C.F.R §1601.78(a), “each designated FEP agency certified by the Commission shall be evaluated at least once every 3 years.”

The SLTP Handbook’s statement that each certified FEPA *may* be reviewed at least once every three years suggests flexibility in the occurrence and/or frequency of reevaluation. This contributes to the wide variation in EEOC and FEPA participant reports and understanding of exactly how often reevaluation occurs. Up to 25% of FEPA and EEOC survey participants reported they were “unsure” if reevaluation occurs at least every three years or thought reevaluation occurs every three years “to a small extent” (see Table 3). Furthermore, several EEOC and FEPA evaluation participants perceived reevaluation as continuous and ongoing rather than as a distinct process that happens only periodically at a specific time. Others described reevaluation as occurring annually, as part of a 3-year contract cycle. Several additional EEOC and FEPA participants explained that reevaluation occurs every third year only, while still others said they were unsure of or could not formally describe the reevaluation process.

### 1b-2. Reevaluation Process, Mechanisms, and Tools

A detailed process for reevaluation - the *how and the mechanisms* of the reevaluation process - is not clearly delineated in the SLTP Handbook or Code of Federal Regulations (CFR). This may help to explain why, during interviews and focus groups, we heard varied descriptions of reevaluation mechanisms and tools. This suggests that evaluation participants within and across EEOC and FEPAs have an inconsistent understanding of what the reevaluation process entails. For example, WSAs and contracts were frequently cited processes and tools used for reevaluation purposes, along with Requests for Information (RFIs), technical assistance reviews (TARs), conducting SWRs, and SLTP C/M meetings and ongoing communication with FEPAs. Less commonly mentioned reevaluation tools included Power BI reports from ARC and Three-Year Contract Performance Average reports. With respect to TARs, the SLTP Handbook describes TARs in the same section under reevaluation of certified FEPAs. However, while the methods and procedures for TARs are provided in the SLTP Handbook, how they differ, if at all, in purpose from reevaluation is not made clear. This helps to explain why interview and focus group participants had varying opinions about whether or how TARs were part of the reevaluation process, with several perceiving TARs to be an important tool for reevaluation and one clearly stating that TARs are not part of the reevaluation process.

While the evidence suggests that reevaluation is occurring, such variations in the description of the process, along with the lack of specificity in the SLTP Handbook,



make it difficult to assess whether the process of reevaluation is occurring exactly as *intended* because of the inconsistent descriptions of the reevaluation process. This assessment is further evident in survey responses from EEOC and FEPA participants. There is notable variation both within EEOC and FEPAs and between them in understanding and believing the extent to which several potential aspects of reevaluation are occurring:

- Reevaluation of certified FEPAs at least every 3 years.
- SWR utilized for reevaluating certified FEPAs.
- Three-Year Contract Performance Average for reevaluating certified FEPAs.
- Overall satisfaction with the reevaluation process.

As presented in Table 3, nearly half of EEOC participants reported that these aspects were occurring “to a large extent.” A slightly larger proportion of FEPA participants reported the same about the frequency of reevaluation and the Three-Year Contract Performance Average; however, there was a large proportional difference between the EEOC and FEPA participants in their reporting of SWRs being utilized for reevaluation. With 45% “unsure” among FEPA participants, compared to only 13% “unsure” for EEOC participants, the method of utilizing SWRs for reevaluation is not equally understood by the EEOC and FEPAs. Furthermore, the variations within the EEOC and FEPAs – for example, only about 50% of EEOC participants reported that these aspects are largely occurring – indicate inconsistencies in the implementation of reevaluation and/or misunderstanding of reevaluation methods, tools, and processes. Yet reported satisfaction with the reevaluation process is moderately high, with the majority of EEOC and FEPA participants indicating satisfaction “to a large extent” (46% and 63%, respectively) or “moderate extent” (46% and 12%, respectively).

**Table 3. EEOC and FEPA participants’ perceptions of and satisfaction with several aspects of reevaluation**

	Rating	EEOC Responses	FEPA Responses
Reevaluation of certified FEPA occurs at least every 3 years (n=24, n=52)	Large extent	12 (50%)	34 (65%)
	Moderate extent	6 (25%)	6 (11%)
	Small extent	2 (8%)	2 (4%)
	Not sure	4 (17%)	10 (19%)
Substantial Weight Reviews (SWRs) are utilized for reevaluating certified FEPAs (n=23, n=51)	Large extent	12 (52%)	16 (31%)
	Moderate extent	7 (30%)	8 (16%)
	Small extent	1 (4%)	4 (8%)
	Not sure	3 (13%)	23 (45%)
Three-Year Contract Performance Average is utilized for reevaluating certified FEPAs (n=24, n=51)	Large extent	11 (46%)	30 (59%)
	Moderate extent	(6) 25%	11 (21%)
	Small extent	(3) 12%	0 (0%)
	Not sure	(4) 17%	10 (20%)
Overall satisfaction with the reevaluation process (n=24, n=51)	Large extent	11 (46%)	32 (63%)
	Moderate extent	11 (46%)	6 (12%)
	Small extent	1 (4%)	2 (4%)
	Not sure	1 (4%)	11 (21%)

### *1b-3. Perceptions of Reevaluation and Quality Case Work*

Despite reported inconsistencies in implementation of reevaluation, there was general agreement – among both EEOC and FEPA participants – that reevaluation of certified FEPAs at least every 3 years is necessary to maintain high quality case work by FEPAs (see Table 4). As also presented in Table 4, there was general agreement that the SWR, Three-Year Contract Performance Average, and annual RFI are effective tools for reevaluating FEPAs. Regarding the RFI, EEOC participants were asked to what extent the District Office and FEPAs collaborate to complete the annual RFI. Over half (63%) reported that collaboration largely occurred.

Where there is notable contrast in these perceptions of reevaluation between EEOC and FEPA responses is around whether reevaluation of certified FEPAs at least every 3 years is necessary to maintain high quality of case work. As presented in Table 4, 26% of FEPA participants “disagreed” that reevaluation at least 3 years is necessary, whereas 8% of EEOC participants “disagreed.” Survey, interview, and focus group participants expressed concerns that reevaluation can be burdensome on FEPAs and there should be longer periods of time between reevaluation activities.

*“All FEPAs are navigating increased volume with not enough staff. Additional reviews and processes (especially from external sources) add unnecessary stress to an already over-encumbered system. This entire process should be understood by all parties and all levels. If it isn’t, training should be provided. What is the purpose of the annual RFI document? Who reviews it and why? What actions are ever taken based upon it? Where is the data collected from and is it already available in other places?” ~ FEPA Survey Participant*

*“Instead of a 1-year contract with two extensions, known/trusted FEPAs should be allowed to do a 3-year contract with two extensions or even better a straight 5-year contract.” ~ FEPA Survey Participant*

### *1b-4. Recent Improvements to Reevaluation*

The variability in the reevaluation process may contribute to concerns about the rigor of “status quo” processes that had been in place for many years prior to new SLTP leadership taking the helm in 2021. This included such questions as to whether and to what extent “rubber stamping” was occurring during the reevaluation process. To address such concerns, current SLTP leadership has taken several steps to “upgrade and update and get moving to automate many things about the program” while being supported by the Office of the Chair and Head of OFP who understand “that [SLTP] need[ed] a rebirth [and] you can’t let it run itself.” In efforts to improve HQ SLTP oversight of practice in the field, including reevaluation of certified FEPAs, SLTP leadership has strategically and deliberately communicated to District Offices to expect increased scrutiny and high expectations for rigor from the HQ level. Such improvement steps reportedly include but may not be limited to: holding District Directors more accountable for oversight of the EEOC-FEPA relationship, and increasing quality

assurance reviews by reinstating the practice of having HQ SLTP staff conduct TARs of select FEPAs on an annual basis.

Regarding TARs, however, evaluation evidence suggests confusion about the purpose of TARs as relates to reevaluation. As presented in a previous section, many respondents equated TARs with the process of, or as a tool for, reevaluation. This includes staff from HQ SLTP. However, the SLTP Director explicitly stated that TARs are not a reevaluation process or tool. Rather, the TARs are a means by which HQ SLTP can demonstrate to FEPAs greater hands-on involvement in overseeing the EEOC-FEPA relationship. Simultaneously, TARs are designed as a quality assurance process to identify challenges that SLTP C/Ms may be having, thereby allowing HQ SLTP to support them in their efforts to better support FEPAs.

<b>Table 4. EEOC and FEPA participants' level of agreement with statements about reevaluation</b>			
	<b>Rating</b>	<b>EEOC Responses</b>	<b>FEPA Responses</b>
Reevaluation of certified FEPA at least every 3 years is necessary to maintain high quality case work by FEPAs (n=24, n=50)	Strong agree	9 (38%)	7 (14%)
	Agree	11 (46%)	30 (60%)
	Disagree	2 (8%)	13 (26%)
	Strongly disagree	2 (8%)	0 (0%)
The Substantial Weight Review (SWR) is an effective tool/serves as credible evidence for reevaluating certified FEPAs (n=24, n=49)	Strong agree	10 (42%)	9 (19%)
	Agree	14 (58%)	34 (69%)
	Disagree	0 (0%)	6 (12%)
	Strongly disagree	0 (0%)	0 (0%)
The Three-Year Contract Performance Average is an effective tool/serves as credible evidence for reevaluating certified FEPAs (n=24, n=49)	Strong agree	2 (8%)	11 (23%)
	Agree	21 (88%)	34 (69%)
	Disagree	1 (4%)	4 (8%)
	Strongly disagree	0 (0%)	0 (0%)
The annual RFI document is an effective tool/serves as credible evidence for reevaluating certified FEPAs (n=24, n=49)	Strong agree	4 (17%)	10 (20%)
	Agree	19 (79%)	38 (78%)
	Disagree	1 (4%)	1 (2%)
	Strongly disagree	0 (0%)	0 (0%)

A few interview participants have taken notice of improvement related to the reevaluation process recently. According to FEPA representatives providing feedback about the reevaluation process within the last 5 years:

*“I think it’s improved quite a bit over the last few years. It’s much more regimented. I don’t know if it’s because of the change in staff [in the District Office and at HQ]. ... It’s much more organized and regulated and easier to follow.” ~ FEPA Interview Participant*

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*“They will do reevaluation to assess the number of cases we can complete. It has been more hands-on in more recent years than in the past. In the past, they would send us a packet, say fill it out, send it back and that is it. They were standardized answers that not much changed. ... I feel we’ve been getting more support in recent years about what the evaluation looks like, support completing it, better explanation of what the questions involve for anyone [new] just filing them in based on prior responses [who] don’t understand what that means.” ~ FEPA Interview Participant*

#### *1b-5. Factors that Effectively Facilitate Reevaluation*

During interviews and focus groups, a noted strength of the reevaluation process was that the feedback generated from the process can help FEPAs improve. Additional feedback on factors that facilitate effective reevaluation include having adequate staff at the EEOC to conduct reevaluation and receiving support from EEOC, including HQ SLTP, during the process.

#### *1b-6. Challenges to & Capacity Needs for Effective Reevaluation*

While improvements to reevaluation were reported, survey, interview, and focus group participants also identified challenges to reevaluation. Evaluation participants commonly cited EEOC staff capacity – in particular, not having an adequate number of staff at HQ SLTP or in the District Offices – as a challenge to effectively reevaluating certified FEPAs every three years. The magnitude of the staffing challenge depends on precisely how the reevaluation process is defined which, as noted previously, is not clear.

*“When we do a [reevaluation], was the original intent of the CFR that it’s 100% [review]? We don’t know, and we couldn’t do that now. How many charges a year do we get? If we had to do ½ of a review, it would be 10s of thousands of cases [laughs] that would need a SWR, right? We’d need 10x the staff that we have if that was the intent of the CFR in what they wanted in a [reevaluation] by HQ of these certified FEPAs every 3 years.” ~ HQ SLTP Participant*

A few evaluation participants said the reevaluation process places a burden on FEPAs. Furthermore, a few respondents mentioned being unsure what happens with reevaluation results, including whether or where they are documented beyond the RFI.

Based on the survey, EEOC and FEPA participants identified similar capacity needs to effectively reevaluate FEPAs at least every 3 years. As presented in Table 5, the most common of the top three capacity needs identified by EEOC and FEPA participants was “more training for FEPA staff” (59% and 42%, respectively), followed by “better quality training for FEPA staff” (37% and 22%, respectively). For EEOC participants (37%), “more staff at EEOC District Offices” was equally important as better quality training for FEPA staff. For FEPA participants (25%), “more staff at FEPAs” was slightly more important than better quality training for FEPA staff.

<b>Table 5. EEOC and FEPA participants' report of the most common capacity needs to effectively reevaluate FEPAs</b>		
	<b>EEOC Responses (n=27)</b>	<b>FEPA Responses (n=59)</b>
More training for FEPA staff	16 (59%)	25 (42%)
Better quality training for FEPA staff	10 (37%)	13 (22%)
More staff at EEOC District Offices	10 (37%)	-
More staff at FEPAs	-	15 (25%)

One FEPA participant explained that EEOC did not provide a good orientation of the reevaluation process to FEPA Directors so that they would understand the purpose, the required forms, and how to complete them.

*“All FEPAs are navigating increased volume with not enough staff. Additional reviews and processes (especially from external sources) add unnecessary stress to an already over-encumbered system. This entire process should be understood by all parties and all levels. If it isn't, training should be provided. What is the purpose of the annual RFI document? Who reviews it and why? What actions are ever taken based upon it? Where is the data collected from and is it already available in other places?” ~ FEPA Survey Participant*

## **2. Does EEOC establish, meet, and manage performance goals and metrics of the FEPA program?**

### **2a. Mixed-Methods Findings: Establishing Performance Goals and Metrics in the FEPA Program Context**

#### *2a-1. One Explicit Performance Metric*

The EEOC Strategic Plan for Fiscal Years 2018-2022 provides the overall strategic objectives and outcome goals of the EEOC throughout much of the time period covered by the evaluation. The plan identifies 12 performance measures with yearly targets to track the EEOC’s progress toward its objectives and goals. While none of these measures is specifically related to FEPAs, there is one measure – last reported in the EEOC’s 2021 Annual Performance Report – that indicates “by FY 2022, 17-19% of FEPA resolutions contain targeted, equitable relief.” This measure is referred to as the Targeted Equitable Relief or TER goal. The TER goal and its associated measure established one performance goal and metric specifically related to FEPAs.

#### *2a-2. Key Context that Explains Lack of Explicit Performance Goals and Metrics*

In our examination of the evidence concerning performance goals and metrics for the FEPA Program, we could not find another explicit reference to or definition of FEPA Program goals, performance goals, or performance metrics in any program documents,

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including the SLTP Handbook. Likewise, survey data showed that 22% of SLTP C/Ms were unsure what the FEPA Program performance goals and metrics were or where they were documented (see Table 6).

When we asked evaluation participants about performance goals and metrics, several asked us to clarify what we meant or asked us to define performance goals and metrics. Others said the performance metrics were not clear or clearly understood. As qualitative data collection progressed, a clear explanation emerged: EEOC interview and focus group participants explained that SLTP does not communicate with their FEPA partners by formally referencing performance goals and metrics. In other words, nowhere in the guidance provided to FEPAs from EEOC, including FEPA contracts, are the terms, “performance goals and metrics,” explicitly stated. Evaluation participants reported that this is deliberate and is in keeping with the nature of the EEOC-FEPA relationship, as defined by statute. In fact, more than one EEOC evaluation participant expressed concern about establishing formal performance goals and metrics for FEPA Program contracts.

*“When you start talking about [adding more performance measures], ...does that mean [the evaluation will recommend] we need to start putting things into contract[s] that could penalize [FEPAs] if they don't do X, Y, and Z? That really worries me. ... I find that a dangerous proposition. I'll just leave it there. Again, these FEPAs don't work for us. They're part of their own city governments, their own State governments, and they have their own political people who they can turn to, talk to, and complain to if they feel they're being mistreated or handled by EEOC in a negative way. I think it's important to understand there's a larger political dynamic.” ~ HQ SLTP Interview Participant*

Evaluation participants explained that SLTP does not penalize FEPAs for not meeting their contract, because doing so might harm the EEOC-FEPA relationship and ultimately run counter to the EEOC's best interests. Further, when it comes to the FEPA Program, the collaborative relationship between the EEOC and FEPAs is the most important tool at the SLTP's disposal to achieve the EEOC's goal of processing as many cases as possible for the public and helping to ensure their rights are protected. SLTP staff utilizes soft skills to nurture collaboration and cooperation with FEPA partners. SLTP staff in the field and at HQ encourage FEPAs, support FEPAs, and monitor FEPAs in support of meeting program expectations. When issues or problems are detected, they troubleshoot so that they are able to continue working with the FEPA in pursuit of processing as many cases as possible.

*“Some of these [FEPA] offices predate our agency, and we have a common mission. They are doing the same work that we’re doing. You can’t use the stick approach all the time and threaten to withhold payment. That would run counter to the relationship aspect. So we’re wearing a black and a white hat where we’re the police on one hand and an ambassador on another. So it’s a unique situation in terms of a government contracting situation.” ~ SLTP TAR Focus Group Participant*

**2a-3. Establishing Shared Performance Expectations and Understanding of Success**

Evaluation participants were mixed in their respective understanding of whether performance goals and metrics were established. For example, 40% of EEOC survey participants indicated being “unsure” whether performance goals and metrics had been established or thought that they had been established to a small extent. But 61% of EEOC survey participants and 87% of FEPA survey participants reported that FEPA performance goals and metrics had been established “to a moderate or large extent.” This divergence among survey participants may be explained by our finding that the SLTP has not formally labeled their performance expectations for FEPAs as “performance goals and metrics.”

Despite this, we found from multiple sources of data that the SLTP has established the following: (1) quantitative performance goals, namely, the number of intakes and investigations processed annually (and documented in the contract), and (2) case quality goals, namely, criteria for SWRs and for receiving contract credit (i.e., quality, timeliness, and completeness of case work). Evaluation participants reported appreciating that these metrics set clear expectations and are helpful for FEPAs. They also voiced appreciation that these expectations are neither overly prescriptive nor onerous for FEPAs and that there is flexibility. Several evaluation participants also perceived that EEOC’s approach to performance metrics is appropriate and in keeping with the collaborative and symbiotic nature of the EEOC-FEPA relationship.

<b>Table 6. EEOC and FEPA participants’ perceptions of FEPA performance goals and metrics</b>			
	<b>Rating</b>	<b>EEOC Responses</b>	<b>FEPA Responses</b>
Establishment of FEPA performance goals and metrics (n=23, n=54)	Large extent	8 (35%)	27 (50%)
	Moderate extent	6 (26%)	20 (37%)
	Small extent	4 (17%)	1 (2%)
	Not at all	0 (0%)	0 (0%)
	Not sure	5 (22%)	6 (11%)

The SLTP Handbook describes how WSAs between the EEOC and FEPAs were intended as a means to "promote time economy and the expeditious handling of cases" (p. 8) and to "provide individuals with an efficient procedure for obtaining redress for their grievances under appropriate [jurisdictional] and Federal laws" (p. 84). Both EEOC

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and FEPA participants' identification of the quantity of intakes and investigations processed annually as a performance goal and metric is aligned with the SLTP Handbook's description of the WSA. In other words, this performance goal and metric makes sense given the nature of the EEOC-FEPA relationship. Similarly, the goal and metric related to quality, timeliness, and completeness of cases (determined via SWRs and credit reviews) also make sense, as the SLTP Handbook clearly establishes SWR and contract credit criteria and the requirement that FEPAs must perform to a certain degree of quality, timeliness, and completeness to receive credit/payment.

#### *2a-4. Strengths of FEPA Program Performance Goals and Metrics*

Evaluation participants reported appreciating that these metrics set clear expectations and are helpful for FEPAs. They also voiced appreciation that these expectations are neither overly prescriptive nor onerous for FEPAs. There is flexibility.

*“I think [performance goals and metrics] are helpful, because we try to transmit that knowledge, those concepts to our staff. Because, really, we need to have compliance with EEOC standards and expectations throughout our process.” ~ FEPA Interview Participant*

*“If [EEOC] says [they] really need for us to increase our charges or intake credits, or if we want to increase them ourselves, we meet with them, and they are very supportive in making sure we can do it. ... They help us set realistic goals... We do have a meeting about the goals to make sure we're all on the same page, and they're very supportive and make sure we set an attainable goal.” ~ FEPA Interview Participant*

Several evaluation participants also perceived that the performance metrics are appropriate and in keeping with the collaborative and symbiotic nature of the EEOC-FEPA relationship, as well as the relatively small amount that FEPAs are paid by EEOC per case completed compared to higher reimbursements from Housing and Urban Development (HUD), for instance.


Altogether, there appears to be a shared understanding between the EEOC and FEPAs of what FEPAs must strive for in terms of the number of intakes and investigations completed annually to meet contract requirements, as well as performance expectations for quality, timeliness, and completeness to receive credit for completed cases. In that sense, the intention and purpose of *establishing* performance goals and metrics (or performance expectations) has been effective.

## **2b. Mixed-Methods Findings: Utilizing Performance Data for Program Management**

### *2b-1. Utilizing Data on Intakes/Investigations and Quality/Completeness of Cases*

Most FEPA and EEOC participants (81% and 62%, respectively) believe that performance goals and metrics have been utilized to support FEPA's quality of work “to a large or moderate extent” (Table 7). Interview and focus group participants described





how the EEOC uses performance data on the number of intakes and investigations completed by the FEPAs. For example, these data help determine the number of cases included in each FEPA's annual WSA. EEOC management decisions are made periodically throughout the year by monitoring whether FEPAs are on track to meet their WSA and contract numbers. Multiple conversations can occur between the EEOC and FEPAs throughout the year focused on whether FEPAs will be able to meet the expected number of cases documented in their contract. This is an important topic of discussion and negotiation that occurs between the agencies. Modifications are made, as needed, according to the capacity of FEPAs to meet the number of cases in their contract. Tracking this performance information and communicating about it frequently helps HQ SLTP manage workflow across all FEPAs to reach the FEPA Program goal for the number of charge resolutions annually. Additionally, the SWR process itself generates critical performance information about case quality, timeliness, and completeness on an ongoing basis. The SLTP C/Ms largely hold the knowledge about case quality, timeliness, and completeness based on the SWRs they complete and their constant communication with FEPAs. The EEOC utilizes these performance data to inform decisions about the need for and type of technical assistance, training, and support to provide to FEPAs.

### *2b-2. Utilizing Data on the TER Goal*

As explained above, the performance measure related to the TER goal was last reported in the EEOC's 2021 Annual Performance Report and is no longer part of the agency's Strategic Plan. Interview and focus group findings suggest that evaluation participants had mixed opinions about its usefulness. It was reportedly not used by EEOC to make management decisions about FEPA contracts.

Survey findings suggest a more nuanced perspective on this measure related to the TER goal. Both EEOC and FEPA survey participants were asked to rate the measure's helpfulness in providing management and oversight of FEPA Program activities. Altogether, EEOC participants equally believed and did not believe that this was a helpful measure. As presented in Table 7, 37% indicated that this measure was helpful "to a large or moderate extent." On the other hand, 37% indicated that this measure was helpful "to a small extent or not at all." In contrast, a greater proportion of FEPA participants (57%) believed that this measure was helpful "to a large or moderate extent."

A notable proportion (25%) of EEOC participants were unsure about the TER's helpfulness as a performance metric. Of these, 33% of SLTP C/Ms indicated that they were "unsure," and 13% reported that the measure was "not at all helpful," suggesting ambivalence about this measure among those who play a critical role in the management and oversight of FEPA Program activities.

**Table 7. EEOC and FEPA participants' perceptions of FEPA performance goals and metrics**

	Rating	EEOC Responses	FEPA Responses
Helpfulness of performance metric on FEPA resolutions containing targeted, equitable relief (TER) (n=24, n=54)	Large extent	1 (4%)	11 (20%)
	Moderate extent	8 (33%)	20 (37%)
	Small extent	6 (25%)	5 (9%)
	Not at all	3 (12%)	8 (15%)
	Not sure	6 (25%)	10 (19%)
Utilization of FEPA performance goals and metrics to support FEPA's quality of work (n=24, n=54)	Large extent	7 (29%)	24 (44%)
	Moderate extent	8 (33%)	20 (37%)
	Small extent	5 (21%)	2 (4%)
	Not at all	0 (0%)	1 (2%)
	Not sure	4 (17%)	7 (13%)

### *2b-3. Factors that Facilitate Utilization of Performance Data for Management*

To assess what conditions might facilitate better utilization of performance data, survey participants were asked to identify capacity needs to effectively use performance data to provide oversight and management of the FEPA Program. The EEOC and FEPA evaluation participants identified the same capacity needs. As presented in Table 8, the top three capacity needs identified by EEOC and FEPA participants were “more training for FEPA staff” (44% and 57%, respectively), followed by “better quality training for FEPA staff” (33% and 27%, respectively) and “more staff at FEPAs” (30% and 39%, respectively).

### *2b-4. Challenges to Utilizing Performance Data for Management*

Overall, the evidence indicates that EEOC utilizes performance data for management purposes as described above. However, as reported in interviews and focus groups, there are important limitations impeding EEOC's ability to be most effective in their oversight and management efforts. First and foremost, the ARC is a relatively new case management system developed by the Office of Information Technology (OIT), and it has not worked well overall for the SLTP. Specifically, as it pertains to utilizing performance data for management, the evaluation team reached out to HQ SLTP to request data on whether SWRs had been completed across District Offices according to requirements set forth in the SLTP Handbook. In response, the SLTP Director and Deputy Director asked for a meeting. They explained at this meeting that, due to current limitations with ARC, HQ SLTP is unable to utilize the system to assess whether the requisite SWRs are being conducted and completed.

<b>Table 8. EEOC and FEPA participants' report of the most common capacity needs to effectively utilize performance goals and metrics to provide oversight and management of FEPA Program activities</b>		
	<b>EEOC Responses (n=27)</b>	<b>FEPA Responses (n=59)</b>
More training for FEPA staff	12 (44%)	34 (57%)
Better quality training for FEPA staff	9 (33%)	16 (27%)
More staff at FEPAs	8 (30%)	23 (39%)

Additionally, out of respect for and to preserve the collaborative nature of the EEOC-FEPA relationship, EEOC does not enforce compliance of FEPAs to meet performance goals and metrics by defunding them. As explained previously, the EEOC instead works closely with FEPAs to problem solve and help them succeed. In this respect, SLTP C/Ms' hands can be somewhat tied when it comes to utilizing performance data for management. Based on focus groups with SLTP C/Ms, they can be frustrated when working with the minority of FEPAs that may consistently not perform to standards and yet do not face any negative repercussions from the EEOC. As suggested by the dialogue below taken from the focus group with SLTP C/Ms, there was concern expressed by SLTP C/Ms about HQ SLTP not supporting them when FEPAs do not perform to quality and timeliness standards.

Participant 1: *“Something I’ve found challenging is HQ will get frustrated with me when a FEPA is late, but I don’t have authority over a FEPA, and HQ doesn’t enforce anything such as decertifying a FEPA or [telling them], ‘You submitted this too late.’ ... When that kind of stuff isn’t enforced strictly, then I don’t have any authority.”*

Participant 2: *“I get that. I have a FEPA [that is] having issues, and I’m telling the FEPA one thing and they go behind my back to HQ, and HQ turns around and lets them do whatever they want to do. So I don’t even know [why] I’m talking to the FEPA when [HQ] is not backing me up.”*

**2c. Mixed-Methods Findings: Meeting Performance Goals and Metrics**

As explained above, the two performance goals and metrics most identified by EEOC and FEPA participants are to ensure a certain quantity of intakes/investigations processed and quality/completeness of cases. These goals and metrics are the focus of this next assessment of the extent to which performance expectations are met.

*2c-1. Meeting Performance Goals for Charge Resolutions*

Given the inherent flexibility built into the FEPA WSAs and contracts in terms of the number of charge resolutions each FEPA is contracted to complete annually, it is difficult to determine whether and how often individual FEPAs technically meet their

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annual performance expectation for number of intakes and investigations completed. In the absence of formally stated FEPA Program goals, and because individual FEPA contract numbers can be a moving target, it was most feasible to determine whether FEPA Program goals for the number of charge resolutions annually are met by looking at the big picture across all FEPAs. To accomplish this, we looked for documentation of the SLTP's minimum annual goal for the number of charge resolutions compared to the actual number of charge resolutions per year. Per the SLTP Director, the only place the performance goal and metric is identified or documented is in the SLTP Director's individual performance plan. An analysis of this information revealed the following:

- For the past two years, the minimum goal for the number of charge resolutions processed by the FEPA Program has been 30,000. This number was exceeded in both years (see Table 9, which was supplied by HQ SLTP).
- The minimum goal for the number of charge resolutions processed was not available from FY2018-2019 through FY2020-2021. The minimum goal was established in FY2021-2022 for the new SLTP Director. Based on the logical assumption that the minimum goal for the number of charge resolutions in those earlier fiscal years would not have been higher than the more recent years for which we have data, it appears that the number was exceeded each year of the evaluation period.

### *2c-2. Meeting Performance Goals for Quality Standards*

To review, the SLTP Handbook establishes and explains the SWR process and contract credit criteria. Secondary data analysis of aggregate data available in ARC indicates that only 9 cases were rejected for credit in FY2023 based on SWRs. This suggests that, of the percentage of cases monitored by the SLTP the past year (i.e., 100% of noncertified FEPAs and at least 10% of certified FEPAs), the vast majority are ultimately deemed to meet quality, timeliness, and completeness expectations. As well, when SWRs have been completed on their cases, several FEPA representatives reported being unaware of any problems with substantial weight being recorded. When concerns are raised, EEOC and FEPA evaluation participants reported working collaboratively to address the problem. Together, this evidence indicates that EEOC processes and safeguards are in place to help FEPAs more effectively meet performance goals for case quality. However, it is important to note that FEPAs do not always meet quality, timeliness, and completeness criteria during the initial SWR or review for credit. This could be inefficient and produce more work for SLTP C/Ms.

*“We have a FEPA that has not been in compliance for a very long time...and there's been a lot of back and forth in terms of how can we assist and [to] what extent the EEOC can make this work.” ~ SLTP C/M Interview Participant*

<b>Table 9. Number of Charge Resolutions for FY2018-2019 to FY2022-2023</b>		
<b>Fiscal Year</b>	<b>Minimum goal for number of charge resolutions</b>	<b>Actual number of charge resolutions</b>
2018-2019	Not Available	36,161
2019-2020	Not Available	35,113
2020-2021	Not Available	42,906*
<b>2021-2022</b>	<b>30,000</b>	<b>34,682</b>
<b>2022-2023</b>	<b>30,000</b>	<b>35,169</b>

\* This number includes a special FEPA Case Cleanup project of about 10,000 resolutions during the transition from the old to new case management systems.

Additionally, due to the challenges described previously related to the inability of SLTP to pull reliable data reports from ARC, we could not calculate for how many and what percentage of FEPA cases the EEOC cannot record substantial weight upon first review. If these data were available, we could better determine the extent of quality for reviewed cases and extrapolate for the universe of FEPA cases the number and percentage that initially meet quality standards. Absent this evidence, it is difficult to verify the overall degree to which case quality standards are met.

Without access to the data mentioned above, we also cannot fully determine the efficiency with which case quality standards are met. In other words, we could not determine from available evidence how often SLTP and FEPA staff need to reprocess and re-review cases for which substantial weight cannot be recorded and/or those that are initially not accepted for credit for other reasons. It is reasonable to conclude that any such occurrences have a negative impact on the efficient use of both EEOC and FEPA staff time; therefore, this is an important gap in information.

### *2c-3. Factors that Hinder Ability to Meet Performance Goals*

According to evaluation participants, factors that hinder the achievement of performance goals and metrics include FEPA staffing issues (e.g., small number of staff at FEPA agencies, FEPA staff turnover, and the related need for continuous FEPA staff training). This high need for FEPA training, juxtaposed with what participants perceive as limited resources within the EEOC to provide training, presents a significant gap that can challenge the FEPA Program's ability to consistently meet performance goals and expectations.

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*“Where [the EEOC] could improve is providing better training opportunities for our investigators so they have the subject matter expertise to tackle those complex cases. They [EEOC] really don’t provide a lot of training at all, so we have to do a lot of internal training. We have to pay and outsource trainings from organizations who might do employment training. I hate to compare, but HUD has a national housing training academy we can send our investigators to. It’s free to investigators. They provide trainings every month, and sometimes you can get training every week depending on what’s available. It’s non-existent at the EEOC. ... We have high turnover. ... I have an investigator trained and then they leave and then I can’t get my new investigator in to get trained until [the] next year.” ~ FEPA Interview Participant*

### **3. Does EEOC provide effective oversight of FEPA case quality?**

#### **3a. Mixed-Methods Findings: Tools and Processes for Oversight of FEPA Case Quality**

##### *3a-1. Substantial Weight Reviews (SWR)*

According to the SLTP Handbook, the SWRs are EEOC’s in-depth review of case work completed by FEPAs. Performing a SWR includes analysis of the extent to which “procedural and jurisdictional requirements were met, whether the standards of proof were correctly applied and whether the FEPA appropriately resolved the case” (p. 36). The SLTP Handbook also notes the following:

*“For all non-certified FEPAs, 100% SWR by the EEOC is required. For certified FEPAs, SWRs are to be conducted on at least 10% of Title VII, ADEA, and ADA cases submitted for contract credit. At the discretion of the EEOC District Director and in collaboration with HQ SLTP, as applicable, the percentage of charges reviewed may be increased. SWRs on Request contribute to the 10% review requirement” (p. 36).*

Based on interviews and focus groups with EEOC and FEPA participants, a SWR conducted by SLTP C/Ms in the field is the primary tool for assessing FEPA case quality on an ongoing basis following guidelines as those stated above regarding the percentage of cases that undergo SWR for certified and non-certified FEPAs.

### *3a-2. Perceptions of SWR by EEOC and FEPAs*

Because SWR is a critical tool and process for oversight of FEPA case quality, EEOC and FEPA participants were asked via the surveys to rate their level of agreement on a series of items about SWR (see Table 10). Overall, most EEOC and FEPA participants “agreed or strongly agreed” that:

- The SWR process is efficient (92% and 88%, respectively)
- The quality standards for SWR are clearly defined (87% and 83%, respectively)
- The quality standards for SWR are fair (96% of FEPA participants)
- The criteria for SWR are appropriate for ensuring FEPA case quality (82% and 87%, respectively)
- The percentage of cases selected for SWR is sufficient to assess quality (96% and 85%, respectively).

However, aspects of the SWR that were asked about in the surveys also elicited disagreement from the EEOC and FEPA participants. As shown in Table 10, more than one third to one half of both EEOC and FEPA participants “disagreed or strongly disagreed” that:

- The amount of training they receive on the SWR process and criteria is sufficient (42% and 51%, respectively)
- The training they receive on the SWR process is high quality (39% and 42%, respectively)
- They have had input into the quality standards for SWR (46% and 72%, respectively).

The response about having had input into the quality standards for SWR stands out, especially for FEPA participants. Furthermore, among EEOC participants, there were notable differences between District Directors and SLTP C/Ms. Specifically, almost double the proportion of District Directors (50% versus 27% for SLTP C/Ms) “disagree” that the training they received on the SWR process is high quality, suggesting the need for higher quality SWR training for District Directors.

### *3a-3. Collaborative Relationships*

In addition to SWRs and as part of their oversight duties, SLTP C/Ms work in collaboration with FEPAs, assisting them in several ways to ensure they meet EEOC standards of case quality and receive credit for their submitted work. This includes the SLTP C/Ms meeting regularly with FEPA representatives, as well as developing relationships with them so they know the strengths and needs of FEPAs in their respective District Offices. The SLTP C/Ms who participated in the focus groups reported being available to answer questions, provide technical assistance, and deliver training to FEPAs. FEPA participants widely concurred with the level of accessibility and availability of SLTP C/Ms. If concerning issues are found during a SWR, participants affirm that the role of the SLTP C/M is to provide technical assistance or other support to help the FEPA understand and correct the problem.

<b>Table 10. EEOC and FEPA participants' level of agreement with statements about SWR</b>			
	<b>Rating</b>	<b>EEOC Responses</b>	<b>FEPA Responses</b>
The SWR process is efficient (n=24, n=48)	Strong agree	6 (25%)	12 (25%)
	Agree	16 (67%)	30 (63%)
	Disagree	2 (8%)	6 (12%)
	Strongly disagree	0 (0%)	0 (0%)
The quality standards for SWR are clearly defined (n=24, n=47)	Strong agree	7 (29%)	13 (28%)
	Agree	14 (58%)	26 (55%)
	Disagree	2 (8%)	8 (17%)
	Strongly disagree	1 (4%)	0 (0%)
The quality standards for SWR are fair (n=47)	Strong agree	-	13 (30%)
	Agree	-	29 (66%)
	Disagree	-	2 (4%)
	Strongly disagree	-	0 (0%)
The criteria for SWR are appropriate for ensuring FEPA case quality (n=24, n=47)	Strong agree	6 (25%)	13 (27%)
	Agree	16 (67%)	28 (60%)
	Disagree	2 (8%)	6 (13%)
	Strongly disagree	0 (0%)	0 (0%)
The percentage of cases selected for SWR is sufficient to assess quality (n=24, n=47)	Strong agree	3 (13%)	11 (24%)
	Agree	20 (83%)	28 (61%)
	Disagree	1 (4%)	7 (15%)
	Strongly disagree	0 (0%)	0 (0%)
The amount of training I receive on the SWR process and criteria is sufficient (n=24, n=49)	Strong agree	2 (8%)	5 (10%)
	Agree	12 (50%)	19 (39%)
	Disagree	9 (38%)	23 (47%)
	Strongly disagree	1 (4%)	2 (4%)
The training I receive on the SWR process is high quality (n=23, n=47)	Strong agree	2 (9%)	4 (9%)
	Agree	12 (52%)	23 (49%)
	Disagree	8 (35%)	18 (38%)
	Strongly disagree	1 (4%)	2 (4%)
I have had input into the quality standards for SWR (n=24, n=47)	Strong agree	2 (8%)	3 (7%)
	Agree	11 (46%)	10 (21%)
	Disagree	7 (29%)	27 (57%)
	Strongly disagree	4 (17%)	7 (15%)

### 3b. Mixed-Methods Findings: Extent of Oversight of Case Quality

The ARC system is theoretically designed to track the extent to which SWRs are being conducted per guidelines in the SLTP Handbook. Yet, as reported above, this information cannot be accurately extracted from ARC. Program Analysts at HQ SLTP also confirmed that this information has not been reliably available in ARC. Nonetheless, the SLTP Director and HQ SLTP staff reported confidence that the SWRs are being conducted in accordance with the SLTP Handbook. When asked if they are always able to conduct SWRs according to SLTP Handbook requirements, one SLTP

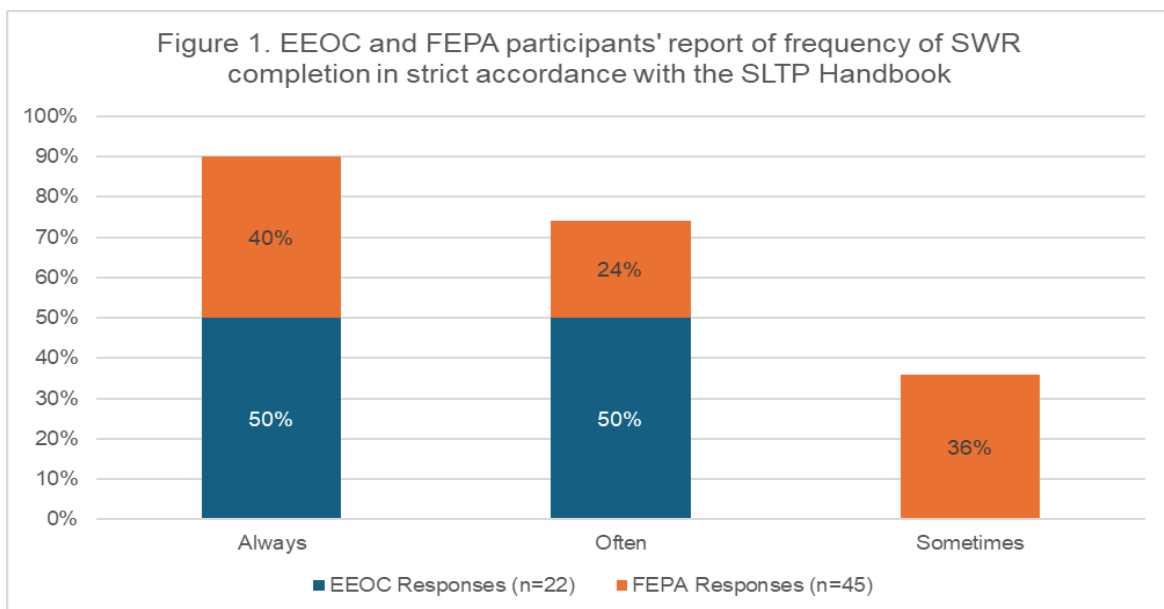


C/M indicated, “We have to. That’s part of our job.” Others agreed and explained that they often review more than the required 10% of cases for certified FEPAs annually.

Survey responses generally reflect this confidence in the SWR for case quality oversight. Based on EEOC participants, 50% reported that SWRs are completed “always” and another 50% report that SWRs are completed “often” in strict accordance with the SLTP Handbook. The FEPA participants varied more, leaning toward reports of less frequency: 40% reported “always,” 24% reported “often,” and 36% reported “sometimes” SWRs are completed in strict accordance with the SLTP Handbook (see Figure 1). This finding for FEPAs is consistent with interview and focus group findings in that FEPA participants were less aware of how frequently SWRs are conducted by the EEOC. This may be due to the fact that FEPAs are not as familiar with the SWR process or are not made aware of the outcome of a SWR unless there is a problem. A few FEPA participants expressed interest in receiving more information about the SWR process, as well as feedback from SWRs conducted on their cases.

*“They’ll come back and ask us to make sure things are updated so that they can see everything. So we’ve been doing that, and that’s the most back and forth I’ve seen for SWR. I haven’t seen a response yet on any one [of our cases] called into question by EEOC. I’d like feedback on that, and I’d like to know how they were resolved. I’m not sure if we get the results of that or if they go to the parties in that case.” ~ FEPA Interview Participant*

*“As for SWRs, I would be curious to know when they get filed and what the EEOC thinks of our work, but I don’t really get notified when that happens. I would be interested to know, but to my knowledge, we haven’t received any negative feedback. ...It still would be interesting if we were notified when there was a SWR and what the outcome was. I don’t think that’s data that we get.” ~ FEPA Interview Participant*



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### 3c. Mixed-Methods Findings: FEPA Case Quality

Despite existing challenges to oversight processes and the EEOC's staff capacity to support FEPA case quality, altogether few evaluation participants reported being concerned that FEPA case quality, overall, was low. As an EEOC participant explained:

*"If there's a FEPA that seems more negative, they will be the minority. The vast majority of the FEPAs are top notch. They are doing good work, getting it done, and are good partners." ~ HQ SLTP Interview Participant*

These perceptions of case quality are consistent with what was described previously as SLTP possessing multiple tools and processes for monitoring FEPA case quality, including the close collaboration between SLTP C/Ms and FEPA liaisons in the field and the ability of SLTP C/Ms to observe the work of FEPAs. Furthermore, a few FEPA respondents noted that they have put into place internal layers of quality assurance and case review in their own agencies prior to submitting information to EEOC for contract credit.

Overall, the evidence suggests that tools and processes of overseeing the case quality of certified and non-certified FEPAs are in place to a large degree and, despite relatively low resources, HQ SLTP has made recent improvements that have given EEOC leadership greater confidence in oversight. That does not mean that problems are never found. Evaluation participants discussed that FEPAs sometimes underperform or are not always in compliance with EEOC performance expectations for quality. In such situations, a main function of EEOC's oversight is to make sure problems are addressed and performance is improved. Again, the model is for EEOC to work collaboratively with and to help FEPAs perform to EEOC standards. In this light, and due to the nature of the work, the SLTP Director said it was unrealistic to expect perfection when it comes to case quality. However, the SLTP Director expressed being comfortable with the quality of case work overall:

*"I am comfortable where we are [with overseeing case quality], but I will say I also realize that we cannot be complacent. If there's something problematic, we jump on that... I look forward to [continuing] TARs to help us and have an eye out – but it can't cover everything. Now that the District Directors have the message that [they] have to pay attention, I am more comfortable now than I used to be." ~ SLTP Director*

### 3d. Mixed-Methods Findings: Factors that Facilitate Effective Oversight of Case Quality

According to interview and focus group data, several factors have facilitated and continue to facilitate the process of case quality oversight and help to promote case quality. These factors reflect two key areas of strength for the EEOC.

**3d-1. EEOC Support to FEPAs**

First and foremost, FEPA interview participants nearly unanimously reported that the support they receive from the EEOC, including training and technical assistance, helps them meet EEOC standards of quality, timeliness, and completeness. Further, FEPA participants appreciate the accessibility, timely communication, and responsiveness of the SLTP C/Ms and HQ SLTP (when applicable). Several participants on both the EEOC and FEPA side characterized the relationships between SLTP C/Ms and FEPA representatives as collaborative and strong. They further reported that the nature of the relationship helps to ensure SLTP C/Ms understand the capacity and needs of the FEPAs they work with and makes FEPAs comfortable reaching out with questions and concerns whenever needed. Finally, both EEOC and FEPA evaluation participants concurred that SLTP C/Ms have previous investigation experience and are very competent and knowledgeable about the intake and investigation processes, as well as the standards for review. As a result, these qualities help facilitate the oversight process and promote case quality.

Survey responses from FEPA participants also indicate fairly strong support from EEOC in achieving high case quality. As shown in Table 11, more than half of FEPA participants (57%) believed that EEOC supports FEPAs in achieving high case quality "to a large extent." Another 35% believed this "to a moderate extent." Furthermore, responses from FEPA participants reflect a high degree of support from and comfort with seeking assistance from the EEOC District Director and SLTP C/Ms (see Table 12).

<b>Table 11. FEPA participants' perceptions of EEOC support to FEPAs in achieving high case quality</b>		
	<b>Rating</b>	<b>FEPA Responses</b>
The EEOC supports FEPAs in achieving high case quality (n=51)	Large extent	29 (57%)
	Moderate extent	18 (35%)
	Small extent	4 (8%)
	Not at all	0 (0%)
	Not sure	0 (0%)

Table 12. FEPA participants' perceptions of comfort seeking support from District Directors and SLTP C/Ms		
	Rating	FEPA Responses
Feel comfortable reaching out to the EEOC District Director when there are questions or concerns about FEPA cases (n=53)	Large extent	47 (88%)
	Moderate extent	2 (4%)
	Small extent	1 (2%)
	Not at all	2 (4%)
	Not sure	1 (2%)
Feel comfortable reaching out to EEOC SLTP C/M when there are questions or concerns about FEPA cases (n=53)	Large extent	46 (86%)
	Moderate extent	3 (6%)
	Small extent	1 (2%)
	Not at all	0 (0%)
	Not sure	3 (6%)

### 3d-2. HQ SLTP Support to EEOC Districts

Since the new leadership took the helm in 2021, HQ SLTP has instituted several steps and processes intended to enhance oversight of FEPA case quality. More specifically, SLTP leadership strategically implemented a plan to improve HQ SLTP's line of sight not only on FEPA case quality but on the quality of performance of SLTP field staff. The plan was a multi-pronged approach including, but not necessarily limited to:

- Increasing the accountability of District Directors for FEPA Program goals;
- Updating the SLTP Handbook with input from SLTP C/Ms, and then training FEPAs on the content of the SLTP Handbook;
- Messaging and implementing processes to facilitate greater hands-on oversight at the HQ SLTP level through TARs;
- Implementing improvements in the type, quantity, and quality of training for FEPAs;
- Automating FEPA Program processes.

According to evaluation participants, these approaches are still a work in progress. Overall, however, the changes have left an impression on FEPA, EEOC field staff, and EEOC leadership participants, several of whom reported that the approaches have been perceived and received as welcome changes that improve EEOC's ability to perform meaningful oversight of FEPA case quality.

*"[The SLTP Director] and [SLTP Deputy Director] have taken the program into a much more positive direction. They're reimplementing a lot of things. There's a lot of energy in general in terms of initiatives." ~ SLTP TAR Focus Group Participant*

*“Since the new state and local director came into the program in 2021, we’ve seen a real increase and attention being paid to the FEPAs. [For example,] putting together training or organizing national training - not even just on our laws but even on our case management system and so forth. Also, bringing a lot more attention to the Handbook and updating it and making sure that a lot of those guidelines are alive [and] that people are made aware of them and know... what they’re expected to follow and implement. What stands out to me is improved organization and oversight of the program.” ~ HQ SLTP Interview Participant*

*"I think quality control is a big thing with [the TARs]. Is the same thing happening across the country and [are FEPAs] getting the same attention they deserve? ... I think [quality control] is a good thing for a program this size." ~ SLTP TAR Focus Group Participant*

Based on EEOC responses to the survey (see Table 13), there is a strong sense that District Directors and SLTP C/Ms are supported by and feel comfortable seeking help from HQ SLTP on FEPA case quality issues such as problem solving, technical assistance, and training. One finding that is relevant to EEOC staff that suggests room for improvement is accessing legal staff at the EEOC OFP for legal support (e.g., for guidance on legal issues that may arise from SWR). While 67% of EEOC participants indicated that they were comfortable reaching out to this office “to a large or moderate extent,” 29% indicated feeling comfort doing so “to a small or no extent.”

<b>Table 13. EEOC participants’ perceptions of support from HQ SLTP</b>		
	<b>Rating</b>	<b>EEOC Responses</b>
Feel supported by HQ SLTP to effectively oversee FEPA case quality (n=24)	Large extent	18 (75%)
	Moderate extent	5 (21%)
	Small extent	0 (0%)
	Not at all	0 (0%)
	Not sure	1 (4%)
Feel comfortable reaching out to HQ SLTP when there are questions or concerns about FEPA case quality (n=24)	Large extent	19 (79%)
	Moderate extent	5 (21%)
	Small extent	0 (0%)
	Not at all	0 (0%)
	Not sure	0 (0%)
Comfort accessing legal counsel at EEOC Office of Field Programs (n=24)	Large extent	12 (50%)
	Moderate extent	4 (17%)
	Small extent	5 (21%)
	Not at all	2 (8%)
	Not sure	1 (4%)

### 3e. Mixed-Methods Findings: Challenges to Oversight of Case Quality

Recent updates and upgrades made by SLTP leadership appear to be important and significant improvements to the effectiveness of EEOC oversight of FEPA case quality, but challenges and concerns remain. They are explained below.

#### 3e-1. FEPA Capacity Needs

According to surveys, interviews, and focus groups, the primary FEPA capacity challenge - which lies outside the control of EEOC SLTP - is FEPA staffing issues. Namely, many FEPAs are understaffed and/or they experience high levels of turnover. Consequently, many get behind on processing intakes and investigations and face backlogs. Also, they often have no choice but to hire inexperienced staff who need considerable training.

*"We have a small agency and budget, and our internal challenge is the salaries we pay. We have a high turnover. ... Because of the investigator salaries I often have to be able to hire people who have never done this before. I've never been able to hire someone with experience because they want a more leadership role, and I don't have the budget." ~ FEPA Interview Participant*

*"When [agencies] are having a huge turnover and there's a backlog. ... When they get a new staff person on, they can't keep them long because they get overwhelmed because the agency is behind because they haven't had anybody in that role. And then they get overwhelmed with having to catch up on all these things." ~ FEPA Interview Participant*

#### 3e-2. EEOC Staff Capacity Needs

First, in terms of internal EEOC capacity challenges, a few EEOC interview and focus group participants explained that the SLTP currently functions with fewer staff overall compared to historical staffing numbers while managing a higher number of requirements, including a heavier volume of cases processed through the FEPA Program. One FEPA respondent also observed that the number of SLTP C/Ms seems low given their workload and responsibilities.

*"I believe the EEOC staff members are overburdened in their workloads, similar to that of FEPA staff, however our local [EEOC] staff members always attempt to assist our agency when requested." ~ FEPA Survey Participant*

Lack of EEOC staff capacity has had a negative impact on the ability to effectively manage and support FEPA case quality, both in terms of the ability of HQ SLTP to conduct more hands-on oversight (e.g., through TARs) and in the ability of the program to provide more training and technical assistance to fulfill the need of FEPAs. This is in direct contrast to the high need that FEPAs have for training; it is a significant gap that SLTP struggles with in their oversight of case quality.

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*"Our district has [many] agencies between FEPAs and TEROs. They would all love individual training. Look at the staff we have. How are we going to train them? We do a lot of training. A lot. There's no way."* ~ SLTP TAR Focus Group Participant

The second internal EEOC capacity challenge is also related to staff capacity. Specifically, the challenge is ensuring SLTP C/Ms receive the necessary support to consistently understand and practice according to the SLTP Handbook (with the appropriate amount of flexibility to take FEPA context into account). Notably, although SLTP leadership did not perceive SLTP C/Ms turnover or training of SLTP C/Ms as a concern, there was general concern among SLTP C/Ms and Program Analysts about this. Participants from these groups approximated that up to half of SLTP C/Ms were relatively new and worried that they did not have appropriate level of orientation, training, or support to fulfill their duties. Further, a few respondents explained that for veteran SLTP C/Ms, historically, the training they received, if any, was from former SLTP C/Ms who were not trained themselves. In response, a mentor program was recently developed to support new SLTP C/Ms. One unintended result was that HQ SLTP learned veteran SLTP C/Ms were performing their job functions differently from one another and did not always know how to guide new SLTP C/Ms.

*"One of the main pieces of feedback we've heard is we never really had a national training program on how a coordinator is supposed to do their job. So we have a variety of opinions on how to do the job well..."* ~ HQ SLTP Group Interview Participant

Furthermore, the EEOC management structure is such that HQ SLTP does not have direct supervisory oversight over SLTP C/Ms in the field. Therefore, HQ SLTP does not manage SLTP C/Ms' performance reviews or supervise them directly. SLTP C/Ms are supervised by District Directors, who only recently had to include FEPAs in their own performance reviews. The HQ SLTP has had questions about consistency among SLTP C/Ms with respect to their individual approaches to overseeing FEPA case quality and has partly tried to promote greater consistency through regular meetings with SLTP C/Ms, TARs with FEPAs, and training.

Survey findings corroborate interview and focus group findings in that EEOC participants perceive that enhanced EEOC staff capacity is necessary to effectively oversee FEPA case quality. The top three capacity needs identified by EEOC participants were more training for both FEPA and EEOC staff, as well as more staff at EEOC District Offices.

### **3e-3. ARC System**

Interviews and focus groups with EEOC participants confirmed another key challenge - that is, EEOC's lack of ability to effectively monitor and verify that SWRs are completed as intended and how many (or what percentage) for which substantial weight is recorded after the first SWR and/or after modifications. Despite approximately two years of working with ARC, ARC is not functioning fully for the SLTP Program. This

leaves SLTP limited in its ability to monitor key information to inform oversight. The ineffectiveness of ARC has reportedly led to many inefficiencies in terms of time and resources spent at both the HQ SLTP and field levels working with Information Technology developers, troubleshooting and finding workarounds internally and with FEPAs, and providing training and technical support to FEPAs on ARC.

*“We’ve been so buried...the past two years in all this ARC stuff, because the system isn’t working great for us. The system is a bit of a mess for us.” ~ HQ SLTP Interview Participant*

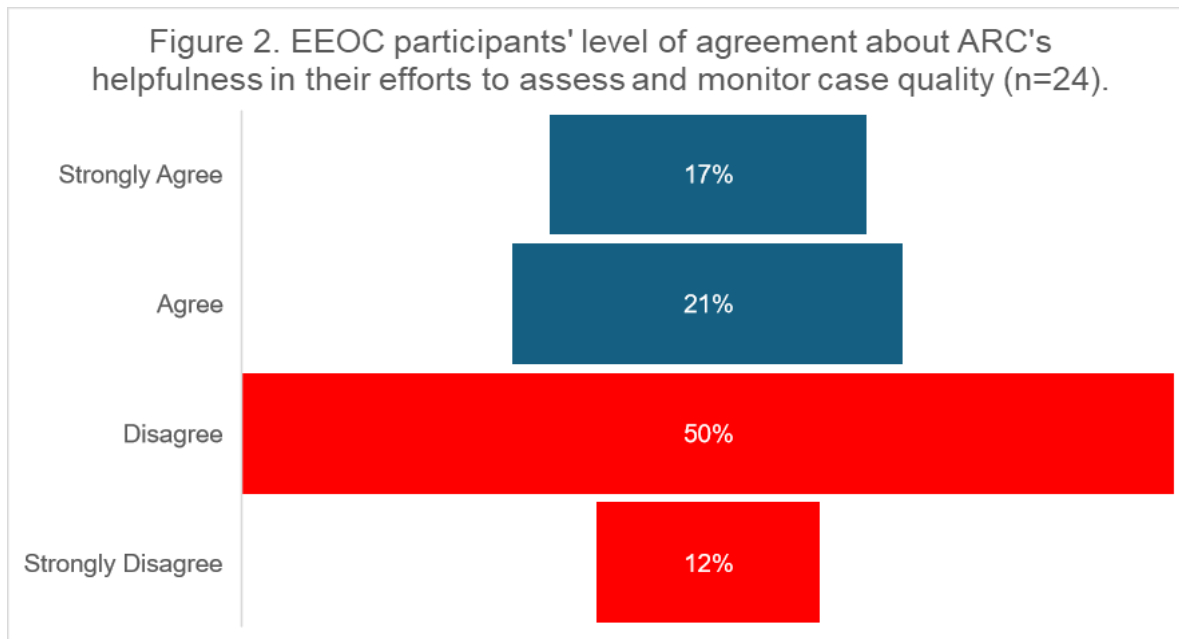
*“ARC is a newer program, so it wasn’t always showing us the right information as to if a SWR was done. It wasn’t making it easy for Coordinators/Managers to record that [a SWR] was done or uploaded. It should be that we can identify that. There are instances where ARC does not [give us the information we need.]... That’s something that needs to be worked on with ARC and reports. ARC and reports have made our jobs more complicated.” HQ SLTP Group Interview Participant*

Survey findings also indicate challenges with the ARC. As shown in Table 14, there is general agreement by both EEOC and FEPA participants that data are entered by the respective agency in a timely manner according to the requirements in the SLTP Handbook. Specifically, 84% of EEOC participants and 71% of FEPA participants believe this is occurring “to a large or moderate extent.” Moreover, 83% of EEOC participants and 72% of FEPA participants believe that data in ARC are accurate “to a large or moderate extent.” However, when EEOC participants were asked about its helpfulness, 62% “strongly disagreed or disagreed” that it was helpful in their overall efforts to assess and monitor case quality (see Figure 2).

**Table 14. EEOC and FEPA participants’ perceptions of ARC**

	Rating	EEOC Responses	FEPA Responses
Extent to which EEOC/FEPA enters data in ARC timely according to requirements in the SLTP Handbook (n=24, n=51)	Large extent	11 (46%)	30 (59%)
	Moderate extent	9 (38%)	6 (12%)
	Small extent	2 (8%)	2 (4%)
	Not at all	0 (0%)	1 (2%)
	Not sure	2 (8%)	12 (23%)
Extent to which data in ARC are accurate (n=24, n=51)	Large extent	13 (54%)	35 (68%)
	Moderate extent	7 (29%)	7 (14%)
	Small extent	1 (4%)	2 (4%)
	Not at all	0 (0%)	1 (2%)
	Not sure	3 (13%)	6 (12%)





## 4. Does EEOC establish and maintain effective relationships/ coordination with the FEPAs?

### 4a. Mixed-Methods Findings: Context of the EEOC-FEPA Relationship

Various documents that describe the relationship between the EEOC and FEPAs (e.g., SLTP Handbook, Strategic Enforcement Plan FY2024-28, U.S. Equal Employment Opportunity Commission Strategic Enforcement Plan Fiscal Years 2017-2021) indicate that there is a *funding* relationship between the EEOC and FEPAs. Through this relationship, the EEOC contracts with FEPAs to process 30,000+ employment discrimination charges per year, thereby significantly supporting the mission of the EEOC. In essence, this is a partnership in which two independent entities share goals, have a shared understanding of the nature of the work, and share resources in the form of, for example, training, technical assistance, and outreach and education projects. At the same, because of the contractual nature of this funding relationship, the necessary oversight and management of contracts by the EEOC adds a delicate layer to this partnership that has implications for how oversight and management are conducted.

In this context, interview and focus group participants from both EEOC and FEPAs reported a fruitful working relationship that is based on trust and respect for one another's respective roles. The relationship is fostered through consistent and reliable communication and support, training, technical assistance, conferences and forums, and collaborative joint filing and community outreach efforts. Across the board, evaluation participants on both sides cited recent improvements associated with the new leadership at the HQ SLTP - improvements such as updating the SLTP Handbook,

addressing training needs through a train-the-trainer program, and creating the FEPA Forum. They voiced appreciation for these enhancements and believe they have led to improving and maintaining an effective relationship.

*"I think they've improved a lot of glitches [compared to] when I started 10 years ago. We never knew when we should voucher for funds and when the contracts were coming. It was haphazard, but now it's a much more organized and regulated process and informative process. I think they've improved so much over the years. Much more easy to follow their guidelines and formats." ~ FEPA Interview Participant*

#### 4b. Mixed-Methods Findings: Establishing and Maintaining Effective Relationships/Coordination

The establishment and maintenance of effective relationships and coordination between the EEOC and FEPAs are achieved through ongoing communication and collaboration. This assertion is strongly supported by all sources of evaluative data, starting with the following survey finding. Both EEOC and FEPA participants generally think that the amount of communication and collaboration between the two agencies is “just right” (100% and 90%, respectively for communication and 88% and 79%, respectively for collaboration) (see Table 15). Interview and focus groups findings offer details on the most important means by which effective communication and collaboration are achieved. These means are explained below.

<b>Table 15. EEOC and FEPA participants' perceptions of the amount of communication and collaboration between EEOC and FEPAs</b>			
	<b>Rating</b>	<b>EEOC Responses</b>	<b>FEPA Responses</b>
Overall amount of communication between FEPA and EEOC (n=24, n=53)	Too much	0 (0%)	3 (6%)
	Just right	24 (100%)	48 (90%)
	Not enough	0 (0%)	2 (4%)
Overall amount of collaboration between FEPA and EEOC (n=24, n=53)	Too much	0 (0%)	2 (4%)
	Just right	21 (88%)	42 (79%)
	Not enough	3 (12%)	9 (17%)

##### 4b-1. Training and Technical Assistance

Both EEOC and FEPA participants in interviews and focus groups mentioned training and technical assistance as the most important ways their offices collaborate and communicate with each other. The importance of providing and receiving training and technical assistance for new FEPA staff, investigators, and leadership is paramount to their ongoing partnership.

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*"We also collaborate on training. They help train me and other executive directors. They help train investigators. They are also training trainers. So they'll train my investigators to train other investigators. I also work with them to do outreach projects. I work with them for technical support on ARC is the computer system we register our cases. SAM is the government system they pay us through which can be very complicated so they provide technical support for those things." ~ FEPA Interview Participant*

#### *4b-2. Joint Processing and Investigations*

Joint processing (or dual filing) and joint investigation cases were also mentioned by EEOC and FEPA participants as a key format through which the two agencies communicate and collaborate on a regular basis. These cases provide a synergistic foundation from which both parties benefit by reducing unnecessary duplication of efforts and filling in jurisdictional gaps that bolster the cases and provide timely service to constituents.

*"So there might be times when the EEOC might not have jurisdiction but we have jurisdiction so they will handle the intake and draft the charge and then they transfer it to us for investigation because we have jurisdiction even though they don't...the EEOC might have cases where people may not have been able to file under the federal law but it does still have jurisdiction under the [state/local law] so in that case they can send it to us. It works vice versa too...It helps complainants end up in the right place. It helps preserve their rights under both sets of laws, and it helps us not do two investigations into the same thing." ~ FEPA Interview Participant*

#### *4b-3. Community Outreach and Engagement Initiatives*

Community outreach and engagement activities, including joint innovation projects, play a critical part in how the EEOC and FEPAs communicate and collaborate. FEPAs appreciate the EEOC's efforts to provide expertise and send representatives to local events and workshops. Joint innovation projects were looked at positively by FEPA participants, who found them to be a strong example of collaboration and support between their offices and the EEOC.

*"I think [outreach and education is] one of the areas that we work the best in. That's a strong area of our relationship. I like that we show a strong force of partnership together throughout the state. People know we work together. I like that we try and reach as many citizens as possible and we try and change our target audience. We want to make sure we're actually getting our messaging out and visible throughout the state." ~FEPA Interview Participant*

#### *4b-4. Annual Conferences, FEPA Forums, and Other Meetings*

The EEOC-FEPA annual conferences, FEPA forums, and other monthly meetings were also noted as vital pieces to the working relationship. Annual

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conferences were put on hold by COVID-19 and recently restarted, but due to funding, in-person conferences may not be as feasible as they once were in the past. FEPA forums are a new addition by HQ SLTP to provide a regular touch point to maintain and build relationships and foster an open environment for FEPAs to voice their concerns. FEPA participants found them to be a welcomed addition to strengthening their partnership with EEOC staff.

*"I think there are a lot of things that help our relationship from a HQ my perspective, us having these in person conferences with them, is I feel a tremendous benefit because you're meeting in person with the FEPAs. Not only do they get to see us from HQ, but they also get to see their EEOC district offices in person. Not that they're not doing that at other points in the year, but to convene on a national level. and for them to get to meet their counterparts across the country is a good thing. So you have the conferences as being beneficial." ~ HQ SLTP Interview Participant*

#### 4c. Mixed-Methods Findings: Factors that Facilitate Productive Relationships

To further understand the partnership and the activities and interactions between the EEOC and FEPAs, survey participants were asked a series of questions about factors that facilitate positive relationships. By and large, key activities and interactions between the EEOC and FEPAs were perceived positively. As presented in Table 16, training and technical assistance provided by the EEOC, as well as outreach and education projects between the EEOC and FEPAs, are equally perceived to be large facilitators of positive relationships between the two agencies, as approximately two-thirds to three-quarters of EEOC and FEPA participants believe this to be the case "to a large extent." For over three-quarters of both EEOC and FEPA participants, annual conferences are believed to largely facilitate a positive relationship between the two agencies.

Findings from interviews and focus groups corroborate these survey findings. Specifically, EEOC and FEPA participants believe that having strong communication and collaboration between their offices is the principal strength and facilitating factor that has led to establishing and maintaining a meaningful and productive working relationship.

*"Maintaining a relationship with our FEPAs [is key]. One of the biggest components of my role is maintaining a relationship with our FEPAs...Knowing the people gives a good idea of their knowledge and where they're at and how they're doing in terms of their staffing at the FEPAs. You know their challenges and strengths and weaknesses." ~ SLTP C/M Focus Group Participant*

**Table 16. EEOC and FEPA participants' perceptions of factors that facilitate a positive relationship between the EEOC and FEPAs**

	Rating	EEOC Responses	FEPA Responses
Training help facilitate a positive relationship between the EEOC and FEPAs (n=24, n=51)	Large extent	19 (79%)	39 (75%)
	Moderate extent	5 (21%)	10 (19%)
	Small extent	0 (0%)	2 (4%)
	Not at all	0 (0%)	1 (2%)
	Not sure	0 (0%)	0 (0%)
Technical assistance helps facilitate a positive relationship between the EEOC and FEPAs (n=24, n=52)	Large extent	17 (71%)	35 (67%)
	Moderate extent	5 (21%)	12 (23%)
	Small extent	2 (8%)	5 (10%)
	Not at all	0 (0%)	0 (0%)
	Not sure	0 (0%)	0 (0%)
Annual conference helps facilitate a positive relationship between the EEOC and FEPAs (n=24, n=53)	Large extent	19 (79%)	41 (77%)
	Moderate extent	4 (17%)	9 (17%)
	Small extent	1 (4%)	3 (6%)
	Not at all	0 (0%)	0 (0%)
	Not sure	0 (0%)	0 (0%)
Conducting outreach and education with FEPAs helps facilitate a positive relationship between the EEOC and FEPAs (n=24, n=51)	Large extent	18 (75%)	36 (71%)
	Moderate extent	6 (25%)	11 (22%)
	Small extent	0 (0%)	3 (5%)
	Not at all	0 (0%)	1 (2%)
	Not sure	0 (0%)	0 (0%)

In particular, FEPA participants stated the significance of the EEOC's responsiveness, timeliness, and support as essential facilitating factors in building trust and preserving fruitful partnership. They mentioned feeling comfortable reaching out to the EEOC for information and guidance. This dynamic contributed to both parties expressing strong and satisfying working relationships with representatives from both agencies, often describing the relationship as much more of a partnership of equals.

*“They’re easily accessible. They listen to, at least from my perspective, they listen to our issues and concerns. They will never tell you no, or it can’t be done. They always say we’ll look into it or we’ll see how we can improve it or our guidance is being worked on to address those issues.” ~ FEPA Interview Participant*

Other facilitating factors that contribute to an effective and symbiotic relationship include opportunities for training and the quality of the training by EEOC, as well as opportunities for sharing and learning from peers through FEPA forums, conferences, and other informal meetings and communication. FEPA participants find a great need for and benefit from EEOC training and appreciate the thoughtfulness and quality of the training provided. Staff from both agencies find the conferences, forums, and other informal meetings indispensable and deeply foundational to forming, preserving, and fortifying partnerships between their staff. These gatherings, particularly in-person, offer

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supportive and collaborative opportunities to make new connections, share knowledge, voice concerns, and learn new skills.

*"The training we do attend is high quality. They bring people from all across the country. It's hot topic-centric stuff. It's not stuff that is not relevant and not helpful. Usually, everything provided is very helpful to what's going on. The EEOC conferences are good but other people have bigger budgets. Other than EEOC and HUD we don't have anything dedicated to training. A lot of times I can't send my investigators. Usually what they provide is very beneficial. I've never come away from a conference thinking it was a waste of time." ~ FEPA Interview Participant*

#### 4d. Mixed-Methods Findings: Challenges that Hinder Productive Relationships

While many factors that facilitate productive relationships between the EEOC and FEPAs were noted by evaluation participants, a number of factors that hinder productive relationships were also reported.

##### *4d-1. Lack of Resources for Training FEPAs*

The prime challenge mentioned by participants in interviews and focus groups was EEOC's lack of adequate resources to meet the training needs of FEPAs. Participants overwhelmingly mentioned the high need for training FEPAs. This great need is largely due to a high degree of staffing turnover within FEPAs. Training is time consuming and resource-intensive, and to train new FEPA staff every few months due to turnover is unrealistic for the EEOC, which also has staffing shortages. HQ SLTP recently implemented a train-the-trainer program to help rectify this ongoing issue. In this program, FEPA leadership and seasoned investigators are trained on how to train their new staff. Reviews of this program are mixed. For the most part, staff from both agencies are grateful for the creative thinking of the SLTP leadership in their efforts to solve a challenging problem. Several FEPA participants find this program helpful and others, often smaller FEPAs, find it unrealistic due to their size and lack of resources to dedicate to the program. EEOC has also tried to address the high demand for training by providing more virtual training to lower travel costs and time restraints. There was also variability among FEPAs in response to this solution. Several FEPAs find virtual training to be beneficial and appreciate the cost and time savings. Other FEPAs understand the sentiment and effort, but do not find virtual training to be as beneficial or useful as in-person training. These same FEPAs did lament that while in-person training would be ideal, budgetary limitations would hinder their attendance.

*“I’m skeptical because how the train the trainer works, they want someone in leadership to attend the train the trainer and then take the training and train our staff. That would be helpful in a larger FEPA where a FEPA might have a training department, but for us, when one of us has to dedicate a week to training, so many other things fall through the cracks. We just don’t have the capacity. If we had someone dedicated to training, but for us, it’s not helping us solve the problem.” ~ FEPA Interview Participant*

These sentiments were echoed in survey findings. There is a noticeable difference in perceptions between EEOC and FEPA participants in the amount of training and outreach and education coordination. Specifically, as shown in Table 17, 47% of FEPA participants reported that the overall amount of training provided by the EEOC to FEPAs was “not enough.” This was compared to 21% of EEOC participants who reported the same. There is a large difference between FEPA and EEOC participant responses, but importantly, even within EEOC responses, this area of training stands out as being insufficient. Furthermore, although interview and focus group findings indicate that outreach and education efforts facilitate productive relationships between the EEOC and FEPAs, survey findings show that a sizable proportion of FEPA participants (42%) report that the overall amount of outreach and education conducted in coordination with the EEOC is “not enough.” However, the amount of technical assistance provided by the EEOC to FEPAs appears to be “just right” to most EEOC and FEPA participants.

<b>Table 17. EEOC and FEPA participants’ perceptions of the relationship between the EEOC and FEPAs</b>			
	<b>Rating</b>	<b>EEOC Responses</b>	<b>FEPA Responses</b>
Overall amount of training provided by the EEOC to FEPAs (n=24, n=53)	Too much	0 (0%)	0 (0%)
	Just right	19 (79%)	28 (53%)
	Not enough	5 (21%)	25 (47%)
Overall amount of technical assistance provided by the EEOC to FEPAs (n=24, n=53)	Too much	3 (12%)	0 (0%)
	Just right	17 (71%)	44 (85%)
	Not enough	4 (17%)	8 (15%)
Overall amount of outreach and education conducted in coordination with the EEOC (n=24, n=53)	Too much	0 (0%)	1 (2%)
	Just right	21 (88%)	29 (56%)
	Not enough	3 (12%)	22 (42%)

#### *4d-2. Collaboration on RFI Development and Input into Training*

When FEPA survey participants were asked about collaborating on RFI development and input into training topics/content, there was notable variation within FEPA responses. These variations corroborate other responses from FEPA

participants, especially around input into training. That is, as shown in Table 18, 38% of FEPA participants believe that FEPAs collaborate with the EEOC to complete the annual RFI “to a small extent or not at all.” An even larger proportion of FEPA participants (50%) believe that FEPA have input into training topics and/or content offered by the EEOC “to a small extent or not at all.” Both these ratings reflect a greater desire or expectation to have a stronger partnership in co-developing the RFI and training – both of which are critical activities that support the establishment and maintenance of the partnership.

<b>Table 18. FEPA participants’ perceptions of factors that hinder productive relationships between EEOC and FEPAs</b>		
	<b>Rating</b>	<b>FEPA Responses</b>
FEPAs collaborate with the EEOC to complete the RFI (n=51)	Large extent	14 (29%)
	Moderate extent	16 (33%)
	Small extent	12 (24%)
	Not at all	7 (14%)
	Not sure	0 (0%)
FEPAs have input into training topics and/or content offered by EEOC (n=51)	Large extent	13 (25%)
	Moderate extent	13 (25%)
	Small extent	19 (38%)
	Not at all	6 (12%)
	Not sure	0 (0%)

#### 4e. Survey Findings: Satisfaction with Relationship between EEOC and FEPAs

Another approach to examining the relationship between the EEOC and FEPAs through the survey was to elicit satisfaction ratings. Altogether, the ratings from both EEOC and FEPA participants suggest satisfaction with the relationship between the EEOC and FEPAs, as well as communication between them, although satisfaction is slightly higher among EEOC participants than FEPA participants (see Table 19). For example, 71% of EEOC participants are “extremely satisfied” with the relationship compared to 55% of FEPA participants. Furthermore, although there is overall satisfaction with the process of developing WSAs, the slight shift in ratings toward “dissatisfied” among EEOC participants suggests that there is room for improvement with developing WSAs. This pattern, toward more “dissatisfied” participants, is also evident in responses about coordination, suggesting room for improvement around coordination of key activities that occur between the EEOC and FEPAs.



**Table 19. EEOC and FEPA participants' satisfaction with various aspects of the relationship between the EEOC and FEPAs**

Overall satisfaction with:	Rating	EEOC Responses	FEPA Responses
The quality of relationship between EEOC and FEPA (n=24, n=53)	Extremely satisfied	17 (71%)	29 (55%)
	Satisfied	7 (29%)	23 (43%)
	Dissatisfied	0 (0%)	1 (2%)
	Extremely dissatisfied	0 (0%)	0 (0%)
The quality of communication between EEOC and FEPA (n=24, n=53)	Extremely satisfied	14 (58%)	28 (53%)
	Satisfied	10 (42%)	25 (47%)
	Dissatisfied	0 (0%)	0 (0%)
	Extremely dissatisfied	0 (0%)	0 (0%)
The quality of training provided to FEPAs by the EEOC (n=24, n=51)	Extremely satisfied	12 (50%)	17 (33%)
	Satisfied	11 (46%)	30 (59%)
	Dissatisfied	1 (4%)	4 (8%)
	Extremely dissatisfied	0 (0%)	0 (0%)
The process of developing WSAs with EEOC (n=23, n=52)	Extremely satisfied	4 (17%)	21 (40%)
	Satisfied	17 (74%)	26 (50%)
	Dissatisfied	2 (9%)	5 (10%)
	Extremely dissatisfied	0 (0%)	0 (0%)
The coordination of key activities (e.g., SWRs, WSAs, training, technical assistance, outreach and education) between FEPAs and EEOC (n=24, n=51)	Extremely satisfied	6 (25%)	16 (31%)
	Satisfied	15 (63%)	31 (61%)
	Dissatisfied	3 (12%)	4 (8%)
	Extremely dissatisfied	0 (0%)	0 (0%)

## C. EEOC Comments

See below for the EEOC's comments on the draft evaluation report.

## Response to OIG FEPA Program Evaluation Draft Report

After review of the FEPA Program Evaluation draft report of July 23, 2024, the following comments are submitted for OIG review and consideration<sup>1</sup>.

Please note that the comments are based on review of detailed information contained in the Appendices of the document albeit stated in the relevant sections of the Executive Summary.

**Question 1:** Does EEOC effectively certify and reevaluate FEPAs?

*When the EEOC receives a certification request, there is an assessment process to determine whether the FEPA has met the criteria defined in the regulations. (29 CFR 1601.75). The FEPA is notified in writing of the results. This is the process that has occurred under current SLTP HQ leadership.*

*Relative to re-evaluation, SLTP will be working with Office of Legal Counsel to clarify the language in the regulations. The Handbook will also be updated.*

**Question 2:** Does EEOC establish, meet, and manage performance goals and metrics of FEPA program activities?

*The EEOC does not give FEPAs performance goals/metrics. FEPAs work with the local EEOC districts to come up with their projected contract levels of intakes and/or charge resolutions. If contract levels pose challenges to meet or performance appears to be on track to exceed stated contract levels, FEPAs may request upward or downward modifications to the contract numbers. There is no penalty for requesting contract modifications. Further, as this evaluation has captured, there are other efforts, that go into maintaining quality and production. Finally, reports that provide EEOC the ability to assess FEPA contract performance and work quality is being addressed with the Office of Information Technology (OIT) and we'll soon have more reliable PowerBi reports.*

**Question 3:** Does EEOC provide effective oversight of FEPA case quality?

*The limitation is with PowerBi reports. OIT is working on this.*

**Question 4:** Does EEOC establish and maintain effective relationships/coordination with the FEPAs?

*We agree with the assessment and will continue to take necessary steps to build/maintain appropriate partnerships with FEPAs.*

**Recommendations<sup>2</sup>:**

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<sup>1</sup> This response is provided with collective feedback from OFP, OIT and OCH.

<sup>2</sup> The more detailed recommendations on pages 12-16 of the document are appreciated and will also be considered to the extent feasible given budget, human resources, staffing and political concerns.

1. Review and update processes and procedures for communicating and working with FEPAs that inquire about certification. This includes the processes and procedures for new certification inquiries from non-certified FEPAs, as well as inquiries from certified FEPAs concerning problems with their certification status.

*We can look at this a little more in light of the regulations as well as communication channels.*

2. Review and update processes, procedures, and tools for reevaluating certified FEPAs. Specify and/or clarify: (a) the timeline for reevaluation, (b) required tool(s) and/or mechanism(s) for reevaluation, (c) Headquarters (HQ) State, Local, and Tribal (SLTP) roles and responsibilities for conducting or contributing to the process of reevaluation, and (d) the purpose of technical assistance reviews (TARs) and how they formally relate (or not) to the process of reevaluation.

*We can clarify in the Handbook and include in SLTP staff meetings/trainings. We will consider whether to post additional information on the SLTP webpage.*

3. Clearly describe and label FEPA Program performance goals and metrics in the SLTP Handbook.

*Since we don't give FEPAs numerical goals to meet, we can clarify language that describes the process they engage in with districts to come up with their proposed contract levels.*

4. Provide standardized onboarding and refresher training to SLTP Coordinators/Managers (C/Ms) to ensure more consistent practices across District Offices. Include training on practices to utilize performance goals and metrics for oversight and management of FEPA case quality.

*We started this over a year ago already with new SLTP field staff and in standing meetings each quarter. We can look at recording trainings, as well.*

5. Work with the Office of Information Technology (OIT) to generate more useful reports from the Agency Records Center (ARC) that are needed to monitor performance.

*In process*

6. Reinforce Substantial Weight Review (SWR) as the primary tool and method for case quality oversight by: (a) documenting in the SLTP Handbook how SWR is utilized to ensure case quality, and (b) training both SLTP and FEPA staff on SWR processes and criteria to ultimately improve case quality.

*SLTP field staff did the first draft of the major Handbook overhaul 3 years ago and have since been instrumental in the updating process. In addition, SLTP HQ has provided a quick reference guide and updated forms for SWRs to assist the SLTP field staff with SWRs. We can continue to include this in standing meetings and other trainings as well.*

7. Improve the feedback loop for TARs to include written documentation of findings that are shared with FEPAs, EEOC District Directors, and SLTP C/Ms for continuous quality improvement and learning.

*We actually have entrance and exit discussions with district directors and SLTP field staff as well as with the FEPA directors for each technical assistance review. We maintain a tracking worksheet of each review as well as summary bullet points for SLTP HQ leadership review.*

8. Improve SLTP’s current mixed-modality training for the FEPA Program to address training needs for both EEOC and FEPA staff. Include an “on demand” digital training video library that provides FEPAs with open access to foundational training content.

*Digital on-demand training is an issue mainly because it is difficult for FEPAs to easily access videos/etc. from EEOC. Most training requests are for in-person training as well. The evaluation captured the many things SLTP has done to provide a significant amount of training to FEPAs every year. We will continue to explore this more, however.*

**Other suggested edits/clarifications:**

P1¶1 “sex (including pregnancy)” should read “*sex (including pregnancy, sexual orientation, and gender identity)*”

P2 ¶1 under Methods section— “...oversight and management of FEPAs...”—*We do not manage FEPAs.*

PP 31 and 33---WSA is referenced. *Should be “contract” not WSA.*

P33 section 2b-2...*TER is simply no longer part of the agency’s Strategic Plan and is not a performance measure anymore.*

P39 section 3a-2, last ¶-- *Is this suggesting the district directors want SWR training? Whenever we send out training announcements for SLTP field staff, we always copy the directors so they know what is being offered to their staff.*

P41¶1...*We could consider a plan to have Coordinators notify FEPAs of SWRs more specifically across the board. We believe that most already keep their FEPAs looped on this. But we can explore this more.*

P45 ¶ above Table 13, Sentence 2-3.... *It is unclear what "legal counsel" is referring to. It seems that participants may be saying they want more access to SLTP HQ regarding SWR guidance. If this is correct, SLTP HQ are not "legal counsel". So, clarification on this would be helpful.*

P56---*We ask FEPAs in various ways (conference surveys, FEPA Forum monthly meetings, joint standing committee, local SLTP/FEPA meetings/conferences) about training topics of interest. In addition, there are certain topics that we determine are most important to cover to help with quality investigations by FEPAs based on our reviews of their work nationally.*